

OKLAHOMA STATUTES
TITLE 68. REVENUE AND TAXATION

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§ 68-12-1213. Renumbered as § 1213 of this title by Laws 1965, c. 215, § 2.

§ 68-21-103. Renumbered as § 2103 of this title by Laws 1965, c. 215, § 3.

§ 68-101. Tax code.

The several tax laws recodified as Tax Codes, together with this act, shall be known as the Oklahoma Tax Code.

Laws 1965, c. 235, § 1, emerg. eff. June 17, 1965.

§ 68-102. Creation - Duties, powers and authority - Membership - Appointment and confirmation - Removal - Term - Vacancies - Residency - Administrator.

The “Oklahoma Tax Commission” is hereby created, and shall possess such duties, powers and authority as are hereinafter defined, and as are now or as may hereafter be conferred upon it by law. The Tax Commission shall consist of three (3) persons to be appointed by the Governor of the State of Oklahoma by and with the consent of the State Senate of the State of Oklahoma. No more than two (2) members of the Tax Commission shall be, or shall have been in the previous six (6) months, members of the same political party. The members of the Tax Commission shall not be subject to removal from office at the will and pleasure of the Governor, but may be removed only for cause and in the manner provided by law for the removal of state officials not subject to impeachment under the provision of Section 1, Article VIII, of the Constitution.

The members of the Oklahoma Tax Commission as now constituted shall continue to serve until the members of the Tax Commission created by this act are duly appointed, confirmed and qualified. Within twenty (20) days after the effective date of this act, the Governor shall appoint a new Tax Commission with the term of office of one member to expire on the second Monday of January 1955, the term of office of the second member to expire on the second Monday of January 1957, and the term of office of the third member to expire on the second Monday of January 1959. Except as set out above the term of office of each member of said Commission shall be for six (6) years with the term of office of one member of the Tax Commission expiring on the second Monday of January of each odd-numbered year. Provided, however, that a member of the Commission shall continue to serve after the expiration of his term of office until his successor is appointed, confirmed and qualified. In the event of a vacancy in the membership of the Tax Commission before the expiration of any term of office, the Governor shall fill such vacancy for the unexpired term within twenty (20) days, and no member of the Commission shall be entitled to draw any salary or perform any service until his appointment is confirmed by the Senate, if the Senate then be in session. If the Senate be not in session, then such member may serve and draw his salary until some special or regular session convenes; and if his appointment is then not confirmed within twenty (20) days, he shall cease to perform such services and cease to draw a salary.

Each member of the Tax Commission shall, at the time of his appointment, be a resident and citizen of the State of Oklahoma, and shall devote all of his time to the administration of the affairs of the Tax Commission. The Governor shall at the time of making the initial

appointments, and also at the time of making each appointment to fill a vacancy on the Commission as provided by this act, designate one member to serve as Chairman, one member to serve as Vice Chairman and one member to serve as Secretary.

The Oklahoma Tax Commission shall appoint an administrator who shall serve at the pleasure of the Commission and who shall be the administrative officer of the Commission and manage the activities of the employees provided for in Sections 104 and 105 of this title. Amended by Laws 1986, c. 223, § 32, operative July 1, 1986; Laws 1987, c. 236, § 140, emerg. eff. July 20, 1987.

§68-102.1. Salaries.

A. For any period commencing on or after January, 1995, the annual salary of an officer of the Oklahoma Tax Commission shall be increased by the percentage or amount provided for salary increases for employees of the Oklahoma Tax Commission for each fiscal year beginning with Fiscal Year 1995, if such employee salary increases are authorized by the Legislature.

B. From and after the beginning date of a term of office which commences in, or after January 1997, the annual salary, payable monthly, of the officers of the Tax Commission shall be as follows:

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| Chairman | \$85,000.00 |
| Vice-Chairman | \$84,500.00 |
| Secretary-Member | \$84,500.00 |

C. Effective January 2005, from and after the beginning date of a term of office which commences in or after January 2003, the annual salary, payable to the officers of the Tax Commission shall be equal to that paid to a judge of the Workers' Compensation Court.

D. All such salaries shall be payable monthly out of monies available for expenditure for such purpose.

Added by Laws 1967, c. 238, § 1, emerg. eff. May 4, 1967. Amended by Laws 1974, c. 311, § 3, emerg. eff. May 31, 1974; Laws 1976, c. 232, § 6, emerg. eff. June 15, 1976; Laws 1978, c. 266, § 7, emerg. eff. May 10, 1978; Laws 1979, c. 264, § 8, emerg. eff. June 5, 1979; Laws 1980, c. 269, § 6, emerg. eff. June 11, 1980; Laws 1981, c. 333, § 13, eff. July 1, 1981; Laws 1982, c. 350, § 15, emerg. eff. June 2, 1982; Laws 1985, c. 345, § 8, emerg. eff. July 30, 1985; Laws 1986, c. 223, § 33, operative July 1, 1986; Laws 1989, c. 279, § 14, operative July 1, 1989; Laws 1992, c. 367, § 21, eff. July 1, 1992; Laws 1997, c. 384, § 10, emerg. eff. June 11, 1997; Laws 1998, c. 396, § 1, emerg. eff. June 10, 1998; Laws 2002, c. 389, § 3, emerg. eff. June 4, 2002.

§68-102.2. Political activities by members of Tax Commission prohibited.

No member of the Oklahoma Tax Commission shall, directly or indirectly, solicit, receive or in any manner be concerned in soliciting or receiving any assessment, subscription or contribution for any political organization, candidacy or other political purpose. No member of said Commission shall be a member of any national, state or local committee of a political party, or an officer or a member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote.

Laws 1969, c. 335, § 1.

§68-102.3. Additional duties and compensation for commissioners.

In addition to their other duties, the members of the Oklahoma Tax Commission shall make a continuous study of the critical national energy crisis to determine its impact on the tax revenues of Oklahoma, particularly the revenues derived from the gross production taxes and gasoline and other motor fuel taxes and also to determine and project the degree of the consequent erosion of the present tax structure of the state which will be caused by the gradual change from the use of oil and natural gas as a basic fuel for energy. The Commission shall make periodic appraisals concerning the several taxes directly related to the fuels presently used by motor vehicles and other modes of travel and for heating and cooling, as well as the tax paid by those engaged in the business of producing oil and gas, as the use of substitute types of fuels evolve which undoubtedly will result in substantial changes in the types and size of vehicles used in the business activities of many taxpayers.

The Commission shall also develop such econometric models as are deemed necessary, compile data and other information as to the possible rate of decline in tax revenue and report to the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate by the second Tuesday of every year, to insure the availability of revenue to properly operate and carry on the functions of state and local government.

For the performance of such additional duties, the members of said Commission not receiving the maximum salary provided in Section 102.1 of Title 68 of the Oklahoma Statutes shall be compensated as follows:

The Chairman of said Commission shall receive Eleven Thousand Five Hundred Dollars (\$11,500.00) per annum and the Vice Chairman and Secretary-Member of said Commission shall each receive Fifteen Thousand Five Hundred Dollars (\$15,500.00) per annum, payable monthly. Provided, it is the intent hereof that no member of said Commission shall receive total compensation greater than that provided in Section 102.1 of Title 68 of the Oklahoma Statutes as amended.

Laws 1974, c. 309, § 4, emerg. eff. May 31, 1974; Laws 1975, c. 247, § 7, emerg. eff. June 2, 1975; Laws 1976, c. 232, § 7, emerg. eff. June 15, 1976; Laws 1978, c. 266, § 8, emerg. eff. May 10, 1978; Laws 1979, c. 264, § 9, emerg. eff. June 5, 1979; Laws 1980, c. 269, § 7, emerg. eff. June 11, 1980.

§68-103. Conduct of hearings - Production of books and records - Perjury.

In the performance of its duties, as defined by law, the Tax Commission, or any member thereof, shall have the power to administer oaths, to conduct hearings, and to compel the attendance of witnesses and the production of the books, records and papers of any person, firm, association or corporation.

Any person, or any member of any firm or association, or any official, agent or employee of any corporation, who shall fail or refuse to testify, or who shall fail or refuse to produce any books, records or papers which the Commission shall require; or who shall fail or refuse to permit the examination of the same; or who shall fail or refuse to furnish any other evidence or information which the Commission, or any member thereof, may require; or who shall fail or refuse to answer any question which may be put to him by said Commission, or any member thereof, touching the business, property, assets or effects of any such person, firm, association or corporation, or the valuation thereof or the income or profits therefrom, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or by imprisonment in the jail of the county where such offense shall have been committed for not more than one (1) year, or by both such fine and imprisonment.

Any person, or member of any firm or association, or any official, agent or employee of any corporation, who shall knowingly make false answer to any question which may be put to him by the Commission, or any member thereof, touching the business, property, assets or effects of any such person, firm, association or corporation, or the valuation thereof or the income or profits therefrom; or who shall make or present any false affidavit concerning any list, schedule, statement, report or return, or for any other purpose, filed with the Commission or required to be filed by this Code or by any other law of the state, shall be guilty of the felony of perjury, and, upon conviction, shall be punished as provided by law.

Added by Laws 1965, c. 235, § 1, emerg. eff. June 17, 1965. Amended by Laws 1997, c. 133, § 550, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 550 from July 1, 1998, to July 1, 1999.

§68-104. Employees and expenses - Bonds.

The Tax Commission may employ such employees and incur such expense as may be necessary for the proper discharge of its duties under the limitations and restrictions as hereinafter set out. All such employees who shall be required to handle public monies, or who shall be responsible therefor, shall give bonds for the honest and faithful performance of their duties, in such amounts as may be fixed by the Commission.

Laws 1965, c. 235, § 1.

§68-105. Attorneys for Commission.

A. The Tax Commission shall employ a Chief Attorney to be designated "General Counsel" and other attorneys each to be designated "attorney" who shall be the legal advisors for the Commission and are authorized to appear for and represent the Commission in any and all litigation that may arise in the discharge of its duties.

B. The General Counsel or the district attorney shall initiate criminal actions for violations of the tax laws of this state in the district court of the county in which the defendant resides or maintains a place of business. The attorneys for the Tax Commission may prosecute such criminal actions or may, upon request of a district attorney, appear and assist in the prosecution of such actions initiated by the district attorney.

C. For purposes of this section, the term "tax laws of this state" means any law of the State of Oklahoma which levies, imposes, provides for administration of, or in any way relates to a tax, fee, or revenue raising property which is collected by or required to be deposited with the Commission.

D. The General Counsel and attorneys shall devote all of their time to the Commission and their salaries shall be fixed by the Commission.

Amended by Laws 1983, c. 275, § 3, emerg. eff. June 24, 1983; Laws 1984, c. 292, § 10, operative July 1, 1984; Laws 1985, c. 345, § 14, emerg. eff. July 30, 1985.

§68-105.1. Designation of peace officer to conduct personnel investigations and background checks.

The Oklahoma Tax Commission shall have the authority to designate as a peace officer the employee in the position of Director of Internal Affairs for the purpose of conducting personnel investigations and background checks. An employee designated as a peace officer pursuant to this section shall have the authority to review information contained in the files of federal, state

or local law enforcement officials in order to conduct the investigations prescribed by this section. The employee designated as a peace officer shall not be authorized to carry a firearm nor shall be required to be certified pursuant to Section 3311 of Title 70 of the Oklahoma Statutes.

Added by Laws 1990, c. 339, § 1, emerg. eff. May 31, 1990.

§68-106. Repealed by Laws 2010, c. 413, § 30, eff. July 1, 2010.

§68-107. Disbursements to be within appropriations.

The total amount disbursed by the Tax Commission in any one fiscal year for the payment of salaries, expenses and incidentals shall not exceed the amount appropriated therefor by the Legislature.

Laws 1965, c. 235, § 1.

§68-108. Schedule of fees and charges - Transcripts and other services.

The Tax Commission shall have the authority to adopt and promulgate a schedule of fees and charges for services rendered relating to transcripts and certificates as to records; for transcripts for appeal and other services, involving the furnishing of copies of proceedings, files and records; and, in case of transcripts of records for appeal, the Commission may prescribe a reasonable charge therefor to be paid by the party demanding the record, which said fees and charges shall be credited to miscellaneous receipts of the Commission.

Laws 1965, c. 235, § 1.

§68-109. Legislative intent.

It is hereby declared to be the intention of the Legislature that the purpose of this act is to revise, amend and reenact those statutes set forth in full herein by deleting language and provisions contained in Section 3 through Section 10b of Title 68 O.S.1961, which provisions have long since become obsolete by reason of changing conditions or superseded by provisions of later laws, to make same consistent with present conditions and laws and to reenact same as a part of the Oklahoma Tax Code.

Laws 1965, c. 235, § 1.

§68-110. Repealer.

68 O.S.1961, Sections 1, 3, 4, 5, 6, 7, 8, 9, 10, 10a and 10b, inclusive, are hereby repealed for the purpose of being revised, amended and reenacted as herein set forth.

Laws 1965, c. 235, § 1.

§68-112. Tax Commission Fund - Credits for all miscellaneous receipts.

All miscellaneous receipts authorized by law to be charged and collected by the Oklahoma Tax Commission for furnishing of copies of transcripts, minutes or other recordings of proceedings, or reports or other information filed with the Commission, or any information authorized by law to be furnished shall be placed to the credit of the Oklahoma Tax Commission Fund.

Amended by Laws 1986, c. 269, § 17, operative July 1, 1986.

§68-113. Tax Commission Reimbursement Fund - Full-time employees.

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Tax Commission to be known as the "Tax Commission Reimbursement Fund". Said revolving fund shall consist of any funds received by the Tax Commission for data processing services or equipment rental and any funds received by the Tax Commission from any incorporated city, town, or county pursuant to a contractual agreement for the augmentation of the enforcement and collection of municipal or county taxes entered into pursuant to the provisions of Sections 1371 or 2702 of this title. The Tax Commission is authorized to hire full-time-equivalent employees as necessary to perform such duties as to fulfill contractual agreements authorized pursuant to Sections 1371 and 2702 of this title, however, such employees hired to perform such contractual duties shall be supported solely by funds in the Tax Commission Reimbursement Fund which are collected by the Tax Commission from incorporated cities, towns, and counties pursuant to such contractual agreements and such employees shall be terminated upon the discontinuation of such funds or inadequate funds to support such positions. Such full-time-equivalent employees shall be in the unclassified service and shall not be subject to any provisions of the Oklahoma Personnel Act or to the Merit Rules for Employment except leave regulations. All fees collected and apportioned to this fund under the Oklahoma Vehicle License and Registration Act, Section 1101 et seq. of Title 47 of the Oklahoma Statutes, may be used by the Motor Vehicle Division of the Oklahoma Tax Commission to pay all costs incurred in the issuance of certificates of title and inspection of vehicles, including, but not limited to, additional computer costs for the Tax Commission and motor license agents and the check verification system authorized pursuant to the provisions of paragraph 1 of subsection A of Section 1144 of Title 47 of the Oklahoma Statutes or be used for capital expenditures as authorized by the Oklahoma State Legislature. For the fiscal year beginning July 1, 2004, disbursements from the fund shall be exempt from all agency budget limits.

B. Notwithstanding any other provision in the Oklahoma Statutes except subsection F of Section 316 and subsection D of Section 418 of this title, beginning July 1, 2009, all revenue from fees and penalties collected pursuant to Sections 304, 316, 415 and 418 of this title shall be apportioned to the Tax Commission Reimbursement Fund for administrative expenses incurred in connection with enforcement of the provisions of Section 301 et seq., Section 346 et seq., Section 401 et seq. and Section 424 et seq. of this title.

Added by Laws 1985, c. 197, § 8, operative July 1, 1985. Amended by Laws 1986, c. 170, § 1, emerg. eff. May 9, 1986; Laws 1989, c. 290, § 13, emerg. eff. May 24, 1989; Laws 1990, c. 264, § 113, operative July 1, 1990; Laws 1997, c. 294, § 8, eff. July 1, 1997; Laws 2004, c. 504, § 16, eff. July 1, 2004; Laws 2009, c. 434, § 1, eff. Jan. 1, 2010; Laws 2011, c. 364, § 1; Laws 2012, c. 304, § 530.

§68-114. Payment of fees for employees in performance of duties.

The Oklahoma Tax Commission may expend monies to pay membership fees for Commission members or employees of the Commission in regional or national tax associations as the Commission deems in the best interest of this state for education and training in tax administration, practices, and procedures, and any other fees required to be paid by an employee in the performance of his official duties.

Added by Laws 1986, c. 269, § 10, operative July 1, 1986.

§68-116. Mineral interests in land - Taxation of owners, heirs, devisees or assigns - Publication of information from estate tax records - Confidentiality - Fees - Revolving fund.

For the purpose of assisting the public in locating owners of mineral interests and other property, or the heirs, devisees and assigns of such owners, the Oklahoma Tax Commission is authorized and directed to make available to the public, by display or by request by mail or otherwise, reports from an annual listing, for the years when an index is available, of the names of decedents from its estate tax records, the date of death, address, county in which the probate was conducted and the number assigned to the probate.

All other information of the Commission shall remain confidential, as prescribed in Section 205 of Title 68 of the Oklahoma Statutes or as otherwise provided by law.

The Commission is authorized to prescribe procedures and may assess reasonable fees to cover costs of the services rendered, and may establish a revolving fund for such revenues, which may be a continuing fund not subject to fiscal limitations.

Added by Laws 1988, c. 146, § 1, operative July 1, 1988.

§68-117. Electronic access to data and reports.

The Oklahoma Tax Commission, upon request, shall provide the Office of Management and Enterprise Services, the Oklahoma State Senate and the Oklahoma House of Representatives electronic access to any aggregate data and reports used by the Oklahoma Tax Commission in developing revenue estimates and economic forecasts. The aggregate data and reports which will be made accessible pursuant to the provisions of this section shall not include any records or other information required by law to be kept confidential.

Added by Laws 1995, c. 325, § 4, eff. July 1, 1995. Amended by Laws 2012, c. 304, § 531.

§68-118. Written estimate of revenue gain or loss and written statement of recommendation as to proposed or actual tax law changes - Annual forecast of gross production tax revenues.

A. Upon receipt of a written request from a member or employee of the Legislature, the Oklahoma Tax Commission shall provide:

1. A written estimate of the revenue gain or loss to the state as a result of an actual or proposed change to a state tax law; and
2. A written statement of the Tax Commission's recommendation to the State Board of Equalization as to the change in the amount certified as available for appropriation by the Legislature as a result of an actual or proposed change to a state tax law.

The Tax Commission shall provide such estimate and statement within two (2) weeks of the date the request was received unless the member or employee of the Legislature specifies an earlier date. If the Tax Commission determines that it is unable to provide such estimate and statement within the time period required by this section, it shall provide a written explanation and date by which the estimate and statement will be provided to the member or employee.

B. On or after December 31, 2009, and subject to the availability of funds, the Tax Commission shall develop the estimates and statements required by subsection A of this section utilizing a dynamic revenue estimating model. Such model shall take into consideration changes in economic activity as a result of the proposed legislation and consequent revenue gains or losses due to factors such as taxpayer behavior, employment and business investment. The Tax Commission may, subject to the laws of this state relating to confidentiality of information, contract with institutions of higher education in this state or other entities to perform its duties as set forth in this subsection. The Tax Commission is authorized to promulgate rules to carry out the implementation of this section.

C. For the purpose of providing an annual forecast of gross production tax revenues from the production of natural and casinghead gas to the Office of Management and Enterprise Services, the Tax Commission shall subscribe to appropriate reference materials which provide economic outlook of future gas prices that have most closely followed the historical trend of Oklahoma gas prices. To determine the average differential between the published forecasted prices and Oklahoma gas prices, the Tax Commission shall compare prices in at least twenty-four (24) of the immediate thirty-six (36) previous months of production. The Tax Commission shall utilize the procedures provided herein to forecast the collection of gross production tax revenues from the production of natural and casinghead gas for the fiscal year beginning July 1, 2005, and each fiscal year thereafter.

Added by Laws 1995, c. 325, § 5, eff. July 1, 1995. Amended by Laws 2003, c. 397, § 1; Laws 2005, c. 447, § 1; Laws 2007, c. 335, § 3, eff. Nov. 1, 2007; Laws 2008, c. 378, § 4, emerg. eff. June 4, 2008; Laws 2012, c. 304, § 532.

§68-119. Notice to vendors in annexed territory of applicable sales tax rate.

Upon receipt of a notice and map and plat from a governing body regarding the boundaries of annexation of a territory pursuant to Section 21-103 or 21-104 of Title 11 of the Oklahoma Statutes, the Oklahoma Tax Commission shall provide notice to all known sales tax vendors within the boundaries of the annexed territory regarding the applicable rate of sales tax.

Added by Laws 2009, c. 197, § 3, eff. Nov. 1, 2009.

§68-201. Purpose of Article.

The purpose of this article, which may be cited as the “Uniform Tax Procedure Code”, is to provide, so far as is possible, uniform procedures and remedies with respect to all state taxes. Unless otherwise expressly provided in any state tax law, heretofore or hereafter enacted, the provisions of this article shall control and shall be exclusive.

Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965.

§68-202. Definitions.

The terms defined in this section shall, in this article, be construed as follows:

- (a) The term “Tax Commission” shall mean the Oklahoma Tax Commission;
- (b) The term “state tax” shall mean any tax which is payable to, collectible by or administered by the Oklahoma Tax Commission;
- (c) The term “state tax law” shall mean any law of the State of Oklahoma which levies, imposes, or relates to a state tax as herein defined;
- (d) The term “taxpayer” shall mean:
 - (1) Any person owing or liable to pay any state tax;
 - (2) Any person required to file a report, a return, or remit any tax required by the provisions of any state tax law;
 - (3) Any person required to obtain a license or a permit or to keep any records under the provisions of any state tax law;
- (e) The term “person” means an individual, trust, estate, fiduciary, partnership, limited liability company, or a corporation, and shall include any municipal subdivision of the state;
- (f) The term “individual” means a natural person;
- (g) The term “corporation” means an organization, other than a partnership, as hereinafter defined:

- (1) Created or organized under the laws of Oklahoma;
- (2) Qualified to do or doing business in Oklahoma, in a corporate or organized capacity, by virtue of creation or organization under the laws of the United States or of some state, territory or district, or of a foreign country;
- (3) Associations, joint-stock companies, insurance companies, including surety and bond companies;
- (4) Business trusts, which shall mean and include common law trusts, such as Massachusetts trusts and every other business organization consisting essentially of an arrangement whereby property is conveyed to one or more trustees for purposes other than the protection and conservation of assets or the protection of debtholders; and
- (5) National banking associations, state banks, and trust companies;
- (h) The term “fiduciary” means a guardian, trustee, executor, administrator, receiver, conservator or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust or estate;
- (i) The term “partnership” includes a syndicate, group, pool, joint venture or other unincorporated organization, through or by means of which any business, financial operation or venture is carried on, and which is not a trust or estate or classed as a corporation within the provisions of this article; and the term “partner” includes a member of such syndicate, group, pool, joint venture or organization;
- (j) The term “limited liability company” means an organization other than a corporation or partnership which is organized pursuant to Section 2000 et seq. of Title 18 of the Oklahoma Statutes. Except as otherwise specifically provided, for all purposes under Title 68 of the Oklahoma Statutes, a domestic limited liability company shall be treated the same and taxed as a domestic partnership and a foreign limited liability company shall be treated the same and taxed as a foreign partnership, provided that such domestic or foreign limited liability companies are classified as partnerships for federal income tax purposes.
Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965; Laws 1985, c. 182, § 1, emerg. eff. June 20, 1985; Laws 1993, c. 366, § 26, eff. Sept. 1, 1993.

§68-203. Enforcement by Tax Commission - Rules – Electronic filing.

The Oklahoma Tax Commission is hereby authorized to enforce the provisions of Section 201 et seq. of this title and to promulgate and enforce any reasonable rules with respect thereto. The Tax Commission may also prescribe, promulgate and enforce all necessary rules for the purpose of making and filing of all reports required under any state tax law, and such rules as may be necessary to ascertain and compute the tax payable by any taxpayer subject to taxation under any state tax law; and may, at all times, exercise such authority as may be necessary to administer and enforce each and every provision of any state tax law. The Tax Commission is further authorized to require any person filing a report or return required by the provisions of any state tax law to file the report or return by electronic means. The Tax Commission is also authorized to allow a taxpayer to file a return on paper that is required by this title to be filed electronically.

Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended by Laws 2003, c. 472, § 2.

§68-204. Records of official acts of Commission - Fees.

The Tax Commission shall keep a record of all its official acts, and shall preserve copies of all rules, regulations, decisions and orders made by it. Copies of any rule, regulation, decision or

order made by it in the administration of this article or any state tax law may be authenticated under its official seal and, when so authenticated, shall be evidence in all courts of this state of the same weight and force as the original thereof. For authenticating any such copy the Tax Commission shall be paid a fee of One Dollar (\$1.00), said fee to be apportioned to the General Revenue Fund of the state the same as are other fees. Under no circumstances shall the Tax Commission furnish copies of records which it may by law be prohibited from making public. Laws 1965, c. 414, § 2.

§68-205. Records and files of Commission confidential and privileged - Exceptions - Report.

A. The records and files of the Oklahoma Tax Commission concerning the administration of the Uniform Tax Procedure Code or of any state tax law shall be considered confidential and privileged, except as otherwise provided for by law, and neither the Tax Commission nor any employee engaged in the administration of the Tax Commission or charged with the custody of any such records or files nor any person who may have secured information from the Tax Commission shall disclose any information obtained from the records or files or from any examination or inspection of the premises or property of any person.

B. Except as provided in paragraph 26 of subsection C of this section, neither the Tax Commission nor any employee engaged in the administration of the Tax Commission or charged with the custody of any such records or files shall be required by any court of this state to produce any of the records or files for the inspection of any person or for use in any action or proceeding, except when the records or files or the facts shown thereby are directly involved in an action or proceeding pursuant to the provisions of the Uniform Tax Procedure Code or of the state tax law, or when the determination of the action or proceeding will affect the validity or the amount of the claim of the state pursuant to any state tax law, or when the information contained in the records or files constitutes evidence of violation of the provisions of the Uniform Tax Procedure Code or of any state tax law.

C. The provisions of this section shall not prevent the Tax Commission from disclosing the following information and no liability whatsoever, civil or criminal, shall attach to any member of the Tax Commission or any employee thereof for any error or omission in the disclosure of such information:

1. The delivery to a taxpayer or a duly authorized representative of the taxpayer of a copy of any report or any other paper filed by the taxpayer pursuant to the provisions of the Uniform Tax Procedure Code or of any state tax law;
2. The exchange of information that is not protected by the federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq., pursuant to reciprocal agreements entered into by the Tax Commission and other state agencies or agencies of the federal government;
3. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;
4. The examination of records and files by the State Auditor and Inspector or the duly authorized agents of the State Auditor and Inspector;
5. The disclosing of information or evidence to the Oklahoma State Bureau of Investigation, Attorney General, Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, any district attorney, or agent of any federal law enforcement agency when the information or evidence is to be used by such officials to investigate or prosecute violations of the criminal provisions of the Uniform Tax Procedure Code or of any state tax law or of any federal crime committed against this state. Any information disclosed to the Oklahoma State

Bureau of Investigation, Attorney General, Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, any district attorney, or agent of any federal law enforcement agency shall be kept confidential by such person and not be disclosed except when presented to a court in a prosecution for violation of the tax laws of this state or except as specifically authorized by law, and a violation by the Oklahoma State Bureau of Investigation, Attorney General, Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, district attorney, or agent of any federal law enforcement agency by otherwise releasing the information shall be a felony;

6. The use by any division of the Tax Commission of any information or evidence in the possession of or contained in any report or return filed with any other division of the Tax Commission;

7. The furnishing, at the discretion of the Tax Commission, of any information disclosed by its records or files to any official person or body of this state, any other state, the United States, or foreign country who is concerned with the administration or assessment of any similar tax in this state, any other state or the United States. The provisions of this paragraph shall include the furnishing of information by the Tax Commission to a county assessor to determine the amount of gross household income pursuant to the provisions of Section 8C of Article X of the Oklahoma Constitution or Section 2890 of this title. The Tax Commission shall promulgate rules to give guidance to the county assessors regarding the type of information which may be used by the county assessors in determining the amount of gross household income pursuant to Section 8C of Article X of the Oklahoma Constitution or Section 2890 of this title. The provisions of this paragraph shall also include the furnishing of information to the State Treasurer for the purpose of administration of the Uniform Unclaimed Property Act;

8. The furnishing of information to other state agencies for the limited purpose of aiding in the collection of debts owed by individuals to such requesting agencies;

9. The furnishing of information requested by any member of the general public and stated in the sworn lists or schedules of taxable property of public service corporations organized, existing, or doing business in this state which are submitted to and certified by the State Board of Equalization pursuant to the provisions of Section 2858 of this title and Section 21 of Article X of the Oklahoma Constitution, provided such information would be a public record if filed pursuant to Sections 2838 and 2839 of this title on behalf of a corporation other than a public service corporation;

10. The furnishing of information requested by any member of the general public and stated in the findings of the Tax Commission as to the adjustment and equalization of the valuation of real and personal property of the counties of the state, which are submitted to and certified by the State Board of Equalization pursuant to the provisions of Section 2865 of this title and Section 21 of Article X of the Oklahoma Constitution;

11. The furnishing of information to an Oklahoma wholesaler of low-point beer, licensed under the provisions of Section 163.1 et seq. of Title 37 of the Oklahoma Statutes, or an association or organization whose membership is comprised of such wholesalers, of the licensed retailers authorized by law to purchase low-point beer in this state or the furnishing of information to a licensed Oklahoma wholesaler of low-point beer of shipments by licensed manufacturers into this state;

12. The furnishing of information as to the issuance or revocation of any tax permit, license or exemption by the Tax Commission as provided for by law. Such information shall be limited to the name of the person issued the permit, license or exemption, the name of the

business entity authorized to engage in business pursuant to the permit, license or exemption, the address of the business entity, and the grounds for revocation;

13. The posting of notice of revocation of any tax permit or license upon the premises of the place of business of any business entity which has had any tax permit or license revoked by the Tax Commission as provided for by law. Such notice shall be limited to the name of the person issued the permit or license, the name of the business entity authorized to engage in business pursuant to the permit or license, the address of the business entity, and the grounds for revocation;

14. The furnishing of information upon written request by any member of the general public as to the outstanding and unpaid amount due and owing by any taxpayer of this state for any delinquent tax, together with penalty and interest, for which a tax warrant or a certificate of indebtedness has been filed pursuant to law;

15. After the filing of a tax warrant pursuant to law, the furnishing of information upon written request by any member of the general public as to any agreement entered into by the Tax Commission concerning a compromise of tax liability for an amount less than the amount of tax liability stated on such warrant;

16. The disclosure of information necessary to complete the performance of any contract authorized by this title to any person with whom the Tax Commission has contracted;

17. The disclosure of information to any person for a purpose as authorized by the taxpayer pursuant to a waiver of confidentiality. The waiver shall be in writing and shall be made upon such form as the Tax Commission may prescribe;

18. The disclosure of information required in order to comply with the provisions of Section 2369 of this title;

19. The disclosure to an employer, as defined in Sections 2385.1 and 2385.3 of this title, of information required in order to collect the tax imposed by Section 2385.2 of this title;

20. The disclosure to a plaintiff of a corporation's last-known address shown on the records of the Franchise Tax Division of the Tax Commission in order for such plaintiff to comply with the requirements of Section 2004 of Title 12 of the Oklahoma Statutes;

21. The disclosure of information directly involved in the resolution of the protest by a taxpayer to an assessment of tax or additional tax or the resolution of a claim for refund filed by a taxpayer, including the disclosure of the pendency of an administrative proceeding involving such protest or claim, to a person called by the Tax Commission as an expert witness or as a witness whose area of knowledge or expertise specifically addresses the issue addressed in the protest or claim for refund. Such disclosure to a witness shall be limited to information pertaining to the specific knowledge of that witness as to the transaction or relationship between taxpayer and witness;

22. The disclosure of information necessary to implement an agreement authorized by Section 2702 of this title when such information is directly involved in the resolution of issues arising out of the enforcement of a municipal sales tax ordinance. Such disclosure shall be to the governing body or to the municipal attorney, if so designated by the governing body;

23. The furnishing of information regarding incentive payments made pursuant to the provisions of Sections 3601 through 3609 of this title or incentive payments made pursuant to the provisions of Sections 3501 through 3508 of this title;

24. The furnishing to a prospective purchaser of any business, or his or her authorized representative, of information relating to any liabilities, delinquencies, assessments or warrants of the prospective seller of the business which have not been filed of record, established, or

become final and which relate solely to the seller's business. Any disclosure under this paragraph shall only be allowed upon the presentment by the prospective buyer, or the buyer's authorized representative, of the purchase contract and a written authorization between the parties;

25. The furnishing of information as to the amount of state revenue affected by the issuance or granting of any tax permit, license, exemption, deduction, credit or other tax preference by the Tax Commission as provided for by law. Such information shall be limited to the type of permit, license, exemption, deduction, credit or other tax preference issued or granted, the date and duration of such permit, license, exemption, deduction, credit or other tax preference and the amount of such revenue. The provisions of this paragraph shall not authorize the disclosure of the name of the person issued such permit, license, exemption, deduction, credit or other tax preference, or the name of the business entity authorized to engage in business pursuant to the permit, license, exemption, deduction, credit or other tax preference;

26. The examination of records and files of a person or entity by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control pursuant to a court order by a magistrate in whose territorial jurisdiction the person or entity resides, or where the Tax Commission records and files are physically located. Such an order may only be issued upon a sworn application by an agent of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, certifying that the person or entity whose records and files are to be examined is the target of an ongoing investigation of a felony violation of the Uniform Controlled Dangerous Substances Act and that information resulting from such an examination would likely be relevant to that investigation. Any records or information obtained pursuant to such an order may only be used by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control in the investigation and prosecution of a felony violation of the Uniform Controlled Dangerous Substances Act. Any such order issued pursuant to this paragraph, along with the underlying application, shall be sealed and not disclosed to the person or entity whose records were examined, for a period of ninety (90) days. The issuing magistrate may grant extensions of such period upon a showing of good cause in furtherance of the investigation. Upon the expiration of ninety (90) days and any extensions granted by the magistrate, a copy of the application and order shall be served upon the person or entity whose records were examined, along with a copy of the records or information actually provided by the Tax Commission;

27. The disclosure of information, as prescribed by this paragraph, which is related to the proposed or actual usage of tax credits pursuant to Section 2357.7 of this title, the Small Business Capital Formation Incentive Act or the Rural Venture Capital Formation Incentive Act. Unless the context clearly requires otherwise, the terms used in this paragraph shall have the same meaning as defined by Section 2357.7, 2357.61 or 2357.72 of this title. The disclosure of information authorized by this paragraph shall include:

- a. the legal name of any qualified venture capital company, qualified small business capital company, or qualified rural small business capital company,
- b. the identity or legal name of any person or entity that is a shareholder or partner of a qualified venture capital company, qualified small business capital company, or qualified rural small business capital company,
- c. the identity or legal name of any Oklahoma business venture, Oklahoma small business venture, or Oklahoma rural small business venture in which a qualified investment has been made by a capital company, or

- d. the amount of funds invested in a qualified venture capital company, the amount of qualified investments in a qualified small business capital company or qualified rural small business capital company and the amount of investments made by a qualified venture capital company, qualified small business capital company, or qualified rural small business capital company;

28. The disclosure of specific information as required by Section 46 of Title 62 of the Oklahoma Statutes;

29. The disclosure of specific information as required by Section 205.5 of this title; or

30. The disclosure of specific information as required by Section 205.6 of this title.

D. The Tax Commission shall cause to be prepared and made available for public inspection in the office of the Tax Commission in such manner as it may determine an annual list containing the name and post office address of each person, whether individual, corporate, or otherwise, making and filing an income tax return with the Tax Commission.

It is specifically provided that no liability whatsoever, civil or criminal, shall attach to any member of the Tax Commission or any employee thereof for any error or omission of any name or address in the preparation and publication of the list.

E. The Tax Commission shall prepare or cause to be prepared a report on all provisions of state tax law that reduce state revenue through exclusions, deductions, credits, exemptions, deferrals or other preferential tax treatments. The report shall be prepared not later than October 1 of each even-numbered year and shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The Tax Commission may prepare and submit supplements to the report at other times of the year if additional or updated information relevant to the report becomes available. The report shall include, for the previous fiscal year, the Tax Commission's best estimate of the amount of state revenue that would have been collected but for the existence of each such exclusion, deduction, credit, exemption, deferral or other preferential tax treatment allowed by law. The Tax Commission may request the assistance of other state agencies as may be needed to prepare the report. The Tax Commission is authorized to require any recipient of a tax incentive or tax expenditure to report to the Tax Commission such information as requested so that the Tax Commission may fulfill its obligations as required by this subsection. The Tax Commission may require this information to be submitted in an electronic format. The Tax Commission may disallow any claim of a person for a tax incentive due to its failure to file a report as required under the authority of this subsection.

F. It is further provided that the provisions of this section shall be strictly interpreted and shall not be construed as permitting the disclosure of any other information contained in the records and files of the Tax Commission relating to income tax or to any other taxes.

G. Unless otherwise provided for in this section, any violation of the provisions of this section shall constitute a misdemeanor and shall be punishable by the imposition of a fine not exceeding One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for a term not exceeding one (1) year, or by both such fine and imprisonment, and the offender shall be removed or dismissed from office.

H. Offenses described in Section 2376 of this title shall be reported to the appropriate district attorney of this state by the Tax Commission as soon as the offenses are discovered by the Tax Commission or its agents or employees. The Tax Commission shall make available to the appropriate district attorney or to the authorized agent of the district attorney its records and

files pertinent to prosecutions, and such records and files shall be fully admissible as evidence for the purpose of such prosecutions.

Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended by Laws 1976, c. 123, § 1, emerg. eff. May 18, 1976; Laws 1979, c. 30, § 115, emerg. eff. April 6, 1979; Laws 1983, c. 206, § 2, eff. July 1, 1984; Laws 1984, c. 103, § 1, eff. Nov. 1, 1984; Laws 1985, c. 356, § 1, emerg. eff. July 30, 1985; Laws 1986, c. 218, § 3, emerg. eff. June 9, 1986; Laws 1988, c. 281, § 13, operative July 1, 1988; Laws 1988, c. 330, § 16; Laws 1989, c. 249, § 5, emerg. eff. May 19, 1989; Laws 1990, c. 339, § 2, emerg. eff. May 31, 1990; Laws 1991, c. 293, § 5, emerg. eff. May 30, 1991; Laws 1993, c. 275, § 10, eff. July 1, 1993; Laws 1994, c. 80, § 1, eff. Sept. 1, 1994; Laws 1994, c. 385, § 1, eff. Sept. 1, 1994; Laws 1995, c. 1, § 23, emerg. eff. March 2, 1995; Laws 1995, c. 325, § 1, eff. July 1, 1995; Laws 1996, c. 3, § 12, emerg. eff. March 6, 1996; Laws 1997, c. 304, § 1, emerg. eff. May 29, 1997; Laws 1998, c. 385, § 1, eff. Nov. 1, 1998; Laws 1999, c. 10, § 37, eff. July 1, 1999; Laws 2000, c. 314, § 4, eff. July 1, 2000; Laws 2004, c. 303, § 2, eff. July 1, 2004; Laws 2005, c. 375, § 1, eff. Nov. 1, 2005; Laws 2006, c. 281, § 1, emerg. eff. June 7, 2006; Laws 2007, c. 327, § 2, eff. Nov. 1, 2007; Laws 2008, c. 378, § 5, eff. July 1, 2008; Laws 2009, c. 426, § 2, eff. Nov. 1, 2009; Laws 2010, c. 459, § 2, eff. July 1, 2010; Laws 2013, c. 227, § 20, eff. Nov. 1, 2013.

NOTE: Laws 1994, c. 278, § 5 repealed by Laws 1995, c. 1, § 40, emerg. eff. March 2, 1995. Laws 1995, c. 274, § 52 repealed by Laws 1996, c. 3, § 25, emerg. eff. March 6, 1996.

§68-205.1. Municipal sales tax - Report of certain information.

A. To determine the actual municipal sales tax liability of any person engaged in any business upon which the Oklahoma excise tax is levied, the Oklahoma Tax Commission, notwithstanding the provisions of Section 205 of this title, shall, upon request, make available reports to the governing body of each city or town that levies a municipal sales tax, which shall include, but not be limited to, the following information:

1. A full and complete list of the names and addresses of persons who report doing business during the preceding calendar year within the boundary of the city or town and who have a sales tax permit;
2. A full and complete list of such persons specified in paragraph 1 of this subsection who are more than sixty (60) days delinquent in remitting sales tax levied pursuant to the provisions of the Oklahoma Sales Tax Code;
3. A full and complete list of sales and use taxes collected by such persons specified in paragraph 1 of this subsection during the preceding calendar month;
4. A full and complete list of taxpayers who were issued a sales tax permit for a location in the city or town the previous calendar month; and
5. A full and complete list of taxpayers who have advised the Oklahoma Tax Commission that business at the location in the city or town was stopped during the previous calendar month.

B. Upon request by the governing body of a city or town that levies a municipal sales tax, the Oklahoma Tax Commission, notwithstanding the provisions of Section 205 of this title, shall release to such governing body such information or evidence necessary to be used by such body to prosecute violations of municipal sales tax ordinances. Such information or evidence shall include, but is not limited to, the following:

1. Certified copies of sales tax permit applications;
2. Certified copies of sales tax permits;
3. Certified copies of sales tax reports; and

4. Names of Tax Commission employees who may be potential witnesses for municipal prosecution purposes.

C. Except in reporting to the members of the governing body of the city or town, no city or town official or employee shall divulge any information gained from the Oklahoma Tax Commission except that the municipal prosecutor and other municipal enforcement personnel may receive all information necessary to enforce municipal sales tax ordinances.

D. Any city or town official or employee found in violation of this section shall be removed or dismissed from office in the manner provided by law. In addition, any violation of the provisions of this section shall constitute a misdemeanor and shall be punishable by the imposition of a fine not exceeding One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for a term not exceeding one (1) year, or by both said fine and imprisonment.

Added by Laws 1976, c. 152, § 1, emerg. eff. May 28, 1976. Amended by Laws 1984, c. 102, § 2, emerg. eff. April 5, 1984; Laws 1985, c. 95, § 1, eff. Jan. 1, 1986; Laws 1986, c. 218, § 4, emerg. eff. June 9, 1986; Laws 1988, c. 281, § 14, operative July 1, 1988; Laws 2010, c. 412, § 9, eff. July 1, 2010.

§68-205.2. See the following versions:

OS 68-205.2v1 (SB 945, Laws 2013, c. 47, § 1)

OS 68-205.2v2 (HB 1107, Laws 2013, c. 266, § 1)

§68-205.2v1. Claims by state agencies, municipal courts, district courts, or public housing authorities against state income tax refunds.

A. A state agency, a municipal court, a district court or a public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes seeking to collect a debt, unpaid fines and cost or final judgment of at least Fifty Dollars (\$50.00) from an individual who has filed a state income tax return may file a claim with the Oklahoma Tax Commission requesting that the amount owed to the agency, a municipal court, a district court or a public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes be deducted from any state income tax refund due to that individual. The claim shall be filed electronically in a form prescribed by the Tax Commission and shall contain information necessary to identify the person owing the debt, including the full name and Social Security number of the debtor.

1. Upon receiving a claim from a state agency, the municipal court, a district court or a public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes, the Tax Commission shall deduct the claim amount, plus collection expenses as provided in this section, from the tax refund due to the debtor and transfer the amount to the municipal court, the district court, the agency or the public housing authority. Provided, the Tax Commission need not report available funds of less than Fifty Dollars (\$50.00).

2. The state agency, the municipal court, a district court or a public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes shall send notice to the debtor by regular mail at the last-known address of the debtor as shown by the records of the Tax Commission when seeking to collect a debt not reduced to final judgment. The state agency, the municipal court, a district court or a public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes shall send notice to the judgment debtor or municipal court defendant by first class mail at the last-known address of the judgment debtor or municipal court defendant as shown by the records of the Tax Commission when seeking to collect a final

judgment or unpaid municipal fines and cost. The Tax Commission shall provide in an agreed electronic format to the Department of Human Services the amount withheld by the Tax Commission, the home address and the Social Security number of the taxpayer. The notice shall state:

- a. that a claim has been filed with the Tax Commission for any portion of the tax refund due to the debtor or municipal court defendant which would satisfy the debt, unpaid municipal fines and cost, or final judgment in full or in part,
- b. the basis for the claim,
- c. that the Tax Commission has deducted an amount from the refund and remitted it to such state agency, municipal court, district court or public housing authority,
- d. that the debtor or municipal court defendant has the right to contest the claim by sending a written request to the state agency, the municipal court, the district court or the public housing authority for a hearing to protest the claim, and if the debtor or municipal court defendant fails to apply for a hearing within sixty (60) days after the date of the mailing of the notice, the debtor or municipal court defendant shall be deemed to have waived his or her opportunity to contest the claim. Provided, if the claim was filed by the Department of Human Services, the notice shall state that the debtor must contest the claim by sending a written request to the Department within thirty (30) days after the date of the mailing of the notice, and
- e. that a collection expense of five percent (5%) of the gross proceeds owed to the state agency, municipal court or district court has been charged to the debtor or municipal court defendant and withheld from the refund.

3. If the state agency, municipal court, district court or public housing authority determines that a refund is due to the taxpayer, the state agency, municipal court, district court or public housing authority shall reimburse the amount claimed plus the five-percent collection expense to the taxpayer. The state agency, municipal court, district court or public housing authority may request reimbursement of the two-percent collection expense retained by the Tax Commission. Such request must be made within ninety (90) days of reimbursement to the taxpayer. If timely requested, the Tax Commission shall make such reimbursement to the state agency, municipal court, district court or public housing authority within ninety (90) days of the request.

4. In the case of a joint return, the notice shall state:

- a. the name of any taxpayer named in the return against whom no debt, no unpaid fines and cost, or final judgment is claimed,
- b. the fact that a debt, unpaid municipal fines and cost, or final judgment is not claimed against the taxpayer,
- c. the fact that the taxpayer is entitled to receive a refund if it is due regardless of the debt, municipal fines and cost, or final judgment asserted against the debtor or municipal court defendant,
- d. that in order to obtain the refund due, the taxpayer must apply, in writing, for a hearing with the municipal court, district court, the agency or the public housing authority named in the notice within sixty (60) days after the date of the mailing of the notice. Provided, if the claim was filed by the

Department of Human Services, the notice shall state that the taxpayer must apply, in writing, for a hearing with the Department within thirty (30) days after the date of the mailing of the notice, and

- e. if the taxpayer against whom no debt, no unpaid municipal fines and cost, or final judgment is claimed fails to apply in writing for a hearing within sixty (60) days after the mailing of the notice, the taxpayer shall have waived his or her right to a refund. Provided, if the claim was filed by the Department of Human Services, the notice shall state that if the taxpayer fails to apply in writing for a hearing with the Department within thirty (30) days after the date of the mailing of the notice, the taxpayer shall have waived his or her right to a refund.

B. If the municipal court, district court, agency or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes asserting the claim receives a written request for a hearing from the debtor or taxpayer against whom no debt, no municipal fines and cost, or final judgment is claimed, the agency, the municipal court, the district court or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes shall grant a hearing according to the provisions of the Administrative Procedures Act. It shall be determined at the hearing whether the claimed sum is correct or whether an adjustment to the claim shall be made. Pending final determination at the hearing of the validity of the debt, unpaid fines and cost, or final judgment asserted by the municipal court, the district court, agency or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes, no action shall be taken in furtherance of the collection of the debt, unpaid fines and cost, or final judgment. Appeals from actions taken at the hearing shall be in accordance with the provisions of the Administrative Procedures Act.

C. Upon final determination at a hearing, as provided for in subsection B of this section, of the amount of the debt, unpaid fines and cost, or final judgment, or upon failure of the debtor or taxpayer against whom no debt, no unpaid fines and cost, or final judgment is claimed to request such a hearing, the municipal court, the district court, agency or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes shall apply the amount of the claim to the debt owed. Any amounts held by the municipal court, district court, agency or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes in excess of the final determination of the debt and collection expense shall be refunded by the municipal court, district court, agency or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes to the taxpayer. However, if the tax refund due is inadequate to pay the collection expense and debt, unpaid fines and cost, or final judgment, the balance due the state agency, the municipal court, the district court or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes shall be a continuing debt or final judgment until paid in full.

D. Upon receipt of a claim as provided in subsection A of this section, the Tax Commission shall:

1. Deduct from the refund five percent (5%) of the gross proceeds owed to the state agency, the municipal court, district court or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes, and distribute it by retaining two percent (2%) and transferring three percent (3%) to the municipal court, the district court, the state agency or public housing authority operating pursuant to Section 1062 of Title 63 of the

Oklahoma Statutes, as an expense of collection. The two percent (2%) retained by the Tax Commission shall be deposited in the Oklahoma Tax Commission Fund;

2. Transfer the amount of the claimed debt, unpaid fines and cost, or final judgment or so much thereof as is available to the state agency, municipal court, the district court or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes;

3. Notify the debtor in writing as to how the refund was applied; and

4. Refund to the debtor any balance remaining after deducting the collection expense and debt, unpaid fines and cost, or final judgment.

E. The Tax Commission shall deduct from any state tax refund due to a taxpayer the amount of delinquent state tax and penalty and interest thereon, which such taxpayer owes pursuant to any state tax law prior to payment of such refund.

F. The Tax Commission shall have first priority over all other agencies, municipal courts, district courts or public housing authorities operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes, when the Tax Commission is collecting a debt, municipal court fines and cost, or final judgment pursuant to the provisions of this section. Subsequent to the Tax Commission priority, a claim filed by the Department of Human Services for the collection of child support and spousal support shall have priority over all other claims filed pursuant to this section. Priority in multiple claims by other agencies, authorities, municipal courts or district courts pursuant to the provisions of this section shall be in the order in time, in which the Tax Commission receives the claim from the agencies, authorities, municipal courts and district courts required by the provisions of subsection A of this section.

G. The Tax Commission shall prescribe or approve forms and promulgate rules and regulations for implementing the provisions of this section.

H. The information obtained by an agency, authority, municipal court or by the district court from the Tax Commission pursuant to the provisions of this section shall be used only to aid in collection of the debt, unpaid fines and cost, or final judgment owed to the agency, authority, municipal court or a district court. Disclosure of the information for any other purpose shall constitute a misdemeanor. Any agency, authority or court employee or person convicted of violating this provision shall be subject to a fine not exceeding One Thousand Dollars (\$1,000.00) or imprisonment in the county jail for a term not exceeding one (1) year, or both fine and imprisonment and, if still employed by the agency, authority or the courts, shall be dismissed from employment.

I. The Tax Commission may employ the procedures provided by this section in order to collect a debt owed to the Internal Revenue Service if the Internal Revenue Service requires such procedure as a condition to providing information to the Commission concerning federal income tax.

J. The provisions of this section shall not apply to claims filed under the provisions of Section 2906 or Section 5011 of this title.

Added by Laws 1983, c. 206, § 1, eff. July 1, 1984. Amended by Laws 1986, c. 269, § 18, operative July 1, 1986; Laws 1989, c. 249, § 6, eff. July 1, 1989; Laws 1992, c. 66, § 4, eff. July 1, 1992; Laws 1994, c. 29, § 1, eff. Sept. 1, 1994; Laws 1996, c. 146, § 1, eff. Nov. 1, 1996; Laws 1997, c. 403, § 20, eff. Nov. 1, 1997; Laws 2003, c. 472, § 3; Laws 2007, c. 135, § 1, eff. July 1, 2007; Laws 2009, c. 258, § 3, emerg. eff. May 22, 2009; Laws 2010, c. 419, § 1, eff. Nov. 1, 2010; Laws 2012, c. 240, § 1, eff. Nov. 1, 2012; Laws 2013, c. 15, § 80, emerg. eff. April 8, 2013; Laws 2013, c. 47, § 1, emerg. eff. April 15, 2013.

NOTE: Laws 1986, c. 218, § 5 repealed by Laws 1989, c. 249, § 49, eff. July 1, 1989. Laws 2012, c. 256, § 1 repealed by Laws 2013, c. 15, § 81, emerg. eff. April 8, 2013.

§68-205.2v2. Claims by state agencies, municipal courts, district courts, or public housing authorities against state income tax refunds.

A. A state agency, a municipal court, a district court or a public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes seeking to collect a debt, unpaid fines and cost or final judgment of at least Fifty Dollars (\$50.00) from an individual who has filed a state income tax return may file a claim with the Oklahoma Tax Commission requesting that the amount owed to the agency, a municipal court, a district court or a public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes be deducted from any state income tax refund due to that individual. The claim shall be filed electronically in a form prescribed by the Tax Commission and shall contain information necessary to identify the person owing the debt, including the full name and Social Security number of the debtor.

1. Upon receiving a claim from a state agency, the municipal court, a district court or a public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes, the Tax Commission shall deduct the claim amount, plus collection expenses as provided in this section, from the tax refund due to the debtor and transfer the amount to the municipal court, the district court, the agency or the public housing authority. Provided, the Tax Commission need not report available funds of less than Fifty Dollars (\$50.00).

2. The state agency, the municipal court, a district court or a public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes shall send notice to the debtor by regular mail at the last-known address of the debtor as shown by the records of the Tax Commission when seeking to collect a debt not reduced to final judgment. The state agency, the municipal court, a district court or a public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes shall send notice to the judgment debtor or municipal court defendant by first-class mail at the last-known address of the judgment debtor or municipal court defendant as shown by the records of the Tax Commission when seeking to collect a final judgment or unpaid municipal fines and cost. The Tax Commission shall provide in an agreed electronic format to the Department of Human Services the amount withheld by the Tax Commission, the home address and the Social Security number of the taxpayer. The notice shall state:

- a. that a claim has been filed with the Tax Commission for any portion of the tax refund due to the debtor or municipal court defendant which would satisfy the debt, unpaid municipal fines and cost, or final judgment in full or in part,
- b. the basis for the claim,
- c. that the Tax Commission has deducted an amount from the refund and remitted it to such state agency, municipal court, district court or public housing authority,
- d. that the debtor or municipal court defendant has the right to contest the claim by sending a written request to the state agency, the municipal court, the district court or the public housing authority for a hearing to protest the claim, and if the debtor or municipal court defendant fails to apply for a hearing within sixty (60) days after the date of the mailing of the notice, the

debtor or municipal court defendant shall be deemed to have waived his or her opportunity to contest the claim. Provided, if the claim was filed by the Department of Human Services, the notice shall state that the debtor must contest the claim by sending a written request to the Department within thirty (30) days after the date of the mailing of the notice, and

- e. that a collection expense of five percent (5%) of the gross proceeds owed to the state agency, municipal court or district court has been charged to the debtor or municipal court defendant and withheld from the refund.

3. If the state agency, municipal court, district court or public housing authority determines that a refund is due to the taxpayer, the state agency, municipal court, district court or public housing authority shall reimburse the amount claimed plus the five-percent collection expense to the taxpayer. The state agency, municipal court, district court or public housing authority may request reimbursement of the two-percent collection expense retained by the Tax Commission. Such request must be made within ninety (90) days of reimbursement to the taxpayer. If timely requested, the Tax Commission shall make such reimbursement to the state agency, municipal court, district court or public housing authority within ninety (90) days of the request.

4. In the case of a joint return, the notice shall state:

- a. the name of any taxpayer named in the return against whom no debt, no unpaid fines and cost, or final judgment is claimed,
- b. the fact that a debt, unpaid municipal fines and cost, or final judgment is not claimed against the taxpayer,
- c. the fact that the taxpayer is entitled to receive a refund if it is due regardless of the debt, municipal fines and cost, or final judgment asserted against the debtor or municipal court defendant,
- d. that in order to obtain the refund due, the taxpayer must apply, in writing, for a hearing with the municipal court, district court, the agency or the public housing authority named in the notice within sixty (60) days after the date of the mailing of the notice. Provided, if the claim was filed by the Department of Human Services, the notice shall state that the taxpayer must apply, in writing, for a hearing with the Department within thirty (30) days after the date of the mailing of the notice, and
- e. if the taxpayer against whom no debt, no unpaid municipal fines and cost, or final judgment is claimed fails to apply in writing for a hearing within sixty (60) days after the mailing of the notice, the taxpayer shall have waived his or her right to a refund. Provided, if the claim was filed by the Department of Human Services, the notice shall state that if the taxpayer fails to apply in writing for a hearing with the Department within thirty (30) days after the date of the mailing of the notice, the taxpayer shall have waived his or her right to a refund.

B. If the municipal court, district court, agency or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes asserting the claim receives a written request for a hearing from the debtor or taxpayer against whom no debt, no municipal fines and cost, or final judgment is claimed, the agency, the municipal court, the district court or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes shall grant a hearing according to the provisions of the Administrative Procedures Act. It shall

be determined at the hearing whether the claimed sum is correct or whether an adjustment to the claim shall be made. Pending final determination at the hearing of the validity of the debt, unpaid fines and cost, or final judgment asserted by the municipal court, the district court, agency or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes, no action shall be taken in furtherance of the collection of the debt, unpaid fines and cost, or final judgment. Appeals from actions taken at the hearing shall be in accordance with the provisions of the Administrative Procedures Act.

C. Upon final determination at a hearing, as provided for in subsection B of this section, of the amount of the debt, unpaid fines and cost, or final judgment, or upon failure of the debtor or taxpayer against whom no debt, no unpaid fines and cost, or final judgment is claimed to request such a hearing, the municipal court, the district court, agency or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes shall apply the amount of the claim to the debt owed. Any amounts held by the municipal court, district court, agency or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes in excess of the final determination of the debt and collection expense shall be refunded by the municipal court, district court, agency or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes to the taxpayer. However, if the tax refund due is inadequate to pay the collection expense and debt, unpaid fines and cost, or final judgment, the balance due the state agency, the municipal court, the district court or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes shall be a continuing debt or final judgment until paid in full.

D. Upon receipt of a claim as provided in subsection A of this section, the Tax Commission shall:

1. Deduct from the refund five percent (5%) of the gross proceeds owed to the state agency, the municipal court, district court or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes, and distribute it by retaining two percent (2%) and transferring three percent (3%) to the municipal court, the district court, the state agency or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes, as an expense of collection. The two percent (2%) retained by the Tax Commission shall be deposited in the Oklahoma Tax Commission Fund;

2. Transfer the amount of the claimed debt, unpaid fines and cost, or final judgment or so much thereof as is available to the state agency, municipal court, the district court or public housing authority operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes;

3. Notify the debtor in writing as to how the refund was applied; and

4. Refund to the debtor any balance remaining after deducting the collection expense and debt, unpaid fines and cost, or final judgment.

E. The Tax Commission shall deduct from any state tax refund due to a taxpayer the amount of delinquent state tax and penalty and interest thereon, which such taxpayer owes pursuant to any state tax law prior to payment of such refund.

F. The Tax Commission shall have first priority over all other agencies, municipal courts, district courts or public housing authorities operating pursuant to Section 1062 of Title 63 of the Oklahoma Statutes, when the Tax Commission is collecting a debt, municipal court fines and cost, or final judgment pursuant to the provisions of this section. Subsequent to the Tax Commission priority, a claim filed by the Department of Human Services for the collection of child support and spousal support shall have priority over all other claims filed pursuant to this section. Priority in multiple claims by other agencies, authorities, municipal courts or district

courts pursuant to the provisions of this section shall be in the order in time, in which the Tax Commission receives the claim from the agencies, authorities, municipal courts and district courts required by the provisions of subsection A of this section.

G. The Tax Commission shall prescribe or approve forms and promulgate rules and regulations for implementing the provisions of this section.

H. The information obtained by an agency, authority, municipal court or by the district court from the Tax Commission pursuant to the provisions of this section shall be used only to aid in collection of the debt, unpaid fines and cost, or final judgment owed to the agency, authority, municipal court or a district court. Disclosure of the information for any other purpose shall constitute a misdemeanor. Any agency, authority or court employee or person convicted of violating this provision shall be subject to a fine not exceeding One Thousand Dollars (\$1,000.00) or imprisonment in the county jail for a term not exceeding one (1) year, or both fine and imprisonment and, if still employed by the agency, authority or the courts, shall be dismissed from employment.

I. The Tax Commission may employ the procedures provided by this section in order to collect a debt owed to the Internal Revenue Service if the Internal Revenue Service requires such procedure as a condition to providing information to the Commission concerning federal income tax.

J. The provisions of this section shall not apply to claims filed under the provisions of Section 2906 or Section 5011 of this title or to any debt owed to a state agency for health care or medical services unless said health care or medical services were rendered, induced or otherwise obtained as a result of fraud, breach of contract, error, ineligibility or any illegal or unauthorized means.

Added by Laws 1983, c. 206, § 1, eff. July 1, 1984. Amended by Laws 1986, c. 269, § 18, operative July 1, 1986; Laws 1989, c. 249, § 6, eff. July 1, 1989; Laws 1992, c. 66, § 4, eff. July 1, 1992; Laws 1994, c. 29, § 1, eff. Sept. 1, 1994; Laws 1996, c. 146, § 1, eff. Nov. 1, 1996; Laws 1997, c. 403, § 20, eff. Nov. 1, 1997; Laws 2003, c. 472, § 3; Laws 2007, c. 135, § 1, eff. July 1, 2007; Laws 2009, c. 258, § 3, emerg. eff. May 22, 2009; Laws 2010, c. 419, § 1, eff. Nov. 1, 2010; Laws 2012, c. 240, § 1, eff. Nov. 1, 2012; Laws 2013, c. 15, § 80, emerg. eff. April 8, 2013; Laws 2013, c. 266, § 1, eff. Nov. 1, 2013.

NOTE: Laws 1986, c. 218, § 5 repealed by Laws 1989, c. 249, § 49, eff. July 1, 1989. Laws 2012, c. 256, § 1 repealed by Laws 2013, c. 15, § 81, emerg. eff. April 8, 2013.

§68-205.3. Repealed by Laws 2012, c. 256, § 2, eff. Nov. 1, 2012.

§68-205.4. Repealed by Laws 2013, c. 227, § 21, eff. Nov. 1, 2013.

§68-205.5. Posting of delinquent taxes list on Internet - Notice - Removal - Liability limitation.

A. The Oklahoma Tax Commission shall prepare and maintain a list of all persons who owe delinquent taxes, including interest, penalties, fees, and costs, in excess of Twenty-five Thousand Dollars (\$25,000.00), which are unpaid for more than ninety (90) days after all appeal rights have expired and for which a tax warrant has been filed. The Tax Commission shall cause the list to be posted on the Internet. After providing notice as described in subsection B of this section, the Internet site shall list the name, address, type of tax due, and amount of tax due, including interest, penalties, fees, and costs for each person who has one of the delinquent taxpayer accounts, and the Internet site shall contain a special page for those persons who have

the one hundred (100) largest delinquent taxpayer accounts. Except as otherwise provided in this subsection, the Tax Commission shall update the Internet site on a quarterly basis. The Tax Commission shall not post on the Internet the name or related information of any person who has entered into a pay plan agreement with the Tax Commission and is in compliance with that agreement, or the name or related information of any person who is protected by a stay that is in effect under the Federal Bankruptcy Code. The Internet posting shall be updated each business day to comply with these prohibitions.

B. At least ninety (90) days before the disclosure of the name of a delinquent taxpayer prescribed in subsection A of this section, the Tax Commission shall mail a written notice to the delinquent taxpayer at the taxpayer's last known address informing the taxpayer that the failure to cure the tax delinquency could result in the taxpayer's name being included in a list of delinquent taxpayers that is published on the Internet on the website maintained pursuant to this section. If the delinquent tax has not been paid ninety (90) days after the notice was mailed, and the taxpayer has not, since the mailing of the notice, either entered into a written agreement with the Tax Commission for payment of the delinquency or corrected a default in an existing agreement to the satisfaction of the Tax Commission, the Tax Commission may disclose the taxpayer information in the list of delinquent taxpayers.

C. The name of a taxpayer shall be removed within fifteen (15) days after the payment in full of the debt or entering into a pay plan agreement with the Tax Commission.

D. Any disclosure made by the Tax Commission or its employees, in a good faith effort to comply with the provisions of this section, shall not be considered a violation of Section 205 of Title 68 of the Oklahoma Statute or any other statute prohibiting disclosure of taxpayer information and no liability whatsoever, civil or criminal, shall attach to any member of the Tax Commission or any employee thereof for any error or omission in the disclosure of such information.

Added by Laws 2009, c. 426, § 3, eff. Nov. 1, 2009.

§68-205.6. Disclosure of taxpayers who claimed tax credits.

A. The Oklahoma Tax Commission shall prepare and maintain a list of all taxpayers who have claimed any tax credit authorized by any provisions of state law and related to a tax administered by the Tax Commission. The Office of Management and Enterprise Services shall cause the list to be posted on the Internet through the Taxpayer Transparency Act website in a format which is searchable and can be exported in raw data form.

The Office of Management and Enterprise Services shall include the name of each taxpayer who claimed a credit, the amount of such credit and the specific statutory provision under which the credit was claimed. The Internet list shall be updated not less than monthly. The list shall include the identity of all taxpayers or organizations having any part in the chain of custody or claim to the credit or credits at any time during the credit's existence from the initial time the credit is earned, through the time that the credit is claimed on a tax return.

B. For the purposes of this section "tax credit" means a credit against tax liability that is a credit administered by the Tax Commission, excluding credits authorized under paragraphs 1 and 2 of subsection B of Section 2357, Section 2357.4 and Sections 2357.29 and 2357.43 of this title.

C. In addition to the disclosure required by subsection A of this section, for any tax credit that may be claimed by any person or any lawfully recognized business entity pursuant to the provisions of Sections 2357.62, 2357.63, 2357.73, and 2357.74 of this title, the Oklahoma Tax Commission shall maintain a list of any person and any such entity that may be able to claim any

such credit as a result of the allocation of tax credits based upon the pass-through federal income tax treatment applicable to the entity that makes a qualified investment, as such term is defined by paragraph 6 of Section 2357.61 of this title and paragraph 7 of Section 2357.72 of this title, in either a qualified small business capital company or a qualified rural small business capital company. For purposes of this subsection, the Tax Commission shall determine the identity of such persons and legal entities as of the December 31 date of the calendar year during which the qualified investment is made.

Added by Laws 2010, c. 459, § 3, eff. July 1, 2010. Amended by Laws 2011, c. 273, § 2, eff. Jan. 1, 2012; Laws 2012, c. 304, § 533.

§68-206. Examinations or investigations.

(a) In the administration of this article or any state tax law, the Tax Commission may make, or cause to be made by its employees or agents, an examination or investigation of the place of business, the tangible personal property, equipment and facilities, and the books, records, papers, vouchers, accounts and documents of any taxpayer. It shall be the duty of every taxpayer and of every director, officer, agent, or employee of every taxpayer to exhibit to the Tax Commission, or to the employees or agents of such Tax Commission, the place of business, the tangible personal property, equipment and facilities, and the books, records, papers, vouchers, accounts and documents of such taxpayer, and to facilitate any such examination or investigation so far as it may be in his or her power so to do.

(b) When books, records, papers, vouchers, accounts or documents of a taxpayer are in the possession of any person, firm or corporation other than the taxpayer, any member of the Tax Commission may compel by subpoena the production of such books, records, papers, vouchers, accounts or documents by the party in possession for inspection by employees or agents of the Tax Commission. Failure to obey such a subpoena issued pursuant to this subsection shall be punishable in the same manner as provided for in Section 243 of this title.

(c) It shall be lawful for the Tax Commission, or for any employee or agent of the Tax Commission by it designated, to take the oath of any person signing any application, deposition, statement, report or return required by the Tax Commission in the administration of this article or of any state tax law.

Amended by Laws 1985, c. 356, § 2, emerg. eff. July 30, 1985.

§68-206.1. Tax Commission - Examinations and inspections outside state - Compensation and expenses.

When it is deemed advisable by the Oklahoma Tax Commission to examine or inspect the books and records of any taxpayer at a location outside this state, the necessary and reasonable expenses of the Tax Commission or its employees incurred in the examination or inspection shall be reimbursed by the state. Reimbursements for all necessary and reasonable expenses provided for in this section may exceed the limits authorized by the State Travel Reimbursement Act.

Added by Laws 1983, c. 166, § 1, emerg. eff. June 6, 1983. Amended by Laws 1983, c. 275, § 4, emerg. eff. June 24, 1983; Laws 1984, c. 193, § 1, emerg. eff. May 14, 1984; Laws 1998, c. 301, § 1, eff. Nov. 1, 1998.

§68-207. Hearings by Tax Commission.

(a) Incidental to the performance of its duties in the administration of this article or any state tax law, any member of the Tax Commission shall have the power to administer oaths,

conduct hearings, and compel by subpoena the attendance of witnesses and the production of any books, records, or papers of any person, firm, or corporation. The Tax Commission may examine under oath any taxpayer, and the directors, officers, agents and employees of any taxpayer, as well as all other witnesses, relative to the business of such taxpayer in respect of any matter incident to the administration of this article or any state tax law.

(b) The fees of witnesses required by the Tax Commission to attend any hearing shall be the same as those allowed to witnesses appearing before district courts of this state. Such fees shall be paid in the manner provided for the payment of other expenses incident to the administration of this article or of any state tax law.

(c) Any person desiring a hearing before the Tax Commission shall file an application for such hearing, signed by himself or his duly authorized agent, setting out therein:

(1) A statement of the nature of the tax, the amount thereof in controversy, and the action of the Tax Commission complained of;

(2) A clear and concise assignment of each error alleged to have been committed by the Tax Commission;

(3) The argument and legal authority upon which each assignment of error is made; provided, that the applicant shall not be bound or restricted in such hearing, or on appeal, to the arguments and legal authorities contained and cited in said application;

(4) A statement of the relief sought by the taxpayer;

(5) A statement of the witnesses, so far as such witnesses are then known to the taxpayer, showing their names and addresses, and, if the taxpayer so desires, a request that such witnesses be subpoenaed;

(6) A verification by such person, or his duly authorized agent, that the statements and facts therein contained are true.

(d) If, in such application, the taxpayer shall request an oral hearing, the Tax Commission shall grant such hearing and shall, by written notice, advise the taxpayer of a date, which shall not be less than ten (10) days from the date of mailing such written notice, when such taxpayer may appear before the Tax Commission and present argument and evidence, oral or written. The Tax Commission shall, as soon as practicable thereafter, hold a hearing upon the matter and, pursuant to such hearing, shall, as soon as practicable, make an order confirming, modifying or vacating its prior determination, and shall send to the parties appearing before it at such hearing immediately a copy of such order.

Laws 1965, c. 414, § 2.

§68-208. Notice of hearing.

Any notice required by this article, or any state tax law, to be given by the Tax Commission shall be in writing and may be served personally or by mail. If mailed, it shall be addressed to the person to be notified at the last-known address of such person. As used in this article or any other state tax law, "last-known address" shall mean the last address given for such person as it appears on the records of the division of the Tax Commission giving such notice, or if no address appears on the records of that division, the last address given as appears on the records of any other division of the Tax Commission. If no such address appears, the notice shall be mailed to such address as may reasonably be obtainable. If the Tax Commission receives an address from the United States Postal Service as a result of a change of address submitted to the United States Postal Service, "last-known address" shall mean the address provided to the United States Postal Service. The mailing of such notice shall be presumptive

evidence of receipt of the same by the person to whom addressed. If the notice has been mailed as provided in this section, failure of the person to receive such notice shall neither invalidate nor be grounds for invalidating any action taken pursuant thereto, nor shall such failure relieve any taxpayer from any tax or addition to tax or any interest or penalties thereon.

Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended by Laws 1989, c. 249, § 7, eff. July 1, 1989; Laws 1993, c. 146, § 6; Laws 2009, c. 426, § 4, emerg. eff. June 1, 2009.

§68-209. Notice to Commission's attorney before judicial hearing - Costs.

No court of this state shall hear or try any case in which the Tax Commission is a party plaintiff, defendant or intervener, until it has been made to appear to said court that notice of the time and place of said hearing has been given by registered or certified mail, for at least ten (10) days, to the attorney of the Tax Commission. Such notice shall be given by the court clerk and the cost thereof taxed as court costs in the case.

Laws 1965, c. 414, § 2.

§68-210. Bonds.

(a) Any bond required to be filed to protect the State of Oklahoma under this article or any state tax law must be approved by the Tax Commission and shall be in such form and amount as such tax law shall require, or, in the absence of a specific requirement, in such amount as the Tax Commission may require, and shall be signed as surety by a surety company authorized to transact business in this state, or in lieu of such surety bond, there may be filed negotiable bonds or other obligations of the United States or of the State of Oklahoma of an actual market value not less than the amount fixed by such law or by the Tax Commission.

(b) Notwithstanding the limitation as to the amount of any bond fixed by any tax law requiring a bond, if a taxpayer:

1. Becomes delinquent in the payment of any tax;
 2. Tenders a check in payment of a tax which check is returned unpaid because of insufficient funds; or
 3. Is unable to furnish a financial statement that, in the judgment of the Tax Commission, indicates ability to properly discharge his liability for the tax currently accruing against such taxpayer;
- then, in any of such events, the Tax Commission shall demand an additional bond of such taxpayer in an amount necessary, in the judgment of the Tax Commission, to protect the revenue of the State. Provided, that the penal sum of the additional bond and the bond furnished under the provisions of the law requiring such bond, may not, in total amount, exceed three (3) months' tax liability.

(c) If any bond or other instrument filed to protect the State of Oklahoma under this article or any state tax law is revoked or canceled by the issuer thereof, such issuer shall provide notice of such revocation or cancellation to the Oklahoma Tax Commission by certified mail.

Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended by Laws 1994, c. 278, § 6, eff. Sept. 1, 1994.

§68-211. Return of deposited money or securities to taxpayer.

When, to secure compliance with the provisions of this article or any other State tax law, money or securities have been deposited with the Tax Commission, and the Tax Commission is satisfied that the taxpayer has complied with all tax laws and has, through independent payment

or through authorization granted by the taxpayer to the Tax Commission to satisfy such tax indebtedness out of the money or securities deposited, paid all taxes due the State, then the Tax Commission shall return to the owner all or such part of the deposited money or securities as remains after the liquidation of taxpayer's tax liability.

If such money or securities have by the Tax Commission been deposited with the State Treasurer, then the Tax Commission shall, under the circumstances above stated, notify the Treasurer that the money or securities, or such part as the Tax Commission shall direct, should be returned to the owner.

Laws 1965, c. 414, § 2.

§68-212. Cancellation or refusal of license or permit.

A. The Tax Commission is authorized to cancel or to refuse the issuance, extension or reinstatement of any license, permit or duplicate copy thereof, under the provisions of any state tax law or other law, to any person, firm, or corporation who shall be guilty of:

1. Violation of any of the provisions of this article;
 2. Violation of the provisions of any state tax law;
 3. Violation of the rules and regulations promulgated by the Tax Commission for the administration and enforcement of any state tax law;
 4. Failure to observe or fulfill the conditions upon which the license or permit was issued;
- or

5. Nonpayment of any delinquent tax or penalty.

B. Before any license, permit or duplicate copy thereof may be canceled, or the issuance, reinstatement, or extension thereof refused, the Tax Commission shall give the owner of such license or permit, or applicant therefor, twenty (20) days' notice by registered mail or certified mail with return receipt requested, of a hearing before said Tax Commission, granting said person an opportunity to show cause why such action should not be taken. If the notice has been mailed as required by this section, failure of the person to have received actual notice of the hearing shall neither invalidate nor be grounds for invalidating any action taken at the hearing or pursuant to the hearing.

C. Upon the cancellation of any license, permit, or duplicate copy thereof by the Tax Commission, all accrued taxes and penalties, although said taxes and penalties are not, at the time of the cancellation, due and payable under the terms of the state tax law imposing or levying such tax or taxes, shall become due and payable concurrently with the cancellation of such license, permit or duplicate copy thereof, and the licensee or permittee shall forthwith make a report covering the period of time not covered by preceding reports filed by said person and ending with the date of the cancellation and shall pay all such taxes and penalties.

D. The Tax Commission may enter its order temporarily suspending any license, permit or duplicate copy thereof pending a final hearing before it on the subject of the cancellation of such license, permit or duplicate copy thereof, and may give notice of such temporary suspension at the same time that notice of its intention to cancel any license, permit or duplicate copy or to refuse the issuance, reinstatement or extension thereof is given, as provided by this section. After being given notice of any such order of suspension, it shall be unlawful for any person to continue to operate his business under any such suspended license, permit or duplicate copy thereof.

E. In the event any such person shall continue or threaten to continue such unlawful operations after having received proper notice of the suspension, cancellation, revocation, or

refusal to issue, extend, or reinstate his license, permit or duplicate copy thereof, upon complaint of the Tax Commission such person shall be enjoined from further operating or conducting such unlawful business. In all cases where injunction proceedings are brought under this article, the Commission shall not be required to furnish bond, and where notice of suspension, cancellation, revocation, or refusal to issue, extend, or reinstate any license, permit or duplicate copy thereof has been given in accordance with the provisions of this section, no further notice shall be required before the issuance of a temporary restraining order by the district court.

Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended by Laws 1989, c. 249, § 8, eff. July 1, 1989; Laws 2012, c. 357, § 4, eff. July 1, 2012.

§68-212.1. Definitions.

A. As used in this section, the term:

1. “Automated sales suppression device” or “zapper” means a software program, carried on a memory stick or removable compact disc, accessed through an Internet link, or accessed through any other means, that falsifies the electronic records of electronic cash registers and other point-of-sale systems, including, but not limited to, transaction data and transaction reports;

2. “Electronic cash register” means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing retail sales transaction data in whatever manner;

3. “Phantom-ware” means a hidden, preinstalled, or installed-at-a-later-time programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a virtual second till or may eliminate or manipulate transaction records that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register;

4. “Transaction data” includes items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction; and

5. “Transaction reports” means a report documenting, but not limited to, the sales, tax collected, media totals, and discount voids at an electronic cash register that is printed on cash register tape at the end of a day or shift, or a report documenting every action at an electronic cash register that is stored electronically.

B. It shall be unlawful to willfully and knowingly sell, purchase, install, transfer, or possess in this state any automated sales suppression device or zapper or phantom-ware.

C. Any person convicted of a violation of subsection B of this section shall be guilty of a felony and shall be punished by imprisonment of not less than one (1) nor more than five (5) years, a fine not to exceed One Hundred Thousand Dollars (\$100,000.00), or both.

D. In addition to the criminal penalty provided in subsection C of this section, any person violating subsection B of this section shall be subject to an administrative fine of Ten Thousand Dollars (\$10,000.00). Administrative fines collected pursuant to the provisions of this subsection shall be deposited to the General Revenue Fund.

E. The Tax Commission shall immediately revoke the sales tax permit of a person who violated subsection B of this section. A person whose license is so revoked shall not be eligible

to receive another sales tax permit issued pursuant to Section 1364 of Title 68 of the Oklahoma Statutes for a period of ten (10) years.

Added by Laws 2012, c. 357, § 5, eff. July 1, 2012.

§68-213. Notice to taxpayer on final determination of tax liability when security on file - Forfeiture of bond and collection of amount due.

Where, as security for the payment of any state tax, the taxpayer has filed with the Tax Commission a bond, the Tax Commission shall, as soon as the tax has been finally determined to be due and payable, notify the taxpayer and his surety or sureties of such fact by sending to each of them, addressed to their respective post office addresses last known to the Tax Commission, a letter by registered or certified mail with return receipt requested.

If, within thirty (30) days after the mailing of such notice the amount due remains unpaid, the bond posted shall be forfeited and the Tax Commission shall proceed to collect the amount due thereunder, together with any penalties and costs incident thereto. It shall not be necessary to make the delinquent taxpayer a party to any suit that may be brought against his surety or sureties.

Laws 1965, c. 414, § 2.

§68-214. Release of property from lien - Execution and recording.

The Oklahoma Tax Commission may release any property from the lien of any warrant, certificate, judgment, or levy procured by it; provided, payment shall be made to the Tax Commission of such sum as it shall deem adequate consideration for such release, or a deposit shall be made with the Tax Commission of such security as it shall deem adequate to secure the payment of any debt evidenced by any such warrant, certificate, judgment, or levy, the lien of which is sought to be released. Provided further, however, the Tax Commission shall issue such releases without the payment of any consideration in cases where it determines that its warrant, certificate or judgment is clouding the title of such property by reason of error in the description of properties or similarity of names. Such release shall be filed in the office of the county clerk in which the lien is filed or same shall be recorded in any office in which conveyances of real estate may be recorded. Such release may be filed in the appropriate office of the county clerk by the taxpayer or by the Tax Commission. If such release is filed by the Tax Commission, the Tax Commission shall collect the filing fee, as authorized by statute, along with the other consideration for the release. The Tax Commission may file the release in the appropriate office of the county clerk by electronic means. Upon collection of the filing fees, the Tax Commission shall transmit the revenue to the State Treasurer to be deposited in the Oklahoma Tax Commission Fund. The revenue from the fees collected shall be remitted monthly by the Tax Commission to the appropriate county treasurers to be deposited in the appropriate fund of the county clerk's department.

Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended by Laws 1986, c. 218, § 6, emerg. eff. June 9, 1986; Laws 1993, c. 146, § 7; Laws 2003, c. 472, § 4.

§68-215. Collection of taxes, penalties, in same manner as personal debt.

(a) The taxes, fees, interest, and penalties imposed or levied by any State tax law, or by this article, from the time the same shall become due, may be collected in the same manner as a personal debt of the taxpayer to the State of Oklahoma, recoverable in any court of competent jurisdiction in any action in the name of the State of Oklahoma, on relation of the Oklahoma Tax

Commission. Such suit may be maintained and prosecuted, and all proceedings taken, to the same effect and extent as for the enforcement of a right of action for debt. All provisional remedies available in such actions shall be, and are hereby made, available to the State of Oklahoma in the enforcement of the payment of any state tax.

(b) The proceeds of any judgment or order obtained hereunder shall be paid to the Tax Commission.

Laws 1965, c. 414, § 2.

§68-216. Extension of time for filing return.

The Tax Commission, whenever in its judgment good cause exists and pursuant to written request, may grant a reasonable extension for the filing of any return required under any state tax law. The Tax Commission shall keep a record of every extension granted with the reason therefor. Except in the case of corporation income or franchise tax returns, if franchise tax returns are filed at the same time as the corporate income tax return, the time for filing any return may not extend in the aggregate later than one-half (1/2) the period of time for which any such return is filed under the particular state tax law involved nor may any such extension extend the date on which any payment of a state tax is due. An extension not to exceed seven (7) months for the filing of corporation income or franchise tax returns, if franchise tax returns are filed at the same time as the corporate income tax return, shall be allowed. Any extension granted for the corporate income tax return shall be deemed to cover the filing of a franchise tax return if a taxpayer elects to file the franchise tax return at the same time as the corporate income tax return. An extension shall not extend the date for payment of the state income or franchise tax due. In case an extension is granted, the taxpayer may file a tentative return on or before the date when the return is required by any state tax law showing the estimated amount of tax for the period covered by the return and may pay the estimated tax or the first installment thereof at the time of filing such tentative return and no interest or penalty shall attach or be payable on sums so paid in due course.

Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended by Laws 1983, c. 275, § 5, emerg. eff. June 24, 1983; Laws 1997, c. 249, § 1, eff. Sept. 1, 1998.

§68-216.1. Repealed by Laws 1999, c. 390, § 16, emerg. eff. June 8, 1999.

§68-216.2. Tax amnesty program.

For the purpose of encouraging the voluntary disclosure and payment of taxes owed to this state, the Oklahoma Tax Commission is hereby authorized and directed to establish a tax amnesty program during which penalties and one-half interest due on delinquent taxes assessed by the Tax Commission and imposed pursuant to the provisions of Title 68 of the Oklahoma Statutes and the Oklahoma Alcoholic Beverage Control Act shall be waived, except as provided herein. The amnesty program shall not include any penalties or interest that may have been assessed pursuant to the Ad Valorem Tax Code or the Motor Vehicle Excise Tax Code or penalties or interest assessed by an agency other than the Tax Commission. A taxpayer shall be entitled to a waiver of penalty and one-half interest due on taxes which are delinquent prior to August 15, 2002, if the taxpayer voluntarily files delinquent tax returns and pays the taxes and remaining interest due during the amnesty period. The amnesty period shall extend from August 15, 2002, through November 15, 2002. The waiver of penalties and one-half interest shall apply to:

1. The under-reporting of tax liabilities;
2. The nonpayment of taxes; and
3. The nonreporting of tax liabilities.

The Tax Commission shall promulgate rules detailing the terms and other conditions of this program.

The Tax Commission is authorized to expend necessary available funds to publicly advertise this program and shall be exempt from the provisions of Section 85.7 of Title 74 for the purpose of implementing this section.

Added by Laws 2002, c. 458, § 3, eff. July 1, 2002.

§68-216.3. Voluntary Compliance Initiative.

A. For the purpose of encouraging the voluntary disclosure and payment of taxes owed to this state, the Oklahoma Tax Commission is hereby authorized and directed to establish a Voluntary Compliance Initiative for eligible taxes, as provided in this section. A taxpayer shall be entitled to a waiver of penalty, interest and other collection fees due on eligible taxes if the taxpayer voluntarily files delinquent tax returns and pays the taxes due during the compliance initiative. The time in which a voluntary payment of tax liability may be made or the taxpayer may enter into a payment program acceptable to the Tax Commission for the payment of the unpaid taxes in full in the manner and time established in a written payment program agreement between the Tax Commission and the taxpayer under the Voluntary Compliance Initiative is limited to the period beginning on September 15, 2008, and ending on November 14, 2008.

B. Upon payment of the eligible taxes under the Voluntary Compliance Initiative established, the Tax Commission shall abate and not seek to collect any interest, penalties, collection fees, or costs that would otherwise be applicable and release any liens imposed.

C. As used in this section, "eligible taxes" shall include the following taxes that were due and payable for any tax period or periods ending before January 1, 2008:

1. Mixed Beverage tax levied pursuant to Section 576 of Title 37 of the Oklahoma Statutes,
2. Gasoline and diesel tax levied pursuant to Section 500.4 of Title 68 of the Oklahoma Statutes;
3. Gross Production and petroleum excise tax levied pursuant to Sections 1001, 1101 and 1102 of Title 68 of the Oklahoma Statutes;
4. Franchise tax levied pursuant to Sections 1203 or 1204 of Title 68 of the Oklahoma Statutes;
5. Sales tax levied pursuant to Sections 1354 of Title 68 of the Oklahoma Statutes;
6. Use tax levied pursuant to Section 1402 of Title 68 of the Oklahoma Statutes;
7. Income tax levied pursuant to Section 2355 of Title 68 of the Oklahoma Statutes;
8. Withholding tax levied pursuant to 2385.2 of Title 68 of the Oklahoma Statutes; and
9. Privilege tax levied pursuant to Section 2370 of Title 68 of the Oklahoma Statutes.

D. If any eligible tax, or any part thereof, is not paid before the end of the Voluntary Compliance Initiative established under this section or in conformity with a written payment agreement entered into during the Voluntary Compliance Initiative between the Tax Commission and the taxpayer for payment of the unpaid eligible taxes, a penalty equal to the amount of delinquent penalty imposed by the applicable section for nonpayment of the tax shall be added thereto, collected and paid; provided, the Tax Commission shall not collect the penalty assessed in this section if the individual or entity from which the tax liability is due was not eligible to

participate in the compliance initiative or the taxpayer has timely filed a protest of an assessment pursuant to Section 221 of Title 68 of the Oklahoma Statutes or is otherwise a contested matter before a court of competent jurisdiction.

E. The Tax Commission shall promulgate rules detailing the terms and other conditions of this program.

F. The Tax Commission is authorized to expend necessary available funds, including contracting with third parties, to publicly advertise, assist in the collection of eligible taxes, and administer the Voluntary Compliance Initiative and shall be exempt from the provisions of Section 85.7 of Title 74 of the Oklahoma Statutes for the purpose of implementing this section. Added by Laws 2008, c. 395, § 1, emerg. eff. June 3, 2008.

§68-217. Interest and penalties on delinquent taxes; interest on refunds.

A. If any amount of tax imposed or levied by any state tax law, or any part of such amount, is not paid before such tax becomes delinquent, there shall be collected on the total delinquent tax interest at the rate of one and one-quarter percent (1 1/4%) per month from the date of the delinquency until paid.

B. Interest upon any amount of state tax determined as a deficiency, under the provisions of Section 221 of this title, shall be assessed at the same time as the deficiency and shall be paid upon notice and demand of the Oklahoma Tax Commission at the rate of one and one-quarter percent (1 1/4%) per month from the date prescribed in the state tax law levying such tax for the payment thereof to the date the deficiency is assessed.

C. If any tax due under state sales, use, tourism, mixed beverage gross receipts, or motor fuel tax laws, or any part thereof, is not paid within fifteen (15) days after such tax becomes delinquent a penalty of ten percent (10%) on the total amount of tax due and delinquent shall be added thereto, collected and paid. However, the Tax Commission shall not collect the penalty assessed if the taxpayer remits the tax within thirty (30) days of the mailing of a proposed assessment or voluntarily pays the tax upon the filing of an amended return.

D. If any tax due under any state tax law other than those specified in subsection C of this section, or any part thereof, is not paid within thirty (30) days after such tax becomes delinquent a penalty of ten percent (10%) on the total amount of tax due and delinquent shall be added thereto, collected and paid. However, the Tax Commission shall not collect the penalty assessed if the taxpayer remits the tax and interest within sixty (60) days of the mailing of a proposed assessment or voluntarily pays the tax upon the filing of an amended return.

E. If any part of any deficiency, arbitrary or jeopardy assessment made by the Tax Commission is based upon or occasioned by the taxpayer's negligence or by the failure or refusal of any taxpayer to file with the Tax Commission any report or return, as required by this title, or by any state tax law, within ten (10) days after a written demand for such report or return has been served upon any taxpayer by the Tax Commission by letter, the Tax Commission may assess and collect, as a penalty, twenty-five percent (25%) of the amount of the assessment. For purposes of this subsection, "negligence" shall mean the consistent understatement of income, consistent understatement of receipts or a system of recordkeeping by the taxpayer that consistently results in an inaccurate reporting of tax liability.

F. If any part of any deficiency is due to fraud with intent to evade tax, then fifty percent (50%) of the total amount of the deficiency, in addition to such deficiency, including interest as herein provided, shall be added, collected and paid.

G. All penalties or interest imposed by this title, or any state tax law, shall be recoverable by the Tax Commission as a part of the tax with respect to which they are imposed, the penalties bearing interest as provided in this section for the tax, and all penalties and interest shall be apportioned as provided for the apportionment of the tax on which such penalties or interest are collected.

H. 1. Whenever an income tax refund is not paid to the taxpayer within ninety (90) days after the return is filed or due, whichever is later, with all documents as required by the Tax Commission, entitling the taxpayer to a refund, then the Tax Commission shall pay interest on the refund, at the same rate specified for interest on delinquent tax payments. The payment of interest on refunds provided for by this section shall apply to tax year 1987 and subsequent tax years. The Tax Commission shall not be required to pay interest on an income tax refund which is applied, in whole or in part, to a prior year tax liability pursuant to Section 2385.17 of this title or upon an income tax refund applied, in whole or in part, to satisfy a debt owed to the Internal Revenue Service of the United States or to a state agency, including the Oklahoma Tax Commission, as provided by Section 205.2 of this title.

2. For tax returns filed after January 1, 2004, and before January 2, 2010, whenever an income tax refund is not paid to the taxpayer within the following number of days after the income tax return is filed with all documents as required by the Tax Commission or after the income tax return is due, whichever is later, entitling the taxpayer to a refund, then the Tax Commission shall pay interest on the refund at the same rate specified for interest on delinquent tax payments:

- a. for returns filed electronically, thirty (30) days, and
- b. for all other returns, one hundred fifty (150) days.

3. For tax returns filed after January 1, 2010, whenever an income tax refund is not paid to the taxpayer within the following number of days after the income tax return is filed with all documents as required by the Tax Commission entitling the taxpayer to a refund, then the Tax Commission shall pay interest on the refund at the same rate specified for interest on delinquent tax payments:

- a. for returns filed electronically, twenty (20) days, and
- b. for all other returns, ninety (90) days.

Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended by Laws 1983, c. 13, § 1, emerg. eff. March 23, 1983; Laws 1988, c. 87, § 1, operative July 1, 1988; Laws 1988, c. 204, § 9, operative July 1, 1988; Laws 1989, c. 249, § 9, eff. July 1, 1989; Laws 1990, c. 339, § 12, eff. July 1, 1990; Laws 1991, c. 342, § 8, emerg. eff. June 15, 1991; Laws 1993, c. 146, § 8; Laws 1998, c. 385, § 2, eff. Nov. 1, 1998; Laws 2003, c. 472, § 5; Laws 2004, c. 535, § 1, eff. Nov. 1, 2004; Laws 2009, c. 156, § 1, eff. Jan. 1, 2010.

§68-218. Remittance of taxes and fees - Dishonored checks - ATMs in Commission facilities.

A. All remittances of taxes and fees under any state tax law or this Code, shall be made payable to the Oklahoma Tax Commission, at Oklahoma City, Oklahoma, by bank draft, check, cashier's check, money order, money, electronic funds transfer or nationally recognized credit or debit card. The Tax Commission shall issue its receipt for cash or money payment to the taxpayer. If payment is made by a credit or debit card, the Tax Commission may add an amount equal to the amount of the service charge incurred as a service charge for the acceptance of such card. For purposes of this paragraph, "nationally recognized credit or debit card" means any instrument or device, whether known as a credit card, credit plate, charge plate, debit card, or by

any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining goods, services or anything of value on credit which is accepted by over one thousand merchants in this state. The Tax Commission shall determine which nationally recognized cards will be accepted. However, the Tax Commission must ensure that no loss of state revenue will occur by the use of such card. The Tax Commission shall promulgate rules to allow for the orderly implementation of payment by credit or debit cards.

B. No remittance other than cash shall be final discharge of liability due the Tax Commission unless and until it shall have been paid in cash. All money collected shall be deposited with the State Treasurer to be distributed as provided by the state tax law under which the tax was levied.

C. There shall be assessed, in addition to any other penalties provided for by law, an administrative service fee of Twenty-five Dollars (\$25.00) for each check returned to the Tax Commission or any agent thereof by reason of the refusal of the bank upon which such check was drawn to honor the same. However, the fee provided in this subsection shall not be assessed for any check returned because of "insufficient funds" unless the check has been presented to the bank two times and payment declined by the bank.

D. Upon the return of any check by reason of the refusal of the bank upon which such check was drawn to honor the same, the Tax Commission may file a bogus check complaint with the appropriate district attorney who shall refer the complaint to the Bogus Check Restitution Program established by Section 111 of Title 22 of the Oklahoma Statutes. Funds collected through the program after collection of the fee authorized by Section 114 of Title 22 of the Oklahoma Statutes for deposit in the Bogus Check Restitution Program Fund in the county treasury shall be transmitted to the Tax Commission and credited to the tax liability for which the returned check was drawn and to the administrative service fee provided by this section.

E. Any remittances for registration fees, license plates or decals or excise taxes as required by the provisions of the Oklahoma Vehicle License and Registration Act and Sections 2101 through 2110 of this title may be paid by a nationally recognized credit or debit card pursuant to the provisions of Section 1144 of Title 47 of the Oklahoma Statutes.

F. For the convenience of taxpayers, the Tax Commission, through a contract between the State Treasurer and a financial institution, is authorized to place an automated teller machine in any facility owned or leased by the State and occupied by the Tax Commission.

Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended Laws 1968, c. 50, § 1, emerg. eff. March 18, 1968; Laws 1985, c. 179, § 69, operative July 1, 1985; Laws 1985, c. 356, § 3, emerg. eff. July 30, 1985; Laws 1986, c. 218, § 7, emerg. eff. June 9, 1986; Laws 1989, c. 284, § 4, emerg. eff. May 22, 1989; Laws 1991, c. 75, § 2, eff. Sept. 1, 1991; Laws 1993, c. 146, § 9; Laws 2006, c. 327, § 1, eff. July 1, 2006; Laws 2007, c. 155, § 3, eff. Nov. 1, 2007.

§68-218.1. False or bogus check - Penalties.

A. Any person who shall knowingly give a false or bogus check, as defined in this section, of a value less than Five Hundred Dollars (\$500.00) in payment or remittance of any taxes, fees, penalties, or interest levied pursuant to any state tax law shall be, upon conviction, guilty of a misdemeanor punishable by a fine not to exceed One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for a term of not more than one (1) year, or by both such fine and imprisonment. If the value of the false or bogus check referred to in this subsection is Five Hundred Dollars (\$500.00) or more, such person shall be, upon conviction, guilty of a felony punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00) or by imprisonment in the

State Penitentiary for a term of not more than ten (10) years or by both such fine and imprisonment.

B. Any person who shall knowingly give two or more false or bogus checks, the total sum of which is Five Hundred Dollars (\$500.00) or more, even though each separate instrument is written for less than Five Hundred Dollars (\$500.00), in payment or remittance of any taxes, fees, penalties, or interest levied pursuant to any state tax law shall be, upon conviction, guilty of a felony punishable by a fine not to exceed Five Thousand Dollars (\$5,000.00) or by imprisonment in the State Penitentiary for a term of not more than ten (10) years, or by both such fine and imprisonment.

C. For purposes of this section, the term "false or bogus check or checks" shall include any check or order which is not honored on account of insufficient funds of the maker to pay same, or because the check or order was drawn on a closed account or on a nonexistent account. The making, drawing, uttering or delivering of a check or order, the payment of which is refused by the drawee, shall be prima facie evidence of the knowledge of insufficient funds, a closed account, or a nonexistent account with such bank or other depository drawee. Said term shall not include any check or order not honored on account of insufficient funds if the maker or drawer shall pay the drawee thereof the amount due within five (5) days from the date the same is presented for payment nor any check or order that is not presented for payment within thirty (30) days after same is delivered and accepted.

Added by Laws 1986, c. 218, § 8, emerg. eff. June 9, 1986. Amended by Laws 1997, c. 133, § 551, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 401, eff. July 1, 1999; Laws 2001, c. 437, § 32, eff. July 1, 2001.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 551 from July 1, 1998, to July 1, 1999.

§68-219. Compounding, settlement or compromise of controversies, judicial approval in certain cases.

The Oklahoma Tax Commission is authorized to enter into an agreement to compound, settle or compromise any controversy relating to taxes collectible by the Tax Commission, or any admitted or established tax liability as to any tax collectible under any State Law in the following cases:

- (1) In cases of controversy arising over the amount of tax due, or,
- (2) In case of inability to pay, resulting from insolvency of the taxpayer.

In any case where the amount of any tax liability which has been admitted or established exceeds Ten Thousand Dollars (\$10,000.00), no agreement to compound, settle or compromise such tax liability shall be effective until the settlement thereof shall have been approved by judgment of one of the judges of the district court of Oklahoma County, after a full hearing thereon.

Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965; Laws 2005, c. 362, § 1, eff. Nov. 1, 2005.

§68-219.1. Abatement of tax liability and interest and penalties accruing thereto - Settlement agreement - Considerations.

A. In accordance with the provisions of the amendment to Section 5 of Article X of the Oklahoma Constitution as set forth in Senate Joint Resolution No. 32 of the 2nd Session of the 48th Oklahoma Legislature, the Oklahoma Tax Commission is hereby authorized to abate all or any portion of tax liability and interest and penalties accruing thereto, pursuant to a settlement

agreement entered into with a taxpayer, if the Tax Commission finds, by clear and convincing evidence, that:

1. Collection of the tax liability and interest and penalties accruing thereto would reasonably result in the taxpayer declaring bankruptcy;
2. The tax is uncollectible due to insolvency of the taxpayer resulting from factors beyond the control of the taxpayer or for other similar cause beyond the control of the taxpayer;
3. The tax liability is attributable to actions of a person other than the taxpayer and it would be inequitable to hold the taxpayer liable for the tax liability; or
4. In cases of nonpayment of trust fund taxes, the taxes were not collected by the taxpayer from its customer and the taxpayer had a good faith belief that collection of the taxes was not required.

B. The Tax Commission may consider the following circumstances, in addition to any other aggravating or mitigating circumstances, in determining whether or not to enter into an agreement pursuant to the provisions of this section:

1. Whether the taxpayer has made efforts in good faith to comply with the tax laws of this state;
2. Whether the taxpayer has benefited from nonpayment of the tax; and
3. Involvement of the taxpayer in economic activity from which the tax liability originated.

C. All agreements entered into pursuant to the provisions of this section shall provide for the collection of all or a portion of the tax liability if at all possible, and in all cases collection of the tax liability shall take precedence over collection of interest and penalties.

D. Any abatement of tax liability authorized by this section shall only be granted by a unanimous vote of the members of the Tax Commission. The decision of the members of the Tax Commission in denying the abatement of any tax liability pursuant to this section shall be final and no right of appeal to any court may be taken from such decision.

E. In any case where the amount of tax liability to be abated pursuant to an agreement entered into pursuant to the provisions of this section exceeds Ten Thousand Dollars (\$10,000.00), the agreement shall not become effective until it shall have been approved by one of the judges of the district court of Oklahoma County, after a full hearing thereon. Such judge shall be assigned to the matter by the chief judge on a rotating basis.

F. The provisions of this section shall not be construed to grant any legal right to any taxpayer for the abatement of any tax liability. A decision to grant abatement of tax liability pursuant to the provisions of this section shall be a discretionary act within the authority of the members of the Tax Commission.

G. No appointed or elected official shall be eligible to seek relief pursuant to any of the provisions of this section.

H. The Tax Commission shall promulgate rules to implement the provisions of this section.

Added by Laws 2002, c. 162, § 1, emerg. eff. April 30, 2002. Amended by Laws 2005, c. 362, § 2, eff. Nov. 1, 2005.

§68-220. Waiver or remission of interest or penalties.

A. The interest or penalty or any portion thereof ordinarily accruing by reason of a taxpayer's failure to file a report or return or failure to file a report or return in the correct form as required by any state tax law or by this Code or to pay a state tax within the statutory period

allowed for its payment may be waived or remitted by the Oklahoma Tax Commission or its designee provided the taxpayer's failure to file a report or return or to pay the tax is satisfactorily explained to the Tax Commission or such designee, or provided such failure has resulted from a mistake by the taxpayer of either the law or the facts subjecting him to such tax, or inability to pay such interest or penalty resulting from insolvency.

B. The waiver or remission of all or any part of any such interest or penalties in excess of Ten Thousand Dollars (\$10,000.00) shall not become effective unless approved by one of the judges of the district court of Oklahoma County after a full hearing thereon.

The application for the approval of such waiver or remission shall be filed in the office of the court clerk of the court at least twenty (20) days prior to the entry of the order of the judge finally approving or disapproving the waiver or remission. The order so entered shall be a final order of the district court of the county.

Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended by Laws 1989, c. 249, § 10, eff. July 1, 1989; Laws 1993, c. 146, § 10; Laws 1997, c. 294, § 9, eff. July 1, 1997; Laws 2005, c. 362, § 3, eff. Nov. 1, 2005.

§68-221. Reports or returns by taxpayer.

A. If any taxpayer shall fail to make any report or return as required by any state tax law, the Oklahoma Tax Commission, from any information in its possession or obtainable by it, may determine the correct amount of tax for the taxable period. If a report or return has been filed, the Tax Commission shall examine such report or return and make such audit or investigation as it may deem necessary. If, in cases where no report or return has been filed, the Tax Commission determines that there is a tax due for the taxable period, or if, in cases where a report or return has been filed, the Tax Commission shall determine that the tax disclosed by such report or return is less than the tax disclosed by its examination, it shall in writing propose the assessment of taxes or additional taxes, as the case may be, and shall mail a copy of the proposed assessment to the taxpayer at the taxpayer's last-known address. Proposed assessments made in the name of the "Oklahoma Tax Commission" by its authorized agents shall be considered as the action of the Tax Commission.

B. Any assessment, correction or adjustment made as a result of an office audit shall be presumed to be the result of an audit of the report or return only, and such office audit shall not be deemed a verification of any item in the report or return unless the item shall have been made the subject of a hearing before the Tax Commission, and the correctness and amount of such item determined at such hearing; and such office audit shall not preclude the Tax Commission from subsequently making further adjustment, correction or assessment as a result of a field audit of the books and records of the taxpayer, wherever located, or upon disclosures from any source other than the return. In cases where no report or return has been filed, the assessment of the tax on any information available shall in no event preclude the assessment at any time on subsequently disclosed information.

C. Within sixty (60) days after the mailing of the aforesaid proposed assessment, the taxpayer may file with the Tax Commission a written protest under oath, signed by the taxpayer or the taxpayer's duly authorized agent, setting out therein:

1. A statement of the amount of deficiency as determined by the Tax Commission, the nature of the tax and the amount thereof in controversy;

2. A clear and concise assignment of each error alleged to have been committed by the Tax Commission;

3. The argument and legal authority upon which each assignment of error is made; provided, that the applicant shall not be bound or restricted in such hearing, or on appeal, to the arguments and legal authorities contained and cited in the application;

4. A statement of relief sought by the taxpayer; and

5. A verification by the taxpayer or the taxpayer's duly authorized agent that the statements and facts contained therein are true.

D. If in such written protest the taxpayer shall request an oral hearing, the Tax Commission shall grant such hearing, and shall, by written notice, advise the taxpayer of a date, which shall not be less than ten (10) days from the date of mailing of such written notice, when such taxpayer may appear before the Tax Commission and present arguments and evidence, oral or written, in support of the protest. Hearings shall be held as soon as practicable. In the event an oral hearing is not requested, the Tax Commission shall proceed without further notice to examine into the merits of the protest and enter an order in accordance with its findings. Upon request of any taxpayer and upon proper showing that the principle of law involved in the assessment of any tax is already pending before the courts for judicial determination, the taxpayer, upon agreement to abide by the decision of the court, may pay the tax so assessed under protest and such protest shall be resolved in accordance with the agreement to abide.

E. If the taxpayer fails to file a written protest within the sixty-day period herein provided for or within the period as extended by the Tax Commission, or if the taxpayer fails to file the notice required by Section 226 of this title within thirty (30) days from the date of mailing of an assessment, then the proposed assessment, without further action of the Tax Commission, shall become final and absolute. A taxpayer who fails to file a protest to an assessment of taxes within the time period prescribed by this section may, within one (1) year of the date the assessment becomes final, request the Tax Commission to adjust or abate the assessment if the taxpayer can demonstrate, by a preponderance of the evidence, that the assessment or some portion thereof is clearly erroneous. If the Tax Commission determines that the proper showing has been made, the assessment or portion thereof determined to be clearly erroneous shall be deemed not to have become final and absolute. No hearing to adjust or abate a clearly erroneous assessment may be granted after the Tax Commission's denial of such a request. An order of the Tax Commission denying a taxpayer's request to adjust or abate an assessment alleged to be clearly erroneous is not an appealable order under Section 225 of this title. No proceeding instituted by the Tax Commission to collect a tax liability may be stayed because of a request made by a taxpayer to adjust or abate an assessment alleged to be clearly erroneous.

F. The Tax Commission may in its discretion extend the time for filing a protest for any period of time not to exceed an additional ninety (90) days. Any extension granted shall not extend the period of time within which the notice required by Section 226 of this title may be filed.

G. Within a reasonable time after the hearing herein provided for, the Tax Commission shall make and enter an order in writing in which it shall set forth the disposition made of the protest and a copy of such order shall forthwith be mailed to the taxpayer. The order shall contain findings of fact and conclusions of law. After removing the identity of the taxpayer, the Tax Commission shall make the order available for public inspection and shall publish those orders the Tax Commission deems to be of precedential value. The taxpayer may within the time and in the manner provided for by Section 225 of this title, appeal to the Supreme Court, but in the event the taxpayer fails to so proceed, the order shall within thirty (30) days from the date a certified copy thereof is mailed to the taxpayer, become final. The provisions of Section 226 of

this title shall not apply where a proposed assessment or an assessment of taxes has been permitted to become final.

H. In all instances where the proposed assessment or the assessment of taxes or additional taxes has been permitted to become final, a certified copy of the assessment may be filed in the office of the county clerk of any county in this state, and upon being so filed, the county clerk shall enter same upon the judgment docket in the same manner as provided for in connection with judgments of district courts. When an assessment is so filed and docketed, it shall have the same force and be subject to the same law as a judgment of the district court, and accordingly it shall constitute a lien on any real estate of the taxpayer located in the county wherein filed; and execution may issue and proceedings in aid of execution may be had the same as on judgments of district courts. Such lien is hereby released and extinguished upon the payment of such assessment, or, except as otherwise provided herein, upon the expiration of ten (10) years after the date upon which the assessment was filed in the office of the county clerk; provided, the Tax Commission may, prior to the release and extinguishment of such lien, refile the assessment one time in the office of the county clerk. An assessment so refiled shall continue the lien until payment of the assessment, or upon the expiration of ten (10) years after the date upon which the assessment was refiled in the office of the county clerk. The remedies provided in this subsection shall be in addition to other remedies provided by law. All active liens evidenced by an assessment filed with a county clerk's office prior to November 1, 1989, shall be released and extinguished if the assessment is not refiled prior to November 1, 2001.

I. In order to make more definite the intention of the Legislature in connection with the applicability or lack of applicability of the refund provisions of the tax statutes to those treating with proposed assessments and assessments that have become final, the Legislature being cognizant of the fact that such intent has been questioned, it is declared to be the intent of the Legislature that the refund provisions shall be without application to taxes where the amount thereof has been determined by an assessment, other than an assessment designated as an "office audit", that has become final.

Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended by Laws 1987, c. 236, § 199, emerg. eff. July 20, 1987; Laws 1989, c. 249, § 11, eff. July 1, 1989; Laws 1999, c. 407, § 1, eff. Nov. 1, 1999; Laws 2002, c. 458, § 1, eff. July 1, 2002.

§68-221.1. Date of postmark deemed to be date of delivery or of payment.

A. For any return, claim, statement, or other document required to be filed or any payment required to be made within a prescribed period or on or before a prescribed date under authority of any provision of a tax law of this state, the date of the postmark stamped on the cover in which the return, claim, statement, or other document or payment is mailed shall be deemed to be the date of delivery or the date of payment, as the case may be.

B. The provisions of this section shall apply only if:

1. The postmark date falls within the prescribed period or on or before the prescribed date for filing, including any extension, of the return, claim, statement, or other document or for making payment, including any extension granted for making such payment; and

2. The return, claim, statement, or other document or payment was, within the prescribed period or on or before the prescribed date for filing, deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the Oklahoma Tax Commission, agency, officer, or office with which the return, claim, statement, or other document is required to be filed, or to which the payment is required to be made.

C. The provisions of this section shall apply in the case of postmarks not made by the United States Postal Service only and to the extent provided by rules or regulations prescribed by the Tax Commission.

D. For purposes of this section, if any return, claim, statement, or other document or payment, is sent by United States registered mail, the registration shall be prima facie evidence that the return, claim, statement, or other document was delivered to the Tax Commission, agency, officer, or office to which addressed, and the date of registration shall be deemed the postmark date. The Tax Commission is authorized to provide by rules or regulations the extent to which the foregoing provisions of this subsection with respect to prima facie evidence of delivery and the postmark date shall apply to certified mail.

E. The provisions of this section shall not apply with respect to the filing of a document in, or the making of payment to, any court, or to currency or other medium of payment unless actually received and accounted for, or returns, claims, statements or other documents or payments which are required under any provision of a tax law or rules of this state to be delivered by any method other than by mailing.

F. Any reference in this section to the United States mail shall be treated as including a reference to any designated delivery service, and any reference in this section to a postmark by the United States Postal Service shall be treated as including a reference to any date recorded or marked as described in this subsection by a designated delivery service. For purposes of this section, the term "designated delivery service" means a delivery service provided by a trade or business if the service is designated by a rule of the Tax Commission for purposes of this section. The Tax Commission may designate a delivery service under the preceding sentence only if the Tax Commission determines that the service is available to the general public, is at least as timely and reliable on a regular basis as the United States mail, records electronically to its data base kept in the regular course of its business or marks on the cover in which any item referred to in this section is to be delivered, the date on which the item was given to the service for delivery, and meets all other criteria prescribed by the Tax Commission. The Tax Commission may provide a rule similar to the rule stated in the first sentence of this subsection with respect to any service provided by a designated delivery service which is substantially equivalent to United States registered or certified mail.

Added by Laws 1999, c. 293, § 25, eff. Nov. 1, 1999.

§68-222. Procedure on default of taxpayer in enumerated matters.

(a) If any taxpayer shall fail or refuse to make any report or return as required by any state tax law, or shall fail or refuse to permit an examination of its books, records or papers, or to appear and answer questions within the scope of such investigation relating to any state tax, the Tax Commission may apply to the district court of the county wherein the taxpayer resides, or to any judge thereof, for an order requiring such taxpayer to make such report or return, or requiring the taxpayer, his agents or employees, to appear to answer such questions or permit such examination; and the court, or any Judge thereof, shall thereupon issue an order, upon such reasonable notice as shall be prescribed thereon, to be served upon said taxpayer or the agent of such taxpayer directing it to appear and testify and to produce such books, records and papers as may be required.

(b) Any person, or any member of any firm or association, failing to comply with such order, shall be guilty of contempt, and shall be punished as provided by law in cases of

contempt; and the district court of the county in which such person resides shall have jurisdiction of contempt cases arising under this Section.

Laws 1965, c. 414, § 2.

§68-223. Limitation of time for assessment of taxes - Extension agreements - False or fraudulent or failure to file report or return.

A. No assessment of any tax levied under the provisions of any state tax law except as provided in this section, shall be made after the expiration of three (3) years from the date the return was required to be filed or the date the return was filed, whichever period expires the later, and no proceedings by tax warrant or in court without the previous assessment for the collection of such tax shall be begun after the expiration of such period. No assessment shall be required if a report or return, signed by the taxpayer, was filed and the liability evidenced by the report or return has not been paid. If the assessment has been made within the limitation period set forth in this subsection, the tax may be collected by tax warrant or court proceeding, but only if the tax warrant is issued or the proceeding begun within ten (10) years after the assessment of the tax has become final.

B. Where before the expiration of the time prescribed in subsection A of this section for the assessment of the tax, both the Tax Commission and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time prior to the expiration of the period agreed upon, and the period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. In those instances where the time to file a claim for a refund has not expired at the date the extension agreement is entered into, the entering into such an agreement shall automatically extend the period in which a refund may be allowed or a claim for a refund may be filed to the final date of such agreement.

C. In the case of a false or fraudulent report or return, with intent to evade tax, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time. The term "false or fraudulent" as used in this subsection shall have the same meaning as when used in Section 6501 of the Internal Revenue Code.

D. In the case of a willful attempt in any manner to defeat or evade tax imposed by this title, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time.

E. In the case of a failure to file a report or return, the tax may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended by Laws 1996, c. 34, § 1, emerg. eff. April 8, 1996; Laws 1999, c. 168, § 1, eff. Nov. 1, 1999; Laws 2006, c. 134, § 1, eff. July 1, 2006.

§68-224. Declaration of termination of taxable period and acceleration of assessment.

(a) If the Tax Commission, notwithstanding that a tax return or report, or the tax with respect thereto, may not yet be due, and whether prior to or after the close of the taxable period, believes that:

(1) The tax liability of any person, who has a bond on file with the Tax Commission to indemnify the state for the payment of any state tax, has accrued in excess of the amount of the bond, or

(2) A taxpayer intends to depart or remove from the state, or conceal himself or any of his property subject to a lien for the payment of any state tax, or

(3) A taxpayer intends to discontinue business, or

(4) A taxpayer intends to do any other act tending to prejudice or render wholly or partially ineffectual proceedings to compute, assess or collect any state tax, the Tax Commission shall by its order declare the taxable period of any State tax terminated for such person, and shall immediately assess the tax from any information in its possession, notify the taxpayer, and demand immediate payment thereof. In the event of any failure or refusal to pay the tax by the taxpayer upon the demand of the Tax Commission, the tax shall become delinquent and the Tax Commission shall proceed to collect the same as in other cases of delinquent tax.

(b) The order of the Tax Commission assessing the tax may be appealed from as provided in this article, or the taxpayer may furnish to the Tax Commission security that he will make any return or report thereafter required to be filed with the Tax Commission, and pay the tax with respect to the taxable period when due, as provided for by the general procedure pertaining to the tax involved. After security is approved and accepted, and such further and other security with respect to the tax or taxes covered thereby is given, as the Tax Commission shall, from time to time find necessary and require, the payment of such taxes shall not be enforced by any proceedings prior to the expiration of the time otherwise allowed for paying such taxes.

(c) In cases where the assessment here authorized is made prior to the close of the taxable period, and in case the taxpayer elects to pay his taxes rather than to file a bond as herein provided for, the taxpayer may pay to the Tax Commission the sum assessed, together with additions to the tax provided by law, and at the time of making such payment shall notify the Tax Commission of his intention, at the close of the taxable period to file suit for recovery as provided in this article. Upon receipt of such notice the amount paid shall be segregated and held until the termination of thirty (30) days following the close of the taxable period for which levied; and if within such period, namely within thirty (30) days following the close of the taxable period, taxpayer files suit for recovery, the fund so segregated shall be further held pending the final determination of such suit.

Laws 1965, c. 414, § 2.

§68-225. Appeals.

A. Any taxpayer aggrieved by any order, ruling, or finding of the Oklahoma Tax Commission directly affecting the taxpayer or aggrieved by a final order of the Tax Commission issued pursuant to subsection G of Section 221 of this title may appeal therefrom directly to the Supreme Court of Oklahoma. Provided, any taxpayer appealing from a final order of the Tax Commission assessing a tax or an additional tax or denial of a claim for refund may opt to file an appeal in district court as provided in subsection D of this section.

B. Within thirty (30) days after the date of mailing to the taxpayer of the order, ruling, or finding complained of, the taxpayer desiring to appeal shall:

1. File a petition in error in the office of the Clerk of the Supreme Court; and
2. Request that the Tax Commission prepare for filing with the Supreme Court, within thirty (30) days, the record of the appeal, certified by the Secretary of the Tax Commission, and consisting of any citations, findings, judgments, motions, orders, pleadings and rulings, together with a transcript of all evidence introduced at any hearing relative thereto, or such portion of such citations, findings, judgments, motions, orders, pleadings, rulings, and evidence as the

appealing parties and the Tax Commission may agree to be sufficient to present fully to the Court the questions involved.

C. Upon request of the taxpayer, the Tax Commission shall furnish the taxpayer a copy of the proceedings had in connection with the matter complained of.

D. In lieu of an appeal to the Supreme Court, any taxpayer aggrieved by a final order of the Tax Commission assessing a tax or an additional tax or denial of a claim for refund may opt to file an appeal for a trial de novo in the district court of Oklahoma County or the county in which the taxpayer resides. If the amount in dispute exceeds Ten Thousand Dollars (\$10,000.00), the appeal shall be heard by a district or associate district judge sitting without a jury. If the amount in dispute does not exceed Ten Thousand Dollars (\$10,000.00), the appeal may be heard by a special judge sitting without a jury. An order resulting from a trial provided pursuant to this subsection shall be appealable directly to the Supreme Court of Oklahoma by either party. Such appeal shall be taken in the manner and time provided by law for appeal to the Supreme Court from the district court in civil actions. Upon the filing of an appeal, the order of the district court shall be superseded and neither party shall be required to give bond. The provisions of this subsection shall be applicable for tax periods beginning after the effective date of this act. Provided, if the order applies to multiple tax periods which begin before and after the effective date of this act, the appeal provided by this subsection shall be available to the aggrieved taxpayer.

E. If the appeal is from an order of the Tax Commission or a district court denying a refund of taxes previously paid and if upon final determination of the appeal, the order denying the refund is reversed or modified, the taxes previously paid, together with interest thereon from the date of the filing of the petition in error at the rate provided in subsection A of Section 217 of this title, shall be refunded to the taxpayer by the Tax Commission.

F. Such refunds and interest thereon shall be paid by the Tax Commission out of monies in the Tax Commission clearing account from subsequent collections from the same source as the original tax assessment, provided that in the event there are insufficient funds for refunds from subsequent collections from the same source, the refund shall be paid by the Tax Commission from monies appropriated by the Legislature to the special refund reserve account for such purposes as hereinafter provided. There is hereby created within the official depository of the State Treasury an agency special account for the Tax Commission for the purpose of making such refunds as may be required under this section, not otherwise provided. This account shall consist of monies appropriated by the Legislature for the purpose of making refunds under this section.

G. If the appeal be from an order, judgment, finding, or ruling of the Tax Commission other than one assessing a tax and from which a right of appeal is not otherwise specifically provided for in this article the Uniform Tax Procedure Code, any aggrieved taxpayer may appeal from that order, judgment, finding, or ruling as provided in this section. The filing of such an appeal shall supersede the effect of such order, judgment, ruling, or finding of the Tax Commission .

H. This section shall be construed to provide to the taxpayer a legal remedy by action at law in any case where a tax, or the method of collection or enforcement thereof, or any order, ruling, finding, or judgment of the Tax Commission is complained of, or is sought to be enjoined in any action in any court of this state or the United States of America.

Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended by Laws 1978, c. 211, § 1, emerg. eff. April 19, 1978; Laws 1989, c. 249, § 12, eff. July 1, 1989; Laws 1991, c. 342, § 9,

emerg. eff. June 15, 1991; Laws 1994, c. 278, § 7, eff. Sept. 1, 1994; Laws 1998, c. 385, § 3, eff. Nov. 1, 1998; Laws 1999, c. 293, § 26, eff. Nov. 1, 1999; Laws 2000, c. 314, § 5, eff. July 1, 2000; Laws 2002, c. 458, § 2, eff. July 1, 2002; Laws 2013, c. 287, § 1, eff. Jan. 1, 2014.

§68-226. Action to recover taxes as additional remedy to aggrieved taxpayer.

(a) In addition to the right to a protest of a proposed assessment as authorized by Section 221 of this title, a right of action is hereby created to afford a remedy to a taxpayer aggrieved by the provisions of this article or of any other state tax law, or who resists the collection of or the enforcement of the rules or regulations of the Tax Commission relating to the collection of any state tax; however, such remedy shall be limited as prescribed by subsection (c) of this section.

(b) Within thirty (30) days from the date of mailing to the taxpayer of an assessment for taxes or additional taxes pursuant to Section 221 of this title by the Tax Commission, any such taxpayer shall pay the tax to the Tax Commission, and at the time of making such payment shall give notice to the Tax Commission of his intention to file suit for recovery of such tax. The taxpayer shall not be required to file suit within such thirty-day period in order to prosecute an action as authorized by this section; however, failure to file such suit within one (1) year from the date of mailing of the assessment shall result in the assessment becoming final and absolute. If the taxpayer prevails the Tax Commission shall, by cash voucher drawn by the Tax Commission upon its official depository clearing account or special refund reserve account with the State Treasurer, refund to the taxpayer the amount of tax determined not to be due pursuant to the final judgment of the court having jurisdiction, together with interest on such amount at the rate applicable to money judgments in civil cases from the date of payment by the taxpayer to the date of the refund by the Tax Commission. The refunds paid shall be payable as provided in Section 225(d). If the taxpayer prevails and the court determines that the position of the Tax Commission in the proceeding was not substantially justified, the court shall award the taxpayer a judgment for reasonable attorney fees, reasonable expenses of expert witnesses in connection with the proceeding and reasonable costs of any study, analysis, engineering report, test or project which is found by the court to be necessary for the preparation of the taxpayer's case.

(c) This section shall afford a legal remedy and right of action in any state or federal court having jurisdiction of the parties and the subject matter. It shall be construed to provide a legal remedy in the state or federal courts by action at law only in cases where the taxes complained of are claimed to be an unlawful burden on interstate commerce, or the collection thereof violative of any Congressional Act or provision of the Federal Constitution, or in cases where jurisdiction is vested in any of the Courts of the United States. In all actions brought hereunder service of process upon the Chairman of the Tax Commission shall be sufficient service, and the Tax Commission shall be the sole, necessary and proper party defendant in any such suit, and the State Treasurer shall not be a necessary or proper party thereto.

(d) Upon request of any taxpayer and upon proper showing that the principle of law involved in the assessment of any tax is already pending before the courts for judicial determination, the taxpayer, upon agreement to abide by the decision of the court, may pay the tax so assessed under protest, but need not file a suit.

Laws 1965, c. 414, § 2; Laws 1978, c. 211, § 2, emerg. eff. April 19, 1978; Laws 1989, c. 249, § 13, eff. July 1, 1989; Laws 1990, c. 339, § 16, emerg. eff. May 31, 1990.

§68-227. Erroneous payments - Claims for refund - Demand for hearing.

(a) Any taxpayer who has paid to the State of Oklahoma, through error of fact, or computation, or misinterpretation of law, any tax collected by the Tax Commission may, as hereinafter provided, be refunded the amount of such tax so erroneously paid, without interest.

(b) Any taxpayer who has so paid any such tax may, within three (3) years from the date of payment thereof file with the Tax Commission a verified claim for refund of such tax so erroneously paid. The Tax Commission may accept an amended sales tax, withholding tax or other report or return as a verified claim for refund if the amended report or return establishes a liability less than the original report or return previously filed.

(c) Said claim so filed with the Tax Commission, except for an amended report or return, shall specify the name of the taxpayer, the time when and period for which said tax was paid, the nature and kind of tax so paid, the amount of the tax which said taxpayer claimed was erroneously paid, the grounds upon which a refund is sought, and such other information or data relative to such payment as may be necessary to an adjustment thereof by the Tax Commission. It shall be the duty of the Commission to determine what amount of refund, if any, is due as soon as practicable after such claim has been filed and advise the taxpayer about the correctness of his claim and the claim for refund shall be approved or denied by written notice to the taxpayer.

(d) If the claim for refund is denied, the taxpayer may file a demand for hearing with the Commission. The demand for hearing must be filed on or before the thirtieth day after the date the notice of denial was mailed. If the taxpayer fails to file a demand for hearing, the claim for refund shall be barred.

(e) Upon the taxpayer's timely filing of a demand for hearing, the Commission shall set a date for hearing upon the claim for refund which date shall not be later than sixty (60) days from the date the demand for hearing was mailed. The taxpayer shall be notified of the time and place of the hearing. The hearing may be held after the sixty-day period provided by this subsection upon agreement of the taxpayer.

(f) The provisions of this section shall not apply: (1) to refunds of income tax erroneously paid, refunds of which tax shall be payable out of the income tax adjustment fund as provided by law; (2) to estate tax because the payment of such tax is covered by an order of the Tax Commission and the estate and interested parties are given notice that Commission's position and computation of the tax will become final unless they protest and resist the payment thereof as provided by statute; nor, (3) in any case where the tax was paid after an assessment thereof was made by the Tax Commission which assessment became final under the law.

Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965; Laws 1978, c. 211, § 3, emerg. eff. April 19, 1978; Laws 1989, c. 249, § 14, eff. July 1, 1989; Laws 1993, c. 146, § 11.

§68-227.1. Illegal or invalid state tax laws - Process for obtaining refund of amounts paid.

A. Notwithstanding the provisions of any state tax law relating to or providing for the refund of taxes erroneously paid, no taxpayer shall be entitled to nor be allowed any refund of taxes, penalties or interest paid pursuant to a state tax law subsequently determined by a final decision of a court of competent jurisdiction to be illegal or invalid under the Constitution or laws of this state or of the United States, unless such taxpayer shall have timely availed himself or herself of the remedies and procedures provided by Section 207, 221, 226 or 815 of Title 68 of the Oklahoma Statutes to protest or challenge such tax, or, where the remedies provided by such sections are unavailable because the tax has not yet been assessed or proposed against such taxpayer, such taxpayer shall have brought an action for declaratory judgment in the district court to declare such tax or tax law illegal or invalid.

B. The provisions of this section shall apply to all state taxes, and shall also apply to the refund of any tax imposed by any municipality or county of this state where, under applicable law, such tax is collected by the Oklahoma Tax Commission.

Added by Laws 1994, c. 278, § 36, eff. Sept. 1, 1994.

§68-228. Hearings on claims for refunds.

(a) If, upon the hearing as required by Section 227 of this title, the Tax Commission finds that such tax was erroneously paid through mistake of fact, or computation or misinterpretation of law, it shall enter its written order allowing said claim for refund, which refund may be paid to the taxpayer as provided by law, or credited against any taxes due or to become due by the taxpayer as the case may be; otherwise, the Tax Commission shall deny said claim. The taxpayer shall have the right of appeal to the Supreme Court from a decision of the Commission denying said claim for refund as provided in Section 225 of this article.

(b) Any order entered by the Tax Commission, disallowing a claim for refund, shall become final within thirty-one (31) days from the date it is entered, unless an appeal is prosecuted therefrom, in which event said order shall not become final until the appeal shall have been determined. In the event the Tax Commission allows said claim for refund, it shall pay the claimant the amount of refund, so allowed out of funds in the official depository clearing account of the Tax Commission, derived from collections in said fund from the same source from which the overpayment occurred; and an appropriation of so much of said fund as is necessary to pay said claims for refund erroneously paid or collected is hereby made; provided, that in the case of refunds due hereunder to taxpayers who are required to remit taxes to the Tax Commission on a monthly or quarterly basis, the Commission may, in lieu of a refund of the tax erroneously paid, credit the account of the taxpayer for such amount.

Laws 1965, c. 414, § 2; Laws 1978, c. 211, § 4, emerg. eff. April 19, 1978.

§68-228.1. Payment of refunds.

Except as otherwise provided by law, claims for refunds which are required to be paid by the Oklahoma Tax Commission shall be paid from funds in the official depository clearing account of the Tax Commission, derived from collections from the same source from which the overpayment occurred. Provided, in the case of refunds due to taxpayers who are required to remit taxes to the Tax Commission on a monthly or quarterly basis, the Tax Commission may, in lieu of such refund, credit the account of the taxpayer for such amount. If current collections from the same source are insufficient to pay refunds, available cash funds from the unclassified taxes account may be used for such purpose.

Added by Laws 1999, c. 390, § 4, emerg. eff. June 8, 1999. Amended by Laws 2011, c. 348, § 1.

§68-229. Refunds - Interest.

In case of any judgment rendered under any provision of law for the filing of a suit and recovery of taxes erroneously paid, in which judgment interest is allowed the taxpayer, said interest may be paid from the appropriation herein made where there is no other provision of law for paying same.

Laws 1965, c. 414, § 2.

§68-230. Certificate of indebtedness to state - Recording and indexing - Lien status.

The Oklahoma Tax Commission may issue to the county clerk of any county of the state a certificate certifying that the person therein named is indebted to the state for a specified state tax in the amount stated. The county clerk shall immediately record and index such certificate using the name of the delinquent taxpayer, the amount certified as being due, a short name of the tax, and the date and time of the filing for record. Such recording shall have the same force and effect as a judgment and shall constitute and be evidence and notice of the state's lien upon the title to any interest in any real property of the taxpayer named in such certificate. Such lien shall be in addition to any and all other liens existing in favor of the state to secure the payment of such unpaid tax, penalty, interest and costs, and such lien shall be paramount and superior to all other liens of whatsoever kind or character attaching to any of said property subsequent to the date of such recording and shall be in addition to any lien provided by Section 234 of this title. Such lien is hereby released and extinguished upon the payment of the tax, penalty, interest and costs, or, except as otherwise provided herein, upon the expiration of ten (10) years after the date upon which such certificate was recorded and indexed by the county clerk; provided, the Tax Commission may, prior to the release and extinguishment of such lien, reissue the certificate of indebtedness to the county clerk. A certificate so reissued shall continue the lien until payment of the tax, penalty, interest and costs, or upon the expiration of ten (10) years after the date upon which the certificate was re-recorded and indexed by the county clerk. All active liens evidenced by a certificate of indebtedness filed with a county clerk's office prior to November 1, 1989, shall be released and extinguished if the certificate of indebtedness is not refiled prior to November 1, 2001.

Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended by Laws 1979, c. 148, § 2, eff. Oct. 1, 1979; Laws 1992, c. 66, § 1, eff. July 1, 1992; Laws 1999, c. 407, § 2, eff. Nov. 1, 1999; Laws 2001, c. 358, § 9, eff. July 1, 2001.

§68-231. Warrant for sale of property to pay delinquent taxes, interest and penalties - Recording and indexing - Lien status - Execution - Costs and expenses.

A. If any tax, imposed or levied by any state tax law, or any portion of such tax, is not paid before the same becomes delinquent, the Oklahoma Tax Commission may immediately issue a warrant under its official seal. A tax warrant directed to the sheriff of any county of the state shall command the sheriff to levy upon and sell without any appraisal or valuation any real or personal property of the taxpayer found within the county for the payment of the delinquent tax, interest and penalties, and the cost of executing the warrant, and to return such warrant to the Tax Commission, and to pay to it any monies collected by virtue thereof, by a time to be therein specified, not more than sixty (60) days from the date of the warrant.

B. The Tax Commission shall, immediately upon issuance of the warrant, file with the county clerk of the county for which the warrant was issued a copy thereof, and thereupon the county clerk shall record and index such warrant in the same manner as judgments using the name of the taxpayer named in the warrant, a short name for the tax, the amount of the tax or portion thereof, and interest and penalties for which the warrant was issued, and the date and time when such copy was filed. The Tax Commission may file the warrant in the appropriate office of the county clerk by electronic means. The filing of the warrant in the office of the county clerk of the county, shall constitute and be evidence and notice of the state's lien upon any interest in any real property of the taxpayer against whom such warrant is issued, until such tax, penalty and interest accruing thereon is paid. Such lien shall be in addition to any and all other liens existing in favor of the state to secure the payment of the unpaid tax, penalty, interest

and costs, and such lien shall be paramount and superior to all other liens of whatsoever kind or character, attaching to any of said property subsequent to the date and time of such filing and shall be in addition to any lien provided by Section 234 of this title. The Tax Commission shall, immediately upon issuance of the warrant, mail, by regular mail, a copy of the warrant to the last-known address of the delinquent taxpayer. Such lien is hereby released and extinguished upon the payment of such tax, penalty, interest and costs, or, except as otherwise provided herein, upon the expiration of ten (10) years after the date upon which the warrant was filed with the county clerk; provided, the Tax Commission may, prior to the release and extinguishment of such lien, refile the warrant in the office of the county clerk. A warrant so refiled shall continue the lien until payment of the tax, penalty, interest and costs, or upon the expiration of ten (10) years after the date upon which the warrant was refiled and indexed by the county clerk. All active liens evidenced by a warrant filed with a county clerk's office prior to November 1, 1989, shall be released and extinguished if the warrant is not refiled prior to November 1, 2001.

C. Except as otherwise provided in subsection D of this section, the Tax Commission shall forward the filed warrant to the sheriff of the county in which the warrant was filed. Upon receipt of the warrant, such sheriff shall thereupon proceed to execute the tax warrant in the same manner prescribed by law for executions against property upon judgment of a court of record; and such sheriff shall execute and deliver to the purchaser a bill of sale or deed, as the case may be.

D. The Tax Commission shall not direct or forward to the sheriff of any county any tax warrant issued pursuant to collection by the Tax Commission. The Tax Commission shall promulgate rules pertaining to tax warrants issued under this section.

E. The Tax Commission may levy upon and sell without any appraisalment or valuation any real or personal property of any taxpayer identified by a filed tax warrant. The Tax Commission may execute the tax warrant in the same manner prescribed by law for executions against property upon judgment of a court of record and may execute and deliver to the purchaser a bill of sale or deed, as the case may be.

F. Any purchaser, other than the State of Oklahoma, shall be entitled, upon application to the court having jurisdiction of the property, to have confirmation, the procedure for which shall be the same as is now provided for the confirmation of a sale of property under execution, of such sale prior to the issuance of a bill of sale or deed. The State of Oklahoma shall be authorized to make bids at any such sale to the amount of tax, penalty and costs accrued. In the event such bid is successful, the sheriff shall issue proper muniment of title to the Tax Commission which shall hold such title for the use and benefit of the State of Oklahoma; and any taxpayer, or transferee of such taxpayer, shall have the right, at any time within one (1) year from the date of such sale, to redeem such property, upon the payment of all taxes, penalties and costs accrued to the date of redemption. Such applicant shall not be entitled to a credit upon such taxes, penalties and costs, by reason of revenue that might have accrued to the State of Oklahoma or other purchaser under sale, prior to such redemption. After the expiration of the period of redemption herein provided, the Tax Commission acting for the State of Oklahoma may sell such property at public auction, upon giving thirty (30) days' notice, published in a newspaper of general circulation in the county where such property is located, to the highest and best bidder for cash; and upon a sale had thereof, or when a redemption is made, the Tax Commission, for and on behalf of the State of Oklahoma, shall issue its bill of sale or quit claim deed, as the case may be, to the successful bidder or to the redemptioner. Such muniment of title shall be executed by the Tax Commission, and attested by its secretary, with the seal of the Tax

Commission affixed. The sheriff shall be entitled to the same fee for services in executing the warrant, as the sheriff would be entitled to receive if he or she were executing an execution issued by the court clerk of the county upon a judgment of a court of record.

G. If any sheriff shall refuse or neglect to levy upon and sell any real or personal property of any taxpayer as directed by any warrant issued by the Tax Commission, or shall refuse or neglect, on demand, to pay over to the Tax Commission, its agents or attorneys, all monies collected or received under any warrant issued by the Tax Commission, at any time after collecting or receiving the same, such sheriff or other officer shall, upon motion of the Tax Commission in court, and after thirty (30) days' notice thereof, in writing, be amerced in the amount for which any such warrant was issued by the Tax Commission, together with all penalties and costs and with an additional penalty of ten percent (10%) thereon, to and for the use of the State of Oklahoma. Every surety of any sheriff or officer shall be made a party to the judgment rendered as aforesaid against the sheriff or other officer.

H. The Tax Commission may expend funds from the Oklahoma Tax Commission Fund in the State Treasury to reimburse the sheriff for travel and administrative costs actually and necessarily incurred while performing duties required by this section. Such costs shall be assessed against the delinquent taxpayer, shall be added to the amount necessary to satisfy the tax warrant, and upon collection thereof shall be deposited in the Oklahoma Tax Commission Fund.

I. A tax warrant issued and filed under authority of this section shall:

1. Constitute and be evidence and notice of the state's lien upon real property; and
2. Not be subject to the provisions of any dormancy statute which would limit the enforceability, effect or operation of the lien, except as otherwise provided in this section.

J. After July 1, 1993, the Tax Commission shall not issue any certificates of indebtedness pursuant to the provisions of Section 230 of this title.

K. When a tax warrant has been issued and filed as provided in this section, the Tax Commission shall have all of the remedies and may take all of the proceedings thereon for the collection thereof which may be had or taken upon a judgment of the district court.

Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended by Laws 1979, c. 148, § 3, eff. Oct. 1, 1979; Laws 1985, c. 356, § 4, emerg. eff. July 30, 1985; Laws 1986, c. 269, § 19, operative July 1, 1986; Laws 1990, c. 339, § 14, emerg. eff. May 31, 1990; Laws 1992, c. 66, § 2, eff. July 1, 1992; Laws 1993, c. 28, § 1, emerg. eff. March 30, 1993; Laws 1993, c. 146, § 12; Laws 1999, c. 407, § 3, eff. Nov. 1, 1999; Laws 2001, c. 358, § 10, eff. July 1, 2001; Laws 2003, c. 472, § 6.

NOTE: Laws 1993, c. 14, § 1 repealed by Laws 1993, c. 146, § 29.

§68-231.1. Additional penalty for failure to pay delinquent taxes.

An additional penalty of Fifteen Dollars (\$15.00) or an amount equal to ten percent (10%), but not to exceed Two Hundred Dollars (\$200.00), of the total amount of tax, penalty and interest as stated on the face of a tax warrant, unless the actual liability at the date of issuance of the warrant is determined to be a lesser amount, whichever amount is greater, is hereby imposed upon each tax debtor who neglects, refuses or fails to pay delinquent taxes. The additional penalty shall be added to and become a part of the total tax debt due the state and may be collected in the same manner as provided by law for collection of delinquent taxes. Provided, however, the penalty imposed pursuant to this section shall not be assessed or collected more than once for the execution of a tax warrant in each county.

Upon collection of the additional penalty imposed herein, the Oklahoma Tax Commission shall transmit the revenue to the State Treasurer to be deposited in the Oklahoma Tax Commission Fund. The revenue from the additional penalty collected by the sheriff shall be apportioned by the Oklahoma Tax Commission to the various county treasurers to be deposited in the appropriate fund of the county sheriff's department to be used by such department to increase efforts to locate tax debtors and their property, to execute upon tax warrants, and to collect delinquent taxes. The revenue from the additional penalty collected by the Oklahoma Tax Commission shall be apportioned to the Oklahoma Tax Commission Fund to be used by the Oklahoma Tax Commission to enhance its efforts to collect delinquent taxes. The additional penalty is imposed as a fee for the collection of delinquent taxes by the sheriff, undersheriff, deputy sheriff or Tax Commission. The penalty is in addition to the reimbursement of actual and necessary travel and costs authorized in Section 231 of this title and any other fees which may be allowed by the district court.

Added by Laws 1986, c. 218, § 9, operative July 1, 1986. Amended by Laws 1990, c. 339, § 15, emerg. eff. May 31, 1990; Laws 1992, c. 66, § 3, eff. July 1, 1992; Laws 1998, c. 385, § 4, eff. Nov. 1, 1998.

§68-231.2. Attachment of assets of delinquent taxpayer.

Upon a final determination by a court of competent jurisdiction that a tax levied or collected by the state is delinquent, the Oklahoma Tax Commission may issue an order attaching the assets, up to the amount of tax liability, of any bank accounts maintained within this state by the delinquent taxpayer. The Tax Commission shall mail a certified copy of the attachment order to the banks in which the accounts are maintained. Upon receipt of such order the banks shall be liable to the Tax Commission in an amount equal to any attached funds released from the accounts without the written permission of the Tax Commission. The Tax Commission may release funds from the accounts to effectuate payment of the tax liability or to protect the interests of the state and shall release the account within thirty (30) days of full payment of the tax liability.

Added by Laws 1985, c. 356, § 9, emerg. eff. July 30, 1985.

§68-231.3. Recovery of fees and costs by Tax Commission.

The Tax Commission shall be entitled to recover from the taxpayer named in the warrant any fees or costs charged to the Tax Commission by the county clerk for the filing of any tax lien or tax warrant against the taxpayer. The Tax Commission shall also be entitled to recover or offset the filing fees or costs previously paid to the county clerk for the filing of a tax lien or tax warrant upon the withdrawal of a tax warrant or lien by the Tax Commission, or upon the filing of a release issued by the Tax Commission for no consideration after a determination by the Tax Commission that the lien or warrant is clouding the title of property by reason of an error in the description of such property or by reason of similarity of names.

Added by Laws 1994, c. 221, § 3, eff. Sept. 1, 1994.

§68-232. Injunction proceedings.

When any reports required under any state tax law have not been filed or may be insufficient to furnish all the information required by the Tax Commission, or when the taxes imposed by any state tax law have not been paid, the Tax Commission may institute, in the name of the State of Oklahoma upon relation of the Tax Commission, any necessary action or

proceedings to enjoin such person, firm, or corporation from continuing operations until such reports have been filed or taxes paid as required, and in all proper cases, including but not limited to cases in which the evidence establishes that a taxpayer has repeatedly failed to collect and remit sales or withholding taxes, injunction shall be issued without a bond being required from the state. After an action to enjoin the operation of any person, firm or corporation has been instituted by the Tax Commission a payout agreement under which the delinquent taxpayer is to make periodic payments toward the satisfaction of the tax debt may only be entered into upon the specific request or motion of the Tax Commission. Upon a proper showing in any such action that the claim of the state for taxes is in danger of being lost or rendered uncollectible by reason of the mismanagement, dissipation or concealment of the property by the taxpayer and a request is made for the appointment of a receiver to manage the property of the taxpayer, a receiver shall be appointed.

Amended by Laws 1985, c. 356, § 5, emerg. eff. July 30, 1985.

§68-233. Municipalities - Procedure when taxes delinquent.

(a) In case any city, town, county, or other political subdivision of the state shall fail or refuse to pay in whole or in part any tax when due under the provisions of any state tax law, the Tax Commission shall issue a tax warrant for the amount of tax due, and the sheriff shall serve such warrant on the county treasurer. From the date of such service, the said tax, penalties and interest shall be a lien on all ad valorem tax penalties collected by said treasurer for and on account of any such city, town, county, or other political subdivision of the state until the amount of all such delinquent tax, penalties and interest is paid; and the county treasurer is hereby directed and required to remit the amount of all such ad valorem tax penalties, when collected by him, to the Tax Commission until the amount due the State of Oklahoma on such delinquent tax is paid; provided that such lien shall not attach to the property to which such penalties so collected are attributable.

(b) The State of Oklahoma shall have the right, on the relation of the Tax Commission, to sue any such city, town, county, or other political subdivision for any such tax in any court of competent jurisdiction, and if judgment is rendered in favor of the state in such suit it shall be collected and paid as provided by law for the collection of judgments against cities, towns, counties, or other political subdivisions of the state.

Laws 1965, c. 414, § 2.

§68-234. Lien for unpaid taxes, interest and penalties.

A. All taxes, interest and penalties imposed by the provisions of Section 201 et seq. of this title, or any state tax law, are hereby declared to constitute a lien in favor of the state upon all franchises, property, and rights to property, whether real or personal, then belonging to or thereafter acquired by the person owing the tax, whether such property is employed by such person in the prosecution of business, or is in the hands of an assignee, trustee or receiver for the benefit of creditors, from the date the taxes are due and payable under the provisions of the state tax laws levying such taxes. The lien shall be in addition to any lien accrued by the filing of a tax warrant or tax certificate as provided by Sections 230 and 231 of this title. The lien shall be prior, superior and paramount to all other liens, claims, or encumbrances on the property of whatsoever kind or character, except those of any bona fide mortgagee, pledgee, judgment creditor, or purchaser, whose right shall have attached prior to the date of the filing and indexing in the office of the county clerk in the county in which the property is located, of the notice of

the lien of the state under a tax certificate as provided by Section 230 of this title, or under a tax warrant as provided by Section 231 of this title, and who have filed or recorded the mortgages and conveyances in the office of the county clerk of the county in which the property is located. Such taxes, penalties and interest shall at all times, constitute a prior, superior and paramount claim as against the claims of unsecured creditors. The lien of the state shall continue until the amount of the tax and penalty due and owing, and interest subsequently accruing thereon, is paid, or, except as otherwise provided herein, upon the expiration of ten (10) years after the date of the filing and indexing in the office of the county clerk in the county in which the property is located, of the notice of the lien of the state under a tax certificate as provided by Section 230 of this title, or under a tax warrant as provided by Section 231 of this title; provided, the Oklahoma Tax Commission may, prior to the expiration of the ten-year period provided for herein, refile the notice of the lien with the county clerk. A notice so refiled shall continue the lien until payment of the tax, penalty, interest and costs, or upon the expiration of ten (10) years after the date upon which the notice was refiled. All active liens evidenced by a notice of lien filed with a county clerk's office prior to November 1, 1989, shall be released and extinguished if the notice of lien is not refiled prior to November 1, 2001.

B. In any action affecting the title to real estate or the ownership or right to possession of personal property, the State of Oklahoma may be made a party defendant, for the purpose of determining its lien upon the property involved therein only in cases where notice of the lien of the state has been filed and indexed as provided in Sections 230 and 231 of this title. In any such action, service of summons upon the Oklahoma Tax Commission, by serving any member thereof, shall be sufficient service and binding upon the State of Oklahoma. In all such actions or suits, the complaint or pleading shall include the name and address of the taxpayer whose liability created the lien and the identifying number evidencing the lien.

Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended by Laws 1979, c. 148, § 4, eff. Oct. 1, 1979; Laws 1997, c. 294, § 10, eff. July 1, 1997; Laws 1999, c. 407, § 4, eff. Nov. 1, 1999; Laws 2001, c. 358, § 11, eff. July 1, 2001.

§68-235. Fiduciaries - Final accounts.

(a) No final account of any fiduciary shall be allowed by any probate court of the state, unless such account shows, and the judge of said court finds, that all taxes imposed by the provisions of any state tax law which have become payable, have been paid, and that all taxes which may become due are secured by bond, deposit or otherwise. The certificate of the Tax Commission shall be conclusive as to the payment of any tax, to the extent of said certificate.

(b) For the purpose of facilitating the settlement and distribution of the estates held by fiduciaries, the Tax Commission may, subject to the approval of the court having jurisdiction of any such estate, or as provided by Section 219 of this Code, agree upon the amount of taxes, at any time due or to become due, from such fiduciaries, under the provisions of any state tax law, and payment, in accordance with such agreement, shall be in full satisfaction of all taxes to which the agreement relates.

Laws 1965, c. 414, § 2.

§68-236. Agents, accountants, attorneys or other persons representing taxpayers before Commission.

The Tax Commission may prescribe rules and regulations governing the recognition of agents, accountants, attorneys, or other persons representing taxpayers before the Tax

Commission, and may require that such person, before being recognized as representatives of taxpayers, shall make a proper showing that they are of good character and in good repute and are possessed of the necessary qualifications to enable them to render such taxpayers valuable services, and are otherwise competent to advise and assist such taxpayers in the preparation of reports, returns or cases to be filed with or heard before the Tax Commission. The Tax Commission may, after due notice and an opportunity for hearing, suspend and disbar from further practice before the Tax Commission any such person, agent, accountant or attorney shown to be incompetent or disreputable or who refuses to comply with the said rules and regulations, or who shall, with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any taxpayer or prospective client by words, circular, letter, or by advertisement, or who shall advise a taxpayer to file a fraudulent or false report or return, or who shall prepare a false or fraudulent report or return in any particular whatsoever, or who shall assist, aid or abet any taxpayer in concealing any information pertaining to said taxpayer's books, records, reports or returns, or who shall delay proceedings of the Tax Commission to assist a taxpayer in disposing of or concealing property upon which a levy could be made for the collection of taxes accrued, or who shall be in default in payment of taxes or filing reports or returns under any state tax law.

Laws 1965, c. 414, § 2.

§68-237. Taxes imposed by other States.

The courts of this state shall recognize and enforce liability for taxes lawfully imposed by other states which extend a like comity to this state.

Laws 1965, c. 414, § 2.

§68-238. Conduct of business or activities without license or permit.

Any person, association, or corporation required to obtain a license or permit by any state tax law, or by other law which the Tax Commission is required to enforce, who shall, without obtaining such license or permit, conduct the business or carry on the activities required to be licensed, shall be guilty, upon conviction, of a misdemeanor and shall be punished by the imposition of a fine of not more than Five Thousand Dollars (\$5,000.00), or shall be punished by imprisonment in the county jail for not more than one (1) year; and, upon complaint of the Tax Commission shall be enjoined from further operating or conducting such business until such license or permit has been procured.

The venue for prosecutions arising pursuant to the provisions of this section shall be in the district court of any county in which such business activities are transacted.

Amended by Laws 1984, c. 220, § 2, operative July 1, 1984.

§68-238.1. State licenses – Collection of income taxes – Notification - Definitions.

A. It is the intent of the Legislature that the provisions of this section operate to provide for the collection of income taxes due to the State of Oklahoma by persons holding state licenses in a manner that will maximize flexibility for licensees to pay any such taxes due while minimizing disruption to operations of licensing entities. It is the further intent of the Legislature that the Oklahoma Tax Commission allow at least six (6) months notice to licensees pursuant to the provisions of subsection C of this section prior to notification of noncompliance to a licensing entity.

B. Each licensing entity shall, on a date that allows the Tax Commission to comply with the notice provisions of subsection A of this section, provide to the Tax Commission a list of all its licensees and such identifying information as may be required by the Tax Commission. Such list and information shall be used by the Tax Commission exclusively for the purpose of collection of income taxes due to the State of Oklahoma. The provisions of any laws making application information confidential shall not apply with respect to information supplied to the Tax Commission pursuant to the provisions of this section; provided, such information shall be subject to the provisions of Section 205 of this title.

C. The Tax Commission shall notify any licensee who is not in compliance with the income tax laws of this state. Such notification shall include:

1. A statement that the licensee's license will not be renewed or reissued until the taxpayer is deemed by the Tax Commission to be in compliance with the income tax laws of this state;
2. The reasons that the taxpayer is considered to be out of compliance with the income tax laws of this state, including a statement of the amount of any tax, penalties and interest due or a list of the tax years for which income tax returns have not been filed as required by law;
3. An explanation of the rights of the taxpayer and the procedures which must be followed by the taxpayer in order to come into compliance with the income tax laws of this state; and
4. Such other information as may be deemed necessary by the Tax Commission.

D. A licensee who has entered into and is abiding by a payment agreement, or who has requested relief as an innocent spouse which is pending or has been granted, shall be deemed to be in compliance with the state income tax laws for purposes of this section.

E. If the Tax Commission notifies a licensee who is not in compliance with the income tax laws of this state as required in this section and such licensee does not respond to such notification or fails to come into compliance with the income tax laws of this state after an assessment has been made final or after the Tax Commission determines that every reasonable effort has been made to assist the licensee to come into compliance with the income tax laws of this state, the Tax Commission, notwithstanding the provisions of Section 205 of this title, shall so notify the licensing entity, which shall not renew or reissue the licensee's license at such time as it is subject to renewal or thereafter and shall notify the applicant of the reason for nonrenewal or failure to reissue. If a licensee who has been previously reported by the Tax Commission to a licensing entity as being out of compliance comes into compliance, the Tax Commission shall immediately notify the licensing entity. A licensing entity shall not be held liable for any action with respect to a state license pursuant to the provisions of this section.

F. If the Oklahoma Bar Association receives notice that a licensed attorney is not in compliance with the income tax laws of this state as provided in this section, the Bar Association shall begin proceedings by which the attorney may be suspended pursuant to Rule Governing Disciplinary Proceedings. If suspended, the attorney may be reinstated pursuant to reinstatement procedures as provided in the Rules Governing Disciplinary Proceedings.

G. The Tax Commission shall promulgate rules for the implementation of the provisions of this section.

H. As used in this section:

1. "State license" means a license, certificate, registration, permit, approval or other similar document issued by a licensing entity granting to an individual or business a right or privilege to engage in a profession, occupation or business in this state. "State license" does not include an inactive license issued by a licensing entity which does not grant an individual the right to engage in a profession, occupation or business in this state;

2. "Licensing entity" means a bureau, department, division, board, agency, commission or other entity of this state or of a municipality in this state that issues a state license; and

3. "Reissue" means to issue a state license to an individual who has been in possession of an equivalent license issued by the same licensing entity in the previous twelve (12) months. Added by Laws 2000, c. 314, § 6, eff. July 1, 2000. Amended by Laws 2001, c. 295, § 1, emerg. eff. May 31, 2001; Laws 2009, c. 246, § 1, eff. Nov. 1, 2009.

§68-238.2. Compliance of state employees with state income tax laws - Notification - Disciplinary action.

A. It is the intent of the Legislature that the provisions of this section operate to provide for the collection of income taxes due to the State of Oklahoma by state employees in a manner that will maximize flexibility for state employees to pay any such taxes due while minimizing disruption to operations of state agencies. It is the further intent of the Legislature that the Oklahoma Tax Commission provide notice to state employees pursuant to the provisions of subsection C of this section and that the Tax Commission provide such notice to state employees at least six (6) months prior to notification of noncompliance to a state agency.

B. The Office of Management and Enterprise Services shall, not later than August 1, 2003, and August 1 of each year thereafter, provide to the Tax Commission a list of all state employees as of the preceding July 1 and such identifying information as may be required by the Tax Commission. Such list and information shall be used by the Tax Commission exclusively for the purpose of collection of income taxes due to the State of Oklahoma. The provisions of any laws making information confidential shall not apply with respect to information supplied to the Tax Commission pursuant to the provisions of this section; provided, such information shall be subject to the provisions of Section 205 of this title.

C. The Tax Commission shall, not later than November 1, 2003, and November 1 of each year thereafter, notify any state employee who is not in compliance with the income tax laws of this state. Such notification shall include:

1. A statement that the employee will be subject to disciplinary action by the appointing authority unless the taxpayer is deemed by the Tax Commission to be in compliance with the income tax laws of this state;

2. The reasons that the taxpayer is considered to be out of compliance with the income tax laws of this state, including a statement of the amount of any tax, penalties and interest due or a list of the tax years for which income tax returns have not been filed as required by law;

3. An explanation of the rights of the taxpayer and the procedures which must be followed by the taxpayer in order to come into compliance with the income tax laws of this state; and

4. Such other information as may be deemed necessary by the Tax Commission.

D. A state employee who has entered into and is abiding by a payment agreement, or who has requested relief as an innocent spouse which is pending or has been granted, shall be deemed to be in compliance with the state income tax laws for purposes of this section.

E. If the Tax Commission notifies a state employee who is not in compliance with the income tax laws of this state as required in this section and such state employee does not respond to such notification or fails to come into compliance with the income tax laws of this state after an assessment has been made final or after the Tax Commission determines that every reasonable effort has been made to assist the state employee to come into compliance with the income tax laws of this state, the Tax Commission, notwithstanding the provisions of Section 205 of this title, shall so notify the appointing authority, which shall commence disciplinary action with

respect to the state employee and shall notify the state employee of the reason for such action; provided, if a state agency receives a notification with respect to a state employee who has failed to come into compliance with the income tax laws, and the notification is the employee's third notification as a state employee, regardless of which agency the employee was employed by at the time of the first and second notices, such employee shall be terminated by the state agency according to the procedures provided by law. If a state employee who has been previously reported by the Tax Commission to a state agency as being out of compliance comes into compliance, the Tax Commission shall immediately notify the appointing authority. Neither a state agency nor an appointing authority shall be held liable for any action with respect to a state employee pursuant to the provisions of this section.

F. The Tax Commission shall promulgate rules for the implementation of the provisions of this section.

G. As used in this section:

1. "State agency" means any office, department, board, commission or institution of the executive, legislative or judicial branch of state government;

2. "Employee" or "state employee" means an appointed officer or employee of a state agency; provided, the term employee or state employee shall not include an elected official or an employee of a local governmental entity; and

3. "Appointing authority" means the chief administrative officer of a state agency.
Added by Laws 2003, c. 376, § 1, eff. July 1, 2003. Amended by Laws 2005, c. 479, § 4, eff. July 1, 2005; Laws 2011, c. 348, § 2; Laws 2012, c. 304, § 534.

§68-239. Continuance of business or operations after forfeiture of required bond.

Any person, association, or corporation who, after the forfeiture by the Tax Commission of any bond posted by him, shall continue or attempt to continue in the business or operations made taxable by any state tax law pursuant to which the bond was required to be posted, without having said bond reinstated or without making a new bond, shall be guilty, upon conviction, of a misdemeanor and shall be punished by the imposition of a fine of not more than Five Thousand Dollars (\$5,000.00), or shall be imprisoned in the county jail for not more than one (1) year; and, upon complaint of the Tax Commission, shall be enjoined from further operating or conducting such business until such bond has been reinstated or a new bond has been approved.

The venue for prosecutions arising pursuant to the provisions of this section shall be in the district court of any county in which such business activities are transacted.

Amended by Laws 1984, c. 220, § 3, operative July 1, 1984.

§68-240. Failure or refusal to file report or return - Penalty.

(a) Any taxpayer who, due to intentional disregard of any state tax law, but without intent to defraud, shall fail or refuse to file any report or return required to be filed pursuant to the provisions of any state tax law, or shall fail or refuse to furnish a supplemental return or other data required by the Tax Commission, shall be guilty, upon conviction, of a misdemeanor and shall be punished by a fine of not exceeding Five Thousand Dollars (\$5,000.00) or by imprisonment in the county jail for not more than one (1) year, or by both said fine and imprisonment.

(b) The venue for prosecutions arising pursuant to the provisions of this section shall be in the district court of any county in which such person resides or, if such person is not a resident of

this state, any county in which such person does business or maintains an established place of business.

(c) Failure or refusal of any taxpayer to file any report or return required to be filed pursuant to the provisions of any state tax law, or failure or refusal of a taxpayer to furnish a supplemental return or other data required by the Tax Commission within thirty (30) days after notice by personal service or by registered or certified mail with return receipt requested of the due date of such report or return, shall, for the purpose of this section, be prima facie evidence of intentional disregard of state tax law. Provided, that this subsection shall be set out in full in the notice to the taxpayer.

(d) The Tax Commission may grant additional time to the taxpayer to furnish such return or other data. In such event, a failure of the taxpayer to furnish such return or other data within thirty (30) days from the date to which the time is extended shall, for the purpose of this article, be prima facie evidence of intentional disregard of state tax law.

Amended by Laws 1984, c. 220, § 4, operative July 1, 1984; Laws 1986, c. 218, § 10, emerg. eff. June 9, 1986.

§68-240.1. False return or return with intent to defraud - Penalty.

A. Any taxpayer who, with intent to defraud the state or evade the payment of any state tax, fee, interest, or penalty which shall be due pursuant to any state tax law, shall fail or refuse to file any report or return required to be filed pursuant to the provisions of any state tax law, or shall fail or refuse to furnish a supplemental return or other data required by the Tax Commission, shall be guilty, upon conviction, of a felony and shall be punished by imposition of a fine of not less than One Thousand Dollars (\$1,000.00) and not more than Fifty Thousand Dollars (\$50,000.00) or by imprisonment in the State Penitentiary for not less than two (2) years and not more than five (5) years, or by both such fine and imprisonment.

B. The venue for prosecutions arising pursuant to the provisions of this section shall be in the district court of any county in which such taxpayer resides or, if such taxpayer is not a resident of this state, any county in which such taxpayer conducts business or maintains an established place of business.

C. Failure or refusal of a taxpayer to file any report or return required to be filed pursuant to the provisions of any state law, or failure or refusal of a taxpayer to furnish a supplemental return or other data required by the Tax Commission within thirty (30) days after notice by personal service or by registered or certified mail with return receipt requested of the due date of such report or return, shall be, for purposes of this section, prima facie evidence of intent of the taxpayer to defraud the state and evade the payment of such tax. The provisions of this subsection shall be set forth in full in such notice to the taxpayer.

D. The Tax Commission may grant additional time to the taxpayer to furnish such return or other data. In such event, a failure of the taxpayer to furnish such return or other data within thirty (30) days from the date to which the time is extended shall, for purposes of this section, be prima facie evidence of the intent of the taxpayer to defraud the state and evade the payment of such tax.

Added by Laws 1986, c. 218, § 11, emerg. eff. June 9, 1986. Amended by Laws 1997, c. 133, § 552, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 402, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 552 from July 1, 1998, to July 1, 1999.

§68-241. False or fraudulent reports, returns - Penalty - Venue.

A. Any person required to make, render, sign or verify any report, return, statement, claim, application, or other instrument, pursuant to the provisions of this title or of any state tax law who, with intent to defeat or evade the payment of the tax, shall make a false or fraudulent return, statement, report, claim, invoice, application, or other instrument, or any person who shall aid or abet another in filing with the Tax Commission such a false or fraudulent report or statement, shall be guilty, upon conviction, of a felony and shall be punished by the imposition of a fine of not less than One Thousand Dollars (\$1,000.00) and not more than Fifty Thousand Dollars (\$50,000.00), or shall be imprisoned in the State Penitentiary for not less than two (2) years and not more than five (5) years, or shall be punished by both said fine and imprisonment.

B. The venue of prosecutions arising pursuant to the provisions of this section shall be in the district court of any county where such return or report was verified.

Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended by Laws 1984, c. 220, § 5, operative July 1, 1984; Laws 1986, c. 218, § 12, emerg. eff. June 9, 1986; Laws 1997, c. 133, § 553, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 403, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 553 from July 1, 1998, to July 1, 1999.

§68-242. False entries or neglect to make entries - Penalty - Venue.

Any person, whether acting for himself or for any other person, who willfully makes any false entry or who fails to make any entry which it is his duty to make in any book, ledger, or account required by the provisions of this title or any state tax law to be kept, shall be guilty, upon conviction, of a misdemeanor and shall be punished by the imposition of a fine of not more than Five Thousand Dollars (\$5,000.00) or shall be sentenced to the county jail for a term not exceeding one (1) year, or both.

The venue of all prosecutions arising pursuant to the provisions of this section shall be in the district court of the county in which such person resides, or if such person is not a resident of this state, any county in which such person does business or maintains an established place of business.

Amended by Laws 1984, c. 220, § 6, operative July 1, 1984.

§68-243. Evidence and witnesses - Penalty - Venue.

(a) Any person, or any member of any firm or association, or any official, agent, or employee of any corporation, who shall fail or refuse:

- (1) to testify, or
- (2) to produce any books, records, or papers which the Tax Commission shall require, or
- (3) to permit the examination of the same, or
- (4) to furnish any other evidence or information which the Tax Commission may require,

or

(5) to answer any questions which may be put to him by the Tax Commission touching the business, property, assets, or effects of any such person, firm, association, or corporation, or the valuation thereof, or the income or profits therefrom, shall be guilty, upon conviction, of a misdemeanor and shall be punished by a fine of not more than Five Thousand Dollars (\$5,000.00), or by imprisonment for not more than one (1) year in the county jail, or by both said fine and imprisonment.

(b) The venue of prosecutions arising pursuant to the provisions of this section shall be in the district court of either the county in which the person resides or maintains his place of business or in the county in which the hearing is held.

Amended by Laws 1984, c. 220, § 7, operative July 1, 1984.

§68-244. False answers to questions or false affidavits.

Any person, or member of any firm or association, or any official, agent, or employee of any corporation, who shall knowingly make false answer to any question which may be put to him by the Tax Commission, touching the business, property, assets, or effects of any such person, firm, association, or corporation, or the valuation thereof, or the income or profits therefrom, or who shall make or present any false affidavit concerning any list, schedule, statement, report or return, or for any other purpose, filed with said Tax Commission or required to be filed by this title or by any state tax law, shall be guilty of the felony of perjury, and, upon conviction, shall be punished as provided for in Section 246 of this title.

Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended by Laws 1984, c. 220, § 8, operative July 1, 1984; Laws 1997, c. 133, § 554, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 554 from July 1, 1998, to July 1, 1999.

§68-245. Verification of reports or returns.

Reports or returns or other matter which are required by law to be verified by oath or affirmation and filed with the Tax Commission may be verified by oath or affirmation taken before a person authorized to administer oaths, or by a declaration in writing that the report or return or other matter is signed under the penalties of perjury. The fact that a report or return or other matter purports to have been signed by a person shall for all purposes be prima facie evidence that he in fact signed the report or return or other matter.

Laws 1965, c. 414, § 2.

§68-246. Penalty.

Any person who shall knowingly verify, by oath, affirmation, or declaration, any false report or false return or other matter which is false, which by statute is required to be verified by oath, affirmation, or declaration and filed with the Tax Commission, shall be guilty, upon conviction, of the felony of perjury and shall be punished by the imposition of a fine of not less than Five Hundred Dollars (\$500.00) or more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the county jail for not less than ninety (90) days or more than one (1) year or by imprisonment in a state correctional institution for not less than ninety (90) days, or more than ten (10) years.

Added by Laws 1965, c. 414, § 2, emerg. eff. July 7, 1965. Amended by Laws 1984, c. 220, § 9, operative July 1, 1984; Laws 1997, c. 133, § 555, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 404, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 555 from July 1, 1998, to July 1, 1999.

§68-247. Additional penalty for filing return or report containing insufficient information to determine correctness of tax liability - Purpose.

Any taxpayer who files a purported state tax return or report that does not contain sufficient information to determine the correctness of the reported tax liability and that, on its face, indicates a prima facie intent to delay or impede the administration or enforcement of any state tax law shall be subject to a penalty, in addition to any other penalty imposed by law, in the amount of Five Thousand Dollars (\$5,000.00). Said penalty shall be recoverable by the Tax Commission as a part of the tax and shall be apportioned as provided for the apportionment of the tax on which such penalty is collected.

This provision is intended to impose an additional penalty on those taxpayers who do not file required tax returns or reports in processible form, make spurious constitutional claims on the face of the return or report, refuse to complete the return or report, present information that is clearly inconsistent, or declare "gold standard" or "war tax" deductions or any other similar claim with the intent not to file required tax returns or reports in a processible form. Added by Laws 1983, c. 275, § 15, emerg. eff. June 24, 1983. Amended by Laws 1984, c. 220, § 10, operative July 1, 1984.

§68-248. Commission may require taxpayer to furnish certain information.

In addition to information required on any state tax return or report prescribed by the Oklahoma Tax Commission, upon request or demand for production of information by the Commission, or its duly authorized agent, a state taxpayer shall furnish any information deemed necessary to determine the amount of state tax liability. Notwithstanding Section 205 of this title the Commission shall have the power to compel the production of books, records or papers of any person, firm, association, partnership, corporation or other legal entity regarding the business, property, assets or effects of any Oklahoma taxpayer which may be necessary to a determination of state tax liability of such taxpayer, including any books, records or papers necessary to obtain or verify information necessary for resolution of a protest by a taxpayer to an assessment of tax or additional tax or to the resolution of a claim for refund filed by a taxpayer. If the information is deemed confidential or proprietary by the person, firm, association, partnership, corporation or other legal entity, no production can be compelled pending a hearing on the nature and extent of the production of privileged and confidential information. Added by Laws 1983, c. 275, § 16, emerg. eff. June 24, 1983. Amended by Laws 1990, c. 339, § 3, emerg. eff. May 31, 1990.

§68-249. Tax preparers - Duties - Violations - Penalties.

A. Any person that prepares any state tax returns or reports for an Oklahoma taxpayer, other than the employer of the preparer, for compensation, shall:

1. Set forth the name, identifying number, and address of the preparer on the face of the prepared return or report; and
2. Manually, or by means of a rubber stamp, mechanical device, or computer software program which includes a facsimile of the individual preparer's signature or printed name, sign and execute the prepared return or report; and
3. Furnish the taxpayer a copy of the prepared return or report and retain a copy of same for a period of three (3) years from the date the prepared return or report was filed or required to be filed, whichever expires the later.

Upon a determination of a violation of this subsection, the preparer shall be subject to a penalty in the amount of Five Hundred Dollars (\$500.00) which shall be apportioned as provided for the apportionment of the tax for which the return or report was prepared.

B. Any person that prepares any state tax returns or reports for an Oklahoma taxpayer for compensation is hereby prohibited from endorsing or negotiating the state income tax refund check of the taxpayer. Upon a determination by the Tax Commission that a preparer violated this subsection, a penalty in the amount of Five Hundred Dollars (\$500.00) shall be assessed. Said penalty shall be apportioned in the same manner as provided for the apportionment of the state income tax revenues.

C. The penalties imposed pursuant to the provisions of this section shall be in addition to any other penalties imposed by any tax laws or civil or criminal laws of this state.

D. When assisting taxpayers in preparing an individual income tax return, tax preparers shall advise their clients of their responsibility to remit use taxes through the use tax remittance line on the individual income tax return or by filing a consumer use tax return.

Added by Laws 1983, c. 275, § 17, emerg. eff. June 24, 1983. Amended by Laws 1984, c. 220, § 11, operative July 1, 1984; Laws 2005, c. 479, § 5, eff. July 1, 2005; Laws 2010, c. 412, § 6, eff. July 1, 2010.

§68-250. Register of tax warrants - Establishment and maintenance - Public inspection.

The Oklahoma Tax Commission shall establish and maintain a register of tax warrants filed pursuant to the provisions of the Uniform Tax Procedure Code, Sections 201 through 260 of this title. The Tax Commission shall establish and maintain a separate register of tax warrants filed pursuant to the provisions of subsection D of Section 231 of this title. Said registers shall be public records which shall be open to public inspection.

Added by Laws 1985, c. 95, § 3, eff. Jan. 1, 1986. Amended by Laws 1986, c. 55, § 1, eff. Nov. 1, 1986; Laws 1993, c. 28, § 2, emerg. eff. Mar. 30, 1993.

§68-251. Filing petitions and applications for collection of delinquent taxes by mail.

Notwithstanding the provisions of any statute or court rule to the contrary the Tax Commission may file petitions and applications in the various district courts of this state to initiate actions authorized in Section 201 et seq. of Title 68 of the Oklahoma Statutes, for collection of delinquent state taxes by mailing same to the respective court clerk of the district courts of this state. Upon receipt of such petition or application, the court clerk shall cause hearings to be set as required by law, and shall cause the necessary summons or notice to be issued and served by sheriff or mail, as set forth in the summons or notice.

§68-252. Attorney General - Duty to prosecute actions to collect certain taxes.

In addition to the obligations of state or local agencies or entities, the Attorney General shall have the duty to file and prosecute all actions to enforce the collection of sales tax, withheld income tax, or other taxes owed to the State of Oklahoma:

1. In all necessary civil proceedings; and
2. In all criminal cases, when the district attorney fails to file a case, within thirty (30) days after being requested to do so by the Tax Commission or other state agency.

Added by Laws 1985, c. 356, § 7, emerg. eff. July 30, 1985.

§68-253. Corporations or limited liability companies - Filing assessment for certain unpaid taxes - Liability of principal officers, managers or members.

When the Oklahoma Tax Commission files a proposed assessment against corporations or limited liability companies for unpaid sales taxes, withheld income taxes or motor fuel taxes

collected pursuant to Article 5, 6 or 7 of this title, the Commission shall file such proposed assessments against the principal officers of the corporations or the managers or members personally liable for the tax. The principal officers of any corporation shall be liable for the payment of any tax as prescribed by this section if such officers were officers of the corporation during the period of time for which the assessment was made. Managers or members of any limited liability company shall be liable for the payment of any tax as prescribed by this section if the managers or members were specified as responsible for withholding or collection and remittance of taxes during the period of time for which the assessment was made. If no managers or members were specified to be responsible for the duty of withholding and remittance of taxes during the period of time for which the assessment was made, then all managers and members shall be liable.

The liability of a principal officer for sales tax, withheld income tax or motor fuel tax shall be determined in accordance with the standards for determining liability for payment of federal withholding tax pursuant to the Internal Revenue Code of 1986, as amended, or regulations promulgated pursuant to such section.

Added by Laws 1985, c. 356, § 8, emerg. eff. July 30, 1985. Amended by Laws 1989, c. 249, § 16, eff. July 1, 1989; Laws 1993, c. 366, § 27, eff. Sept. 1, 1993.

§68-254. Garnishment proceeding to collect delinquent taxes, penalties or interest.

Upon a hearing with notice the Oklahoma Tax Commission shall be entitled to proceed by garnishment to collect any delinquent tax and to collect any penalty or interest due and owing as a result of a tax delinquency. Provided, that upon proper application under the procedures outlined herein, the court may issue an order continuing the garnishment for the collection of delinquent taxes, penalties or interest until the total amount of such delinquent taxes, penalties or interest have been collected.

Added by Laws 1985, c. 356, § 10, emerg. eff. July 30, 1985. Amended by Laws 1986, c. 218, § 13, emerg. eff. June 9, 1986.

§68-255. Contracting with debt collection agency to collect delinquent taxes.

A. In order to facilitate and expedite the collection of taxes more than ninety (90) days overdue from any taxpayer, the Oklahoma Tax Commission may enter into a contract with a debt collection agency doing business in the State of Oklahoma or in any other state for the collection of such delinquent taxes in addition to all other taxes accrued or accruing, including penalties and interest thereon, from the taxpayer. The contract shall only authorize the debt collection agency to collect tax liabilities which are already established and the Tax Commission shall not refer accounts to the debt collection agency unless the Tax Commission has notified the taxpayer, by first class mail, of the liability and has made additional efforts to collect the debt. Provided, if a sales tax permit holder fails to file two or more sales tax returns, as required under Section 1365 of this title, or a taxpayer required to remit withholding taxes fails to file two or more withholding tax returns, as required under Section 2385.3 of this title, the Tax Commission may refer the accounts to the debt collection agency prior to the establishment of the tax liability, but only after the Commission has notified the taxpayer as required under this subsection.

B. If an account has been referred to a debt collection agency, the Tax Commission shall review all payments posted by the collection agency prior to commencing any further collection activity against the taxpayer. Further, the collection agency shall review all payments posted by the Tax Commission prior to commencing any collection activity. The Tax Commission or the

collection agency shall, within ten (10) business days, provide the taxpayer with a written confirmation of all payments received and any balance due. In addition, the contract shall not authorize the debt collection agency to conduct audits or examine the books and records of a taxpayer in any manner. The Tax Commission may also enter into a contract with a person doing business in the State of Oklahoma or in any other state for the purpose of identifying and locating the assets of such delinquent taxpayer. Such contracts authorized by this section shall be subject to the provisions of The Oklahoma Central Purchasing Act.

C. In addition to the authority provided in subsection A of this section, the Tax Commission may enter into a contract for the purpose of identifying nonresident businesses and individuals who are required by law to file and pay Oklahoma state taxes and who are presently unknown to the Tax Commission.

D. Prior to entering into such a contract with a debt collection agency, the Tax Commission shall require that the debt collection agency file a bond in the amount of One Hundred Thousand Dollars (\$100,000.00). The bond shall be a bond from a surety company chartered or authorized to do business in this state, cash bond, certificates of deposits, certificates of savings or U.S. Treasury bonds, as the Tax Commission may deem necessary to guarantee compliance with the terms of the contract.

E. Each contract entered into by the Tax Commission with a debt collection agency, pursuant to the provisions of this section, shall specify that fees for services rendered, reimbursements or other remuneration shall be based on the total amount of delinquent taxes, including accrued penalties and interest, which is actually collected. No costs shall be reimbursed unless authorized in the contract. Each contract entered into between the Tax Commission and a debt collection agency shall provide for the payment of fees for such services, reimbursements or other remuneration not in excess of thirty-five percent (35%) of the total amount of delinquent taxes, penalty and interest actually collected. The debt collection agency contract fee shall be added to the amount of the delinquent taxes, accrued penalties and interest collected from the taxpayer. The total amount of the delinquent tax, accrued penalties and interest, and the debt collection agency contract fee shall be owed and collected from the taxpayer.

F. Each contract entered into by the Tax Commission with a person for the purpose of identifying and locating assets of delinquent taxpayers shall specify the amount of money to be paid for the performance of such services. No costs shall be reimbursed unless authorized in the contract.

G. All such funds collected by a debt collection agency, including the fees for collection services as provided for in such contract, shall be remitted to the Tax Commission within five (5) days from the date of collection from a taxpayer. The Tax Commission shall pay from such remitted fees the amount of fees to which such debt collecting agency is entitled for services performed pursuant to the provisions of such contract. All assets of such delinquent taxpayers which are identified and located shall be reported to the Tax Commission within five (5) days from the date of identification and location. Forms to be used for such remittances and reports shall be prescribed by the Tax Commission.

H. A debt collection agency entering into a contract with the Tax Commission or a person entering into a contract with the Tax Commission for asset location purposes pursuant to this section shall agree that it is receiving income from sources within this state or doing business in this state for purposes of the Oklahoma tax laws. Debt collection agency employees and/or their

agents shall not disclose confidential tax information except as authorized by Section 205 of this title, subject to the penalties contained therein.

Added by Laws 1986, c. 218, § 14, emerg. eff. June 9, 1986. Amended by Laws 1994, c. 385, § 2, eff. Sept. 1, 1994; Laws 1997, c. 294, § 11, eff. July 1, 1997; Laws 1998, c. 385, § 5, eff. July 1, 1998; Laws 2006, c. 223, § 1, eff. Nov. 1, 2006; Laws 2009, c. 426, § 5, eff. July 1, 2009; Laws 2010, c. 412, § 10, eff. July 1, 2010; Laws 2011, c. 348, § 3.

§68-255.1. Repealed by Laws 1994, c. 385, § 4, eff. Sept. 1, 1994.

§68-256. Taxpayer assistance program.

The Tax Commission shall establish a taxpayer assistance program to provide information and problem-solving expertise to the general public regarding the tax laws of this state. Said program shall include, but not be limited to, the following:

1. The installation of toll-free telephone lines within the Commission in order to provide information and problem-solving assistance to the general public. Such telephone lines shall provide access to Tax Commission employees who are specially trained and equipped to provide such assistance; and
2. The preparation and distribution of publications providing information to the taxpayer regarding the tax laws of this state. Such publications shall be made available statewide; and
3. The presentation of taxpayer education programs by specially trained Tax Commission employees throughout the state to inform the general public regarding the state tax laws and to provide problem-solving assistance to taxpayers.

Added by Laws 1986, c. 218, § 15, emerg. eff. June 9, 1986.

§68-257. Notice of changes in state tax law.

The Tax Commission shall inform taxpayers that the Tax Commission is not required to give actual notice to taxpayers of changes in any state tax law. Such information shall be printed on all tax return or report forms prescribed by the Tax Commission and on any Tax Commission publications for general distribution as the Commission may prescribe.

Added by Laws 1986, c. 218, § 16, operative July 1, 1987.

§68-258. Service of summons or notice in state tax proceedings.

Notwithstanding the provisions of any statute to the contrary, employees of the Tax Commission may personally serve the necessary summons or notice issued for any hearing, civil proceeding, or criminal proceeding initiated by the Tax Commission pursuant to any state tax law. Service by the Tax Commission pursuant to this section shall have the same force and effect as if such service had been made by any other person authorized by law to perform such service. The provisions of this section shall not authorize the execution of tax warrants by the Tax Commission.

Added by Laws 1986, c. 218, § 17, emerg. eff. June 9, 1986. Amended by Laws 1998, c. 59, § 1, eff. Nov. 1, 1998.

§68-259. Additional penalty in criminal proceedings for violating state tax law.

An additional penalty of an amount equal to ten percent (10%) of the amount of tax, penalty and interest, alleged and determined in a criminal action to be due and delinquent, is imposed upon any person convicted of, entering a plea of guilty, or entering a plea of nolo

contendere to a violation of a tax law of this state. The additional penalty shall be added to and become a part of the total debt due the state pursuant to the tax law allegedly violated. Upon collection of the additional penalty imposed herein, the Oklahoma Tax Commission shall transmit the revenue to the State Treasurer to be deposited in the Oklahoma Tax Commission Fund. The revenue from the additional penalty herein shall be apportioned by the Oklahoma Tax Commission to the county treasurers for deposit to the appropriate fund of the district attorney to reimburse the district attorney for costs of prosecution of criminal actions for violations of state tax laws.

Added by Laws 1986, c. 218, § 18, operative July 1, 1986.

§68-260. Repealed by Laws 2006, c. 327, § 8, eff. July 1, 2006.

§68-261. Data processing services - Bonds - Contracts.

The Oklahoma Tax Commission may expend funds for data processing services necessary to microfilm, record, or otherwise preserve information in the files and records of the Commission. Any nongovernmental entity contracting to provide data processing services for the Commission shall provide a surety bond in an amount set by the Commission of not less than Twenty-five Thousand Dollars (\$25,000.00). The Commission may enter into such contracts when it deems the contracts to be necessary for the performance of the duties imposed upon the Commission by law. Any governmental or nongovernmental entity contracting with the Commission to provide data processing services shall be subject to the penalty provisions of Section 205 of Title 68 of the Oklahoma Statutes.

Added by Laws 1986, c. 269, § 11, operative July 1, 1986.

§68-262. Audits of entities believed to owe additional taxes.

The Oklahoma Tax Commission may contract with private auditors or audit firms to audit the books of individuals, firms, or corporations which the Tax Commission believes may owe the State of Oklahoma additional tax monies. The Tax Commission may contract and may expend monies from the Oklahoma Tax Commission Reimbursement Fund to enter into such contracts. However, in no instance shall any such contract be paid upon a percentage basis, or on any basis whereby the compensation under the contract is dependent upon the amount of monies collected. Any such contract containing a provision whereby the compensation is conditioned upon or measured directly or indirectly by the amount of money collected shall be void and unenforceable. The Tax Commission may contract and may expend monies from the Oklahoma Tax Commission Reimbursement Fund in payment of a reasonable fee of the delivered funds in payment of contracts entered into with temporary service companies or professional collection agencies as necessary for the collection of delinquent taxes or other monies owed to the state. Such payment shall not be made until the funds have been deposited with the Tax Commission. Temporary employees or contractors hereunder shall not disclose confidential tax information except as authorized by Section 205 of this title, subject to the penalties contained therein.

Added by Laws 1986, c. 269, § 12, operative July 1, 1986. Amended by Laws 1994, c. 385, § 3, eff. Sept. 1, 1994; Laws 1996, c. 290, § 23, eff. July 1, 1996; Laws 1998, c. 240, § 1, eff. Nov. 1, 1998.

§68-263. Attachment of sums due taxpayer from state.

A. If any tax warrant or certificate remains outstanding and unpaid, the Tax Commission may issue an order attaching the sums due or to become due, up to the amount of the liability upon such tax warrant or certificate, upon any contract between the taxpayer named in such tax warrant or certificate and the State of Oklahoma or any department, board, institution, commission or agency thereof, for the furnishing of any services, goods, merchandise, supplies, materials or equipment for which payment is made upon claims approved by the Office of Management and Enterprise Services.

B. A certified copy of the attachment order shall be delivered to the Director of the Office of Management and Enterprise Services and notice of such attachment shall be mailed to the taxpayer at the taxpayer's last-known address.

C. From and after receipt of the attachment order, the Director of the Office of Management and Enterprise Services shall not pay nor shall the State Treasurer issue any check or warrant for payment to the taxpayer for the sums or funds so attached without a written release from the Tax Commission.

D. The attachment orders issued by the Tax Commission shall continue in force until released by the Tax Commission. The Tax Commission may issue subsequent or successive attachment orders, which shall be cumulative.

E. If the taxpayer fails within thirty (30) days after his claim upon such contract, or contracts if there are more than one, has been initially received by the Director of the Office of Management and Enterprise Services, or within thirty (30) days after the mailing of notice of such attachment, whichever is later, to obtain and file with the Director of the Office of Management and Enterprise Services a release executed by the Tax Commission, the Director of the Office of Management and Enterprise Services shall authorize the payment to the Tax Commission of the sums or funds attached, or so much thereof as have been certified for payment pursuant to procedures prescribed by the Director of the Office of Management and Enterprise Services. Such payments to the Tax Commission shall be credited against the liability on the tax warrant or certificate, and shall constitute to the extent thereof, payment by the state, department, board, institution, commission or agency to the taxpayer upon such contract.

F. The Tax Commission may release funds from the claims or contracts attached to effectuate payment of the liability on such tax warrant or certificate or to protect the interest of the state, and shall release the funds attached within thirty (30) days of full payment of such liability.

G. The provisions of this section shall not apply to payroll claims of or on behalf of employees of this state.

H. No person, firm or corporation that is delinquent in the reporting or paying of any tax due under the laws of this state shall be registered as a vendor under the provisions of Section 85.33 of Title 74 of the Oklahoma Statutes, nor included on the approved bidder lists maintained by the Purchasing Division of the Office of Management and Enterprise Services.

Added by Laws 1986, c. 301, § 30, operative July 1, 1986. Amended by Laws 2012, c. 304, § 535.

§68-264. Contract and release of taxpayer information to certain entities – Search for nonregistered taxpayers, nonfilers and underreporting taxpayers - Confidentiality - Penalty.

A. Notwithstanding the provisions of Section 205 of this title and Section 85.7 of Title 74 of the Oklahoma Statutes, the Oklahoma Tax Commission is authorized to enter into a contract with and release taxpayer information to entities deemed to be qualified by the Tax Commission

to acquire or utilize their technology systems or information to detect non-registered taxpayers, non-filers and under-reporting taxpayers. Functions and duties to be performed by the contracting entity may include registration, processing, and collection functions and other functions deemed necessary by the Tax Commission.

B. Compensation shall be based on a percentage of the additional tax revenues attributable to the implementation and use of the technology systems or information. The contract may provide for additional fixed fees for services performed under the contract to be paid from monies appropriated by the Legislature or from the additional tax revenues.

C. The taxpayer information released to the contracting party shall be considered confidential and privileged and neither the contracting party nor its employees, shall disclose any information obtained from the records or files. A violation of any of the provisions of this section shall constitute a misdemeanor punishable in the same manner and to the same extent as a violation of any of the provision of Section 205 of this title.

D. The Tax Commission shall pay from the taxes collected and attributable to the utilization of the acquired technology systems the amount of fees the contracting party is entitled for services performed pursuant to the contract.

Added by Laws 2002, c. 154, § 1, emerg. eff. April 29, 2002. Amended by Laws 2003, c. 472, § 7.

§68-265. Oklahoma Tax Commission and Office of Management and Enterprise Services Joint Computer Enhancement Fund.

A. There is hereby created in the State Treasury a fund for the Oklahoma Tax Commission to be known as the "Oklahoma Tax Commission and Office of Management and Enterprise Services Joint Computer Enhancement Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies deposited to the fund pursuant to law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended for the purposes authorized by subsection B of this section. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. Monies in the Oklahoma Tax Commission and Office of Management and Enterprise Services Joint Computer Enhancement Fund shall be expended for the following purposes:

1. To make payments on an agreement authorized by Section 5, Chapter 278, O.S.L. 2008;
 2. To make payments authorized by Section 34.33 of Title 62 of the Oklahoma Statutes;
- and
3. To the extent not needed for the above-listed purposes to be expended on other computer projects as specifically authorized by the Legislature.

C. Notwithstanding any other provision of law, there shall be apportioned to the Oklahoma Tax Commission and Office of Management and Enterprise Services Joint Computer Enhancement Fund from the monies that would otherwise be apportioned by Section 2352 of this title, the revenue received as a result of any contracts entered into by the Oklahoma Tax Commission pursuant to Section 264 of this title.

D. The Tax Commission is hereby authorized to deposit to the credit of the Oklahoma Tax Commission and Office of Management and Enterprise Services Joint Computer Enhancement Fund any monies in excess of the amounts necessary to pay all claims presented to its cash security reserve fund. When monies are deposited to the credit of the Computer Enhancement

Fund, the right of any person to present a claim for refund of a cash security shall be preserved and the value thereof shall be paid from the cash security reserve fund.

E. For the fiscal year beginning July 1, 2010, and notwithstanding the provisions of Section 2352 of this title, the first Five Million Dollars (\$5,000,000.00) of revenue derived pursuant to the provisions of subsections A, B and E of Section 2355 of this title shall be apportioned to the Oklahoma Tax Commission and Office of Management and Enterprise Services Joint Computer Enhancement Fund. For the fiscal year beginning July 1, 2010, the Tax Commission shall apportion the first Five Million Dollars (\$5,000,000.00) that would be apportioned pursuant to subsection C of this section according to the provisions of Section 2352 of this title.

Added by Laws 2008, c. 278, § 6, eff. July 1, 2008. Amended by Laws 2009, c. 426, § 6, eff. July 1, 2009; Laws 2010, c. 412, § 11, eff. July 1, 2010; Laws 2012, c. 304, § 536.

§68-270. Certification of credit qualification – Report of credits claimed and allowed.

A. Notwithstanding any other provisions of this section, the Oklahoma Tax Commission shall, upon request of any taxpayer or the taxpayer's authorized agent, representative or attorney, provide certification in writing of qualification for the credits in the following sections of law:

1. Section 2357.7 of this title;
2. Section 2357.11 of this title;
3. Section 2357.32A of this title;
4. Section 2357.41 of this title; and
5. Section 2357.42 of this title.

B. On or before November 1 of each year subsequent to the effective date of this section, the Oklahoma Tax Commission shall file a report with the Speaker of the Oklahoma House of Representatives, the President Pro Tempore of the State Senate and the Director of the Office of Management and Enterprise Services, stating the amount of credits claimed and allowed.

Added by Laws 2005, c. 381, § 14, eff. July 1, 2005. Amended by Laws 2012, c. 304, § 537.

§68-281. Oklahoma Tax Commission - Coordinating with city and county governments to increase sales and use collection.

The Oklahoma Tax Commission shall coordinate with city and county governments to increase state and local sales and use tax collections through joint enforcement efforts. Provided, the Tax Commission shall maintain central administration, and sales and use tax remitters shall not be subjected to duplicate audits, reports, or other collection efforts.

Added by Laws 2010, c. 412, § 12, eff. July 1, 2010.

§68-282. Ban on class action suits related to the gross receipts tax on mixed beverages.

Notwithstanding any other provision of law, one or more members of a class may not sue as representative parties on behalf of all members of a class, and a court may not hereafter certify a class, on any claim arising from the collection of monies denominated as gross receipts tax on mixed beverages, sales tax or use tax, or in which the damages sought or the injury claimed is monies that have been collected as, or denominated as, gross receipts tax on mixed beverages, sales tax or use tax, and which have been remitted to the Oklahoma Tax Commission or other governmental taxing authority.

Added by Laws 2013, c. 369, § 2.

§68-301. Definitions.

For purposes of Section 301 et seq. of this title:

1. The term “cigarette” is defined to mean and include all rolled tobacco or any substitute therefor, wrapped in paper or any substitute therefor and weighing not to exceed three (3) pounds per thousand cigarettes;

2. The term “person” is defined to mean and include any individual, company, partnership, joint venture, joint agreement, association (mutual or otherwise), limited liability company, corporation, estate, trust, business trust receiver, or trustee appointed by any state or federal court, or otherwise, syndicate, or any political subdivision of the state or combination acting as a unit, in the plural or singular number;

3. The term “wholesaler”, “distributor” and/or “jobber” is defined to mean and include a person, firm or corporation organized and existing, or doing business, primarily to sell cigarettes to, and render service to retailers in the territory such person, firm or corporation chooses to serve, and that:

- a. purchases cigarettes directly from the manufacturer,
- b. at least seventy-five percent (75%) of whose gross sales are made at wholesale,
- c. handles goods in wholesale quantities and sells through salespersons, advertising and/or sales promotion devices,
- d. carries at all times at its principal place of business a representative stock of cigarettes for sale, and
- e. comes into the possession of cigarettes for the purpose of selling them to retailers or to persons outside or within the state who might resell or retail such cigarettes to consumers.

In addition to the foregoing, and irrespective of the percentage or type of sales, the term “wholesaler”, “distributor” and/or “jobber” shall also include all purchasers of cigarettes making purchases directly from the manufacturer for distribution at wholesale or retail sale and this shall not affect the requirements relating to retail licenses;

4. The term “retailer” is defined to be:

- a. a person who comes into the possession of cigarettes for the purpose of selling, or who sells them at retail, or
- b. a person, not coming within the classification of wholesaler, distributor and/or jobber as herein defined, having possession of more than one thousand cigarettes;

5. The term “consumer” is defined to be a person who receives or who in any way comes into possession of cigarettes for the purpose of consuming them, giving them away, or disposing of them in a way other than by sale, barter or exchange;

6. The term “Tax Commission” is defined to mean the Oklahoma Tax Commission;

7. The term “sale” and/or “sales” is hereby defined to be and declared to include sales, barter, exchanges and every other manner, method and form of transferring the ownership of personal property from one person to another, and is also declared to be the use or consumption in this state in the first instance of cigarettes received from without the state or of any other cigarettes upon which the tax has not been paid. The term “first sale” shall mean and include the first sale or distribution of cigarettes in intrastate commerce or the first use or consumption of cigarettes within this state;

8. The term “stamp” as herein used shall mean the stamp or stamps by use of which:

- a. the tax levied pursuant to the provisions of Section 301 et seq. of this title is paid,
- b. the tax levied pursuant to the provisions of Section 349 of this title is paid, or
- c. the payment in lieu of taxes authorized pursuant to a compact entered into by the State of Oklahoma and a federally recognized Indian tribe or nation pursuant to the provisions of subsection C of Section 346 of this title is paid;

9. The term “drop shipment” shall mean and include any delivery of cigarettes received by any person within this state when payment for such cigarettes is made to the shipper or seller by or through a person other than the consignee;

10. The term “distributing agent” shall mean and include every person in this state who acts as an agent of any person outside the state by receiving cigarettes in interstate commerce and storing such cigarettes subject to distribution or delivery upon order from the person outside the state to distributors, wholesale dealers and retail dealers, or to consumers. The term “distributing agent” shall also mean and include any person who solicits or takes orders for cigarettes to be shipped in interstate commerce to a person in this state by a person residing outside of Oklahoma, the tax not having been paid on such cigarettes;

11. The term “vending machine” shall mean and include any coin operating machine, contrivance, or device, by means of which cigarettes are sold or dispensed in their original container;

12. The term “use” means and includes the exercise of any right or power over cigarettes incident to the ownership or possession thereof, except that it shall not include the sale of cigarettes in the regular course of business;

- 13. a. The term “delivery sale” means any sale of cigarettes to a consumer in Oklahoma where either:
 - (1) the purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, or the Internet or other online service, or
 - (2) the cigarettes are delivered by use of the mails or other delivery service.
- b. A sale of cigarettes which satisfies the criteria in subparagraph a of this paragraph shall be a delivery sale regardless of whether the seller is located within or outside of Oklahoma.
- c. A sale of cigarettes not for personal consumption to a person who is a wholesale dealer or a retail dealer shall not be a delivery sale.
- d. For purposes of this paragraph, any sale of cigarettes to an individual in Oklahoma shall be treated as a sale to a consumer unless such individual is licensed as a distributor or retailer of cigarettes by the Tax Commission;

14. The term “delivery service” means any person, including but not limited to the United States Postal Service, that is engaged in the commercial delivery of letters, packages, or other containers;

15. The term “manufacturer” means any person who manufactures, fabricates, assembles, processes, or labels a finished cigarette; or imports, either directly or indirectly, a finished cigarette for sale or distribution in this state;

16. The term “mails” or “mailing” means the shipment of cigarettes through the United States Postal Service;

17. The term “shipping container” means a container in which cigarettes are shipped in connection with a delivery sale; and

18. The term “shipping documents” means bills of lading, airbills, or any other documents used to evidence the undertaking by a delivery service to deliver letters, packages, or other containers.

Added by Laws 1965, c. 195, § 2, emerg. eff. June 10, 1965. Amended by Laws 1988, c. 47, § 13, operative July 1, 1988; Laws 1992, c. 339, § 14, eff. Jan. 1, 1993; Laws 1993, c. 366, § 28, eff. Sept. 1, 1993; Laws 2003, c. 475, § 1, eff. Nov. 1, 2003.

§68-302. Stamp excise tax upon sale, use, gift, possession or consumption of cigarettes.

There is hereby levied upon the sale, use, gift, possession, or consumption of cigarettes within the State of Oklahoma a tax at the rate of four (4) mills per cigarette. Beginning November 3, 1992, the revenue resulting from the tax levied pursuant to this section shall be apportioned by the Oklahoma Tax Commission and transmitted to the State Treasurer, who shall deposit the same in the Oklahoma Building Bonds of 1992 Sinking Fund. No part of the cigarette tax receipts derived from the increase in the cigarette tax rate shall be used in determining the amount of cigarette tax collections to be paid into the State of Oklahoma Building Bonds of 1961 Sinking Fund pursuant to the provisions of Sections 57.31 through 57.43 of Title 62 of the Oklahoma Statutes.

The tax hereby levied shall be paid only once on any cigarettes sold, used, received, possessed, or consumed in this state. The tax shall be evidenced by stamps which shall be furnished by and purchased from the Tax Commission or by an impression of such tax by the use of a metering device when authorized by the Tax Commission as provided for in Section 301 et seq. of this title, and the stamps or impression shall be securely affixed to one end of each package in which cigarettes are contained or from which consumed.

The impact of the tax levied by the provisions of Section 301 et seq. of this title is hereby declared to be on the vendee, user, consumer, or possessor of cigarettes in this state, and, when the tax is paid by any other person, such payment shall be considered as an advance payment and shall thereafter be added to the price of the cigarettes and recovered from the ultimate consumer or user. In making a sale of cigarettes in this state, a wholesaler or jobber may separately state and show upon the invoice covering the sale the amount of tax paid on the cigarettes sold. The tax shall be evidenced by appropriate stamps attached to each package of cigarettes sold. Every retailer who makes sales of cigarettes within this state to persons for use or consumption shall separately show the amount of tax paid as evidenced by appropriate stamps on each package of cigarettes sold, and the tax shall be collected by the retailer from the user or consumer. The provisions of this section shall in no way affect the method of collection of tax on cigarettes as now provided for by existing law. As to cigarettes packed in quantities of less than ten, for distribution as samples, payment of the tax may be made to the Tax Commission in a lump sum without affixing stamps on such packages.

Notwithstanding any other provision of law, the tax levied pursuant to the provisions of Section 301 et seq. of this title shall be part of the gross proceeds or gross receipts from the sale of cigarettes, as those terms are defined in paragraph 7 of Section 1352 of this title.

Laws 1965, c. 195, § 2, emerg. eff. June 10, 1965; Laws 1984, c. 3, § 1, emerg. eff. Feb. 21, 1984; Laws 1984, c. 153, § 6, emerg. eff. April 21, 1984; Laws 1992, c. 350, § 17; Laws 1999, c. 390, § 5, emerg. eff. June 8, 1999.

§68-302-1. Additional tax on cigarettes - Rates - Apportionment of revenues.

(a) In addition to the tax levied in Section 302 of this title, there is hereby levied upon the sale, use, gift, possession, or consumption of cigarettes, as defined in Sections 301 through 325 of this title, within the State of Oklahoma a tax at the rate of two and one-half (2 1/2) mills per cigarette. Such tax shall be evidenced by tax stamps as now provided for by law for other cigarette taxes, except that as to cigarette packages of less than ten cigarettes for free distribution as samples, the tax levied in this section shall be computed and paid as provided for other cigarette taxes without affixing stamps on each such package.

(b) No part of the revenues resulting from the additional tax levied in this section shall be used in determining the amount of cigarette tax collections to be paid into the State of Oklahoma Building Bonds of 1961 Sinking Fund pursuant to the provisions of Sections 57.31 through 57.43 of Title 62 of the Oklahoma Statutes, into the State of Oklahoma Building Bonds of 1965 Sinking Fund pursuant to the provisions of Sections 57.51 through 57.60 of Title 62 of the Oklahoma Statutes, or into the State of Oklahoma Institutional Building Bonds of 1965 Sinking Fund pursuant to the provisions of Sections 57.61 through 57.73 of Title 62 of the Oklahoma Statutes.

(c) The revenues resulting from the additional tax levied in this section through June 30, 1968, shall be apportioned by the Oklahoma Tax Commission and transmitted to the State Treasurer, who shall deposit the same in the State Treasury in a fund to be known as the "State of Oklahoma Building Bonds of 1968 Reserve Fund", which fund is hereby created. The Legislature shall appropriate monies from such fund or so much thereof as may be deemed necessary; first, for the payment of interest and principal upon any bonds issued for capital improvements pursuant to the provisions of Section 38 of Article X of the Oklahoma Constitution; second, for other capital improvements at state institutions; third, for operating expenses of such capital improvements; and fourth, for any other purposes of state government. From and after July 1, 1968, all revenues resulting from the additional tax levied in this section, except revenues dedicated to the retirement of the State of Oklahoma Building Bonds of 1968, Series A, B, C, D and E, or any refunding of any or all of such series, and except revenues required to be deposited in the Oklahoma Memorial Hospital Fund, shall be apportioned by the Oklahoma Tax Commission and transmitted to the State Treasurer, who shall deposit the same in the General Revenue Fund.

(d) The cigarette tax levied in this section shall be collected and administered in all respects not inconsistent with as now or hereafter provided for by law for other cigarette taxes now levied, collected and administered pursuant to the provisions of Sections 301 through 325 of this title.

Amended by Laws 1984, c. 3, § 2, emerg. eff. Feb. 21, 1984.

§68-302-2. Additional tax on cigarettes - Rates - Disposition of revenue.

(a) In addition to the tax levied in Sections 302 and 302-1 of this title, there is hereby levied upon the sale, use, gift, possession, or consumption of cigarettes, as defined in Sections 301 through 325 of this title, within the State of Oklahoma a tax at the rate of two and one-half (2 1/2) mills per cigarette. Such tax shall be evidenced by tax stamps as now provided for;

however, as to cigarette packages of less than ten cigarettes for free distribution as samples, the tax herein levied shall be computed and paid as provided for other cigarette taxes without affixing stamps on each such package.

(b) No part of the revenues resulting from the additional tax levied in this section shall be used in determining the amount of cigarette tax collections to be paid into the State of Oklahoma Building Bonds of 1961 Sinking Fund pursuant to the provisions of Sections 57.31 through 57.43 of Title 62 of the Oklahoma Statutes or into the State of Oklahoma Building Bonds of 1965 Sinking Fund pursuant to the provisions of Sections 57.61 through 57.73 of Title 62 of the Oklahoma Statutes.

(c) Except as otherwise provided in this subsection, the revenue resulting from the additional tax levied in this section shall be apportioned by the Oklahoma Tax Commission and transmitted to the State Treasurer, who shall deposit the same in the General Revenue Fund of the State of Oklahoma. Beginning on the effective date of this section, the revenue resulting from the additional tax levied in this section shall be apportioned by the Oklahoma Tax Commission and transmitted to the State Treasurer, who shall deposit the same in the Oklahoma Building Bonds of 1992 Sinking Fund.

(d) The cigarette tax levied in this section shall be collected and administered in all respects not inconsistent with as now or hereafter provided for by law for other cigarette taxes now levied, collected, and administered pursuant to the provisions of Sections 301 through 325 of this title.

Laws 1979, c. 195, § 5, eff. July 1, 1979; Laws 1980, c. 245, § 1, emerg. eff. May 16, 1980; Laws 1981, c. 211, § 1, emerg. eff. June 1, 1981; Laws 1982, c. 46, § 1, emerg. eff. March 26, 1982; Laws 1984, c. 3, § 3, emerg. eff. Feb. 21, 1984; Laws 1992, c. 350, § 18, eff.

§68-302-3. Additional tax on cigarettes - Rate - Apportionment of revenues.

(a) In addition to the tax levied in Sections 302, 302-1 and 302-2 of Title 68 of the Oklahoma Statutes, except as otherwise provided in this section, there is hereby levied upon the sale, use, gift, possession, or consumption of cigarettes, as defined in Sections 301 through 325 of Title 68 of the Oklahoma Statutes, within the State of Oklahoma a tax at a rate reflecting the amount of the reduction of the federal cigarette tax levied pursuant to the provisions of subsection (b) of Section 5701 of the Internal Revenue Code, scheduled to be effective October 1, 1985. However, if the federal cigarette tax is increased subsequent to said reduction but prior to January 1, 1986, and said federal cigarette tax is increased by the amount of the reduction of said tax which was effective October 1, 1985, the provisions of this section shall cease to be effective. If the federal cigarette tax is increased subsequent to said reduction but prior to January 1, 1986, and said federal cigarette tax is increased by an amount less than the amount of the reduction of said tax which was effective October 1, 1985, the tax levied pursuant to the provisions of this section shall be at a rate reflecting the difference between the amount of the reduction of federal cigarette tax which was effective October 1, 1985, and the amount of the increase of said tax. Such tax shall be evidenced by tax stamps as now provided for by law for other cigarette taxes, except that as to cigarette packages of less than ten cigarettes for free distribution as samples, the tax therein levied shall be computed and paid as provided for other cigarette taxes without affixing stamps on such package.

(b) No part of the revenues resulting from the additional tax levied in this section shall be used in determining the amount of cigarette tax collections to be paid into the State of Oklahoma Institutional Building Bonds of 1961 Sinking Fund pursuant to the provisions of Sections 57.31

through 57.43 of Title 62 of the Oklahoma Statutes or into the State of Oklahoma Institutional Building Bonds of 1965 Sinking Fund pursuant to the provisions of Sections 57.61 through 57.73 of Title 62 of the Oklahoma Statutes.

(c) The revenue resulting from the additional tax levied in this section shall be apportioned by the Oklahoma Tax Commission and transmitted to the State Treasurer, who shall deposit the same in the General Revenue Fund of the State of Oklahoma.

(d) The cigarette tax levied in this section shall be collected and administered in all respects not inconsistent with as now or hereafter provided for by law for other cigarette taxes now levied, collected, and administered pursuant to the provisions of Sections 301 through 325 of Title 68 of the Oklahoma Statutes.

Added by Laws 1985, c. 179, § 72, operative Oct. 1, 1985. Amended by Laws 1985, c. 301, § 1, operative Oct. 1, 1985.

§68-302-4. Additional excise tax on cigarettes - Rate - Apportionment.

(a) In addition to the tax levied in Sections 302, 302-1, 302-2 and 302-3 of Title 68 of the Oklahoma Statutes, there is hereby levied upon the sale, use, gift, possession, or consumption of cigarettes, as defined in Sections 301 through 325 of Title 68 of the Oklahoma Statutes, within the State of Oklahoma a tax at the rate of two and one-half (2 1/2) mills per cigarette. Such tax shall be evidenced by tax stamps as now provided for; however, as to cigarette packages of less than ten cigarettes for free distribution as samples, the tax herein levied shall be computed and paid as provided for other cigarette taxes without affixing stamps on each such package.

(b) No part of the revenues resulting from the additional tax levied in this section shall be used in determining the amount of cigarette tax collections to be paid into the State of Oklahoma Building Bonds of 1961 Sinking Fund pursuant to the provisions of Sections 57.31 through 57.43 of Title 62 of the Oklahoma Statutes or into the State of Oklahoma Building Bonds of 1965 Sinking Fund pursuant to the provisions of Sections 57.61 through 57.73 of Title 62 of the Oklahoma Statutes.

(c) Except as provided for in this subsection, the revenue resulting from the additional tax levied in this section shall be apportioned by the Oklahoma Tax Commission and transmitted to the State Treasurer, who shall deposit the same in the General Revenue Fund of the State of Oklahoma. Beginning on the effective date of this section, the revenue resulting from the additional tax levied in this section shall be apportioned by the Oklahoma Tax Commission and transmitted to the State Treasurer, who shall deposit the same in the Oklahoma Building Bonds of 1992 Sinking Fund.

(d) The cigarette tax levied in this section shall be collected and administered in all respects not inconsistent with as now or hereafter provided for by law for other cigarette taxes now levied, collected, and administered pursuant to the provisions of Sections 301 through 325 of Title 68 of the Oklahoma Statutes.

Added by Laws 1987, c. 113, § 5, operative June 1, 1987. Amended by Laws 1992, c. 350, § 19.

§68-302-5. Tax on cigarettes in addition to tax levied in Sections 302 to 302-4 - Rate - Apportionment.

A. Effective January 1, 2005, in addition to the tax levied in Sections 302, 302-1, 302-2, 302-3 and 302-4 of this title, there is hereby levied upon the sale, use, gift, possession, or consumption of cigarettes, as defined in Sections 301 through 325 of this title, within this state, a tax at the rate of forty (40) mills per cigarette.

B. Except as provided in subsection D of this section, the revenue resulting from the additional tax levied in subsection A of this section shall be apportioned by the Oklahoma Tax Commission and transmitted to the State Treasurer as follows:

1. Twenty-two and six-hundredths percent (22.06%) shall be placed to the credit of the Health Employee and Economy Improvement Act Revolving Fund created in Section 1010.1 of Title 56 of the Oklahoma Statutes;

2. Three and nine-hundredths percent (3.09%) shall be placed to the credit of the Comprehensive Cancer Center Debt Service Revolving Fund created in Section 160.1 of Title 62 of the Oklahoma Statutes;

3. Before July 1, 2008, seven and fifty-hundredths percent (7.50%) shall be placed to the credit of the Trauma Care Assistance Revolving Fund created in Section 1-2530.9 of Title 63 of the Oklahoma Statutes. On and after July 1, 2008, seven and fifty-hundredths percent (7.50%) shall be allocated as follows:

a. every month, an amount equal to the actual amount placed to the credit of the Trauma Care Assistance Revolving Fund pursuant to this paragraph for the same month of the 2008 fiscal year shall be credited to the Trauma Care Assistance Revolving Fund,

b. every month, any amount over and above the amount placed to the credit of the Trauma Care Assistance Revolving Fund pursuant to subparagraph a of this paragraph shall be credited to the Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund as created in Section 8 of this act until the combined amount credited to the Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund pursuant to this section and Section 402-3 of this title is equal to a total of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) each year, and

c. any additional revenue allocated pursuant to this paragraph shall be placed to the credit of the Trauma Care Assistance Revolving Fund;

4. Three and nine-hundredths percent (3.09%) shall be placed to the credit of the Oklahoma State University College of Osteopathic Medicine Revolving Fund created in Section 160.2 of Title 62 of the Oklahoma Statutes;

5. Twenty-six and thirty-eight-hundredths percent (26.38%) shall be placed to the credit of the Oklahoma Health Care Authority Medicaid Program Fund created in Section 5020 of Title 63 of the Oklahoma Statutes for the purposes of maintaining programs and services funded under the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003", reimbursing city/county-owned hospitals, increasing emergency room physician rates, and providing TEFRA 134, also known as "Katie Beckett" services;

6. Two and sixty-five-hundredths percent (2.65%) shall be placed to the credit of the Department of Mental Health and Substance Abuse Services Revolving Fund created in Section 2-303 of Title 43A of the Oklahoma Statutes;

7. Forty-four-hundredths of one percent (0.44%) shall be placed to the credit of the Belle Maxine Hilliard Breast and Cervical Cancer Treatment Revolving Fund created in Section 1-559 of Title 63 of the Oklahoma Statutes;

8. One percent (1%) shall be placed to the credit of the Teachers' Retirement System Revolving Fund created in Section 158 of Title 62 of the Oklahoma Statutes;

9. Two and seven-hundredths percent (2.07%) shall be placed to the credit of the Education Reform Revolving Fund created in Section 41.29b of Title 62 of the Oklahoma Statutes;

10. Sixty-six-hundredths percent (0.66%) shall be placed to the credit of the Tobacco Prevention and Cessation Revolving Fund created in Section 1-105d of Title 63 of the Oklahoma Statutes;

11. Sixteen and eighty-three-hundredths percent (16.83%) shall be placed to the credit of the General Revenue Fund; and

12. For fiscal years beginning July 1, 2004, and ending June 30, 2006, fourteen and twenty-three-hundredths percent (14.23%) shall be apportioned to municipalities and counties that levy a sales tax, in the proportions which total municipal and county sales tax revenue was apportioned by the Tax Commission in the preceding month.

For fiscal years beginning July 1, 2006, and thereafter, the apportionment percentage specified in paragraph 12 of this subsection will be adjusted by dividing the total municipal and county sales tax revenue collected in the calendar year immediately preceding the commencement of the fiscal year by the sum of the state sales tax revenue and total municipal and county sales tax revenue collected in the same year. This ratio shall be divided by the ratio of the total municipal and county sales tax revenue collected in the calendar year beginning January 1, 2004, and ending December 31, 2004, divided by the sum of the state sales tax revenue and total municipal and county sales tax revenue collected in the same year. The resulting quotient shall be multiplied by fourteen and twenty-three-hundredths percent (14.23%) to determine the apportionment percentage for the fiscal year.

For fiscal years beginning July 1, 2006, and thereafter, any adjustment to the percentage of revenues apportioned to municipalities and counties shall be reflected in the percent of revenues apportioned to the General Revenue Fund.

C. The tax shall be evidenced by tax stamps as now provided for; however, as to cigarette packages of less than ten cigarettes for free distribution as samples, the tax herein levied shall be computed and paid as provided for other cigarette taxes without affixing stamps on each such package.

D. The net amount of any revenue resulting from a payment in lieu of excise taxes on cigarettes levied by this section, pursuant to a compact with a federally recognized Indian tribe or nation after deductions for deposits into trust accounts pursuant to such compacts, shall be apportioned by the Tax Commission and transmitted to the State Treasurer as follows:

1. Thirty-three and forty-nine-hundredths percent (33.49%) shall be placed to the credit of the Health Employee and Economy Improvement Act Revolving Fund created in Section 1010.1 of Title 56 of the Oklahoma Statutes;

2. Four and sixty-nine-hundredths percent (4.69%) shall be placed to the credit of the Comprehensive Cancer Center Debt Service Revolving Fund created in Section 160.1 of Title 62 of the Oklahoma Statutes;

3. Before July 1, 2008, eleven and thirty-nine-hundredths percent (11.39%) shall be placed to the credit of the Trauma Care Assistance Revolving Fund created in Section 1-2522 of Title 63 of the Oklahoma Statutes. On and after July 1, 2008, eleven and thirty-nine-hundredths percent (11.39%) shall be allocated as follows:

a. every month, an amount equal to the actual amount placed to the credit of the Trauma Care Assistance Revolving Fund pursuant to this paragraph for

the same month of the 2008 fiscal year shall be credited to the Trauma Care Assistance Revolving Fund,

- b. every month, any amount over and above the amount placed to the credit of the Trauma Care Assistance Revolving Fund pursuant to subparagraph a of this paragraph shall be credited to the Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund as created in Section 8 of this act until the combined amount credited to the Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund pursuant to this section and Section 402-3 of this title is equal to a total of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) each year, and
- c. any additional revenue allocated pursuant to this paragraph shall be placed to the credit of the Trauma Care Assistance Revolving Fund;

4. Four and sixty-nine-hundredths percent (4.69%) shall be placed to the credit of the Oklahoma State University College of Osteopathic Medicine Revolving Fund created in Section 160.2 of Title 62 of the Oklahoma Statutes;

5. Forty and six-hundredths percent (40.06%) shall be placed to the credit of the Oklahoma Health Care Authority Medicaid Program Fund created in Section 5020 of Title 63 of the Oklahoma Statutes for the purposes of maintaining programs and services funded under the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003", reimbursing city/county-owned hospitals, increasing emergency room physician rates, and providing TEFRA 134, also known as "Katie Beckett" services;

6. Four and one-hundredths percent (4.01%) shall be placed to the credit of the Department of Mental Health and Substance Abuse Services Revolving Fund created in Section 2-303 of Title 43A of the Oklahoma Statutes;

7. Sixty-seven-hundredths percent (0.67%) shall be placed to the credit of the Belle Maxine Hilliard Breast and Cervical Cancer Treatment Revolving Fund created in Section 1-559 of Title 63 of the Oklahoma Statutes; and

8. One percent (1%) shall be placed to the credit of the Tobacco Prevention and Cessation Revolving Fund created in Section 1-105d of Title 63 of the Oklahoma Statutes.

E. No part of the revenues resulting from the additional taxes levied in this section shall be used in determining the amount of cigarette tax collections to be paid into:

1. The State of Oklahoma Building Bonds of 1961 Sinking Fund pursuant to the provisions of Sections 57.31 through 57.43 of Title 62 of the Oklahoma Statutes;

2. The State of Oklahoma Institutional Building Bonds of 1965 Sinking Fund pursuant to the provisions of Sections 57.61 through 57.73 of Title 62 of the Oklahoma Statutes;

3. The State of Oklahoma Institutional Building Bonds of 1965 Sinking Fund Series C and Series D pursuant to Sections 57.81 through 57.112 of Title 62 of the Oklahoma Statutes;

4. The State of Oklahoma Building Bonds of 1968 Sinking Fund pursuant to the provisions of Sections 57.121 through 57.193 of Title 62 of the Oklahoma Statutes; or

5. The Oklahoma Building Bonds of 1992 Sinking Fund pursuant to the provisions of Sections 57.300 through 57.313 of Title 62 of the Oklahoma Statutes.

F. The cigarette taxes levied in this section shall be collected and administered in all respects not inconsistent with as now or hereafter provided for by law for other cigarette taxes now levied, collected, and administered pursuant to the provisions of Sections 301 through 325 of this title.

Added by Laws 2004, c. 322, § 2, eff. Dec. 1, 2004 (State Question No. 713, Legislative Referendum No. 336, adopted at election held Nov. 2, 2004). Amended by Laws 2008, c. 393, § 9, eff. Nov. 1, 2008.

§68-302-6. Cigarette and Tobacco Tax Advisory Committee.

A. There is hereby created the Cigarette and Tobacco Tax Advisory Committee. The Committee shall consist of nine (9) members. Three members shall be appointed by the Governor, three members shall be appointed by the President Pro Tempore of the Senate and three members shall be appointed by the Speaker of the House of Representatives. The initial appointments of each appointing authority shall be made for progressive terms of one (1) through three (3) years so that the term of only one member appointed by each appointing authority expires each calendar year; subsequent appointments shall be for three-year terms. Members shall continue to serve until their successors are appointed. Any vacancy shall be filled in the same manner as the original appointments. Five members shall constitute a quorum. The Committee shall be composed as follows:

1. The Governor shall appoint three members as follows:
 - a. one member who shall be a retailer of cigarettes and tobacco products licensed by a federally recognized Indian tribe or nation,
 - b. one member who shall be a nontribal retailer of cigarettes and tobacco products, and
 - c. one member who shall be a wholesaler of cigarettes and tobacco products;
2. The President Pro Tempore of the Senate shall appoint three members as follows:
 - a. one member who shall be a retailer of cigarettes and tobacco products licensed by a federally recognized Indian tribe or nation,
 - b. one member who shall be a nontribal retailer of cigarettes and tobacco products, and
 - c. one member who shall be primarily engaged in the retail sales of groceries in this state;
3. The Speaker of the House of Representatives shall appoint three members as follows:
 - a. one member who shall be a retailer of cigarettes and tobacco products licensed by a federally recognized Indian tribe or nation,
 - b. one member who shall be a nontribal retailer of cigarettes and tobacco products, and
 - c. one member who shall be primarily engaged in the practice of law or financial services.

B. The Committee shall annually elect a chair and a vice-chair from among its members. The Committee shall meet as desired to review proposed rules of the Oklahoma Tax Commission and discuss other issues relating to the implementation and enforcement of the levy, collections and remittance of taxes on cigarettes and tobacco products in this state.

C. The Committee may recommend to the Oklahoma Tax Commission rules to implement and enforce the provisions of this act and other provisions of law relating to the levy, collection and remittance of taxes on cigarettes and tobacco products in this state. The Tax Commission shall consider comments submitted by the Committee prior to the adoption of a proposed rule. Prior to the adoption of any rule or amendment or revocation of a rule relating to the administration of taxes levied on cigarettes and tobacco products, the Tax Commission shall send notice of any intended action to the members of the Committee. If the intended action relates to

permanent rulemaking, such notice shall be given at least thirty (30) days prior to publication of notice of intended rulemaking action required under Section 303 of Title 75 of the Oklahoma Statutes. If the intended action relates to emergency rulemaking, the Tax Commission will provide the Committee as much notice as practicable prior to the rulemaking action. The Committee may submit comments on issues related to the intended rulemaking action including, but not limited to, identifying portions of the industry affected, probable economic impact, and any costs or benefits to the industry.

D. In addition to making recommendations, the Committee may represent the industry in communicating concerns to the Tax Commission about issues related to the levy and remittance of taxes pursuant to Section 301 et seq. of Title 68 of the Oklahoma Statutes and Section 401 et seq. of Title 68 of the Oklahoma Statutes.

E. Members of the Committee shall serve without compensation but may be reimbursed expenses incurred in the performance of their duties by their respective appointing authorities, as provided in the State Travel Reimbursement Act.

Added by Laws 2004, c. 322, § 3, eff. Dec. 1, 2004 (State Question No. 713, Legislative Referendum No. 336, adopted at election held Nov. 2, 2004).

§68-303. Purpose of tax - Disposition of revenue.

The sale, gift, barter, or exchange of cigarettes, or the having possession of cigarettes for consumption, is hereby declared to be subject to taxation authorized by Section 12 of Article X of the Oklahoma Constitution, and it is the purpose and intention of the State of Oklahoma, and it is the purpose and intention of this article, to provide revenue for the expense of the state government. The revenues, including interest and penalties, collected under this article shall be paid monthly by the Tax Commission to the State Treasurer to be apportioned as follows: Of the amounts specified by law to be used for the payment and discharge of the interest on and the principal of the bonds issued pursuant to the provisions of Sections 57.31 through 57.43, 57.61 through 57.73, 57.81 through 57.92, 57.101 through 57.112, 57.121 through 57.135 and 57.300 through 57.313 of Title 62 of the Oklahoma Statutes or any other law providing for such payment and discharge, any amount in excess of the amount necessary for such payment and discharge shall be deposited in the General Revenue Fund of this state, to be paid out only on direct appropriations of the Legislature of the State of Oklahoma.

Added by Laws 1965, c. 195, § 2, emerg. eff. June 10, 1965. Amended by Laws 1989, c. 279, § 12, operative July 1, 1989; Laws 1992, c. 350, § 20; Laws 1995, c. 337, § 1, eff. July 1, 1995.

§68-304. Licenses - Fees - Conditions - Revocation or suspension.

A. Every manufacturer and wholesaler of cigarettes in this state, as a condition of carrying on such business, shall annually secure from the Oklahoma Tax Commission a written license, and shall pay therefor an annual fee of Two Hundred Fifty Dollars (\$250.00). Application for such license, which shall be made upon such forms as prescribed by the Oklahoma Tax Commission, shall include the following:

1. The applicant's agreement to the jurisdiction of the Tax Commission and the courts of this state for the purpose of enforcement of the provisions of Section 301 et seq. of this title;

2. The applicant's agreement to abide by the provisions of Section 301 et seq. of this title and the rules promulgated by the Tax Commission with reference thereto;

3. The wholesaler applicant's agreement to sell cigarettes only to licensed retailers or Indian tribal entities or licensees of Indian tribal entities; and

4. The manufacturer applicant's agreement to sell cigarettes only to a licensed wholesaler.

This license, which will be for the ensuing year, must at all times be displayed in a conspicuous place so that it can be seen. Persons operating more than one place of business must secure a license for each place of business. "Place of business" shall be construed to include the place where orders are received, or where cigarettes are sold. If cigarettes are sold on or from any vehicle, the vehicle shall constitute a place of business and the regular license fee shall be paid with respect thereto. However, if the vehicle is owned or operated by a place of business for which the regular fee is paid, the annual fee for the license with respect to such vehicle shall be only Ten Dollars (\$10.00). The expiration for such vehicle license shall expire on the same date as the current license of the place of business.

Provided, that the Tax Commission shall not authorize the use of a stamp-metering device by any manufacturer or wholesaler who does not maintain a warehouse or wholesale establishment or place of business within the State of Oklahoma from which cigarettes are received, stocked and sold and where such metering device is kept and used; but the Tax Commission may, in its discretion, permit the use of such metering device by manufacturers and wholesalers of cigarettes residing wholly within another state where such state permits a licensed Oklahoma resident, manufacturer or wholesaler of cigarettes the use of the metering device of such state without first requiring that such manufacturer or wholesaler establish a place of business in such other state. The provisions of this subsection relating to metering devices shall not apply to states which do not require the affixing of tax stamps to packages of cigarettes before same are offered for sale in such states.

B. Every retailer in this state, except Indian tribal entities or licenses of Indian tribal entities, as a condition of carrying on such business, shall secure from the Tax Commission a license and shall pay therefor a fee of Thirty Dollars (\$30.00). Application for such license, which shall be made upon such forms as prescribed by the Tax Commission, shall include the following:

1. The applicant's agreement to the jurisdiction of the Tax Commission and the courts of this state for the purpose of enforcement of the provisions of Section 301 et seq. of this title;
2. The applicant's agreement to abide by the provisions of Section 301 et seq. of this title and the rules promulgated by the Tax Commission with reference thereto;
3. The applicant's agreement that it shall not purchase any cigarettes for resale from a supplier that does not hold a current wholesaler's license issued pursuant to this section; and
4. The applicant's agreement to sell cigarettes only to consumers.

Such license, which will be for the ensuing three (3) years, must at all times be displayed in a conspicuous place so that it can be seen. Upon expiration of such license, the retailer to whom such license was issued may obtain a renewal license which shall be valid for three (3) years. The manner and prorated fee for renewals shall be prescribed by the Tax Commission. Every person operating under such license as a retailer and who owns or operates more than one place of business must secure a license for each place of business. "Place of business" shall be construed to include places where orders are received or where cigarettes are sold.

C. Every distributing agent shall, as a condition of carrying on such business, pursuant to written application on a form prescribed by and in such detailed form as the Tax Commission may require, annually secure from the Tax Commission a license, and shall pay therefor an annual fee of One Hundred Dollars (\$100.00). An application shall be filed and a license obtained for each place of business owned or operated by a distributing agent. The license, which will be for the ensuing year, shall be consecutively numbered, nonassignable and

nontransferable, and shall authorize the storing and distribution of unstamped cigarettes within this state when such distribution is made upon interstate orders only.

D. 1. All wholesale, retail, and distributing agent's licenses shall be nonassignable and nontransferable from one person to another person. Such licenses may be transferred from one location to another location after an application has been filed with the Tax Commission requesting such transfer and after the approval of the Tax Commission.

2. Wholesale, retail, and distributing agent's licenses shall be applied for on a form prescribed by the Tax Commission. Any person operating as a wholesaler, retailer, or distributing agent must at all times have a valid license which has been issued by the Tax Commission. If any such person or licensee continues to operate as such on a license issued by the Tax Commission which has expired, or operates without ever having obtained from the Tax Commission such license, such person or licensee shall, after becoming delinquent for a period in excess of fifteen (15) days, pay to the Tax Commission, in addition to the annual license fee, a penalty of twenty-five cents (\$0.25) per day on each delinquent license for each day so operated in excess of fifteen (15) days. The penalty provided for herein shall not exceed the annual license fee for such license.

E. No license may be granted, maintained or renewed if any of the following conditions applies to the applicant. For purposes of this section, "applicant" includes any combination of persons owning directly or indirectly, in the aggregate, more than ten percent (10%) of the ownership interests in the applicant:

1. The applicant owes Five Hundred Dollars (\$500.00) or more in delinquent cigarette taxes;
2. The applicant had a cigarette manufacturer, wholesaler, retailer or distributor license revoked by the Tax Commission within the past two (2) years;
3. The applicant has been convicted of a crime relating to stolen or counterfeit cigarettes, or receiving stolen or counterfeit cigarettes or has been convicted of or has entered a plea of guilty or nolo contendere to any felony;
4. If the applicant is a cigarette manufacturer, the applicant is neither:
 - a. a participating manufacturer as defined in Section II (jj) of the Master Settlement Agreement as defined in Section 600.22 of Title 37 of the Oklahoma Statutes, nor
 - b. in full compliance with the provisions of paragraph 2 of subsection A of Section 600.23 of Title 37 of the Oklahoma Statutes;
5. If the applicant is a cigarette manufacturer, if any cigarette imported by such applicant is imported into the United States in violation of 19 U.S.C., Section 1681a; or
6. If the applicant is a cigarette manufacturer, if any cigarette imported or manufactured by the applicant does not fully comply with the Federal Cigarette Labeling and Advertising Act, 15 U.S.C., Section 1331 et seq.

F. No person or entity licensed pursuant to the provisions of this section shall purchase cigarettes from or sell cigarettes to a person or entity required to obtain a license unless such person or entity has obtained such license.

G. No person licensed as a retailer in this state shall:

1. Sell any cigarettes to any other person licensed as a retailer in this state unless such sale is for the purpose of moving inventory between stores which are part of the same company; or
2. Purchase any cigarettes from any person or entity other than a wholesaler licensed pursuant to Section 301 et seq. of this title.

H. In addition to any civil or criminal penalty provided by law, upon a finding that a licensee has violated any provision of Section 301 et seq. of this title, the Tax Commission may revoke or suspend the license or licenses of the licensee pursuant to the procedures applicable to revocation of a license set forth in Section 316 of this title.

I. The Tax Commission shall create and maintain a web site setting forth all current valid licenses and the identity of licensees holding such licenses, and shall update the site no less frequently than once per month.

Added by Laws 1965, c. 195, § 2, emerg. eff. June 10, 1965. Amended by Laws 1988, c. 47, § 14, operative July 1, 1988; Laws 1991, c. 342, § 10, emerg. eff. June 15, 1991; Laws 1994, c. 278, § 8, eff. Sept. 1, 1994; Laws 1995, c. 1, § 24, emerg. eff. March 2, 1995; Laws 2003, c. 475, § 2, eff. Nov. 1, 2003; Laws 2005, c. 479, § 6, eff. July 1, 2005; Laws 2009, c. 434, § 2, eff. Jan. 1, 2010.

NOTE: Laws 1994, c. 258, § 6 repealed by Laws 1995, c. 1, § 40, emerg. eff. March 2, 1995.

§68-305. Stamps required - Seizure.

A. Every wholesaler doing business within this state and required to secure a license as provided under Section 304 of this title shall, upon withdrawal from storage, and before making any sale or distribution of cigarettes for consumption thereof, affix or cause the same to have affixed thereto the stamp or stamps as required by Section 301 et seq. of this title. It shall be the duty of the wholesaler to supply the necessary stamps to cover any and all drop shipments of cigarettes billed to the retailer or consumer by the wholesaler; and the wholesaler shall be liable to the Oklahoma Tax Commission to perform this service. Wholesalers may apply stamps only to cigarette packages that they have received directly from a manufacturer or importer of cigarettes who possesses a valid and current permit under Section 5712 of Title 26 of the United States Code.

B. Every retailer who has received unstamped cigarettes from a manufacturer or wholesaler not required to secure a license as provided for under Section 304 of this title, or to affix stamps as required under subsection A of this section, shall, within seventy-two (72) hours, excluding Sundays and holidays, from the time such cigarettes come into the retailer's possession, and before making any sale or distribution for consumption thereof, affix stamps upon all cigarette packages in the proper denomination and amount, as required by Section 302 of this title.

C. It shall be unlawful for any person to sell or consume cigarettes on which the tax, as levied by Section 301 et seq. of this title, has not been paid, and which are not contained in packages to which are securely affixed the stamps evidencing payment of the tax imposed by Section 301 et seq. of this title.

D. If, upon examination of invoices or from other investigations, the Tax Commission finds that cigarettes have been sold without stamps affixed as required by Section 301 et seq. of this title, the Tax Commission shall have the power to require such person to pay to the Tax Commission a sum equal to twice the amount of the tax due. If, under the same circumstances, a person is unable to furnish evidence to the Tax Commission of sufficient stamp purchases to cover unstamped cigarettes purchased, the prima facie presumption shall arise that such cigarettes were sold without proper stamps being affixed thereto.

E. 1. All contraband cigarettes upon which taxes are imposed by Section 301 et seq. of this title and all cigarettes stamped, sold, offered for sale, or imported into this state in violation of the provisions of Section 305.1 of this title which shall be found in the possession, custody, or

control of any person, for the purpose of being consumed, sold or transported from one place to another in this state, for the purpose of evading or violating the provisions of Section 301 et seq. of this title, or with intent to avoid payment of the tax imposed hereunder, and any automobile, truck, conveyance, or other vehicle whatsoever used in the transportation of such cigarettes, and all paraphernalia, equipment or other tangible personal property incident to the use of such purposes, found in the place, building, vehicle or vehicles, where such cigarettes are found, may be seized by any authorized agent of the Tax Commission, or any sheriff, deputy sheriff, constable or other peace officer within the state, without process. The same shall be, from the time of such seizure, forfeited to the State of Oklahoma, and a proper proceeding filed to maintain such seizure and prosecute the forfeiture as herein provided.

2. All such cigarettes so seized shall first be listed and appraised by the officer making such seizure and turned over to the Tax Commission and a receipt therefor taken. The person making such seizure shall immediately make and file a written report thereof, showing the name of the person making such seizure, the place where and the person from whom such property was seized, and an inventory and appraisal thereof, at the usual and ordinary retail price of such articles received, to the Tax Commission, and the Attorney General, in the case of cigarettes stamped, sold, offered for sale, or imported into this state in violation of the provisions of Section 305.1 of this title. The Tax Commission shall then proceed to hear and determine the matter of whether or not the cigarettes should, in fact, be forfeited to the State of Oklahoma. The owner of the cigarettes shall be given at least ten (10) days' notice of the hearing. In the event the Commission finds that the cigarettes should be forfeited to the State of Oklahoma, it shall make an order forfeiting the cigarettes to the State of Oklahoma and directing the destruction of such cigarettes.

3. Any and all such vehicles and property so seized shall first be listed and appraised by the officer making such seizure and turned over to the county sheriff of the county in which the seizure is made and a receipt therefor taken. The person making such seizure shall immediately make and file a written report thereof, showing the name of the person making such seizure, the place where and the person from whom such property was seized, and an inventory and appraisal thereof, at the usual and ordinary retail price of such articles received, to the Tax Commission. The district attorney of the county in which the seizures are made shall, at the request of the Tax Commission or Attorney General, file in the district court forfeiture proceedings in the name of the State of Oklahoma, as plaintiff, and in the name of the owner or person in possession, as defendant, if known, and if unknown in the name of the property seized. The clerk of the court shall issue summons to the owner or person in whose possession such property was found, directing the owner or person to answer within ten (10) days. If the property is declared forfeited and ordered sold, notice of the sale shall be posted in five public places in the county not less than ten (10) days before the date of sale. The proceeds of the sale shall be deposited with the clerk of the court, who shall after deducting costs, including the costs of sale, pay the balance to the Tax Commission as cigarette tax collected, or in the case of vehicles and property seized in connection with cigarettes seized as being in violation of the provisions of Section 305.1 of this title, to the Attorney General. The Attorney General shall remit the amount of cigarette tax, if any be due, including all penalties and interest due, to the Tax Commission as cigarette tax collected and shall deposit the remainder to the revolving fund created in Section 305.2 of this title.

4. The seizure of cigarettes shall not relieve the person from whom such cigarettes were seized from any prosecution or the payment of any penalties provided for under Section 301 et seq. of this title.

5. The forfeiture provisions of Section 301 et seq. of this title shall only apply to persons having possession of or transporting cigarettes with intent to barter, sell or give away the same; provided, that such possession of cigarettes in any quantity of five or more cartons of ten packages each shall be prima facie evidence of intent to barter, sell or give away such cigarettes in violation of the provisions of Section 301 et seq. of this title.

F. The Tax Commission shall exchange new stamps for any stamps which are damaged, or for stamps which have been affixed to packages of cigarettes returned to factories, or shipped to other states, or sold to government agencies or state institutions, or for stamps purchased in excess of floor stocks. Application to the Tax Commission for such exchanges must be accompanied by affidavit, damaged stamps, bill of lading covering shipment to factory or other states, or other proof required by the Tax Commission. Any person to whom stamps shall be issued under this paragraph may, upon approval of the Tax Commission, sell such stamps to any wholesaler as defined in Section 301 et seq. of this title.

G. Any person, including distributing agents, wholesalers, carriers, retailers and consumers, having possession of unstamped cigarettes in this state shall be liable for the tax on such cigarettes in case the same are lost, stolen or unaccounted for, in transit, storage or otherwise, and in such event a presumption shall exist for the purposes of taxation, that such cigarettes were used and consumed in Oklahoma.

Added by Laws 1965, c. 195, § 2, emerg. eff. June 10, 1965. Amended by Laws 1994, c. 278, § 9, eff. Sept. 1, 1994; Laws 1999, c. 162, § 1, eff. June 16, 1999; Laws 2003, c. 475, § 3, eff. Nov. 1, 2003; Laws 2008, c. 378, § 8, emerg. eff. June 4, 2008; Laws 2009, c. 434, § 3, eff. Jan. 1, 2010.

§68-305.1. Unlawful affixing of stamp – Prima facie evidence of violation.

A. It shall be unlawful to affix a stamp to any cigarette package or container or to sell, offer for sale, or import into this state any cigarette package or container:

1. Which bears any label or notice prescribed by the United States Department of Treasury to identify cigarettes intended for export and exempt from tax by the United States pursuant to Section 5704(b) of Title 26 of the United States Code or any notice or label described in Section 290.185 of Title 27 of the United States Code of Federal Regulations;

2. Which is not labeled in conformity with the provisions of the Federal Cigarette Labeling and Advertising Act, or any other federal requirement for the placement of labels, warnings or other information applicable to packages or containers of cigarettes intended for domestic consumption;

3. Upon which all federal taxes due have not been paid or which is not in compliance with all federal trademark and copyright laws; or

4. The packaging of which has been modified or altered by a person other than the manufacturer or person specifically authorized by the manufacturer, including, but not limited to, the placement of a sticker or label to cover information on the package or container.

Possession of more than one thousand cigarettes in packages or containers bearing Oklahoma stamps in violation of this subsection by a person other than an employee of this state or the federal government performing official duties relating to enforcement of the provisions of

Section 301 et seq. of this title shall constitute prima facie evidence of a violation of the provisions of this subsection.

B. Except as otherwise provided by law, the Attorney General shall enforce the provisions of this section.

Added by Laws 1999, c. 162, § 2, eff. June 17, 1999.

§68-305.2. Revolving fund for Office of Attorney General.

There is hereby created in the State Treasury a revolving fund for the Office of the Attorney General. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Office of the Attorney General pursuant to the provisions of Sections 305, 316, 417 and 418 of this title. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Office of the Attorney General. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1999, c. 162, § 7, eff. June 17, 1999. Amended by Laws 2012, c. 304, § 538.

§68-306. Sale, when tax not paid or stamps not affixed.

It shall be unlawful for any person to sell, or display for sale, or have in his possession for consumption in this state, cigarettes on which the tax levied by this article has not been paid, and which are not contained in packages to which are securely affixed the stamps evidencing payment of the tax. Any cigarettes so held shall be subject to seizure and sale as provided by law for sale of property under execution, and the proceeds derived from the sale thereof shall be paid to the State Treasurer and placed in the State General Revenue Fund.

Laws 1965, c. 195, § 2.

§68-307. Consumer bringing cigarettes from without state as retailer.

A consumer who secures cigarettes from without the state and has same brought into the state by a common carrier or otherwise shall be held to be a retailer, and its, his or her place of business shall be deemed the point within the state at which the cigarettes are received. Such person holding himself out as consumer and purchasing cigarettes in a larger quantity than forty shall be subject to the same provisions, rules and regulations with respect to cigarettes as are by this article imposed upon retailers.

Laws 1965, c. 195, § 2.

§68-308. Purchase, manufacture, custody and sale of stamps.

(a) The stamps placed upon packages of cigarettes shall be purchased by the Commission in proper denominations, shall contain the words "Oklahoma Tax Commission," and shall be of such design, character, color combinations, color changes, sizes and material as the Commission may, by its rules and regulations, determine to afford the best security to the state. The Commission may require of the manufacturer from whom it purchases such stamps a bond in an amount to be determined by the Commission, containing such conditions as the Commission may deem necessary in order to protect the state against loss. The Commission shall be responsible for the custody and sale of the stamps, and for the disposition of the proceeds thereof. It shall be the duty of the Tax Commission to manufacture or contract for revenue stamps required by this article; provided, that if such stamps are contracted for, the manufacture

thereof shall be within the jurisdiction of the criminal and civil courts of this state, unless such stamps cannot be obtained in this state at a fair price or of acceptable quality. If stamps are manufactured outside of the state, then the Commission shall keep a reliable agent at the place of manufacture during the period of manufacture and such agent shall be authorized and instructed to take any and all precautions necessary to safeguard the state against forgery and misdelivery of any stamps. The Commission shall, in contracting for manufacture, consider the safeguarding of stamps to be of paramount importance and shall provide therefor in a manner commensurate with the monetary value of such stamps.

(b) The Tax Commission shall, under rules and regulations promulgated by the Commission, exchange new stamps or give credit for any stamps affixed to any cigarettes which stamps have become unfit for use or consumption or unsalable.

(c) Any person to whom stamps shall be issued hereunder may, upon notice and approval of the Tax Commission, sell such stamps to any licensed manufacturer, wholesaler, warehouseman, jobber and/or retailer.

(d) The Commission shall sell the stamps to all licensed manufacturers, wholesalers, warehousemen and/or jobbers, retailers, or consumers, who have purchased cigarettes from wholesalers or jobbers within or without the State of Oklahoma, doing business within the State of Oklahoma. All orders for stamps must be accompanied by cash, cashier's check or money order, made payable to the Oklahoma Tax Commission; provided, however, that the Tax Commission may accept personal checks in payment for such stamps upon a determination by the Commission that the purchaser thereof is financially responsible.

Laws 1965, c. 195, § 2.

§68-309. Carriers transporting cigarettes.

A. The right of a carrier in this state to carry unstamped cigarettes, as defined in this article, shall not be affected by this article; provided that carriers delivering unstamped cigarettes to any person in this state for the purpose of selling or consuming unstamped cigarettes in this state in violation of Section 301 et seq. of this title or this act shall be subject to seizure of the shipments and forfeiture of the inventory pursuant to the provisions of Section 305 of this title. Should any carrier sell cigarettes to its passengers while being carried in this state, the sale shall be subject to the stamp tax and other provisions of this article, and to the rules of the Tax Commission.

B. Carriers transporting cigarettes to a point within the state, or a bonded warehouseman or bailee having possession of cigarettes, are required, under this article and the rules to be prescribed by the Tax Commission, to transmit to the Tax Commission a statement of such consignment of cigarettes, showing the date, point of origin, point of delivery, and to whom delivered, and such other information as the Tax Commission may require. All carriers, bailees or warehousemen shall permit an examination by the Tax Commission, or its agents or legally authorized representatives, of their records relating to the shipment or receipt of cigarettes. Any person who fails or refuses to transmit to the Tax Commission the statements above provided for, or whoever refuses to permit the examination of the records by the Tax Commission, shall be guilty of a misdemeanor.

Added by Laws 1965, c. 195, § 2, emerg. eff. June 10, 1965. Amended by Laws 1992, c. 339, § 15, eff. Jan. 1, 1993; Laws 2009, c. 434, § 4, eff. Jan. 1, 2010.

§68-310. Repealed by Laws 1994, c. 278, § 38, eff. Sept. 1, 1994.

§68-311. Sale of stamps to wholesalers or jobbers at discount as compensation for costs incurred.

For the purpose of allowing compensation for the costs necessarily incurred in affixing the proper tax stamp to each package of cigarettes and tobacco before making a sale of such cigarettes and tobacco, each person purchasing cigarette or tobacco tax stamps from the Oklahoma Tax Commission as required by law may purchase stamps from the Tax Commission at a reduction of one and one-half cents (\$0.015) per stamp, provided that such discount or reduction shall not be applicable on purchases of less than One Hundred Dollars (\$100.00) at any one time; and provided, further, that no discount shall be allowed to out-of-state purchasers which reside in the states that do not give discounts on cigarette stamps purchased from State of Oklahoma cigarette dealers. The discount herein provided shall be the only discount allowed to purchasers from the Tax Commission; provided, that if a purchaser refuses to comply with the laws of the State of Oklahoma, the Tax Commission shall require the full face value for stamps purchased until such time as the person has complied with the provisions of the law. The Tax Commission may authorize the use of a metering device for the impress of the tax stamp. Added by Laws 1965, c. 195, § 2, emerg. eff. June 10, 1965. Amended by Laws 2004, c. 322, § 7, eff. Dec. 1, 2004 (State Question No. 713, Legislative Referendum No. 336, adopted at election held Nov. 2, 2004).

§68-312. Records and reports.

A. Every person subject to the payment of a tax hereunder shall keep in Oklahoma accurate records covering the business carried on and shall for three (3) years, and more if required by the rules of the Oklahoma Tax Commission, keep and preserve all invoices, showing all purchases and sales of cigarettes; and such invoices and stock of cigarettes shall at all times be subject to the examination and inspection of any member or legally authorized agent or representative of the Tax Commission, in the enforcement of this article. Every wholesaler or retailer operating in the State of Oklahoma, whose main warehouse or headquarters is in another state shall keep all records of all cigarette transactions made by him or her at his or her place of business in Oklahoma, or at a designated place in the State of Oklahoma.

B. Every wholesaler and retailer receiving unstamped cigarettes shall file a report with the Tax Commission on or before the tenth day of each month covering the previous calendar month, on forms prescribed and furnished by the Tax Commission, disclosing the beginning and closing inventory of unstamped cigarettes, the beginning and closing inventory of stamped cigarettes, the beginning and closing inventory of cigarette stamps, the number and denomination of cigarette stamps affixed to packages of cigarettes, and all purchases of cigarettes by showing the invoice number, name and address of the consignee or seller, the date, and the number of cigarettes purchased, and such other information as may be required by the Tax Commission. Retailers or consumers purchasing cigarettes in drop shipments shall be required to make monthly reports to the Commission as are required of wholesale dealers.

C. Every distributing agent shall, except as otherwise provided herein, keep at each place of business in Oklahoma for a period of three (3) years for inspection by the Tax Commission a complete record of all cigarettes received, including all orders, invoices, bills of lading, waybills, freight bills, express receipts, and all other shipping records which are furnished to the distributing agent by the carrier and the shipper of said cigarettes, or copies thereof, and, in addition thereto, a complete record of each and every distribution or delivery made by said

distributing agent. Such records of distribution or delivery shall include all orders, invoices or copies thereof, all other shipping records furnished by the carrier, and the person ordering distribution or delivery of the cigarettes.

D. Upon a form to be prescribed by the Tax Commission, every distributing agent in Oklahoma shall report each day, except Sundays and holidays, to the Tax Commission all deliveries of cigarettes made on the preceding day or days. The reports shall show the name of the person ordering the delivery, date of delivery, name and address of the person to whom delivered, the invoice number, bill of lading or waybill number, the number and kind of cigarettes delivered, the means of delivery and/or the transportation agent and the destination of drop shipment, if a drop shipment. However, if the invoice furnished the distributing agent by the manufacturer or other person ordering such delivery, or the bill of lading prepared by said distributing agent to cover the shipment under said invoice, contains all the information required to be reported, it will be sufficient to send a copy of said invoice or invoices, or a copy of said bill of lading or bills of lading, to the Tax Commission.

E. Beginning July 1, 2009, every wholesaler or manufacturer required to make any report required by this section shall submit such report electronically as prescribed by the Tax Commission pursuant to Section 312.1 of this title.

Added by Laws 1965, c. 195, § 2. Amended by Laws 2009, c. 434, § 5, eff. Jan. 1, 2010.

§68-312.1. Procedures for maintaining records and filing reports - Required information.

A. The Oklahoma Tax Commission, if in its discretion it deems practical and reasonable, may establish procedures for maintaining records and filing reports containing the information required by this section. The exercise by the Tax Commission of the authority granted in this subsection shall be by adoption of rules necessary to establish procedures that increase compliance with the requirements of this article.

B. Every wholesaler receiving cigarettes shall submit periodic reports containing the information required by this subsection. In each case, the information required shall be itemized so as to disclose clearly the brand style of the product. The reports shall be provided separately with respect to each of the facilities operated by the wholesaler and shall include:

1. The quantity of cigarette packages that were distributed or shipped to another wholesaler or to a retailer within the borders of Oklahoma during the reporting period and the name and address of each person to whom those products were ultimately distributed or shipped;
2. The quantity of cigarette packages that were distributed or shipped to another facility of the same wholesaler within the borders of Oklahoma during the reporting period; and
3. The quantity of cigarette packages that were distributed or shipped within the borders of Oklahoma to Indian tribal entities or licensees of Indian tribal entities or instrumentalities of the federal government during the reporting period and the name and address of each person to whom those products were distributed or shipped.

C. Manufacturers shall submit periodic reports containing the information required by this subsection. In each case, the information required shall be itemized so as to disclose clearly the brand style of the product. The reports shall be provided separately with respect to each of the facilities operated by the manufacturer and shall include:

1. The quantity of cigarette packages that were distributed or shipped to another manufacturer or to a wholesaler within the borders of Oklahoma during the reporting period and the name and address of each person to whom those products were distributed or shipped;

2. The quantity of cigarette packages that were distributed or shipped to another facility of the same manufacturer within the borders of Oklahoma during the reporting period; and

3. The quantity of cigarette packages that were distributed or shipped within the borders of Oklahoma to instrumentalities of the federal government during the reporting period and the name and address of each person to whom those products were distributed or shipped.

D. The Tax Commission shall establish the reporting period, which shall be no longer than three (3) calendar months and no shorter than one (1) calendar month. Reports shall be submitted electronically as prescribed by the Tax Commission.

E. Each wholesaler shall maintain copies of invoices or equivalent documentation for each of its facilities for every transaction in which the wholesaler is the seller, purchaser, consignor, consignee, or recipient of cigarettes. The invoices or documentation shall show the name, address, phone number and wholesale license number of the consignor, seller, purchaser, or consignee, and the quantity by brand style of the cigarettes involved in the transaction.

F. Each retailer shall maintain copies of invoices or equivalent documentation for every transaction in which the retailer receives or purchases cigarettes at each of its facilities. The invoices or documentation shall show the name and address of the wholesaler from whom, or the address of another facility of the same retailer from which, the cigarettes were received, the quantity of each brand style received in such transaction and the retail cigarette license number or sales tax license number.

G. Each manufacturer shall maintain copies of invoices or equivalent documentation for each of its facilities for every transaction in which the manufacturer is the seller, purchaser, consignor, consignee, or recipient of cigarettes. The invoices or documentation shall show the name and address of the consignor, seller, purchaser, or consignee, and the quantity by brand style of the cigarettes involved in the transaction.

H. Records required under subsections E through G of this section shall be preserved on the premises described in the license in such a manner as to ensure permanency and accessibility for inspection at reasonable hours by authorized personnel of the Oklahoma Tax Commission. With the permission of the Tax Commission, manufacturers, wholesalers, and retailers may retain records off premises, but shall transmit duplicates of the invoices or the equivalent documentation to each place of business within twenty-four (24) hours upon the request of the Tax Commission.

I. The records required by subsections E through G of this section shall be retained for a period of three (3) years from the date of the transaction.

J. The Tax Commission, upon request, shall have access to reports and records required under this act. The Tax Commission at its sole discretion may share the records and reports required by such sections with law enforcement officials of the federal government, the State of Oklahoma, other states, or international authorities and shall upon request share the records and reports with state and local law enforcement officials; provided, in the event a request is made to share records and reports pertaining to any Indian tribal entity or licensees of Indian tribal entities, the appropriate tribal Attorney General's office shall be notified prior to the disclosure of such records.

Added by Laws 2003, c. 475, § 4, eff. Nov. 1, 2003. Amended by Laws 2005, c. 479, § 7, eff. July 1, 2005; Laws 2008, c. 378, § 6, emerg. eff. June 4, 2008; Laws 2009, c. 434, § 6, eff. Jan. 1, 2010.

§68-313. Wholesale and retail stocks to be kept separate.

(a) Any person holding under this article a wholesale and retail license, and whose wholesale and retail business is conducted within the same building, or a building adjoining thereto, shall keep separate the wholesale and retail stocks of cigarettes.

(b) Every wholesaler or jobber who maintains a retail business at his place of business shall keep a record of the wholesale operations the same as for the retail operations, and keep such records, including invoices, separate and apart for the inspection of such wholesale and retail business by the Commission, said records to show the amount of stamps purchased, if any, and all purchases from whatever source, and all sales, whether to himself as a retailer, from himself as a wholesaler, or to another than himself as a retailer. All invoices, records, files and other information shall be available for inspection by representatives of the Commission for a period of three (3) years from the date of the purchase and/or delivery.

(c) If such invoices, records, files and information are not kept as herein required, the licenses, both as retailer and as wholesaler or jobber, shall be revoked, and such person shall be subject to all penalties as provided for in this article. If a licensee refuses to comply with the provisions of this article, the Commission shall cancel all licenses that have been issued for such place of business.

Laws 1965, c. 195, § 2.

§68-314. Salesmen for manufacturers - Records and reports.

(a) Salesmen in the employ of a manufacturer, and handling only the products of his employer, who engage in the business of selling or distributing cigarettes in this state for the purpose of resale, shall be required to keep the same records, for a period of three (3) years, for the inspection at all times by the Commission, as are required of wholesale dealers. Such salesmen shall also be required to furnish monthly reports to the Commission of the business of the previous month. However, salesmen having a district supervisor or division manager may make their monthly reports to the Commission through the division manager or district supervisor.

(b) Any such salesman who takes orders for cigarettes to be shipped in interstate commerce to any person other than licensed dealers shall also be required to have a distributing agent's license and be compelled to comply with all of the rules and regulations pertaining to distributing agents.

Laws 1965, c. 195, § 2.

§68-315. Inspections and examinations.

For the purpose of enabling the Oklahoma Tax Commission to determine the tax liability of a distributor, wholesale dealer, retail dealer, distributing agent or any other person dealing in cigarettes, or to determine whether a tax liability has been incurred, it shall have the right to inspect any premises where cigarettes are manufactured, produced, made, stored, transported, sold, or offered for sale or exchange, and to examine all of the records required herein to be kept or any other records that may be kept incident to the conduct of the cigarette business of such distributor, wholesale dealer, retail dealer, distributing agent, or any other person dealing in cigarettes. The authorized agent of the Oklahoma Tax Commission shall also have the right, as an incident, to determine the said tax liability, or whether a tax liability has been incurred, to examine all stocks of cigarette stamps, and for the foregoing purpose such authorized agent shall also have the right to remain upon the premises for such length of time as may be necessary to fully determine such tax liability, or whether a tax liability has been incurred; and it shall be

unlawful for any of the foregoing persons to fail to produce upon demand by the Tax Commission, or any of its authorized agents, any records herein required to be kept, or to hinder or prevent in any manner the inspection of said records, or the examination of said premises.

Added by Laws 1965, c. 195, § 2, emerg. eff. June 10, 1965.

§68-316. Offenses - Penalties.

A. Any person, other than a consumer, who shall:

1. Sell, offer for sale or present as a prize or gift cigarettes without a stamp being then and there affixed to each individual package;
2. Sell cigarettes in quantities less than an individual package;
3. Knowingly cancel or mutilate any stamp affixed to any individual package of cigarettes for the purpose of concealing any violation of Section 301 et seq. of this title or with any other fraudulent intent;
4. Use any artful device or deceptive practice to conceal any violation of Section 301 et seq. of this title;
5. Refuse to surrender to the Oklahoma Tax Commission upon demand any cigarettes possessed in violation of any provision of Section 301 et seq. of this title; or
6. Knowingly or intentionally make a first sale of cigarettes without a stamp being then and there affixed to each individual package; shall be fined not more than Two Hundred Dollars (\$200.00), where specific penalties are not otherwise provided.

B. Any consumer, who shall:

1. Sell, offer for sale or present as a prize or gift cigarettes without a stamp being then and there affixed to each individual package;
2. Knowingly consume, use or smoke any cigarettes upon which a tax is required to be paid without a stamp being affixed upon each individual package;
3. Knowingly cancel or mutilate any stamp affixed to any individual package of cigarettes for the purpose of concealing any violation of the Cigarette and Tobacco Products Tax Codes or with any other fraudulent intent;
4. Use any artful device or deceptive practice to conceal any violation of the Cigarette and Tobacco Products Tax Codes; or
5. Refuse to surrender to the Tax Commission upon demand any cigarettes possessed in violation of any provision of Section 301 et seq. of this title, shall be fined not more than Two Hundred Dollars (\$200.00), where specific penalties are not otherwise provided.

C. Any wholesaler, retailer or distributing agent who shall intentionally:

1. Commit any of the acts specifically enumerated in subsection A of this section, where such acts are applicable to such person;
2. Sell any cigarettes upon which tax is required to be paid by Section 301 et seq. of this title without at the time of making such sale having a valid license;
3. Make a first sale of cigarettes without at the time of first sale having a license posted so as to be easily seen by the public; or
4. Fail to deliver an invoice required by law to a purchaser of cigarettes; shall be punished by an administrative fine of not more than Ten Thousand Dollars (\$10,000.00) for the first offense, and not more than Twenty-five Thousand Dollars (\$25,000.00) for the second offense, where specific penalties are not otherwise provided.

D. Any distributing agent who shall:

1. Commit any of the acts specifically enumerated in subsections A and B of this section where such provisions are applicable to such distributing agent; or

2. Store any unstamped cigarettes in the state or deliver or distribute any unstamped cigarettes within this state, without at the time of storage or delivery having a valid license posted so as to be easily seen by the public;

shall be punished by an administrative fine of not more than Ten Thousand Dollars (\$10,000.00) for the first offense, and not more than Twenty-five Thousand Dollars (\$25,000.00) for the second offense.

E. Any retailer violating the provisions of Section 301 et seq. of this title may:

1. For a first offense, be punished by an administrative fine of not more than One Hundred Dollars (\$100.00);

2. For a second offense, be punished by an administrative fine of not more than One Thousand Dollars (\$1,000.00); and

3. For a third or subsequent offense, be punished by an administrative fine of not more than Five Thousand Dollars (\$5,000.00).

F. Any wholesaler violating the provisions of Section 305.1 of this title shall:

1. For a first offense, be punished by an administrative fine of not more than Five Thousand Dollars (\$5,000.00); and

2. For a second or subsequent offense, be punished by an administrative fine of not more than Twenty Thousand Dollars (\$20,000.00).

Administrative fines collected pursuant to the provisions of this subsection shall be deposited to the revolving fund created in Section 305.2 of this title.

G. The Tax Commission shall immediately revoke the license of a person punished for a violation pursuant to the provisions of paragraph 3 of subsection E of this section or a person punished for a violation pursuant to the provisions of subsection F of this section. A person whose license is so revoked shall not be eligible to receive another license pursuant to the provisions of Section 301 et seq. of this title for a period of ten (10) years.

H. Whoever, with intent to defraud Oklahoma:

1. Fails to keep or make any record, return, report, or inventory, or keeps or makes any false or fraudulent record, return, report, or inventory, required by Section 301 et seq. of this title or rules promulgated thereunder;

2. Refuses to pay any tax imposed by Section 301 et seq. of this title, or attempts in any manner to evade or defeat the tax or the payment thereof; or

3. Fails to comply with any requirement of Section 301 et seq. of this title; shall, for each such offense, be punished with an administrative fine of not more than Ten Thousand Dollars (\$10,000.00).

I. Whoever knowingly omits, neglects, or refuses to comply with any duty imposed upon the person by Section 301 et seq. of this title, or to do, or cause to be done, any of the things required by Section 301 et seq. of this title, or does anything prohibited by Section 301 et seq. of this title, shall, in addition to any other penalty provided in Section 301 et seq. of this title, pay an administrative fine of One Thousand Dollars (\$1,000.00).

J. Whoever fails to pay any tax imposed by Section 301 et seq. of this title at the time prescribed by law or rules, shall, in addition to any other penalty provided in Section 301 et seq. of this title, be liable to a penalty of five hundred percent (500%) of the tax due but unpaid.

K. 1. All cigarettes which are held for sale or distribution within the borders of Oklahoma, in violation of the requirements of Section 301 et seq. of this title, and the machinery used to manufacture counterfeit cigarettes shall be forfeited to Oklahoma. All cigarettes and machinery forfeited to Oklahoma under this paragraph shall be destroyed.

2. All fixtures, equipment, and all other materials and personal property on the premises of any distributor or retailer who, with intent to defraud the state, fails to keep or make any record, return, report, or inventory; keeps or makes any false or fraudulent record, return, report, or inventory required by Section 301 et seq. of this title; refuses to pay any tax imposed by Section 301 et seq. of this title; or attempts in any manner to evade or defeat the requirements of Section 301 et seq. of this title shall be forfeited to Oklahoma.

L. Notwithstanding any other provision of law, the sale or possession for sale of counterfeit cigarettes, or the sale or possession for sale of counterfeit cigarettes by a manufacturer, distributor, or retailer shall result in the seizure of the product and related machinery by the Tax Commission or any law enforcement agency and shall be punishable as follows:

1. A first violation with a total quantity of less than two cartons of cigarettes or the equivalent amount of other cigarettes shall be punishable by an administrative fine not to exceed Ten Thousand Dollars (\$10,000.00);

2. A subsequent violation with a total quantity of less than two cartons of cigarettes, or the equivalent amount of other cigarettes shall be punishable by an administrative fine not to exceed Twenty-five Thousand Dollars (\$25,000.00), and shall also result in the revocation by the Tax Commission of the manufacturer, wholesaler, or retailer license;

3. A first violation with a total quantity of more than two cartons of cigarettes, or the equivalent amount of other cigarettes, shall be punishable by an administrative fine not to exceed Twenty-five Thousand Dollars (\$25,000.00); and

4. A subsequent violation with a quantity of two cartons of cigarettes or more, or the equivalent amount of other cigarettes shall be punishable by an administrative fine not to exceed Fifty Thousand Dollars (\$50,000.00), and shall also result in the revocation by the Tax Commission of the manufacturer, wholesaler, or retailer license.

For the purposes of this section, "counterfeit cigarettes" includes cigarettes that have false manufacturing labels or tobacco product packs without tax stamps or the applicable tax stamp or with counterfeit tax stamps or a combination thereof. Any counterfeit cigarette seized by the Tax Commission shall be destroyed.

M. The Tax Commission shall immediately revoke the license of a person punished for a violation pursuant to the provisions of subsection H of this section. A person whose license is so revoked shall not be eligible to receive another license for a period of five (5) years.

Added by Laws 1965, c. 195, § 2, emerg. eff. June 10, 1965. Amended by Laws 1999, c. 162, § 3, eff. June 16, 1999; Laws 2003, c. 475, § 5, eff. Nov. 1, 2003; Laws 2008, c. 378, § 7, emerg. eff. June 4, 2008; Laws 2009, c. 434, § 7, eff. Jan. 1, 2010.

§68-317. Unlawful sale, use and manufacture of stamps, impressions, etc. - Forgery - Counterfeiting.

(a) Any person who shall, without the authorization of the Tax Commission, make or manufacture, or who shall falsely or fraudulently forge, counterfeit, reproduce, or possess any stamps, impression, copy, facsimile, or other evidence for the purpose of indicating the payment of the tax levied by the Cigarette Stamp Tax Law, Sections 301 through 325, Title 68 of the

Oklahoma Statutes, prescribed for use in the administration of this article, or who shall knowingly or by any deceptive act use or pass, or tender as true, or affix, impress or imprint, by use of any device, rubber stamp or by any other means, on any package containing cigarettes, any unauthorized, false, altered, forged, counterfeit or previously used stamps, impressions, copies, facsimiles or other evidence of cigarette tax payment, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the State Penitentiary for a term of not more than twenty (20) years, or by a fine of not more than Ten Thousand Dollars (\$10,000.00), or by both such imprisonment and fine.

(b) Each person violating any other provision of this article shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for a period of not more than twelve (12) months, or by a fine of not more than Five Hundred Dollars (\$500.00), or by both such imprisonment and fine.

Added by Laws 1965, c. 195, § 2, emerg. eff. June 10, 1965. Amended by Laws 1971, c. 52, § 1, emerg. eff. March 31, 1971; Laws 1997, c. 133, § 556, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 405, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 556 from July 1, 1998, to July 1, 1999.

§68-317.1. Delivery sale to underage individual.

A. No person shall make a delivery sale of cigarettes to any individual who is under the legal minimum purchase age in this state.

B. Each person taking a delivery sale order shall comply with:

1. The age verification requirements set forth in Section 7 of this act;
2. The disclosure requirements set forth in Section 8 of this act;
3. The shipping requirements set forth in Section 9 of this act;
4. The registration and reporting requirements set forth in Section 10 of this act;
5. The tax collection requirements set forth in Section 11 of this act; and
6. All other laws of Oklahoma generally applicable to sales of cigarettes that occur

entirely within Oklahoma, including, but not limited to, those laws imposing:

- a. excise taxes,
- b. sales taxes,
- c. licensing and tax-stamping requirements, and
- d. escrow or other payment obligations.

Added by Laws 2003, c. 475, § 6, eff. Nov. 1, 2003.

§68-317.2. Requirements for delivery sale – Certification from prospective customer – Verification of information provided - Notice.

A. No person shall mail, ship or otherwise deliver cigarettes in connection with a delivery sale unless, prior to the first delivery sale to such consumer, the person:

1. Obtains from the prospective customer a certification which includes:
 - a. reliable confirmation that the purchaser is at least the legal minimum purchase age, and
 - b. a statement signed by the prospective purchaser in writing and under penalty of perjury which:
 - (1) certifies the prospective purchaser's address and date of birth, and
 - (2) confirms that the prospective purchaser understands:

- (i) that signing another person's name to such certification is illegal,
- (ii) that sales of cigarettes to individuals under the legal minimum purchase age are illegal,
- (iii) that the purchase of cigarettes by individuals under the legal minimum purchase age is illegal under the laws of Oklahoma, and
- (iv) that the prospective consumer wants to receive mailings from a tobacco company;

2. Makes a good-faith effort to verify the information contained in the certification provided by the prospective purchaser pursuant to paragraph 1 of this subsection against a commercially available database or obtains a photocopy or other image of the valid, government-issued identification stating the date of birth or age of the individual placing the order;

3. Provides to the prospective purchaser, via e-mail or other means, a notice which meets the requirements of Section 8 of this act and requests confirmation that the delivery sale order was placed by the prospective purchaser; and

4. In the case of an order for cigarettes pursuant to an advertisement on the Internet, receives payment for the delivery sale from the prospective purchaser by a credit or debit card that has been issued in such purchaser's name or by check.

B. Persons taking delivery sale orders may request that prospective purchasers provide their e-mail addresses.

Added by Laws 2003, c. 475, § 7, eff. Nov. 1, 2003.

§68-317.3. Contents of notice.

The notice required under paragraph 3 of subsection A of Section 7 of this act shall include:

1. A prominent and clearly legible statement that cigarette sales to individuals below the legal minimum purchase age are illegal;

2. A prominent and clearly legible statement that consists of one of the warnings set forth in Section 4(a)(1) of the Federal Cigarette Labeling and Advertising Act, 15 U.S.C., Section 1333(a)(1), rotated on a quarterly basis;

3. A prominent and clearly legible statement that sales of cigarettes are restricted to those individuals who provide verifiable proof of age in accordance with Section 8 of this act; and

4. A prominent and clearly legible statement that cigarette sales are taxable under Section 301 et seq. of Title 68 of the Oklahoma Statutes, and an explanation of how such tax has been, or is to be, paid with respect to such delivery sale.

Added by Laws 2003, c. 475, § 8, eff. Nov. 1, 2003.

§68-317.4. Mailing or shipping – Documents – Conspicuous statement – Proof of legal minimum purchase age – Proof of collection and remission of tax.

A. Each person who mails, ships or otherwise delivers cigarettes in connection with a delivery sale:

1. Shall include as part of the shipping documents a clear and conspicuous statement providing as follows: "CIGARETTES: OKLAHOMA LAW PROHIBITS SHIPPING TO INDIVIDUALS UNDER THE AGE OF EIGHTEEN, AND REQUIRES THE PAYMENT OF ALL APPLICABLE TAXES";

2. Shall use a method of mailing or shipping that obligates the delivery service to require:
 - a. the purchaser placing the delivery sale, or another adult of legal minimum purchase age residing at the purchaser's address, to sign to accept delivery of the shipping container, and
 - b. proof, in the form of a valid, government-issued identification bearing a photograph of the individual who signs to accept delivery of the shipping container, demonstrating that such person is either the addressee or another adult of legal minimum purchase age residing at the purchaser's address, but such proof shall be required only if that individual appears to be under twenty-seven (27) years of age; and
 3. Shall provide to the delivery service retained to deliver such delivery sale evidence of full compliance with Section 11 of this act.
 - B. If the person taking a purchase order for delivery sale delivers the cigarettes without using a delivery service, such person shall comply with all requirements of this act applicable to a delivery service and shall be in violation of this act if it fails to comply with any such requirement.
- Added by Laws 2003, c. 475, § 9, eff. Nov. 1, 2003.

§68-317.5. Filings with Tax Commission.

- A. Prior to making delivery sales or mailing, shipping, or otherwise delivering cigarettes in connection with any such sales, every person shall file with the Oklahoma Tax Commission a statement setting forth such person's name, trade name, and the address of such person's principal place of business and any other place of business.
 - B. Not later than the twentieth day of each calendar month, each person that has made a delivery sale or mailed, shipped or otherwise delivered cigarettes in connection with any such sale during the previous calendar month shall file with the Tax Commission a memorandum or a copy of the invoice which provides for each and every such delivery sale:
 1. The name and address of the individual to whom such delivery sale was made;
 2. The brand or brands of the cigarettes that were sold in such delivery sale; and
 3. The quantity of cigarettes that were sold in such delivery sale.
 - C. Any person that satisfies the requirements of Section 376 of Title 15 of the United States Code shall be deemed to satisfy the requirements of this section.
- Added by Laws 2003, c. 475, § 10, eff. Nov. 1, 2003. Amended by Laws 2012, c. 357, § 6, eff. July 1, 2012.

§68-317.6. Collection and remission of taxes.

- Each person accepting a purchase order for a delivery sale shall collect and remit to the Oklahoma Tax Commission any taxes levied by Oklahoma with respect to such delivery sale, except that such collection and remission shall not be required to the extent such person has obtained proof, in the form of the presence of applicable tax stamps or otherwise, that such taxes already have been paid to Oklahoma.
- Added by Laws 2003, c. 475, § 11, eff. Nov. 1, 2003.

§68-317.7. Violations - Penalties.

A. 1. Except as otherwise provided in this section, the first time a person violates any provision of Section 6, 7, 8, 9, 10 or 11 of this act, such person shall be fined not more than One Thousand Dollars (\$1,000.00).

2. In the case of a second or subsequent violation of Section 6, 7, 8, 9, 10 or 11 of this act, such person shall be fined not less than One Thousand Dollars (\$1,000.00) or five times the retail value of the cigarettes involved, whichever is greater.

B. Any person who knowingly violates any provision of Section 6, 7, 8, 9, 10 or 11 of this act, or who knowingly and falsely submits a certification under paragraph 1 of subsection A of Section 7 of this act in another person's name, shall, for each such offense, be fined Ten Thousand Dollars (\$10,000.00) or five times the retail value of the cigarettes involved, whichever is greater, or imprisoned not more than five (5) years, or both.

C. Whoever fails to collect or remit any tax required in connection with a delivery sale shall pay, in addition to any other penalty, a penalty of five times the retail value of the cigarettes involved.

D. 1. Any cigarettes sold or attempted to be sold in a delivery sale that does not meet the requirements of Section 301 et seq. of this title shall be forfeited to the State of Oklahoma and destroyed.

2. All fixtures, equipment, and all other materials and personal property on the premises of any person who, with the intent to defraud the State of Oklahoma, fails to satisfy any of the requirements of Section 6, 7, 8, 9, 10 or 11 of this act shall be forfeited to the State of Oklahoma. Added by Laws 2003, c. 475, § 12, eff. Nov. 1, 2003.

§68-317.8. Actions to prevent or restrain violations.

The Attorney General or his or her designee, or any person who holds a permit under 26 U.S.C., Section 5712, may bring an action in the appropriate court in the State of Oklahoma to prevent or restrain violations of Section 6, 7, 8, 9, 10 or 11 of this act by any person or any person controlling such person.

Added by Laws 2003, c. 475, § 13, eff. Nov. 1, 2003.

§68-319. Restricting of licenses to residents and domesticated foreign corporations - Prohibition on discrimination.

(a) No wholesaler's license shall be issued under this article or the following article of this Code to or held by a person who is not an actual resident and domiciled in this state, or to any foreign corporation which is not domesticated under the laws of this state.

(b) No manufacturer, wholesaler, distributor or jobber of cigarettes or tobacco products licensed under the laws of this state shall discriminate by refusing to sell to any other wholesaler, distributor or jobber in this state, and likewise no such wholesaler, distributor or jobber shall refuse to sell to any retailer of cigarettes or such products in this state; and any violation of the provisions hereof shall be grounds for revocation and cancellation of such license.

(c) This section shall not change or modify the provisions for reciprocity contained in Section 303 of this Code.

Laws 1965, c. 195, § 2.

§68-320. Surety, collateral or cash bond requirements for distributing agents, wholesalers or jobbers - Release of surety or security - Multiple licenses.

A. Every person making application for a distributing agent's license under this article or the following article containing the tobacco Products Tax Code shall, before being issued such license and as a condition of carrying on such business, file with the Oklahoma Tax Commission a surety or collateral or cash bond in the amount of Twenty-five Thousand Dollars (\$25,000.00) payable to the State of Oklahoma, and conditioned upon compliance with the provisions of this article or the following article of this Code, and the rules of the Oklahoma Tax Commission.

B. Every person making application for a wholesaler's or jobber's license under this article shall, before being issued such license and as a condition of carrying on such business, file with the Tax Commission a surety or collateral or cash bond in the amount of Twenty-five Thousand Dollars (\$25,000.00) payable to the State of Oklahoma and conditioned upon compliance with the provisions of this article and the rules of the Oklahoma Tax Commission.

C. 1. Sixty (60) days after making a written request for release to the Tax Commission, the surety of a bond furnished by a licensee shall be released from any liability to the state accruing on the bond after the sixty-day period. The release does not affect any liability accruing before the expiration of the sixty-day period.

2. The Tax Commission shall promptly notify the licensee furnishing the bond that a release has been requested. Unless the licensee obtains a new bond that meets the requirements of this act and files with the Tax Commission the new bond within the sixty-day period, the Tax Commission shall cancel the license.

3. Sixty (60) days after making a written request for release to the Tax Commission, the cash deposit provided by a licensee shall be canceled as security for any obligation accruing after the expiration of the sixty-day period. However, the Tax Commission may retain all or part of the cash deposit for up to three (3) years and one (1) day as security for any obligations accruing before the effective date of the cancellation. Any part of the deposit not retained by the Tax Commission shall be released to the licensee. Before the expiration of the sixty-day period, the licensee shall provide the Tax Commission with a bond that satisfies the requirements of this act, or the Tax Commission shall cancel the license.

4. Any licensee who has filed a bond or other security is entitled, on request, to have the Tax Commission return, refund, or release the bond or security if, in the judgment of the Tax Commission, the licensee has continuously complied with the provisions of this article and Article 4 containing the tobacco products tax code for the previous three (3) consecutive years. However, if the Tax Commission determines that the revenues of the state would be jeopardized by the return, refund or release of bond or security, the Tax Commission may elect to retain the bond or security, or having released such, may reimpose a requirement for bond or security to protect the revenues of this state. The decision of the Tax Commission to not release a bond or security may be reviewed, after application by the licensee, pursuant to the Administrative Procedures Act.

D. In the event any applicant for a license applies for more than one license pursuant to this article or Article 4 containing the tobacco products tax code, the applicant shall not be required to post a bond for each license, but shall be required to post a bond for the license which requires the greatest amount of bond.

Added by Laws 1965, c. 195, § 2, emerg. eff. June 10, 1965. Amended by Laws 1968, c. 235, § 1, emerg. eff. April 24, 1968; Laws 2006, c. 272, § 8, eff. Nov. 1, 2006.

§68-321. Exemptions from tax.

The following sales are hereby exempted from the stamp excise tax levied pursuant to the provisions of Section 301 et seq. of this title:

1. All cigarettes sold to veterans hospitals and state operated domiciliary homes for veterans located in the State of Oklahoma, for distribution or sale to disabled ex-servicemen or disabled ex-servicewomen interned in, or inmates of, such hospitals, or residents of such homes;

2. All sales to the United States;

3. All sales to a federally recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of subsection C of Section 1 of this act or to a licensee of such a tribe or nation, upon which the payment in lieu of taxes required by the compact has been paid; and

4. All sales to a federally recognized Indian tribe or nation or to a licensee of such a tribe or nation upon which the tax levied pursuant to the provisions of Section 4 of this act has been paid.

Laws 1965, c. 195, § 2, emerg. eff. June 10, 1965; Laws 1992, c. 339, § 16, eff. Jan. 1, 1993.

§68-322. Rules and regulations.

The Oklahoma Tax Commission shall prescribe such rules and make such regulations as to the sale or distribution of cigarettes, and the exemption from the stamp excise tax thereof, as shall be deemed necessary to comply with the provisions of the preceding section.

Laws 1965, c. 195, § 2.

§68-323. Restricted to sale or distribution to inmates - Possession by others.

The sale of such exempted cigarettes shall be restricted to sales or distribution to patients or inmates of veterans hospitals and residents of state operated domiciliary homes for veterans, as shown by the records thereof, for their own personal use and consumption. Possession of twenty (20) or more of such exempted cigarettes by persons other than such inmates, patients or residents shall be deemed prima facie evidence of intention to evade payment of the stamp excise tax levied thereon, and shall be punishable as is provided by Section 305 of this Code.

Added by Laws 1965, c. 195, § 2, emerg. eff. June 10, 1965.

§68-324. Compliance with law.

All manufacturers, wholesalers, jobbers, retailers or other persons selling or distributing such cigarettes are hereby required to comply with the provisions of the three preceding sections, and the rules and regulations of the Oklahoma Tax Commission as to such sales or distributions, and failure or refusal to so comply shall constitute grounds for revocation of any license issued to such manufacturer, wholesaler, jobber, retailer or other person, by the Oklahoma Tax Commission.

Laws 1965, c. 195, § 2.

§68-325. Continuity of law.

It is hereby declared that it is the intention of the Legislature that this act be construed as amending and revising the present cigarette tax law and that the repeal and reenactment of said law herein shall not affect any license issued or tax liability accrued under such prior law.

Laws 1965, c. 195, § 2.

§68-326. Short title.

This act shall be known and may be cited as the “Unfair Cigarette and Tobacco Products Sales Act”.

Added by Laws 1949, p. 107, § 1, emerg. eff. May 31, 1949. Renumbered from Title 15, § 599.1 by Laws 1981, c. 211, § 7, emerg. eff. June 1, 1981.

§68-327. Definitions.

The following words, terms and phrases, when used in this act, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

a. “Person” shall mean and include any individual, firm, association, company, partnership, limited liability company, corporation, joint stock company, club, agency, syndicate municipal corporation, or other political subdivision of this state, trust, receiver, trustee, fiduciary, and conservator.

b. “Cigarettes” shall mean and include any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper, leaves, string, or any other substance or material, excepting tobacco.

c. “Tobacco Products” shall mean any bidis, cigars, cheroots, stogies, smoking tobacco (including granulated, plug cut, crimp cut, ready rubbed, and any other kinds and forms of tobacco suitable for smoking in a pipe or cigarette), chewing tobacco (including cavendish, twist, plug, scrap, and any other kinds and forms of tobacco suitable for chewing), however prepared; and shall include any other articles or products made of tobacco or any substitute therefor.

d. “Sale” shall mean any transfer for a consideration, exchange, barter, gift, offer for sale, and distribution in any manner or by any means whatsoever.

e. “Wholesaler” and/or “jobber” is defined to mean a person, firm, or corporation organized and existing, or doing business primarily to sell cigarettes to, and render service to retailers in the territory such person, firm or corporation chooses to serve; that purchases cigarettes directly from the manufacturer; that at least seventy-five percent (75%) of whose gross sales are made at wholesale; to other than their own retail stores, that handles goods in wholesale quantities and sells through salesmen, advertising, and/or sales promotion devices; that carries at all times at his or its principal place of business a representative stock of cigarettes and tobacco products for sale, and that comes into the possession of cigarettes for the purpose of selling them to retailers or to persons outside or within the state who might resell or retail such cigarettes to consumers.

f. The word “Sub-Jobber” is defined to mean any person in this state who does not purchase cigarettes and tobacco products from a manufacturer and who acquires stamped cigarettes and tobacco products from a wholesaler, at least seventy-five percent (75%) of which are for purposes of resale to retailers in this state, or to persons for the purpose of resale only.

g. “Retailer” means any person in this state who is engaged in the business of selling cigarettes and tobacco products at retail and any person selling cigarettes through vending machines.

h. “Manufacturer's representative, or manufacturer's salesman” shall mean any person working for or under the supervision of a manufacturer and whose action is not controlled by the wholesaler or retailer.

i. “Consumer” shall mean a person who comes into possession of cigarettes or tobacco products for the purpose of consuming them, giving them away, or disposing of them in a way other than by sale, barter, or exchange.

j. "Drop shipment" shall mean and include any delivery of cigarettes or tobacco products received by any person within this state when payment for such cigarettes or tobacco products is made to the shipper or seller by or through a person other than the consignee.

k. "Sell at retail", "sale at retail", and "retail sales" shall mean and include any transfer of title to cigarettes and tobacco products for a valuable consideration, made in the ordinary course of trade or usual conduct of the seller's business, to the purchaser for consumption or use.

l. "Sell at wholesale", "sale at wholesale", and "wholesale sales" shall mean and include any transfer of title to cigarettes and tobacco products for a valuable consideration, made in the ordinary course of trade or usual conduct of the wholesaler's business, to the retailer for the purpose of resale.

m. "Basic costs of cigarettes and tobacco products" shall mean the invoice cost of cigarettes and tobacco products to the retailer or wholesaler, as the case may be, or the replacement cost of cigarettes and tobacco products to the retailer or wholesaler, as the case may be, within thirty (30) days prior to the date of sale in the quantity last purchased, whichever is lower, less all trade discounts, except the customary discounts for cash, to which shall be added the full face value of any stamps which may be required by any cigarette and tobacco products tax act of this state or federal act now in effect or hereafter enacted, if not already included by the manufacturer in the list price.

Added by Laws 1949, p. 107, § 2, emerg. eff. May 31, 1949. Renumbered from Title 15, § 599.2 by Laws 1981, c. 211, § 7, emerg. eff. June 1, 1981. Amended by Laws 1993, c. 366, § 29, eff. Sept. 1, 1993; Laws 2002, c. 76, § 2, emerg. eff. April 15, 2002.

§68-328. Sales at less than cost; penalty.

a. It shall be unlawful for any retailer or wholesaler, with intent to injure competitors or destroy or substantially lessen competition, to advertise, offer to sell, or sell, at retail or wholesale, cigarettes and tobacco products at less than cost to such retailer or wholesaler, as the case may be. Any retailer or wholesaler who violates the provisions of this section shall be guilty of a misdemeanor and be punishable by fine of not more than Five Hundred Dollars (\$500.00).

b. Evidence of advertisement, offering to sell, or sale of cigarettes and tobacco products by any retailer or wholesaler at less than cost to him as defined in this act shall be prima facie evidence of intent to injure competitors and to destroy or substantially lessen competition.

Added by Laws 1949, p. 108, § 3, emerg. eff. May 31, 1949. Renumbered from Title 15, § 599.3 by Laws 1981, c. 211, § 7, emerg. eff. June 1, 1981.

§68-329. Cost to wholesaler; meaning.

a. The term "cost to the wholesaler" shall mean the "basic cost of cigarettes and tobacco products" to the wholesaler plus the "cost of doing business by the wholesaler", as evidenced by the recognized statistical and cost accounting practices in allocation of overhead costs and expenses, paid or incurred, and must include, without limitation, labor costs (including salaries or drawing accounts of owners, salaries of executives and officers, or general and special allocations and charges made by parent organizations), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurances, and advertising, and any other cost.

b. In the absence of proof of a lesser cost of doing business by the wholesaler making the sale, the "cost of doing business by the wholesaler" shall be presumed to be two per centum (2%)

of the “basic cost of cigarettes and tobacco products” to the wholesaler, plus cartage to the retail trade, if performed or paid for by the wholesaler, which cartage cost, in the absence of proof of a lesser cost, shall be deemed to be three-fourths of one per centum (3/4 of 1%) of the “basic cost of cigarettes and tobacco products” to the wholesaler.

Added by Laws 1949, p. 108, § 4, emerg. eff. May 31, 1949. Renumbered from Title 15, § 599.4 by Laws 1981, c. 211, § 7, emerg. eff. June 1, 1981.

§68-330. Cost to the retailer; meaning.

a. The term “cost to the retailer” shall mean the “basic cost of cigarettes and tobacco products” to the retailer plus the “cost of doing business by the retailer”, as evidenced by the recognized statistical and cost accounting practices in allocation of overhead costs and expenses, paid or incurred, and must include, without limitation, labor (including salaries or drawing accounts of owners, salaries of executives and officers, or general and special allocations and charges made by parent organizations), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising, and any other cost: Provided, that any retailer who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a retailer but also, in whole or in part, discounts ordinarily allowed upon purchases by a wholesaler, shall, in determining “cost to the retailer”, pursuant to this subsection, add the “cost of doing business by the wholesaler”, as defined in Section 4 of this act, to the “basic cost of cigarettes and tobacco products” to said retailer, as well as the “cost of doing business by the retailer”.

b. In the absence of proof of a lesser cost of doing business by the retailer making the sale, the “cost of doing business by the retailer” shall be presumed to be six per centum (6%) of the “basic cost of cigarettes and tobacco products” to the retailer, plus cartage to the retail outlet if performed or paid for by the retailer (and not previously included in the charge by the wholesaler), which cartage cost, in the absence of proof of a lesser cost, shall be deemed to be three-fourths of one per centum (3/4 of 1%) of the basic cost of cigarettes and tobacco products to the retailer.

c. In the absence of proof of a lesser cost of doing business, the “cost of doing business by the retailer”, who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a retailer but also, in whole or in part, the discounts ordinarily allowed upon purchases by a wholesaler, shall be presumed to be six percentum (6%) of the sum of the “basic cost of cigarettes and tobacco products” and the “cost of doing business by the wholesaler”.

Added by Laws 1949, p. 109, § 5, emerg. eff. May 31, 1949. Renumbered from Title 15, § 599.5 by Laws 1981, c. 211, § 7, emerg. eff. June 1, 1981.

§68-331. Sales by a wholesaler to a sub-jobber.

When a wholesaler sells cigarettes and/or tobacco products to a sub-jobber, the former shall use the basic cost of cigarettes and/or tobacco products (which is the factory list, less all discounts except customary discounts for cash, plus the full face value of any stamps which may be required by any cigarette tax act of this State now in effect or hereafter enacted) in making such sales. The sub-jobber, upon resale to a retailer, shall be subject to the provisions of Section 4 of this act.

Added by Laws 1949, p. 109, § 6, emerg. eff. May 31, 1949. Renumbered from Title 15, § 599.6 by Laws 1981, c. 211, § 7, emerg. eff. June 1, 1981.

§68-332. Sales by a wholesaler to a wholesaler.

When one wholesaler sells cigarettes and tobacco products to any other wholesaler, the former shall not be required to include in his selling price to the latter "cost to the wholesaler", as provided by Section 4 of this act, but the latter wholesaler, upon resale to a retailer, shall be subject to the provisions of said section: Provided further, that manufacturer's representatives, manufacturer's salesmen, or any other person not coming under the definition of a wholesaler, shall not be eligible to purchase cigarettes or tobacco products under the provisions of this Section. Sales by manufacturer's representatives, manufacturer's salesmen, or any other person selling cigarettes and tobacco products to retailers or consumers, as the case may be, shall be required to sell at prices no lower than the prices of the wholesaler to the retailer or of the retailer to the consumer, as the case may be.

Added by Laws 1949, p. 109, § 7, emerg. eff. May 31, 1949. Renumbered from Title 15, § 599.7 by Laws 1981, c. 211, § 7, emerg. eff. June 1, 1981.

§68-333. Combination sales.

In all advertisements, offers for sale or sales involving two (2) or more items, at least one of which items or cigarettes and tobacco products, at a combined price, and in all advertisements, offers for sale, or sales, involving the giving of any gift or concession of any kind whatsoever (whether it be coupons or otherwise), the retailer's or wholesaler's combined selling price shall not be below the "cost to the retailer" or the "cost to the wholesaler", respectively, of the total of all articles, products, commodities, gifts, and concessions included in such transactions.

Added by Laws 1949, p. 110, § 8, emerg. eff. May 31, 1949. Renumbered from Title 15, § 599.8 by Laws 1981, c. 211, § 7, emerg. eff. June 1, 1981.

§68-334. Sales exceptions.

The provisions of this act shall not apply to sales at retail or sales at wholesale made (a) in an isolated transaction and not in the usual course of business; (b) where cigarettes and tobacco products are advertised, offered for sale, or sold in bona fide clearance sales for the purpose of discontinuing trade in such cigarettes and tobacco products, and said advertising, offer to sell, or sale shall state the reason thereof and the quantity of such cigarettes and tobacco products advertised, offered for sale, or to be sold; (c) where cigarettes or tobacco products advertised, offered for sale, or sold as imperfect or damaged, and said advertising, offer to sell, or sale shall state the reason therefor and the quantity of such cigarettes and tobacco products advertised, offered for sale, or to be sold; (d) where cigarettes and tobacco products are sold upon the final liquidation of a business; or (e) where cigarettes and tobacco products are advertised, offered for sale, or sold by any fiduciary or other officer acting under the order or direction of any court.

Added by Laws 1949, p. 110, § 9, emerg. eff. May 31, 1949. Renumbered from Title 15, § 599.9 by Laws 1981, c. 211, § 7, emerg. eff. June 1, 1981.

§68-335. Advertising of certain sales; good faith.

a. Any retailer may advertise, offer to sell, or sell cigarettes and tobacco products at a price made in good faith to meet the price of a competitor who is selling the same article at cost to him as a retailer. Any wholesaler may advertise, offer to sell, or sell cigarettes and tobacco products at a price made in good faith to meet the price of a competitor who is rendering the same type of service and is selling the same article at cost to him as a wholesaler. The price of

cigarettes and tobacco products advertised, offered for sale, or sold under the exceptions specified in Section 9 shall not be considered the price of a competitor and shall not be used as a basis for establishing prices below cost, nor shall the price established at a bankrupt sale be considered the price of a competitor within the purview of this Section.

b. In the absence of proof of the “price of a competitor”, under this Section, the “lowest cost to the retailer”, or the “lowest cost to the wholesaler”, as the case may be determined by any “cost survey”, made pursuant to Section 14 of this act, may be deemed the “price of a competitor” within the meaning of this Section.

Added by Laws 1949, p. 110, § 10, emerg. eff. May 31, 1949. Renumbered from Title 15, § 599.10 by Laws 1981, c. 211, § 7, emerg. eff. June 1, 1981.

§68-336. Sales contracts void.

Any contract expressed or implied, made by any person in violation of any of the provisions of this act, is declared to be an illegal and void contract and no recovery thereon shall be had.

Added by Laws 1949, p. 110, § 11, emerg. eff. May 31, 1949. Renumbered from Title 15, § 599.11 by Laws 1981, c. 211, § 7, emerg. eff. June 1, 1981.

§68-337. Admissible evidence.

a. In determining “cost to the retailer” and “cost to the wholesaler”, the court shall receive and consider as bearing on the bona fides of such cost, evidence tending to show that any person complained against under any of the provisions of this act purchased cigarettes and tobacco products, with respect to the sale of which complaint is made, at a fictitious price, or upon terms, or in such a manner, or under such invoices, as to conceal the true cost, discounts, or terms of purchase, and shall also receive and consider as bearing on the bona fides of such cost, evidence of the normal, customary, and prevailing terms and discounts in connection with other sales of a similar nature in the trade area or state.

b. Merchandise given gratis or payment made to a retailer or wholesaler for display, or advertising, promotion purposes, or otherwise, shall not be considered in determining the cost of cigarettes and tobacco products to the retailer or wholesaler.

Added by Laws 1949, p. 110, § 12, emerg. eff. May 31, 1949. Renumbered from Title 15, § 599.12 by Laws 1981, c. 211, § 7, emerg. eff. June 1, 1981.

§68-338. Sales outside ordinary channels of business; effect.

In establishing the cost of cigarettes and tobacco products to the retailer or wholesaler, the invoice cost of said cigarettes and tobacco products purchased at a forced, bankrupt, or closeout sale, or other sale outside of the ordinary channels of trade, may not be used as a basis for justifying a price lower than one based upon the replacement cost of the cigarettes and tobacco products to the retailer or wholesaler, within thirty (30) days prior to the date of sale, in the quantity last purchased, through the ordinary channels of trade.

Added by Laws 1949, p. 111, § 13, emerg. eff. May 31, 1949. Renumbered from Title 15, § 599.13 by Laws 1981, c. 211, § 7, emerg. eff. June 1, 1981.

§68-339. Cost survey; admissibility.

a. Where a cost survey, pursuant to recognized statistical and cost accounting practices, has been made for the trading area in which the offense is committed, to establish the lowest

“cost to the retailer” and the lowest “cost to the wholesaler”, said cost survey shall be deemed competent evidence to be used in proving the cost to the person complained against, within the provisions of this act.

b. Any defendant, or any witness, in any civil action brought under the provisions of this act, may be required to testify, and the books, records, invoices, and all other documents of any such defendant, may be brought into court and introduced as evidence, but no defendant, or any witness in any such civil action, shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify or produce evidence, documentary or otherwise, and no testimony given or produced shall be received against him upon any criminal proceeding or investigation.

Added by Laws 1949, p. 111, § 14, emerg. eff. May 31, 1949. Renumbered from Title 15, § 599.14 by Laws 1981, c. 211, § 7, emerg. eff. June 1, 1981.

§68-340. Association empowered to file suits.

Any duly organized and existing trade association, whether incorporated or not, is hereby authorized to institute and prosecute a suit or suits for injunctive or other relief provided for under the terms of this act, as the real party in interest for and on behalf of one or more of said association's members, when violation of this act directly or indirectly affects or threatens to affect or injure such member or members, or where violation of this act threatens to impair fair competition or otherwise affects such member as herein provided.

Added by Laws 1949, p. 111, § 16, emerg. eff. May 31, 1949. Renumbered from Title 15, § 599.16 by Laws 1981, c. 211, § 7, emerg. eff. June 1, 1981.

§68-341. Cancellation of license for violations.

The Oklahoma Tax Commission shall cancel the license of any cigarette or tobacco dealer who has been determined by any court to have violated the provisions of the Unfair Cigarette and Tobacco Product Sales Act, or has been convicted for violation of any law pertaining to the use, possession, manufacture or sale of any controlled substance pursuant to the Uniform Controlled Dangerous Substances Act, or has been found guilty of a violation of any rule promulgated or order issued to control a new product or noncontrolled product or substance pursuant to Section 2-201 of Title 63 of the Oklahoma Statutes, or convicted of a violation of any drug or narcotic law of the United States.

Added by Laws 1949, p. 111, § 17, emerg. eff. May 31, 1949. Amended by Laws 1957, p. 86, § 1, emerg. eff. June 5, 1957. Renumbered from Title 15, § 599.17 by Laws 1981, c. 211, § 7, emerg. eff. June 1, 1981; Laws 2013, c. 19, § 1, eff. Nov. 1, 2013.

§68-342. Partial unconstitutionality.

The provisions of this act shall be deemed to be severable and if for any reason any provision, phrase, or clause shall be determined to be unconstitutional or invalid, such determination shall not be held to affect any other provision hereof. And no such determination shall be deemed to invalidate or render ineffectual any of the provisions of the “Unfair Cigarette and Tobacco Products Sales Act”.

Added by Laws 1949, p. 112, § 18, emerg. eff. May 31, 1949. Renumbered from Title 15, § 599.18 by Laws 1981, c. 211, § 7, emerg. eff. June 1, 1981.

§68-343. Violations - Injunctions - Damages.

A. The Commission or any person injured by any violation, or who would suffer injury from any threatened violation of Sections 326 through 345 of Title 68 of the Oklahoma Statutes, may maintain an action in any court of equitable jurisdiction to prevent, restrain or enjoin such violation or threatened violation. If in such action a violation or threatened violation of Sections 326 through 345 of Title 68 of the Oklahoma Statutes shall be established, the court shall enjoin and restrain, or otherwise prohibit, such violation or threatened violation, and, in addition thereto, the court shall assess in favor of the plaintiff and against the defendant the costs of suit including reasonable attorney's fees. In such action it shall not be necessary that actual damages to the plaintiff be alleged or proved, but where alleged and proved, the plaintiff in the action, in addition to such injunctive relief and cost of suit, including reasonable attorney's fees shall be entitled to recover from the defendant the actual damages sustained by him.

B. In the event that no injunctive relief is sought or required, any person injured by a violation of Sections 326 through 345 of Title 68 of the Oklahoma Statutes may maintain an action for damages and costs of suit in any court of general jurisdiction.
Laws 1981, c. 211, § 3, emerg. eff. June 1, 1981.

§68-344. Enforcement of act.

The Oklahoma Tax Commission shall prescribe, adopt and enforce rules and regulations relating to the administration and enforcement of Sections 326 through 345 of Title 68 of the Oklahoma Statutes. The Commission is hereby empowered to and may from time to time undertake and make or cause to be made one or more cost surveys for the state or such trading area or areas as it shall define and when such cost survey shall have been made by or approved by it, it shall be permissible to use such cost survey as provided in Section 337 of Title 68 of the Oklahoma Statutes. The Commission may revoke or suspend the license issued under the provisions of Sections 326 through 345 of Title 68 of the Oklahoma Statutes or the cigarette tax laws of this state, of any person who refuses or neglects to comply with any provisions of Sections 326 through 345 of Title 68 of the Oklahoma Statutes or any rule or regulation of the Commission prescribed under Sections 326 through 345 of Title 68 of the Oklahoma Statutes.

Whenever any person fails to comply with any provision of Sections 326 through 345 of Title 68 of the Oklahoma Statutes or any rule or regulation of the Commission promulgated thereunder, the Commission upon hearing, after giving said person ten (10) days' notice in writing specifying the time and place of the hearing and requiring him to show cause why his license or licenses should not be revoked, may revoke or suspend the license held by the person.

Any ruling, order or decision of the Commission shall be subject to review as provided by Section 225 of Title 68 of the Oklahoma Statutes.
Laws 1981, c. 211, § 4, emerg. eff. June 1, 1981.

§68-345. Licenses required.

After the effective date of this act, no person shall engage in or conduct the business of purchasing for resale or selling cigarettes without having first obtained the appropriate license for that purpose.

All such licenses shall be issued by the Commission which shall make rules and regulations respecting applications therefor and issuance thereof.

A wholesaler or retailer who sells or intends to sell cigarettes at one, two or more places of business shall be required to obtain a separate license for each place of business.

Any person licensed only as a wholesaler shall not operate as a retailer unless the appropriate license therefor is first secured, and any person licensed only as a retailer shall not operate as a wholesaler unless the appropriate license therefor is first secured.

Laws 1981, c. 211, § 5, emerg. eff. June 1, 1981.

§68-346. Legislative findings - Intent of Legislature - Cigarette and tobacco products tax compacts - Audits.

A. The Legislature finds that:

1. Federal law recognizes the right of Indian tribes or nations to engage in sales of cigarettes and tobacco products to their members free of state taxation;
2. The doctrine of tribal sovereign immunity prohibits the State of Oklahoma from bringing a lawsuit against an Indian tribe or nation to compel the tribe or nation to collect state taxes on sales made in Indian country to either members or nonmembers of the tribe or nation without a waiver of immunity by the tribe or nation or congressional abrogation of the doctrine; and
3. The Supreme Court of the United States, in “Oklahoma Tax Commission v. Citizen Band Pottawatomie Indian Tribe of Oklahoma”, suggested that a state may provide other methods of collection of state taxes on sales of cigarettes and tobacco products made by Indian tribes or nations to persons who are not members of the tribe or nation, such as entering into mutually satisfactory agreements with Indian tribes or nations.

B. It is the intent of the Legislature to establish a system of state taxation of sales of cigarettes and tobacco products made by federally recognized Indian tribes or nations or their licensees, other than such tribes or nations which have entered into a compact with the State of Oklahoma pursuant to the provisions of subsection C of this section, under which the rate of payments in lieu of state taxes is less than the rate of state taxes on other sales of cigarettes and tobacco products in order to allow such tribes or nations or their licensees to make sales of cigarettes and tobacco products to tribal members free of state taxation.

C. The Governor is authorized by this enactment to enter into cigarette and tobacco products tax compacts on behalf of the State of Oklahoma with the federally recognized Indian tribes or nations of this state. The compacts shall set forth the terms of agreement between the sovereign parties regulating sale of cigarettes and tobacco products by the tribes or nations or their licensees in Indian country. All sales in Indian country by those compacting tribes or nations and their licensees shall be exempt from the taxes levied pursuant to the provisions of Section 301 et seq., Section 401 et seq. and Section 1350 et seq. of Title 68 of the Oklahoma Statutes and Sections 349 and 425 of this title, subject to the following terms and conditions:

1. A payment in lieu of state sales and excise taxes, as provided for in said compact, shall be paid to the State of Oklahoma by the tribes or nations, their licensees or their wholesalers upon purchase of all cigarettes and tobacco products intended for resale in Indian country by the tribes or nations or their licensees;
2. All cigarettes and tobacco products sold or held for sale to the public, without distinction between member and nonmember sales, shall bear a payment in lieu of tax stamp evidencing that payment in lieu of state taxes has been paid to the state. State and tribal officials may provide for use of a single joint stamp evidencing payment of both the payment in lieu of tax as specified in a compact pursuant to the provisions of this section and any tax levied by a tribe or nation;

3. In the event that a compacting tribe or nation fails to comply with all terms and conditions of the compact including, but not limited to, requirements to include all state taxes required by the terms of the compact to be collected by the tribe or nation in the price of its cigarettes or tobacco products, the tribe or nation shall not be eligible to receive any payment due from the state pursuant to the terms of the compact for the tax-reporting period during which the noncompliance occurred;

4. Records of all sales of cigarettes and tobacco products to the tribes or nations and their licensees shall be kept by all wholesalers doing business in the State of Oklahoma and shall be made available for inspection by state officials on a timely basis. Copies of all invoices of wholesale sales of cigarettes or tobacco products to tribally owned or licensed retail stores shall be forwarded by the wholesaler to the Oklahoma Tax Commission; and

5. For purposes of a compact pursuant to the provisions of this section, the term “tribal licensee” shall only extend to:

- a. members of the tribe or nation, and
- b. business entities in which the tribe or nation or tribal members have a majority ownership interest.

D. In addition to any other authority granted by law, the Tax Commission shall regularly conduct an audit of wholesalers, distributors, jobbers and warehousemen selling cigarettes or tobacco products to a federally recognized Indian tribe or nation or a tribally owned or licensed store to determine if the correct amount of tax payable under this act has been collected and to determine compliance with any and all compacts.

Added by Laws 1992, c. 339, § 1, emerg. eff. May 28, 1992. Amended by Laws 2004, c. 322, § 8, eff. Dec. 1, 2004 (State Question No. 713, Legislative Referendum No. 336, adopted at election held Nov. 2, 2004).

§68-347. Inapplicability of certain provision to certain tribes or nations or their licensees.

The provisions of Sections 3 through 6 of this act shall not apply to a federally recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of subsection C of Section 1 of this act or to a licensee of such a tribe or nation during the period that such compact is effective.

Added by Laws 1992, c. 339, § 2, eff. Jan. 1, 1993.

§68-348. Definitions.

As used in Sections 346 through 352 of this title:

1. “Tribally owned or licensed store” means a store or place of business which is owned and operated by a federally recognized Indian tribe or nation, other than a federally recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of subsection C of Section 346 of this title during the period that such compact is effective, on Indian country within the territorial jurisdiction of that tribe or nation or which is duly licensed by such tribe or nation pursuant to tribal laws or ordinances to conduct business located on Indian country within the territorial jurisdiction of that tribe or nation;

2. “Federally recognized Indian tribe or nation” means an Indian tribal entity which is recognized by the United States Bureau of Indian Affairs as having a special relationship with the United States;

3. “Indian country” means:

- a. land held in trust by the United States of America for the benefit of a federally recognized Indian tribe or nation,
- b. all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, including rights-of-way running through the reservation,
- c. all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and
- d. all Indian allotments, the Indian titles to which have not been extinguished, including individual allotments held in trust by the United States or allotments owned in fee by individual Indians subject to federal law restrictions regarding disposition of said allotments and including rights-of-way running through the same;

4. "Member of the tribe" or "tribal member" means a person who is duly enrolled within the membership of the federally recognized Indian tribe or nation which owns or licenses the store;

5. "Nonmember of the tribe" or "nontribal member" means, with respect to a particular Indian tribe or nation, any person who is not a duly enrolled member of that tribe or nation, and shall include any person who is a member of another Indian tribe or nation but not a member of that tribe or nation;

6. "Unstamped cigarettes" means packages of cigarettes which bear no evidence of the tax stamp required by state law and includes cigarettes bearing an improper tax stamp applicable to the retail establishment at which the cigarette is sold, regardless of the identity of the establishment which the cigarette has been sold, shipped, consigned or delivered;

7. "Contraband cigarettes" means unstamped cigarettes which are required by the provisions of Sections 348 through 351 of this title or Section 301 et seq. of this title to bear stamps and which are in the possession, custody or control of any person, for the purpose of being consumed, sold, offered for sale or consumption or transported to any person in this state other than a wholesaler licensed under Section 304 of this title; provided, contraband cigarettes shall not include unstamped cigarettes sold to veterans' hospitals, to state-operated domiciliary homes for veterans or to the United States for sale or distribution by said entities in accordance with Sections 321 through 324 of this title;

8. "Stamped cigarettes" means packages of cigarettes which bear the proper tax stamp required by state law;

9. "Commission" means the Oklahoma Tax Commission; and

10. "Person" shall include any individual, company, partnership, joint venture, joint agreement, association (mutual or otherwise), limited liability company, corporation, trust, estate, business trust receiver or trustee appointed by any state or federal court, syndicates or any combination acting as a unit, in the plural or singular number.

Added by Laws 1992, c. 339, § 3, eff. Jan. 1, 1993. Amended by Laws 1993, c. 366, § 30, eff. Sept. 1, 1993; Laws 2009, c. 434, § 8, eff. Jan. 1, 2010.

§68-349. Repealed by Laws 2009, c. 434, § 23, eff. Jan. 1, 2010.

§68-349.1. Tobacco taxes on noncompacting tribes or nations - Conditions for exception - Native American tax free stamps.

A. Sales of cigarettes and other tobacco products by retailers licensed by noncompacting federally recognized Indian tribes or nations (hereinafter “tribe or nation”) shall be subject to the cigarette excise tax imposed by Section 302 et seq. of Title 68 of the Oklahoma Statutes and the excise tax on other tobacco products imposed by Section 402 et seq. of Title 68 of the Oklahoma Statutes.

B. 1. Members of noncompacting federally recognized Indian tribes or nations may purchase cigarettes and other tobacco products, without payment of Oklahoma cigarette excise tax or Oklahoma other tobacco products excise tax, subject to the following conditions:

- a. the member of the noncompacting federally recognized Indian tribe (hereinafter “purchaser”) is purchasing for his or her personal use, and not for sale, transfer or other disposition to another person or entity,
- b. the purchaser is purchasing from a retailer licensed by the federally recognized Indian tribe or nation of which the purchaser is a member,
- c. the licensed retailer of purchaser’s federally recognized Indian tribe or nation is located upon “Indian country” of that licensing tribe or nation, as that term is defined by 18 USC §1151(a) and Section 348.3 of Title 68 of the Oklahoma Statutes.

2. Members of noncompacting federally recognized tribes or nations are not entitled to purchase cigarettes or other tobacco products, free of Oklahoma excise tax, from retailers licensed by any other tribe or nation, compacting or not, but have a right to purchase cigarettes and other tobacco products, free of Oklahoma excise tax, upon the “Indian country” of the tribe or nation of which the purchaser is a member, per the United States Supreme Court decision “Oklahoma Tax Commission v. Citizen Band Potawatomi Indian Tribe of Oklahoma”, 498 U.S. 505 (1991).

C. Cigarettes held for sale to members of a noncompacting tribe or nation by licensed retailers of that tribe or nation, which are located on the “Indian country” of that tribe or nation, as defined by 18 USC §1151(a) and Section 348.3 of Title 68 of the Oklahoma Statutes, must bear a stamp issued by the Oklahoma Tax Commission evidencing that cigarettes are purchased free of Oklahoma cigarette excise tax. The following procedures shall apply to said stamps (hereafter, “Native American tax free stamps”):

1. The probable demand for Native American tax free stamps for each noncompacting tribe or nation shall be determined by the Tax Commission by ascertaining the total membership in Oklahoma of the tribe or nation from the Bureau of Indian Affairs or other reliable source of public information regarding such membership, and multiplying that number by the percentage of smokers in Oklahoma or in the United States, whichever is greater, based on the most recent data available from the State Department of Health and/or other reliable source of public information. The product of that calculation shall be multiplied by the average yearly consumption of cigarettes by smokers in Oklahoma or the United States, whichever is greater, based on the most recent data available from the State Department of Health and/or other reliable source of public information. The resulting number shall be deemed to constitute the probable demand for Native American tax free stamps of such noncompacting tribe or nation for a calendar year.

2. A preliminary determination of probable demand shall be furnished to the governing authorities of each noncompacting tribe or nation which may submit, for consideration by the Tax Commission, any verifiable information in its possession regarding such probable demand,

including, but not limited to, a verifiable record of previous sales to tribal members or other statistical evidence.

3. After consideration of all verifiable information furnished by a noncompacting tribe or nation pursuant to paragraph 2 of this subsection, the Tax Commission shall make its final determination of probable demand, and furnish such determination to the subject noncompacting tribe or nation and to all Oklahoma-licensed cigarette wholesalers.

4. Each calendar year, the Tax Commission shall establish, as to any and all Oklahoma-licensed cigarette wholesalers supplying cigarettes to tribally licensed or owned retailers of each noncompacting tribe or nation an allocation of the probable demand for such tribe or nation, based upon each wholesaler's previous year's reported sales of cigarettes to the tribally licensed or owned retailers of such tribe or nation. In making such allocation, the Tax Commission shall consider such other verifiable information as may be submitted by a licensed wholesaler or such tribe or nation. Upon reaching a final determination of allocation, the Tax Commission shall advise the affected wholesaler and the tribe or nation.

5. Oklahoma-licensed wholesalers may request and receive from the Tax Commission, at the beginning of each quarter of the year, their allocated share of Native American tax free stamps for the tribally licensed or owned retailers of each noncompacting tribe or nation. Once a wholesaler has received its allocated share of Native American tax free stamps for the tribally licensed or owned retailers of a noncompacting tribe or nation for the quarter, that wholesaler may not receive any further Native American tax free stamps for tribally licensed or owned retailers of that tribe or nation during the quarter, absent good cause shown by verifiable information submitted by the wholesaler and/or that tribe or nation, which shall be considered and determined by the Tax Commission on a case-by-case basis.

6. The Tax Commission is empowered and authorized to promulgate such rules and regulations as, in its discretion, shall be deemed necessary to implement and enforce the provisions of this section.

7. The sale of cigarettes bearing the Native American tax-free stamp to a nonmember of the tribe or nation which licensed the tribally owned or licensed retailer shall, in accordance with the United States Supreme Court decision "Oklahoma Tax Commission v. Citizen Band Potawatomi Indian Tribe of Oklahoma", 498 U.S. 505 (1991), obligate that tribal retailer for payment of the applicable Oklahoma cigarette excise tax, together with the costs and attorney fees associated with any civil action brought to collect the unpaid Oklahoma cigarette excise tax. Such actions may be instituted in the district court in and for the county in which the tribal retailer is located.

D. The Oklahoma excise tax on all tobacco products other than cigarettes (hereafter "other tobacco products") held for sale by Oklahoma-licensed wholesalers shall be paid by the wholesaler and stamps affixed thereto by the wholesaler pursuant to Section 403 of Title 68 of the Oklahoma Statutes, including those other tobacco products which may be purchased by members of noncompacting tribes and nations on the "Indian country" of such tribe or nation from a retailer licensed or owned by such tribe or nation. The following procedures shall apply to the tax-free sale of other tobacco products:

1. The probable demand for the tax-free consumption of other tobacco products by members of each noncompacting tribe or nation shall be determined by the Tax Commission by ascertaining the total membership in Oklahoma of the tribe or nation from the Bureau of Indian Affairs or other reliable source of public information regarding such membership, and multiplying that number by the percentage of users of such other tobacco products in Oklahoma

or the United States, whichever is greater, based on the most recent data available from the State Department of Health and/or other reliable source of public information. The product of that calculation shall be multiplied by the average yearly consumption of users of such other tobacco products in Oklahoma or the United States, whichever is greater, based on the most recent data available from the State Department of Health and/or other reliable source of public information. The resulting number shall be deemed to constitute the probable demand for the tax-free consumption of other tobacco products by members of such noncompacting tribes or nations for a calendar year.

2. A preliminary determination of probable demand shall be furnished to the governing authorities of each noncompacting tribe or nation, which may submit, for consideration by the Tax Commission, any verifiable information in its possession regarding such probable demand, including, but not limited to, a verifiable record of previous sales to tribal members or other statistical evidence.

3. After consideration of all verifiable information furnished by a noncompacting tribe or nation pursuant to paragraph 2 of this subsection, the Tax Commission shall make its final determination of probable demand and furnish such determination to the subject noncompacting tribe or nation and to all Oklahoma-licensed other tobacco product wholesalers.

4. Each calendar year, the Tax Commission shall establish, as to any and all Oklahoma-licensed other tobacco product wholesalers supplying other tobacco products to the tribally licensed or owned retailers of each noncompacting tribe or nation an allocation of the probable demand for such tribe or nation, based upon each wholesaler's previous year's reported sales of other tobacco products to the tribally licensed or owned retailers of such tribe or nation. In making such allocation, the Tax Commission shall consider such other verifiable information as may be submitted by a licensed wholesaler or such tribe or nation. Upon reaching a final determination of allocation, the Tax Commission shall advise the affected wholesaler and the tribe or nation.

5. Oklahoma-licensed wholesalers may request and receive from the Tax Commission, on the 30th of each month, a refund and/or credit for the previous month's tax-free sales of other tobacco products, equal to the lesser of: one twelfth (1/12) of their allocated share of tax-free sales of other tobacco products to the tribally licensed or owned retailers of each noncompacting tribe or nation or verifiable tax-free sales to the licensed or owned tribal retailers of such tribe or nation. Once a wholesaler has received such refund and/or credit for a previous month's tax-free sales to the tribally licensed or owned retailers of each noncompacting tribe or nation, that wholesaler may not receive any further refund and/or credit for said previous month, absent good cause shown by verifiable information submitted by the wholesaler and/or the noncompacting tribe or nation, which shall be considered and determined by the Tax Commission on a case-by-case basis.

6. The Tax Commission is empowered and authorized to promulgate such rules and regulations as, in its discretion, shall be deemed necessary to implement and enforce the provisions of this section.

7. The tax-free sale of other tobacco products to a nonmember of the noncompacting tribe or nation which licenses the tribally owned or licensed retailer shall, in accordance with the United States Supreme Court decision "Oklahoma Tax Commission v. Citizen Potawatomi Indian Tribe of Oklahoma", 498 U.S. 505 (1991), obligate that tribal retailer for payment of the applicable Oklahoma other tobacco product excise tax, together with the costs and attorney fees associated with any civil action brought to collect the unpaid Oklahoma other tobacco product

excise tax. Such actions may be instituted in the district court in and for the county in which the tribal retailer is located.

E. The provisions of this section are intended to, and shall be construed to apply only to, sales of cigarettes and other tobacco products on the "Indian country" of noncompacting federally recognized Indian tribes or nations to the members of such tribes or nations. In the event that a noncompacting tribe or nation enters into an agreement with the State of Oklahoma, pursuant to Section 346 of Title 68 of the Oklahoma Statutes, the terms of such compact shall take precedence over the provisions of this section, which shall have no application to any tribe or nation, while any compact between the State of Oklahoma and that tribe or nation is in force and effect.

F. All cigarettes which are sold or held for sale at tribally owned or licensed stores shall have affixed thereto a stamp or stamps evidencing payment or nonpayment of the Oklahoma cigarette excise tax, as required by the provisions in this section.

G. It shall be unlawful for any person knowingly to ship, transport, receive, possess, sell, distribute or purchase contraband cigarettes. Any person who engages in shipping, transporting, receiving, possessing, selling, distributing or purchasing contraband cigarettes shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars (\$1,000.00). Any person convicted of a second or subsequent violation hereof shall be guilty of a felony and shall be punishable by fine of not more than Five Thousand Dollars (\$5,000.00), by a term of imprisonment in the State Penitentiary for not more than two (2) years, or by both such fine and imprisonment.

H. Any person who knowingly engages in shipping, transporting, receiving, processing, selling, distributing or purchasing contraband cigarettes shall be subject to the forfeiture of property as is provided by Section 305 of Title 68 of the Oklahoma Statutes and assessment of penalty as provided thereby and assessment for any delinquent taxes found to be owing.
Added by Laws 2009, c. 434, § 9, eff. Jan. 1, 2010.

§68-350. Persons eligible to sell cigarettes to tribally owned or licensed store - Duty to affix tax stamp - Tribally owned or licensed stores to do business only with stamped cigarettes.

A. Every wholesaler, jobber or warehouseman doing business within this state and required to secure a license as provided in Section 304 of Title 68 of the Oklahoma Statutes may sell cigarettes to tribally owned or licensed stores in this state. It shall be the duty of the wholesaler, jobber or warehouseman to affix the tax stamp required by Section 4 of this act to cigarette inventory sold to a tribally owned or licensed store.

B. Tribally owned or licensed stores may only purchase, receive, stock, possess, sell or distribute stamped cigarettes.

Added by Laws 1992, c. 339, § 5, eff. Jan. 1, 1993.

§68-350.1. Cigarettes not purchased for sale at tribally owned or licensed store - Liability for additional tax due - Wholesaler.

If a wholesaler timely accepts documentation as prescribed by the Oklahoma Tax Commission from a person claiming that the cigarettes will be sold at a tribally owned or licensed store, the wholesaler shall be relieved of any liability for any additional tax due or required to be collected should it later be determined that the cigarettes were not purchased for sale at a tribally owned or licensed store.

Added by Laws 1993, c. 146, § 13. Amended by Laws 2009, c. 434, § 10, eff. Jan. 1, 2010.

§68-351. Seizure and forfeiture of unstamped cigarettes - Authority of peace officers - Cooperation with Tax Commission.

A. All unstamped cigarettes sold or shipped to tribally owned or licensed stores in this state by wholesalers, jobbers or warehousemen not licensed by this state pursuant to the provisions of Section 304 of Title 68 of the Oklahoma Statutes for the purpose of selling or consuming unstamped cigarettes in this state in violation of this act shall be subject to seizure of the shipments and forfeiture of the inventory pursuant to the provisions of Section 305 of Title 68 of the Oklahoma Statutes.

B. Any peace officer of this state, including but not limited to officers of the Department of Public Safety or the Oklahoma State Bureau of Investigation, any sheriff, any salaried deputy sheriff or any municipal police officer is authorized to stop any vehicle upon any road or highway of this state in order to inspect the bill of lading or to take such action as may be necessary to determine if unstamped cigarettes are being sold or shipped in violation of the provisions of this section. Such officers shall also have the duty to cooperate with the Oklahoma Tax Commission to enforce the provisions of this act.

Added by Laws 1992, c. 339, § 6, eff. Jan. 1, 1993.

§68-352. Disposition of revenues.

A. Except as otherwise provided in subsection D of Section 2 of this act, any revenue from a payment in lieu of excise taxes on cigarettes pursuant to a compact entered into by the State of Oklahoma and a federally recognized Indian tribe or nation pursuant to the provisions of subsection C of Section 346 of this title shall be deposited to the General Revenue Fund.

B. Any revenue from payment of the tax imposed by Section 349 of this title shall be deposited to the General Revenue Fund.

Added by Laws 1992, c. 339, § 7, eff. Jan. 1, 1993. Amended by Laws 2004, c. 322, § 9, eff. Dec. 1, 2004 (State Question No. 713, Legislative Referendum No. 336, adopted at election held Nov. 2, 2004).

§68-360. Repealed by Laws 2004, c. 266, § 9, emerg. eff. May 6, 2004.

§68-360.1. Short title.

Sections 1 through 8 of this act shall be known and may be cited as the “Master Settlement Agreement Complementary Act”.

Added by Laws 2004, c. 266, § 1, emerg. eff. May 6, 2004.

§68-360.2. Declaration of public policy.

The Oklahoma Legislature declares that violations of Sections 600.1 through 600.23 of Title 37 of the Oklahoma Statutes threaten the integrity of the Master Settlement Agreement as defined in Section 600.22 of Title 37 of the Oklahoma Statutes, the fiscal soundness of the state, and the public health. The Legislature declares that enacting this act enhances the Prevention of Youth Access to Tobacco Act by preventing violations and aiding in the enforcement of the Master Settlement Agreement Complementary Act and thereby safeguard the Master Settlement Agreement, the fiscal soundness of the state, and the public health.

Added by Laws 2004, c. 266, § 2, emerg. eff. May 6, 2004.

§68-360.3. Definitions.

As used in the Master Settlement Agreement Complementary Act:

1. "Brand family" means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including, but not limited to, "menthol", "lights", "kings", and "100s", and includes any brand name alone or in conjunction with any other word, trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes;
2. "Cigarette" has the same meaning as that term is defined in Section 600.22 of Title 37 of the Oklahoma Statutes;
3. "Tax Commission" means the Oklahoma Tax Commission;
4. "Master Settlement Agreement" has the same meaning as in Section 600.22 of Title 37 of the Oklahoma Statutes;
5. "Nonparticipating manufacturer" means any tobacco product manufacturer as defined in Section 600.22 of Title 37 of the Oklahoma Statutes that is not a participating manufacturer;
6. "Participating manufacturer" has the meaning given that term in Section II(jj) of the Master Settlement Agreement as defined in Section 600.22 of Title 37 of the Oklahoma Statutes and all amendments to the Master Settlement Agreement;
7. "Qualified escrow fund" has the same meaning as that term is defined in Section 600.22 of Title 37 of the Oklahoma Statutes;
8. "Stamping agent" means any entity that is authorized under subsection A of Section 304 of Title 68 of the Oklahoma Statutes to affix any tax stamps issued by the Oklahoma Tax Commission to packages of cigarettes, or any entity authorized pursuant to Section 415 of Title 68 of the Oklahoma Statutes to pay to the Oklahoma Tax Commission any tobacco products tax; and
9. "Units sold" has the same meaning as that term is defined in Section 600.22 of Title 37 of the Oklahoma Statutes.

Added by Laws 2004, c. 266, § 3, emerg. eff. May 6, 2004.

§68-360.4. Certification by manufacturer.

A. 1. Every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a distributor, retailer or similar intermediary or intermediaries, shall execute and deliver on a form or in the manner prescribed by the Attorney General a certification to the Oklahoma Tax Commission and Attorney General, no later than April 30 of each year, certifying under penalty of perjury that, as of the date of certification, the tobacco product manufacturer either:

- a. is a participating manufacturer, or
- b. is in full compliance with the provisions of Sections 600.21 through 600.23 of Title 37 of the Oklahoma Statutes.

2. A participating manufacturer shall include in its certification a list of its brand families. The participating manufacturer shall update the list thirty (30) calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Attorney General and the Oklahoma Tax Commission.

3. A nonparticipating manufacturer shall include in its certification:

- a. a list of all of its brand families and the number of units sold for each brand family that were sold in the state during the preceding calendar year, and

- b. a list of all of its brand families that have been sold in the state at any time during the current calendar year:
 - (1) indicating, by an asterisk, any brand family sold in the state during the preceding calendar year that is no longer being sold in the state as of the date of the certification, and
 - (2) identifying by name and address any other manufacturer of the brand families in the preceding or current calendar year.

The nonparticipating manufacturer shall update the list thirty (30) calendar days prior to any corrected final addition to or modification of its brand families by executing and delivering a supplemental certification to the Attorney General and the Oklahoma Tax Commission.

4. In the case of a nonparticipating manufacturer, the certification shall further certify that the nonparticipating manufacturer:

- a. is registered to do business in the state or has appointed a resident agent for service of process and provided notice thereof as required by Section 360.5 of this title,
- b. has established and continues to maintain a qualified escrow fund, and
- c. has executed a qualified escrow agreement that has been reviewed and approved by the Attorney General and that governs the qualified escrow fund as defined in Section 600.22 of Title 37 of the Oklahoma Statutes that the nonparticipating manufacturer is in full compliance with the provisions of Sections 600.21 through 600.23 of Title 37 of the Oklahoma Statutes and the Master Settlement Agreement Complementary Act and any rules promulgated pursuant to the Master Settlement Agreement Complementary Act.

5. The nonparticipating manufacturer shall include with certification:

- a. the name, address, and telephone number of the financial institution with which the nonparticipating manufacturer has established its qualified escrow fund,
- b. the account number of its qualified escrow fund and any subaccount number for the State of Oklahoma,
- c. the amount the nonparticipating manufacturer placed in the qualified escrow fund for cigarettes sold in Oklahoma during the preceding calendar year, the date and amount of each deposit to the fund, and any evidence or verification as may be deemed necessary by the Attorney General to confirm the information required by this paragraph, and
- d. the amount and date of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from the qualified escrow fund or from any other qualified escrow fund into which the nonparticipating manufacturer made escrow payments pursuant to Section 600.23 of Title 37 of the Oklahoma Statutes rules promulgated thereto.

6. In the case of a nonparticipating manufacturer located outside of the United States, the certification shall further certify that the nonparticipating manufacturer has provided a declaration from each of its importers into the United States of any of its brand families to be sold in Oklahoma. The declaration shall be on a form prescribed by the Attorney General and shall state that such importer accepts joint and several liability with the nonparticipating manufacturer for all escrow deposits due, for all penalties assessed and for payment of all costs

and attorney fees imposed in accordance with Sections 600.21 through 600.23 of Title 37 of the Oklahoma Statutes. Such declaration shall appoint for the declaration a resident agent for service of process in Oklahoma in accordance with Section 360.5 of this title.

7. A tobacco product manufacturer may not include a brand family in its certification unless:

- a. in the case of a participating manufacturer, the participating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year, in the volume and shares determined pursuant to the Master Settlement Agreement, or
- b. in the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of the provisions of Sections 600.21 through 600.23 of Title 37 of the Oklahoma Statutes.

8. Nothing in this section shall be construed as limiting or otherwise affecting the right of this state to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the Master Settlement Agreement or for purposes of Sections 600.21 through 600.23 of Title 37 of the Oklahoma Statutes.

9. Tobacco product manufacturers shall maintain all invoices and documentation of sales and other information relied upon for the certification for a period of five (5) years, unless otherwise required by law to maintain them for a greater period of time.

10. At the time a manufacturer submits a yearly written certification pursuant to this section, the manufacturer shall pay to the Office of the Attorney General a fee of One Thousand Dollars (\$1,000.00). All fees collected pursuant to this paragraph shall be deposited in the Attorney General's Revolving Fund.

B. 1. Not later than ninety (90) calendar days after this act takes effect, the Attorney General shall develop and publish on its website a directory listing all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of subparagraph a of paragraph 4 of subsection A of this section and all brand families that are listed in the certifications, except as otherwise provided in this section.

2. The Attorney General shall not include or retain in the directory the name or brand families of any nonparticipating manufacturer that has failed to provide the required certification or whose certification the Attorney General determines is not in compliance with paragraphs 3, 4, and 5 of subsection A of this section, unless the Attorney General has determined that a violation has been cured to the satisfaction of the Attorney General.

3. Neither a tobacco product manufacturer nor brand family shall be included or retained in the directory if the Attorney General concludes, in the case of a nonparticipating manufacturer, that:

- a. any escrow payment required pursuant to Section 600.23 of Title 37 of the Oklahoma Statutes for any period for any brand family, whether or not listed by the nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the Attorney General,
- b. any outstanding final judgment, including interest thereon, for a violation of the provisions of Sections 600.21 through 600.23 of Title 37 of the

Oklahoma Statutes has not been fully satisfied for the brand family or manufacturer, or

- c. the nonparticipating manufacturer or such tobacco product manufacturer fails to provide reasonable assurance that it will comply with the requirements of this section or Sections 600.21 through 600.23 of Title 37 of the Oklahoma Statutes, or the manufacturer has knowingly failed to disclose any material information required or knowingly made any material false statement in the certification of any supporting information or documentation provided. As used in this subparagraph, reasonable assurances may include information and documentation establishing to the satisfaction of the Attorney General that a failure to pay in Oklahoma or elsewhere was the result of a good-faith dispute over the payment obligation.

4. The Attorney General shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of the Master Settlement Agreement Complementary Act.

5. Every stamping agent shall provide and update, as necessary, an electronic mail address to the Oklahoma Tax Commission and the Attorney General for the purpose of receiving any notifications as may be required by the Master Settlement Agreement Complementary Act.

6. Any nonparticipating manufacturer may request, by facsimile transmission or other means to the Attorney General's Tobacco Enforcement Unit, information regarding its current compliance status pursuant to this act and to Sections 600.21 through 600.23 of Title 37 of the Oklahoma Statutes. Upon receipt of such request, the Attorney General shall inform the requesting nonparticipating manufacturer of its current compliance status before close of business within three (3) business days.

C. It shall be unlawful for any person to:

1. Affix a stamp to a package or other container of cigarettes of a tobacco product manufacturer or brand family not included in the directory; and
 2. Sell, offer, or possess for sale, in this state, or import for personal consumption in this state, cigarettes of a tobacco product manufacturer or brand family not included in the directory.
- Added by Laws 2004, c. 266, § 4, emerg. eff. May 6, 2004. Amended by Laws 2009, c. 434, § 11, eff. Jan. 1, 2010.

§68-360.5. Nonresident or foreign nonparticipating manufacturers - Appointment of agent - Appointment of Secretary of State.

A. Any nonresident or foreign nonparticipating manufacturer that has not registered to do business in this state as a foreign corporation or business entity shall appoint and continually engage without interruption, as a condition precedent to having its brand families included or retained in the directory, the services of an agent in this state to act as agent for the service of process on whom all process, and any action or proceeding against it concerning or arising out of the enforcement of the Master Settlement Agreement Complementary Act and Sections 600.21 through 600.23 of Title 37 of the Oklahoma Statutes, may be served in any manner authorized by law. The service shall constitute legal and valid service of process on the nonparticipating manufacturer. The nonparticipating manufacturer shall provide the name, address, phone number, and proof of the appointment and availability of the agent to perform the duties of an

agent pursuant to the Master Settlement Agreement Complementary Act and to the satisfaction of the Oklahoma Tax Commission and the Attorney General. Any nonparticipating manufacturer located outside of the United States shall, as an additional condition precedent to having its brand families listed or retained in the Directory, cause each of its importers into the United States of any of its brand families to be sold in Oklahoma to appoint and continuously engage without interruption the services of an agent in the State of Oklahoma in accordance with the provisions of this act. All obligations of a nonparticipating manufacturer imposed by this act with respect to appointment of its agent shall likewise apply to such importers with respect to appointment of their agents.

B. The nonparticipating manufacturer shall provide notice to the Oklahoma Tax Commission and Attorney General thirty (30) calendar days prior to termination of the authority of an agent and shall further provide proof to the satisfaction of the Attorney General of the appointment of a new agent no less than five (5) calendar days prior to the termination of an existing agent appointment. If an agent terminates an agency appointment, the nonparticipating manufacturer shall notify the Oklahoma Tax Commission and Attorney General of the termination within five (5) calendar days and shall include proof to the satisfaction of the Attorney General of the appointment of a new agent.

C. Any nonparticipating manufacturer whose cigarettes are sold in this state, who has not appointed and engaged an agent as required by this section, shall be deemed to have appointed the Secretary of State as its agent and may be proceeded against in courts of this state by service of process upon the Secretary of State. However, the appointment of the Secretary of State as the agent shall not satisfy the condition precedent for having the brand families of the nonparticipating manufacturer included or retained in the directory.
Added by Laws 2004, c. 266, § 5, emerg. eff. May 6, 2004. Amended by Laws 2009, c. 434, § 12, eff. Jan. 1, 2010.

§68-360.5-1. Joint and several liability of importers of nonparticipating manufacturer's brand families.

For each nonparticipating manufacturer located outside the United States, each importer into the United States of any such nonparticipating manufacturer's brand families that are sold in Oklahoma shall bear joint and several liability with such nonparticipating manufacturer for deposit of all escrow due, payment of all penalties imposed and payment of all costs and attorney fees imposed under Sections 600.21 through 600.23 of Title 37 of the Oklahoma Statutes and the Master Settlement Agreement.

Added by Laws 2009, c. 434, § 13, eff. Jan. 1, 2010.

§68-360.6. Submission of information by stamping agents – Escrow deposits.

A. Not later than twenty (20) calendar days after the end of each calendar month, and more frequently if so directed by the Oklahoma Tax Commission, each stamping agent shall submit any information the Oklahoma Tax Commission requires to facilitate compliance with the Master Settlement Agreement Complementary Act, including, but not limited to, a list by brand families of the total number of cigarettes, or in the case of roll-your-own tobacco, the equivalent stick count, for which the stamping agent affixed stamps during the previous calendar month or otherwise paid the tax due for such cigarettes. The stamping agent shall maintain, and make available to the Oklahoma Tax Commission and the Attorney General, all invoices and

documentation of sales of all nonparticipating manufacturer cigarettes and any other information relied upon in reporting to the Oklahoma Tax Commission for a period of five (5) years.

B. The Oklahoma Tax Commission may disclose to the Attorney General any information received under the Master Settlement Agreement Complementary Act and requested by the Attorney General for purposes of determining compliance with and enforcing the provisions of the act. The Oklahoma Tax Commission and Attorney General shall share with each other the information received under the Master Settlement Agreement Complementary Act and may share the information with other federal, state, or local agencies only for purposes of enforcement or litigation of the act, the provisions of Sections 600.21 through 600.23 of Title 37 of the Oklahoma Statutes, corresponding laws of other states, and the Master Settlement Agreement.

C. The Attorney General may require at any time from a nonparticipating manufacturer proof, from the financial institution in which the nonparticipating manufacturer has established a qualified escrow fund for the purpose of compliance with the provisions of Sections 600.21 through 600.23 of Title 37 of the Oklahoma Statutes, of the amount of money in the fund, exclusive of interest, the amount and date of each deposit to the fund, and the amount and date of each withdrawal from the fund.

D. In addition to the information required to be submitted pursuant to the Oklahoma Tax Commission, the Attorney General may require a stamping agent or tobacco product manufacturer to submit any additional information including, but not limited to, samples of the packaging or labeling of each brand family, and proof of compliance with laws and regulations regarding the manufacture, labeling, importation, and exportation of cigarettes, as is necessary to enable the Attorney General to determine whether a tobacco product manufacturer is in compliance with the Master Settlement Agreement Complementary Act. The Oklahoma Tax Commission and the Attorney General may require production of information sufficient to enable the Attorney General to determine the adequacy of the amount of the installment deposit.

E. To promote compliance with the Master Settlement Agreement Complementary Act, the Oklahoma Tax Commission, at the request of the Attorney General, may promulgate rules requiring a tobacco product manufacturer subject to the requirements of paragraph 2 of subsection A of Section 600.23 of Title 37 of the Oklahoma Statutes to make the escrow deposits required in quarterly installments during the year in which the sales covered by the deposits are made.

Added by Laws 2004, c. 266, § 6, emerg. eff. May 6, 2004.

§68-360.7. Violations - Revocation or suspension of license - Civil penalties - Contraband - Seizure and forfeiture - Injunction.

A. In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent has violated Section 360.6 of this title or any rule promulgated pursuant to the Master Settlement Agreement Complementary Act, the Oklahoma Tax Commission may revoke or suspend the license of the stamping agent. Each stamp affixed and each sale or offer to sell cigarettes in violation of the Master Settlement Agreement Complementary Act shall constitute a separate violation. For each violation, the Oklahoma Tax Commission may also impose a civil penalty in an amount not to exceed the greater of five hundred percent (500%) of the retail value of the cigarettes or Five Thousand Dollars (\$5,000.00) upon a determination of violation of the Master Settlement Agreement Complementary Act or any rules promulgated pursuant thereto.

B. Any cigarettes that have been sold, offered for sale, or possessed for sale in this state or imported for personal consumption in this state, in violation of the Master Settlement Agreement Complementary Act, shall be deemed contraband pursuant to the Master Settlement Agreement Complementary Act. Those cigarettes shall be subject to seizure and forfeiture as provided by this section and all cigarettes so seized and forfeited shall be destroyed as provided by this section and not resold.

C. 1. Cigarettes or tobacco product distributors and wholesalers licensed by the Oklahoma Tax Commission, pursuant to Section 304 or 415 of this title, who also distribute cigarettes in a state bordering Oklahoma may store in their Oklahoma warehouse cigarettes made contraband under this section if, and only if, they have the tax stamp of another state affixed to each package of cigarettes.

2. Cigarettes or roll-your-own tobacco products made contraband pursuant to this section, without being subject to seizure or forfeiture, may be transported in, into, or through the state either:

- a. on a commercial carrier with a proper bill of lading with an out-of-state destination,
- b. when the tax stamp of another state is affixed to each pack of cigarettes or tobacco product transported, or
- c. on a commercial carrier with a proper bill of lading to a tobacco product distributor or wholesaler licensed by the Oklahoma Tax Commission, pursuant to Section 304 or 415 of this title, who also distributes cigarettes in a state bordering Oklahoma if, and only if, the packing slip accompanying the shipment indicates the shipment is for sale in another state and indicates which state, and the invoice for the shipment also indicates the shipment is for sale in a state other than Oklahoma and identifies the state in which the shipment is to be sold. The time of delivery of the shipments shall be indicated on the bill of lading of the common carrier when delivery is completed. The receiving Oklahoma distributor or wholesaler must, within twenty-four (24) hours of receiving the delivery, affix or cause to be affixed to each package of cigarettes the stamp of the state in which they are to be sold.

3. All such cigarettes and tobacco products so seized shall first be listed and appraised by the officer making such seizure and turned over to the Tax Commission and a receipt therefor taken. The person making such seizure shall immediately make and file a written report thereof, showing the name of the person making such seizure, the place where and the person from whom such property was seized, and an inventory and appraisal thereof, at the usual and ordinary retail price of such articles received, to the Tax Commission, and the Attorney General, in the case of cigarettes stamped, sold, offered for sale, or imported into this state in violation of the provisions of Section 305.1 of this title and tobacco made contraband by this section. The Tax Commission shall then proceed to hear and determine the matter of whether or not the cigarettes and tobacco products should, in fact be forfeited to the State of Oklahoma. The owner of the cigarettes and tobacco products shall be given at least ten (10) days' notice of the hearing. In the event the Commission finds that the cigarettes and tobacco products should be forfeited to the State of Oklahoma, it shall make an order forfeiting the cigarettes and tobacco products to the State of Oklahoma and directing the destruction of such cigarettes and tobacco products.

4. Any and all vehicles and property so seized shall be listed and appraised by the officer making the seizure and turned over to the county sheriff of the county in which the seizure is made and a receipt therefor taken. The person making the seizure shall immediately make a written report of the seizure, showing the name of the person making the seizure, the location of the seizure, the person from whom the property was seized, and an inventory and appraisal of the property at the usual and ordinary retail price of the articles received. The report shall be filed with the Oklahoma Tax Commission and the Attorney General. The district attorney of the county in which the seizures are made, at the request of the Oklahoma Tax Commission or Attorney General, shall file in the district court forfeiture proceedings in the name of the State of Oklahoma, as plaintiff, and in the name of the owner or person in possession, as defendant, if known, and if unknown or not susceptible to the jurisdiction of the court, in the name of the property seized. The clerk of the court shall issue a summons to the owner or person in whose possession the property was found directing the owner or person to answer within ten (10) days. At the forfeiture proceeding, if a distributor or wholesaler demonstrates through clear and convincing evidence that the possession of contraband by the distributor or wholesaler was accidental, the vehicle in which the contraband was being transported shall not be forfeited. In no case, however, shall possession of more than twenty (20) cartons of contraband product be considered by the courts as being possessed accidentally. If the property is declared forfeited and ordered sold, notice of the sale shall be posted not less than ten (10) days before the date of sale in five public places in the county in which the seizures are made. Proceeds of the sale shall be deposited with the clerk of the court, who shall, after deducting costs including the costs of prosecution, storage, and sale, pay the balance to the Oklahoma Tax Commission for deposit in the Tobacco Settlement Endowment Trust Fund.

D. The Attorney General may seek an injunction to restrain a threatened or actual violation of the Master Settlement Agreement Complementary Act by a stamping agent and to compel the stamping agent to comply with those provisions. In any action brought pursuant to this section, the state shall be entitled to recover the costs of investigation, costs of the action, and reasonable attorney fees.

E. 1. It shall be unlawful for a person to:

- a. sell or distribute cigarettes, or
- b. acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of the Master Settlement Agreement Complementary Act. A violation of the act shall be a misdemeanor.

2. A person who violates subsection C of Section 360.4 of this title engages in an unfair and deceptive trade practice in violation of the provisions of the Oklahoma Consumer Protection Act.

Added by Laws 2004, c. 266, § 7, emerg. eff. May 6, 2004. Amended by Laws 2008, c. 378, § 9, emerg. eff. June 4, 2008.

§68-360.8. Placement of products on directory – Issuance of license – Certification of compliance – Due dates for reports – Recovery of costs.

A. The Attorney General need not place on the directory the products of a tobacco product manufacturer that has not provided all the information required in the certification.

B. The consideration of a certification of a tobacco product manufacturer to have its brand added to the directory by the Attorney General shall not be considered an individual proceeding under the Administrative Procedures Act, nor shall the procedural requirements for an individual proceeding apply to that consideration.

C. No person shall be issued a license or granted a renewal of a license to act as a stamping agent unless the person has certified in writing, under penalty of perjury, that the person will comply fully with this section.

D. For calendar year 2004, if the effective date of this act is later than March 16, 2004, the first report of stamping agents required by subsection A of Section 6 of this act shall be due thirty (30) calendar days after the effective date of this act. The certifications by a tobacco product manufacturer described in subsection A of Section 4 of this act shall be due forty-five (45) calendar days after the effective date of this act. The directory described in subsection B of Section 4 of this act shall be published or made available within ninety (90) calendar days after the effective date of this act. Until the directory is published on the website of the Attorney General, all cigarette brands of tobacco product manufacturers which are on a list of the names and brand names of tobacco product manufacturers that have failed to comply with the provisions of Sections 600.21 through 600.23 of the Title 37 of the Oklahoma Statutes and published on the website of the Oklahoma Tax Commission as provided for in Section 360 of Title 68 of the Oklahoma Statutes, shall remain contraband and be subject to seizure and forfeiture as provided for in that section.

E. The Oklahoma Tax Commission may promulgate rules necessary to implement the provisions of the Master Settlement Agreement Complementary Act.

F. In any action brought by the state to enforce the Master Settlement Agreement Complementary Act, the state shall be entitled to recover the costs of investigation, expert witness fees, costs of the action, and reasonable attorney fees.

G. If a court determines that a person has violated the Master Settlement Agreement Complementary Act, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be disgorged and paid to the State Treasurer for deposit in the Tobacco Settlement Endowment Trust Fund. Unless otherwise expressly provided, the remedies or penalties provided by the Master Settlement Agreement Complementary Act are cumulative to each other and to the remedies or penalties available under all other laws of this state.
Added by Laws 2004, c. 266, § 8, emerg. eff. May 6, 2004.

§68-360.9. Listing of nonparticipating manufacturers in the Oklahoma Tobacco Directory - Bond.

A. Notwithstanding any other provision of law, if a newly qualified nonparticipating manufacturer is to be listed in the Oklahoma Tobacco Directory (the Directory), or if the Attorney General reasonably determines that any nonparticipating manufacturer who has filed a certification pursuant to Section 360.4 of Title 68 of the Oklahoma Statutes poses an elevated risk for noncompliance with the Master Settlement Agreement or with the Prevention of Youth Access to Tobacco Act, neither such nonparticipating manufacturer nor any of its brand families shall be included in the Directory unless and until such nonparticipating manufacturer, or its United States importer that undertakes joint and several liability for the performance of the manufacturer in accordance with Section 13 of this act, has posted a bond in accordance with this section.

B. The bond shall be posted by corporate surety located within the United States in an amount equal to the greater of Fifty Thousand Dollars (\$50,000.00) or the amount of escrow the manufacturer in either its current or predecessor form was required to deposit as a result of its sales in the previous calendar year in Oklahoma. The bond shall be written in favor of the State of Oklahoma and shall be conditioned on the performance by the nonparticipating manufacturer, or its United States importer that undertakes joint and several liability for the performance of the manufacturer in accordance with Section 13 of this act, of all of its duties and obligations under the Prevention of Youth Access to Tobacco Act and the Master Settlement Agreement Complementary Act during the year in which the certification is filed and the next succeeding calendar year.

C. A nonparticipating manufacturer may be deemed to pose an elevated risk for noncompliance with this section or the Prevention of Youth Access to Tobacco Act if:

1. The nonparticipating manufacturer or any affiliate thereof has underpaid an escrow obligation with respect to any state at any time during the calendar year or within the past three (3) calendar years unless:

- a. the manufacturer did not make underpayment knowingly or recklessly and the manufacturer promptly cured the underpayment within one hundred eighty (180) days' notice of it, or
- b. the underpayment or lack of payment is the subject of a good-faith dispute as documented to the satisfaction of the Attorney General and the underpayment is cured within one hundred eighty (180) days of entry of a final order establishing the amount of the required escrow payment;

2. Any state has removed the manufacturer or its brands or brand families or an affiliate or any of the affiliate's brands or brand families from the state's tobacco directory for noncompliance with the state law at any time during the calendar year or within the past three (3) calendar years; or

3. Any state has litigation pending against, or an unsatisfied judgment against, the manufacturer or any affiliate thereof for escrow or for penalties, costs, or attorney fees related to noncompliance with state escrow laws.

D. As used in this section, "newly qualified nonparticipating manufacturer" means a nonparticipating manufacturer that has not previously been listed in the Oklahoma Tobacco Directory. Such manufacturer may be required to post a bond in accordance with this section for the first three (3) years of their listing, or longer if they have been determined to pose an elevated risk for noncompliance. Any other nonparticipating manufacturer that has been determined to pose an elevated risk for noncompliance shall be required to post a bond in accordance with this section for three (3) years or longer if such nonparticipating manufacturer still poses an elevated risk at the end of such three-year period.

Added by Laws 2009, c. 434, § 14, eff. Jan. 1, 2010.

§68-380. Use or possession of cigarette rolling vending machines.

A. It is hereby declared that the Oklahoma Legislature finds that the commercial use of cigarette rolling vending machines in this state has the potential to circumvent various requirements under Oklahoma law related to the manufacturing, marketing, sale and taxation of cigarettes. Such use is detrimental to the fiscal soundness of the state and to the public health.

B. As used in this section:

1. "Cigarette rolling vending machine" means a machine or device into which loose tobacco and cigarette tubes are placed that is capable of producing cigarettes; and

2. "Cigarette rolling vending machine operator" means any person who owns, leases, rents or otherwise has available for use a cigarette rolling vending machine and makes such machine available for use by another person in a commercial setting in order to produce a cigarette.

C. Notwithstanding any other provision of law, the following shall be prohibited:

1. The use or possession of a cigarette rolling vending machine for commercial purposes, except as provided in paragraph 1 of subsection D of this section. A cigarette rolling vending machine located in a retail business for use, not sale, shall be considered to be used for commercial purposes;

2. The sale, resale, distribution, dispensing, or giving away to any other person in this state cigarettes produced by a cigarette rolling vending machine; or

3. Making a cigarette rolling vending machine available for use by customers of a retail business to produce cigarettes.

D. The provisions of this section shall not apply to:

1. Cigarette manufacturers who have obtained a current federal Manufacturer of Tobacco Products permit issued by the Alcohol Tobacco and Trade Bureau ("TTB") to operate as a cigarette manufacturer; or

2. A cigarette rolling vending machine in a location other than a retail business, which is exclusively for the personal use of an individual.

E. Any person who possesses or uses a cigarette rolling vending machine for commercial purposes in violation of this section is subject to the following penalties:

1. Revocation or termination of any license, permit, appointment or commission under Article 3, 3A, 3B, 3C, 4 or 4A of Title 68 of the Oklahoma Statutes;

2. Forfeiture and destruction of the cigarette rolling vending machine by the State of Oklahoma after notice and hearing; and

3. Imprisonment for not more than ninety (90) days or a fine not exceeding Five Thousand Dollars (\$5,000.00), or a combination of both fine and imprisonment, in any action brought by the district attorney in whose district the cigarette rolling vending machine is located, or by the Attorney General.

F. The remedies and penalties provided by this section are cumulative to each other and to the remedies or penalties available under all other laws of this state.

Added by Laws 2012, c. 202, § 1, eff. July 1, 2012.

§68-401. Definitions.

For the purpose of this article:

(a) The word "person" shall mean any individual, company, limited liability company, corporation, partnership, association, joint adventure, estate, trust, or any other group, or combination acting as a unit, and the plural as well as the singular, unless the intention to give a more limited meaning is disclosed by the context.

(b) The term "Tax Commission" shall mean the Oklahoma Tax Commission.

(c) The word "wholesaler" shall include dealers whose principal business is that of a wholesale dealer or jobber, and who is known to the trade as such, who shall sell any cigars or tobacco products to licensed retail dealers only for the purpose of resale, or giving them away, or exposing the same where they may be taken or purchased, or otherwise acquired by the retailer.

(d) The word “retailer” shall include every dealer, other than a wholesale dealer as defined above, whose principal business is that of selling merchandise at retail, who shall sell, or offer for sale, cigars or tobacco products, irrespective of quantity, number of sales, giving the same away or exposing the same where they may be taken, or purchased, or otherwise acquired by the consumer.

(e) The word “consumer” shall mean a person who comes into possession of tobacco for the purpose of consuming it, giving it away, or disposing of it in any way by sale, barter or exchange.

(f) The words “first sale” shall mean and include the first sale, or distribution, of cigars or tobacco products in intrastate commerce, or the first use or consumption of cigars, or tobacco products within this state.

(g) The words “tobacco products” shall mean any cigars, cheroots, stogies, smoking tobacco (including granulated, plug cut, crimp cut, ready rubbed and any other kinds and forms of tobacco suitable for smoking in a pipe or cigarette), chewing tobacco (including cavendish, twist, plug, scrap and any other kinds and forms of tobacco suitable for chewing), however prepared; and shall include any other articles or products made of tobacco or any substitute therefor.

(h) The term “distributing agent” shall mean and include every person in this state who acts as an agent of any person outside the state by receiving cigars and tobacco products in interstate commerce and storing such items subject to distribution or delivery, upon order from said person outside the state, to distributors, wholesale dealers and retail dealers, or to consumers. The term “distributing agent” shall also mean and include any person who solicits or takes orders for cigars and tobacco products to be shipped in interstate commerce to a person in this state by a person residing outside of Oklahoma, the tax not having been paid on such cigars and tobacco products.

(i) The term “stamp” shall mean the stamp or stamps by use of which:

1. The tax levied pursuant to the provisions of Section 401 et seq. of this title is paid;
2. The tax levied pursuant to the provisions of Section 426 of this title is paid; or
3. The payment in lieu of taxes authorized pursuant to a compact entered into by the State of Oklahoma and a federally recognized Indian tribe or nation pursuant to the provisions of subsection C of Section 346 of this title is paid.

(j) The term “drop shipment” shall mean and include any delivery of cigars or tobacco products received by any person within the state when payment for such cigars or tobacco products is made to the shipper or seller by or through a person other than the consignee.

(k) The term “cigars” shall include any roll of tobacco for smoking, irrespective of size or shape and irrespective of the tobacco being flavored, adulterated or mixed with any other ingredients, where such roll has a wrapper made chiefly of tobacco.

(l) The word “dealer” shall include every person, firm, corporation, or association of persons, who manufactures cigars or tobacco products for distribution, sale, use or consumption in the State of Oklahoma. The word “dealer” is also further defined to mean any person, firm, corporation or association of persons, who imports cigars or tobacco products from any state or foreign country, for distribution, sale, use or consumption in the State of Oklahoma.

Laws 1965, c. 238, § 2, eff. July 1, 1965; Laws 1992, c. 339, § 17, eff. Jan. 1, 1993; Laws 1993, c. 366, § 31, eff. Sept. 1, 1993.

§68-402. Amount of tax.

There shall be levied, assessed, collected, and paid in respect to the articles containing tobacco enumerated in Section 401 et seq. of this title, a tax in the following amounts:

1. Little Cigars. Upon cigars of all descriptions made of tobacco, or any substitute therefor, and weighing not more than three (3) pounds per thousand, four (4) mills for each cigar. Provided, that the tax levied on the products coming under this paragraph shall not apply if the tax on such products is reported and paid as cigarette tax under Sections 301 through 325 of this title;

2. Cigars. Upon cigars of all descriptions made of tobacco, or any substitute therefor, weighing more than three (3) pounds per thousand and having a manufacturer's recommended retail selling price, under the Federal Code, of not exceeding four cents (\$0.04) per cigar, one cent (\$0.01) for each cigar;

3. Cigars. Upon all other cigars of all descriptions made of tobacco, or any substitute therefor, and weighing more than three (3) pounds per thousand, Twenty Dollars (\$20.00) per thousand. For the purpose of computing the tax, cheroots, stogies, etc., are hereby classed as cigars;

4. Smoking Tobacco. Upon all smoking tobacco including granulated, plug cut, crimp cut, ready rubbed and other kinds and forms of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette, the tax shall be twenty-five percent (25%) of the factory list price exclusive of any trade discount, special discount or deals; and

5. Chewing Tobacco. Upon chewing tobacco, smokeless tobacco, and snuff, the tax shall be twenty percent (20%) of the factory list price exclusive of any trade discount, special discount or deals.

It shall not be permissible for a retailer to advertise that the retailer will absorb the tax due on the taxable merchandise described herein. Such tax shall be paid by the consumer.

Notwithstanding any other provision of law, the tax levied pursuant to the provisions of Section 401 et seq. of this title shall be part of the gross proceeds or gross receipts from the sale of cigars or tobacco products, or both, as those terms are defined in paragraph 7 of Section 1352 of this title.

Laws 1965, c. 238, § 2, eff. July 1, 1965; Laws 1972, c. 48, § 1, emerg. eff. March 10, 1972; Laws 1985, c. 179, § 73, operative July 1, 1985; Laws 1999, c. 390, § 6, emerg. eff. June 8, 1999.

§68-402-1. Additional tax on tobacco products - Rates - Apportionment of revenues.

In addition to the tax levied by Section 402 of this title, there is hereby levied upon the sale, use, exchange or possession of articles containing tobacco as defined in said Section 402, a tax in the following amounts:

(a) Upon little cigars of all descriptions made of tobacco, or any substitute therefor, and weighing not more than three (3) pounds per thousand, two and one-half (2 1/2) mills for each cigar. Provided, that the tax levied on the products coming under this paragraph shall not apply if the tax on such products is reported and paid as cigarette tax under Sections 301 through 325 of this title.

(b) Upon cigars of all descriptions made of tobacco, or any substitute therefor, and weighing more than three (3) pounds per thousand, and having a manufacturer's recommended retail selling price, under the Federal Code, of more than four cents (\$0.04) for each cigar, Ten Dollars (\$10.00) per thousand. For the purpose of computing the tax, cheroots, stogies, etc., are hereby classed as cigars.

(c) Upon all smoking tobacco including granulated, plug cut, crimp cut, ready rubbed and other kinds and forms of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette, the tax shall be fifteen percent (15%) of the factory list price exclusive of any trade discount, special discount or deals.

(d) Upon chewing tobacco, smokeless tobacco, and snuff, the tax shall be ten percent (10%) of the factory list price exclusive of any trade discount, special discount or deals.

This tax shall be paid by the consumer and no retailer may advertise that he will pay or absorb this tax.

(e) The tax herein levied on tobacco products shall be evidenced by stamps and collected on the same basis and in the same manner and in all respects as the tax levied by the Tobacco Products Tax Law. The revenue from this additional tax shall be apportioned by the Oklahoma Tax Commission in the same manner as provided in Section 404 of this title, for the apportionment of other tobacco products tax revenue.

Amended by Laws 1985, c. 179, § 74, operative July 1, 1985.

§68-402-2. Additional tax on tobacco products - Rates - Apportionment of records.

In addition to the tax levied by Section 402 of this title, and 402-1 of Section 2, Chapter 48, Oklahoma Session Laws 1972 (68 O.S. Supp. 1972, Section 402-1), there is hereby levied upon the sale, use, exchange or possession of articles containing tobacco as defined in said Section 402, a tax in the following amounts:

(a) Upon little cigars of all descriptions made of tobacco, or any substitute therefor, and weighing not more than three (3) pounds per thousand, two and one-half (2 1/2) mills for each cigar. Provided, that the tax levied on the products coming under this paragraph shall not apply if the tax on such products is reported and paid as cigarette tax under Sections 301 et seq. of this title.

(b) The revenue from the additional tax herein levied shall be apportioned by the Oklahoma Tax Commission and transmitted to the State Treasurer who shall deposit the same in the General Revenue Fund of the State of Oklahoma.

Laws 1979, c. 195, § 6, eff. July 1, 1979.

§68-402-3. Tobacco products tax in addition to tax levied in Sections 402 to 402-2 - Rates - Apportionment.

A. In addition to the tax levied in Sections 402, 402-1 and 402-2 of this title, effective January 1, 2005, there shall be levied, assessed, collected, and paid in respect to the articles containing tobacco enumerated in Section 401 et seq. of this title, a tax in the following amounts:

1. Little Cigars. Upon cigars of all descriptions made of tobacco, or any substitute therefor, and weighing not more than three (3) pounds per thousand, twenty-seven (27) mills for each cigar. Provided, that the tax levied on the products coming under this paragraph shall not apply if the tax on such products is reported and paid as cigarette tax under Sections 301 through 325 of this title;

2. Cigars. Upon all other cigars of all descriptions made of tobacco, or any substitute therefor, and weighing more than three (3) pounds per thousand, Ninety Dollars (\$90.00) per thousand. For the purpose of computing the tax, cheroots, stogies, etc., are hereby classed as cigars;

3. Smoking Tobacco. Upon all smoking tobacco including granulated, plug cut, crimp cut, ready rubbed and other kinds and forms of tobacco prepared in such manner as to be suitable

for smoking in a pipe or cigarette, the tax shall be forty percent (40%) of the factory list price exclusive of any trade discount, special discount or deals; and

4. Chewing Tobacco. Upon chewing tobacco, smokeless tobacco, and snuff, the tax shall be thirty percent (30%) of the factory list price exclusive of any trade discount, special discount or deals.

B. Except as provided in subsection C of this section, the revenue resulting from the additional tax levied in subsection A of this section shall be apportioned by the Oklahoma Tax Commission and transmitted to the State Treasurer as follows:

1. Twenty-two and six-hundredths percent (22.06%) shall be placed to the credit of the Health Employee and Economy Improvement Act Revolving Fund created in Section 1010.1 of Title 56 of the Oklahoma Statutes;

2. Three and nine-hundredths percent (3.09%) shall be placed to the credit of the Comprehensive Cancer Center Debt Service Revolving Fund created in Section 160.1 of Title 62 of the Oklahoma Statutes;

3. Before July 1, 2008, seven and fifty-hundredths percent (7.50%) shall be placed to the credit of the Trauma Care Assistance Revolving Fund created in Section 1-2522 of Title 63 of the Oklahoma Statutes. On and after July 1, 2008, seven and fifty-hundredths percent (7.50%) shall be allocated as follows:

- a. every month, an amount equal to the actual amount placed to the credit of the Trauma Care Assistance Revolving Fund pursuant to this paragraph for the same month of the 2008 fiscal year shall be credited to the Trauma Care Assistance Revolving Fund,
- b. every month, any amount over and above the amount placed to the credit of the Trauma Care Assistance Revolving Fund pursuant to subparagraph a of this paragraph shall be credited to the Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund as created in Section 8 of this act until the combined amount credited to the Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund pursuant to this section and Section 302-5 of this title is equal to Two Million Five Hundred Thousand Dollars (\$2,500,000.00) each year, and
- c. any additional revenue allocated pursuant to this paragraph shall be placed to the credit of the Trauma Care Assistance Revolving Fund;

4. Three and nine-hundredths percent (3.09%) shall be placed to the credit of the Oklahoma State University College of Osteopathic Medicine Revolving Fund created in Section 160.2 of Title 62 of the Oklahoma Statutes;

5. Twenty-six and thirty-eight-hundredths percent (26.38%) shall be placed to the credit of the Oklahoma Health Care Authority Medicaid Program Fund created in Section 5020 of Title 63 of the Oklahoma Statutes for the purposes of maintaining programs and services funded under the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003", reimbursing city/county-owned hospitals, increasing emergency room physician rates, and providing TEFRA 134, also known as "Katie Beckett" services;

6. Two and sixty-five-hundredths percent (2.65%) shall be placed to the credit of the Department of Mental Health and Substance Abuse Services Revolving Fund created in Section 2-303 of Title 43A of the Oklahoma Statutes;

7. Forty-four-hundredths of one percent (0.44%) shall be placed to the credit of the Belle Maxine Hilliard Breast and Cervical Cancer Treatment Revolving Fund created in Section 1-559 of Title 63 of the Oklahoma Statutes;

8. One percent (1%) shall be placed to the credit of the Teachers' Retirement System Revolving Fund created in Section 158 of Title 62 of the Oklahoma Statutes;

9. Two and seven-hundredths percent (2.07%) shall be placed to the credit of the Education Reform Revolving Fund created in Section 41.29b of Title 62 of the Oklahoma Statutes;

10. Sixty-six-hundredths percent (.66%) shall be placed to the credit of the Tobacco Prevention and Cessation Revolving Fund created in Section 1-105d of Title 63 of the Oklahoma Statutes;

11. Sixteen and eighty-three-hundredths percent (16.83%) shall be placed to the credit of the General Revenue Fund; and

12. For fiscal years beginning July 1, 2004, and ending June 30, 2006, fourteen and twenty-three-hundredths percent (14.23%) shall be apportioned to municipalities and counties that levy a sales tax, in the proportions which total municipal and county sales tax revenue was apportioned by the Tax Commission in the preceding month.

For fiscal years beginning July 1, 2006, and thereafter, the apportionment percentage specified in paragraph 12 of this subsection will be adjusted by dividing the total municipal and county sales tax revenue collected in the calendar year immediately preceding the commencement of the fiscal year by the sum of the state sales tax revenue and total municipal and county sales tax revenue collected in the same year. This ratio shall be divided by the ratio of the total municipal and county sales tax revenue collected in the calendar year beginning January 1, 2004, and ending December 31, 2004, divided by the sum of the state sales tax revenue and total municipal and county sales tax revenue collected in the same year. The resulting quotient shall be multiplied by fourteen and twenty-three-hundredths percent (14.23%) to determine the apportionment percentage for the fiscal year.

For fiscal years beginning July 1, 2006, and thereafter, any adjustment to the percentage of revenues apportioned to municipalities and counties shall be reflected in the percent of revenues apportioned to the General Revenue Fund.

C. The net amount of any revenue resulting from a payment in lieu of excise taxes on little cigars, cigars, smoking tobacco and chewing tobacco levied by this section, pursuant to a compact with a federally recognized Indian tribe or nation after deductions for deposits into trust accounts pursuant to such compacts, shall be apportioned by the Tax Commission and transmitted to the State Treasurer as follows:

1. Thirty-three and forty-nine-hundredths percent (33.49%) shall be placed to the credit of the Health Employee and Economy Improvement Act Revolving Fund created in Section 1010.1 of Title 56 of the Oklahoma Statutes;

2. Four and sixty-nine-hundredths percent (4.69%) shall be placed to the credit of the Comprehensive Cancer Center Debt Service Revolving Fund created in Section 160.1 of Title 62 of the Oklahoma Statutes;

3. Before July 1, 2008, eleven and thirty-nine-hundredths percent (11.39%) shall be placed to the credit of the Trauma Care Assistance Revolving Fund created in Section 1-2522 of Title 63 of the Oklahoma Statutes. On and after July 1, 2008, eleven and thirty-nine-hundredths percent (11.39%) shall be allocated as follows:

- a. every month, an amount equal to the actual amount placed to the credit of the Trauma Care Assistance Revolving Fund pursuant to this paragraph for the same month of the 2008 fiscal year shall be credited to the Trauma Care Assistance Revolving Fund,
- b. every month, any amount over and above the amount placed to the credit of the Trauma Care Assistance Revolving Fund pursuant to subparagraph a of this paragraph shall be credited to the Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund as created in Section 8 of this act until the combined amount credited to the Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund pursuant to this section and Section 302-5 of this title is equal to Two Million Five Hundred Thousand Dollars (\$2,500,000.00) each year, and
- c. any additional revenue allocated pursuant to this paragraph shall be placed to the credit of the Trauma Care Assistance Revolving Fund;

4. Four and sixty-nine-hundredths percent (4.69%) shall be placed to the credit of the Oklahoma State University College of Osteopathic Medicine Revolving Fund created in Section 160.2 of Title 62 of the Oklahoma Statutes;

5. Forty and six-hundredths percent (40.06%) shall be placed to the credit of the Oklahoma Health Care Authority Medicaid Program Fund created in Section 5020 of Title 63 of the Oklahoma Statutes for the purposes of maintaining programs and services funded under the federal "Jobs and Growth Tax Relief Reconciliation Act of 2003", reimbursing city/county-owned hospitals, increasing emergency room physician rates, and providing TEFRA 134, also known as "Katie Beckett" services;

6. Four and one-hundredths percent (4.01%) shall be placed to the credit of the Department of Mental Health and Substance Abuse Services Revolving Fund created in Section 2-303 of Title 43A of the Oklahoma Statutes;

7. Sixty-seven-hundredths percent (0.67%) shall be placed to the credit of the Belle Maxine Hilliard Breast and Cervical Cancer Treatment Revolving Fund created in Section 1-559 of Title 63 of the Oklahoma Statutes; and

8. One percent (1%) shall be placed to the credit of the Tobacco Prevention and Cessation Revolving Fund created in Section 1-105d of Title 63 of the Oklahoma Statutes.

D. It shall not be permissible for a retailer to advertise that the retailer will absorb the tax due on the taxable merchandise described herein. Such tax shall be paid by the consumer. Added by Laws 2004, c. 322, § 10, eff. Dec. 1, 2004 (State Question No. 713, Legislative Referendum No. 336, adopted at election held Nov. 2, 2004). Amended by Laws 2008, c. 393, § 10, eff. Nov. 1, 2008.

§68-403. Payment by affixing stamps.

(a) The excise taxes levied by this article shall be paid by affixing stamps in the manner and at the time herein set forth. In the case of cigars, including five-pack and other small packs, stogies and cheroots, the stamps shall be affixed to the box, or container, in which or from which normally sold at wholesale. Wholesalers and jobbers shall affix the required stamps within seventy-two (72) hours after such tobacco products are received by them. Any retailer shall have twenty-four (24) hours within which to affix the stamps after such tobacco products are received by him, or them. Provided that the Tax Commission may, in its discretion, where it is practical and reasonable for the enforcement of the collection of taxes provided hereunder, promulgate

such rules and regulations as to permit cigars, stogies, cheroots, and tobacco products, to remain unstamped in the hands of the wholesalers and jobbers until the original case or crate is broken, unpacked or sold.

(b) In the case of tobacco products wrapped in packages of two (2) pounds or less, the stamps shall be affixed to the containers in which or from which the individual packages are normally sold at wholesale and the stamps shall be affixed by wholesalers and jobbers within seventy-two (72) hours after such products are received by them, and by any retailer within the twenty-four (24) hours of receipt by him or them of any such products. Such goods must be stamped before being sold. All retail dealers in manufactured tobacco products, purchasing or receiving such commodities from without the state, whether the same shall have been ordered through a wholesaler or jobber in this state and/or by drop shipment and/or otherwise, shall within five (5) days after receipt of same, mail a duplicate invoice of all such purchases or receipts to the Tax Commission. Failure to furnish duplicate invoices as required shall be deemed a misdemeanor, and, upon conviction, be punishable by a fine of not more than One Hundred Dollars (\$100.00) for each offense, or imprisonment in the county jail for a period not exceeding thirty (30) days.

(c) It is the intent and purpose of this section to require all manufacturers within this state, wholesale dealers, jobbers, distributors and retail dealers, to affix the stamps provided for in this section to taxable commodities, but when the stamps have been affixed as required herein, no further or other stamp shall be required regardless of how often such articles may be sold or resold within this state.

Laws 1965, c. 238, § 2.

§68-403.1. Procedures for collection of certain payments in lieu of excise taxes and payment of excise taxes.

The Oklahoma Tax Commission is hereby authorized and empowered, if in its discretion it deems practical and reasonable, to establish procedures for payment of excise taxes levied in Section 401 et seq. of this title, for the collection from a wholesaler of payments in lieu of excise taxes authorized pursuant to a compact entered into by the State of Oklahoma and a federally recognized Indian tribe or nation pursuant to the provisions of subsection C of Section 346 of this title, in respect to articles containing tobacco, pursuant to monthly tobacco products tax reports in lieu of payment by purchasing and affixing stamps, notwithstanding the provisions of Section 403 et seq. of this title. Provided, exercise by the Tax Commission of the authority granted herein shall be by adoption of rules and regulations necessary to establish procedures for collection of such tax through monthly reporting procedures consistent with the provisions of Section 401 et seq. of this title, other than those provisions relating directly to payment of such tax by purchasing and affixing stamps.

In the event the Tax Commission shall determine to collect such tax through monthly reporting procedures and adopt rules and regulations therefor:

1. All provisions of Section 401 et seq. of this title relating to unstamped tobacco products shall be interpreted to include and shall be applicable to all tobacco products for which the tax required by law has not been paid;

2. No person, dealer, distributing agent or wholesaler, as defined in Section 401 of this title, shall possess, sell, use, exchange, barter, give away or in any manner deal with any tobacco products within this state upon which such tax is levied and unpaid, unless such person, dealer,

retailer, distributing agent or wholesaler holds a valid tobacco license issued pursuant to Section 415 of this title; and

3. Any person required to report and remit such taxes or payments in lieu of taxes required pursuant to a compact authorized by subsection C of Section 346 of this title to the Tax Commission shall be allowed a discount of two percent (2%) of the tax due for maintaining and collecting such tax or payments for the benefit of the state, if such tax or payment is timely reported and remitted.

Added by Laws 1980, c. 207, § 3, emerg. eff. May 29, 1980. Amended by Laws 1992, c. 339, § 18, eff. Jan. 1, 1993; Laws 2009, c. 434, § 15, eff. Jan. 1, 2010.

§68-403.2. Unlawful affixing of stamp – Prima facie evidence of violation.

A. It shall be unlawful to affix a stamp to any package or container of tobacco products or to sell, offer for sale, or import into this state any package or container of tobacco products:

1. Which bears any label or notice prescribed by the United States Department of Treasury to identify tobacco products intended for export and exempt from tax by the United States pursuant to Section 5704(b) of Title 26 of the United States Code or any notice or label described in Section 290.185 of Title 27 of the United States Code of Federal Regulations;

2. Which is not labeled in conformity with the provisions of the Federal Cigarette Labeling and Advertising Act, or any other federal requirement for the placement of labels, warnings or other information applicable to packages or containers of tobacco products intended for domestic consumption;

3. Upon which all federal taxes due have not been paid or which is not in compliance with all federal trademark and copyright laws; or

4. The packaging of which has been modified or altered by a person other than the manufacturer or person specifically authorized by the manufacturer, including, but not limited to, the placement of a sticker or label to cover information on the package or container.

Possession of more than thirty (30) ounces of tobacco products in packages or containers bearing Oklahoma stamps in violation of this subsection by a person other than an employee of this state or the federal government performing official duties relating to enforcement of the provisions of Section 401 et seq. of this title shall constitute prima facie evidence of a violation of the provisions of this subsection.

B. Except as otherwise provided by law, the Attorney General shall enforce the provisions of this section.

Added by Laws 1999, c. 162, § 4.

NOTE: Editorially renumbered from § 403.1 of this title to avoid duplication in numbering.

NOTE: Section 8 of Laws 1999, c. 162 provides: "This act shall become effective thirty (30) days after approval of this act by the Governor." Laws 1999, c. 162 was approved by the Governor on May 17, 1999.

§68-404. Transactions subject to taxation - Revenue purpose - Disposition of revenue.

The sale, barter or exchange of tobacco products or possession of tobacco products for consumption, is hereby declared to be subject to taxation authorized by Section 12 of Article X of the Oklahoma Constitution, and it is the purpose and intention of this article to provide revenue for the expense of the state government. The revenue, including interest and penalties, collected under this article shall be paid monthly by the Tax Commission to the State Treasurer

to be placed in the General Revenue Fund, to be paid out pursuant to direct appropriation by the Legislature.

Amended by Laws 1987, c. 5, § 141, operative March 31, 1987.

§68-405. Repealed by Laws 1994, c. 278, § 38, eff. Sept. 1, 1994.

§68-406. Wholesalers and jobbers supplying and charging retailers with stamps.

It shall be the duty of a wholesaler or jobber to supply and charge to the retailer the necessary stamps to cover any and all drop shipments of tobacco products and cigars billed to the retailer or consumer by the wholesaler or jobber, and the wholesaler or jobber shall be liable to the Tax Commission, under his bond, to perform such service. No wholesaler or jobber shall be permitted to sell or transfer stamps to any retailer or consumer other than to customers who purchased drop shipments directly through him.

Laws 1965, c. 238, § 2.

§68-407. Regulations - Punishment for prohibited practices or hindering inspection.

It shall be provided by regulations of the Tax Commission the methods of breaking packages, forms and kinds of containers, and methods of affixing stamps, that shall be employed by persons subject to the tax levied by this Article which will make possible the enforcement of payment by inspection; and any such person engaging in or permitting such practices as are prohibited by this article, or in any other practice which makes it difficult to enforce the provisions of this article by inspection, and any person or agent thereof who shall upon demand of any officer or agent of the Tax Commission refuse to allow full inspection of the premises or any part thereof, or who shall hinder or in anywise delay or prevent such inspection when demand is made therefor, shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than Two Hundred Dollars (\$200.00) for each offense, or imprisonment in the county jail for a period not exceeding sixty (60) days or both.

Laws 1965, c. 238, § 2.

§68-408. Purchase and sale of stamps - Design, etc. - Bond from manufacturer of stamps - Matters to appear on stamps.

(a) The Tax Commission shall purchase stamps in the proper denominations necessary to carry out the provisions of this article, and shall sell the same only to licensed manufacturers, wholesalers, warehousemen and/or jobbers doing business within the state of Oklahoma upon demand and payment therefor. All orders for stamps must be accompanied by cash, cashier's check or money order, made payable to the Oklahoma Tax Commission; and the Commission shall be responsible for the custody and sale of such stamps, and for the disposition of the proceeds of such sales as hereinafter provided. Such stamps shall be of such design, character, color combination, color changes, sizes and material as the Tax Commission may, by its rules and regulations determine to afford the best security to the state. The Commission may, by its rules and regulations, require of the manufacturer from whom it purchases such stamps a bond in an amount to be determined by the Commission, containing such conditions as the Commission may deem necessary in order to protect the state against loss.

(b) The stamp, when placed on cigars and tobacco products by the wholesaler, manufacturer, warehouseman, jobber, retailer and/or consumer, shall state the amount of the tax, the payment of which is evidenced thereby, and shall contain the words "Oklahoma Stamp Tax".

Laws 1965, c. 238, § 2.

§68-409. Offenses respecting stamps.

Whoever willfully removes or otherwise prepares any adhesive stamps, with intent to use, or cause the same to be used, after it has already been used; or knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person, or knowingly uses the same, or has in his possession any washed, restored or altered stamp which has been removed from the articles to which it had been previously affixed, or whoever, for the purpose of indicating the payment of any tax hereunder, reuses any stamp which has heretofore been used for the purpose of paying any tax provided in this article, or whoever buys, sells, offers for sale, or has in his or its possession, any counterfeit stamps, shall be guilty of a felony and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment for not more than five (5) years, or both.

Laws 1965, c. 238, § 2.

§68-410. Administration and enforcement of Article.

The Tax Commission shall administer and enforce all provisions of this article. It shall have the power to enter upon the premises of any taxpayer and to examine, or cause to be examined by an agent or representative designated by it for such purpose, any books, invoices, papers, records or memoranda bearing upon the amount of taxes payable, and to secure other information directly concerned in the enforcement of this article.

Laws 1965, c. 238, § 2.

§68-411. Temporary, transient or itinerant business.

In case of any person engaging in a temporary, transient, or itinerant business, which is taxable under the provisions of this article, the entire tax shall be paid upon demand by the Tax Commission, or any authorized agent thereof, and in case the tax is not paid upon demand, all penalties provided for by this article shall immediately apply.

Laws 1965, c. 238, § 2.

§68-412. Unstamped merchandise - Surety or bond - Tax.

(a) Every wholesaler, jobber, retailer or consumer who purchases or allows to come into his or her possession any unstamped merchandise coming under the scope of this article shall file with the Oklahoma Tax Commission a surety or collateral or cash bond in the amount of Twenty-five Thousand Dollars (\$25,000.00), payable to the State of Oklahoma and conditioned upon compliance with the provisions of this article and the rules of the Tax Commission.

(b) Any consumer who purchases or brings into this state unstamped cigars or tobacco products whereon the tax would be more than twenty-five cents (\$0.25) is subject to the tax thereon. Upon failure to pay the tax levied in this article, the consumer shall be subject to a fine of not more than Five Hundred Dollars (\$500.00) or not less than Twenty-five Dollars (\$25.00). Provided, any person in possession of more than one thousand small or large cigars or two hundred sixteen (216) ounces of chewing or smoking tobacco products in packages or containers for which the tax required by law has not been paid shall be punished by administrative fines in the manner and amounts provided in subsection D of Section 418 of this title.

Added by Laws 1965, c. 238, § 2, eff. July 1, 1965. Amended by Laws 2006, c. 272, § 9, eff. Nov. 1, 2006; Laws 2013, c. 334, § 1, eff. July 1, 2013.

§68-413. Carriers - Transportation of tobacco products and cigars - Sales - Statement of consignment - Examination of records - Monthly reports.

A. The right of a carrier in this state to carry unstamped cigars and tobacco products shall not be affected hereby; provided, that carriers delivering untaxed tobacco products to any person in this state for the purpose of selling or consuming untaxed tobacco products in this state in violation of this article shall be subject to seizure of the shipments and forfeiture of the inventory pursuant to the provisions of Section 417 of this title. Provided further, that should any such carrier sell any cigars and tobacco products in this state, such sale shall be subject to the stamp tax and other provisions of this article and to the rules of the Tax Commission. The carrier transporting tobacco products and cigars to a point within this state, or a bonded warehouseman or bailee having in its possession tobacco products and cigars, shall transmit to the Tax Commission a statement of such consignment of tobacco products and cigars, showing the date, point of origin, point of delivery, and to whom delivered. All carriers or bailees or warehousemen shall permit an examination by the Tax Commission, or its agents or legally authorized representatives, of their records relating to the shipment or receipt of tobacco products and cigars. Any person who fails or refuses to transmit to the Tax Commission the aforesaid statement, or who refuses to permit the examination of his or her records by the Tax Commission or its legally authorized agents or representatives, shall be guilty of a misdemeanor and shall be subject to a fine of not to exceed Five Hundred Dollars (\$500.00) and not less than Twenty-five Dollars (\$25.00).

B. Wholesalers shall make a monthly report to the Tax Commission. Such report must be received in the office of the Tax Commission not later than the twentieth day of each month, showing purchases and invoices of all merchandise coming under this article, for the previous month; and the report shall also show the invoice number, the name and address of the consignee and consignor, the date, and such other information as may be requested by the Tax Commission. Retailers or consumers purchasing tobacco products and cigars in drop shipments shall be required to make monthly reports to the Tax Commission, as are required of wholesalers. Added by Laws 1965, c. 238, § 2, eff. July 1, 1965. Amended by Laws 1992, c. 339, § 19, eff. Jan. 1, 1993; Laws 2009, c. 434, § 16, eff. Jan. 1, 2010; Laws 2012, c. 357, § 7, eff. July 1, 2012.

§68-414. Trucks and vehicles - Unstamped merchandise.

(a) Each truck or vehicle wherefrom cigars or tobacco products are sold shall be considered as a place of business and required to have a wholesale license and a bond of not less than Five Hundred Dollars (\$500.00).

(b) Any person operating a truck or vehicle by selling, exchanging, or giving away unstamped merchandise covered by this article shall be deemed guilty of violation of same and shall be penalized as hereinbefore set forth, and unstamped merchandise handled by him shall be subject to confiscation by authorized agents of the Tax Commission or duly authorized peace officers.

(c) After seizure or confiscation by such agent or officer, the merchandise and property shall be held until all taxes, interest and penalties due have been paid. If not paid within five (5) days after date of seizure, it shall be sold at public sale by the sheriff of the county where confiscated, after being advertised by posting of notice of such sale in five public places in the county where the sale is to occur. The proceeds of the sale shall be applied to taxes, interest and penalties due and to the cost of the sale, and the remainder, if any, shall be paid to the State

Treasurer, by the sheriff conducting such sale, to be deposited to the credit of the General Revenue Fund.

Laws 1965, c. 238, § 2.

§68-415. License of purchasers of unstamped products.

A. Every dealer and wholesaler of tobacco products in this state, as a condition of carrying on such business, shall annually secure from the Oklahoma Tax Commission a written license and shall pay an annual fee of Two Hundred Fifty Dollars (\$250.00); provided, such fee shall not be applicable if paid pursuant to Section 304 of this title. The Tax Commission shall promulgate rules which provide a procedure for the issuance of a joint license for any wholesaler making application pursuant to this section and Section 304 of this title. Application for such license, which shall be made upon such forms as prescribed by the Tax Commission, shall include the following:

1. The applicant's agreement to the jurisdiction of the Tax Commission and the courts of this state for purposes of enforcement of the provisions of Section 301 et seq. of this title; and

2. The applicant's agreement to abide by the provisions of Section 301 et seq. of this title and the rules promulgated by the Tax Commission with reference thereto. This license, which will be for the ensuing year, must at all times be displayed in a conspicuous place so that it can be seen. Persons operating more than one place of business must secure a license for each place of business. "Place of business" shall be construed to include the place where orders are received, or where tobacco products are sold. If tobacco products are sold on or from any vehicle, the vehicle shall constitute a place of business, and the license fee of Two Hundred Fifty Dollars (\$250.00) shall be paid with respect thereto. However, if the vehicle is owned or operated by a place of business for which the regular license fee is paid, the annual fee for the license with respect to such vehicle shall be only Ten Dollars (\$10.00). The expiration for such vehicle license shall expire on the same date as the current license of the place of business.

B. Every retailer in this state, as a condition of carrying on such business, shall secure from the Tax Commission a license and shall pay therefor a fee of Thirty Dollars (\$30.00). Application for such license, which shall be made upon such forms as prescribed by the Tax Commission, shall include the following:

1. The applicant's agreement to the jurisdiction of the Tax Commission and the courts of this state for purposes of enforcement of the provisions of Section 301 et seq. of this title; and

2. The applicant's agreement to abide by the provisions of Section 301 et seq. of this title and the rules promulgated by the Tax Commission with reference thereto;

3. The applicant's agreement that it shall not purchase any tobacco products for resale from a supplier that does not hold a current wholesaler's license issued pursuant to this section; and

4. The applicant's agreement to sell tobacco products only to consumers.

Such license, which will be for the ensuing three (3) years, must at all times be displayed in a conspicuous place so that it can be seen. Upon expiration of such license, the retailer to whom such license was issued may obtain a renewal license which shall be valid for three (3) years or until expiration of the retailer's sales tax permit, whichever is earlier, after which a renewal license shall be valid for three (3) years. The manner and prorated fee for renewals shall be prescribed by the Tax Commission. Every person operating under such license as a retailer and who owns or operates more than one place of business must secure a license for each place

of business. "Place of business" shall be construed to include places where orders are received or where tobacco products are sold.

C. Nothing in this section shall be construed to prohibit any person holding a retail license from also holding a wholesaler license.

D. Every distributing agent shall, as a condition of carrying on such business, pursuant to written application on a form prescribed by and in such detailed form as the Tax Commission may require, annually secure from the Tax Commission a license, and shall pay therefor an annual fee of One Hundred Dollars (\$100.00). An application shall be filed and a license obtained for each place of business owned or operated by a distributing agent. The license, which will be for the ensuing year, shall be consecutively numbered, nonassignable and nontransferable, and shall authorize the storing and distribution of unstamped tobacco products within this state when such distribution is made upon interstate orders only.

E. 1. All wholesale, retail, and distributing agents' licenses shall be nonassignable and nontransferable from one person to another person. Such licenses may be transferred from one location to another location after an application has been filed with the Tax Commission requesting such transfer and after the approval of the Tax Commission.

2. Wholesale, retail, and distributing agent's licenses shall be applied for on a form prescribed by the Tax Commission. Any person operating as a wholesaler, retailer, or distributing agent must at all times have an effective unexpired license which has been issued by the Tax Commission. If any such person or licensee continues to operate as such on a license issued by the Tax Commission which has expired, or operates without ever having obtained from the Tax Commission such license, such person or licensee shall, after becoming delinquent for a period in excess of fifteen (15) days, pay to the Tax Commission, in addition to the annual license fee, a penalty of twenty-five cents (\$0.25) per day on each delinquent license for each day so operated in excess of fifteen (15) days. The penalty provided for herein shall not exceed the annual license fee for such license.

F. No license may be granted, maintained or renewed if any of the following conditions apply to the applicant. For purposes of this section, "applicant" includes any combination of persons owning directly or indirectly, in the aggregate, more than ten percent (10%) of the ownership interests in the applicant:

1. The applicant owes Five Hundred Dollars (\$500.00) or more in delinquent tobacco products taxes;

2. The applicant had a dealer, wholesaler, or retailer license revoked by the Tax Commission within the past two (2) years; or

3. The applicant has been convicted of a crime relating to stolen or counterfeit tobacco products, or receiving stolen or counterfeit tobacco products.

G. No person or entity licensed pursuant to the provisions of this section shall purchase tobacco products from or sell tobacco products to a person or entity required to obtain a license unless such person or entity has obtained such license.

H. In addition to any civil or criminal penalty provided by law, upon a finding that a licensee has violated any provision of Section 301 et seq. of this title, the Tax Commission may revoke or suspend the license or licenses of the licensee pursuant to the procedures applicable to revocation of a license set forth in Section 418 of this title.

Added by Laws 1965, c. 238, § 2, eff. July 1, 1965. Amended by Laws 2009, c. 434, § 17, eff. Jan. 1, 2010; Laws 2010, c. 412, § 22, eff. July 1, 2010.

§68-417. Unstamped or unlawfully stamped tobacco products - Seizure.

A. All unstamped tobacco products upon which a tax is levied by Section 401 et seq. of this title and all tobacco products stamped, sold, offered for sale, or imported into this state in violation of the provisions of Section 403.2 of this title, found in the possession, custody or control of any person for the purpose of being consumed, sold or transported from one place to another in this state, for the purpose of evading or violating the provisions of Section 401 et seq. of this title, or with intent to avoid payment of the tax imposed thereunder, may be seized by any authorized agent of the Oklahoma Tax Commission or any sheriff, deputy sheriff or police within the state. Tobacco products from the time of seizure shall be forfeited to the State of Oklahoma. A proper proceeding shall be filed to maintain such seizure and prosecute the forfeiture as herein provided; the provisions of this section shall not apply, however, where the tax on such unstamped tobacco products does not exceed One Dollar (\$1.00).

B. All such tobacco products so seized shall first be listed and appraised by the officer making such seizure and turned over to the Tax Commission and a receipt taken therefor.

C. The person making such seizure shall immediately make and file a written report thereof to the Tax Commission, showing the name of the person making such seizure, the place where seized, the person from whom seized, the property seized and an inventory and appraisal thereof, which inventory shall be based on the usual and ordinary retail price or value of the articles seized, and the Attorney General, in the case of tobacco products stamped, sold, offered for sale, or imported into this state in violation of the provisions of Section 403.2 of this title. The Tax Commission shall then proceed to hear and determine the matter of whether or not the tobacco products should, in fact be forfeited to the State of Oklahoma. The owner of the tobacco products shall be given at least ten (10) days' notice of the hearing. In the event the Commission finds that the tobacco products should be forfeited to the State of Oklahoma, it shall make an order forfeiting the tobacco products to the State of Oklahoma and directing the destruction of such tobacco products.

D. The seizure of such tobacco products shall not relieve the person from whom such tobacco products were seized from prosecution or the payment of penalties.

E. The forfeiture provisions of Section 401 et seq. of this title shall only apply to persons having possession of or transporting tobacco products with intent to barter, sell or give away the same.

Added by Laws 1965, c. 238, § 2. Amended by Laws 1999, c. 162, § 5, eff. June 17, 1999; Laws 2008, c. 378, § 10, emerg. eff. June 4, 2008.

§68-418. Transportation or possession of unstamped tobacco products - Penalties - Unlawful affixing of stamp - Administrative fines - Revocation of license.

A. It shall be unlawful for any person to transport or possess unstamped tobacco products where the tax on such unstamped tobacco products exceeds the sum of One Dollar (\$1.00).

B. Except as otherwise provided in subsections C and D of this section, any person found guilty of violating the provisions of Section 401 et seq. of this title shall be punished by an administrative fine of not more than Five Hundred Dollars (\$500.00). Provided, any person in possession of more than one thousand small or large cigars or two hundred sixteen (216) ounces of chewing or smoking tobacco products in packages or containers for which the tax required by law has not been paid shall be punished by administrative fines in the manner and amounts provided in subsection D of this section.

C. Any retailer violating the provisions of Section 403.2 of this title shall:

1. For a first offense, be punished by an administrative fine of not more than One Thousand Dollars (\$1,000.00);
2. For a second offense, punished by an administrative fine of not more than Five Thousand Dollars (\$5,000.00); and
3. For a third or subsequent offense, be punished by an administrative fine of not more than Ten Thousand Dollars (\$10,000.00).

D. Any wholesaler, distributing agent or dealer violating the provisions of Section 403.2 of this title shall:

1. For a first offense, be punished by an administrative fine of not more than Five Thousand Dollars (\$5,000.00); and
2. For a second or subsequent offense, be punished by an administrative fine of not more than Twenty Thousand Dollars (\$20,000.00).

Administrative fines collected pursuant to the provisions of this subsection shall be deposited to the revolving fund created in Section 305.2 of this title.

E. The Oklahoma Tax Commission shall immediately revoke the license of a person punished for a violation pursuant to the provisions of paragraph 3 of subsection C of this section or a person punished for a violation pursuant to the provisions of subsection D of this section. A person whose license is so revoked shall not be eligible to receive another license pursuant to the provisions of Section 301 et seq. of this title for a period of ten (10) years.

Added by Laws 1965, c. 238, § 2, eff. July 1, 1965. Amended by Laws 1999, c. 162, § 6, eff. June 17, 1999; Laws 2009, c. 434, § 18, eff. Jan. 1, 2010; Laws 2013, c. 334, § 2, eff. July 1, 2013.

§68-419. Exempt sales.

The following sales are hereby exempted from the tobacco products tax levied pursuant to the provisions of Section 401 et seq. of this title:

1. All tobacco products sold to veterans hospitals and state-operated domiciliary homes for veterans located in the State of Oklahoma, for sale or distribution to disabled ex-servicemen or disabled ex-servicewomen interned in or inmates of such hospitals, or residents of such homes;

2. All sales to a federally recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of subsection C of Section 1 of this act or to a licensee of such a tribe or nation, upon which the payment in lieu of taxes required by the compact has been paid; and

3. All sales to a federally recognized Indian tribe or nation or to a licensee of such a tribe or nation upon which the tax levied pursuant to the provisions of Section 10 of this act has been paid.

Laws 1965, c. 238, § 2, eff. July 1, 1965; Laws 1992, c. 339, § 20, eff. Jan. 1, 1993.

§68-420. Rules and regulations.

The Oklahoma Tax Commission shall prescribe such rules and make such regulations as to the sale of such tobacco products and the exemption from the tobacco products tax thereon, as shall be deemed necessary to comply with the provisions of the preceding section.

Laws 1965, c. 238, § 2.

§68-420.1. Maintenance of copies of invoices or equivalent documentation.

A. Each distributor of tobacco products, as defined in Section 401 of Title 68 of the Oklahoma Statutes, shall maintain copies of invoices or equivalent documentation for each of its facilities for every transaction in which the distributor is the seller, purchaser, consignor, consignee, or recipient of tobacco products. The invoices or documentation shall contain the distributor's tobacco license number and the quantity by brand style of the tobacco products involved in the transaction.

B. Each retailer of tobacco products, as defined in Section 401 of Title 68 of the Oklahoma Statutes, shall maintain copies of invoices or equivalent documentation for every transaction in which the retailer receives or purchases tobacco products at each of its facilities. The invoices or documentation shall show the name and address of the distributor from whom, or the address of another facility of the same retailer from which, the tobacco products were received, the quantity of each brand style received in such transaction and the retail cigarette license number or sales tax license number.

Added by Laws 2005, c. 479, § 8, eff. July 1, 2005.

§68-421. Restriction on exempt sales - Possession by others.

The sale of such tobacco products under the two preceding sections shall be restricted to sales or distribution to inmates of such veterans hospitals, or residents of such state operated domiciliary homes for veterans, as shown by the records thereof, for their own personal use and consumption. Possession of tobacco products taxed under this article, which have been purchased or received from any such veterans hospital or any such home by any person other than an inmate or resident thereof, shall be deemed a misdemeanor and punishable by a fine of Two Hundred Dollars (\$200.00) for each offense.

Laws 1965, c. 238, § 2.

§68-422. Sellers.

All manufacturers, wholesalers, jobbers, retailers, or other person, selling or distributing such tobacco products under the three preceding sections shall comply with the provisions of such sections, and the rules and regulations of the Oklahoma Tax Commission as to such sale or distribution, and failure to so comply shall constitute grounds for revocation of any license issued to said manufacturer, wholesaler, jobber, retailer or other person, by the Tax Commission.

Laws 1965, c. 238, § 2.

§68-423. Intention of Legislature.

It is hereby declared to be the intention of the Legislature that this act be construed as being an amendment and revision of the present tobacco tax law and that the repeal and reenactment of said law herein for such purpose shall not affect any license issued or any tax liability accrued under such prior law.

Laws 1965, c. 238, § 2.

§68-424. Application of §§ 425 to 428 of this title.

The provisions of Sections 9 through 12 of this act shall not apply to a federally recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of subsection C of Section 1 of this act or to a licensee of such a tribe or nation during the period that such compact is effective.

Added by Laws 1992, c. 339, § 8, eff. Jan. 1, 1993.

§68-425. Definitions.

As used in Sections 425 through 429 of this title:

1. "Trially owned or licensed store" means a store or place of business which is owned and operated by a federally recognized Indian tribe or nation, other than a federally recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of subsection C of Section 346 of this title during the period that such compact is effective, on Indian country within the territorial jurisdiction of that tribe or nation or which is duly licensed by such tribe or nation pursuant to tribal laws or ordinances to conduct business located on Indian country within the territorial jurisdiction of that tribe or nation;

2. "Federally recognized Indian tribe or nation" means an Indian tribal entity which is recognized by the United States Bureau of Indian Affairs as having a special relationship with the United States;

3. "Indian country" means:

- a. land held in trust by the United States of America for the benefit of a federally recognized Indian tribe or nation,
- b. all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation,
- c. all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and
- d. all Indian allotments, the Indian titles to which have not been extinguished, including individual allotments held in trust by the United States or allotments owned in fee by individual Indians subject to federal law restrictions regarding disposition of said allotments and including rights-of-way running through the same;

4. "Member of the tribe" or "tribal member" means a person who is duly enrolled within the membership of the federally recognized Indian tribe or nation which owns or licenses the store;

5. "Nonmember of the tribe or nation" or "nontribal member" means, with respect to a particular Indian tribe or nation, any person who is not a duly enrolled member of that tribe or nation, and shall include any person who is a member of another Indian tribe or nation but not a member of that tribe or nation;

6. "Untaxed tobacco products" means packages of tobacco products upon which taxes required by state law have not been paid and includes tobacco products upon which the incorrect rate of tax applicable to the retail establishment at which the tobacco product is sold has been paid, regardless of the identity of the establishment which the tobacco product has been sold, shipped, consigned or delivered;

7. "Contraband tobacco products" means untaxed tobacco products for which taxes are required to be paid pursuant to the provisions of Sections 425 through 428 of this title or Section 401 et seq. of this title and which are in the possession, custody or control of any person, for the purpose of being consumed, sold, offered for sale or consumption or transported to any person in this state other than a wholesaler licensed under Section 415 of this title; provided, contraband tobacco products shall not include untaxed tobacco products sold to veterans' hospitals, to state-

operated domiciliary homes for veterans or to the United States for sale or distribution by said entities in accordance with Sections 419 through 421 of this title;

8. "Taxed tobacco products" means packages of tobacco products upon which taxes required by law have been paid;

9. "Commission" means the Oklahoma Tax Commission; and

10. "Person" shall include any individual, company, partnership, joint venture, joint agreement, association (mutual or otherwise), corporation, trust, estate, business trust receiver or trustee appointed by any state or federal court, syndicates or any combination acting as a unit, in the plural or singular number.

Added by Laws 1992, c. 339, § 9, eff. Jan. 1, 1993. Amended by Laws 2009, c. 434, § 19, eff. Jan. 1, 2010.

§68-426. Shipping, transporting, receiving, possessing, selling, distributing or purchasing contraband tobacco products.

A. It shall be unlawful for any person knowingly to ship, transport, receive, possess, sell, distribute or purchase contraband tobacco products. Any person who engages in shipping, transporting, receiving, possessing, selling, distributing or purchasing contraband tobacco products shall, upon conviction, be guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars (\$1,000.00). Any person convicted of a second or subsequent violation hereof shall be guilty of a felony and shall be punishable by a fine of not more than Five Thousand Dollars (\$5,000.00), by a term of imprisonment in the State Penitentiary for not more than two (2) years, or by both such fine and imprisonment.

B. Any person who knowingly engages in shipping, transporting, receiving, possessing, selling, distributing or purchasing contraband tobacco products shall be subject to the forfeiture of property as is provided by Section 417 of this title and assessment of penalty as provided thereby and assessment for any delinquent taxes found to be owing.

Added by Laws 1992, c. 339, § 10, eff. Jan. 1, 1993. Amended by Laws 1997, c. 133, § 558, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 407, eff. July 1, 1999; Laws 2009, c. 434, § 20, eff. Jan. 1, 2010.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 558 from July 1, 1998, to July 1, 1999.

§68-427. Persons who may sell tobacco products to tribally owned or licensed stores - Collecting, reporting and remitting tax.

Every wholesaler doing business within this state and required to secure a license as provided in Section 415 of this title may sell tobacco products to tribally owned or licensed stores in this state. It shall be the duty of the wholesaler to collect, report and remit the tax imposed by Section 349.1 of this title on the tobacco products inventory which are tax-free pursuant to Section 349.1 of this title sold to a tribally owned or licensed store.

Added by Laws 1992, c. 339, § 11, eff. Jan. 1, 1993. Amended by Laws 2009, c. 434, § 21, eff. Jan. 1, 2010.

§68-427.1. Repealed by Laws 2009, c. 434, § 23, eff. Jan. 1, 2010.

§68-427.2. Repealed by Laws 2009, c. 434, § 23, eff. Jan. 1, 2010.

§68-428. Seizure and forfeiture of untaxed tobacco products - Authority of peace officers - Cooperation with Tax Commission.

A. All untaxed tobacco products sold or shipped to tribally owned or licensed stores in this state by wholesalers not licensed by this state pursuant to the provisions of Section 415 of this title for the purpose of selling or consuming untaxed tobacco products in this state in violation of Section 349 or 401 et seq. of this title shall be subject to seizure of the shipments and forfeiture of the inventory pursuant to the provisions of Section 417 of this title.

B. Any peace officer of this state, including, but not limited to, officers of the Department of Public Safety or the Oklahoma State Bureau of Investigation, any sheriff, any salaried deputy sheriff or any municipal police officer is authorized to stop any vehicle upon any road or highway of this state in order to inspect the bill of lading or to take such action as may be necessary to determine if untaxed tobacco products are being sold or shipped in violation of the provisions of this section. Such officers shall also have the duty to cooperate with the Oklahoma Tax Commission to enforce the provisions of this act.

Added by Laws 1992, c. 339, § 12, eff. Jan. 1, 1993. Amended by Laws 2009, c. 434, § 22, eff. Jan. 1, 2010.

§68-429. Disposition of revenues.

A. Any revenue from a payment in lieu of excise taxes on tobacco products pursuant to a compact entered into by the State of Oklahoma and a federally recognized Indian tribe or nation pursuant to the provisions of subsection C of Section 1 of this act shall be deposited to the General Revenue Fund.

B. Any revenue from payment of the tax imposed by Section 10 of this act shall be deposited to the General Revenue Fund.

Added by Laws 1992, c. 339, § 13, eff. Jan. 1, 1993.

§68-450.1. Definitions.

As used in Sections 1 through 9 of this act:

1. "Controlled dangerous substance" means a drug, substance, or immediate precursor specified in Schedules I through V of the Uniform Controlled Dangerous Substances Act which is held, possessed, transported, transferred, sold or offered to be sold in violation of the laws of this state;

2. "Dealer" means a person who in violation of the Uniform Controlled Dangerous Substances Act manufactures, distributes, produces, ships, transports, or imports into Oklahoma or in any manner acquires or possesses more than forty-two and one-half (42 1/2) grams of marihuana, or seven or more grams of any controlled dangerous substance other than marihuana, or ten or more dosage units of any controlled dangerous substance other than marihuana which is not sold by weight. A quantity of a controlled dangerous substance is measured by the weight of the substance whether pure, impure or dilute, or by dosage units when the controlled dangerous substance is not sold by weight, in the possession of the dealer. A quantity of a controlled dangerous substance is dilute if it consists of a detectable quantity of pure controlled dangerous substance and any excipients or fillers; and

3. "Commission" means the Oklahoma Tax Commission.

Added by Laws 1990, c. 25, § 1, operative July 1, 1990.

§68-450.2. Levy of tax - Calculation.

There shall be levied, assessed, collected, and paid in respect to controlled dangerous substances, a tax in the following amounts:

1. On each gram of marihuana, or each portion of a gram, Three Dollars and fifty cents (\$3.50); and
2. On each gram or portion of a gram of a controlled dangerous substance, other than marihuana, Two Hundred Dollars (\$200.00); or
3. On each fifty (50) dosage units or portion thereof, of a controlled dangerous substance, that is not sold by weight, other than marihuana, One Thousand Dollars (\$1,000.00).

For the purpose of calculating the tax pursuant to this section, a quantity of marihuana or other controlled dangerous substance is measured by the weight of the substance whether pure, impure or dilute, or by dosage units when the substance is not sold by weight, in the possession of the dealer. A quantity of a controlled dangerous substance is dilute if it consists of a detectable quantity of pure controlled dangerous substance and any excipients or fillers. Added by Laws 1990, c. 25, § 2, operative July 1, 1990.

§68-450.3. Manner of payment of tax - Intent and purpose of act.

A. The tax levied by Section 2 of this act shall be paid by affixing stamps in the manner and at the time herein set forth.

When a dealer purchases, acquires, transports, or imports into this state a controlled dangerous substance on which a tax is levied by Section 2 of this act, the dealer shall have the stamp affixed on the controlled dangerous substance immediately after receiving the controlled dangerous substance. Each stamp may be used only once.

Taxes imposed upon controlled dangerous substances by Section 2 of this act are due and payable immediately upon acquisition or possession of a controlled dangerous substance in this state by a dealer.

B. It is the intent and purpose of this act that no dealer shall possess any controlled dangerous substance upon which a tax is imposed by Section 2 of this act unless the tax has been paid on the controlled dangerous substance as evidenced by a stamp issued by the Commission. Added by Laws 1990, c. 25, § 3, operative July 1, 1990.

§68-450.4. Rules and regulations - Purchase of stamps - Reporting forms - Use of stamps in administrative, civil and criminal proceedings.

A. The Commission shall promulgate rules and regulations for a uniform system of providing, affixing, and displaying official stamps for any controlled dangerous substance on which the tax levied in Section 2 of this act is imposed.

B. The official stamps to be affixed to all controlled dangerous substances shall be purchased from the Commission. The dealer purchasing said stamps shall pay in cash one hundred percent (100%) of face value for each stamp at the time of purchase. The Commission shall make the stamps in denominations of Ten Dollars (\$10.00).

C. The Commission shall provide reporting forms for the reporting and payment of the taxes levied by Section 2 of this act. Dealers are not required to give their name, address, social security number, or other identifying information on the forms. Neither the Commission nor any public employee may reveal facts contained in a report required by this section, nor can any information contained in such a report be used against the dealer in any criminal proceeding, unless independently obtained, except in connection with a proceeding involving taxes due pursuant to this act from the dealer making the report.

D. A stamp denoting payment of the tax levied by Section 2 of this act shall not be used against the taxpayer in a criminal proceeding, except that the stamp may be used against the taxpayer in connection with the administration or civil or criminal enforcement of the tax levied by Section 2 of this act.

Added by Laws 1990, c. 25, § 4, operative July 1, 1990.

§68-450.5. Immediate assessment and collection of tax - Delinquency - Penalties.

A. The taxable period of the tax levied by Section 2 of this act for any dealer not possessing valid stamps showing that the tax has been paid shall be declared terminated by the Commission as provided in paragraph 4 of subsection a of Section 224 of this title. The Commission shall immediately assess the tax and applicable penalties from any information in its possession, notify the taxpayer, and demand immediate payment thereof. In the event of any failure or refusal to pay the tax and penalties immediately by the taxpayer, the tax shall become delinquent and the Commission shall proceed to collect such tax and penalties in the manner prescribed by law.

B. No person may bring an action to enjoin the assessment or collection of any taxes, interest or penalties imposed by the provisions of this act.

C. The tax and penalties assessed by the Commission pursuant to the provisions of this act are presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show their incorrectness or invalidity.

Added by Laws 1990, c. 25, § 5, operative July 1, 1990.

§68-450.6. Exemptions from tax.

Nothing in this act requires any person, including but not limited to pharmacists or doctors licensed by this state, lawfully in possession of a controlled dangerous substance, to pay the tax levied by Section 2 of this act.

Added by Laws 1990, c. 25, § 6, operative July 1, 1990.

§68-450.7. Disposition of revenues.

The revenue, including interest and penalties, collected pursuant to this act shall be paid monthly by the Commission to the State Treasurer to be placed in the Drug Abuse Education Revolving Fund created in Section 2-417 of Title 63 of the Oklahoma Statutes. The monies shall be budgeted and expended by the State Board of Education for drug abuse education programs.

Added by Laws 1990, c. 25, § 7, operative July 1, 1990.

§68-450.8. Civil and criminal penalties - Immunities.

A. Any dealer violating the provisions of this act, except Section 450.9 of this title, shall pay a civil penalty of one hundred percent (100%) of the amount of the tax levied in Section 450.2 of this title in addition to the actual tax levied in said section.

B. Any dealer manufacturing, distributing, producing, shipping, transporting, importing or possessing any controlled dangerous substance without affixing the appropriate stamp, upon conviction, is guilty of a felony punishable by imprisonment in the State Penitentiary for not more than five (5) years or by the imposition of a fine of not more than Ten Thousand Dollars (\$10,000.00), or by both such imprisonment and fine.

C. Nothing in this act may in any manner provide immunity for a dealer from criminal prosecution pursuant to Oklahoma law.

Added by Laws 1990, c. 25, § 8, operative July 1, 1990. Amended by Laws 1997, c. 133, § 559, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 408, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 559 from July 1, 1998, to July 1, 1999.

§68-450.9. Reuse of used stamp prohibited - Penalty.

A. No person shall willfully remove or otherwise prepare any adhesive stamps, with intent to use, or cause the same to be used, after it has already been used or knowingly or willfully buy, sell, offer for sale, or give away, any such washed or restored stamp to any person, or knowingly use the same, or have in his possession any washed, restored, or altered stamp which has been removed from the controlled dangerous substance to which it had been previously affixed.

B. No person shall for the purpose of indicating the payment of any tax levied by Section 450.2 of this title, reuse any stamp which has heretofore been used for the purpose of paying any tax levied by Section 450.2 of this title, or buy, sell, offer for sale, or have in his possession, any counterfeit stamps.

C. Any person convicted of violating any provision of this section shall be guilty of a felony and shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment for not more than five (5) years, or by both such fine and imprisonment.

Added by Laws 1990, c. 25, § 9, operative July 1, 1990. Amended by Laws 1997, c. 133, § 560, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 409, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 560 from July 1, 1998, to July 1, 1999.

§68-451. Capital Improvement Fund.

There is hereby created in the State Treasury a special fund to be designated the "Oklahoma Capital Improvement Fund". Said fund shall consist of amounts deposited therein pursuant to subsection (d) of Section 302-2 of this title, and monies, if any, which have accrued to the State General Revenue Fund at the close of the fiscal year ending June 30, 1979, which were in excess of Five Million Dollars (\$5,000,000.00) that year, in excess of the amounts required to satisfy all appropriations made from the State General Revenue Fund for the then current fiscal year together with all other statutory obligations. Provided, the amount apportioned to the Oklahoma Capital Improvement Fund by the Director of the Office of Management and Enterprise Services from the fiscal year ending June 30, 1979, shall not exceed the sum of Thirty Million Dollars (\$30,000,000.00).

Added by Laws 1979, c. 195, § 7, emerg. eff. May 24, 1979. Amended by Laws 2012, c. 304, § 539.

§68-452. Expenditure of funds.

Revenues dedicated, apportioned, deposited and accruing to the credit of the Oklahoma Capital Improvement Fund created by this act shall be expended only pursuant to legislative appropriation for capital improvement projects.

Laws 1979, c. 195, § 8, emerg. eff. May 24, 1979.

§68-500.1. Short title.

Sections 1 through 63 of this act shall be known and may be cited as the "Motor Fuel Tax Code".

Added by Laws 1996, c. 345, § 1, eff. Oct. 1, 1996.

§68-500.2. Legislative intent and purpose.

A. It is the intent of this act to amend, revise, incorporate and recodify established revenue raising procedures applied to motor fuels for the construction and maintenance of safe public highways and bridges in this state. It is the intent of the Legislature that the taxes imposed on motor fuel have always been and continue to be declared and conclusively presumed to be a direct tax on the ultimate or retail consumer. When the taxes are paid by any person other than the ultimate or retail consumer, the payment shall be considered as precollected and as an advance payment for the purpose of convenience and facility to the consumer and shall thereafter be added to the price of the motor fuel and recovered from the ultimate or retail consumer, regardless of where or how the taxable fuel is ultimately consumed.

B. In order to promote and protect the public safety, health and welfare of this state, it is also the intent of this act to establish a modern, efficient and effective motor fuel tax collection and enforcement system adequate to substantially deter motor fuel tax evasion emanating from sources within and outside this state. In order to achieve the purpose and intent of this act, the Legislature finds it necessary to increase conformity with federal law concerning the imposition of tax on motor fuels and increased reliance on highway enforcement systems. This act is intended to conform the method in this state of imposing an excise tax on motor fuel with the method imposed in the Internal Revenue Code and the regulations issued pursuant thereto.

C. It is also the intent of the Legislature that the recodification of the tax levied by this act shall not be considered and construed to be a new tax or change in the motor fuel tax, but a clarification of the motor fuel tax as it existed prior to the effective date of this act. The purpose of this recodification is a result of the interpretation of the motor fuel tax code of this state by the federal courts, specifically the decision by the Supreme Court of the United States in “Oklahoma Tax Commission v. Chickasaw Nation”, 115 S. Ct. 2214 (1995).

Added by Laws 1996, c. 345, § 2, eff. Oct. 1, 1996.

§68-500.3. Definitions.

As used in the Motor Fuel Tax Code:

1. “Act” or “this act” means the Motor Fuel Tax Code;
2. “Agricultural purposes” means clearing, terracing or otherwise preparing the ground on a farm; preparing soil for planting and fertilizing, cultivating, raising and harvesting crops; raising and feeding livestock and poultry; building fences; pumping water for any and all uses on the farm, including irrigation; building roads upon any farm by the owner or person farming same; operating milking machines; sawing wood for use on a farm; producing electricity for use on a farm; movement of tractors, farm implements and equipment from one field to another and use of farm tractors to move farm products from farm to market;
3. “Biodiesel” means a fuel comprised of mono-alkyl esters of long chain fatty acids generally derived from vegetable oils or animal fats, commonly known as “B100”, that is commonly and commercially known or sold as a fuel that is suitable for use in a highway vehicle. The fuel meets this requirement if, without further processing or blending, the fuel is a fluid and has practical and commercial fitness for use in the propulsion of a highway vehicle;
4. “Biodiesel blend” means a blend of biodiesel fuel with petroleum-based diesel fuel, commonly designated as “Bxx”, where “xx” represents the volume percentage of biodiesel fuel in the blend, and that is commonly and commercially known or sold as a fuel that is suitable for

use in a highway vehicle. The fuel meets this requirement if, without further processing or blending, the fuel is a fluid and has practical and commercial fitness for use in the propulsion of a highway vehicle;

5. "Blend stock" means any petroleum product component of gasoline, such as naphtha, reformate, or toluene, that can be blended for use in a motor fuel without further processing. However, the term does not include any substance that:

- a. will be ultimately used for consumer nonmotor-fuel use, and
- b. is sold or removed in drum quantities (55 gallons) or less at the time of the removal or sale;

6. "Blended fuel" means a mixture composed of gasoline or diesel fuel and another liquid, other than a de minimis amount of a product such as carburetor detergent or oxidation inhibitor, that can be used as a fuel in a highway vehicle. This term includes gasohol, ethanol and fuel grade ethanol;

7. "Blender" means any person that produces blended motor fuel outside the bulk transfer/terminal system;

8. "Blending" means the mixing of one or more petroleum products, with or without another product, regardless of the original character of the product blended, if the product obtained by the blending is capable of use or otherwise sold for use in the generation of power for the propulsion of a motor vehicle, an airplane, or a motorboat. The term does not include that blending that occurs in the process of refining by the original refiner of crude petroleum or the blending or products known as lubricating oil and greases;

9. "Bulk end user" means a person who receives into the person's own storage facilities in transport truck lots of motor fuel for the person's own consumption;

10. "Bulk plant" means a motor fuel storage and distribution facility that is not a terminal and from which motor fuel may be removed at a rack;

11. "Bulk transfer" means any transfer of motor fuel from one location to another by pipeline tender or marine delivery within the bulk transfer/terminal system;

12. "Bulk transfer/terminal system" means the motor fuel distribution system consisting of refineries, pipelines, vessels, and terminals. Gasoline in a refinery, pipeline, vessel, or terminal is in the bulk transfer/terminal system. Motor fuel in the fuel supply tank of any engine, or in any tank car, rail car, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer/terminal system;

13. "Tax Commission" or "Commission" means the Oklahoma Tax Commission;

14. "Compressed natural gas" means a volume of natural gas consisting primarily of methane which has been reduced to approximately one percent (1%) of its original volume for purposes of storage and for use as a fuel in motor vehicles;

15. "Consumer" means the user of the motor fuel on the public highways of this state;

16. "Dead storage" means the amount of motor fuel that will not be pumped out of a storage tank because the motor fuel is below the mouth of the draw pipe. For purposes of Section 500.1 et seq. of this title, a dealer may assume that the amount of motor fuel in dead storage is two hundred (200) gallons for a tank with a capacity of less than ten thousand (10,000) gallons and four hundred (400) gallons for a tank with a capacity of ten thousand (10,000) gallons or more;

17. "Delivery" means the placing of motor fuel or any liquid into the fuel tank of a motor vehicle;

18. "Destination state" means the state, territory, or foreign country to which motor fuel is directed for delivery into a storage facility, a receptacle, a container, or a type of transportation equipment for the purpose of resale or use;

19. "Diesel fuel" means any liquid, including but not limited to, biodiesel, biodiesel blend or other diesel blended fuel, that is commonly or commercially known or sold as a fuel that is suitable for use in a diesel-powered highway vehicle. A liquid meets this requirement if, without further processing or blending, the liquid has practical and commercial fitness for use in the propulsion engine of a diesel-powered highway vehicle. Except as provided in subsection B of Section 500.4 of this title, "diesel fuel" does not include jet fuel sold to a buyer who is registered with and certified by the Internal Revenue Service to purchase jet fuel subject to the Internal Revenue Service;

20. "Diesel-powered highway vehicle" means a motor vehicle operated on a highway that is propelled by a diesel-powered engine;

21. "Distributor" means a person who acquires motor fuel from a supplier or from another distributor for subsequent sale or use;

22. "Dyed diesel fuel" means diesel fuel that is required to be dyed pursuant to United States Environmental Protection Agency rules or is dyed pursuant to Internal Revenue Service rules or pursuant to any other requirements subsequently set by the United States Environmental Protection Agency or Internal Revenue Service including any invisible marker requirements;

23. "Eligible purchaser" means a person who has been authorized by the Commission pursuant to Section 500.23 of this title to make the election pursuant to Section 500.22 of this title;

24. "Enterer" includes any person who is the importer of record, pursuant to federal customs law, with respect to motor fuel. If the importer of record is acting as an agent, the person for whom the agent is acting is the enterer. If there is no importer of record of motor fuel entered into this state, the owner of the motor fuel at the time it is brought into this state is the enterer;

25. "Entry" means the importing of motor fuel into this state. Motor fuel brought into this state in the fuel tank of a motor vehicle shall not be deemed to be an "entry" if not removed from the fuel tank except as used for the propulsion of that motor vehicle, except to the extent that motor fuel was acquired tax free for export or a refund of tax was claimed as a result of exportation from the state from which that motor fuel was transported into this state;

26. "Export" means to obtain motor fuel in this state for sale or other distribution in another state. In applying this definition, motor fuel delivered out of state by or for the seller constitutes an export by the seller and motor fuel delivered out of state by or for the purchaser constitutes an export by the purchaser;

27. "Exporter" means any person, other than a supplier, who purchases motor fuel in this state for the purpose of transporting or delivering the fuel to another state or country;

28. "Farm tractor" means all tractor-type, motorized farm implements and equipment but shall not include motor vehicles of the truck-type, pickup truck-type, automobiles, and other motor vehicles required to be registered and licensed each year pursuant to the provisions of the motor vehicle license and registration laws of this state;

29. "Fuel transportation vehicle" means any vehicle designed for highway use which is also designed or used to transport motor fuels and includes transport trucks and tank wagons;

30. "Gasoline" means all products, including but not limited to, gasoline blend stocks, commonly or commercially known or sold as gasoline that are suitable for use as a motor fuel.

Gasoline does not include products that have an American Society for Testing Materials (“A.S.T.M.”) octane number of less than seventy-five (75) as determined by the “motor method”. Except as provided in subsection B of Section 500.4 of this title, “gasoline” does not include aviation gasoline provided that the buyer is registered to purchase aviation gasoline free of tax and the seller obtains certification of such fact satisfactory to the Commission prior to making the sale;

31. “Gasoline blend stocks” includes any petroleum product component of gasoline, such as naphtha, reformate, or toluene, that can be blended for use in a motor fuel. The term shall not include any substance that will be ultimately used for consumer nonmotor-fuel use and is sold or removed in drum quantities of 55 gallons or less at the time of the removal or sale;

32. “Gross gallons” means the total measured motor fuel, exclusive of any temperature or pressure adjustments, in U.S. gallons;

33. “Heating oil” means a motor fuel that is burned in a boiler, furnace, or stove for heating or industrial processing purposes;

34. “Highway vehicle” means a self-propelled vehicle that is designed for use on a highway;

35. “Import” means to bring motor fuel into this state by any means of conveyance other than in the fuel supply tank of a motor vehicle. In applying this definition, motor fuel delivered into this state from out of state by or for the seller constitutes an import by the seller, and motor fuel delivered into this state from out of state by or for the purchaser constitutes an import by the purchaser;

36. “Import verification number” means the number assigned by the Commission with respect to a single transport truck delivery into this state from another state upon request for an assigned number by an importer or the transporter carrying motor fuel into this state for the account of an importer;

37. “In this state” means the area within the border of this state, including all land within the borders of this state owned by the United States of America;

38. “Indian country” means:

- a. land held in trust by the United States of America for the benefit of a federally recognized Indian tribe or nation,
- b. all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation,
- c. all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and
- d. all Indian allotments, the Indian titles to which have not been extinguished, including individual allotments held in trust by the United States or allotments owned in fee by individual Indians subject to federal law restrictions regarding disposition of said allotments and including rights-of-way running through the same.

The term shall also include the definition of Indian country as found in 18 U.S.C., Section 1151;

39. “Indian tribe”, “tribes”, or “federally recognized Indian tribe or nation” means an Indian tribal entity which is recognized by the United States Bureau of Indian Affairs as having a special relationship with the United States. The term shall also include the definition of a tribe as defined in 25 U.S.C., Section 479a;

40. "Invoiced gallons" means the gallons actually billed on an invoice in payment to a supplier;

41. "K-1 kerosene" means a petroleum product having an A.P.I. gravity of not less than forty degrees (40°), at a temperature of sixty degrees (60°) Fahrenheit and a minimum flash point of one hundred degrees (100°) Fahrenheit with a sulphur content not exceeding five one-hundredths percent (0.05%) by weight;

42. "Liquefied natural gas" means a volume of natural gas consisting primarily of methane which has been cooled to approximately negative two hundred sixty (-260) degrees Fahrenheit in order to convert it to a liquid state for purposes of storage and use as a fuel in motor vehicles;

43. "Liquid" means any substance that is liquid in excess of sixty degrees (60°) Fahrenheit and a pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute;

44. "Motor fuel" means gasoline, diesel fuel and blended fuel;

45. "Motor fuel transporter" means a person who transports motor fuel outside the bulk terminal/transfer system by transport truck or railroad tank car;

46. "Motor vehicle" means every automobile, truck, truck-tractor or any motor bus or self-propelled vehicle not operated or driven upon fixed rails or tracks. The term does not include:

- a. farm tractors or machinery including tractors and machinery designed for off-road use but capable of movement on roads at low speeds,
- b. a vehicle operated on rails, or
- c. machinery designed principally for off-road use;

47. "Net gallons" means the motor fuel, measured in U.S. gallons, when corrected to a temperature of sixty degrees (60°) Fahrenheit (13° Celsius) and a pressure of fourteen and seven-tenths (14.7) pounds per square inch (psi);

48. "Permissive supplier" means an out-of-state supplier that elects, but is not required, to have a supplier's license pursuant to Section 500.1 et seq. of this title;

49. "Person" means natural persons, individuals, partnerships, firms, associations, corporations, estates, trustees, business trusts, syndicates, this state, any county, city, municipality, school district or other political subdivision of the state, federally recognized Indian tribe, or any corporation or combination acting as a unit or any receiver appointed by any state or federal court;

50. "Position holder" means the person who holds the inventory position in motor fuel in a terminal, as reflected on the records of the terminal operator. A person holds the inventory position in motor fuel when that person has a contract with the terminal operator for the use of storage facilities and terminaling services for fuel at the terminal. The term includes a terminal operator who owns fuel in the terminal;

51. "Public highway" means every road, toll road, highway, street, way or place generally open to the use of the public as a matter of right for the purposes of vehicular travel, including streets and alleys of any town or city notwithstanding that the same may be temporarily closed for construction, reconstruction, maintenance or repair;

52. "Qualified terminal" means a terminal designated as a qualified terminal pursuant to the Internal Revenue Code, regulation and practices and which has been assigned a terminal control number ("tcn") by the Internal Revenue Service;

53. "Rack" means a mechanism for delivering motor fuel from a refinery, a terminal, or a bulk plant into a railroad tank car, a transport truck or other means of bulk transfer outside of the bulk transfer/terminal system;

54. "Refiner" means any person that owns, operates, or otherwise controls a refinery within the United States;

55. "Refinery" means a facility used to produce motor fuel from crude oil, unfinished oils, natural gas liquids, or other hydrocarbons and from which motor fuel may be removed by pipeline, by vessel, or at a rack;

56. "Removal" means any physical transfer other than by evaporation, loss, or destruction of motor fuel from a terminal, manufacturing plant, customs custody, pipeline, marine vessel such as a barge or tanker, refinery or any receptacle that stores motor fuel;

57. "Retailer" means a person that engages in the business of selling or distributing to the consumer within this state;

58. "Supplier" means a person that is:

- a. registered pursuant to Section 4101 of the Internal Revenue Code for transactions in motor fuels in the bulk transfer/terminal distribution system, and
- b. one of the following:
 - (1) the position holder in a terminal or refinery in this state,
 - (2) imports motor fuel into this state from a foreign country,
 - (3) acquires motor fuel from a terminal or refinery in this state from a position holder pursuant to a two-party exchange, or
 - (4) the position holder in a terminal or refinery outside this state with respect to motor fuel which that person imports into this state on the account of that person.

A terminal operator shall not be considered a supplier based solely on the fact that the terminal operator handles motor fuel consigned to it within a terminal. "Supplier" also means a person that produces alcohol or alcohol derivative substances in this state, produces alcohol or alcohol derivative substances for import to this state into a terminal, or acquires upon import by truck, railcar or barge into a terminal or refinery, alcohol or alcohol derivative substances. "Supplier" includes a permissive supplier unless specifically provided otherwise;

59. "Tank wagon" means a straight truck having multiple compartments designed or used to carry motor fuel;

60. "Terminal" means a storage and distribution facility for motor fuel, supplied by pipeline or marine vessel which is registered as a qualified terminal by the Internal Revenue Service and from which motor fuel may be removed at a rack;

61. "Terminal bulk transfers" include but are not limited to the following:

- a. a marine barge movement of fuel from a refinery or terminal to a terminal,
- b. pipeline movements of fuel from a refinery or terminal to a terminal,
- c. book transfers of product within a terminal between suppliers prior to completion of removal across the rack, and
- d. two-party exchanges between licensed suppliers;

62. "Terminal operator" means any person that owns, operates, or otherwise controls a terminal, and does not use a substantial portion of the motor fuel that is transferred through or stored in the terminal for its own use or consumption or in the manufacture of products other than motor fuel. A terminal operator may own the motor fuel that is transferred through or stored in the terminal;

63. "Throughputter" means any person that:

- a. receives transfer of motor fuel from refiners, importers, terminal operators, or other throughputters,
- b. stores the motor fuel in a terminal, and
- c. owns the motor fuel or holds the inventory position to the motor fuel, as reflected on the records of the terminal operator, at the time of removal or sale from a terminal;

64. "Transmix" means the buffer or interface between two different products in a pipeline shipment, or a mix of two different products within a refinery or terminal that results in an off-grade mixture;

65. "Transport truck" means a semitrailer combination rig designed or used for the purpose of transporting motor fuel over the highways;

66. "Transporter" means any operator of a pipeline, barge, railroad or transport truck engaged in the business of transporting motor fuels;

67. "Two-party exchange" means a transaction in which the motor fuel is transferred from one licensed supplier or licensed permissive supplier to another licensed supplier or licensed permissive supplier and:

- a. which transaction includes a transfer from the person that holds the original inventory position for motor fuel in the terminal as reflected on the records of the terminal operator, and
- b. the exchange transaction is simultaneous with removal from the terminal by the receiving exchange partner.

However, in any event, the terminal operator in the books and records of such terminal operator treats the receiving exchange party as the supplier which removes the product across a terminal rack for purposes of reporting such events to this state;

68. "Ultimate vendor" means a person that sells motor fuel to the consumer;

69. "Undyed diesel fuel" means diesel fuel that is not subject to the United States Environmental Protection Agency dyeing requirements, or has not been dyed in accordance with Internal Revenue Service fuel dyeing provisions;

70. "Vehicle fuel tank" means any receptacle on a motor vehicle from which fuel is supplied for the propulsion of the motor vehicle; and

71. "Wholesaler" means a person that acquires motor fuel from a supplier or from another wholesaler for subsequent sale and distribution at wholesale.

Added by Laws 1996, c. 345, § 3, eff. Oct. 1, 1996. Amended by Laws 2006, c. 327, § 2, eff. July 1, 2006; Laws 2011, c. 163, § 2, eff. Jan. 1, 2012; Laws 2013, c. 375, § 2, eff. Jan. 1, 2014.

§68-500.4. Levy of tax.

A. A tax is imposed on all gasoline, compressed natural gas, liquefied natural gas and all diesel fuel used or consumed in this state as follows:

- 1. Gasoline, sixteen cents (\$0.16) per gallon;
- 2. Diesel fuel, thirteen cents (\$0.13) per gallon;
- 3. Compressed natural gas, five cents (\$0.05) per gasoline gallons equivalent (gge) until

the credit authorized pursuant to the provisions of paragraph 1 of subsection A of Section 2357.22 of this title expires. Upon the expiration of the credit authorized pursuant to the provisions of paragraph 1 of subsection A of Section 2357.22 of this title, the rate of tax imposed upon compressed natural gas shall be equal to the tax rate imposed on diesel fuel using gasoline gallons equivalent (gge); and

4. Liquefied natural gas, five cents (\$0.05) per diesel gallon equivalent (dge) until the credit authorized pursuant to the provisions of paragraph 1 of subsection A of Section 2357.22 of this title expires. Upon the expiration of the credit authorized pursuant to the provisions of paragraph 1 of subsection A of Section 2357.22 of this title, the rate of tax imposed upon liquefied natural gas shall be equal to the tax rate imposed on diesel fuel using diesel gallon equivalent (dge), which shall be equal to six and six one-hundredths (6.06) pounds of liquefied natural gas.

B. A tax is imposed on all gasoline, diesel fuel and kerosene used or consumed in this state for use as fuel to generate power in aircraft engines or for training, testing or research on aircraft engines in the amount of eight one-hundredths of one cent (\$0.0008) per gallon. All gasoline, diesel fuel and kerosene sold for use under this subsection shall not be subject to the excise tax levied in subsection A of this section.

C. Notwithstanding any exemption provided in Section 500.1 et seq. of this title, all gasoline used or consumed in this state for use as fuel for farm tractors or stationary engines and used exclusively for agricultural purposes shall be subject to a tax in the amount of two and eight one-hundredths cents (\$0.0208) per gallon. All gasoline sold for use pursuant to this subsection shall not be subject to the excise tax levied in subsection A of this section. The term "farm tractor", as used herein, shall include all tractor-type, motorized farm implements and equipment but shall not include motor vehicles of the truck-type, pickup truck-type, automobiles and other motor vehicles required to be registered and licensed each year under the Oklahoma Vehicle License and Registration Act.

D. It is the intent of this section to amend, revise, incorporate and recodify the tax imposed on motor fuel and that the tax shall be conclusively presumed to be a direct tax and shall be a direct tax on the retail or ultimate consumer precollected for the purpose of convenience and facility to the consumer. The levy and assessment on other persons as specified in this act shall be as agents of the state for the precollection of the tax. The provisions of this section shall in no way affect the method of collecting the tax as provided in this act. The tax imposed by this section shall be collected and paid at those times, in the manner, and by those persons specified in this act.

Added by Laws 1996, c. 345, § 4, eff. Oct. 1, 1996. Amended by Laws 2000, c. 314, § 7, eff. July 1, 2000; Laws 2011, c. 163, § 3, eff. Jan. 1, 2012; Laws 2013, c. 375, § 3, eff. Jan. 1, 2014.

§68-500.4A. Levy of tax equal to reduction in federal excise tax.

A. In the event that, by federal law, the federal excise tax imposed on gasoline or diesel fuel or both is reduced from the rate imposed on January 1, 1996, there shall be levied a tax equal to the reduction in the federal excise tax on gasoline or diesel fuel or both. The tax on gasoline or diesel fuel or both shall be imposed beginning the first day following the reduction in the rate of the federal excise tax on gasoline or diesel fuel or both. The tax imposed by this subsection resulting from a reduction in federal excise tax on gasoline or diesel fuel or both shall not include any reduction in federal excise tax imposed on diesel fuel for use in trains pursuant to the Internal Revenue Code, 26 U.S.C., Section 4041, in that the federal excise tax levy on diesel fuel for use in trains is not appropriated or apportioned to the Federal Highway Trust Fund.

B. The tax levied pursuant to subsection A of this section shall be in addition to and applicable to all gasoline and diesel fuel subject to the tax imposed and levied pursuant to Section 500.4 of Title 68 of the Oklahoma Statutes. It is the intent of this section that the tax shall be conclusively presumed to be a direct tax and shall be a direct tax on the retail or ultimate

consumer precollected for the purpose of convenience and facility to the consumer. The levy and assessment on other persons as specified in the Motor Fuel Tax Code shall be as agents of the state for the precollection of the tax. The provisions of this section shall in no way affect the method of collecting the tax as provided in the Motor Fuel Tax Code. The tax imposed by this section shall be collected and paid at those times, in the manner, and by those persons specified in the Motor Fuel Tax Code.

Added by Laws 1997, c. 259, § 1, eff. Nov. 1, 1997.

§68-500.5. Presumptions.

A. Except as otherwise provided in paragraph 11 of Section 10 of this act, the Commission shall consider it a presumption that all motor fuel delivered in this state into a motor vehicle fuel supply tank is to be used or consumed on the highways in this state in producing or generating power for propelling motor vehicles.

B. The Commission shall consider it a rebuttable presumption, subject to proof of exemption under Section 10 of this act, that all motor fuel removed from a terminal in this state, or imported into this state other than by a bulk transfer within the bulk transfer/terminal system or delivered into a bulk end user's storage tank, is to be used or consumed on the highways in this state in producing or generating power for propelling motor vehicles.

Added by Laws 1996, c. 345, § 5, eff. Oct. 1, 1996.

§68-500.6. Apportionment of gasoline and compressed natural gas tax.

A. The tax of sixteen cents (\$0.16) per gallon of gasoline that is levied by paragraph 1 of subsection A of Section 500.4 of this title, the tax upon compressed natural gas levied by paragraph 3 of subsection A of Section 500.4 of this title, the tax upon liquefied natural gas levied by paragraph 4 of subsection A of Section 500.4 of this title and the tax of two and eight one-hundredths cents (\$0.0208) per gallon of gasoline that is levied by subsection C of Section 500.4 of this title, and penalties and interest thereon, collected by the Oklahoma Tax Commission under the levy shall be apportioned and distributed monthly as follows:

1. The first Two Hundred Fifty Thousand Dollars (\$250,000.00) of the levy collected each month shall be deposited in the State Treasury to the credit of the State Transportation Fund;

2. One and six hundred twenty-five one-thousandths percent (1.625%) of the levy shall be remitted to the State Treasurer to the credit of the High Priority State Bridge Revolving Fund as created in Section 506 of Title 69 of the Oklahoma Statutes;

3. Sixty-three and seventy-five one-hundredths percent (63.75%) of the levy shall be deposited in the State Treasury to the credit of the State Transportation Fund to be apportioned as follows:

- a. the first Eight Hundred Fifty Thousand Dollars (\$850,000.00) collected each fiscal year shall be transferred to the Public Transit Revolving Fund, created in Section 4031 of Title 69 of the Oklahoma Statutes, and
- b. the second Eight Hundred Fifty Thousand Dollars (\$850,000.00) collected each fiscal year shall be transferred to the Oklahoma Tourism and Passenger Rail Revolving Fund and shall be used by the Department of Transportation:
 - (1) to contract railroad passenger services, including but not limited to a route linking stations in Oklahoma and Tulsa Counties with other primary points in the national railroad passenger system and

passenger rail service within the state, and a route beginning at a station in Oklahoma County and extending north to the Kansas state line in Kay County, and

(2) to provide necessary facility, signaling, and track improvements for those contracted services,

c. forty-one and two-tenths percent (41.2%) of the monies apportioned to the State Transportation Fund shall be used for any purpose provided for in Section 1502 of Title 69 of the Oklahoma Statutes,

d. nine and eight-tenths percent (9.8%) of the monies apportioned to the State Transportation Fund shall be used to provide funds for the construction and maintenance of farm-to-market roads on the state highway system, and other rural farm-to-market roads and bridges, and

e. any remaining amount of the apportionment shall be deposited into the State Transportation Fund;

4. Twenty-seven percent (27%) of the levy shall be transmitted by the Tax Commission to the various counties of the state, to be apportioned and used as follows:

a. sixty-five and three-tenths percent (65.3%) of the monies apportioned under this paragraph shall be used on the following basis:

(1) forty percent (40%) of such sum shall be distributed to the various counties in the proportion which the county road mileage of each county bears to the entire state road mileage as certified by the Transportation Commission, and

(2) the remaining sixty percent (60%) of such sum shall be distributed to the various counties on the basis which the population and area of each county bears to the total population and area of the state. The population shall be as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census,

b. twenty-three and one-tenth percent (23.1%) of the monies apportioned under this paragraph shall be distributed to the counties in the following manner:

One-third (1/3) on area; one-third (1/3) on rural population, defined as including the population of all municipalities with a population of less than five thousand (5,000) according to the latest Federal Decennial Census; and one-third (1/3) on county road mileage, as last certified by the Department of Transportation, as each county bears to the entire area, rural population and road mileage of the state, and

c. eleven and six-tenths percent (11.6%) of the monies apportioned under this paragraph shall be distributed to the various counties of the state based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs;

5. Three and one hundred twenty-five one-thousandths percent (3.125%) of the levy shall be distributed to the various counties of the state based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs;

6. Two and two hundred ninety-seven one-thousandths percent (2.297%) of the levy shall be distributed to the various counties of the state for deposit into the County Bridge and Road Improvement Fund of each county based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes to be used for the purposes set forth in the County Bridge and Road Improvement Act. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs;

7. One and eight hundred seventy-five one-thousandths percent (1.875%) of the levy shall be transmitted by the Tax Commission to the treasurers of the various incorporated cities and towns of the state in the percentage which the population, as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census, bears to the total population of all the incorporated cities and towns in this state. The funds shall be expended for the construction, repair and maintenance of the streets and alleys of the incorporated cities and towns of this state; and

8. Three hundred twenty-eight one-thousandths percent (0.328%) of the levy shall be transmitted by the Tax Commission to the Statewide Circuit Engineering District Revolving Fund as created in Section 687.2 of Title 69 of the Oklahoma Statutes.

B. 1. The funds apportioned or transmitted pursuant to subparagraphs a, b, and c of paragraph 4 of subsection A of this section, subsection B of Section 500.7 of this title, subsection B of Section 704 of this title, Section 706 of this title, and paragraph 2 of subsection D of Section 707.3 of this title shall be sent to the respective county treasurers and deposited in the county highway fund to be used by the county commissioners for the purpose of constructing and maintaining county highways and bridges.

2. The funds received by any county shall not be diverted to any other county of the state, and shall only be expended under the direction and control of the board of county commissioners in the county to which the funds are appropriated. If any part of the funds is diverted for any other purpose, the county commissioners shall be liable on their bond for double the amount of the money so diverted. This paragraph shall not prohibit counties from entering into cooperative agreements pertaining to the maintenance and construction of roads and bridges.

3. Where any county highway has been laid out over a road already constructed in any county by the use of money raised from county bond issues for that purpose, either alone or by the use of federal or state aid, or both, the county commissioners may set aside out of the funds apportioned to that county, as provided in this section, an amount of money equal to the value of any part thereof, of the interest of such county in such highway or bridge, which amount of money shall be considered by the excise board in reducing the levy for the purpose of retiring the bonded indebtedness and interest thereon of the county, and shall be used for investment or deposit in the same manner as provided by law for the disposition of other sinking fund money.

4. In all counties where the county excise board may find it necessary, because of insufficient revenue, to maintain county government out of the general fund, after a levy of ten (10) mills has been made for any fiscal year, the county excise board may appropriate out of any such funds apportioned to the county an amount sufficient to pay the salaries of the county commissioners of the county for the fiscal year.

5. Counties may use funds deposited in the county highway fund for the purpose of matching federal or state funds, provided such funds are available, as necessary to secure assistance in the construction or improvement of the county road system.

C. With regards to the apportionment of the levy as set forth in paragraph 5 of subsection A of this section, paragraph 5 of subsection A of Section 500.7 of this title, and subsection C of Section 707.2 of this title:

1. If any county has an accrued balance of funds which were appropriated to or otherwise accrued in a restricted road maintenance fund, such funds shall be deposited directly to the county highway fund of the county;

2. If any county has an accrued balance of funds which were appropriated to or otherwise accrued in the County Road Improvement Fund, or the County Bridge Improvement Fund, such funds shall, by resolution approved by a majority of the board of county commissioners and filed with the Department of Transportation, be deposited in the county highway fund of the county;

3. If any county has an accrued balance of funds which were appropriated to or otherwise accrued in the County Bridge and Road Improvement Fund, ninety-nine percent (99%) of such funds shall be remitted to the respective county treasurer for deposit in the appropriate County Bridge and Road Improvement Fund to be used for the purpose set forth in the County Bridge and Road Improvement Act. The remaining one percent (1%) of such funds will be remitted to the Statewide Circuit Engineering District Revolving Fund; and

4. If any county has an advanced funding agreement with the Department of Transportation, the Department of Transportation shall notify the Tax Commission as to the amount the county is obligated to pay according to the terms of the advanced funding agreement. The obligated amount shall be transferred each month by the Tax Commission to the Department of Transportation to the credit of the County Bridge and Road Improvement Fund from the funds apportioned to the county pursuant to paragraph 5 of subsection A of this section. A county may elect to increase the monthly amount to be repaid pursuant to the advanced funding agreement from the funds apportioned to the county, but a county shall not be permitted to reduce the amount agreed to pursuant to the advanced funding agreement.

D. The tax levied on gasoline pursuant to Section 500.4A of this title, and the penalties and interest thereon, collected by the Tax Commission under the levy shall be apportioned and distributed on a monthly basis to the State Highway Construction and Maintenance Fund for the purposes authorized by Section 1502 of Title 69 of the Oklahoma Statutes.

Added by Laws 1996, c. 345, § 6, eff. Oct. 1, 1996. Amended by Laws 1997, c. 284, § 1, eff. July 1, 1997; Laws 1998, c. 5, § 20, emerg. eff. March 4, 1998; Laws 1998, c. 405, § 3, eff. Nov. 1, 1998; Laws 1999, c. 340, § 1, eff. July 1, 1999; Laws 2001, c. 267, § 1, eff. July 1, 2001; Laws 2002, c. 458, § 4, eff. July 1, 2002; Laws 2003, c. 472, § 8; Laws 2006, 2nd Ex.Sess., c. 45, § 3, eff. July 1, 2007; Laws 2010, c. 256, § 1, eff. July 1, 2010; Laws 2011, c. 163, § 4, eff. Jan. 1, 2012; Laws 2013, c. 375, § 4, eff. Jan. 1, 2014.

NOTE: Laws 1997, c. 259, § 2 repealed by Laws 1998, c. 5, § 29, emerg. eff. March 4, 1998.

§68-500.6a. Distribution of tax revenue.

All revenue from the tax of eight one-hundredths of one cent (\$0.0008) per gallon imposed pursuant to the provisions of subsection B of Section 500.4 of Title 68 of the Oklahoma Statutes, and penalties and interest thereon, collected by the Oklahoma Tax Commission shall be apportioned and distributed monthly as follows:

1. For the fiscal year beginning July 1, 1999, one-third shall be paid to the State Treasurer and placed to the credit of the Oklahoma Aeronautics Commission Revolving Fund and two-thirds shall be apportioned pursuant to the provisions of Section 500.6 of Title 68 of the Oklahoma Statutes;

2. For the fiscal year beginning July 1, 2000, two-thirds shall be paid to the State Treasurer and placed to the credit of the Oklahoma Aeronautics Commission Revolving Fund and one-third shall be apportioned pursuant to the provisions of Section 500.6 of Title 68 of the Oklahoma Statutes; and

3. For the fiscal year beginning July 1, 2001, and for each fiscal year thereafter, all such revenue shall be paid to the State Treasurer and placed to the credit of the Oklahoma Aeronautics Commission Revolving Fund.

Added by Laws 1999, c. 283, § 4, eff. July 1, 1999.

§68-500.7. Apportionment of diesel fuel tax.

A. The tax of thirteen cents (\$0.13) per gallon of diesel fuel that is levied by Section 500.4 of this title, and all penalties and interest thereon, collected by the Oklahoma Tax Commission under the levy shall be apportioned and distributed monthly as follows:

1. The first Eighty-three Thousand Three Hundred Thirty-three Dollars and thirty-three cents (\$83,333.33) of the levy collected each month shall be deposited in the State Treasury to the credit of the State Transportation Fund;

2. One and thirty-nine one-hundredths percent (1.39%) of the levy shall be paid by the Commission to the State Treasurer to the credit of the High Priority State Bridge Revolving Fund as created in Section 506 of Title 69 of the Oklahoma Statutes;

3. Sixty-four and thirty-four one-hundredths percent (64.34%) of the levy shall be deposited in the State Treasury to the credit of the State Transportation Fund;

4. Twenty-six and fifty-eight one-hundredths percent (26.58%) of the levy shall be transmitted by the Commission to various counties of the state, to be apportioned as follows:

a. forty-two and one-tenth percent (42.1%) of the monies apportioned under this paragraph shall be transmitted to the various counties in the percentage which the population and area of each county bears to the population and area of the entire state. The population shall be as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census,

b. fourteen and five-tenths percent (14.5%) of the monies apportioned under this paragraph shall be distributed as follows: Forty percent (40%) of such sum shall be distributed to the various counties in that proportion which the county road mileage of each county bears to the entire state road mileage as certified by the Transportation Commission, and the remaining sixty percent (60%) of such sum shall be distributed to the various counties on the basis which the population and area of each county bears to the total population and area of the state. The population shall be

as shown by the last Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census,

- c. twenty-eight and nine-tenths percent (28.9%) of the monies apportioned under this paragraph shall be distributed to the several counties in the following manner: one-third (1/3) on area, one-third (1/3) on rural population (defined as including the population of all municipalities with a population of less than five thousand (5,000) according to the latest Federal Decennial Census), and one-third (1/3) on county road mileage, as last certified by the Department of Transportation, as each county bears to the entire area, rural population and road mileage of the state, and
- d. fourteen and five-tenths percent (14.5%) of the monies apportioned under this paragraph shall be distributed to the various counties of the state based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes. The formula shall be similar to the formula currently used for the distribution of the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to the county road improvement and maintenance costs;

5. Three and eighty-five one-hundredths percent (3.85%) of the levy shall be distributed based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes. The formula shall be similar to the formula currently used for the distribution of the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to the county road improvement and maintenance costs. The apportionment of the levy as set forth in this paragraph shall be subject to the provisions of subsection C of Section 500.6 of this title; and

6. Three and thirty-six one-hundredths percent (3.36%) of the levy shall be distributed to the various counties of the state for deposit into the County Bridge and Road Improvement Fund of each county based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes to be used for the purposes set forth in the County Bridge and Road Improvement Act. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs; and

7. Forty-eight one-hundredths percent (0.48%) of the levy shall be transmitted by the Tax Commission to the Statewide Circuit Engineering District Revolving Fund as created in Section 687.2 of Title 69 of the Oklahoma Statutes.

B. The funds apportioned or transmitted pursuant to the provisions of subparagraphs a, b, and c of paragraph 4 of subsection A of this section shall be used in accordance with and subject to the provisions of subsection B of Section 500.6 of this title.

C. The tax levied on diesel fuel pursuant to Section 500.4A of this title, and all penalties and interest thereon, collected by the Commission under the levy shall be apportioned and distributed on a monthly basis to the State Highway Construction and Maintenance Fund for the purposes authorized by Section 1502 of Title 69 of the Oklahoma Statutes.

Added by Laws 1996, c. 345, § 7, eff. Oct. 1, 1996. Amended by Laws 1997, c. 284, § 2, eff. July 1, 1997; Laws 1998, c. 5, § 21, emerg. eff. March 4, 1998; Laws 2006, 2nd Ex.Sess., c. 45, § 4, eff. July 1, 2007; Laws 2010, c. 256, § 2, eff. July 1, 2010.

NOTE: Laws 1997, c. 259, § 3 repealed by Laws 1998, c. 5, § 29, emerg. eff. March 4, 1998.

§68-500.8. Measurement of tax on importer gallons and supplier gallons.

A. The tax imposed by this act on use of motor fuel which was imported into this state by a licensed importer, other than by a bulk transfer, shall arise at the time the product is entered into the state and shall be measured by invoiced gallons received outside this state at a refinery, terminal or at a bulk plant for delivery to a destination in this state.

B. Except as provided in subsection A of this section, the tax imposed by this act on use of motor fuel shall be measured by invoiced gallons of motor fuel removed, other than by a bulk transfer by a licensed supplier:

1. From the bulk transfer/terminal system or from a qualified terminal or refinery within this state;

2. From the bulk transfer/terminal system or from a qualified terminal or refinery outside this state for delivery to a location in this state as represented on the shipping papers, provided that the supplier imports the motor fuel for the account of the supplier, or the supplier has made a tax precollection election under Section 19 of this act; and

3. Upon sale in a qualified terminal or refinery in this state to an unlicensed supplier.
Added by Laws 1996, c. 345, § 8, eff. Oct. 1, 1996.

§68-500.9. Taxation of motor fuels held in inventory on date of increase in tax rate.

A. The tax imposed by Section 4 of this act on the date of an increase in the tax rate set out in Section 4 of this act shall be applicable to previously taxed motor fuel:

1. In excess of one thousand (1,000) gallons held in storage by a bulk end user or a consumer; and

2. Inventory held for sale by a fuel vendor.

B. Persons in possession of motor fuel subject to this section:

1. Shall take an inventory to determine the gallons in storage for purposes of determining the tax on inventory in determining the amount of motor fuel tax due under this section;

2. May deduct the amount of motor fuel in dead storage;

3. May deduct these gallons in which tax at the full rate has previously been paid;

4. May take a deduction for gallons of dyed diesel fuel; and

5. Report the gallons listed in paragraph 1 of this subsection on forms provided by the Commission.

C. The amount of the inventory tax is equal to the inventory tax rate times the gallons in storage as determined pursuant to the provisions of this section. The inventory tax rate is equal to the difference between the increased tax rate minus the previous tax rate to which those gallons were previously subjected to tax.

D. The inventory tax report required by this section shall be accompanied by payment of the inventory tax calculated in accordance with this section, and payment made on or before the due date of the report.

Added by Laws 1996, c. 345, § 9, eff. Oct. 1, 1996.

§68-500.10. Exemptions from motor fuels tax.

Subject to the procedural requirements and conditions set out in this section and Sections 500.11 through 500.17 of this title, the following are exempt from the tax imposed by Section 500.4 of this title on motor fuel:

1. Motor fuel for which proof of export is available in the form of a terminal-issued destination state shipping paper:
 - a. exported by a supplier who is licensed in the destination state, or
 - b. sold by a supplier to a licensed exporter for immediate export;
2. Motor fuel which was acquired by an unlicensed exporter and as to which the tax imposed by Section 500.4 of this title has previously been paid or accrued and was subsequently exported by transport truck by or on behalf of the licensed exporter in a diversion across state boundaries properly reported in conformity with Section 500.46 of this title;
3. Motor fuel exported out of a bulk plant in this state in a tank wagon if the destination of that vehicle does not exceed twenty-five (25) miles from the border of this state and as to which the tax imposed by Section 500.4 of this title has previously been paid or accrued, subject to gallonage limits and other conditions established by the Oklahoma Tax Commission;
4. K-1 kerosene sold at retail through dispensers which have been designed and constructed to prevent delivery directly from the dispenser into a vehicle fuel supply tank, and K-1 kerosene sold at retail through nonbarricaded dispensers in quantities of not more than twenty-one (21) gallons for use other than for highway purposes, under such rules as the Tax Commission shall reasonably require;
5. Motor fuel sold to the United States or any agency or instrumentality thereof;
6. Motor fuel used solely and exclusively in district-owned public school vehicles or FFA and 4-H Club trucks for the purpose of legally transporting public school children, and motor fuel purchased by any school district for use exclusively in school buses leased or hired for the purpose of legally transporting public school children, or in the operation of vehicles used in driver training;
7. Motor fuel used solely and exclusively as fuel to propel motor vehicles on the public roads and highways of this state, when leased or owned and being operated for the sole benefit of a county, city, town, a volunteer fire department with a state certification and rating, rural electric cooperatives, rural water and sewer districts, rural irrigation districts organized under the Oklahoma Irrigation District Act, conservancy districts and master conservancy districts organized under the Conservancy Act of Oklahoma, rural ambulance service districts, or federally recognized Indian tribes;
8. Motor fuel used as fuel for farm tractors or stationary engines owned or leased and operated by any person and used exclusively for agricultural purposes, except as to two and eight one-hundredths cents (\$0.0208) per gallon of gasoline as provided in subsection C of Section 500.4 of this title;
9. Gasoline, diesel fuel and kerosene sold for use as fuel to generate power in aircraft engines, whether in aircraft or for training, testing or research purposes of aircraft engines, except as to eight one-hundredths of one cent (\$0.0008) per gallon as provided in subsection B of Section 500.4 of this title;
10. Motor fuel sold within an Indian reservation or within Indian country by a federally recognized Indian tribe to a member of that tribe and used in motor vehicles owned by that member of the tribe. This exemption does not apply to sales within an Indian reservation or within Indian country by a federally recognized Indian tribe to non-Indian consumers or to Indian consumers who are not members of the tribe selling the motor fuel;

11. Subject to determination by the Tax Commission, that portion of diesel fuel:
 - a. used to operate equipment attached to a motor vehicle, if the diesel fuel was placed into the fuel supply tank of a motor vehicle that has a common fuel reservoir for travel on a highway and for the operation of equipment, or
 - b. consumed by the vehicle while the vehicle is parked off the highways of this state;
12. Motor fuel acquired by a consumer out of state and carried into this state, retained within and consumed from the same vehicle fuel supply tank within which it was imported;
13. Diesel fuel used as heating oil, or in railroad locomotives or any other motorized flanged-wheel rail equipment, or used for other nonhighway purposes other than as expressly exempted under another provision;
14. Motor fuel which was lost or destroyed as a direct result of a sudden and unexpected casualty;
15. Taxable diesel which had been accidentally contaminated by dye so as to be unsaleable as highway fuel as proved by proper documentation;
16. Dyed diesel fuel;
17. Motor fuel sold to the Oklahoma Space Industry Development Authority or any spaceport user as defined in the Oklahoma Space Industry Development Act; and
18. Biofuels or biodiesel produced by an individual with crops grown on property owned by the same individual and used in a vehicle owned by the same individual on the public roads and highways of this state.

Added by Laws 1996, c. 345, § 10, eff. Oct. 1, 1996. Amended by Laws 1999, c. 164, § 38, eff. July 1, 1999; Laws 2007, c. 267, § 2, eff. Jan. 1, 2008; Laws 2009, c. 426, § 7, eff. July 1, 2009.

§68-500.10-1. Ethanol credit – Refund claims process.

- A. As used in this section:
 1. “Ethanol” means a blend of gasoline and ethyl alcohol consisting of not more than fifteen percent (15%) ethyl alcohol by volume; and
 2. “Retail dealer” means the type of dealer described by paragraph 53 of Section 500.3 of Title 68 of the Oklahoma Statutes.
- B. Unless the federal government mandates the use of reformulated fuel in an area within the State of Oklahoma in nonattainment with the National Ambient Air Quality Standards, there shall be allowed as a credit against the tax levy imposed pursuant to paragraph 1 of subsection A of Section 500.4 of Title 68 of the Oklahoma Statutes in the amount of one and six-tenths cents (\$0.016) for each gallon of ethyl alcohol which is contained in ethanol sold by a retail dealer.
- C. Notwithstanding any other provision of the Oklahoma Motor Fuel Tax Code to the contrary, the retail dealer described by subsection A of this section may make the claim for refund from the Oklahoma Tax Commission. The refund claim process for the credit authorized by this section shall be substantially the same as the refund claims process authorized by the Motor Fuel Tax Code for other refunds provided by law.
- D. Each claim for refund filed pursuant to this section shall be accompanied by such documentation as may be required by the Tax Commission that the retail dealer reduced the retail price for each gallon of ethyl alcohol which is contained in ethanol sold, and for which the credit authorized by this section is claimed, by one and six-tenths cents (\$0.016) and that such cost savings was economically provided to the purchaser of the ethanol fuel.

Added by Laws 2005, c. 294, § 2, eff. Jan. 1, 2006.

§68-500.11. Perfecting exemption for exports.

The exemption for exports:

1. Under paragraph 1 of Section 10 of this act, shall be perfected by a deduction on the report of the supplier or licensed exporter which is otherwise responsible for the tax on removal of the product from a terminal or refinery in this state;

2. Under paragraph 3 of Section 10 of this act, shall be perfected by the exporter by a refund claim if the claim in the aggregate month to date exceeds One Thousand Dollars (\$1,000.00) upon a refund application made to the Commission within three (3) years; or

3. Under paragraph 2 of Section 10 of this act, shall be perfected by the unlicensed exporter, if a diversion by an unlicensed exporter, upon a refund application made to the Commission within three (3) years.

Added by Laws 1996, c. 345, § 11, eff. Oct. 1, 1996.

§68-500.12. Regulations for exempt use of kerosene.

Exempt use of K-1 kerosene shall be governed by regulations promulgated by the Commission which shall follow regulations governing the exemption promulgated by the federal government to the extent that impositions of the conforming regulations would be practical and not be a hardship on sellers and consumers in this state.

Added by Laws 1996, c. 345, § 12, eff. Oct. 1, 1996.

§68-500.13. Procedures for tax exempt sales of motor fuel to governmental agencies.

The exemption for sales of motor fuel for use by the United States or any agency or instrumentality thereof, as provided in paragraph 5 of Section 500.10 of this title, district-owned public school vehicles and buses or FFA and 4-H Club trucks used for the purpose of legally transporting public school children and in the operation of vehicles used in driver training, as provided in paragraph 6 of Section 500.10 of this title, for use by a county, city, town, volunteer fire department, rural electric cooperative, rural water and sewer district, rural ambulance service district, or federally recognized Indian tribe, as provided in paragraph 7 of Section 500.10 of this title, and for use by the Oklahoma Space Industry Development Authority or any spaceport user, as provided in paragraph 17 of Section 500.10 of this title, shall be perfected as follows:

1. The ultimate vendor shall obtain a certificate signed by the purchasing entity listed in this section setting forth:

- a. the name and address of the purchasing entity,
- b. the quantity of motor fuel, or if the certificate is for all the motor fuel purchased by the purchasing entity, the certificate shall be for a period not to exceed three (3) years,
- c. the exempt use of the motor fuel,
- d. the name and address of the ultimate vendor from whom the motor fuel was purchased,
- e. the federal employer identification number of the purchasing entity, and
- f. a statement that the purchasing entity understands that the fraudulent use of the certificate to obtain fuel without paying the tax levied pursuant to Section 500.1 et seq. of this title shall result in the purchaser paying the tax, with penalties and interest, as well as such other penalties provided in Section 500.1 et seq. of this title;

2. The ultimate vendor, having obtained from the purchasing entity the certificate, which the ultimate vendor shall retain for a period of not less than three (3) years, shall execute an ultimate vendor certificate which shall contain the following information:

- a. the name and address of the ultimate vendor,
- b. the federal employment identification number of the ultimate vendor,
- c. the quantity of motor fuel sold and the date of the sale,
- d. a certification that the ultimate vendor sold motor fuel to the purchasing entity for the exempt purpose,
- e. that the ultimate vendor has the necessary records to support the sale of the motor fuel, and
- f. that the ultimate vendor understands and agrees that the fraudulent use of the certificate to obtain fuel without paying the tax levied pursuant to Section 500.1 et seq. of this title, or paying a refund of the tax, whether for the ultimate vendor or others, shall result in the payment of the tax by the ultimate vendor, with penalties and interest, as well as such other penalties provided in Section 500.1 et seq. of this title;

3. The ultimate vendor shall give the executed ultimate vendor certificate to the supplier who, having made reasonable commercial inquiries into the accuracy of the information in the certificate, shall be eligible to claim a credit against the tax liability on the ensuing monthly report of the supplier. As a condition of obtaining the credit, the supplier shall credit or refund the tax to the ultimate vendor who made the sale to the purchasing entity. If there is an intermediate vendor, or vendors, in the distribution chain between the supplier and the ultimate vendor, each vendor shall endorse the certificate, subject to rules promulgated by the Oklahoma Tax Commission, and transmit the certificate to the supplier and remit the credit, once received, to the customer of the intermediate vendor. The supplier and all vendors, if they accept the certificate in good faith and make a reasonable inquiry as to the accuracy of the information contained in the certificate, shall be held harmless if the purchasing entity has made a fraudulent claim; and

4. If the sale of motor fuel to the purchasing entity occurs at a fixed retail pump available to the general public, the ultimate vendor, having made the sale to the purchasing entity without the tax, may apply for a refund from the Tax Commission by submitting the application and supporting documentation as the Tax Commission shall reasonably prescribe by regulation. However, if the purchase is charged to a fleet or government fueling credit card, or to an oil company credit card issued to the purchasing entity, the ultimate vendor may bill the purchasing entity without the tax and seek a refund, or utilize the provisions of paragraph 1, 2, or 3 of this section if the issuer of the card is a supplier.

Added by Laws 1996, c. 345, § 13, eff. Oct. 1, 1996. Amended by Laws 1999, c. 164, § 39, eff. July 1, 1999.

§68-500.14. Perfection of certain exemptions by refund claim.

A. 1. The exemption for use pursuant to paragraph 11 of Section 500.10 of this title shall be perfected by a refund claim filed by the consumer who shall provide evidence of an allocation of use satisfactory to the Oklahoma Tax Commission.

2. The exemption for a consumer who claims a refund pursuant to paragraph 1 of this subsection for tax paid on fuel used to operate trucks designed, equipped and used exclusively for garbage, refuse or solid waste disposal shall be thirty-five percent (35%) of the tax paid on

such fuel; provided, the taxpayer may claim an amount greater than thirty-five percent (35%) if the taxpayer supplies evidence of an allocation of use for a tax exempt purpose satisfactory to the Tax Commission of an amount greater than thirty-five percent (35%).

B. The exemption for motor fuel pursuant to paragraphs 14 and 15 of Section 500.10 of this title which fuel was purchased tax paid for a taxable use and was, after the purchase, contaminated by the presence of a dye or marker or subject to a sudden and unexpected casualty loss shall be refunded to the person responsible for the contamination or loss event upon application therefor and on proof shown acceptable to the Tax Commission.

C. Motor fuel tax that has otherwise been erroneously paid by a person shall be refunded by the Tax Commission upon proof shown satisfactory to the Tax Commission. The authority of the Tax Commission under this section shall be broadly construed to prevent unjust and unintended payment of taxes on exempt uses or by exempt users.

D. The consumer shall apply for a refund with respect to motor fuel purchased by the consumer for consumption in an exempt use described under paragraphs 8 and 13 of Section 500.10 of this title as to which the tax imposed by this act had been previously paid and no refund previously issued.

E. The exemption from taxation set forth in paragraph 10 of Section 500.10 of this title shall be perfected by the consumer applying for a refund with respect to motor fuel purchased by the consumer for consumption as to which the tax imposed by this act had been previously paid and no refund previously issued. The Tax Commission shall promulgate any necessary rules to administer this exemption.

F. Motor fuel tax that has been paid more than once with respect to the same gallon of motor fuel shall be refunded by the Tax Commission to the person who last paid the tax upon proof satisfactory to the Tax Commission.

Added by Laws 1996, c. 345, § 14, eff. Oct. 1, 1996. Amended by Laws 2004, c. 37, § 1, eff. Nov. 1, 2004.

§68-500.15. Perfecting exemptions for suppliers, tank wagon importers and importers of dyed diesel fuel.

All exemptions under Section 10 of this act, not expressly covered under Sections 11 through 14 of this act, shall be perfected as follows:

1. A supplier or tank wagon importer shall take a deduction against motor fuel shown on the monthly report for those gallons of diesel fuel removed from a terminal or refinery destined for delivery to a point in this state as shown on the shipping papers, as to which dye was added in a manner which conforms to federal requirements established by the Internal Revenue Code and regulations issued thereunder; or

2. An importer shall take a deduction against tax owed under Section 18 of this act for dyed diesel fuel if such diesel fuel would have met the requirements of paragraph 1 of this section.

Added by Laws 1996, c. 345, § 15, eff. Oct. 1, 1996.

§68-500.16. Procedures for claiming refund - Investigations - Credit in lieu of refund.

A. To claim a refund under Sections 10 through 14 of this act, a person shall present to the Commission a statement containing a written verification that the claim is made under penalties of perjury and lists the total amount of motor fuel purchased and used for exempt purposes. The claim shall not be transferred or assigned and shall be filed not more than three (3) years after the

date the motor fuel was purchased. The statement shall show that payment for the purchase has been made and the amount of tax paid on the purchase has been remitted.

B. The Commission may make any investigations it considers necessary before refunding the motor fuel tax to a person and may investigate a refund after the refund has been issued and within the time frame for making adjustments to the tax under this act.

C. In any case where a refund would be payable to a supplier under this act, the supplier may claim a credit in lieu of such refund.

Added by Laws 1996, c. 345, § 16, eff. Oct. 1, 1996.

§68-500.17. Interest on refund.

If a refund is not issued within twenty (20) days of the filing required by this act, the Commission shall pay interest at the rate of six percent (6%) per annum from the date of filing of the claim for refund until the date on which the refund is made.

Added by Laws 1996, c. 345, § 17, eff. Oct. 1, 1996. Amended by Laws 1998, c. 254, § 1, eff. Nov. 1, 1998.

§68-500.18. Payment of tax by licensed occasional importers and licensed bonded importers.

Except as otherwise provided in this act, the tax imposed by Section 4 of this act on motor fuel measured by gallons imported from another state shall be paid by the:

1. Licensed occasional importer who has imported the nonexempt motor fuel within three (3) business days of the earlier of the time that the nonexempt motor fuel was entered into the state, or the time that a valid import verification number required by subsection F of Section 33 of this act was assigned by the Commission, under such rules and procedures as the Commission may provide; or

2. Licensed bonded importer who has imported the nonexempt motor fuel during a month on or before the twenty-fifth day of the following month unless such day falls upon a weekend or state or banking holiday, in which case the liability would be due the next succeeding business day.

However, if the supplier has made a blanket election to precollect tax under Section 19 of this act, then the supplier shall become jointly liable with the importer for the tax and shall remit the tax to the Commission on behalf of the importer under the same terms as a supplier payment under Section 20 of this act, and no import verification number shall be required.

Added by Laws 1996, c. 345, § 18, eff. Oct. 1, 1996.

§68-500.19. Election regarding fuel removals from out-of-state terminals.

A. Any licensed supplier or licensed permissive supplier may make a blanket election with the Commission to treat all removals from all of its out-of-state terminals with a destination in this state as shown on the terminal-issued shipping paper as if the removals were removed across the rack by the supplier from a terminal in this state for all purposes.

B. The election provided by this section shall be made by filing a "notice of election" with the Commission.

C. The Commission shall release a list of electing suppliers under this section upon request by any person.

D. The absence of an election by a supplier under this section shall in no way relieve the supplier of responsibility for remitting the tax imposed by this act upon the removal from an out-of-state terminal for import into this state by the supplier.

E. Any supplier which makes the election provided by this section shall precollect the tax imposed by this act on all removals from a qualified terminal on its account as a position holder, or as a person receiving fuel from a position holder pursuant to a two-party exchange agreement without regard to the license status of the person acquiring the fuel from the supplier, except deliveries from out-of-state terminals to licensed bonded importers, the point or terms of sale, or the character of delivery.

F. Each supplier who elects to precollect tax under this act agrees to waive any defense that the state lacks jurisdiction to require collection on all out-of-state sales by such person as to which the person had knowledge that the shipments were destined for this state and that this state imposes the requirement pursuant to this subsection under its general police powers to regulate the movement of motor fuels.

G. Each supplier who elects to precollect tax pursuant to this act shall not be subject to any civil penalties or interest imposed pursuant to this act for any corrections resulting from a diversion of the motor fuel from the original destination as represented by the purchaser or the agent of the purchaser. However, the supplier and exporter under this subsection may, by mutual agreement, permit the supplier to assume the liability of the exporter and adjust the taxes of the exporter payable to the supplier.

Added by Laws 1996, c. 345, § 19, eff. Oct. 1, 1996.

§68-500.20. Precollection and remittance of tax by suppliers.

A. The tax imposed by Section 500.4 of this title, measured by motor fuel removed by a licensed supplier from a terminal or refinery in this state other than a bulk transfer, shall be precollected and remitted on behalf of the retail consumers to the state by the supplier, as shown in the records of the terminal operator, who removes the taxable gallons.

B. The supplier, and each reseller, shall list the amount of tax as a separate line item on all invoices or billings.

C. All tax to be paid by a supplier with respect to gallons removed on the account of the supplier during a calendar month shall be due and payable on or before the twenty-seventh day of the following month unless such day falls upon a weekend or state or banking holiday in which case the liability would be due the next succeeding business day.

D. A supplier shall remit any late taxes remitted to the supplier by an eligible purchaser and shall timely notify the Commission of any late remittances if that supplier has previously given notice to the Commission of an uncollectible tax amount pursuant to subsection B of Section 500.24 of this title. For the purposes of reporting a payment received on previously claimed uncollectible taxes, any payments made to a supplier on a debt or account shall be applied first proportionally to the gallons sold and the tax thereon, and secondly to interest, service charges, and any other charges.

Added by Laws 1996, c. 345, § 20, eff. Oct. 1, 1996. Amended by Laws 2003, c. 472, § 9.

§68-500.21. Joint and several liability of terminal operators - Remittance of tax by terminal operators.

The terminal operator of a terminal in this state is jointly and severally liable for the tax imposed under Section 4 of this act and shall remit payment to this state upon discovery of either of the following conditions:

1. The supplier, with respect to the motor fuel, is a person other than the terminal operator and is not a licensed supplier. However, the terminal operator shall be relieved of liability if the terminal operator establishes all of the following:

- a. the terminal operator has a valid terminal operator's license issued for the facility from which the motor fuel is withdrawn,
- b. the terminal operator has an unexpired notification certificate from the supplier as required by the Commission or the Internal Revenue Service, and
- c. the terminal operator has no reason to believe that any information on the certificate is false; or

2. In connection with the removal of diesel fuel that is not dyed and marked in accordance with Internal Revenue Service requirements, the terminal operator provides any person with any bill of lading, shipping paper, or similar document indicating that the diesel fuel is dyed and marked in accordance with Internal Revenue Service requirements.

Added by Laws 1996, c. 345, § 21, eff. Oct. 1, 1996.

§68-500.22. Election by eligible purchasers to defer motor fuel tax remittance.

Each supplier and bonded importer who sells motor fuel shall precollect and remit on behalf of and from the purchaser the motor fuel tax imposed under Section 4 of this act. At the election of an eligible purchaser, which notice shall be evidenced by a written statement from the Commission as to the purchaser eligibility status as determined under Section 23 of this act, the seller shall not require a payment of motor fuel tax on transport truck loads from the purchaser sooner than two (2) business days prior to the date on which the tax is required to be remitted by the supplier or bonded importer under Section 20 of this act. This election shall be subject to a condition that the remittances by the eligible purchaser of all amounts of tax due the seller shall be paid on the basis of ninety-eight and four-tenths percent (98.4%) for gasoline and ninety-eight and one-tenth percent (98.1%) for diesel fuel and which shall be paid by electronic funds transfer on or before the second preceding day prior to the date of the remittance by the supplier to the Commission, and the election by the eligible purchaser under this section may be terminated by the seller if the eligible purchaser does not make timely payments to the seller as required by this section.

Added by Laws 1996, c. 345, § 22, eff. Oct. 1, 1996.

§68-500.23. Election to defer motor fuel tax remittances - Rescission of eligibility and election by Commission.

A. Each purchaser that desires to make an election under Section 500.22 of this title shall submit a request to the Oklahoma Tax Commission for approval, setting forth such information as the Tax Commission may require.

B. The Tax Commission may require a purchaser which pays the tax to a supplier to file with the Tax Commission a surety bond payable to the state, upon which the purchaser is the obligor or other financial security, in an amount satisfactory to the Tax Commission. The Tax Commission may require that the bond indemnify the Tax Commission against uncollectible tax credits claimed by the supplier under Section 500.24 of this title.

C. The Tax Commission shall have the authority to rescind a purchaser's eligibility and election to defer motor fuel tax remittances after a hearing and upon a showing of good cause, including failure to make timely tax-deferred payment of tax to a supplier under Section 500.22

of this title, by sending written notice to all suppliers or publishing notice of the revocation pursuant to regulations. The Tax Commission may require further assurance of the financial responsibility of the purchaser, or may increase the bond requirement for that purchaser, or any other action that the Tax Commission may require to ensure remittance of the motor fuel tax. The Tax Commission shall follow the cancellation procedures as provided in Section 212 of this title in rescinding eligible purchaser status.

Added by Laws 1996, c. 345, § 23, eff. Oct. 1, 1996. Amended by Laws 2005, c. 479, § 9, eff. July 1, 2005.

§68-500.24. Suppliers' entitlement to credit for uncollectible taxes.

A. In computing the amount of motor fuel tax due, the supplier shall be entitled to a credit against the tax payable the amount of tax paid by the supplier that has become uncollectible from an eligible purchaser.

B. The supplier shall provide notice to the Commission of a failure to collect tax within ten (10) business days following the date on which the supplier was earliest entitled to collect the tax from the eligible purchaser under Section 22 of this act.

C. The Commission shall adopt rules establishing the evidence a supplier must provide to receive the credit.

D. The credit shall be claimed on the first return following the expiration of the ten-day period as provided in this section if the payment remains unpaid as of the filing date of that return or the credit shall be disallowed.

E. The claim for credit shall identify the defaulting eligible purchaser and any tax liability that remains unpaid.

F. If an eligible purchaser fails to make a timely payment of the amount of tax due, the credit of the supplier shall be limited to the amount due from the purchaser, plus any tax that accrues from that purchaser for a period of ten (10) days following the date of failure to pay.

G. No additional credit shall be allowed to a supplier under this section until the Commission has authorized the purchaser to make a new election under Section 23 of this act. Added by Laws 1996, c. 345, § 24, eff. Oct. 1, 1996.

§68-500.25. Remittance of motor fuel taxes by licensed tank wagon operator-importers.

Each licensed tank wagon operator-importer who is liable for the tax imposed by this act on nonexempt motor fuel imported by a tank wagon as to which tax has not previously been paid to a supplier, shall remit the motor fuel tax for the preceding month's import activities with the monthly report of activities. The remittance of all amounts of tax due shall be paid on the basis of ninety-eight and four-tenths percent (98.4%) for gasoline and ninety-eight and one-tenth percent (98.1%) for diesel fuel.

Added by Laws 1996, c. 345, § 25, eff. Oct. 1, 1996.

§68-500.26. Remittance by electronic funds transfer required.

All suppliers and bonded importers required to remit the motor fuel tax shall remit the motor fuel taxes due by electronic fund transfer acceptable to the Commission. The transfer or payment shall be made on or before the date the tax is due.

Added by Laws 1996, c. 345, § 26, eff. Oct. 1, 1996.

§68-500.27. Retainage of 0.1% of tax for administrative costs.

Every supplier and permissive supplier which properly remits tax under this act shall be allowed to retain one-tenth of one percent (0.1%) of the tax imposed by this act and collected and remitted by that supplier in accordance with this act to cover the costs of administration imposed by this act including reporting, audit compliance, dye injection, and shipping paper preparation. Added by Laws 1996, c. 345, § 27, eff. Oct. 1, 1996.

§68-500.28. Collection of tax - Liability wholesaler, retailer, end-user, producer or ultimate consumer or vendor.

A. In the event the tax imposed by Section 500.4 of this title is not otherwise precollected, the tax shall be collected:

1. Upon the first receipt of motor fuel when received from a source outside of the state by any wholesaler, retailer or end-user and the tax is imposed upon, and shall be the liability of, any such wholesaler, retailer or end-user who first received the motor fuel into the state;

2. Upon the first sale or use of motor fuel when produced in this state by any person and the tax is imposed upon the first sale or use by such person. The tax is imposed upon, and shall be the liability of, the producer of the motor fuel; and

3. Upon the first sale of compressed natural gas or liquefied natural gas by a wholesaler to a retailer or end-user and the tax is imposed upon, and shall be the liability of any such wholesaler to remit the same to the Tax Commission on or before the same date and in the same manner as provided in Section 500.20 of this title.

B. In the event the tax imposed by Section 500.4 of this title is not otherwise precollected or collected pursuant to the provisions of subsection A of this section, it shall be collected from the ultimate consumer in accordance with regulations promulgated by the Commission, for the use of motor fuel on the highways by any consumer, unless such person is otherwise exempted pursuant to paragraphs 5, 6 and 7 of Section 500.10 of this title, upon the delivery into the fuel supply tank of a highway vehicle of, including, but not limited to:

1. Any diesel fuel that contains a dye; or

2. Any motor fuel on which a claim for refund has been made.

C. The ultimate vendor of motor fuel, other than a federally recognized Indian tribe, shall be jointly and severally liable for the backup tax precollected by subsection A of this section if the ultimate vendor knows or has reason to know that the motor fuel, as to which tax imposed by this act has not been paid, is or will be consumed in a nonexempt use.

Added by Laws 1996, c. 345, § 28, eff. Oct. 1, 1996. Amended by Laws 2006, c. 327, § 3, eff. July 1, 2006; Laws 2011, c. 163, § 5, eff. Jan. 1, 2012; Laws 2013, c. 375, § 5, eff. Jan. 1, 2014.

§68-500.29. Diversions of motor fuel - Payment of tax.

A. In the event an exporter diverts motor fuel removed from a terminal in this state from an intended destination outside this state as shown on the terminal-issued shipping papers to a destination within this state, the exporter, in addition to compliance with the notification provided for in Section 46 of this act, shall notify and pay the tax imposed by Section 4 of this act to the state upon the same terms and conditions as if the exporter were an occasional importer licensed under Section 18 of this act. Each supplier who elects to precollect tax pursuant to this act shall not be subject to any civil penalties or interest imposed pursuant to this act for any corrections resulting from a diversion of the motor fuel from the original destination as represented by the purchaser or the agent of the purchaser. However, the supplier and exporter

under this subsection may, by mutual agreement, permit the supplier to assume the liability of the exporter and adjust the taxes of the exporter payable to the supplier.

B. In the event that an exporter removes from a bulk plant in this state motor fuel as to which the tax imposed by this act has previously been paid or accrued, the exporter may apply for and the state shall issue a refund of the tax upon a showing of proof of export satisfactory to the Commission in conformity with Section 11 of this act.

C. In the event that an unlicensed importer diverts motor fuel from a destination outside this state to a destination inside this state after having removed the product from a terminal outside this state, the importer, in addition to compliance with the notification provided for in Section 46 of this act, shall notify the state and shall pay the tax imposed by this act to this state upon the same terms and conditions as if the unlicensed importer were a licensed occasional importer subject to Section 18 of this act without deduction for the allowances provided by Section 27 of this act. However, an importer who has purchased the product from a licensed supplier may, by mutual agreement with the supplier, permit the supplier to assume the liability of the importer and adjust the taxes of the importer payable to the supplier.

D. All licensed importers shall otherwise report and pay tax on diversions into this state of imported product under Section 18 of this act in accordance with the rules applicable to that license class. However, an importer who has purchased the product from a licensed supplier may, by mutual agreement with the supplier, permit the supplier to assume the liability of the importer and adjust the taxes of the importer payable to the supplier.

E. If a monthly report is filed or the amount due is remitted later than the time required by this act, the tax remitter shall pay to the Commission all of the motor fuel tax the remitter collected from the sale of motor fuel during the taxable period in addition to penalties and interest.

F. In the event of a legal diversion from a destination in this state to another state, Section 45 of this act shall apply and an unlicensed exporter diverting the product shall apply for a refund from this state in conformity with paragraph 2 of Section 10 of this act and Section 11 of this act. However, a supplier may take a credit for diversions directed by that supplier for the account of the supplier. Additionally, the exporter may, by mutual agreement with the supplier, assign the claim of the exporter to the supplier for which the supplier may take a credit.

G. In the event that the second state involved in a cross-border shipment has entered into a multi-state compact with this state, the diverter shall pay or seek refund only upon the difference in state taxes with notice to both states upon proof shown of payment to the actual destination state. The Commission shall periodically determine procedures for making this adjustment and a list of those states which meet these criteria.

Added by Laws 1996, c. 345, § 29, eff. Oct. 1, 1996.

§68-500.30. Deferred payment by vendors without eligible purchaser.

A. The final report required by Section 40 of this act shall be accompanied by payment of the liability of the final month except as otherwise provided in this section.

B. Any motor fuel vendor who possessed a license to sell motor fuel at wholesale or at retail prior to the effective date of this act who is ineligible to elect eligible purchaser status, or who otherwise does not apply for or does not receive eligible purchaser status under Section 23 of this act, may in the alternative elect to make payment of the tax calculated pursuant to the final report provided in Section 40 of this act if the tax is paid in two equal installments

beginning twelve (12) months after the effective date of this act and subject to regulations promulgated by the Commission.

C. If a person elects under subsection B of this section to defer payment, the person shall not be eligible to claim eligible purchaser status under Section 23 of this act for a period of thirty-six (36) months following the election under subsection B of this section.

Added by Laws 1996, c. 345, § 30, eff. Oct. 1, 1996.

§68-500.31. Blending untaxed materials with taxed fuels - Remittance of tax.

A. Each person blending untaxed materials, including blendstocks, fuel grade ethanol and additives with motor fuels as to which tax has already been paid or accrued shall remit the tax imposed by this act.

B. Any consumer liable for the tax payable under subsection A of this section shall remit the tax directly to the Commission within thirty (30) days of the blending event in accordance with regulations promulgated by the Commission.

Added by Laws 1996, c. 345, § 31, eff. Oct. 1, 1996.

§68-500.32. Importation of motor fuel in tank wagons - Destination within 25 miles of border - Remittance of tax.

Subject to gallonage limits and other conditions established by the Commission, the Commission shall provide for the payment of tax imposed by this act by a person importing gasoline or diesel motor fuel from a bulk plant in another state in a tank wagon if the destination of that vehicle does not exceed twenty-five (25) miles from the border of this state.

Added by Laws 1996, c. 345, § 32, eff. Oct. 1, 1996.

§68-500.33. Licenses.

A. Each supplier engaged in business in this state as a supplier shall first obtain a supplier's license.

B. Any person who desires to precollect the tax imposed by this act as a supplier and who meets the definition of a permissive supplier may obtain a permissive supplier's license. Application for or possession of a permissive supplier's license shall not in itself subject the applicant or licensee to the jurisdiction of this state for any other purpose than administration and enforcement of this act.

C. Each terminal operator, other than a supplier licensed under subsection A of this section, engaged in business in this state as a terminal operator shall first obtain a terminal operator's license for each terminal site.

D. Each person, except suppliers, desiring to export motor fuel to a destination outside of this state shall first obtain an exporter's license. The state shall require that any exporter who exports product to another state without first paying the motor fuel tax of that destination state to the supplier shall first obtain an exporter's license.

E. Each person who is not licensed as a supplier or bonded importer shall obtain a transporter's license before transporting motor fuel by whatever manner from a point outside this state to a point inside this state, or from a point inside this state to a point outside this state, regardless of whether the person is engaged for hire in interstate commerce or for hire in intrastate commerce.

F. 1. Each person desiring to deliver motor fuel into this state on behalf of such person, for the account of that person, or for resale to a purchaser in this state, from another state in a

fuel transport truck or in a pipeline or barge shipment into storage facilities other than a qualified terminal, shall first make application for and obtain either an occasional importer's license, or a bonded importer's license.

2. Paragraph 1 of this subsection shall not apply to persons who exclusively import motor fuel which is exempted because in accordance with paragraph 16 of Section 500.10 of this title it has been dyed.

3. Paragraph 1 of this subsection shall not apply to persons who import nonexempt motor fuels meeting the following conditions:

- a. all of the motor fuel is subject to one or more tax precollection agreements with suppliers as provided under Section 500.19 of this title,
- b. all of the motor fuel tax precollected by the supplier is expressly evidenced on the terminal-issued shipping paper as more specifically provided under Section 500.44 of this title, and
- c. the Commission has determined that all border states have adopted terminal reporting requirements adequate for the mutual enforcement of this act.

4. A person desiring to import motor fuel to a destination in this state from another specific terminal source state, and who has not entered into an agreement to prepay the motor fuel tax of this state to the supplier or permissive supplier with respect to the imports, shall obtain a valid occasional importer's license, or subject to the bonding requirements of subsection B of Section 500.35 of this title, a valid bonded importer's license under paragraph 1 of this subsection. In either event, the person shall:

- a. obtain an import verification number from the Commission no sooner than twenty-four (24) hours prior to entering the state for each separate import into this state, but in any event the number shall be obtained prior to entering this state, and
- b. display the handwritten import verification number on the terminal-issued shipping document required under Section 500.50 of this title, and
- c. comply with the payment requirements under Section 500.18 of this title, whichever is applicable.

5. The importers' licenses issued pursuant to this section shall be specific to each source of supply state, and in the event that the other terminal source of supply state shall have adopted reciprocal legislation, or a multi-state compact, providing for collection of destination state tax by the terminal supplier in accordance with terminal-issued shipping papers designating the intended state of destination, then the importer shall be ineligible for a license to import motor fuel outside the bulk transfer system from the other state, and any license to so import from the other state shall be rendered invalid.

G. Each person who is an importer of motor fuel into this state by a tank wagon operating out of or controlling a bulk plant in another state, if the destination of that tank wagon is within twenty-five (25) miles of the border of this state, shall make application for and obtain a license from the Commission prior to engaging in such importation activities. However, registration as a tank wagon operator-importer shall not constitute authorization of such persons to acquire nonexempt motor fuel free of the tax imposed by this act at a terminal either within this state or without this state for direct delivery to a location in this state. Any person who possesses a valid importer's license shall be eligible as a tank wagon operator-importer without issuance of a separate license provided the importer also operates one or more bulk plants outside this state. Operators of a tank wagon delivering a product into this state more than twenty-five (25) miles

from the border shall be required to apply for an importer's license under subsection F of this section.

H. 1. Each person who engages in the business of selling motor fuel, compressed natural gas, or liquefied natural gas at wholesale or retail, or storing or distributing motor fuel, compressed natural gas, or liquefied natural gas for resale within this state, shall first obtain a fuel vendor license which shall be operative for all locations controlled or operated by that licensee in this state or in any other state from which the person removes fuel for delivery and use in this state.

2. Each fuel vendor shall maintain detailed records of all purchases and sales for a period of not less than three (3) years.

3. All fuel vendor records shall be maintained in English and Arabic numerals or language acceptable to electronic formats.

4. The Commission may, in its discretion, exempt from paragraph 1 of this subsection any or all classes of persons who possess a valid supplier, terminal operator, carrier, importer, tank wagon operator or exporter license.

Added by Laws 1996, c. 345, § 33, eff. Oct. 1, 1996. Amended by Laws 2011, c. 163, § 6, eff. Jan. 1, 2012; Laws 2013, c. 375, § 6, eff. Jan. 1, 2014.

§68-500.34. License application process.

A. Each application for a license under this act shall be made upon a form prepared and furnished by the Commission. It shall be subscribed to by the applicant and shall contain the information as the Commission may reasonably require for the administration of this act, including the applicant's federal identification number and, with respect to the applicant for an exporter's license, a copy of the applicant's license to purchase or handle motor fuel tax free in the specified destination state or states for which the export license is to be issued.

B. The Commission shall investigate each applicant for a license under this act. No license shall be issued if the Commission determines that any one of the following exists:

1. The application is not filed in good faith;
2. The applicant is not the real party in interest;
3. The license of the real party in interest has been revoked for cause;
4. Any good cause the Commission may determine;
5. With respect to an exporter's license, the applicant is not licensed in the intended specific state(s) of destination; or
6. The applicant has a prior conviction for motor fuel tax evasion.

C. Applicants, including corporate officers, partners, and individuals, for a license issued by the Commission may be required to submit their fingerprints to the Commission at the time of applying. Officers of publicly held corporations and their subsidiaries shall be exempt from this fingerprinting provision. Persons, other than applicants for an importer's license, who possessed licenses issued under a predecessor statute continuously for three (3) years prior to the effective date of this act shall also be exempt from this provision. Fingerprints required by this section must be submitted on forms prescribed by the Commission. The Commission may forward to the Federal Bureau of Investigation or any other agency for processing all fingerprints submitted by license applicants. The receiving agency shall issue its findings to the Commission. The Commission, or another state agency, may maintain a file of fingerprints.

Added by Laws 1996, c. 345, § 34, eff. Oct. 1, 1996.

§68-500.35. Bond - Alternative proof of financial responsibility - Qualifications of bond - Financial statements and inquiry - New bond required - Release of existing bond.

A. 1. Terminal operators shall be required to post a bond of not less than three (3) months potential tax liability based on the number of gallons handled as estimated by the Commission, but in no event shall the bond be more than Five Hundred Thousand Dollars (\$500,000.00).

2. Exporters shall be required to post a bond of not less than three (3) months potential tax liability based on the number of gallons handled as estimated by the Commission, but in no event shall the bond be more than One Million Dollars (\$1,000,000.00).

3. Transporters shall be required to post a bond of not less than three (3) months potential tax liability based on the number of gallons handled as estimated by the Commission, but in no event shall the bond be more than One Hundred Thousand Dollars (\$100,000.00).

4. Tank wagon importers shall be required to post a bond of not less than three (3) months potential tax liability based on the number of gallons handled as estimated by the Commission, but in no event shall the bond be more than Fifty Thousand Dollars (\$50,000.00).

B. Suppliers and bonded importers shall be required to post a bond of not less than three (3) months potential tax liability based on the number of gallons handled as estimated by the Commission, but in no event shall the bond be less than One Hundred Thousand Dollars (\$100,000.00) nor more than Two Million Dollars (\$2,000,000.00). An applicant may alternatively show proof of financial responsibility in the following amounts in lieu of posting of bond or in lieu of posting of the full amount of bond, which shall constitute evidence of financial responsibility in the absence of circumstances indicating the Commission is otherwise at risk with respect to collection of taxes from the applicant:

1. Proof of Five Million Dollars (\$5,000,000.00) net worth shall constitute evidence of financial responsibility in lieu of posting of bond;

2. Proof of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) net worth shall constitute financial responsibility in lieu of posting one-half (1/2) of the bond; and

3. Proof of One Million Two Hundred Fifty Thousand Dollars (\$1,250,000.00) net worth shall constitute financial responsibility in lieu of posting one-fourth (1/4) of the bond.

C. If the applicant files a bond, the bond shall:

1. Be with a surety company approved by the Commission which may be an affiliate in the business of assuring such obligations;

2. Name the applicant as the principal and the state as the obliged; and

3. Be on forms prescribed by the Commission.

D. The Commission may, at the reasonable discretion of the Commission, require a licensee, or an applicant, to furnish current verified, financial statements. The Commission may make independent inquiry into the financial condition of the applicant and, in any case, is not required to accept as accurate financial statements which have not been certified or independently audited. If the Commission determines that a financial condition of a licensee warrants an increase in the bond or cash deposit, the Commission may require the licensee to furnish an increased bond or cash deposit.

E. 1. The Commission may require a licensee to file a new bond with a satisfactory surety in the same form and amount if:

a. liability upon the previous bond is discharged or reduced by a judgment rendered, payment made, or otherwise disposed of, or

b. in the opinion of the Commission, any surety on the previous bond becomes unsatisfactory.

If the new bond is unsatisfactory, the Commission shall cancel the license. If the new bond is satisfactorily furnished, the Commission shall release in writing the surety on the previous bond from any liability accruing after the effective date of the new bond.

2. If a licensee has a cash deposit with the Commission and the deposit is reduced by a judgment rendered, payment made, or otherwise disposed of, the Commission may require the licensee to make a new deposit equal to the amount of the reduction.

F. 1. If the Commission reasonably determines that the amount of the existing bond or cash deposit is insufficient to ensure payment to the state of the tax and any penalty and interest for which the licensee is or may become liable, the licensee shall, upon written demand of the Commission, file a new bond or increase the cash deposit. The Commission shall allow the licensee at least fifteen (15) days to secure the increased bond or cash deposit.

2. The new bond or cash deposit shall meet the requirements set forth in this act.

3. If the new bond or cash deposit required under this section is unsatisfactory, the Commission shall cancel the license.

G. 1. Sixty (60) days after making a written request for release to the Commission, the surety of a bond furnished by a licensee shall be released from any liability to the state accruing on the bond after the sixty-day period. The release does not affect any liability accruing before the expiration of the sixty-day period.

2. The Commission shall promptly notify the licensee furnishing the bond that a release has been requested. Unless the licensee obtains a new bond that meets the requirements of this act and files with the Commission the new bond within the sixty-day period, the Commission shall cancel the license.

3. Sixty (60) days after making a written request for release to the Commission, the cash deposit provided by a licensee shall be canceled as security for any obligation accruing after the expiration of the sixty-day period. However, the Commission may retain all or part of the cash deposit for up to three (3) years and one (1) day as security for any obligations accruing before the effective date of the cancellation. Any part of the deposit not retained by the Commission shall be released to the licensee. Before the expiration of the sixty-day period, the licensee shall provide the Commission with a bond that satisfies the requirements of this act or the Commission shall cancel the license.

4. Any licensee who has filed a bond or other security under this act is entitled, on request, to have the Commission return, refund, or release the bond or security if, in the judgment of the Commission, the licensee has continuously complied with the provisions of this act for the previous three (3) consecutive years. However, if the Commission determines that the revenues of the state would be jeopardized by the return, refund or release of bond or security, the Commission may elect to retain the bond or security, or having released such, may reimpose a requirement for bond or security to protect the revenues of this state. The decision of the Commission to not release a bond or security may be reviewed, after application by the licensee, pursuant to the Administrative Procedures Act.

H. In the event any applicant for a license applies for more than one license pursuant to this act, the applicant shall not be required to post a bond for each license, but shall be required to post the bond for the license which requires the greatest amount of bond.

Added by Laws 1996, c. 345, § 35, eff. Oct. 1, 1996.

§68-500.36. Issuance of licenses - Duration - Nontransferability - Display - Surrender - Notice of discontinuance, sale or transfer of business.

A. If the applicant and bond are approved, the Commission shall issue a license and as many copies as the licensee has places of business for which a license is required.

B. A license is valid until suspended, revoked for cause, or canceled.

C. No license is transferable to another person or to another place of business. For purposes of this section, a transfer of a majority interest in a business association, other than a publicly held association, including corporations, partnerships, trusts, joint ventures and any other business association shall be deemed to be a transfer of any license held by the business association to another person. Any substantial change in ownership of a business association, other than a publicly held business association, shall be reported to the Commission pursuant to rules promulgated by the Commission.

D. Each license shall be preserved and conspicuously displayed at the place of business for which it is issued. The Commission shall have authority to waive this requirement for any class of licensee in its discretion.

E. Upon the discontinuance or relocation of the business, the license issued for the location shall be immediately surrendered to the Commission.

F. Whenever any person licensed to do business under this act discontinues, sells, or transfers the business, the licensee shall immediately notify the Commission in writing of the discontinuance, sale, or transfer. The notice shall give the date of discontinuance, sale, or transfer and in the event of the sale or transfer of the business, the name and address of the purchaser or transferee. The licensee shall be liable for all taxes, interest, and penalties that accrue or may be owing and any criminal liability for misuse of the license that occurs prior to issuance of the notice.

Added by Laws 1996, c. 345, § 36, eff. Oct. 1, 1996.

§68-500.37. Supplier reports.

A. For the purpose of determining the amount of precollected motor fuel tax due, every supplier shall file with the Commission, on forms prescribed and furnished by the Commission, a verified statement. The Commission may require the reporting of any information reasonably necessary to determine the amount of precollected motor fuel tax due.

B. The reports required by this section shall be filed with respect to information for the preceding calendar month on or before the twenty-seventh day of the current month.

C. The supplier report required by this section shall include the following information with respect to billed gallons of motor fuel, for all products in the aggregate provided the supplier shall identify if billed gallon is net or gross:

1. Removal of gallons of motor fuel by the reporting supplier from the bulk transfer/terminal system in this state as to which the tax imposed by this act has been precollected or accrued by the reporting supplier;

2. Removal of gallons of diesel fuel or heating oil from terminals in this state by the reporting supplier, tax exempt, as to which dye has been added in accordance with paragraph 16 of Section 10 of this act;

3. Removal of gallons of motor fuel from terminals in this state by the reporting supplier, tax exempt, for export from this state by that supplier, sorted by state of destination;

4. Removal of gallons of motor fuel from terminals in this state by the reporting supplier, tax exempt, for sale to licensed exporters, sorted by state of destination;

5. Removal of gallons of motor fuel from terminals within this state for sale by the reporting supplier directly to the United States government or any agency or instrumentality thereof;

6. Removal of gallons of motor fuel from terminals within this state for sale by the reporting supplier directly to consumers other than the federal government, or any agencies and instrumentalities thereof, for any other exempt use for which the consumers have properly assigned refund claims to the ultimate vendor and each distributor in the chain including the reporting supplier;

7. Total removals in this state;

8. Removal of gallons of motor fuel from a terminal in another state by the reporting supplier, for sale to a licensed importer, tax exempt, for import into this state by that licensed importer;

9. Removal of gallons of motor fuel from a terminal in another state by the reporting supplier for import other than by bulk transfer by that supplier into this state, or for sale by the reporting supplier to a person for import into this state by that person, and in either case, as to which the tax in this state was accrued by the reporting supplier at the time of removal from the out-of-state terminal;

10. Removal of gallons of diesel fuel or heating oil from a terminal in another state by the reporting supplier, for import or for sale for import into this state, as to which dye has been added in accordance with paragraph 16 of Section 10 of this act;

11. Total removals from out-of-state terminals with this state as the state of destination;

12. Corrections made by the supplier pursuant to Section 17 of this act for changes in destination state which affect the tax liability of the supplier or the customer of the supplier to this state; and

13. Such other information which the Commission in its discretion determines is reasonably required to determine tax liability under this act.

D. Every licensed supplier or permissive supplier shall separately disclose and identify, in a written statement to the Commission with the supplier or permissive supplier report, any removal and sale from the bulk transfer/terminal system in another state by that supplier to a person other than a licensed supplier, permissive supplier or importer of gallons of motor fuel, other than diesel fuel dyed in accordance with paragraph 16 of Section 10 of this act, and which gallons are destined for this state, as shown by the terminal-issued shipping paper, and as to which gallons the tax imposed by this act has not been collected or accrued by the supplier upon the removal. Any person who knowingly violates or knowingly aids or abets another to violate this provision shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than One Thousand Dollars (\$1,000.00), or shall be sentenced to a term of not more than one (1) year in the county jail, or both such fine and imprisonment.

E. Each supplier shall separately identify each sale of K-1 kerosene, other than dyed diesel fuel, sold free of tax in accordance with reporting requirements established by the Commission. Added by Laws 1996, c. 345, § 37, eff. Oct. 1, 1996.

§68-500.38. Statement of operations - Licensed occasional importers, licensed bonded importers and licensed tank wagon importers.

A. Each licensed occasional importer and each licensed bonded importer shall file with the Commission by the twenty-seventh day of each month a verified sworn statement of operations within this state including:

1. Taxable gallons tax prepaid to a supplier upon removal from an out-of-state terminal;

2. With regard to a licensed occasional importer, taxable gallons subject to the three-day payment rule as set forth in Section 500.18 of this title sorted by source state, by supplier, and by terminal or bulk plant location;

3. With regard to a licensed bonded importer, taxable gallons subject to tax remittance by the bonded importer according to Section 500.18 of this title, sorted by source state, by supplier, and by terminal or bulk plant;

4. Such other information with respect to the source and means of transportation of nonexempt motor fuel as the Commission in its discretion may require on forms prescribed and furnished by the Commission. However, the Commission may waive any portion or all of the reporting requirements if it determines that border states have adopted and implemented reciprocal terminal report requirements adequate to assure the Commission that it receives complete information in respect of motor fuel removed by and on behalf of suppliers from terminals in border states which is destined for this state.

B. Each licensed tank wagon importer shall file with the Commission by the twenty-fifth day of each month a verified sworn statement of operations within this state and such other information in respect of the source and means of transportation of nonexempt motor fuel as the Commission in its discretion may require on forms prescribed and furnished by the Commission.

C. A person who knowingly violates or knowingly aids and abets another to violate this section shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than One Thousand Dollars (\$1,000.00), or shall be sentenced to a term of not more than one (1) year in the county jail, or shall be punishable by both such fine and imprisonment.

Added by Laws 1996, c. 345, § 38, eff. Oct. 1, 1996. Amended by Laws 1998, c. 385, § 6, eff. Nov. 1, 1998.

§68-500.39. Statement of operations by terminal operators - Inventory records - Reports by out-of-state terminal operators.

A. Each person operating a terminal in this state shall file with the Commission by the twenty-seventh day of each month a sworn statement of operations within this state for each terminal within this state, including the information set out in subsection B of this section, on forms prescribed and furnished by the Commission. The Commission may require the reporting of any information it considers reasonably necessary in addition to that required under subsection B of this section.

B. The monthly terminal report required by this section shall include the following information for each terminal location in this state:

1. Terminal code assigned by the Internal Revenue Service;
2. Total inventory at the terminal operated by the terminal operator;
3. Detailed schedules of receipts by shipment including:
 - a. carrier name or alpha code,
 - b. carrier federal identification number,
 - c. mode of transportation,
 - d. date received,
 - e. document number,
 - f. net gallons received, and
 - g. product type;
4. Detailed schedules of removals by shipment including:
 - a. carrier name or alpha code,

- b. carrier federal identification number,
- c. mode of transportation,
- d. destination state,
- e. supplier removing the fuel,
- f. supplier federal identification number,
- g. date removed from terminal,
- h. document number,
- i. net gallons, and
- j. gross gallons;

In the event the Internal Revenue Service provides a common system of assigning to carriers alpha-numeric codes in lieu of names, then this data will be required in lieu of carrier names.

C. For purposes of reporting and determining tax liability under this act, every licensee shall maintain inventory records as required by the Commission.

D. In the event that the source state does not require a terminal report which provides data substantially similar to that required by this section, any terminal operator subject to the police power of this state, and who operates a terminal outside that state, shall provide a report of gallons removed as to which the operator issued a shipping paper indicating this state as the destination state consistent with the information required under this section. This provision shall be ineffective if substantially similar data is readily available to this state from a federal terminal report or from the source state.

Added by Laws 1996, c. 345, § 39, eff. Oct. 1, 1996.

§68-500.40. Final report and payment of tax upon termination of business or cancellation of license - Termination of certain licenses - Application by former licensees for eligible purchaser status.

A. Every licensee shall, upon the discontinuance, sale, or transfer of the business or upon the cancellation, revocation or termination by law of a license under subsection C or F of Section 36 of this act, or as otherwise provided, within thirty (30) days, make a report as required under this act marked "Final Report", and shall pay all motor fuel taxes and penalties that may be due the state except as may otherwise be provided by law.

B. The payment shall be made to the Commission in accordance with Section 30 of this act.

C. For purposes of this section, any person who was licensed to remit motor fuel taxes by this state prior to the effective date of this act and who is not licensed as a supplier under this act shall be deemed to have the license terminated under this section as of the effective date of this act.

D. Any former licensee shall be given the opportunity to apply for eligible purchaser status as provided in Sections 22 and 23 of this act, prior to the effective date of this act. Should such determination not be complete before the effective date, collection of tax shown on the final report of the former license shall be delayed until the determination is complete. However, the final report shall be due not later than thirty (30) days after a denial of eligible purchaser status under Section 30 of this act becomes final.

Added by Laws 1996, c. 345, § 40, eff. Oct. 1, 1996.

§68-500.41. Exporter reports.

A. Each person licensed as an exporter shall file by the twenty-seventh day of each month reports with the Commission on forms prescribed and furnished by the Commission concerning the amount of motor fuel exported from this state.

B. The report shall contain the following information with respect to motor fuel other than diesel fuel dyed in accordance with the Internal Revenue Code:

1. All shipments of motor fuel removed from a terminal in this state for direct delivery outside of this state by the licensed exporter, sorted by state of destination;
2. The gallons delivered to taxing jurisdictions outside this state out of bulk plant storage, and whether by transport truck or tank wagon;
3. The name and federal employer identification number of the person receiving the exported motor fuel from the exporter;
4. The date of the shipments; and
5. The carrier name or alpha code and carrier federal identification number.

The Commission may, in addition, require the reporting of any other information it considers reasonably necessary to the enforcement of this act. The Commission may waive this reporting requirement if it finds the reports unnecessary to the administration of this act.

Added by Laws 1996, c. 345, § 41, eff. Oct. 1, 1996.

§68-500.42. Licensed transporter reports.

A. Each person licensed as a transporter in this state shall file monthly reports with the Commission on forms prescribed and furnished by the Commission concerning the amount of motor fuel transported within or across the borders of this state. However, transport truck operations exclusively within the state and those transport trucks operated by a supplier are not reportable. If a transporter fails to make the reports required by this section, the person is subject to a civil penalty of One Thousand Dollars (\$1,000.00) for each violation, as reasonably determined by the Commission.

B. The reports required by this section are for information purposes only and the Commission may waive the filing of the reports if the reports are unnecessary for the proper administration of this act. This section shall cease to be effective if substantially similar data is available from federal government sources including a federal terminal report.

Added by Laws 1996, c. 345, § 42, eff. Oct. 1, 1996.

§68-500.43. Payment of tax by consumer.

In the event the tax imposed by this act is not precollected and must be collected from the consumer in accordance with Section 28 of this act, the tax is due and payable by the consumer on the first day of each month for the preceding calendar month, and if not paid on or before the 15th day of the following month, shall be delinquent. The consumer shall file with the Commission, on forms furnished by the Commission, a return verified by affidavit showing in detail the total purchase price of the motor fuel, the number of gallons purchased, the price per gallon, the location of the purchase and any other information the Commission may deem reasonably necessary. With each return, the consumer shall remit to the Commission the amount of tax shown on the return to be due. Reports timely mailed shall be considered timely filed. If a report is not timely filed, interest shall be charged from the date the report should have been filed until the report is actually filed.

Added by Laws 1996, c. 345, § 43, eff. Oct. 1, 1996.

§68-500.44. Shipping documents - Contents - Manual preparation - Certain bulk plant operators exempted - Split loads - Posting of notice - Penalties.

A. Each person operating a refinery, terminal, or bulk plant in this state shall prepare and provide to the driver of every fuel transportation vehicle receiving motor fuel into the vehicle storage tank at the facility a shipping document setting out on its face:

1. Identification by address of the terminal or bulk plant from which the motor fuel was removed;

2. The date the motor fuel was removed;

3. The amount of motor fuel removed, actual gallons and net gallons;

4. The state of destination as represented to the terminal operator by the transporter, the shipper or the agent of the shipper; and

5. Any other information reasonably required by the Commission for the enforcement of this act.

B. A terminal operator may manually prepare shipping papers if the terminal does not have the ability to prepare automated shipping papers or as a result of extraordinary unforeseen circumstances, including acts of God, which temporarily interfere with the ability of the terminal operator to issue automated machine-generated shipping papers. However, the terminal operator shall, prior to manually preparing the papers, provide, in the case of a terminal not having the ability to prepare automated shipping papers, written notice to the Commission, or in the case of extraordinary circumstances, telephonic notice to the Commission and obtain a service interruption authorization number which the employees of the terminal operator shall add to the manually prepared papers prior to removal of each effected transport load from the terminal. The service interruption authorization number shall be valid for use by the terminal operator for a period not to exceed twenty-four (24) hours. If the interruption has not been cured within the twenty-four-hour period, additional notice(s) to the Commission shall be required and interruption authorization number(s) may be issued upon explanation by the terminal operator satisfactory to the Commission. If the terminal operator acquires the ability to prepare automated machine-printed shipping papers, the terminal operator shall notify the Commission no later than ten (10) days prior to the initial use of such capability.

C. An operator of a bulk plant in this state delivering motor fuel into a tank wagon for subsequent delivery to a consumer in this state shall be exempt from this section. An operator of a bulk plant in this state shall not be required to identify net gallons on the shipping documents as provided by this section.

D. A terminal operator may load motor or diesel fuel, a portion of which fuel is destined for sale or use in this state and a portion of which fuel is destined for sale or use in another state or states. However, such split loads removed shall be documented by the terminal operator by issuing shipping papers designating the state of destination for each portion of the fuel.

E. Each terminal operator shall post a conspicuous notice proximately located to the point of receipt of shipping papers by transport truck operators, which notice shall describe in clear and concise terms the duties of the transport operator and retail dealer under Section 45 of this act, provided that the Commission may by rule or notice establish the language, type, style and format of the notice.

F. A person who knowingly violates or knowingly aids and abets another to violate this section with the intent to evade the tax levied by this act shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than One Thousand Dollars (\$1,000.00), or be

sentenced to a term of not more than one (1) year in the county jail, or shall be punishable by both such fine and imprisonment.

Added by Laws 1996, c. 345, § 44, eff. Oct. 1, 1996.

§68-500.45. Transporters to carry and follow information in shipping documents - Shipping documents to be provided to certain outlets - Retention of shipping documents - Acceptance of delivery without shipping documents prohibited - Penalties.

A. Each person transporting motor fuel in a fuel transportation vehicle upon the public highways of this state shall:

1. Carry on board the shipping document issued by the terminal operator or the bulk plant operator of the facility where the motor fuel was obtained, whether within or without this state. The shipping paper shall set out on its face the state of destination of the motor fuel transported in the vehicle as represented to the terminal operator at the time the fuel transportation vehicle was loaded, or as otherwise provided in paragraph 3 of this subsection;

2. Show and permit duplication of the shipping document by a law enforcement officer, or representative of the Commission, upon request, when transporting, holding or off-loading the motor fuel described in the shipping document;

3. Deliver motor fuel described in the shipping document to a point in the destination state shown on the face of the document unless the person or the agent of the person does all of the following:

- a. notifies the Commission before the earlier of removal from the state in which the shipment originated, or the initiation of delivery, that the person received instructions after the shipping document was issued to deliver the motor fuel to a different destination state,
- b. receives from the Commission a verification number authorizing the diversion, and
- c. writes on the shipping document the change in destination state and the verification number for the diversion;

4. Provide a copy of the shipping document to the distributor or other person who controls the facility to which the motor fuel is delivered;

5. Meet such other conditions as the Commission may reasonably require for the enforcement of this act.

The Commission shall provide by regulation for handwritten designations and alternative procedures for operators of tank wagons that have received motor fuel at a bulk plant for delivery within or without this state.

B. Every person transporting motor fuel in vehicles upon the public highways of this state shall provide the original or a copy of the terminal-issued shipping document accompanying the shipment to the operator of the retail outlet, bulk plant or bulk end user bulk storage facility to which delivery of the shipment was made.

C. Each operator of a motor fuel retail outlet, bulk plant or bulk end user bulk storage facility shall receive, examine, and retain for a period of thirty (30) days at the delivery location the terminal-issued shipping document received from the transporter for every shipment of motor fuel that is delivered to that location with record retention of the shipping paper of three (3) years required off-site. If the delivery location is an unattended location, the operator may retain the shipping documents at the normal billing address of the operator.

D. No retail dealer, bulk plant operator, wholesale distributor or bulk end user shall knowingly accept delivery of motor fuel into bulk storage facilities in this state if that delivery is not accompanied by a shipping paper issued by the terminal operator, or bulk plant operator as provided by regulations, that sets out on its face this state as the state of destination of the motor fuel or a diversion verification number pursuant to Section 46 of this act, and such other information as is required under Sections 49 and 50 of this act.

E. Any person who knowingly violates or knowingly aids and abets another to violate subsection B or D of this section shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than One Thousand Dollars (\$1,000.00), or shall be sentenced to a term of not more than one (1) year in the county jail, or shall be punishable by both such fine and imprisonment.

Added by Laws 1996, c. 345, § 45, eff. Oct. 1, 1996.

§68-500.46. Legitimate diversions or erroneous information on shipping paper - Relief.

A. The Commission shall promulgate rules for relief in a case where a shipment of motor fuel is legitimately diverted from the represented destination state after the shipping paper has been issued by the terminal operator or where the terminal operator failed to cause proper information to be printed on the shipping paper.

B. The relief rules shall include a provision requiring that the shipper, the transporter, or an agent of either provide notification before the diversion or correction to the Commission if an intended diversion or correction is to occur, that a verification number be assigned and manually added to the face of the terminal-issued shipping paper, and the relief provision shall be consistent with the refund provisions of this act, including Section 21 of this act.

C. The relief provisions shall establish a protest procedure so that any person found to be in violation of Section 44 and subsection C of Section 45 of this act may establish a defense to any civil penalty imposed under this act for violation of such section or sections upon establishing substantial evidence satisfactory to the Commission that the violation was the result of honest error made in the context of a good faith and reasonable effort to properly account for and report fuel shipments and taxes.

D. The Commission shall make reasonable efforts to coordinate with neighboring states and the Federation of Tax Administrators for the operation of common telephonic diversion verification number assignment system including the shared burdens thereof.

Added by Laws 1996, c. 345, § 46, eff. Oct. 1, 1996.

§68-500.47. Reliance on certain representations.

The supplier and the terminal operator shall be entitled to rely for all purposes of this act on the representation by the transporter, the shipper or the agent of the shipper as to the intended state of destination and tax-exempt use of the shipper. The shipper, importer, transporter, agent of the shipper and any purchaser, not the supplier or terminal operator, shall be jointly liable for any tax otherwise due to the state as a result of a diversion of the motor fuel from the represented destination state. A terminal operator shall be entitled to rely on the representation of a licensed supplier with respect to the obligation of the supplier to precollect tax and the related shipping paper representation to be as shown on the shipping paper as provided by subsection A of Section 44 of this act.

Added by Laws 1996, c. 345, § 47, eff. Oct. 1, 1996.

§68-500.48. Sale or delivery of motor fuel without payment of taxes prohibited - Exceptions - Penalties.

A. Except as expressly provided in subsection B of this section, no person shall sell, use, deliver, or store in this state, or import for sale, use, delivery or storage in this state, motor fuel as to which the tax imposed by Section 4 of this act has not been previously paid to or accrued by either a licensed supplier, or permissive supplier, at the time of removal from a terminal, or a licensed importer provided all the conditions of Section 50 of this act applicable to lawful import by the importer shall have been met.

B. The provisions of subsection A of this section shall not apply to:

1. A supplier with respect to motor fuel held within the bulk transfer/terminal system in this state which was manufactured in this state or imported into this state in a bulk transfer;
2. A consumer with respect to motor fuel placed in the vehicle supply tank of that person outside of this state;
3. Diesel fuel dyed in accordance with paragraph 16 of Section 10 of this act;
4. Motor fuel in the process of exportation by a supplier or a licensed exporter in accordance with the shipping papers required by Section 45 of this act and a statement meeting the requirements of paragraph 2 of subsection A of Section 49 of this act is shown on the shipping papers;
5. Gasoline, diesel fuel and kerosene used in aircraft subject to the conditions and exceptions in paragraph 9 of Section 10 of this act;
6. Fuel in possession of a consumer as to which a refund has been issued;
7. Government and other exempt fuel under paragraphs 5, 6 and 7 of Section 10 of this act; or
8. A licensed importer who has met the conditions of Section 49 of this act.

C. A person who violates this section shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than One Thousand Dollars (\$1,000.00), or be sentenced to a term of not more than one (1) year in the county jail, or shall be punishable by both such fine and imprisonment and shall be subject to the provisions of Section 59 of this act.

Added by Laws 1996, c. 345, § 48, eff. Oct. 1, 1996.

§68-500.49. Operation of transport truck without shipping paper prohibited - Violation occurs upon boarding - Advance notification - Penalties - Seizure.

A. Except as provided in subsections C and D of this section, no person shall operate a transport truck that is engaged in the shipment of motor fuel on the public highways of this state without having on board a terminal-issued shipping paper bearing, in addition to the requirements of subsection A of Section 45 of this act, a notation indicating that, with respect to diesel fuel acquired under claim of exempt use, a statement indicating the fuel is "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" for the load or the appropriate portion of the load.

B. A person is in violation of subsection A of this section upon boarding the vehicle with a shipping paper which does not meet the requirements set forth in this section.

C. The Commission may in its discretion provide an advance notification procedure with respect to documentation for imported motor fuel as to which the importer is unable to obtain terminal-issued shipping papers which comply with this section.

D. Any person who knowingly violates any part of this section shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than One Thousand Dollars

(\$1,000.00), or be sentenced to a term of not more than six (6) months in the county jail, or shall be punishable by both such fine and imprisonment.

E. The Commission, its appointee, or representative may seize, confiscate and dispose of any motor fuel which should be accompanied by a shipping paper meeting the requirements of this section which is not accompanied by the required shipping paper.

Added by Laws 1996, c. 345, § 49, eff. Oct. 1, 1996.

§68-500.50. Conditions for importers prior to bringing undyed and untaxed fuel into state - Penalties - Seizure.

A. In the event that an importer acquires motor fuel destined for this state which has neither been dyed in accordance with the Internal Revenue Code and the regulations issued thereunder, nor tax paid to or accrued by the supplier at the time of removal from the out-of-state terminal, any licensed importer and transporter operating on behalf of the licensed importer shall meet all of the following conditions prior to entering motor fuel onto the highways of this state by loaded transport truck:

1. The importer or the transporter shall have obtained an import verification number from the Commission not sooner than twenty-four (24) hours prior to entering this state;
2. The import verification number shall have been set out prominently and indelibly on the face of each copy of the terminal-issued shipping paper carried on board the transport truck;
3. The terminal origin and the name and address of the importer shall also be set out prominently on the face of each copy of the terminal-issued shipping paper;
4. The terminal-issued shipping paper data otherwise required by this act shall be present; and
5. All tax imposed by this act with respect to previously requested import verification number activity on the account of the importer or the transporter shall have been timely precollected and remitted.

B. Any person who knowingly violates or knowingly aids and abets another to violate this provision shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than One Thousand Dollars (\$1,000.00), or be sentenced to a term of not more than one (1) year in the county jail, or shall be punishable by both such fine and imprisonment and shall be subject to the provisions of Section 59 of this act.

C. The Commission, its appointee, or representative may seize, confiscate and dispose of any motor fuel which should be accompanied by a shipping paper meeting the requirement of this section which is not accompanied by the required shipping paper.

Added by Laws 1996, c. 345, § 50, eff. Oct. 1, 1996.

§68-500.51. Export of motor fuel without license prohibited - Exemption - Penalties.

A. No person shall export motor fuel from this state unless that person has obtained an exporter's license or a supplier's license and can demonstrate proof of export in the form of a destination state bill of lading.

B. A consumer which exports fuel in a vehicle fuel supply tank incident to interstate transportation shall be exempt from this section.

C. Any person who knowingly violates or knowingly aids and abets another to violate this provision with the intent to evade the tax levied by this act shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than One Thousand Dollars (\$1,000.00), or be

sentenced to a term of not more than one (1) year in the county jail, or shall be punishable by both such fine and imprisonment.

Added by Laws 1996, c. 345, § 51, eff. Oct. 1, 1996.

§68-500.52. Use of dyed fuel on public highways prohibited - Exceptions - Penalties.

A. No person shall operate or maintain a motor vehicle on any public highway in this state with motor fuel contained in the fuel supply tank for the motor vehicle that contains dye as provided under paragraph 16 of Section 10 of this act.

B. This section does not apply to:

1. Persons operating motor vehicles that have received fuel into their fuel tanks outside of this state in a jurisdiction that permits introduction of dyed motor fuel of that color and type into the motor fuel tank of highway vehicles; or

2. Uses of dyed fuel on the highway which are lawful under the Internal Revenue Code and regulations thereunder and as set forth in Section 10 of this act unless otherwise prohibited by this act.

C. Any person who knowingly violates or knowingly aids and abets another to violate the provisions of this section with the intent to evade the tax levied by this act shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than One Thousand Dollars (\$1,000.00), or be sentenced to a term of not more than one (1) year in the county jail, or shall be punishable by both such fine and imprisonment.

Added by Laws 1996, c. 345, § 52, eff. Oct. 1, 1996.

§68-500.53. Failure to obtain required licenses - Penalties.

No person shall engage in any business activity in this state as to which a license is required by this act unless the person shall have first obtained the license. Any person who negligently violates this section is subject to a civil penalty in the amount of One Thousand Dollars (\$1,000.00). Any person who knowingly violates or knowingly aids and abets another to violate this section with the intent to evade the tax levied by this act shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than One Thousand Dollars (\$1,000.00), or be sentenced to a term of not more than one (1) year in the county jail, or shall be punishable by both such fine and imprisonment.

Added by Laws 1996, c. 345, § 53, eff. Oct. 1, 1996.

§68-500.54. Certain statements on shipping papers prohibited.

A. No terminal operator shall imprint, and no supplier shall knowingly permit a terminal operator to imprint on behalf of the supplier, any statement on a shipping paper relating to motor fuel to be delivered to this state or to a state having substantially the same shipping paper legending requirements with respect to:

1. Any responsibility of the supplier or liability for payment of the tax imposed by this act; or

2. The tax-paid or tax-collected status of any motor fuel unless the supplier or representative of the supplier shall have first provided the terminal operator with a representation or direction to make the statement on behalf of the supplier.

B. Any terminal operator who shall knowingly imprint any statement in violation of this section shall be jointly and severally liable for all the taxes levied by this act which are not collected by this state as a result of such actions.

C. Any supplier who knowingly violates this section shall be jointly and severally liable with the terminal operator.

Added by Laws 1996, c. 345, § 54, eff. Oct. 1, 1996.

§68-500.55. Notice to be provided and posted with dyed diesel fuel.

A notice stating "DYED DIESEL FUEL, NONTAXABLE USE ONLY, PENALTY FOR TAXABLE USE" shall be:

1. Provided by the terminal operator to any person that receives dyed diesel fuel at a terminal rack of that terminal operator;

2. Provided by any seller of dyed diesel fuel to its buyer if the diesel fuel is located outside the bulk transfer/terminal system and is not sold from a retail pump posted in accordance with the requirements of paragraph 3 of this section; and

3. Posted by a seller on any retail pump where it sells dyed diesel fuel for use by its buyer. The form of notice required under paragraphs 1 and 2 of this section shall be provided by the time of the removal or sale and shall appear on shipping papers, bills of lading, and invoices accompanying the sale or removal of the dyed diesel fuel.

Added by Laws 1996, c. 345, § 55, eff. Oct. 1, 1996.

§68-500.56. Shipping papers to meet tamper-resistant standards.

Each terminal operator in this state and every supplier licensed by this state for the collection of tax on motor fuel shall cause terminal-issued shipping papers to meet such tamper-resistant standards as the Commission may by regulation require including, but not limited to messages which identify whether shipping papers have been photocopied, numbering systems, nonreproducible coding and other devices. However, the Commission may not make any such regulations effective earlier than twenty-four (24) months after the promulgation of a final regulation imposing the requirements.

Added by Laws 1996, c. 345, § 56, eff. Oct. 1, 1996.

§68-500.57. Sale or use of dyed diesel fuel for taxable purpose - Evasion of tax or altering dye in diesel fuel - Joint and several liability of certain entities, officers and employees.

A. No person shall sell or hold for sale dyed diesel fuel for any use that the person knows or has reason to know is not a nontaxable use of the diesel fuel.

B. No person shall use or hold for use any dyed diesel fuel for a use other than a nontaxable use and the person knew or had reason to know that the diesel fuel was so dyed.

C. No person shall willfully, with intent to evade tax, alter or attempt to alter the strength or composition of any dye or marker in any dyed diesel fuel.

D. Any business entity, each officer, employee, or agent of the entity who willfully participates in any act in violation of this section shall be jointly and severally liable with the entity for the penalty which shall be the same as imposed pursuant to 26 U.S.C., Section 6714.

Added by Laws 1996, c. 345, § 57, eff. Oct. 1, 1996.

§68-500.58. Failure to precollect or timely remit tax - Fraudulent returns - Operation of motor vehicle in violation of act - Transporting motor fuel without adequate shipping papers - Terminal operators failing to meet shipping paper requirements - Penalties.

A. A supplier, permissive supplier, or importer who knowingly fails to precollect or timely remit tax otherwise required to be paid over to the Commission pursuant to Section 500.18 or

500.20 of this title, or pursuant to a tax precollection agreement under Section 500.19 of this title shall be liable for the uncollected tax plus the appropriate penalties as set forth in Section 217 of this title.

B. If any person liable for the tax under this act files a false or fraudulent return with the intent to evade the tax, then fifty percent (50%) of the total amount of any deficiency, in addition to the deficiency, including interest as provided in Section 217 of this title, shall be added, collected and paid.

C. Any person operating a motor vehicle in violation of Section 500.45, 500.49 or 500.50 of this title shall be guilty of a misdemeanor for the first offense and shall, upon conviction, be fined not more than Five Hundred Dollars (\$500.00), or shall be sentenced to a term of not more than six (6) months in the county jail, or shall be punishable by both such fine and imprisonment. For the second and each subsequent offense, violators shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than One Thousand Dollars (\$1,000.00), or shall be sentenced to a term of not more than one (1) year in the county jail, or shall be punishable by both such fine and imprisonment.

D. The Commission shall impose a civil penalty of One Thousand Dollars (\$1,000.00) for the first occurrence of transporting motor fuel without adequate shipping papers annotated as required under Section 500.45, 500.49 or 500.50 of this title. Each subsequent occurrence described in this subsection is subject to a civil penalty of Five Thousand Dollars (\$5,000.00).

E. The Commission may impose a civil penalty against every terminal operator that fails to meet shipping paper issuance requirements under Sections 500.21, 500.44 and 500.55 of this title. The civil penalty imposed on the terminal operator shall be the same as the civil penalty imposed under subsection D of this section.

Added by Laws 1996, c. 345, § 58, eff. Oct. 1, 1996. Amended by Laws 2002, c. 460, § 38, eff. Nov. 1, 2002.

§68-500.59. Impoundment, seizure and sale of vehicle and cargo upon violation of shipping paper requirements - Presumption.

If a person is found operating a motor vehicle in violation of the shipping paper requirements in Sections 45, 49, 50 and 55 of this act, the vehicle and its cargo is subject to impoundment, seizure, and subsequent sale and forfeiture, in accordance with the general laws of this state respecting seizure and forfeiture. The failure of the operator of a motor vehicle to have on board, when loaded, the proper shipping papers with a destination state machine-printed on its face pursuant to Section 45 of this act or which fails to meet the descriptive annotation requirements of Sections 49, 50 and 56 of this act, if applicable, shall be presumptive evidence of a violation sufficient to warrant impoundment and seizure of the vehicle and its cargo.

Added by Laws 1996, c. 345, § 59, eff. Oct. 1, 1996.

§68-500.60. Inspections.

A. The Commission, or its appointees, including federal government employees or persons operating under contract with the state, upon presenting appropriate credentials may conduct inspections and remove samples of fuel to determine coloration of diesel fuel, or to identify shipping paper violations at any place where taxable fuel is or may be produced, stored or loaded into transport vehicles. Inspections shall be performed in a reasonable manner consistent with the circumstances, but in no event is prior notice required. Inspectors may physically inspect, examine or otherwise search any tank, reservoir, or other container that can or

might be used for the production, storage, or transportation of fuel. Inspection may be made of any equipment used for, or in connection with, the production, storage, or transportation of fuel. Inspectors may demand to be produced for immediate inspection the shipping papers, documents and records required to be kept by a person transporting fuel. The places which may be inspected pursuant to this section may include, but are not limited to:

1. A terminal;
2. A fuel storage facility that is not a terminal;
3. A retail fuel facility;
4. Highway rest stops; or
5. A designated inspection site. For purposes of this section, a “designated inspection

site” means any state highway or waterway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the Commission either fixed or mobile.

B. Inspections to determine violations under this act may be conducted by the Department of Public Safety, agents of the Commission, Oklahoma Corporation Commission, motor carrier inspectors in this state in addition to their duties otherwise defined, and any other law enforcement officer through procedures established by the Commission. Agents of the Commission have the same power and authority provided to authorized personnel under the applicable statute.

C. Inspectors may reasonably detain any person or equipment transporting fuel in or through this state for the purpose of determining whether the person is operating in compliance with the provisions of this act and any rules promulgated pursuant to this act. Detainment may continue for such time only as is necessary to determine whether the person is in compliance. Added by Laws 1996, c. 345, § 60, eff. Oct. 1, 1996.

§68-500.61. Audits and examinations - Penalties.

A. The Commission or any authorized deputy, employee, or agent is authorized to audit and examine the records, books, papers, and equipment of terminal suppliers, importers, wholesalers, jobbers, retail dealers, terminal operators, fuel vendors and all private and common carriers of motor fuel to verify the completeness, truth and accuracy of any statement or report and ascertain whether or not the tax imposed by this act has been paid.

B. The Commission shall have the same general authority provided under subsection A of this section with respect to narrow transportation sampling audits. However, all fuel vendors and bulk purchasers of fuel shall make available to the Commission necessary records with respect to such transaction(s) which the Commission is attempting to verify during normal business hours at the physical location of the person in this state, or at the offices of the Commission if the location at which the records are located is outside of this state, within three (3) business days after request.

C. The Commission or any appointee, including federal government employees and persons contracting with the state, may, upon proof of credentials shown, in the aggregate referred to for purposes of this section as fuel inspectors, inspect and each fuel vendor, motor fuel transporter or bulk purchaser shall disclose, immediately upon request, any shipping paper required by this act to be maintained at the physical location where the request is made which may include any place motor fuel is stored or held for sale or transportation.

D. Any person who shall refuse to permit any inspection or audit authorized by this act shall be subject to a civil penalty of Five Thousand Dollars (\$5,000.00) in addition to any penalty imposed by any other provision of this act.

E. Any person who refuses, for the purpose of evading tax, to allow an inspection shall, in addition to being liable for any other penalties imposed by this act, be guilty of a misdemeanor and shall, upon conviction, be fined not more than One Thousand Dollars (\$1,000.00), or be sentenced to a term of not more than one (1) year in the county jail, or shall be punishable by both such fine and imprisonment.

Added by Laws 1996, c. 345, § 61, eff. Oct. 1, 1996.

§68-500.62. Taxation of motor fuel inventory not taxed under predecessor statutes.

The tax imposed by Section 4 of this act shall be applicable to all nonexempt inventory held by any person outside of the bulk transfer system in this state in quantities which, in the aggregate with respect to such person, exceed one thousand (1,000) gallons, to the extent the inventory has not previously been subject to the tax imposed by this state under the predecessor motor fuel tax statute. However, no tax shall be payable with respect to motor fuel which is dyed diesel fuel or held by an exempt user. The inventory tax imposed on inventory held outside of the bulk transfer system on the effective date of this act reportable under this section shall be payable in two equal annual installments beginning twelve (12) months after the effective date of this act.

Added by Laws 1996, c. 345, § 62, eff. Oct. 1, 1996.

§68-500.63. Sale of motor fuels by Indian tribes.

A. The Legislature hereby finds:

1. Some Indian tribes within the State of Oklahoma are engaged in the retail sales of motor fuels at locations within their sovereign territories;

2. Both Indian tribes and the government of the State of Oklahoma impose motor fuel taxes;

3. By reason of the ruling of the United States Supreme Court in “Oklahoma Tax Commission v. Chickasaw Nation”, 115 S.Ct. 2214 (1995), the State of Oklahoma does not now collect state motor fuel taxes on sales made by Indian tribes. The Legislature hereby acknowledges that, as a matter of federal law, the existing law of the state may not be used to levy or enforce taxes on certain sales of motor fuel made by Indian tribes;

4. It is mutually beneficial to the State of Oklahoma and the federally recognized Indian tribes of this state, exercising their sovereign powers, to enter into contracts as set forth in subsection B of this section, for the purpose of limiting litigation on the issue of state government taxation of motor fuel sales made by Indian tribes. It is in the interest of this state to resolve disputes between the state and federally recognized Indian tribes on this issue by entering into contracts under which the Indian tribes are in part compensated for any tribal motor fuel tax revenues the Indian tribes might lose by reason of the adoption and enforcement of this act. Such mutually beneficial agreements allow both the State of Oklahoma and the Indian tribes to benefit from tax revenues from sales of motor fuel on Indian country.

B. In lieu of the refund procedure provided in subsection E of Section 14 of this act for the exemption provided for sales of motor fuels by an Indian tribe to its tribal members as provided in paragraph 10 of Section 10 of this act, an Indian tribe, on its behalf and on behalf of its

members, may elect to enter into a contract with the State of Oklahoma as provided in subsection C of this section.

C. The State of Oklahoma hereby makes the following offer to all federally recognized Indian tribes within this state which, if accepted, will constitute a contract between this state and the accepting tribe or tribes:

1. The accepting tribe shall agree that it will not challenge the constitutionality of this act or the application of this act to motor fuel sales on Indian country in any court or tribunal and shall include all state motor fuel taxes and assessments in the price of its motor fuel sales, including but not limited to sales to tribal members on tribal land. The accepting tribe shall agree as a material term of its agreement to abide with all parts of this act in its entirety and shall agree not to procure, or attempt to procure, motor fuel for sale in Indian country on which the tax imposed by this act has not been precollected as provided for herein;

2. In consideration of this agreement by the tribe or tribes, the State of Oklahoma, through the Oklahoma Tax Commission, shall withhold a percentage of its motor fuel tax revenues, as specified in paragraph 3 of this subsection, which shall be apportioned quarterly to the accepting Indian tribes. The funds apportioned as provided herein are deemed to be in lieu of tribal tax revenues that the tribes would otherwise have collected on sales of motor fuels. The first such apportionment shall be made not later than February 1, 1997, which shall be for motor fuels taxes received by the Tax Commission during the last calendar quarter of 1996, and subsequent apportionments shall be made no later than thirty (30) days after the end of each calendar quarter thereafter. The first such apportionment shall be made to all tribes which have elected and accepted the terms of the contract specified in this subsection before October 1, 1996. Any tribe electing and accepting the terms of the contract specified in this subsection on or after October 1, 1996, shall be eligible to receive quarterly apportionments beginning with the calendar quarter following such election;

3. The percentage of state motor fuel tax and assessment revenues collected pursuant to the provisions of this act which shall be withheld monthly and apportioned quarterly to accepting Indian tribes shall be as follows:

- a. for the portion of the fiscal year beginning July 1, 1996, for which this act is effective, three percent (3%),
- b. for the fiscal year beginning July 1, 1997, four percent (4%), and
- c. for the fiscal year beginning July 1, 1998, and for each fiscal year thereafter, four and one-half percent (4 1/2%);

4. The funds withheld by the Oklahoma Tax Commission pursuant to paragraph 3 of this subsection shall be apportioned quarterly to each accepting Indian tribe as follows:

- a. each accepting Indian tribe shall receive a base quarterly sum of Six Thousand Two Hundred Fifty Dollars (\$6,250.00). If the gross state motor fuel tax revenues collected do not exceed One Hundred Million Dollars (\$100,000,000.00) in any fiscal year, the provisions of this subparagraph shall not be applicable,
- b. to those tribes who were engaged in the sales of motor fuels during the fourth calendar quarter of the calendar year 1996:
 - (1) for the fiscal year beginning July 1, 1996, an amount equal to ten cents (\$.10) per gallon of motor fuels sold by such tribe during the fourth calendar quarter of 1996,

- (2) for the fiscal year beginning July 1, 1997, an amount equal to eight cents (\$0.08) per gallon of motor fuels sold by such tribe during the fourth calendar quarter of 1996,
 - (3) for the fiscal year beginning July 1, 1998, an amount equal to six cents (\$0.06) per gallon of motor fuels sold by such tribe during the fourth calendar quarter of 1996,
 - (4) for the fiscal year beginning July 1, 1999, an amount equal to four cents (\$0.04) per gallon of motor fuels sold by such tribe during the fourth calendar quarter of 1996, and
 - (5) for the fiscal year beginning July 1, 2000, and thereafter for the duration of the contract, an amount equal to two cents (\$0.02) per gallon of motor fuels sold by such tribe during the fourth calendar quarter of 1996, and
- c. after determination of amounts to be apportioned pursuant to subparagraphs a and b of this paragraph, the remainder shall be apportioned according to the proportion the accepting Indian tribe's total Oklahoma resident membership bears to the total Oklahoma tribal resident membership of all accepting Indian tribes;

5. The funds withheld by the Oklahoma Tax Commission and apportioned quarterly pursuant to the provisions of this section shall be used by the accepting tribe exclusively for tribal government programs limited to highway and bridge construction, health, education, corrections, and law enforcement;

6. In the event, at any time during a calendar quarter, an accepting tribe selling motor fuel fails to procure, for whatever reason, motor fuel for sale in Indian country on which the tax imposed by this act has been precollected as provided in this act, or fails, for whatever reason, to include all state motor fuel taxes and assessments in the price of its motor fuels sales including, but not limited to, sales to tribal members on Indian country, the tribe shall not be eligible to receive an apportionment under this section for that calendar quarter. In such instances, the Tax Commission shall notify the tribe that its apportionment shall be withheld and the reasons therefor. The tribe shall have six (6) months from the date of issuance of the notice under this paragraph to file a legal action contesting the decision of the state to withhold its apportionment. The amount withheld from the tribe pursuant to the provisions of this paragraph shall not be apportioned and shall be withheld from all tribes until the expiration of the six-month limitation period and during the pendency of any legal action filed pursuant to this paragraph.

7. Each tribe shall provide to the Oklahoma Tax Commission an audit of its tribal membership or citizenship rolls certified by a certified public accountant showing the correct number of its respective tribal members by blood, excluding members of bands, tribal towns and other tribes or affiliates which may be included on its rolls but who are ineligible for tribal services and benefits. Only tribal members who reside within the State of Oklahoma shall be included in the audit. Citizens of tribal towns, bands of Indians and tribes who are also counted in the audits as members of another tribe participating in the contract provided for in this section and eligible to receive services from the tribe shall not be eligible to also participate under this section. Any tribal member who is also a member of another tribe may only be counted once for purposes of determining tribal membership. Those tribes who were engaged in the sales of motor fuels during the fourth calendar quarter of calendar year 1996 shall also provide certified audited reports on or before January 10, 1997, showing the quantity of motor fuels sold by them

during that period. For all tribes electing to accept the terms of the contract specified in this subsection before October 1, 1996, the membership audit report shall be submitted on or before October 1, 1996, and not later than July 1 of each year thereafter. The information provided shall be the basis from which the Oklahoma Tax Commission shall calculate the distribution of the funds withheld pursuant to the provisions of this section. The State of Oklahoma shall be absolved of any liability if the information submitted pursuant to the provisions of this section is not correct. If such information is not submitted by an accepting or participating tribe by October 1, 1996, or in subsequent years by July 1, the Tax Commission shall calculate the distribution of the funds on the basis of the information previously submitted by that tribe. Notwithstanding the provisions of Section 205 of Title 68 of the Oklahoma Statutes, copies of the audits and reports shall be made available to any requesting participating tribes;

8. Acceptance of the offer contained in this section shall be made in writing to the Oklahoma Tax Commission, signed by the chief executive officer of the tribal government, stating that the tribe accepts, without condition, the terms of this section, and for the sole purpose of resolving disputes arising out of a contract entered into pursuant to the provisions of this section, the tribe waives its immunity from suit and liability in state and federal court. In addition, proof of adoption of an ordinance or resolution by the governing body of the tribe accepting without condition the terms of this section, and an effective waiver of its immunity, as specified herein, shall be required. Notwithstanding the enactment of any future legislation on this topic, the term of the contract created by the acceptance of this offer shall extend through and include fiscal year 2016 and shall be renewed for successive ten-year terms unless a tribe notifies the State of Oklahoma of its intention not to participate further or the State of Oklahoma notifies the tribe of its intent not to participate further. Notification by the tribe shall be made in the same manner as required by this paragraph for acceptance of the offer to participate in the contract. Notification by the state shall be made by the Governor in writing to the tribe, and such notification shall be filed with the Secretary of State;

9. The State of Oklahoma hereby waives its immunities from suit granted by the Eleventh Amendment to the Constitution of the United States for the sole purpose of resolving disputes arising out of a contract entered into pursuant to the provisions of this section;

10. Both the State of Oklahoma and the accepting Indian tribe recognize, respect and accept the fact that under applicable laws each is a sovereign with dominion over their respective territories and governments. By entering into this proposed intergovernmental contractual relationship, neither the state nor the tribe has, in any way, caused the other's sovereignty to be diminished;

11. Members of accepting tribes shall not be individually eligible for the exemption provided in paragraph 10 of Section 10 of this act. Apportionment of funds to accepting tribes pursuant to the provisions of paragraph 4 of this subsection are in part in lieu of the refunds to individual tribal members as provided in paragraph 10 of Section 10 of this act. Indian tribes shall continue to be eligible for the tribal government exemption provided in paragraph 7 of Section 10 of this act;

12. A tribe accepting the offer contained in this section agrees to hold the state harmless from suit by its individual tribal members and further agrees that, if a final judgment is rendered against the state pursuant to such a suit, that the tribe will reimburse the state for the amount of any such judgment paid and any costs incurred by the state pursuant to such suit. If a tribe fails to make such reimbursement within ninety (90) days of demand by the Oklahoma Tax

Commission, the state shall withhold such amount from the apportionment of funds to the tribe pursuant to the provisions of paragraph 4 of this subsection; and

13. A tribe accepting the offer contained in this section agrees not to license or otherwise authorize an individual tribal member or other person or entity to make sales of motor fuel in violation of the terms of the contract.

Added by Laws 1996, c. 345, § 63, eff. Oct. 1, 1996.

§68-500.64. Tax payment reimbursement contracts - Reimbursement option - Notification - Security.

A. If a contract requires one party to reimburse another party for taxes levied under Part III of Subchapter A of Chapter 32 of the Internal Revenue Code, the party making the reimbursement, at its option, shall not be required to reimburse the other party more than one (1) business day before the other party is required to remit the taxes to the Internal Revenue Service.

B. If a party chooses not to exercise its option under subsection A of this section, and provision is not already provided in the contract, the party shall notify the other party in writing of its intention. The option may not be exercised until at least thirty (30) days after the written notification or the beginning of the next federal tax quarter, whichever is later.

C. The party to be reimbursed under subsection A of this section may require security from the reimbursing party for the payment of the taxes in proportion to the amount the taxes represent compared to the security required on the contract as a whole. The party to be reimbursed shall not change other payment terms of the contract due to the timing of the tax reimbursement, but may require the taxes to be reimbursed by electronic transfer of funds.

D. The provisions of this section shall be applicable to all continuing contracts now in effect that have no expiration date and all contracts entered into or renewed on or after the effective date of this act.

Added by Laws 2006, c. 272, § 10.

§68-501. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-502. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-502.1. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-502.2. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-502.3. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-502.4. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-502.5. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-502.6. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-502.7. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-504. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-504.1. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-505. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-506. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-507. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-508. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-509. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-509.1. Repealed by Laws 1993, c. 146, § 29.

§68-509.2. Exempt diesel fuel - Fuel used for purposes other than to operate motor vehicles on public highways.

A. The tax levied by this act shall not apply to diesel fuel used exclusively for purposes other than to operate motor vehicles on the public highways of this state. Provided that distributors shall execute on monthly reports, certification that the purchasers represented to the seller that the diesel fuel was to be used exclusively for purposes other than to operate motor vehicles on the public highways.

B. Every person, firm, corporation, partnership or limited liability company claiming an exemption under the provisions of this section shall first obtain an annual fuel tax exemption permit from the Tax Commission by filing a verified application on a form furnished by the Tax Commission. Each fuel tax exemption permit holder must furnish a copy of the permit to a supplier prior to purchasing diesel fuel. Suppliers selling to permit holders must maintain a record of each sale to a permit holder and shall report the total gallons of tax-exempt diesel fuel sold during a calendar month on a form prescribed by the Tax Commission. Said form will include a listing of the total gallons sold to each permit holder, by name and exemption number. The supplier shall furnish each permit holder a copy of its tax-exempt sales for the calendar month. The supplier and permit holder shall maintain these records for three (3) years. Any supplier selling diesel fuel that is exempt under this section may deduct the number of gallons of such diesel fuel from the total gallonage required to be reported to the Tax Commission only if prescribed forms listing the tax-exempt sales are attached to the report required by the Tax Commission. A supplier shall not deduct from the required report the sale of diesel fuel made by any other distributor. All fuel tax exemption permits expire on the 30th day of June of each year and no exemption shall be allowed to the holder thereof after September 30 of that year. Provided, the Tax Commission may exempt such purchases after September 30 upon verifying that the fuel was actually used in accordance with the exemption provisions of this section.

C. Any person who places diesel fuel that was purchased under an exemption permit authorized by this section into the fuel tank of a motor vehicle for use in operating the motor vehicle on the public highways shall be liable for the taxes levied under Sections 502.1, 502.3, 502.5, 502.7 and 522.1 of this title. Further, the permit issued shall be subject to cancellation and if so canceled shall not be reissued for a period of at least one (1) year. Such person shall also be guilty of a misdemeanor and shall, upon conviction, be fined not more than One

Thousand Dollars (\$1,000.00), or shall be sentenced to a term of not more than one (1) year in the county jail.

The Tax Commission shall conduct field audits and investigate the uses for which the holder of an off-road exemption permit has made of diesel fuel acquired by him under his permit. Upon a determination that the permit holder has improperly used the diesel fuel purchased, the Tax Commission shall issue a proposed assessment against the permit holder, in accordance with Section 221 of this title, for the diesel fuel taxes levied under this article.

D. The tax levied by Sections 502.1 and 522.1 of this title shall not apply to diesel fuel used exclusively in road machinery and equipment built for and being used on location in the construction, repair or maintenance of public highways, roads and bridges by road contractors and by counties, cities and towns of this state. However, this exemption shall not apply to automobiles or truck-type vehicles such as dump trucks, flatbed trucks and pickup trucks.

E. The tax levied by Sections 502.1 and 522.1 of this title shall not apply to diesel fuel used exclusively in passenger motor buses or coaches, having a seating capacity of ten or more persons, when such fuel is purchased by and used exclusively in public transit systems operated by any county, city or town of this state, or by any public trust created under the laws of this state of which a county, city or town of this state is the sole beneficiary thereof. Provided this exemption shall be allowed only when supported by a certificate executed by such city or trust on forms prescribed and furnished by the Oklahoma Tax Commission.

F. The tax levied by Sections 502.1 and 522.1 of this title shall not apply to diesel fuel purchased by any county, city or town for use as fuel to propel motor vehicles on the public roads and highways of this state, when said vehicles are being operated for the sole benefit of said county, city or town; provided that if the diesel fuel is placed directly into the fuel supply tank or tanks of the motor vehicle by the supplier, certification must be made on the invoice and all such sales must be reported by the supplier on forms furnished by the Oklahoma Tax Commission.

Added by Laws 1993, c. 146, § 18.

§68-510. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-510.1. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-511. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-512. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-513. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-514. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-515. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-516. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-517. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-518. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

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§68-521. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-522. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-522.1. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-523. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-523.1. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-524. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-525. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-526. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-527. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-530. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-531. Repealed by Laws 1996, c. 345, § 67, eff. Oct. 1, 1996.

§68-601. Definitions.

For the purposes of this article:

1. "Motor vehicle" or "vehicle" means and includes any automobile, truck, truck-tractor, bus, vehicle, engine, machine, mechanical contrivance, or other conveyance which is propelled by an internal combustion engine or motor and not used in the air or upon fixed rails or tracks;

2. "Use" means and includes the consumption of motor fuel by any person in a motor vehicle for the propulsion thereof upon the public highways of this state;

3. "Gasoline" means the same as the term "motor fuel," and the term "motor fuel" means and includes every petroleum product, fluid, or liquid, or any combination thereof, having an A.P.I. gravity of forty-six (46) degrees Fahrenheit and at atmospheric pressure, and shall include drip, casinghead or natural gasoline, benzol, naphtha, benzine and solvents, and shall include any liquid or fluid of less than forty-six (46) degrees A.P.I. gravity at a temperature of sixty (60) degrees Fahrenheit compounded, blended, manufactured, or otherwise produced by mixing or blending gasoline or naphthas with any blending materials, when the blended product can be used for generating power in internal combustion engines, regardless of how such liquid or fluid is made, compounded, manufactured or recovered, and regardless of the name by which such liquid or fluid may be known or sold;

4. "Diesel fuel" means diesel engine fuel, kerosene, and all other liquids suitable for the generation of power for the propulsion of motor vehicles except those products subject to the tax imposed by Section 500.4 of this title;

5. "Person" means and includes natural persons, individuals, partnerships, firms, associations, limited liability companies, corporations, estate, trustees, business trusts, syndicates, or any corporations or combinations acting as a unit or any receiver appointed by any state or federal court; and the use of the singular number shall include the plural number;

6. "Tax Commission" means the Oklahoma Tax Commission;

7. "Motor Fuel/Diesel Fuel Importer for Use" means and includes any person importing gasoline or motor fuel or diesel fuel into this state in the fuel supply tank or tanks of any motor vehicle or in any other containers for use in propelling said vehicle upon the highways of this state;

8. "Gallon" means the quantity of fluid or liquid at a temperature of sixty (60) degrees Fahrenheit necessary to completely fill a United States standard gallon liquid measure; and

9. "Public highways" means and includes every road, highway, street, way or place within this state, of whatever nature, generally open to the use of the public as a matter of right for the purposes of vehicular travel, including a toll highway, and including streets and alleys of any town or city notwithstanding that the same may be temporarily closed for the purpose of construction, reconstruction, maintenance, or repair.

Added by Laws 1963, c. 363, § 2, eff. July 1, 1963. Renumbered from § 6-601 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1978, c. 220, § 26, eff. Jan. 1, 1979; Laws 1993, c. 366, § 34, eff. Sept. 1, 1993; Laws 1997, c. 284, § 3, eff. July 1, 1997.

§68-602. Purpose of Article - Apportionment and use of revenues.

It is hereby declared to be the purpose of Section 601 et seq. of this title to levy a tax on those importing gasoline and diesel fuel into this state in the fuel supply tanks of vehicles being used on the highways of this state for commercial purposes, as a just and reasonable contribution to the cost of constructing, maintaining and policing such highways incident to the use thereof by such persons, and to the end that the highway users shall pay to this state an equal amount in taxes as is paid by other commercial highway users who use gasoline and diesel fuel on which the motor fuel excise tax has been paid to this state. The revenues, including interest and penalties, collected under the provisions of this article, shall be apportioned monthly in the manner and in the same proportion for the same purposes as the revenue collected pursuant to the Motor Fuel Tax Code is apportioned.

Provided, in the event that collections are insufficient for the monthly payment of motor fuel taxes to other states or jurisdictions in accordance with the International Fuel Tax Agreement, the Oklahoma Tax Commission shall transfer to the Corporation Commission the sum necessary for payment in full from current diesel fuel tax collections. Such transfer shall occur within five (5) working days of the request by the Corporation Commission.

Added by Laws 1963, c. 363, § 2, eff. July 1, 1963. Renumbered from § 6-602 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1985, c. 194, § 5, eff. Nov. 1, 1985; Laws 1986, c. 223, § 36, operative July 1, 1986; Laws 1986, c. 284, § 8, operative July 1, 1986; Laws 1989, 1st Ex.Sess., c. 1, § 12, eff. July 1, 1990; Laws 1997, c. 284, § 4, eff. July 1, 1997; Laws 2005, c. 479, § 10, eff. July 1, 2005.

NOTE: Laws 2005, c. 411, § 2 repealed by Laws 2006, c. 16, § 50, emerg. eff. March 29, 2006.

§68-602.1a. Repealed by Laws 1997, c. 284, § 27, eff. July 1, 1997.

§68-602.2. Repealed by Laws 1997, c. 284, § 27, eff. July 1, 1997.

§68-603. Levy of tax - Retention of portion for proper remission.

A. In consideration of the use of the highways of this state, and in addition to all other taxes levied for such purposes, all persons who import gasoline and diesel fuel into this state in the fuel supply tank or tanks of motor vehicles or in any other containers for use in propelling such vehicles on the highways for commercial purposes, shall report and pay to the Corporation Commission a tax for such use of the highways as provided in this section. The tax shall be levied and imposed as follows:

1. Gasoline, sixteen cents (\$0.16) per gallon; and
2. Diesel fuel, thirteen cents (\$0.13) per gallon.

The tax levied and imposed shall be measured and determined by the number of gallons of gasoline and diesel fuel so imported and actually used on the highways of this state. No gasoline or diesel fuel on which the tax levied by the Motor Fuel Tax Code has been paid to this state shall be used in computing the tax imposed by this section. In the event the tax levied by this section can be more accurately determined on a mileage basis, that is, by determining and using the total number of miles traveled in Oklahoma, or in case it is practicable to so determine the tax, the Corporation Commission is authorized to accept and approve such basis.

B. Each person licensed pursuant to Section 607 of this title who properly remits the tax pursuant to this act shall be entitled to retain one and twenty-five one-hundredths percent (1.25%) of the tax imposed on gasoline by this section and remitted by that licensee and one and fifty-four one-hundredths percent (1.54%) of the tax imposed on diesel fuel by this section and remitted by the licensee to cover the costs of administration imposed by this act including record keeping, report filing, and remitting of the tax. The retention of a percentage of the tax permitted by this section shall not be allowed by a licensee if any report or the tax remittance is delinquent. Added by Laws 1963, c. 363, § 2. Renumbered from § 6-603 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1997, c. 284, § 5, eff. July 1, 1997; Laws 2008, c. 168, § 8, emerg. eff. May 12, 2008.

§68-603.1. Repealed by Laws 1997, c. 284, § 27, eff. July 1, 1997.

§68-604. Repealed by Laws 1997, c. 284, § 27, eff. July 1, 1997.

§68-604.1. Repealed by Laws 1997, c. 284, § 27, eff. July 1, 1997.

§68-604.2. Repealed by Laws 1997, c. 284, § 27, eff. July 1, 1997.

§68-604.3. Repealed by Laws 1997, c. 284, § 27, eff. July 1, 1997.

§68-604.4. Repealed by Laws 1997, c. 284, § 27, eff. July 1, 1997.

§68-604.5. Repealed by Laws 1997, c. 284, § 27, eff. July 1, 1997.

§68-604.6. Repealed by Laws 1997, c. 284, § 27, eff. July 1, 1997.

§68-604.7. Repealed by Laws 1997, c. 284, § 27, eff. July 1, 1997.

§68-605. Exemptions.

The tax levied by this article shall not apply to motor fuel or diesel fuel imported into and used on the highways of this state by:

1. Persons operating motor vehicles commonly designated as automobiles or recreational vehicles which are constructed for and being used solely for the transportation of persons for purposes other than for hire or compensation;

2. Any person operating a motor vehicle or combination of vehicles used, designed, or maintained for transportation of persons or property, and a gross vehicle weight of less than twenty-six thousand (26,000) pounds;

3. Persons importing livestock and farm products in the raw state, including cotton, whether in the seed or ginned, and including cottonseed and baled hay, when such commodities are moved from farm to market, or from market to farm on a vehicle or on vehicles owned and operated by a bona fide farmer not engaged in motor vehicle transportation on a commercial scale;

4. Motor fuel or diesel fuel used in vehicles owned by the United States of America; and

5. Persons importing motor fuel/diesel fuel for use into this state having applied for and received a temporary fuel permit from the Corporation Commission.

No exemption from the tax levied by Section 603 of this title and as set forth in this section shall be construed as an exemption from the tax levied by the Motor Fuel Tax Code.

Added by Laws 1963, c. 363, § 2, eff. July 1, 1963. Renumbered from § 6-605 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1978, c. 220, § 32, eff. Jan. 1, 1979; Laws 1980, c. 209, § 5, emerg. eff. May 30, 1980; Laws 1988, c. 14, § 6, operative July 1, 1988; Laws 1988, c. 244, § 10, emerg. eff. June 24, 1988; Laws 1997, c. 284, § 6, eff. July 1, 1997; Laws 2008, c. 168, § 9, emerg. eff. May 12, 2008; Laws 2009, c. 182, § 5, eff. Nov. 1, 2009.

§68-606. Accrual of liability - Persons liable - Exemptions.

The liability for the tax imposed by this article shall arise and accrue against the person operating a motor vehicle, the operation of which is subject to said tax, at the time and place said motor vehicle shall enter upon the highways of this state. Provided, however, a lessor who is engaged in the business of leasing for compensation motor vehicles and equipment he owns without drivers to carriers or other lessees for interstate operation may be deemed to be the Motor Fuel/Diesel Importer for Use when he supplies or pays for the motor fuel or diesel fuel consumed in such vehicles, and such lessor may be issued Motor Fuel/Diesel Fuel Importer for Use license. Any lessee may exclude motor vehicles of which he is lessee from his reports and liabilities, but only if the motor vehicles in question have been leased from a lessor holding a valid Motor Fuel/Diesel Fuel Importer for Use License.

Laws 1963, c. 363, § 2; Laws 1965, c. 215, § 2; Laws 1978, c. 220, § 33, eff. Jan. 1, 1979.

§68-607. Importer for use licenses - Temporary permits - Cooperative compacts or agreements with other states to collect taxes.

A. Before any person imports gasoline or diesel fuel into the state in the fuel supply tank or tanks of any motor vehicle, or in any other container for use on the highways of this state,

such person shall file application for and obtain a Motor Fuel/Diesel Fuel Importer for Use License. Such requirement shall be complied with notwithstanding the tax levied by the Motor Fuel Tax Code has been paid on such gasoline or diesel fuel. However, persons exempted by Section 605 of this title from the tax levied pursuant to Section 603 of this title shall not be required to obtain such license. The application required by this section shall be verified and filed on a form prescribed and furnished by the Corporation Commission showing the name and address and kind of business of the applicant, a designation of the principal place of business and such other information as the Corporation Commission may require. Such application must also contain, as a condition to the issuance of the license, an agreement by the applicant to comply with the requirements of Section 601 et seq. of this title and the rules of the Corporation Commission.

B. Before any such application may be approved by the Corporation Commission, the applicant must fully comply with the contribution requirements pursuant to Section 607.2 of this title. In addition, prior to the approval, the Corporation Commission may require the applicant to file a bond payable to the State of Oklahoma conditioned upon compliance with the provisions of Section 601 et seq. of this title and the rules of the Corporation Commission in a sum of not more than Ten Thousand Dollars (\$10,000.00), the amount thereof to be fixed by an order of the Corporation Commission. During the license year, the amount of any such bond required may be increased or reduced by the Corporation Commission at its discretion, and the Corporation Commission may in its discretion, waive the filing of a bond by any person who regularly purchases sufficient gasoline or diesel fuel on which the motor fuel or diesel fuel excise tax has been paid to this state when the tax equals or exceeds the amount of the tax levied against such person under Section 601 et seq. of this title.

C. Upon approval of such application and bond, the Corporation Commission shall issue to the applicant a nontransferable Motor Fuel/Diesel Fuel Importer for Use License bearing a distinctive number, at no charge to the applicant. The license shall be issued on an annual basis and shall remain in full force and effect until surrendered, suspended, or canceled in the manner provided by law. Each license shall be valid only for the operation of motor vehicles on the highways of this state by the person to whom it is issued including motor vehicles transporting persons or property in furtherance of the business of the licensee under a lease, a contract or any other arrangement, whether permanent or temporary in nature. The Corporation Commission may issue one (1) license credential to evidence the compliance of the applicant with the provisions of this section and the provisions of Section 1120 of Title 47 of the Oklahoma Statutes.

D. In consideration of the use of the highways of this state, and in addition to all other taxes levied for such purposes, all persons who import motor fuel/diesel fuel into the state in the fuel supply tank or tanks of motor vehicles for use in propelling the vehicles on the highways for commercial purposes may receive a temporary motor fuel/diesel fuel permit from the Corporation Commission. This permit shall be recognized in lieu of licensing requirements in this state. The permit shall indicate the time and date of its issuance and shall be valid for a period not to exceed one hundred twenty (120) hours from such indicated time.

A fee of Twenty-five Dollars (\$25.00) shall be charged for the issuance of the temporary permit. Eight Dollars (\$8.00) of the fee shall be apportioned in the same manner as other motor fuel/diesel fuel revenue. Two Dollars (\$2.00) of the fee shall be retained by the Corporation Commission and apportioned as provided in Section 1167 of Title 47 of the Oklahoma Statutes.

Fifteen Dollars (\$15.00) of the fee shall be paid to the State Treasurer for deposit in the General Revenue Fund.

Any person importing motor fuel/diesel fuel into this state for use while in possession of an expired, altered or undated temporary fuel permit shall be deemed to be operating without proper licensing and shall be subject to licensing and penalties as provided for in the Motor Fuel/Diesel Fuel Importer for Use Tax Code.

The Corporation Commission may prescribe an application form for the temporary permit and such other forms as it deems appropriate. The Corporation Commission, without notice, may suspend the issuance of temporary permits to any person found to be in violation of the Motor Fuel/Diesel Fuel Importer for Use Tax Code or similar laws of this state.

The Corporation Commission may enter into an agreement with any person or corporation located within or without the state for transmission of temporary permits by way of a facsimile machine or other device when the Corporation Commission determines that such agreement is in the best interests of the state.

The Corporation Commission may enter into an agreement with any state for transmission of that state's temporary permits by way of a facsimile machine or other device when the Corporation Commission determines that such agreement is in the best interests of the state.

E. In lieu of the requirements as provided for in Section 601 et seq. of this title in respect to licensing, bonding, reporting and auditing, the Corporation Commission may, when in the best interests of this state and its residents, enter into the International Fuel Tax Agreement or other cooperative compacts or agreements with another state or other states or provinces to permit base state or base jurisdiction licensing of persons importing motor fuel or diesel fuel into this state and liable for the tax levied pursuant to Section 601 et seq. of this title and provide for the cooperation and assistance among the member states and provinces in the administration and collection of motor fuels consumption and use taxes. Any action taken by the Oklahoma Tax Commission with respect to the International Fuel Tax Agreement or other such compacts or agreements prior to June 9, 2004, shall remain in effect unless altered by the Corporation Commission pursuant to its authority to do so after the effective date of this act.

Added by Laws 1963, c. 363, § 2, eff. July 1, 1963. Renumbered from § 6-607 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1978, c. 220, § 34, eff. Jan. 1, 1979; Laws 1980, c. 209, § 6, emerg. eff. May 30, 1980; Laws 1986, c. 142, § 4, emerg. eff. April 21, 1986; Laws 1988, c. 14, § 7, eff. July 1, 1988; Laws 1990, c. 95, § 1, eff. July 1, 1990; Laws 1993, c. 273, § 11, emerg. eff. May 27, 1993; Laws 1997, c. 284, § 7, eff. July 1, 1997; Laws 2003, c. 472, § 10; Laws 2004, c. 522, § 25, eff. July 1, 2004; Laws 2006, c. 238, § 13, emerg. eff. June 6, 2006; Laws 2008, c. 168, § 10, emerg. eff. May 12, 2008; Laws 2009, c. 182, § 6, eff. Nov. 1, 2009.

§68-607.1. Operation of vehicle without proper display of identification credentials - Penalties.

A penalty of not less than Fifty Dollars (\$50.00) shall be imposed for any person operating a vehicle subject to the provisions of Section 601 et seq. of this title and Section 701 et seq. of this title without the proper display of, or, carrying in such vehicle, the identification credentials issued by the Corporation Commission. Such penalty shall not exceed the amount established by the Corporation Commission pursuant to the provisions of subsection A of Section 3 of this act. Revenue from such penalties shall be apportioned as provided in Section 3 of this act.

Added by Laws 1982, c. 104, § 1, operative July 1, 1982. Amended by Laws 1986, c. 142, § 3, emerg. eff. April 21, 1986; Laws 1987, c. 6, § 12, emerg. eff. March 16, 1987; Laws 1997, c. 284, § 8, eff. July 1, 1997; Laws 2004, c. 522, § 26, eff. July 1, 2004.

§68-607.2. Repealed by Laws 2004, c. 529, § 8, eff. Sept. 1, 2004.

§68-608. Display of license - Operating vehicle without license - Penalties - Venue.

(a) Every person operating a motor vehicle on the highways of this state as a Motor Fuel/Diesel Fuel Importer for Use must at all times during such operation have displayed in the cab of such motor vehicle, a copy of the Motor Fuel/Diesel Fuel Importer for Use License which shall be subject to inspection at all times by representatives of the Corporation Commission.

(b) Any person operating a motor vehicle on the highways of this state, the operation of which is subject to the tax levied by this article, without having obtained a Motor Fuel/Diesel Fuel Importer for Use License as required by Section 607 of this title, shall be guilty of a misdemeanor and, upon conviction, punished by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for a period not exceeding one (1) year or both. The venue for prosecutions arising under this section shall be in the district court of any county in which such vehicle is being operated.

Added by Laws 1963, c. 363, § 2, eff. July 1, 1963. Renumbered from Title 68, § 6-608 by Laws 1965, c. 215, § 2. Amended by Laws 1978, c. 220, § 35, eff. Jan. 1, 1979; Laws 2006, c. 238, § 14, emerg. eff. June 6, 2006.

§68-609. Reports and payments to Commission - Delinquent payments.

A. Every person licensed under this article shall make and transmit to the Corporation Commission on or before the last day of April, July, October, and January of each year, upon a form prescribed and furnished by the Commission, a verified quarterly report, showing the total miles traveled, miles traveled in Oklahoma by each motor vehicle, the total gallonage of motor fuel or diesel fuel consumed, the number of gallons of motor fuel or diesel fuel purchased or received in this state, the date of each purchase or receipt, the name and address of the seller, the delivery invoice number of each purchase or receipt, and the number of gallons of motor fuel or diesel fuel imported into and used in this state. The report must also include the amount of motor fuel or diesel fuel on hand at the beginning and close of the period as shown by the physical inventory taken on that date (those dates), if storage is maintained, and a complete record of all receipts and withdrawals into and from said storage.

The number of gallons of motor fuel or diesel fuel shown to have been purchased or received in Oklahoma on which the tax levied by the Motor Fuel Tax Code has been paid to this state shall be deducted from the total number of gallons of motor fuel or diesel fuel used by such person in Oklahoma to determine the number of gallons of motor fuel or diesel fuel upon which the tax levied by this article is to be computed and paid.

Every person licensed under this article who travels less than ten thousand (10,000) miles per year in Oklahoma may, at the option of the Commission, file an annual report in lieu of filing the quarterly report.

B. Every person at the time of filing each quarterly report shall pay to the Commission the full amount of tax due for the preceding quarter at the rate provided for in this article. Such tax is due and payable on the first day of the succeeding quarter for which the report is filed, and if not paid, is delinquent from and after the twentieth day of such month. When any person shall fail to submit to the Commission any report required hereunder within thirty (30) days from the date it is required to be filed, the Commission shall assess, in addition to the penalties and

interest provided for in Section 217 of this title, a penalty of not less than Five Dollars (\$5.00) for the first offense and not less than Five Dollars (\$5.00) for each subsequent offense.

C. The Motor Fuel/Diesel Fuel Importer for Use License of any person who is delinquent in the payment of tax levied by this article may be canceled by the Commission in the manner provided by law.

Added by Laws 1963, c. 363, § 2, eff. July 1, 1963. Renumbered from § 6-609 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1978, c. 220, § 36, eff. Jan. 1, 1979; Laws 1988, c. 14, § 8, eff. July 1, 1988; Laws 1997, c. 284, § 10, eff. July 1, 1997; Laws 2006, c. 238, § 15, emerg. eff. June 6, 2006.

§68-610. Records of importers.

(a) Each Motor Fuel/Diesel Fuel Importer for Use must maintain and keep for a period of three (3) years such records of motor fuel or diesel fuel used and mileage traveled by each and all motor vehicles on the highways of this state including motor vehicles owned, operated, leased or under any other form of contract, together with inventories, withdrawals, deliveries, purchases supported by invoices, bills of lading and all pertinent records and papers as may be required by the Corporation Commission for the administration of this article.

(b) Every retailer or dealer who sells and delivers any motor fuel or diesel fuel into the fuel supply tanks of any motor vehicle of a licensed Motor Fuel/Diesel Fuel Importer for Use must, at the time of the delivery, make and deliver to the person owning or operating such vehicle an invoice covering each such delivery, showing the name of the purchaser, the date, the name and address of the seller printed thereon, the number of gallons delivered, the price per gallon and total sales price, and such other information as the Commission may require. Each invoice must be made in duplicate, be identified by consecutive numbers with at least three digits printed thereon, and each retailer or dealer must furnish said invoices and retain one copy thereof and be able to account for each invoice and each copy thereof.

The invoices required by this section must be demanded by every Motor Fuel/Diesel Fuel Importer for Use covering each purchase.

(c) Any person willfully violating any of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or be sentenced to imprisonment in the county jail for not more than one (1) year, or both. Venue for prosecution arising under this section shall be in the district court of any county in which such person resides or, if such person is not a resident of this state, any county in which such person uses the highways of this state or maintains an established place of business.

Added by Laws 1963, c. 363, § 2, eff. July 1, 1963. Renumbered from § 6-610 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1978, c. 220, § 37, eff. Jan. 1, 1979; Laws 2006, c. 238, § 16, emerg. eff. June 6, 2006.

§68-611. Importation of motor fuel or diesel fuel without license - Tax payable - Credits - Refunds - Second and subsequent violations.

(a) Any person importing motor fuel or diesel fuel into this state and liable for the tax levied by this article for the first time who has not obtained a Motor Fuel/Diesel Fuel Importer for Use License, shall, for the purpose of determining the number of gallons of motor fuel or diesel fuel used on the highways of this state, be required to pay to the Corporation Commission the tax levied by this article on all motor fuel or diesel fuel contained in the fuel supply tank or

tanks, and any other containers for use in propelling said vehicle. Upon obtaining a Motor Fuel/Diesel Fuel Importer for Use License and filing a report showing all of the operations of such person subject to tax by this article, credit shall be allowed on said report for the tax paid under the provisions of this section and any overpayment of tax shall be refunded or credited to a future report. However, this credit shall not be allowed and no refund of such tax shall be made unless the report taking the credit or the claim for the refund is filed within thirty (30) days from the date of payment of said tax.

(b) The second time any person imports motor fuel or diesel fuel into this state and becomes liable for the tax levied by this article, without having obtained a Motor Fuel/Diesel Fuel Importer for Use License, the motor vehicle operated by such person may be seized and held until such person complies with the provisions of this article and pays all taxes determined to be due hereunder. However, said motor vehicle may be released upon the making of a bond or furnishing other security for the payment of the tax.

Added by Laws 1963, c. 363, § 2, eff. July 1, 1963. Renumbered from § 6-611 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1978, c. 220, § 38, eff. Jan. 1, 1979; Laws 2006, c. 238, § 17, emerg. eff. June 6, 2006.

§68-612. Repealed by Laws 1997, c. 284, § 27, eff. July 1, 1997.

§68-613. Discontinuance of operations.

(a) Whenever any person to whom a Motor Fuel/Diesel Fuel Importer for Use License has been issued ceases doing business or discontinues all operations in Oklahoma subject to the tax levied by this article, such person must notify the Corporation Commission in writing of said fact within fifteen (15) days after such discontinuance and surrender such license together with all Motor Fuel/Diesel Fuel Importer for Use Licenses issued. All tax, penalties and interest levied by this article due from such person at the time of such discontinuance, shall become due and payable concurrently with such discontinuance, and such person must make a report and pay all such tax, interest and penalties at the time his license is surrendered.

(b) Any person willfully violating any of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than One Thousand Dollars (\$1,000.00), or be sentenced to imprisonment in the county jail for not more than one (1) year or both. Venue for prosecution arising under this section shall be in the district court of any county in which such person resides, or, if such person is not a resident of this state, any county in which such person uses the highways of this state or maintains an established place of business.

Added by Laws 1963, c. 363, § 2, eff. July 1, 1963. Renumbered by § 6-613 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1978, c. 220, § 40, eff. Jan. 1, 1979; Laws 2006, c. 238, § 18, emerg. eff. June 6, 2006.

§68-614. Interstate carriers - Partial invalidity.

Section 614. Nothing in this article shall be construed as requiring interstate carriers to make a showing of "public convenience and necessity" in order to secure any license required by the provisions hereof, and the provisions of this article shall apply to interstate commerce only insofar as such regulation is permitted by the Constitutions of Oklahoma and the United States, and the holding of any part of this article or any section or part thereof to be void or ineffective for any cause by any court shall not affect any other section or part of this article.

Laws 1963, c. 363, § 2; Laws 1965, c. 215, § 2; Laws 1978, c. 220, § 41, eff. Jan. 1, 1979.

§68-615. Tax credit on gasoline or diesel fuel consumed outside state - Application and procedure.

Any person licensed under the Motor Fuel/Diesel Fuel Importer for Use Law shall be entitled to a credit equivalent to the tax rate per gallon on all gasoline or diesel fuel upon which the Oklahoma gasoline or diesel fuel tax has been paid and which has thereafter been consumed in motor vehicles outside this state. When the amount of credit provided in this section to which the person is entitled for any calendar quarter exceeds the amount of tax for which such person is liable for gasoline or diesel fuel consumed in Oklahoma in such vehicles during the same quarter, such excess shall, under rules promulgated by the Corporation Commission, be allowed as a credit if used within twenty-four (24) months from the first day of any calendar quarter against the tax for which such person would be otherwise liable for any of the succeeding quarters; or, upon claim filed with the Commission within twenty-four (24) months from the first day of any calendar quarter in which the gasoline or diesel fuel was used, such excess, less one and seven-tenths percent (1.7%) of gasoline tax levied and two percent (2%) of diesel fuel tax levied pursuant to Section 500.4 of this title, may be refunded. Application for refund must be supported by evidence of the mileage traveled and the gallonage consumed and satisfactory evidence of the tax-paid purchases. Refund vouchers shall be paid from current collections derived from the tax levied under which the tax refund claims have been allowed, and a portion of such current collections as are necessary to pay such refund is hereby appropriated.

Added by Laws 1968, c. 79, § 1, emerg. eff. March 26, 1968. Amended by Laws 1978, c. 220, § 42, eff. Jan. 1, 1979; Laws 1988, c. 14, § 9, eff. July 1, 1988; Laws 1997, c. 284, § 11, eff. July 1, 1997; Laws 2006, c. 238, § 19, emerg. eff. June 6, 2006.

§68-616. Citation.

Section 616. Sections 601 through 615 of this title shall be known as the Oklahoma Motor Fuel/Diesel Fuel Importer for Use Tax Code.

Laws 1978, c. 220, § 25, eff. Jan. 1, 1979.

§68-701. Definitions.

The following words and phrases when used in this act are hereby defined as follows:

(a) The term “motor vehicle” or “vehicle” means and includes any automobile, truck, truck-tractor, bus, vehicle or mechanical contrivance which is propelled by an internal combustion engine or motor and not used in the air or upon fixed rails or tracks.

(b) The term “person” means and includes every natural person, fiduciary, individual, partnership, firm, association, limited liability company, corporation, business trust, or combination acting as a unit, or any receiver appointed by any state or federal court, and the use of the singular number shall include the plural. Whenever used in any clause prescribing and imposing a fine or imprisonment or both, the term “person” as applied to an association means and includes the parties or members thereof, and as applied to corporations, the officers thereof.

(c) “Commission” or “Tax Commission” means the Oklahoma Tax Commission.

(d) The term “special fuel” or “fuel” means and includes all combustible gases and liquids, including liquefied gases, which exist in the gaseous state at a temperature of sixty (60) degrees Fahrenheit and at a pressure of fourteen and seven-tenths (14.7) pounds per square inch absolute, but the term does not include compressed natural gas subject to the levy of tax pursuant to

paragraph 3 of subsection A of Section 500.4 of this title or liquefied natural gas subject to the levy of tax pursuant to paragraph 4 of subsection A of Section 500.4 of this title.

(e) The term “use” shall mean and include the following: (1) the delivery or placing of special fuel into the fuel supply tank or tanks of any motor vehicle in this state for use in whole or in part to propel such vehicle on the public highways of this state; (2) the consumption on the public highways of Oklahoma of any special fuel imported into this state in the fuel supply tank or tanks of any motor vehicle using the public highways of this state for commercial purposes; (3) the consumption of special fuel in any type of motor vehicle on the public highways of this state for any purpose by any person who refuses to divulge the source of such fuel.

(f) The term “public highway” means and includes every road, highway, street, way or place within this state, of whatever nature, generally open to the use of the public as a matter of right for the purposes of vehicular travel, including a toll highway, and including streets and alleys of any town or city, notwithstanding that the same may be temporarily closed for the purpose of construction, reconstruction, maintenance, or repair.

(g) The term “gallon” means one (1) United States standard gallon at a temperature of sixty (60) degrees Fahrenheit.

(h) The term “special fuel dealer” shall mean any person engaged in the business of handling special fuel who delivers any part thereof into the fuel supply tank or tanks of any motor vehicle.

(i) The term “special fuel user” shall mean and include any person other than a special fuel dealer, who uses special fuel in this state, within the meanings of the word “use” as defined in this act, and shall include any person who consumes special fuel to propel a motor vehicle upon the public highways of this state when such special fuel has been purchased or obtained from any source free from the payment to this state of the tax levied by this act.

Added by Laws 1953, p. 328, § 1, eff. May 31, 1953. Renumbered from § 727.1 of this title by Laws 1965, c. 215, § 1. Amended by Laws 1978, c. 220, § 43, eff. Jan. 1, 1979; Laws 1993, c. 366, § 35, eff. Sept. 1, 1993; Laws 2011, c. 163, § 7, eff. Jan. 1, 2012; Laws 2013, c. 375, § 7, eff. Jan. 1, 2014.

NOTE: Laws 1978, c. 98, § 1 repealed by Laws 1979, c. 277, § 13, emerg. eff. June 5, 1979.

§68-702. Purpose of act - Collection, report and payment of tax.

It is hereby declared to be the purpose of this act to levy a tax upon the use as defined in this act of all special fuels:

(1) delivered into the fuel supply tanks of motor vehicles in Oklahoma or,
(2) imported into Oklahoma in the fuel supply tanks of motor vehicles by persons using Oklahoma highways for hire, compensation or other commercial purposes, not specifically exempted herein, to the end that such highway users shall pay to the State of Oklahoma an equal amount in taxes on special fuels so used by them in Oklahoma as is paid by other commercial highway users who use special fuel obtained in Oklahoma and on which the tax levied by this act is collected by special fuel dealers and remitted to the Tax Commission. Said tax is levied as a toll for the use of the public highways of this state.

When special fuel is delivered into the supply tank or tanks of a motor vehicle in Oklahoma by a special fuel dealer the tax shall be collected by the special fuel dealer at the time of such sale and delivery and shall be reported and remitted to the Tax Commission as hereinafter provided. The tax shall be reported and paid by special fuel dealers on all special fuel delivered by special fuel dealers into the supply tanks of motor vehicles owned or operated by

them. In all other cases persons delivering special fuel into the supply tank of any motor vehicle in Oklahoma and all persons who use any special fuel to propel a motor vehicle upon the public highways of this state on which fuel the tax levied by this act has not been paid shall report such use and remit the tax on such special fuel to the Tax Commission as a special fuel user as hereinafter provided.

Laws 1953, p. 328, § 2; Laws 1965, c. 215, § 1.

§68-703. Imposition of tax.

(a) There is hereby levied and imposed an excise tax of five and one-half (\$0.055) cents per gallon on the use, within the meanings of the word "use" as defined in this act, of all special fuels delivered in this state into the fuel supply tank or tanks of motor vehicles. The delivery or placing of special fuel into the fuel supply tank or tanks of motor vehicles for use in whole or in part for power to propel such vehicles on the public highways shall constitute and is hereby declared to be the taxable incidence of this levy.

(b) An excise tax of five and one-half (\$0.055) cents per gallon is also levied, in consideration of the use of the highways of this State, on the use of all special fuels imported into Oklahoma in the fuel supply tank or tanks of motor vehicles and used to propel said motor vehicles for commercial purposes, public or private, or for transportation for hire or compensation, on the public highways of this state, which tax shall be measured and determined by the number of gallons of such imported special fuels actually used in Oklahoma.

Laws 1953, p. 329, § 3; Laws 1965, c. 215, § 1.

§68-704. Apportionment and use of proceeds of tax.

A. The purpose of Section 701 et seq. of this title is to provide revenue for general governmental functions of state government and for the construction and maintenance of state and county highways and bridges. The tax, including penalties and interest collected under the levy in Section 703 of this title, shall be apportioned monthly for use as follows:

1. An amount equal to the revenue, including penalties and interest thereon, accruing from four cents (\$0.04) per gallon of the five and one-half cents (\$0.055) per gallon collected of the tax levied by Section 703 of this title, shall be apportioned monthly and used for the following purposes:

- a. three percent (3%) shall be paid by the Tax Commission to the State Treasurer and placed to the credit of the General Revenue Fund of the State Treasury,
- b. seventy-two and three-fourths percent (72 3/4%) shall be deposited in the State Treasury to the credit of the State Transportation Fund, and
- c. twenty-four and one-fourth percent (24 1/4%) shall be transmitted by the Tax Commission to various counties of the state, in the percentage which the population and area of each county bears to the population and area of the entire state. The population shall be as shown by the last Federal Census or the most recent annual estimate provided by the U.S. Bureau of the Census;

2. An amount equal to the revenue, including penalties and interest thereon, accruing from one cent (\$0.01) per gallon of the five and one-half cents (\$0.055) per gallon collected of the tax levied by Section 703 of this title, shall be apportioned monthly and shall be deposited in the State Treasury to the credit of the State Transportation Fund; and

3. An amount equal to the revenue, including penalties and interest thereon, accruing from one-half cent (\$0.005) per gallon of the five and one-half cents (\$0.055) per gallon collected of the tax levied by Section 703 of this title, shall be apportioned monthly and distributed as follows:

Forty percent (40%) of such sum shall be distributed to the various counties in that proportion which the county road mileage of each county bears to the entire state road mileage as certified by the State Transportation Commission, and the remaining sixty percent (60%) of such sum shall be distributed to the various counties on the basis which the population and area of each county bears to the total population and area of the state. The population shall be as shown by the last Federal Census or the most recent annual estimate provided by the U.S. Bureau of the Census.

B. The funds apportioned or transmitted pursuant to the provisions of subparagraph c of paragraph 1 of subsection A of this section and paragraph 3 of subsection A of this section shall be used in accordance with and subject to the provisions of subsection B of Section 500.6 of this title.

Added by Laws 1953, p. 329, § 4, eff. May 31, 1953. Renumbered from § 727.4 of this title by Laws 1965, c. 215, § 1. Amended by Laws 1985, c. 194, § 6, eff. Nov. 1, 1985; Laws 1986, c. 223, § 38, operative July 1, 1986; Laws 1986, c. 284, § 12, operative July 1, 1986; Laws 1989, 1st Ex.Sess, c. 1, § 16, eff. July 1, 1990; Laws 1997, c. 284, § 12, eff. July 1, 1997.

§68-705. Additional tax.

(a) There is hereby levied and imposed an excise tax of one (\$0.01) cent per gallon on the use, within the meanings of the word "use" as defined in this act, of all special fuels delivered in this state into the fuel supply tank or tanks of motor vehicles. The delivery or placing of special fuel into the fuel supply tank or tanks of motor vehicles for use in whole or in part for power to propel such vehicles on the public highways shall constitute and is hereby declared to be the taxable incidence of this levy.

(b) An excise tax of one (\$0.01) cent per gallon is also levied, in consideration of the use of the highways of this state, on the use of all special fuels imported into Oklahoma in the fuel supply tank or tanks of motor vehicles and used to propel said motor vehicles for commercial purposes, public or private, or for transportation for hire or compensation, on the public highways of this state, which tax shall be measured and determined by the number of gallons of such imported special fuels actually used in Oklahoma.

Laws 1953, p. 331, § 5; Laws 1955, p. 388, § 1; Laws 1965, c. 215, § 1.

§68-706. Purpose, apportionment and distribution of tax.

It is hereby declared to be the purpose of the levy in Section 705 of this title to provide funds for the construction and maintenance of county highways and permanent bridges in such counties and for these purposes it is hereby expressly provided that the special fuel use tax levied by Section 705 of this title shall be apportioned and distributed monthly by the Tax Commission to the several counties in the following manner: one-third (1/3) on area, one-third (1/3) on rural population, defined as including the population of all municipalities with a population of less than five thousand (5,000) according to the latest Federal Decennial Census, and one-third (1/3) on county road mileage, as last certified by the Department of Transportation, as each county bears to the entire area, rural population and road mileage of the state. The funds apportioned

pursuant to this section shall be used in accordance with and subject to the provisions of subsection B of Section 500.6 of this title.

Added by Laws 1953, p. 331, § 6, eff. May 31, 1953. Amended by Laws 1959, p. 284, § 1. Renumbered from § 727.6 by Laws 1965, c. 215, § 1. Amended by Laws 1986, c. 284, § 13, operative July 1, 1986; Laws 1997, c. 284, § 13, eff. July 1, 1997.

§68-707. Determination of tax on mileage basis - Levies by political subdivisions prohibited.

In the event the tax herein imposed on special fuels imported into this state in the fuel supply tanks of motor vehicles and the tax on special fuels used in motor vehicles owned and operated by licensed special fuel dealers or other persons acting as special fuel users can be more accurately determined on a mileage basis, that is, by determining and using the total number of miles traveled in Oklahoma and the total gallons of fuel consumed, or in case it is more practicable to so determine the tax, the Tax Commission is authorized to approve and accept such basis.

No city, town, county or other subdivision of the state shall levy or collect any excise tax to be paid upon the use of special fuels as defined by this act.

Laws 1953, p. 332, § 7; Laws 1965, c. 215, § 1.

§68-707.1. Additional excise tax on special fuel - Levy - Exemptions - Disposition of revenues.

A. In addition to the excise taxes levied by Sections 703 and 705 of this title, there is hereby levied an excise tax of two and one-half cents (\$0.025) upon the use within this state of each and every gallon of special fuel, which shall be reported and collected in the same manner as provided by law for the reporting and collecting of all other tax levies upon the use of special fuel within this state.

B. The tax levied by this section shall not apply to special fuel which is exempt from tax under the provisions of Section 708 of this title.

C. The excise tax of two and one-half cents (\$0.025) per gallon of special fuel levied in this section, together with any interest and penalties thereon, collected by the Tax Commission shall be apportioned monthly as follows:

Two cents (\$0.02) of the two and one-half cents (\$0.025), together with any interest and penalties thereon, shall be apportioned according to the provisions of paragraph 1 of Section 704 of this title.

Eighty-seven and five-tenths of one percent (87.5 of 1%) of the one-half of one cent (\$0.005) of the two and one-half cents (\$0.025), together with any interest and penalties thereon, shall be distributed to the various counties of the state for deposit into the County Bridge and Road Improvement Fund of each county based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes to be used for the purposes set forth in the County Bridge and Road Improvement Act. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs. Twelve and five-tenths of one percent (12.5 of 1%) of the one-half of one cent (\$0.005) of the two and one-half cents (\$0.025), together with any interest and penalties thereon, shall be transmitted by the Tax Commission to the Statewide Circuit Engineering District Revolving Fund as created in Section 687.2 of Title 69 of the Oklahoma Statutes.

Added by Laws 1984, c. 139, § 5, emerg. eff. April 16, 1984. Amended by Laws 1985, c. 179, § 83, operative July 1, 1985; Laws 1997, c. 284, § 14, eff. July 1, 1997; Laws 2010, c. 256, § 3, eff. July 1, 2010.

§68-707.2. Excise tax on special fuel - Levy - Exemptions - Disposition of revenues.

A. There is hereby levied an excise tax of one cent (\$0.01) upon the use within this state of each and every gallon of special fuel, which shall be reported and collected in the same manner as provided by law for the reporting and collecting of all other tax levies upon the use of special fuel within this state.

B. The tax levied by this section shall not apply to special fuel which is exempt from tax pursuant to the provisions of Section 708 of this title.

C. The excise tax of one cent (\$0.01) per gallon of special fuel levied by this section, together with any interest and penalties thereon, collected by the Tax Commission shall be apportioned as set forth in paragraph 5 of subsection A and subsection C of Section 500.6 of this title.

Added by Laws 1985, c. 179, § 84, operative July 1, 1985. Amended by Laws 1985, c. 351, § 18, emerg. eff. July 31, 1985; Laws 1987, c. 113, § 15, operative May 18, 1987; Laws 1995, c. 114, § 5, eff. July 1, 1995; Laws 1996, c. 205, § 6, eff. July 1, 1996; Laws 1997, c. 284, § 15, eff. July 1, 1997.

§68-707.3. Additional excise tax on special fuel - Levy - Exemptions - Intent of Legislature - Apportionment of revenues.

A. In addition to the excise taxes levied by Sections 703, 705, 707.1 and 707.2 of this title, there is hereby levied an excise tax of six cents (\$0.06) upon the use within this state of each and every gallon of special fuel, which shall be reported and collected in the same manner as provided by law for the reporting and collecting of all other tax levies upon the use of special fuel within this state. The basis for computation of the amount due shall be one hundred percent (100%) of the net gallonage reported to the Tax Commission for taxation, after all deductions allowed by law have been made.

B. The tax levied by this section shall not apply to special fuel which is exempt from tax pursuant to the provisions of Section 708 of this title.

C. It is hereby declared to be the intent of the Legislature that the total state excise tax, levied by this section and Sections 703, 705, 707.1 and 707.2 of this title, shall be sixteen cents (\$0.16) upon each gallon of special fuel used within Oklahoma and that no special fuel shall be subject to the total tax more than one time.

D. The additional excise tax of six cents (\$0.06) per gallon of special fuel levied by this section, together with any interest and penalties thereon, collected by the Tax Commission shall be apportioned monthly as follows:

1. Five cents (\$0.05) of the six cents (\$0.06), together with any interest and penalties thereon, shall be apportioned to the State Transportation Fund; and

2. One cent (\$0.01) of the six cents (\$0.06), together with any interest and penalties thereon, shall be distributed to the various counties in the following manner: thirty percent (30%) based upon area, thirty percent (30%) based upon population according to the latest Federal Decennial Census or the most recent annual estimate provided by the U.S. Bureau of the Census and forty percent (40%) based upon county road mileage on the basis which the respective area, population and county road mileage of each county bear to the total area,

population and county road mileage of the state. The funds so transmitted shall be used in accordance with and subject to the provisions of subsection B of Section 500.6 of this title. Added by Laws 1987, c. 113, § 10, operative May 18, 1987. Amended by Laws 1989, 1st Ex.Sess., c. 1, § 17, eff. July 1, 1990; Laws 1997, c. 284, § 16, eff. July 1, 1997.

§68-708. Exemptions from tax.

The tax levied by this act shall not apply to:

1. Special fuel delivered into the supply tanks of or used by motor vehicles owned by the United States of America. Provided this exemption shall not apply to supply tank deliveries in Oklahoma unless the special fuel dealer demands and receives of the purchaser an exemption certificate of the kind and type prescribed and furnished by the Comptroller General of the United States, and such certificates shall be presented to the Tax Commission in lieu of the tax only by the special fuel dealer handling and delivering such special fuel;
2. Special fuel delivered into the supply tanks of farm tractors and stationary engines owned and operated by the purchaser of such special fuel and used exclusively for agricultural purposes as such purposes and uses are defined and enumerated in paragraph 2 of Section 500.3 of this title;
3. Special fuel imported into Oklahoma in the fuel supply tanks of motor vehicles commonly known and designated as automobiles, as distinguished from truck-type vehicles, which are constructed for, and being used solely for, the transportation of persons for purposes other than for hire or compensation and provided that the aggregate capacity of the fuel supply tank or tanks of any such vehicle shall not exceed thirty (30) gallons;
4. Special fuel imported into Oklahoma in the fuel supply tank or tanks of a motor vehicle when said supply tank or tanks and any additional containers have an aggregate capacity of not more than twenty-five (25) gallons and if such motor vehicle is not being used as a common carrier of persons or property, a contract carrier of persons or property, or as a private commercial carrier of property;
5. Special fuel imported into Oklahoma in the fuel supply tanks of motor vehicles and used on the highways of this state in importing or exporting livestock and farm products in the raw state, including cotton, whether in the seed or ginned, and including cottonseed and baled hay, when such commodities are moved from farm to market, or from market to farm on a vehicle or on vehicles owned and operated by a bona fide farmer not engaged in motor vehicle transportation for hire or compensation;
6. Special fuel used exclusively in road machinery and equipment built for and being used on location in the construction, repair or maintenance of public highways, roads and bridges by road contractors and by counties, cities and towns of this state, provided, however, this exemption shall not apply to automobiles nor to truck-type vehicles such as dump trucks, flatbed trucks and pickup trucks;
7. Special fuel used exclusively in passenger motor buses or coaches, having a seating capacity of ten or more persons, when such fuel is purchased by and used exclusively in public transit systems operated by any county, city, or town of this state, or by any public trust created under the laws of this state of which a county, city, or town of this state is the sole beneficiary thereof. Provided this exemption shall be allowed only when supported by a certificate executed by such city or trust on forms prescribed and furnished by the Tax Commission;
8. Special fuel purchased by any county, city or town for use as fuel to propel motor vehicles on the public roads and highways of this state, when said vehicles are being operated for

the sole benefit of said county, city or town; provided that if the special fuel is placed directly into the fuel supply tank or tanks of the motor vehicle by the supplier, an exemption certificate must be furnished to the supplier on forms prescribed and furnished by the Tax Commission;

9. Special fuel purchased by any Oklahoma school district for use as fuel to propel motor vehicles on the public roads and highways of this state, when the vehicles are being operated for the sole benefit of the school district, provided that if the special fuel is placed directly into the fuel supply tank or tanks of the motor vehicle by the supplier, an exemption certificate must be furnished to the supplier on forms prescribed and furnished by the Tax Commission; and

10. Motor fuels purchased by the Oklahoma Department of Transportation for use as fuel to propel motor vehicles on the public roads and highways of this state, when the vehicles are being operated for the sole benefit of the Department of Transportation.

Added by Laws 1953, p. 382, § 8. Amended by Laws 1955, c. 383, § 2. Renumbered from § 727.8 of this title by Laws 1965, c. 215, § 1. Amended by Laws 1969, c. 111, § 1, operative May 1, 1969; Laws 1976, c. 16, § 1, emerg. eff. Feb. 26, 1976; Laws 1997, c. 284, § 17, eff. July 1, 1997; Laws 2001, c. 144, § 1, eff. Nov. 1, 2001.

§68-709. Special fuel dealers' and users' licenses.

(a) Before any person uses any special fuel in this state, within the meanings of the word "use" as defined herein, such person shall file an application for and obtain the license (a special fuel dealer's license or a special fuel user's license) required herein to cover such use. Provided, however, that persons exempted from the payment of the tax herein imposed shall not be required to obtain a license. The application required by this section shall be verified by affidavit and filed on a form prescribed and furnished by the Tax Commission showing the name and address and kind of business of the applicant, the type of license desired, a designation of the principal place of business and such other information as the Tax Commission may require. Such application must also contain as a condition to the issuance of the license, an agreement by the applicant to comply with the requirements of this act and the rules and regulations of the Tax Commission.

(b) Before any such application may be approved by the Tax Commission, the applicant must file a bond payable to the State of Oklahoma conditioned upon compliance with the provisions of this act and the rules and regulations of the Tax Commission in the sum of not more than Twenty-five Thousand Dollars (\$25,000.00), the amount thereof to be fixed by an order of the Tax Commission. The amount of any such bond required may be increased or reduced by the Tax Commission at any time. Provided, however, that one bond in an amount fixed by the Tax Commission of not more than Fifty Thousand Dollars (\$50,000.00) may be made to secure the payment of the tax due the State of Oklahoma under the provisions of this act, and the other motor fuel tax laws.

(c) Upon approval of such application and bond, the Tax Commission shall issue to the applicant a nontransferable special fuel dealer's license or special fuel user's license, as the case may be, bearing a distinctive number. Such license shall remain in full force until surrendered, suspended or canceled in the manner provided by law. The license of each special fuel dealer shall be valid only for the use of special fuel by the person to whom it is issued and shall be displayed conspicuously in the principal place of business of the holder thereof. The license issued to a special fuel user shall be valid only for the use of special fuel in the operation of motor vehicles on the highways of this state by the person to whom it is issued, including motor

vehicles, transporting persons or property in furtherance of the business of said licensee under a lease, a contract or any other arrangement, whether permanent or temporary in nature.

(d) Each special fuel dealer or special fuel user must make application for and secure a duplicate of his license for each station or location operated by such dealer or user at which special fuel is placed into the fuel tanks of motor vehicles. The application must be made on a form prescribed and furnished by the Tax Commission, showing the name, address and license number of the applicant, the location of the station or storage for which the duplicate is applied, and such other information as the Tax Commission may require. Upon approval of such application, the Tax Commission shall issue to the applicant a nontransferable duplicate of such special fuel dealer's or special fuel user's license. Each duplicate license shall continue in full force and effect until surrendered by the person holding such license, or until canceled by the Tax Commission. There shall be displayed at each station or location, where special fuel is placed into fuel supply tanks of motor vehicles, the duplicate special fuel dealer's or special fuel user's license under which it is operated. Such license shall be clearly visible from the driver's seat of any vehicle being serviced.

(e) It shall be unlawful for any person, notwithstanding that such person holds a valid license as a distributor or importer-user of motor fuel or gasoline, to act or carry on any operation as a special fuel dealer or a special fuel user in this state unless such person is the holder of an uncanceled special fuel dealer's license or a special fuel user's license, as the case may be, as herein required, issued to him by the Oklahoma Tax Commission. A license issued under the provisions of other motor fuel or gasoline tax laws shall not authorize the holder thereof to use special fuel. Any retail outlet as defined herein may, at its option, pay to the supplier, for the benefit of the state, all taxes due on all special fuels purchased from suppliers or may report all special fuels sales and make payment of all taxes due as provided in Section 710 of this act. Laws 1953, p. 332, § 9; Laws 1965, c. 215, § 1; Laws 1978, c. 98, § 2, eff. July 1, 1978.

§68-710. Reports by dealers and users - Payment of tax.

(a) Every special fuel dealer and special fuel user must on or before the twentieth day of each calendar month, file with the Tax Commission a verified report, on a form prescribed and furnished by the Tax Commission showing the total number of gallons of special fuel used within this state during the preceding calendar month.

(b) The monthly reports of every special fuel dealer must show the following information on special fuels: The number of gallons on hand at the beginning and end of each month; the number of gallons received from any and all sources supported by detailed schedules and receipts and purchases; the number of gallons sold and delivered to any other licensed special fuel dealer on which the special fuel tax is assumed by such other licensed dealer, giving full details of each sale, including the date thereof, invoice number and O.T.C. license number of the seller and purchaser; number of gallons delivered into the fuel supply tanks of motor vehicles and such other information as the Tax Commission may require.

(c) The monthly report of every special fuel user must show the following information on special fuels: The total miles traveled; miles traveled in Oklahoma by each motor vehicle using special fuel; the total gallonage of special fuel consumed; the number of gallons of special fuel purchased or received in this state; the date of each purchase or receipt; the name and address of the seller; the delivery invoice number of each purchase or receipt; and the number of gallons of special fuel imported into and used in this state. The report must also include the amount of special fuel on hand at the beginning and close of the month as shown by the physical inventory,

if storage is maintained in Oklahoma, and a complete record of all receipts into and withdrawals from said storage. The number of gallons of special fuel shown to have been purchased tax paid from a licensed special fuel dealer in Oklahoma shall be deducted from the total number of gallons of special fuel used in Oklahoma by such special fuel user to determine the number of gallons of special fuel upon which the tax levied by this act is to be computed and paid. The requirement of this section shall not apply to receipts and inventory control date covering separate bulk storage from which only wholesale distribution of special fuel is made.

(d) Each special fuel dealer and special fuel user at the time of filing each monthly report must pay to the Tax Commission the full amount of tax due for the preceding calendar month at the rate provided for in this act. Such tax is due and payable on the first day of each month and if not paid is delinquent from and after the twentieth day of such month. Motor fuel taxes collected by a distributor on behalf of a licensed retailer of the distributor or collected on behalf of a nonlicensed purchaser of motor fuel that are subsequently determined to be uncollectible by the distributor may be credited against subsequent motor fuel tax liability imposed by law upon such distributor. For purposes of this subsection, motor fuel taxes collected on behalf of a licensed retailer of the distributor or collected on behalf of a nonlicensed purchaser shall be deemed uncollectible if such taxes are deducted for purposes of calculating the federal income tax liability of the distributor. The method for crediting uncollectible motor fuel taxes as provided by this subsection shall be prescribed in rules and regulations of the Oklahoma Tax Commission.

(e) The license of any person using special fuel who is delinquent in the payment of the tax levied by this act may be canceled by the Tax Commission in the manner provided by law. Amended by Laws 1988, c. 14, § 10, operative July 1, 1988.

§68-711. Registration of vehicles - Use of liquefied gas from cargo tank.

(a) Before any motor vehicle is operated on the public highways of this state, the operation of which is subject to the tax levied by subsection (b) of Section 3 of this act, and including the vehicles of licensed dealers using special fuel, such motor vehicles must be registered under this act with the Tax Commission as herein provided. An application for registration of each motor vehicle required to be registered must be on a form prescribed and furnished by the Tax Commission showing the name, address and special fuel user's or special fuel dealer's license number of the owner or operator of such vehicle, a complete description of the motor vehicle, including the make, model, year made, motor number, license tag number, kind of special fuel used by such motor vehicle and such other information as the Tax Commission may require.

(b) No vehicle used for the transportation of any liquefied gas, including butane or propane, shall be allowed to use, for the operation of said vehicle, gas directly from the cargo tank of said vehicle or any trailer attached thereto; and any connection of a fuel line between the motor of such vehicle and any tank other than the regularly installed fuel tank of such vehicle, direct or indirect, and any valve or outlet for such a connection, is hereby prohibited.

(c) Upon approval of said application, the Tax Commission shall register such vehicle and issue a nontransferable special fuel use vehicle permit therefor bearing a distinctive number and showing that the vehicle described is registered with the Commission by a licensed special fuel dealer or user who has complied with the provisions of this act. Such permits shall remain in force until surrendered, suspended or canceled in the manner provided by law.

(d) Every person operating a motor vehicle on the highways of this state as a special fuel dealer or a special fuel user must at all times during such operation have displayed in the cab of

such motor vehicle a special fuel use vehicle permit which shall be subject to inspection at all times by representatives of the Tax Commission and peace officers.
Laws 1953, p. 334, § 11; 1965, c. 215, § 1.

§68-712. Records of dealers and users.

Every special fuel dealer using special fuel to propel any motor vehicle on the highways of this state and all special fuel users, including special fuel users who import special fuel into this state in the supply tanks of motor vehicles using the highways for commercial purposes, shall keep, in addition to the foregoing requirements as to records which apply to them, records of the mileage traveled by each and all motor vehicles propelled by special fuel using the highways of this state including the motor vehicles owned, operated, leased or under any other form of contract, together with inventories, withdrawals, deliveries, purchases supported by invoices, and such other records as may be required by the tax Commission. All such records and invoices must be preserved for a period of at least three (3) years.
Laws 1953, p. 335, § 12; Laws 1965, c. 215, § 1.

§68-713. Unlicensed first time users - Payment of tax - Credit or refund.

Any person operating any motor vehicle on the highways of this state as a special fuel user by importing special fuel into this state in the supply tanks of the motor vehicle who shall be liable for the tax levied by this act for the first time and who has not obtained a special fuel user's license and special fuel use vehicle permit, shall, for the purpose of determining the number of gallons of special fuel used on the highways of this state, be required to pay the Tax Commission the tax levied by this act on all special fuel contained in the fuel supply tank or tanks, and any other containers, for use in propelling said vehicle. Upon obtaining a special fuel user's license and proper vehicle permits and filing a report showing all of the operations of such person subject to the tax levied by this act, credit shall be allowed on said report for the tax paid under the provisions of this section, and any overpayment of the tax shall be refunded or credited to a future report. However, this credit shall not be allowed and no refund of such tax shall be made unless the report taking the credit or the claim for refund is filed within thirty (30) days from the date of payment of said tax.
Laws 1953, p. 335, § 13; Laws 1965, c. 215, § 1.

§68-714. Accrual of liability for tax - Liability of lessees.

The liability for the tax imposed by this act shall arise and accrue on the first use of special fuels in this state either against the special fuel dealer at the time of delivery of special fuel into the supply tank or tanks of a motor vehicle or against a special fuel user operating a motor vehicle upon the highways of this state, the operation of which is subject to and liable for the payment of said tax. The liability for said tax shall accrue against a special fuel user importing special fuel into this state in the supply tank or tanks of a motor vehicle using Oklahoma highways for commercial purposes at the time and place such motor vehicle shall enter upon a public highway of this state.

Any special fuel dealer or special fuel user who as lessee, in furtherance of his business enters into a lease for one or more trips or a contract or other arrangement, with another person for the operation of a motor vehicle, the operation of which vehicle is or will be subject to the tax herein imposed, shall be deemed to be the operator of said vehicle or vehicles, and shall report and pay the tax accruing by reason of such use under said lease, or contract. Provided that this

provision shall not be construed as relieving any lessor or person acting as a special fuel user from the payment of the tax herein imposed in cases where the lessee, with whom such lessor has entered into a lease or contract has not obtained a special fuel dealer's or user's license under this act. Provided further, nothing herein shall be construed as requiring the filing of more than one report covering a given special fuel use operation or as requiring the payment of the tax herein imposed more than once on the same special fuel.

Laws 1953, p. 335, § 14; Laws 1965, c. 215, § 1.

§68-715. Cessation of use of special fuel.

Whenever any person to whom a special fuel dealer's license or a special fuel user's license has been issued ceases using special fuel within this state, such person must notify the Tax Commission in writing of said fact within fifteen (15) days after such discontinuance and surrender his license together with all special fuel use vehicle permits issued and outstanding under said license. All tax, penalty and interest on special fuel levied by this act and due from such person at the time of such discontinuance, shall become due and payable concurrently with such discontinuance, and such person must make a report and pay all the tax, interest and penalties due at the time his license is surrendered.

Laws 1953, p. 336, § 15; Laws 1965, c. 215, § 1.

§68-716. Invoices - Record of deliveries.

Every person acting as a special fuel dealer who sells and delivers any special fuel, as defined in this act, into the fuel supply tank or tanks of any motor vehicle in this state must, at the time of such delivery, make and deliver to the person owning or operating such vehicle (the purchaser of such fuel or his agent) an invoice covering each such delivery, showing the name of the operator or purchaser, the date, the name and address of the special fuel dealer and his special fuel dealer's license number, the number of gallons of special fuel delivered, the place of delivery, the correct name of such fuel, the price per gallon and total sale price of the amount delivered, and such other information as the Commission may require. Each such invoice must be made in duplicate, be identified by consecutive numbers printed thereon, and each special fuel dealer must furnish said invoices and retain one copy thereof and be able to account for each numbered delivery invoice and each copy thereof.

The invoices required by this section must be demanded by every person purchasing and receiving a delivery of special fuel into the supply tank of a motor vehicle in Oklahoma at the time of such delivery and such person shall carry any such invoice with the vehicle until the fuel covered by same is consumed. If the special fuel is delivered by a licensed dealer or user into the supply tank or tanks of his own vehicles, a notation or proper record of same shall be made on the invoice.

Every person making such sales and deliveries of special fuel and every person so receiving and purchasing special fuel must each retain one copy of each such invoice as a part of his permanent records for a period of at least three (3) years.

Every special fuel dealer or user who shall make any delivery of special fuel into the supply tank of any motor vehicle owned and operated by such dealer or user shall make and maintain for at least three (3) years a record of all such deliveries of special fuel showing such information as the Commission may require.

Laws 1953, p. 336, § 16; Laws 1965, c. 215, § 1.

§68-717. Records of purchases, sales, delivery, use or disposition of special fuel - Monthly reports.

All persons manufacturing, refining, producing, importing or causing to be imported into Oklahoma, any special fuel and all persons purchasing, receiving or in any manner coming into possession of such fuel, as defined herein, for sale or use must keep a record of all such fuel purchased, received, sold, delivered, used, or otherwise disposed of, including the date and number of gallons of each such transaction, together with the purchase or sales invoices, or copies thereof. All such records and invoices must be kept for a period of at least three (3) years.

All persons making sales or deliveries to any service station or to any person acting as a special fuel dealer or operating as a special fuel user must on or before the twentieth day of each calendar month, file with the Tax Commission a report covering the preceding calendar month, on a form prescribed and furnished by the Tax Commission, scheduling and giving full details of each such sale and such other information as the Tax Commission may require. Provided, however, that if it should be determined by the Tax Commission that a report filed on the basis of the total gallons of special fuel sold or delivered to each station, dealer or user per month is sufficient the Commission is authorized to approve and accept such a report.

Laws 1953, p. 337, § 17; Laws 1965, c. 215, § 1.

§68-718. Reports by carriers.

The Tax Commission may require any railroad company, street, suburban or interurban railway company, pipeline company, common carrier and any other person transporting special fuel, either in interstate or intrastate commerce, to a point within this state, to make a verified report on a form prescribed and furnished by the Tax Commission on or before the twentieth day of each month for the preceding calendar month, showing the name and address of the transporter, a schedule of all deliveries and consignments of fuel within the state, including the name and address of the person to whom such fuel was actually delivered, delivery date, waybill or invoice number, consignor, point of origin, shipping date, tank car initial and number, true name of fuel, number of gallons delivered and such other information as the Tax Commission may require.

The requirements of this section shall not apply to the transportation of special fuel contained in the fuel supply tank or tanks of motor vehicles.

Laws 1953, p. 337, § 18; Laws 1965, c. 215, § 1.

§68-719. Violations - Punishment - Venue.

Any person who uses special fuel in this state without a proper license or who violates any of the provisions of this act shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment. The venue for prosecutions arising under this section shall be in the county court in which such violation is committed.

Laws 1953, p. 337, § 19; Laws 1965, c. 215, § 1.

§68-720. Interstate carriers - Showing of public convenience and necessity - Application of Act. Nothing in this act shall be construed as requiring interstate carriers to make a showing of "public convenience and necessity" in order to secure any license or permit required by the provisions hereof, and the provisions of this act shall apply to interstate commerce only in so far

as such regulation is permitted by the Constitution of Oklahoma and the United States, and the holding of any part of this act or any section or part thereof to be void or ineffective for any cause by any court shall not affect any other section or part of this act.

Laws 1953, p. 337, § 20; Laws 1965, c. 215, § 1.

§68-721. Lien of tax.

The tax levied by this act is hereby declared to be a lien upon any motor vehicle owned or operated in Oklahoma by any person: (1) who is delinquent in the payment of the tax levied by this act; or, (2) who imports special fuel into this state in the supply tank or tanks of a motor vehicle, the use of which special fuel is subject to the tax levied by this act, when such person has not obtained a special fuel user's license.

Any motor vehicle subject to such lien, or being operated on the highways of Oklahoma in violation of any of the provisions of this act, may be seized by any authorized agent of the Oklahoma Tax Commission or any highway patrolman, sheriff, deputy sheriff, or other peace officer within this state, and disposed of or sold under said lien to satisfy payment of any tax due from the owner or operator of such vehicle under this act. Such seizure and sale shall be in the manner and form as provided by law.

Laws 1953, p. 337, § 21; Laws 1965, c. 215, § 1.

§68-722. Tax credit on special fuels consumed outside State - Application and procedure.

Any person licensed as a special fuel dealer or special fuel user shall be entitled to a credit equivalent to the tax rate per gallon on all special fuels upon which the Oklahoma special fuel tax has been paid and which has thereafter been consumed in motor vehicles outside the State of Oklahoma. When the amount of credit herein provided to which the dealer or user is entitled for any calendar month exceeds the amount of tax for which such dealer or user is liable for special fuels consumed in Oklahoma in such vehicles during the same month, such excess shall, under regulations promulgated by the Oklahoma Tax Commission, be allowed as a credit against the tax for which such dealer or user would be otherwise liable for any of the succeeding months; or, upon claim filed with the Oklahoma Tax Commission within one (1) year from the first day of any calendar month in which said special fuel was used, such excess may be refunded.

Application for refund must be supported by evidence of the mileage traveled and the gallonage consumed and satisfactory evidence of the tax-paid purchases. Refund vouchers shall be paid from current collections derived from the tax levied under which the tax refund claims have been allowed, and a portion of such current collections as are necessary to pay such refund is hereby appropriated.

Laws 1968, c. 80, § 1, emerg. eff. March 26, 1968.

§68-723. Fee in lieu of tax.

A. In lieu of the special fuel tax imposed by Sections 703, 705, 707.1, 707.2 and 707.3 of this title, there is hereby levied a flat fee of Fifty Dollars (\$50.00) on each passenger automobile, and on each pickup truck or van not exceeding one (1) ton in capacity, using liquefied petroleum gas or natural gas as fuel, except that no such fee shall be levied on any vehicle which is the subject of an exemption pursuant to Section 708 of this title. Provided that, should the passenger automobile, pickup truck or van have been acquired or should the liquefied petroleum gas or natural gas system be installed on or after July 1, the flat fee shall be Twenty-five Dollars (\$25.00) for the remainder of the calendar year, except as hereinafter provided.

B. Beginning January 1, 1991, in lieu of the special fuel tax imposed by Sections 703, 705, 707.1, 707.2 and 707.3 of this title, there is hereby levied a flat fee of One Hundred Dollars (\$100.00) on each passenger automobile, and on each pickup truck or van not exceeding one (1) ton in capacity, using methanol or "M-85" which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol as fuel, except that no such fee shall be levied on any vehicle which is the subject of an exemption pursuant to Section 708 of this title. Provided that, should the passenger automobile, pickup truck or van have been acquired or should methanol or "M-85" system be installed on or after July 1, the flat fee shall be Fifty Dollars (\$50.00) for the remainder of the calendar year, except as hereinafter provided.

C. In lieu of the special fuel tax imposed by Sections 703, 705, 707.1, 707.2 and 707.3 of this title, there is hereby levied a flat fee of One Hundred Fifty Dollars (\$150.00) on each vehicle exceeding one (1) ton in capacity, using liquefied petroleum gas, methanol or "M-85" as fuel, except that no such fee shall be levied on any vehicle which is the subject of an exemption pursuant to Section 708 of this title. Provided that, should the vehicle be acquired or should the methanol or "M-85" system be installed on or after July 1, the flat fee shall be Seventy-five Dollars (\$75.00) for the remainder of the calendar year, except as hereinafter provided.

D. Every person operating a vehicle using liquefied petroleum gas, methanol or "M-85" as fuel shall make application for and obtain a decal to be issued on a yearly basis by the Oklahoma Tax Commission on forms prescribed and furnished by the Tax Commission.

E. Every person required to make application for and receive a decal under this section shall, at the time of making said application, remit to the Tax Commission the total amount of the fee due.

F. Each decal issued by the Tax Commission pursuant to the provisions of this section, shall expire on December 31 of every year, and in addition thereto said decals shall be displayed in the lower right hand corner of the front windshield of said vehicle. Upon receipt of satisfactory proof by the Tax Commission that it has become necessary to replace the windshield of the vehicle for which the decal was issued, another decal shall be issued by the Tax Commission as a replacement for a fee of One Dollar (\$1.00).

G. When any vehicle using liquefied petroleum gas, methanol or "M-85" as fuel and displaying a current decal as provided in this section is sold, such decal shall remain with the vehicle sold, unless the equipment installed to enable the vehicle to use liquefied petroleum gas, methanol or "M-85" has been removed from the vehicle before the sale.

H. When the aforementioned equipment has been removed before the sale, the seller of the vehicle shall also remove the decal required of vehicles using liquefied petroleum gas, methanol or "M-85". The removed decal, a receipt from the Oklahoma Tax Commission showing that the fee required has been paid for the current year, and the payment of a one-dollar fee for duplicate decal shall entitle the seller to make application for and obtain a new decal to be used for the remainder of the year on any vehicle using liquefied petroleum gas, methanol or "M-85" in accordance with the provisions of this section.

I. Provisions contained in Sections 701 through 721 of this title shall not apply to any vehicle using liquefied petroleum gas, methanol or "M-85".

J. All funds derived from the fee imposed by subsection A of this section shall be deposited annually in the General Revenue Fund of the State Treasury by the Tax Commission. When any person fails to obtain a current decal within thirty (30) days of the date said decal is required as provided in this section, there shall become due and payable a penalty of twenty

percent (20%) of the fee in addition to the fee. Said penalty to be deposited in the same manner as the fee pursuant to this subsection.

K. All funds derived from the fee imposed by subsections B and C of this section shall be collected by the Oklahoma Tax Commission and apportioned annually to the State Transportation Fund. When any person fails to obtain a current decal within thirty (30) days of the date such decal is required as provided in this section, there shall become due and payable a penalty of twenty percent (20%) of the fee in addition to the fee. Such penalty shall be deposited in the same manner as the fee pursuant to this subsection.

Added by Laws 1975, c. 360, § 1, eff. Jan. 1, 1976. Amended by Laws 1978, c. 242, § 1, eff. July 1, 1978; Laws 1982, c. 54, § 1, emerg. eff. March 30, 1982; Laws 1990, c. 336, § 11, operative July 1, 1990; Laws 1991, c. 235, § 18, eff. July 1, 1991; Laws 1992, c. 306, § 2, eff. July 1, 1992; Laws 1993, c. 224, § 7, eff. Sept. 1, 1993; Laws 2011, c. 163, § 8, eff. Jan. 1, 2012; Laws 2013, c. 375, § 8, eff. Jan. 1, 2014.

§68-801. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-802. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-802.1. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-803. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-804. Additional tax to absorb federal credit.

In case the tax levied upon the value of the property of the estate in Oklahoma and transfers by Section 801 et seq. of this title is less than the credit allowed by the federal government on estate tax imposed upon the value of the property of the estate in Oklahoma, for state estate and inheritance taxes imposed upon the value of the property of the estate in Oklahoma, pursuant to 26 U.S.C. Section 2011, then, in that event, there shall be levied an additional tax which shall be imposed upon the value of the property of the estate in Oklahoma, as of the date of the determination of the Federal Estate Tax, equal to the difference between such credit and the Oklahoma Estate Tax levied upon the value of the property of the estate in Oklahoma and transfers by this Article. Such credit allowed by the federal government shall be the percentage of such credit which is the percentage which the value of the property of the estate in Oklahoma bears to the total value of the estate of the decedent. Such additional tax to absorb the credit shall be determined, assessed, collected and paid pursuant to the provisions of Section 801 et seq. of this title.

Added by Laws 1965, c. 250, § 2. Amended by Laws 1981, c. 237, § 2, eff. Jan. 1, 1982; Laws 1996, c. 334, § 2, eff. Nov. 1, 1996.

§68-804.1. Estate tax lien.

For deaths occurring on or after January 1, 2010, no lien related to estate tax shall attach to any property passing through the estate of a decedent, by joint tenancy, or otherwise. No order exempting estate tax liability shall be necessary to authorize the release of such property or for the title of real property to be marketable. This shall not be construed as relieving an estate from lien obligations in effect for deaths occurring before January 1, 2010.

Added by Laws 2010, c. 436, § 5, eff. July 1, 2010.

§68-805. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-806. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-807. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-808. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-809. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-810. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-811. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-812. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-813. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-814. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-815. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-815.1. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-816. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-816.1. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-817. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-818. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-819. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-820. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-821. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-822. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-823. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-824. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-825. Repealed by Laws 2006, 2nd Extraordinary Session, c. 42, § 6, eff. Jan. 1, 2010.

§68-826. Repealed by Laws 2004, c. 535, § 16, eff. Nov. 1, 2004.

§68-827. Repealed by Laws 2004, c. 535, § 17, eff. Nov. 1, 2004.

§68-1001. Gross production tax on asphalt, ores, oil and gas, and royalty interests - Exemptions.

A. There is hereby levied upon the production of asphalt, ores bearing lead, zinc, jack and copper a tax equal to three-fourths of one percent ($\frac{3}{4}$ of 1%) on the gross value thereof.

B. 1. Effective January 1, 1999, through June 30, 2013, except as otherwise exempted pursuant to subsections D, E, F, G, H, I and J of this section, there is hereby levied upon the production of oil a tax as set forth in this subsection on the gross value of the production of oil based on a per barrel measurement of forty-two (42) U.S. gallons of two hundred thirty-one (231) cubic inches per gallon, computed at a temperature of sixty (60) degrees Fahrenheit. If the average price of Oklahoma oil as determined by the Oklahoma Tax Commission pursuant to the provisions of paragraph 3 of this subsection equals or exceeds Seventeen Dollars (\$17.00) per barrel, then the tax shall be seven percent (7%). If the average price of Oklahoma oil as determined by the Tax Commission pursuant to paragraph 3 of this subsection is less than Seventeen Dollars (\$17.00) but is equal to or exceeds Fourteen Dollars (\$14.00) per barrel, then the tax shall be four percent (4%). If the average price of Oklahoma oil as determined by the Tax Commission pursuant to paragraph 3 of this subsection is less than Fourteen Dollars (\$14.00) per barrel, then the tax shall be one percent (1%).

2. Effective July 1, 2013, except as otherwise exempted pursuant to subsections D, E, F, G, H, I and J of this section, there shall be levied upon the production of oil a tax equal to seven percent (7%) of the gross value of the production of oil based on a per barrel measurement of forty-two (42) U.S. gallons of two hundred thirty-one (231) cubic inches per gallon, computed at a temperature of sixty (60) degrees Fahrenheit.

3. Effective January 1, 1999, through June 30, 2013, the average price of Oklahoma oil for purposes of this section shall be computed by the Tax Commission based on the total value of oil reported each month that is subject to the tax levied under this section. At the first of each month, the Tax Commission shall compute the average price paid per barrel of oil reported on the monthly tax report for the most current production month on file. The average price as computed by the Tax Commission shall be used to determine the applicable tax rate for the third month following production. Effective July 1, 2002, through June 30, 2013, the average price of gas for purposes of this section shall be computed by the Tax Commission based on the total value of gas reported each month that is subject to the tax levied by this section. At the first of each month, the Tax Commission shall compute the average price paid per thousand cubic feet (mcf) of gas as reported on the monthly tax report for the most current production month on file. The average price as computed by the Tax Commission shall be used to determine the applicable tax rate for the third month following production.

4. Effective July 1, 2002, through June 30, 2013, except as otherwise exempted pursuant to subsections D, E, F, G, H, I and J of this section, there is hereby levied upon the production of gas a tax as set forth in this subsection on the gross value of the production of gas. If the average price of gas as determined by the Tax Commission pursuant to the provisions of paragraph 3 of this subsection equals or exceeds Two Dollars and ten cents (\$2.10) per thousand cubic feet (mcf), then the tax shall be seven percent (7%). If the average price of gas as determined by the Tax Commission pursuant to the provisions of paragraph 3 of this subsection is less than Two

Dollars and ten cents (\$2.10) per thousand cubic feet (mcf) but is equal to or exceeds One Dollar and seventy-five cents (\$1.75) per thousand cubic feet (mcf), then the tax shall be four percent (4%). If the average price of gas as determined by the Tax Commission pursuant to the provisions of paragraph 3 of this subsection is less than One Dollar and seventy-five cents (\$1.75) per thousand cubic feet (mcf), then the tax shall be one percent (1%).

5. Effective July 1, 2013, except as otherwise exempted pursuant to subsections D, E, F, G, H, I and J of this section, there shall be levied a tax equal to seven percent (7%) of the gross value of the production of gas.

C. The taxes hereby levied shall also attach to, and are levied on, what is known as the royalty interest, and the amount of such tax shall be a lien on such interest.

D. 1. Except as otherwise provided in this section, any incremental production attributable to the working interest owners which results from an enhanced recovery project shall be exempt from the gross production tax levied pursuant to this section from the project beginning date until project payback is achieved for new enhanced recovery projects or until project payback is achieved but not to exceed a period of thirty-six (36) months for tertiary enhanced recovery projects existing on July 1, 1988. This exemption shall take effect July 1, 1988, and shall apply to enhanced recovery projects approved or having a project beginning date prior to July 1, 1993. Project payback pursuant to this paragraph for enhanced recovery projects qualifying for this exemption on or after July 1, 1990, and on or before June 30, 1993, shall be determined by appropriate payback indicators which will not include any expenses beyond the completion date of the well. Project payback pursuant to this paragraph for enhanced recovery projects qualifying for this exemption on or after October 17, 1987, and on or before June 30, 1990, shall be determined by appropriate payback indicators as previously established and allowed by the Tax Commission for projects qualifying during such period.

2. Except as otherwise provided in this section, for secondary recovery projects approved and having a project beginning date on or after July 1, 1993, and before July 1, 2000, any incremental production attributable to the working interest owners which results from such secondary recovery projects shall be exempt from the gross production tax levied pursuant to this section from the project beginning date until project payback is achieved but not to exceed a period of ten (10) years. Project payback pursuant to this paragraph shall be determined by appropriate payback indicators which will provide for the recovery of capital expenses and fifty percent (50%) of operating expenses, in determining project payback.

3. Except as otherwise provided in this section, for secondary recovery projects approved or having an initial project beginning date on or after July 1, 2000, and before July 1, 2014, any incremental production attributable to the working interest owners which results from such secondary recovery projects shall be exempt from the gross production tax levied pursuant to this section for a period not to exceed five (5) years from the initial project beginning date or for a period ending upon the termination of the secondary recovery process, whichever occurs first.

4. Except as otherwise provided in this section, for tertiary recovery projects approved and having a project beginning date on or after July 1, 1993, and before July 1, 2014, any incremental production attributable to the working interest owners which results from such tertiary recovery projects shall be exempt from the gross production tax levied pursuant to this section from the project beginning date until project payback is achieved, but not to exceed a period of ten (10) years. Project payback pursuant to this paragraph shall be determined by appropriate payback indicators which will provide for the recovery of capital expenses and operating expenses, excluding administrative expenses, in determining project payback. The

capital expenses of pipelines constructed to transport carbon dioxide to a tertiary recovery project shall not be included in determining project payback pursuant to this paragraph.

5. The provisions of this subsection shall also not apply to any enhanced recovery project using fresh water as the primary injectant, except when using steam.

6. For purposes of this subsection:

- a. "incremental production" means the amount of crude oil or other liquid hydrocarbons which is produced during an enhanced recovery project and which is in excess of the base production amount of crude oil or other liquid hydrocarbons. The base production amount shall be the average monthly amount of production for the twelve-month period immediately prior to the project beginning date minus the monthly rate of production decline for the project for each month beginning one hundred eighty (180) days prior to the project beginning date. The monthly rate of production decline shall be equal to the average extrapolated monthly decline rate for the twelve-month period immediately prior to the project beginning date as determined by the Corporation Commission based on the production history of the field, its current status, and sound reservoir engineering principles, and
- b. "project beginning date" means the date on which the injection of liquids, gases, or other matter begins on an enhanced recovery project.

7. The Corporation Commission shall promulgate rules for the qualification for this exemption which shall include, but not be limited to, procedures for determining incremental production as defined in subparagraph a of paragraph 6 of this subsection, and the establishment of appropriate payback indicators as approved by the Tax Commission for the determination of project payback for each of the exemptions authorized by this subsection.

8. For new secondary recovery projects and tertiary recovery projects approved by the Corporation Commission on or after July 1, 1993, and before July 1, 2014, such approval shall constitute qualification for an exemption.

9. Any person seeking an exemption shall file an application for such exemption with the Tax Commission which, upon determination of qualification by the Corporation Commission, shall approve the application for such exemption.

10. The Tax Commission may require any person requesting such exemption to furnish information or records concerning the exemption as is deemed necessary by the Tax Commission.

11. Upon the expiration of the exemption granted pursuant to this subsection, the Tax Commission shall collect the gross production tax levied pursuant to this section.

E. 1. Except as otherwise provided in this section, the production of oil, gas or oil and gas from a horizontally drilled well producing prior to July 1, 2011, which production commenced after July 1, 2002, shall be exempt from the gross production tax levied pursuant to subsection B of this section from the project beginning date until project payback is achieved but not to exceed a period of forty-eight (48) months commencing with the month of initial production from the horizontally drilled well. For purposes of subsection D of this section and this subsection, project payback shall be determined as of the date of the completion of the well and shall not include any expenses beyond the completion date of the well, and subject to the approval of the Tax Commission.

2. Claims for refund for the production periods within the fiscal years ending June 30, 2010, and June 30, 2011, shall be filed and received by the Tax Commission no later than December 31, 2011.

3. For production commenced on or after July 1, 2011, and prior to July 1, 2015, the tax levied pursuant to the provisions of this section on the production of oil, gas or oil and gas from a horizontally drilled well shall be reduced to a rate of one percent (1%) for a period of forty-eight (48) months from the month of initial production. The taxes collected from the production of oil shall be apportioned pursuant to the provisions of paragraph 7 of Section 1004 of this title. The taxes collected from the production of gas shall be apportioned pursuant to the provisions of paragraph 4 of Section 1004 of this title.

4. The provisions of this paragraph shall only apply to wells qualifying for the exemption provided under this subsection prior to July 1, 2011. The production of oil, gas or oil and gas on or after July 1, 2011, from these qualifying wells shall be taxed at a rate of one percent (1%) until the expiration of forty-eight (48) months commencing with the month of initial production.

5. As used in this subsection, "horizontally drilled well" shall mean an oil, gas or oil and gas well drilled or recompleted in a manner which encounters and subsequently produces from a geological formation at an angle in excess of seventy (70) degrees from vertical and which laterally penetrates a minimum of one hundred fifty (150) feet into the pay zone of the formation.

F. 1. Except as otherwise provided by this section, the severance or production of oil, gas or oil and gas from an inactive well shall be exempt from the gross production tax levied pursuant to subsection B of this section for a period of twenty-eight (28) months from the date upon which production is reestablished. This exemption shall take effect July 1, 1994, and shall apply to wells for which work to reestablish or enhance production began on or after July 1, 1994, and for which production is reestablished prior to July 1, 2014. For all such production, a refund against gross production taxes shall be issued as provided in subsection L of this section.

2. As used in this subsection, for wells for which production is reestablished prior to July 1, 1997, "inactive well" means any well that has not produced oil, gas or oil and gas for a period of not less than two (2) years as evidenced by the appropriate forms on file with the Corporation Commission reflecting the well's status. As used in this subsection, for wells for which production is reestablished on or after July 1, 1997, and prior to July 1, 2014, "inactive well" means any well that has not produced oil, gas or oil and gas for a period of not less than one (1) year as evidenced by the appropriate forms on file with the Corporation Commission reflecting the well's status. Wells which experience mechanical failure or loss of mechanical integrity, as defined by the Corporation Commission, including but not limited to, casing leaks, collapse of casing or loss of equipment in a wellbore, or any similar event which causes cessation of production, shall also be considered inactive wells.

G. 1. Except as otherwise provided by this section, any incremental production which results from a production enhancement project shall be exempt from the gross production tax levied pursuant to subsection B of this section for a period of twenty-eight (28) months from the date of first sale after project completion of the production enhancement project. This exemption shall take effect July 1, 1994, and shall apply to production enhancement projects having a project beginning date on or after July 1, 1994, and prior to July 1, 2014. For all such production, a refund against gross production taxes shall be issued as provided in subsection L of this section.

2. As used in this subsection:

- a. (1) for production enhancement projects having a project beginning date prior to July 1, 1997, “production enhancement project” means any workover as defined in this paragraph, recompletion as defined in this paragraph, or fracturing of a producing well, and
- (2) for production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, 2014, “production enhancement project” means any workover as defined in this paragraph, recompletion as defined in this paragraph, reentry of plugged and abandoned wellbores, or addition of a well or field compression,
- b. “incremental production” means the amount of crude oil, natural gas or other hydrocarbons which are produced as a result of the production enhancement project in excess of the base production,
- c. “base production” means the average monthly amount of production for the twelve-month period immediately prior to the commencement of the project or the average monthly amount of production for the twelve-month period immediately prior to the commencement of the project less the monthly rate of production decline for the project for each month beginning one hundred eighty (180) days prior to the commencement of the project. The monthly rate of production decline shall be equal to the average extrapolated monthly decline rate for the twelve-month period immediately prior to the commencement of the project based on the production history of the well. If the well or wells covered in the application had production for less than the full twelve-month period prior to the filing of the application for the production enhancement project, the base production shall be the average monthly production for the months during that period that the well or wells produced,
- d. (1) for production enhancement projects having a project beginning date prior to July 1, 1997, “recompletion” means any downhole operation in an existing oil or gas well that is conducted to establish production of oil or gas from any geological interval not currently completed or producing in such existing oil or gas well, and
- (2) for production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, 2014, “recompletion” means any downhole operation in an existing oil or gas well that is conducted to establish production of oil or gas from any geologic interval not currently completed or producing in such existing oil or gas well within the same or a different geologic formation, and
- e. “workover” means any downhole operation in an existing oil or gas well that is designed to sustain, restore or increase the production rate or ultimate recovery in a geologic interval currently completed or producing in the existing oil or gas well. For production enhancement projects having a project beginning date prior to July 1, 1997, “workover” includes, but is not limited to, acidizing, reperforating, fracture treating, sand/paraffin removal, casing repair, squeeze cementing, or setting bridge plugs to isolate water productive zones from oil or gas productive zones, or any combination

thereof. For production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, 2014, "workover" includes, but is not limited to:

- (1) acidizing,
- (2) reperforating,
- (3) fracture treating,
- (4) sand/paraffin/scale removal or other wellbore cleanouts,
- (5) casing repair,
- (6) squeeze cementing,
- (7) installation of compression on a well or group of wells or initial installation of artificial lifts on gas wells, including plunger lifts, rod pumps, submersible pumps and coiled tubing velocity strings,
- (8) downsizing existing tubing to reduce well loading,
- (9) downhole commingling,
- (10) bacteria treatments,
- (11) upgrading the size of pumping unit equipment,
- (12) setting bridge plugs to isolate water production zones, or
- (13) any combination thereof.

"Workover" shall not mean the routine maintenance, routine repair, or like for like replacement of downhole equipment such as rods, pumps, tubing, packers, or other mechanical devices.

H. 1. For purposes of this subsection, "depth" means the length of the maximum continuous string of drill pipe utilized between the drill bit face and the drilling rig's kelly bushing.

2. Except as otherwise provided in subsection K of this section:

- a. the production of oil, gas or oil and gas from wells spudded between July 1, 1997, and July 1, 2005, and drilled to a depth of twelve thousand five hundred (12,500) feet or greater and wells spudded between July 1, 2005, and July 1, 2014, and drilled to a depth between twelve thousand five hundred (12,500) feet and fourteen thousand nine hundred ninety-nine (14,999) feet shall be exempt from the gross production tax levied pursuant to subsection B of this section from the date of first sales for a period of twenty-eight (28) months;
- b. the production of oil, gas or oil and gas from wells spudded between July 1, 2002, and July 1, 2005, and drilled to a depth of fifteen thousand (15,000) feet or greater and wells spudded between July 1, 2005, and July 1, 2011, and drilled to a depth between fifteen thousand (15,000) feet and seventeen thousand four hundred ninety-nine (17,499) feet shall be exempt from the gross production tax levied pursuant to subsection B of this section from the date of first sales for a period of forty-eight (48) months;
- c. the production of oil, gas or oil and gas from wells spudded between July 1, 2002, and July 1, 2011, and drilled to a depth of seventeen thousand five hundred (17,500) feet or greater shall be exempt from the gross production tax levied pursuant to subsection B of this section from the date of first sales for a period of sixty (60) months;

- d. the tax levied pursuant to the provisions of this section on the production of oil, gas or oil and gas from wells spudded between July 1, 2011, and July 1, 2015, and drilled to a depth between fifteen thousand (15,000) feet and seventeen thousand four hundred ninety-nine (17,499) feet shall be reduced to a rate of four percent (4%) for a period of forty-eight (48) months from the date of first sales. The taxes collected from the production of oil shall be apportioned pursuant to the provisions of paragraph 6 of Section 1004 of this title. The taxes collected from the production of gas shall be apportioned pursuant to the provisions of paragraph 3 of Section 1004 of this title;
- e. the tax levied pursuant to the provisions of this section on the production of oil, gas or oil and gas from wells spudded between July 1, 2011, and July 1, 2015, and drilled to a depth of seventeen thousand five hundred (17,500) feet or greater shall be reduced to a rate of four percent (4%) for a period of sixty (60) months from the date of first sales. The taxes collected from the production of oil shall be apportioned pursuant to the provisions of paragraph 6 of Section 1004 of this title. The taxes collected from the production of gas shall be apportioned pursuant to the provisions of paragraph 3 of Section 1004 of this title; and
- f. the provisions of subparagraphs b and c of this paragraph shall only apply to the production of wells qualifying for the exemption provided under these subparagraphs prior to July 1, 2011. The production of oil, gas or oil and gas on or after July 1, 2011, from wells qualifying under subparagraph b of this paragraph shall be taxed at a rate of four percent (4%) until the expiration of forty-eight (48) months from the date of first sales and the production of oil, gas or oil and gas on or after July 1, 2011, from wells qualifying under subparagraph c of this paragraph shall be taxed at a rate of four percent (4%) until the expiration of sixty (60) months from the date of first sales.

3. Except as otherwise provided for in this subsection, for all such wells spudded, a refund against gross production taxes shall be issued as provided in subsection L of this section.

4. For all wells spudded after July 1, 2005, and which are exempt from gross production tax pursuant to subparagraphs b and c of paragraph 2 of this subsection, the amount of refunds paid by the Tax Commission shall be limited as follows:

- a. for the fiscal year ending June 30, 2006, no claims for refunds shall be paid,
- b. for the fiscal year ending June 30, 2007, the total amount of refunds paid shall be equal to or less than Seventeen Million Dollars (\$17,000,000.00),
- c. for the fiscal year ending June 30, 2008, the total amount of refunds paid shall be equal to or less than Twenty Million Dollars (\$20,000,000.00), and
- d. for the fiscal years ending June 30, 2009, through June 30, 2011, the total amount of refunds paid each fiscal year shall be equal to or less than Twenty-five Million Dollars (\$25,000,000.00).

5. Except as otherwise provided for in paragraph 7 of this subsection and paragraph 2 of subsection L of this section, for the fiscal years ending on or before June 30, 2011, in order to qualify for a refund of gross production tax on wells which are exempt pursuant to subparagraphs b and c of paragraph 2 of this subsection, claims for refunds shall be filed within

six (6) months after the first day of the fiscal year in which the refund is first available pursuant to subsection L of this section. When processing applications for qualification for an exemption as provided for in paragraph 2 of subsection M of this section, the Corporation Commission shall give priority to those applications filed for an exemption pursuant to subparagraphs b and c of paragraph 2 of this subsection in order for applicants to comply with the six-month filing period as provided for in this paragraph.

6. If the total amount of claims for refunds made during any fiscal year are greater than the total amount of refunds allowed for that fiscal year as provided for in paragraph 4 of this subsection, the Tax Commission shall proportionately reduce the amount of each claim so that the total amount of claims equal the total amount allowed for refunds.

7. If the total amount of claims for a refund filed within the six-month filing period for a fiscal year is less than the total amount of refunds allowed for that fiscal year as provided for in paragraph 4 of this subsection, the Tax Commission shall pay the claims that have been filed. Then for any remaining funds, the Tax Commission shall extend the claims-filing period for three (3) months and shall pay any claims filed during the extended filing period up to the total amount of remaining funds. If the amount of claims for refunds filed during the extended filing period is greater than the total amount of remaining funds, the Tax Commission shall proportionately reduce the amount of each claim as provided for in paragraph 6 of this subsection.

I. 1. Except as otherwise provided by this section, the production of oil, gas or oil and gas from wells spudded or reentered between July 1, 1995, and July 1, 2014, which qualify as a new discovery pursuant to this subsection shall be exempt from the gross production tax levied pursuant to subsection B of this section from the date of first sales for a period of twenty-eight (28) months. For all such wells spudded or reentered, a refund against gross production taxes shall be issued as provided in subsection L of this section. As used in this subsection, "new discovery" means production of oil, gas or oil and gas from:

- a. (1) for wells spudded or reentered on or after July 1, 1997, a well that discovers crude oil in paying quantities that is more than one (1) mile from the nearest oil well producing from the same producing formation, and
- (2) for wells spudded or reentered on or after July 1, 1997, and prior to July 1, 2014, a well that discovers crude oil in paying quantities that is more than one (1) mile from the nearest oil well producing from the same producing interval of the same formation,
- b. (1) for wells spudded or reentered prior to July 1, 1997, a well that discovers crude oil in paying quantities beneath current production in a deeper producing formation that is more than one (1) mile from the nearest oil well producing from the same deeper producing formation, and
- (2) for wells spudded or reentered on or after July 1, 1997, and prior to July 1, 2014, a well that discovers crude oil in paying quantities beneath current production in a deeper producing interval that is more than one (1) mile from the nearest oil well producing from the same deeper producing interval,
- c. (1) for wells spudded or reentered prior to July 1, 1997, a well that discovers natural gas in paying quantities that is more than two (2)

- miles from the nearest gas well producing from the same producing formation, and
 - (2) for wells spudded or reentered on or after July 1, 1997, and prior to July 1, 2014, a well that discovers natural gas in paying quantities that is more than two (2) miles from the nearest gas well producing from the same producing interval, or
 - d. (1) for wells spudded or reentered prior to July 1, 1997, a well that discovers natural gas in paying quantities beneath current production in a deeper producing formation that is more than two (2) miles from the nearest gas well producing from the same deeper producing formation, and
 - (2) for wells spudded or reentered on and after July 1, 1997, and prior to July 1, 2014, a well that discovers natural gas in paying quantities beneath current production in a deeper producing interval that is more than two (2) miles from the nearest gas well producing from the same deeper producing interval.

2. The Corporation Commission shall deliver to the Legislature a report on the number of wells as defined by paragraph 1 of this subsection that are drilled and the amount of production from those wells. The first such report shall be delivered to the Legislature no later than February 1, 1997, and each February 1, thereafter, until the conclusion of the program.

J. Except as otherwise provided by this section, the production of oil, gas or oil and gas from any well, drilling of which is commenced after July 1, 2000, and prior to July 1, 2014, located within the boundaries of a three-dimensional seismic shoot and drilled based on three-dimensional seismic technology, shall be exempt from the gross production tax levied pursuant to subsection B of this section from the date of first sales as follows:

- 1. If the three-dimensional seismic shoot is shot prior to July 1, 2000, for a period of eighteen (18) months; and
- 2. If the three-dimensional seismic shoot is shot on or after July 1, 2000, for a period of twenty-eight (28) months.

For all such production, a refund against gross production taxes shall be issued as provided in subsection L of this section.

K. 1. The exemptions provided for in subsections F, G, I and J of this section, the exemption provided for in subparagraph a of paragraph 2 of subsection H of this section, and the exemptions provided for in subparagraphs b and c of paragraph 2 of subsection H of this section for production from wells spudded before July 1, 2005, shall not apply:

- a. to the severance or production of oil, upon determination by the Tax Commission that the average annual index price of Oklahoma oil exceeds Thirty Dollars (\$30.00) per barrel calculated on an annual calendar year basis, as adjusted for inflation using the Consumer Price Index-All Urban Consumers (CPI-U) as published by the Bureau of Labor Statistics of the U.S. Department of Labor or its successor agency. Such adjustment shall be based on the most current data available for the preceding twelve-month period and shall be applied for the fiscal year which begins on the July 1 date immediately following the release of the CPI-U data by the Bureau of Statistics.

- (1) The “average annual index price” will be calculated by multiplying the West Texas Intermediate closing price by the “index price ratio”. The index price ratio is defined as the immediate preceding three-year historical average ratio of the actual weighted average wellhead price to the West Texas Intermediate close price published on the last business day of each month.
 - (2) The average annual index price will be updated annually by the Oklahoma Tax Commission no later than March 31 of each year.
 - (3) If the West Texas Intermediate Crude price is unavailable for any reason, an industry benchmark price may be substituted and used for the calculation of the index price as determined by the Tax Commission,
- b. to the severance or production of oil or gas upon which gross production taxes are paid at a rate of one percent (1%) pursuant to the provisions of subsection B of this section, and
 - c. to the severance or production of gas, upon determination by the Tax Commission that the average annual index price of Oklahoma gas exceeds Five Dollars (\$5.00) per thousand cubic feet (mcf) calculated on an annual calendar year basis as adjusted for inflation using the Consumer Price Index-All Urban Consumers (CPI-U) as published by the Bureau of Labor Statistics of the U.S. Department of Labor or its successor agency. Such adjustment shall be based on the most current data available for the preceding twelve-month period and shall be applied for the fiscal year which begins on the July 1 date immediately following the release of the CPI-U data by the Bureau of Statistics.
 - (1) The “average annual index price” will be calculated by multiplying the Henry Hub 3-Day Average Close price by the “index price ratio”. The index price ratio is defined as the immediate preceding three-year historical average ratio of the actual weighted average wellhead price to the Henry Hub 3-Day Average Close price published on the last business day of each month.
 - (2) The average annual index price will be updated annually by the Oklahoma Tax Commission no later than March 31 of each year.
 - (3) If the Henry Hub 3-Day Average Close price is unavailable for any reason, an industry benchmark price may be substituted and used for the calculation of the index price as determined by the Tax Commission.

2. Notwithstanding the exemptions granted pursuant to subsections F, G, I, J, paragraph 1 of subsection E, and subparagraph a of paragraph 2 of subsection H of this section, there shall continue to be levied upon the production of petroleum or other crude or mineral oil or natural gas or casinghead gas, as provided in subsection B of this section, from any wells provided for in subsections F, G, I, J, paragraph 1 of subsection E, and subparagraph a of paragraph 2 of subsection H of this section, a tax equal to one percent (1%) of the gross value of the production of petroleum or other crude or mineral oil or natural gas or casinghead gas. The tax hereby levied shall be apportioned as follows:

- a. fifty percent (50%) of the sum collected shall be apportioned to the County Highway Fund as provided in subparagraph b of paragraph 1 of Section 1004 of this title, and
- b. fifty percent (50%) of the sum collected shall be apportioned to the appropriate school district as provided in subparagraph c of paragraph 1 of Section 1004 of this title.

Upon the expiration of the exemption granted pursuant to subsection E, F, G, H, I or J of this section, the provisions of this paragraph shall have no force or effect.

L. Except as provided in subsection M of this section, for all oil and gas production exempt from gross production taxes pursuant to subsections E, F, G, H, I and J of this section during a given fiscal year, a refund of gross production taxes shall be issued to the well operator or a designee in the amount of such gross production taxes paid during such period, subject to the following provisions:

1. A refund shall not be claimed until after the end of such fiscal year. As used in this subsection, a fiscal year shall be deemed to begin on July 1 of one calendar year and shall end on June 30 of the subsequent calendar year;

2. Unless otherwise specified, no claims for refunds pursuant to the provisions of this subsection shall be filed more than eighteen (18) months after the first day of the fiscal year in which the refund is first available;

3. No claims for refunds pursuant to the provisions of this subsection shall be filed by or on behalf of persons other than the operator or a working interest owner of record at the time of production;

4. No refunds shall be claimed or paid pursuant to the provisions of this subsection for oil or gas production upon which a tax is paid at a rate of one percent (1%) as specified in subsection B of this section; and

5. No refund shall be paid unless the person making the claim for refund demonstrates by affidavit or other means prescribed by the Tax Commission that an amount equal to or greater than the amount of the refund has been invested in the exploration for or production of crude oil or natural gas in this state by such person not more than three (3) years prior to the date of the claim. No amount of investment used to qualify for a refund pursuant to the provisions of this paragraph may be used to qualify for another refund pursuant to the provisions of this paragraph.

If there are insufficient funds collected from the production of oil to satisfy the refunds claimed for oil production pursuant to subsection E, F, G, H, I or J of this section, the Tax Commission shall pay the balance of the refund claims out of the gross production taxes collected from the production of gas.

M. Claims for refunds filed for the exemptions provided in paragraph 1 of subsection E, and subparagraphs b and c of paragraph 2 of subsection H of this section for the production periods beginning on or after July 1, 2009, and ending on or before June 30, 2011, shall be paid pursuant to the provisions of this subsection. The claims for refunds referenced herein shall be paid in equal payments of a period of thirty-six (36) months. The first payment shall be made after July 1, 2012, but prior to August 1, 2012. The Tax Commission shall provide, not later than June 30, 2012, to the operator or designated interest owner, a schedule of rebates to be paid out over the thirty-six-month period. The payments required to be made pursuant to the provisions of this subsection shall be subject to a penalty rate of interest equal to nine percent (9%) per annum. The penalty rate of interest shall accrue for each day that a required payment is not made by the end of the month for which the payment is required to be made by the Tax

Commission. For purposes of computing the per diem rate of interest pursuant to this subsection, a calendar year shall be deemed to consist of three hundred sixty (360) days.

N. 1. The Corporation Commission and the Tax Commission shall promulgate joint rules for the qualification for the exemptions provided for in subsections E, F, G, H, I and J of this section and the rules shall contain provisions for verification of any wells from which production may be qualified for the exemptions. The Tax Commission shall adopt rules and regulations which establish guidelines for production of oil or gas after July 1, 2011, which is exempt from tax pursuant to the provisions of paragraph 1 of subsection E and subparagraphs b and c of paragraph 2 of subsection H of this section to remit tax at the reduced rate provided in paragraph 2 of subsection E and subparagraphs d and e of paragraph 2 of subsection H of this section until the end of the qualifying exemption period.

2. Any person requesting any exemption shall file an application for qualification for the exemption with the Corporation Commission which, upon finding that the well meets the requirements of subsection E, F, G, H, I or J of this section, shall approve the application for qualification.

3. Any person seeking an exemption shall:

- a. file an application for the exemption with the Tax Commission which, upon determination of qualification by the Corporation Commission, shall approve the application for an exemption, and
- b. provide a copy of the approved application to the remitter of the gross production tax.

4. The Tax Commission may require any person requesting an exemption to furnish necessary financial and other information or records in order to determine and justify the refund.

5. Upon the expiration of the exemption granted pursuant to subsection E, F, G, H, I or J of this section, the Tax Commission shall collect the gross production tax levied pursuant to this section. If a person who qualifies for the exemption elects to remit his or her own gross production tax during the exemption period, the first purchaser shall not be liable to withhold or remit the tax until the first day of the month following the receipt of written notification from the person who is qualified for such exemption stating that such exemption has expired and directing the first purchaser to resume tax remittance on his or her behalf.

O. All persons shall only be entitled to either the exemption granted pursuant to subsection D of this section or the exemption granted pursuant to subsection E, F, G, H, I or J of this section for each oil, gas or oil and gas well drilled or recompleted in this state. However, any person who qualifies for the exemption granted pursuant to subsection E, F, G, H, I or J of this section shall not be prohibited from qualification for the exemption granted pursuant to subsection D of this section, if the exemption granted pursuant to subsection E, F, G, H, I or J of this section has expired.

P. The Tax Commission shall have the power to require any such person engaged in mining or the production or the purchase of such asphalt, mineral ores aforesaid, oil, or gas, or the owner of any royalty interest therein to furnish any additional information by it deemed to be necessary for the purpose of correctly computing the amount of the tax; and to examine the books, records and files of such person; and shall have power to conduct hearings and compel the attendance of witnesses, and the production of books, records and papers of any person.

Q. Any person or any member of any firm or association, or any officer, official, agent or employee of any corporation who shall fail or refuse to testify; or who shall fail or refuse to produce any books, records or papers which the Tax Commission shall require; or who shall fail

or refuse to furnish any other evidence or information which the Tax Commission may require; or who shall fail or refuse to answer any competent questions which may be put to him or her by the Tax Commission, touching the business, property, assets or effects of any such person relating to the gross production tax imposed by this article or exemption authorized pursuant to this section or other laws, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00), or imprisonment in the jail of the county where such offense shall have been committed, for not more than one (1) year, or by both such fine and imprisonment; and each day of such refusal on the part of such person shall constitute a separate and distinct offense.

R. The Tax Commission shall have the power and authority to ascertain and determine whether or not any report herein required to be filed with it is a true and correct report of the gross products, and of the value thereof, of such person engaged in the mining or production or purchase of asphalt and ores bearing minerals aforesaid and of oil and gas. If any person has made an untrue or incorrect report of the gross production or value or volume thereof, or shall have failed or refused to make such report, the Tax Commission shall, under the rules prescribed by it, ascertain the correct amount of either, and compute the tax.

S. The payment of the taxes herein levied shall be in full, and in lieu of all taxes by the state, counties, cities, towns, school districts and other municipalities upon any property rights attached to or inherent in the right to the minerals, upon producing leases for the mining of asphalt and ores bearing lead, zinc, jack or copper, or for oil, or for gas, upon the mineral rights and privileges for the minerals aforesaid belonging or appertaining to land, upon the machinery, appliances and equipment used in and around any well producing oil, or gas, or any mine producing asphalt or any of the mineral ores aforesaid and actually used in the operation of such well or mine. The payment of gross production tax shall also be in lieu of all taxes upon the oil, gas, asphalt or ores bearing minerals hereinbefore mentioned during the tax year in which the same is produced, and upon any investment in any of the leases, rights, privileges, minerals or other property described herein. Any interest in the land, other than that herein enumerated, and oil in storage, asphalt and ores bearing minerals hereinbefore named, mined, produced and on hand at the date as of which property is assessed for general and ad valorem taxation for any subsequent tax year, shall be assessed and taxed as other property within the taxing district in which such property is situated at the time.

T. No equipment, material or property shall be exempt from the payment of ad valorem tax by reason of the payment of the gross production tax except such equipment, machinery, tools, material or property as is actually necessary and being used and in use in the production of asphalt or of ores bearing lead, zinc, jack or copper or of oil or gas. Provided, the exemption shall include the wellbore and non-recoverable down-hole material, including casing, actually used in the disposal of waste materials produced with such oil or gas. It is expressly declared that no ice plants, hospitals, office buildings, garages, residences, gasoline extraction or absorption plants, water systems, fuel systems, rooming houses and other buildings, nor any equipment or material used in connection therewith, shall be exempt from ad valorem tax.

U. The exemption from ad valorem tax set forth in subsections S and T of this section shall continue to apply to all property from which production of oil, gas or oil and gas is exempt from gross production tax pursuant to subsection D, E, F, G, H, I or J of this section. Added by Laws 1963, c. 365, § 2, emerg. eff. June 22, 1963. Renumbered from § 10-1001 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1971, c. 53, § 1, emerg. eff. March 31, 1971; Laws 1976, c. 62, § 1, emerg. eff. April 22, 1976; Laws 1980, c. 129, § 1, emerg. eff. April

14, 1980; Laws 1987, c. 50, § 1; Laws 1990, c. 229, § 1, operative July 1, 1990; Laws 1992, c. 30, § 1, emerg. eff. March 31, 1992; Laws 1993, c. 273, § 4, eff. July 1, 1993; Laws 1994, c. 311, § 1, eff. July 1, 1994; Laws 1995, c. 321, § 1, eff. July 1, 1995; Laws 1996, c. 360, § 1, eff. July 1, 1996; Laws 1997, c. 390, § 2, eff. July 1, 1997; Laws 1999, 1st Ex.Sess., c. 1, § 1, emerg. eff. Feb. 5, 1999; Laws 2000, c. 315, § 5, eff. July 1, 2000; Laws 2001, c. 249, § 1, eff. July 1, 2001; Laws 2002, c. 416, § 1, eff. July 1, 2002; Laws 2003, c. 463, § 1, eff. July 1, 2003; Laws 2004, c. 189, § 1, eff. July 1, 2004; Laws 2004, c. 444, § 1, eff. Nov. 1, 2004; Laws 2005, c. 297, § 1, eff. July 1, 2005; Laws 2006, c. 134, § 2, eff. July 1, 2006; Laws 2007, c. 260, § 1, eff. July 1, 2007; Laws 2008, c. 278, § 1, eff. Jan. 1, 2009; Laws 2009, c. 2, § 21, emerg. eff. March 12, 2009; Laws 2009, c. 312, § 1, eff. July 1, 2009; Laws 2010, c. 252, § 1, emerg. eff. May 10, 2010; Laws 2010, c. 443, § 1, eff. July 1, 2010; Laws 2011, c. 157, § 1; Laws 2011, c. 353, § 1, eff. Jan. 1, 2012; Laws 2013, c. 401, § 1, eff. Nov. 1, 2013.

NOTE: Laws 2008, c. 380, § 1 repealed by Laws 2009, c. 2, § 22, emerg. eff. March 12, 2009.

§68-1001.1. Property exempt from taxation pursuant to Title 68, § 1001, subsections (p) and (q) - Rules and regulations for determination.

The Oklahoma Tax Commission shall adopt rules and regulations which establish guidelines for the determination of property exempt from ad valorem taxation pursuant to the provisions of subsections S and T of Section 1001 of this title. Said guidelines shall include, but are not limited to, the following:

1. "Producing leases" means wells or leases or production units which have had production during any of the previous three (3) calendar years which is subject to the gross production tax levied by Section 1001 of this title and which have not been abandoned or required to be plugged as required by law on or before January 1 of the year for which the assessment or valuation is made;

2. "Payment of gross production tax" means payment of the tax levied by Section 1001 of this title on production during any of the three (3) calendar years immediately prior to January 1 of the year for which the assessment or valuation is made; and

3. Property exempt from ad valorem tax pursuant to the provisions of subsections S and T of Section 1001 of this title shall include, but is not limited to, lease production tanks, lease production meters, and disposal systems, including all materials and equipment of disposal systems and the lines transporting the waste materials, serving one or more wells, which are not for commercial purposes. Provided, the exemption shall include the wellbore and non-recoverable down-hole material, including casing, actually used in the commercial disposal of waste materials produced with such oil or gas. Such exempt property shall remain exempt as long as the property is essential to the production of oil and gas in commercial quantities. The county assessor shall be notified when such property becomes nonexempt.

Added by Laws 1985, c. 345, § 16, emerg. eff. July 30, 1985. Amended by Laws 1991, c. 342, § 11, emerg. eff. June 15, 1991. Renumbered from § 1101.1 by Laws 1991, c. 342, § 27, emerg. eff. June 15, 1991. Amended by Laws 1994, c. 311, § 2, eff. July 1, 1994; Laws 1998, c. 106, § 1, eff. Nov. 1, 1998; Laws 2013, c. 401, § 2, eff. Nov. 1, 2013.

§68-1001.2. Definitions.

As used in this article:

(a) "Gas" means natural gas or casinghead gas. The terms gas, natural gas or casinghead gas when used in this article are interchangeable, and any provisions relating to any one of these shall relate to all gas, natural gas or casinghead gas;

(b) "Lease" means a spaced unit, a separately metered formation within the spaced unit, or each tract within a Corporation Commission approved unitization, or a lease which, for tax reporting purposes, has been assigned a production unit number;

(c) "Oil" means petroleum or other crude or mineral oil; and

(d) "Person" means any natural person, firm, partnership, joint venture, association, limited liability company, corporation, estate, trust, and any other group or combination acting as a unit.

Added by Laws 1992, c. 30, § 2, emerg. eff. March 30, 1992. Amended by Laws 1993, c. 366, § 36, eff. Sept. 1, 1993.

§68-1001.3. Repealed by Laws 1999, 1st Ex.Sess., c. 1, § 8, eff. Jan. 1, 2000.

§68-1001.3a. Economically at-risk oil or gas lease - Tax exemptions.

A. As used in this section:

1. "Economically at-risk oil or gas lease" means any oil or gas lease operated at a net loss or at a net profit which is less than the total gross production tax remitted for such lease during the previous calendar year; and

2. "Lease" shall be defined as in Section 1001.2 of this title.

B. When certified as such pursuant to the provisions of this section, production from an economically at-risk oil or gas lease shall be eligible for an exemption from the gross production tax levied pursuant to subsection B of Section 1001 of this title for production on such lease during the previous calendar year in the following amounts:

1. If the gross production tax rate levied pursuant to subsection B of Section 1001 of this title was seven percent (7%), then the exemption shall equal six-sevenths (6/7) of the gross production tax levied;

2. If the gross production tax rate levied pursuant to subsection B of Section 1001 of this title was four percent (4%), then the exemption shall equal three-fourths (3/4) of the gross production tax levied; and

3. If the gross production tax rate levied pursuant to subsection B of Section 1001 of this title was one percent (1%), no exemption shall apply.

C. For all production exempt from gross production taxes pursuant to this section, a refund of gross production taxes paid for production in the previous calendar year in the amounts specified in this subsection shall be issued to the well operator or a designee. The refund shall not be claimed until after July 1 of the year subsequent to the year of production.

D. Any operator making application for an economically at-risk oil or gas lease status under the provisions of this section shall submit documentation to the Tax Commission, as determined by the Tax Commission to be appropriate and necessary including, but not limited to, the operator's federal income tax return for the previous year for such lease.

E. For the purposes of this section, determination of the economically at-risk oil or gas lease status shall be made by subtracting from the gross revenue of that lease for the previous calendar year severance taxes, if any, royalty, operating expenses of the lease to include expendable workover and recompletion costs for the previous calendar year, and including overhead costs up to the maximum overhead percentage allowed by the Council of Petroleum

Accountants Societies (COPAS) guidelines. For the purposes of this calculation, depreciation, depletion or intangible drilling costs shall not be included as lease operating expenses.

F. The Tax Commission shall have sole authority to determine if an oil or gas lease qualifies for certification as an economically at-risk oil or gas lease and shall make the determination within sixty (60) days after an application is filed for economically at-risk oil or gas lease status. The Tax Commission shall promulgate rules governing the certification process.

G. Gross production tax exemptions under the provisions of this section shall be limited to production from calendar years 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012 and 2013.

Added by Laws 2005, c. 436, § 1, eff. July 1, 2005. Amended by Laws 2007, c. 260, § 2, eff. July 1, 2007; Laws 2010, c. 252, § 2, emerg. eff. May 10, 2010.

§68-1001.4. Natural and casinghead gas marketing deduction – Costs - Rules.

A. Producers of natural gas and casinghead gas who incur marketing costs of the gas produced may deduct such costs from the gross value when computing the gross value subject to the taxes levied pursuant to Sections 1001 and 1101 of Title 68 of the Oklahoma Statutes.

B. Marketing costs are nonproduction costs incurred by the producer to enable the transport of gas from the well to the market, including:

1. Costs for compressing the gas sold;
2. Costs for dehydrating the gas sold;
3. Costs for sweetening the gas sold; and
4. Costs for delivering the gas to the purchaser.

C. Marketing costs do not include:

1. Costs incurred in producing the gas;
2. Costs incurred in normal lease separation of the oil, gas or condensate; or
3. Insurance premiums on the marketing facility.

D. Marketing costs are determined by adding:

1. Charges for depreciation of the marketing facility being used, provided that, if the facility is rented, the actual rental fee is added;
2. A return on the producer-owned investment equal to six percent (6%) per year on the average depreciable balance;
3. Costs of direct or allocated labor associated with the marketing facility;
4. Costs of materials, supplies, maintenance, repairs, and fuel associated with the marketing facility; and
5. Ad valorem taxes paid on the marketing facility.

E. If the facility is used for a purpose other than marketing the gas being sold, the cost shall be allocated accordingly.

F. If the facility is handling gas for outside parties, the average cost for handling all of the gas shall be applied against the facility owner's gas.

G. The actual cost being charged a producer by an outside party for marketing functions may be used for tax purposes if no other benefit or value accrues to the producer.

H. A producer receiving a cost reimbursement from the gas purchaser shall include the reimbursement in the gross value and is entitled to deduct the actual marketing costs incurred.

I. The Oklahoma Tax Commission shall promulgate rules which establish guidelines to implement the provisions of this section including requirements to submit any additional information as deemed necessary to implement and administer this deduction.

Added by Laws 2007, c. 250, § 3, eff. Jan. 1, 2008.

§68-1002. Failure to make report of gross production.

If any person shall fail to make the report of the gross production of any mine or oil or gas well, upon which a gross production tax is levied, within the time prescribed by law for such report it shall be the duty of the Tax Commission to examine the books, records and files of such person to ascertain the amount and value of such production and to compute the tax thereon.

Laws 1963, c. 365, § 2, emerg. eff. June 22, 1963. Renumbered from § 10-1002 by Laws 1965, c. 215, § 2. Amended by Laws 1965, c. 346, § 1, emerg. eff. June 28, 1965; Laws 1992, c. 30, § 3, emerg. eff. March 30, 1992.

§68-1003. Tax on oil recovered or from unknown sources.

A. It shall be the duty of the Oklahoma Tax Commission to collect, in addition to the gross production tax, twelve and one-half percent (12 1/2%) of the gross value of all oil reported to the Tax Commission as recovered from streams, lakes, ponds, ravines and other natural depressions to which oil shall have escaped or therein was found and twelve and one-half percent (12 1/2%) of the gross value of all oil which is reported to the Tax Commission and which report does not disclose the actual source of the oil. The Tax Commission shall hold the proceeds thereof for twelve (12) months in its depository account with the State Treasurer, during which time the rightful owner or owners of the royalty interest therein, upon proper application and satisfactory proof made to the Tax Commission, shall be paid their proper interest or interests out of the depository account. Otherwise, the Tax Commission shall, after the lapse of one (1) year from the collection of any such sum, distribute the same as provided by law for the distribution of gross production taxes.

B. For purposes of this section, "actual source" shall be the well or wells and particular leasehold from which the oil was produced.

C. The operators of salt water disposal facilities shall be required to pay to the Tax Commission the fee of twelve and one-half percent (12 1/2%) as required by this section on the amount of oil recovered in excess of two percent (2%) of the volume of water handled.

Added by Laws 1963, c. 365, § 2, emerg. eff. June 22, 1963. Renumbered from § 10-1003 by Laws 1965, c. 215, § 2. Amended by Laws 1989, c. 279, § 10, operative July 1, 1989; Laws 1992, c. 30, § 4, emerg. eff. March 30, 1992; Laws 2001, c. 249, § 2, eff. July 1, 2001.

§68-1004. Apportionment and use of proceeds of tax.

A. Beginning July 1, 2002, the gross production tax provided for in Section 1001 of this title is hereby levied and shall be collected and apportioned as follows:

1. For all monies collected from the tax levied on asphalt or ores bearing uranium, lead, zinc, jack, gold, silver or copper:

- a. eighty-five and seventy-two one-hundredths percent (85.72%) shall be paid to the State Treasurer of the state to be placed in the General Revenue Fund of the state and used for the general expense of state government, to be paid out pursuant to direct appropriation by the Legislature,

- b. seven and fourteen one-hundredths percent (7.14%) of the sum collected from natural gas and/or casinghead gas or asphalt or ores bearing uranium, lead, zinc, jack, gold, silver or copper shall be paid to the various county treasurers to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, and
- c. seven and fourteen one-hundredths percent (7.14%) shall be allocated to each county as provided for in subparagraph b of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction;

2. For all monies collected from the tax levied on natural gas and/or casinghead gas at a tax rate of seven percent (7%) pursuant to the provisions of subsection B of Section 1001 of this title:

- a. eighty-five and seventy-two one-hundredths percent (85.72%) shall be paid to the State Treasurer of the state to be placed in the General Revenue Fund of the state and used for the general expense of state government, to be paid out pursuant to direct appropriation by the Legislature,
- b. seven and fourteen one-hundredths percent (7.14%) of the sum collected from natural gas and/or casinghead gas shall be paid to the various county treasurers to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, and
- c. seven and fourteen one-hundredths percent (7.14%) shall be allocated to each county as provided for in subparagraph b of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction;

3. For all monies collected from the tax levied on natural gas and/or casinghead gas at a tax rate of four percent (4%) pursuant to the provisions of subsection B of Section 1001 of this title:

- a. seventy-five percent (75%) shall be paid to the State Treasurer of the state to be placed in the General Revenue Fund of the state and used for the general expense of state government, to be paid out pursuant to direct appropriation by the Legislature,
- b. twelve and one-half percent (12.5%) of the sum collected from natural gas and/or casinghead gas shall be paid to the various county treasurers to be credited to the County Highway Fund as follows: Each county shall receive

a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, and

- c. twelve and one-half percent (12.5%) shall be allocated to each county as provided for in subparagraph b of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction;

4. For all monies collected from the tax levied on natural gas and/or casinghead gas at a tax rate of one percent (1%) pursuant to the provisions of subsection B of Section 1001 of this title:

- a. fifty percent (50%) of the sum collected from natural gas and/or casinghead gas shall be paid to the various county treasurers to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, and
- b. fifty percent (50%) shall be allocated to each county as provided for in subparagraph a of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction;

5. For all monies collected from the tax levied on oil at a tax rate of seven percent (7%) pursuant to the provisions of subsection B of Section 1001 of this title:

- a. twenty-five and seventy-two one-hundredths percent (25.72%) shall be paid to the State Treasurer to be placed in the Common Education Technology Revolving Fund created in Section 34.90 of Title 62 of the Oklahoma Statutes,
- b. twenty-five and seventy-two one-hundredths percent (25.72%) shall be paid to the State Treasurer to be placed in the Higher Education Capital Revolving Fund created in Section 34.91 of Title 62 of the Oklahoma Statutes,
- c. twenty-five and seventy-two one-hundredths percent (25.72%) shall be paid to the State Treasurer to be placed in the Oklahoma Student Aid Revolving Fund created in Section 34.92 of Title 62 of the Oklahoma Statutes,
- d. three and seven hundred forty-five one-thousandths percent (3.745%) shall be distributed to the various counties of the state for deposit into the County Bridge and Road Improvement Fund of each county based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes to be used for the

purposes set forth in the County Bridge and Road Improvement Act. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs,

- e. four and twenty-eight one-hundredths percent (4.28%) shall be paid to the State Treasurer to be apportioned to:
 - (1) the following sources and in the following amounts through the fiscal year ending June 30, 2016:
 - (a) thirty-three and one-third percent (33 1/3%) to the Oklahoma Tourism and Recreation Department Capital Expenditure Revolving Fund created pursuant to Section 2254.1 of Title 74 of the Oklahoma Statutes,
 - (b) thirty-three and one-third percent (33 1/3%) to the Oklahoma Conservation Commission Infrastructure Revolving Fund created pursuant to Section 3-2-110 of Title 27A of the Oklahoma Statutes, and
 - (c) thirty-three and one-third percent (33 1/3%) to the Community Water Infrastructure Development Revolving Fund created pursuant to Section 1085.7A of Title 82 of the Oklahoma Statutes, and
 - (2) the Oklahoma Water Resources Board Rural Economic Action Plan Water Projects Fund for the fiscal year beginning July 1, 2016, and for each fiscal year thereafter,
- f. seven and fourteen one-hundredths percent (7.14%) of the sum collected from oil shall be paid to the various county treasurers, to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year,
- g. seven and fourteen one-hundredths percent (7.14%) shall be allocated to each county as provided in subparagraph f of this paragraph and shall be apportioned, on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction, to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction, and
- h. five hundred thirty-five one-thousandths percent (0.535%) of the levy shall be transmitted by the Oklahoma Tax Commission to the Statewide Circuit Engineering District Revolving Fund as created in Section 687.2 of Title 69 of the Oklahoma Statutes;

6. For all monies collected from the tax levied on oil at a tax rate of four percent (4%) pursuant to the provisions of subsection B of Section 1001 of this title:

- a. twenty-two and one-half percent (22.5%) shall be paid to the State Treasurer to be placed in the Common Education Technology Revolving Fund created in Section 34.90 of Title 62 of the Oklahoma Statutes,
- b. twenty-two and one-half percent (22.5%) shall be paid to the State Treasurer to be placed in the Higher Education Capital Revolving Fund created in Section 34.91 of Title 62 of the Oklahoma Statutes,
- c. twenty-two and one-half percent (22.5%) shall be paid to the State Treasurer to be placed in the Oklahoma Student Aid Revolving Fund created in Section 34.92 of Title 62 of the Oklahoma Statutes,
- d. three and twenty-eight one-hundredths percent (3.28%) shall be distributed to the various counties of the state for deposit into the County Bridge and Road Improvement Fund of each county based on a formula developed by the Department of Transportation and approved by the Department of Transportation County Advisory Board created pursuant to Section 302.1 of Title 69 of the Oklahoma Statutes to be used for the purposes set forth in the County Bridge and Road Improvement Act. The formula shall be similar to the formula currently used for the distribution of monies in the County Bridge Program funds, but shall also take into consideration the effect of the terrain and traffic volume as related to county road improvement and maintenance costs,
- e. three and seventy-five one-hundredths percent (3.75%) shall be paid to the State Treasurer to be apportioned to:
 - (1) the following sources and in the following amounts through the fiscal year ending June 30, 2016:
 - (a) thirty-three and one-third percent (33 1/3%) to the Oklahoma Tourism and Recreation Department Capital Expenditure Revolving Fund created pursuant to Section 2254.1 of Title 74 of the Oklahoma Statutes,
 - (b) thirty-three and one-third percent (33 1/3%) to the Oklahoma Conservation Commission Infrastructure Revolving Fund created pursuant to Section 3-2-110 of Title 27A of the Oklahoma Statutes, and
 - (c) thirty-three and one-third percent (33 1/3%) to the Community Water Infrastructure Development Revolving Fund created pursuant to Section 1085.7A of Title 82 of the Oklahoma Statutes, and
 - (2) the Oklahoma Water Resources Board Rural Economic Action Plan Water Projects Fund for the fiscal year beginning July 1, 2016, and for each fiscal year thereafter,
- f. twelve and one-half percent (12.5%) of the sum collected from oil shall be paid to the various county treasurers, to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year,
- g. twelve and one-half percent (12.5%) shall be allocated to each county as provided in subparagraph f of this paragraph and shall be apportioned on an

average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction, to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction, and

- h. forty-seven one-hundredths percent (0.47%) of the levy shall be transmitted by the Tax Commission to the Statewide Circuit Engineering District Revolving Fund as created in Section 687.2 of Title 69 of the Oklahoma Statutes;

7. For all monies collected from the tax levied on oil at a tax rate of one percent (1%) pursuant to the provisions of subsection B of Section 1001 of this title:

- a. fifty percent (50%) of the sum collected shall be paid to the various county treasurers, to be credited to the County Highway Fund as follows: Each county shall receive a proportionate share of the funds available based upon the proportion of the total value of production from such county in the corresponding month of the preceding year, and
- b. fifty percent (50%) shall be allocated to each county as provided for in subparagraph a of this paragraph and shall be apportioned on an average daily attendance per capita distribution basis, as certified by the State Superintendent of Public Instruction, to the school districts of the county where such pupils attend school regardless of residence of such pupil, provided the school district makes an ad valorem tax levy of fifteen (15) mills for the current year and maintains twelve (12) years of instruction.

B. Provided, notwithstanding any other provision of this section, the total amounts deposited to the Common Education Technology Revolving Fund, the Higher Education Capital Revolving Fund, the Oklahoma Student Aid Revolving Fund, the Rural Economic Action Plan Water Projects Fund, the Oklahoma Tourism and Recreation Department Capital Expenditure Revolving Fund, the Oklahoma Conservation Commission Infrastructure Revolving Fund and the Community Water Infrastructure Development Revolving Fund pursuant to paragraphs 5 and 6 of subsection A of this section shall not exceed One Hundred Fifty Million Dollars (\$150,000,000.00) in any fiscal year. Except as otherwise provided in this subsection, all sums in excess of One Hundred Fifty Million Dollars (\$150,000,000.00) in any fiscal year which would otherwise be deposited in such funds shall be apportioned by the Oklahoma Tax Commission to the General Revenue Fund of the state. Provided, amounts which would otherwise be apportioned by the Oklahoma Tax Commission to the General Revenue Fund for the fiscal year ending on June 30, 2012, pursuant to this subsection, shall be apportioned as follows:

1. Thirty-seven Million Six Hundred Thousand Dollars (\$37,600,000.00) to the State Department of Education disbursing fund authorized by the Office of State Finance pursuant to the provisions of Section 34.48 of Title 62 of the Oklahoma Statutes, to be used for the purpose of funding the certified employee and support personnel health benefit allowance;

2. Fourteen Million Eight Hundred Forty-five Thousand Seven Hundred Dollars (\$14,845,700.00) to the State Department of Education disbursing fund authorized by the Office of State Finance pursuant to the provisions of Section 34.48 of Title 62 of the Oklahoma Statutes, to be used for the purpose of providing bonuses to teachers who have achieved National

Board certification, to school psychologists who have been designated as Nationally Certified School Psychologists by the National School Psychology Certification Board, and to speech-language pathologists and audiologists who hold a Certificate of Clinical Competence awarded by the American Speech-Language Hearing Association, pursuant to the Education Leadership Oklahoma Act;

3. Five Million Dollars (\$5,000,000.00) to the Department of Public Safety Patrol Academy Revolving Fund created in Section 2-146 of Title 47 of the Oklahoma Statutes;

4. One Million Dollars (\$1,000,000.00) to the Chief Medical Examiner Revolving Fund created in Section 954 of Title 63 of the Oklahoma Statutes;

5. Thirty-four Million One Hundred Forty-five Thousand Seven Hundred Six Dollars (\$34,145,706.00) to the State Emergency Fund created in Section 139.42 of Title 62 of the Oklahoma Statutes; and

6. All funds except those deposited pursuant to the provisions of paragraphs 1 through 5 of this subsection to the General Revenue Fund.

Added by Laws 1963, c. 365, § 2, emerg. eff. June 22, 1963. Renumbered from § 10-1004 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1982, c. 329, § 1, eff. July 1, 1982; Laws 1985, c. 180, § 8, eff. July 1, 1985; Laws 1986, c. 223, § 39, operative July 1, 1986; Laws 1988, c. 165, § 28, operative July 1, 1988; Laws 1989, 1st Ex. Sess., c. 2, § 95, emerg. eff. April 25, 1990; Laws 1992, c. 376, § 5, eff. July 1, 1992; Laws 1993, c. 239, § 18, eff. July 1, 1993; Laws 1999, 1st Ex. Sess., c. 1, § 3, emerg. eff. Feb. 5, 1999; Laws 1999, c. 254, § 6, eff. June 30, 1999; Laws 2000, c. 419, § 4, emerg. eff. June 9, 2000; Laws 2001, c. 270, § 1, emerg. eff. May 24, 2001; Laws 2002, c. 416, § 2, eff. July 1, 2002; Laws 2006, 2nd Ex. Sess., c. 43, § 1, eff. July 1, 2006; Laws 2007, c. 1, § 55, eff. July 1, 2007; Laws 2009, c. 305, § 1, eff. July 1, 2009; Laws 2010, c. 256, § 4, eff. July 1, 2010; Laws 2011, c. 319, § 1, emerg. eff. May 24, 2011; Laws 2012, c. 2, § 1, emerg. eff. March 12, 2012; Laws 2012, c. 205, § 1, eff. Nov. 1, 2012.

NOTE: Laws 1998, c. 317, § 5 repealed by Laws 1999, 1st Ex. Sess., c. 1, § 7, emerg. eff. Feb. 5, 1999. Laws 2006, 2nd Ex. Sess., c. 45, § 5 repealed by Laws 2007, c. 1, § 56, eff. July 1, 2007.

§68-1004a. Repealed by Laws 1999, 1st Ex.Sess., c. 1, § 7, emerg. eff. Feb. 5, 1999.

§68-1005. Reports by carriers of oil and gas transported - Refiners - Persons purchasing or storing oil - Delinquency dates.

(a) It shall be the duty of every railroad company, pipeline or transportation company to furnish to the Tax Commission, upon forms prescribed by it, any and all information relative to the transportation of crude oil or gas subject to gross production tax, that may be required to properly enforce the provisions of this article; and such reports shall contain, along with other information required, the name of shipper, amount of oil and gas transported, point of receipt of shipment and point of destination. The Tax Commission may require any such pipeline or transportation company to install suitable measuring devices to enable such company to include in such reports the quantity of oil or gas transported within, into, out of, or across the State of Oklahoma.

(b) It shall be the duty of every person engaged in the operation of a refinery for the processing of oil or gas in the State of Oklahoma to furnish monthly to the Tax Commission, upon forms prescribed by it, any and all information relative to the amount of oil or gas subject

to gross production tax that has been processed by it during such monthly period, and oil on hand at the close of such period, that may be required to properly enforce the provisions of this article.

(c) It shall be the duty of every person engaged in the selling, purchasing, treating or transporting of tank bottoms, pit oil or liquid hydrocarbons from which petroleum oil is extracted, to furnish monthly a report to the Tax Commission, upon forms prescribed by it, any and all information relative to the selling, purchasing, treating or transporting of all tank bottoms, pit oil or liquid hydrocarbons that may be required to properly enforce the provisions of this article.

(d) It shall be the duty of every person engaged in the purchasing or storing of oil subject to gross production tax in the State of Oklahoma to furnish monthly a report to the Tax Commission, upon forms prescribed by it, showing the amount of such oil in storage, giving, along with other information required, the location, identity, character and capacity of the storage receptacle in which such oil is stored.

(e) All reports required by this article shall become due on the first day of each calendar month on all lead, zinc, jack, gold, silver or copper, petroleum oil, tank bottoms, pit oil and liquid hydrocarbons from which petroleum oil is extracted, natural gas or casinghead gas produced in and saved during the preceding monthly period, and if such reports are not received on or before the tenth day of the calendar month following the month such reports become due, the reports shall become delinquent. The failure of any person to comply with the provisions of this section shall make any such person liable for a penalty, in accordance with Section 1010 of this title, for each day it shall fail or refuse to furnish such statement or comply with the provisions of this article. Such penalty may be recovered at the suit of the state, on relation of the Tax Commission and shall be apportioned as other gross production tax penalties.

Laws 1963, c. 365, § 2, emerg. eff. June 22, 1963. Renumbered from § 10-1005 by Laws 1965, c. 215, § 2. Amended by Laws 1968, c. 341, § 1, emerg. eff. May 9, 1968; Laws 1979, c. 88, § 1, emerg. eff. April 24, 1979; Laws 1992, c. 30, § 5, emerg. eff. March 30, 1992.

§68-1006. Payment where ownership is in dispute - Assignment as security.

Whenever oil, gas or any other minerals upon which gross production tax is paid under the laws of the State of Oklahoma, are in litigation or dispute involving ownership of such oil, gas or other minerals, subject to such tax, and such oil, gas or other minerals are sold, the usual gross production tax, as provided by law, shall be paid from the proceeds or funds in the hands of the purchaser of such oil, gas or other minerals; and in lieu of payment for such production, to the extent of such tax, the Tax Commission's receipt therefor shall be accepted in lieu of money in settlement of the purchase price of such production; and whenever any such oil, gas or other minerals are assigned as security for debt or otherwise, such tax shall be likewise paid by such assignee; and such tax shall constitute a lien upon the interest assigned, which shall be paramount to such indebtedness for which the assignment is made; and whenever such tax shall become delinquent, the usual penalty shall apply.

Added by Laws 1963, c. 365, § 2. Amended by Laws 1965, c. 215, § 2.

§68-1007. Purchaser to withhold tax - Payment by purchaser.

All purchasers of oil or gas, or other minerals subject to the tax levied by this article shall recognize the Tax Commission's order to withhold payment for all production wherein the required producers' reports are delinquent or the gross production tax and penalty, payable by any producer or royalty owner are unreported, unpaid or delinquent, until such reports are

received or the tax and penalty paid; and on failure of the producer or royalty owner to file reports and/or pay such tax and penalty, the purchaser of such production shall, on order of the Tax Commission, (1) withhold payment for all production until notified by the Tax Commission that all reports have been received, (2) pay such tax and penalty, and its receipt therefor shall be accepted by such producer or royalty owner in lieu of cash in settlement for such production. This shall also apply in any case where a subsequent purchaser, or purchaser of subsequent oil, gas or casinghead gas or other minerals shall be so notified, and shall also apply when the interest against which such tax and penalty shall have accrued may have been transferred subsequent to the accrual of said tax and penalty.

Laws 1963, c. 365, § 2, emerg. eff. June 22, 1963. Renumbered from § 10-1007 by Laws 1965, c. 215, § 2. Amended by Laws 1968, c. 341, § 2, emerg. eff. May 9, 1968; Laws 1992, c. 30, § 6, emerg. eff. March 30, 1992.

§68-1008. Refund of overpayments, duplicate payments and erroneous payments - Rebuttable presumptions.

A. Except as set forth in subsection B of this section, in all cases of overpayment, duplicate payment or payment made in error on account of the production being derived from restricted Indian lands and lands owned by the United States, the state, counties, cities, towns and school districts, and therefore exempt from taxation, the Oklahoma Tax Commission is authorized to refund any such over-paid duplicate or erroneously paid gross production taxes, where an application for such refund is made within three (3) years from the date of the payment thereof, out of any undistributed gross production tax collections in the depository account of the Oklahoma Tax Commission, from the same county from which the original tax was derived. Provided, however, this exemption shall apply only to the interest in such production owned by the restricted Indian or exempt governmental entity. A determination made by the federal government or any agency thereof in allowing a refund or recovery of overpayment, duplicate payment or erroneous payment of taxes arising out of the same circumstances under which a claim has been submitted to the Oklahoma Tax Commission for a refund may create a presumption that the evidence upon which the federal government or agency thereof relied in allowing a refund or recovery is correct. The Oklahoma Tax Commission shall not, however, be bound by such presumption of correctness, but may if it deems the circumstances to warrant present evidence in rebuttal thereof.

B. Notwithstanding the provisions of subsection A of this section, the Oklahoma Tax Commission is authorized to refund directly to the Commissioners of the Land Office any gross production tax paid to the Tax Commission in error after January 1, 1978, on any oil and gas royalty interest of the Commissioners of the Land Office out of any undistributed gross production tax collections in the depository account of the Oklahoma Tax Commission, from the same county from which the original tax was derived.

Said refund shall only be issued as the result of a determination by the Commissioners of the Land Office that said erroneous payment of such gross production tax has been made to the Tax Commission during the period after January 1, 1978. Such determination by the Commissioners of the Land Office may create a presumption that the evidence upon which the Commissioners of the Land Office relied in reaching the determination of erroneous payment is correct. The Tax Commission shall not, however, be bound by the presumption of correctness, but may if it deems the circumstances to warrant, present evidence in rebuttal thereof.

Laws 1963, c. 365, § 2, emerg. eff. June 22, 1963. Renumbered from § 10-1008 by Laws 1965, c. 215, § 2. Amended by Laws 1968, c. 248, § 1, emerg. eff. April 26, 1968; Laws 1992, c. 392, § 1, emerg. eff. June 9, 1992.

§68-1008a. Refund of payments to Commissioners of the Land Office.

A. If any person responsible for paying oil or gas royalty to the Commissioners of the Land Office has, after January 1, 1978, paid or caused to be paid, or pays, or causes to be paid, to the Oklahoma Tax Commission, gross production tax pursuant to Section 1001 of Title 68 of the Oklahoma Statutes, petroleum excise tax pursuant to Section 1102 of Title 68 of the Oklahoma Statutes, or conservation excise tax pursuant to Section 1108 of Title 68 of the Oklahoma Statutes, on such royalty, the Commissioners of the Land Office shall recover the taxes so paid directly from the Oklahoma Tax Commission. For the purposes of this act, the Commissioners of the Land Office shall not be subject to the time limitations for refunds of Section 227 or Section 1008 of Title 68 of the Oklahoma Statutes. Notwithstanding any other provision of the Oklahoma Statutes, the Oklahoma Tax Commission shall not be required to pay interest or penalties on such taxes to the Commissioners of the Land Office.

B. Upon written request and proper documentation provided by the Commissioners of the Land Office, the Oklahoma Tax Commission shall pay to the Commissioners of the Land Office any gross production tax pursuant to Section 1001 of Title 68 of the Oklahoma Statutes, petroleum excise tax pursuant to Section 1101 of Title 68 of the Oklahoma Statutes, excise tax on gas, pursuant to Section 1102 of Title 68 of the Oklahoma Statutes, or conservation excise tax pursuant to Section 1108 of Title 68 of the Oklahoma Statutes paid on oil or gas royalty due to the Commissioners of the Land Office. Said written request shall only be issued as the result of a determination by the Commissioners of the Land Office that erroneous payment of such gross production tax pursuant to Section 1001 of Title 68 of the Oklahoma Statutes, excise tax on gas pursuant to Section 1102 of Title 68 of the Oklahoma Statutes, or conservation excise tax pursuant to Section 1108 of Title 68 of the Oklahoma Statutes has been made to the Oklahoma Tax Commission after January 1, 1978. Such determination by the Commissioners of the Land Office may create a presumption that the evidence upon which the Commissioners of the Land Office relied in reaching the determination of erroneous payment is correct. The Oklahoma Tax Commission shall not, however, be bound by the presumption of correctness but may, if the Oklahoma Tax Commission deems the circumstances to warrant, present evidence in rebuttal thereof.

C. Any person responsible for paying oil or gas royalty to the Commissioners of the Land Office who has, after January 1, 1978, and before January 1, 1989, paid or caused to be paid, or pays, or causes to be paid, to the Oklahoma Tax Commission, gross production tax pursuant to Section 1001 of Title 68 of the Oklahoma Statutes, petroleum excise tax pursuant to Section 1101 of Title 68 of the Oklahoma Statutes, excise tax on gas pursuant to Section 1103 of Title 68 of the Oklahoma Statutes, or conservation excise tax pursuant to Section 1108 of Title 68 of the Oklahoma Statutes, on said royalty, shall be liable to the Commissioners of the Land Office for interest thereon, pursuant to the Oklahoma Statutes. Notwithstanding any other provision of the Oklahoma Statutes, such person shall not be liable to the Commissioners of the Land Office for penalties thereon.

D. Any person responsible for paying oil or gas royalty to the Commissioners of the Land Office who has, on or after January 1, 1989, paid or caused to be paid, or pays or causes to be paid, to the Oklahoma Tax Commission, gross production tax pursuant to Section 1001 of Title

68 of the Oklahoma Statutes, petroleum excise tax pursuant to Section 1101 of Title 68 of the Oklahoma Statutes, excise tax on gas pursuant to Section 1103 of Title 68 of the Oklahoma Statutes, or conservation excise tax pursuant to Section 1108 of Title 68 of the Oklahoma Statutes, on said royalty, shall be liable to the Commissioners of the Land Office for interest and penalties thereon, pursuant to the Oklahoma Statutes.

E. The Oklahoma Tax Commission is hereby authorized to make refund payments to the Commissioners of the Land Office pursuant to the provisions of this act as though the Commissioners of the Land Office were a taxpayer or tax remitter.

F. Nothing in this act shall preclude the Commissioners of the Land Office from collecting royalty payments directly from their lessees or the designees of their lessees, other than as specified in this act.

Added by Laws 1992, c. 392, § 3, emerg. eff. June 9, 1992.

§68-1009. Payment of tax - Due date - Delinquent taxes - Persons liable for tax - Election to report and pay tax - Payment upon basis of prevailing price – Payment pursuant to contract or agreement.

A. The gross production tax on asphalt and on ores bearing lead, zinc, jack, gold, silver or copper, and on petroleum oil, tank bottoms, pit oil, and liquid hydrocarbons from which petroleum oil is extracted, and on gas shall be paid on a monthly basis in accordance with this article.

B. The gross production tax shall become due on the first day of each calendar month on all lead, zinc, jack, gold, silver or copper, petroleum oil, tank bottoms, pit oil, and liquid hydrocarbons from which petroleum oil is extracted, natural gas or casinghead gas produced in and saved during the preceding monthly period, and, if the tax is not paid on or before the twenty-fifth day of the second calendar month following the month of production, the tax shall become delinquent and shall be collected in the manner provided by law for the collection of delinquent gross production taxes. The provisions of this subsection shall apply to payment of gross production taxes irrespective of any other statute relating thereto.

C. On all petroleum oil extracted from tank bottoms, pit oil, or liquid hydrocarbons, the gross production tax shall be paid by the operator of the reclaiming plant, unless the tax levied by this article has already been paid thereon.

D. On oil and gas sold at the time of production, the gross production tax shall be paid by the purchaser of such products, and such purchaser shall, and is hereby authorized to deduct in making settlements with the producer and/or royalty owner, the amount of tax so paid. In the event oil is not sold at the time of production but is retained by the producer, the tax on such oil not so sold shall be paid by the producer for himself including the tax due on royalty oil not sold; provided, that in settlement with the royalty owner such producer shall have the right to deduct the amount of such tax so paid on royalty oil or to deduct therefrom royalty oil equivalent in value at the time such tax becomes due with the amount of the tax paid. The gross production tax upon asphalt, or on ores bearing lead, zinc, jack, gold, silver or copper shall be paid by the producer for himself, including the royalty interest; provided, that in settlement with the royalty owner such producer shall have the right to deduct the amount of such tax so paid on royalty asphalt, or on ores bearing lead, zinc, jack, gold, silver or copper, or to deduct therefrom royalty asphalt, or ores bearing lead, zinc, jack, gold, silver or copper, equivalent in value at the time such tax became due, to the amount of tax paid.

E. 1. Producers, either as operators of producing wells or as nonoperating working interest owners who take gas in kind at the wellhead at the time of production, may elect to report and pay the gross production tax on such gas in accordance with the provisions of this section, if the first sale of such gas by the producer is to a final consumer or user of the gas. This election shall not be available to a producer if the first sale of such gas is to a purchaser who is approved and bonded to remit gross production taxes or unless prior approval of the Oklahoma Tax Commission is obtained by the producer. This election shall not be controlled by any contractual provisions between the producer and the purchaser. This election shall be made only by the producer upon forms prescribed therefor.

Upon exercise of the election to report and pay the gross production tax by a producer, the purchaser of such gas shall not be liable for the gross production tax and shall not be required to obtain a purchaser's reporting number for such gas.

2. Gas when produced and utilized in any manner, except when used in the operation of the lease or premises in the production of oil or gas, or for repressuring, shall be considered for the purpose of this article, as to the amount utilized, as gas actually produced and saved.

F. 1. In case oil or gas is sold under circumstances where the sale price does not represent the cash price prevailing for oil or gas of like kind, character or quality in the field from which such product is produced, the Tax Commission may require the said tax to be paid upon the basis of the prevailing price then being paid at the time of production for sales in said field for oil or gas of like kind, quality and character and on no other basis.

2. In the case where the sale of oil or gas is between related entities, the taxpayer shall have the burden of proving with evidence of arm's-length sales between unrelated parties that the sales price represents the cash price prevailing for oil or gas of like kind, character or quality for sales in the field from which such product is produced. In the absence of such proof, the prevailing price shall be presumed to be the average price of oil or gas produced for sales in the county from which the product is produced, as determined by the Tax Commission from monthly tax reports filed pursuant to Section 1010 of this title. In determining the average price, the Tax Commission shall not include the sales of oil or gas under review and shall not include prices from other sales that have been previously adjusted by the Tax Commission pursuant to this subsection.

3. For the purposes of this subsection, an entity is related to another entity if:

- a. the two entities have significant common purposes and substantial common membership,
- b. the two entities have direct or indirect substantial common direction or control, or
- c. either entity owns, directly or through one or more entities, a fifty percent (50%) or greater interest in the capital or profits of the other entity.

G. Pursuant to the provisions of a gas purchase contract or agreement, if the first purchaser makes payments to the producer as a result of the failure or refusal of said purchaser to take gas, said payments, for purposes of this article, are hereby deemed to be part of the gross value of gas taken according to said contract or agreement. The gross production tax shall be calculated upon the gross value, including said payments, in accordance with the provisions of this article. Gas on which the gross production tax has been paid in this manner when taken by said purchaser shall be reported as gas on which said tax has been paid. If said gas, which corresponds to such payments, is not taken but payments therefor are retained by the producer, then said payments are hereby deemed to be a premium on gas which was taken under said contract or agreement.

Added by Laws 1963, c. 365, § 2, emerg. eff. June 22, 1963. Renumbered from § 10-1009 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1968, c. 155, § 1; Laws 1979, c. 88, § 2, emerg. eff. April 24, 1979; Laws 1983, c. 13, § 3, emerg. eff. March 23, 1983; Laws 1983, c. 275, § 6, emerg. eff. June 24, 1983; Laws 1987, c. 203, § 142, operative July 1, 1987; Laws 1992, c. 30, § 7, emerg. eff. March 31, 1992; Laws 2004, c. 444, § 2, eff. Nov. 1, 2004; Laws 2006, c. 134, § 3, eff. July 1, 2006.

§68-1010. Information in monthly report - Reporting numbers assigned by Tax Commission - Delinquencies - Allowance of semiannual reports.

A. The tax provided for in Section 1001 et seq. of this title shall be paid to the Oklahoma Tax Commission.

B. Except as otherwise provided in subsection G of this section, every person responsible for paying or remitting the tax levied by Section 1001 et seq. of this title on the production from any lease shall file with the Tax Commission a monthly report on each lease, under oath, on forms prescribed by the Tax Commission, giving, with other information required, the following:

1. The Tax Commission assigned production unit number, subnumber and merge number, or, with the consent of the Tax Commission, the full description of the property by lease name, subdivision of quarter section, section, township, and range, from which the oil or gas was produced, or both, as may be required by the Tax Commission;

2. The Tax Commission assigned company reporting numbers of the producer and purchaser, or with the consent of the Tax Commission, the company name;

3. The gross amount of asphalt, ores bearing lead, zinc, jack or copper, oil or gas produced or purchased;

4. The kind of mineral, oil, gas, or casinghead gas produced or purchased;

5. The total value of the mineral oil, gas, or casinghead gas, at the time and place of production, including any and all premiums paid for the sale thereof, at the price paid, if purchased at the time of production;

6. If requested by the Tax Commission, the prevailing market price of oil not sold at the time of production; and

7. The amount of royalty payable on the production from the lease, if the royalty is claimed to be exempt from taxation by law, and the facts on which such claim of exemption is based and such other information pertaining to the claim as the Tax Commission may require.

Each report required by the provisions of this section shall be filed on separate forms as to product and county.

C. No person shall engage in the mining or production within this state of asphalt, ores bearing lead, zinc, jack or copper, oil or gas, prior to obtaining from the Tax Commission a Tax Commission assigned producer reporting number and a Tax Commission assigned production unit number, subnumber and merge number for each producing lease. No person shall engage in the purchase of asphalt, ores bearing lead, zinc, jack or copper, oil or gas from a producing lease prior to obtaining from the Tax Commission a Tax Commission assigned purchaser reporting number and the Tax Commission assigned production unit number, subnumber and merge number, of the lease from which the production is to be purchased.

1. Every producer and purchaser shall make application, upon forms prescribed by the Tax Commission, for a Tax Commission assigned producer or purchaser reporting number prior to producing or purchasing production. Every producer shall obtain, by making application upon forms prescribed by the Tax Commission, a Tax Commission assigned production unit number,

subnumber and merge number for each lease from which lease production will be sold or disposed before disposing of production from any lease in the state.

Provided, however, the Tax Commission shall not approve any application for a Tax Commission assigned producer or purchaser reporting number without proper confirmation that the applicant has posted the requisite surety documents with the Corporation Commission pursuant to Section 318.1 of Title 52 of the Oklahoma Statutes.

2. Every producer or purchaser shall notify the Tax Commission within thirty (30) days of any changes of any producing lease in the state as may be required by the Tax Commission. Provided, the Tax Commission may relieve producers and purchasers of their duty to file the notification required by this paragraph if the Tax Commission determines that the notification is not necessary.

3. Gross production tax reports from either the purchaser or producer shall become due on the first day of each calendar month on all products subject to the tax levied by Section 1001 et seq. of this title produced in and saved during the preceding monthly period. If such reports are not received by the Tax Commission on or before the twenty-fifth day of the second calendar month following the month of production, the reports shall become delinquent. Any requested or required amended report or any requested information submitted in response to written demand for information which is not received by the Tax Commission on or before thirty (30) days after the mailing of the request or demand by the Tax Commission or any of its employees shall be delinquent.

D. Every person required to file such forms or reports or who has been requested to file an amended report to provide information by written demand, or who has purchased oil or gas from a lease prior to being authorized by the Tax Commission to purchase production from such lease, will be subject to and may be assessed the following penalties for each delinquency:

1. Five Dollars (\$5.00) per day for each Tax Commission assigned production unit number or subnumber or merge number or product code, upon which a form, report, amended report, or for which requested information in response to written demand is delinquent and for each day from the date a purchaser buys production from a lease from which it is not authorized to purchase to the date the Tax Commission approves the purchaser to buy from such lease; provided, such penalty shall not be assessed for an amount in excess of One Thousand Five Hundred Dollars (\$1,500.00). The penalties may be waived by the Tax Commission or its designee for good cause shown; and

2. If within twelve (12) months after a previous assessment of penalties as provided for by this section a subsequent delinquency occurs, penalties may be assessed at the rate of Ten Dollars (\$10.00) per day for each Tax Commission assigned production unit number or subnumber or merge number, or product code; provided such penalty shall not be assessed for an amount in excess of One Thousand Five Hundred Dollars (\$1,500.00). The penalty thereon may be waived, in whole or in part, by the Tax Commission, for good cause shown.

The penalties prescribed herein shall be in addition to other penalties assessable by the Tax Commission pursuant to the laws of this state. The penalties prescribed by this section may be collected and shall be apportioned to the General Revenue Fund.

E. Gross production tax forms reports, amended reports, or requested information in response to written demands which are received by the Tax Commission on or after the time fixed for delinquency, but which were mailed prior to the time fixed for delinquency, shall be deemed to have been received by the Tax Commission before becoming delinquent. Postmark or registry or certified receipt showing deposit in the U.S. mails shall be conclusive evidence of the

date of mailing. Provided all remittances due under such reports or amended reports must be received by the Tax Commission on or before the date specified by law regardless of when mailed.

F. In the event a person required to remit the tax levied by the provisions of Section 1001 et seq. of this title becomes delinquent in reporting or remitting the tax, or upon a determination by the Tax Commission that the state may lose tax revenues due to the difficulty of collecting same, the Tax Commission may require any person required to remit the tax to furnish a sufficient cash deposit, bond, or other security in an amount as will protect the tax revenues of this state.

G. In lieu of monthly reporting, a royalty owner taking gas in kind for the royalty owner's own consumption who is responsible for remitting the tax levied by Section 1001 et seq. of this title may file semiannual reports and remit taxes due thereunder to the Tax Commission on or before the first day of January and July of each year for the preceding six-month period. If not received on or before the last day of such month, the report and tax shall be delinquent.

Added by Laws 1963, c. 365, § 2, emerg. eff. June 22, 1963. Renumbered from § 10-1010 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1965, c. 346, § 2; Laws 1968, c. 341, § 3, emerg. eff. May 9, 1968; Laws 1979, c. 88, § 3, emerg. eff. April 24, 1979; Laws 1980, c. 129, § 2, emerg. eff. April 14, 1980; Laws 1983, c. 13, § 4, emerg. eff. March 23, 1983; Laws 1983, c. 275, § 7, emerg. eff. June 24, 1983; Laws 1989, c. 28, § 1, eff. July 1, 1989; Laws 1989, c. 249, § 20, eff. July 1, 1989; Laws 1990, c. 339, § 4, emerg. eff. May 31, 1990; Laws 1992, c. 30, § 8, emerg. eff. March 31, 1992; Laws 1994, c. 278, § 12, eff. Sept. 1, 1994; Laws 2001, c. 358, § 13, eff. July 1, 2001; Laws 2004, c. 444, § 3, eff. Nov. 1, 2004; Laws 2013, c. 277, § 1, eff. Nov. 1, 2013.

§68-1010a. One-time payment of gross production tax - Reduction of bond - Delinquency - Reduction of amount of tax due on final return.

A. On or before November 25, 2004, all persons who have received a gross production tax purchaser reporting number or have otherwise been approved to remit gross production taxes, shall remit a one-time payment of gross production tax in an amount equal to the lesser of the average monthly remittance due from the tax remitter for the period from September 1, 2003, through August 31, 2004, or the average monthly remittance for the period from March 1, 2004, through August 31, 2004. Provided, a tax remitter may apply to the Oklahoma Tax Commission to reduce its remittance because the average monthly remittance computed under this paragraph is not reflective of the current volumes of production reported by the tax remitter. The application to remit a lesser amount must be filed with the Tax Commission on or before October 1, 2004. The decision of the Tax Commission on the application shall be final and no right of appeal to any court may be taken from such decision.

B. The Tax Commission shall reduce the amount of the bond required by the Tax Commission by the amount of the one-time payment. If the bond posted is equal to or less than the amount of the payment, the tax remitter shall be relieved from the bond requirement, upon request. The tax remitter shall neither deduct nor otherwise collect all or any portion of the one-time payment from any person or entity entitled to the proceeds of production from an oil or gas lease in the State of Oklahoma.

C. If the tax is not paid on or before November 25, 2004, the tax shall become delinquent and shall be collected in the manner provided by law for the collection of delinquent gross production taxes.

D. The amount of tax due on the final return of a tax remitter shall be reduced by the amount of the payment made pursuant to this section. If the amount due is less than the amount of the payment required by this section, the Tax Commission shall refund the balance of the payment to the tax remitter.

Added by Laws 2004, c. 444, § 4, eff. Sept. 1, 2004.

§68-1011. Statements as to tax on settlements.

All statements or settlement sheets for oil, gas or casinghead gas shall have stamped or written thereon the following words: "gross production tax deducted and paid, and payee accepts such deduction and authorizes payment thereof to State of Oklahoma."

Laws 1963, c. 365, § 2; Laws 1965, c. 215, § 2.

§68-1012. Lien for tax - Liability not released by provision for payment.

The tax herein referred to shall, at all times, be and constitute a first and paramount lien against the purchaser's or producer's property as the case may be, both real and personal; and the provisions hereof, making the purchaser liable to pay such tax, and the provisions requiring the producer to pay the royalty owner's tax, in no wise releases the producer or purchaser from liability to pay same, in all cases where such tax is not paid.

Laws 1963, c. 365, § 2; Laws 1965, c. 215, § 2.

§68-1013. Rules and regulations - Bond - Licenses and permits - Reports - Logs, invoices and load tickets - Stops and inspections.

A. The Tax Commission is hereby authorized and empowered to prescribe and promulgate all necessary rules and regulations for the purpose of making and filing all reports required and otherwise necessary to the enforcement of this article. The Tax Commission, at its option and discretion, may require a sufficient bond from any person charged with the making and filing of reports and the payment of the taxes levied pursuant to the provisions of this article. Said bond shall run to the State of Oklahoma and shall be conditioned upon the making and filing of reports as required by law, upon compliance with the rules and regulations of the Tax Commission, and for the prompt payment of all taxes due the state by virtue of the provisions of this article.

B. 1. Every person engaged in the transportation or hauling of petroleum oil, tank bottoms, pit oil, condensate, distillate, or other liquid hydrocarbons from which petroleum crude oil or other product subject to gross production tax is extracted, except where the transportation is by railroad tank car or by pipeline, shall secure a license and permit before engaging in such activity and shall post a surety bond with the Tax Commission. Said bond shall run to the State of Oklahoma and shall be conditioned upon compliance with the provisions of this article, the rules and regulations of the Tax Commission promulgated thereto. Said permits shall expire three (3) years after the date of issuance or renewal thereof and shall become invalid on said date unless renewed. The fee for issuance of such permit or renewal thereof shall be determined by the Commission but shall not exceed One Hundred Fifty Dollars (\$150.00). A permit issued prior to the effective date of this act shall be valid until it expires.

The application for and acceptance of the permit required by this section and any renewal thereof shall be conclusively deemed consent by the applicant for the stopping of the vehicle transporting said hydrocarbons, and the inspection of the load ticket and the cargo pursuant to Section 152.6 of Title 74 of the Oklahoma Statutes.

2. Every person operating a tank truck or other conveyance except railroad tank cars or pipelines transporting any of the products described in paragraph 1 of this subsection shall have in his possession at all times during such transportation an invoice or load ticket showing, in addition to other information thereon, the following:

- a. date,
- b. truck permit number,
- c. name of company from whom trucker obtained product being transported,
- d. lease name and/or number,
- e. county,
- f. approximate number of barrels being transported,
- g. name of product,
- h. destination, and
- i. signature of truck driver.

The invoice or load ticket shall be made in triplicate, one copy of which shall be retained by the company or person authorizing such transportation, one copy of which shall be retained by the person transporting such product, and one copy of which shall be furnished to the person storing, receiving, renting, or purchasing such product.

3. Any person transporting oil or gas or any deleterious substance as such term is defined by Section 139 of Title 52 of the Oklahoma Statutes shall maintain a log containing the name of the agent of the company or person owning the product which authorized the transportation.

4. All such copies of said log and invoices or load tickets shall be retained for a period of three (3) years. All copies of such log and invoices or load tickets shall be subject to inspection by the Tax Commission or its representatives or the Oklahoma Bureau of Investigation at all times during transit of such product or while same is stored or in the possession of any such person.

5. A member of the Oklahoma State Bureau of Investigation or the Oklahoma Highway Patrol, any sheriff, any salaried deputy sheriff, any Oklahoma Corporation Commission inspector or enforcement officer, shall have the authority to stop and inspect any invoices or load tickets at all times during transit of any such product. If a person transporting or hauling petroleum oil, tank bottoms, pit oil, condensate, distillate, or other liquid hydrocarbons from which petroleum crude oil or any other product subject to gross production tax is extracted, fails to produce the invoice or load ticket as required pursuant to the provisions of this section upon proper request therefor, or if the invoice or load ticket does not contain the required information, the product being transported, together with the tank truck or other conveyance, may be seized and held until a proper invoice or load ticket is furnished and the information thereon is verified by the seizing authority.

In the event a proper invoice or load ticket is not furnished the seizing authority within forty-eight (48) hours after such seizure, the seizing authority shall then deliver possession of such seized property to the sheriff of the county in which it was seized, who shall issue his receipt therefor, and inform the Tax Commission which shall declare the gross production tax, together with the amount due pursuant to the provisions of Section 1003 of this article, due immediately on the product so seized, and shall assess the same together with a penalty equal to the amount of said tax due. If the tax, penalty, additional amount due, and all accrued sheriff's costs are not paid to such sheriff within thirty (30) days after delivery to him, he will proceed to sell, without valuation as for taxes due the state, such seized property and distribute the proceeds of such sale in the same manner as is now provided for sales upon execution.

6. Every tank truck or other conveyance except railroad tank cars or pipelines used in transporting any of the products named in this section must have painted or affixed by decalcomania process in a conspicuous place in at least four-inch letters and figures the company name and Gross Production Transport Permit number which permit number shall be preceded by the initials "O.T.C."

C. Any person transporting deleterious substances shall have in his possession at all times during such transportation an invoice or load ticket complying with paragraph 2 of subsection B of this section.

D. The application for and acceptance of the permit or license required by Section 177.2 of Title 47 of the Oklahoma Statutes shall be conclusively deemed consent by the applicant for the stopping of the vehicle transporting said substances, and the inspection of the load ticket and the cargo by the Oklahoma Highway Patrol, sheriffs, or by agents of the Oklahoma State Bureau of Investigation or Federal Bureau of Investigation pursuant to Section 152.6 of Title 74 of the Oklahoma Statutes.

Added by Laws 1963, c. 365, § 2, emerg. eff. June 22, 1963. Renumbered from § 10-1013 by Laws 1965, c. 215, § 2. Amended by Laws 1965, c. 346, § 3, emerg. eff. June 28, 1965; Laws 1981, c. 180, § 1, emerg. eff. May 19, 1981; Laws 1984, c. 123, § 1, emerg. eff. April 10, 1984; Laws 1985, c. 187, § 10, eff. Nov. 1, 1985; Laws 1992, c. 30, § 9, emerg. eff. March 31, 1992; Laws 1994, c. 258, § 8, eff. Sept. 1, 1994.

§68-1013a. Seller and purchaser to secure and retain invoice copies.

A copy of the invoice required to be made by transporters under Section 1013(2) shall be demanded, and retained as therein provided, by every seller and purchaser of the products on which such invoice is required. Failure of any such seller or purchaser to secure and retain such invoice copy shall constitute a misdemeanor as provided in Section 1017 of this Article.

Added by Laws 1968, c. 341, § 4, emerg. eff. May 9, 1968.

§68-1014. Amended reports.

All producers, refiners, processors or purchasers of oil or gas shall prepare and file with the Tax Commission, at any time upon the demand of the Tax Commission, such amended producers', refiners', processors' or purchasers' reports as may be necessary to show the particular leasehold and also the particular well or wells from which oil or gas produced, refined, processed or purchased by them was produced.

Laws 1963, c. 365, § 2, emerg. eff. June 22, 1963. Renumbered from § 10-1014 by Laws 1965, c. 215, § 2. Amended by Laws 1992, c. 30, § 10, emerg. eff. March 30, 1992.

§68-1015. Refiners and processors to obtain permit - Bond - Failure to secure permit.

All persons operating refineries or processing plants engaged in the business of refining or processing of oil or gas, upon which there is paid or payable gross production tax, shall secure a permit which shall be in the form of a license from the Tax Commission, by making application upon forms prescribed by it, and the Tax Commission may, at its option and discretion, require a bond from any such person before the issuance of such permit; any bond required herein by the Tax Commission shall be for the purpose of indemnifying the State of Oklahoma against loss by reason of nonpayment of gross production tax upon any oil or gas refined or processed in such refineries or processing plants. In all cases where such permit is not secured, the State of

Oklahoma may institute, upon relation of the Tax Commission, suit to restrain such person from operating such refinery or processing plant, until such permit is secured.

Laws 1963, c. 365, § 2, emerg. eff. June 22, 1963. Renumbered from § 10-1015 by Laws 1965, c. 215, § 2. Amended by Laws 1985, c. 187, § 11, eff. Nov. 1, 1985; Laws 1992, c. 30, § 11, emerg. eff. March 30, 1992.

§68-1015.1. Oil reclamation - Permits.

A. All persons operating reclaiming plants, or reclaiming oil, upon which there is paid or payable gross production tax, shall secure a permit which shall be in the form of a license from the Tax Commission, by making application upon forms prescribed by it. The Tax Commission may, at its option and discretion, require a bond from any such person before the issuance of such permit. Any bond required herein by the Tax Commission shall be for the purpose of indemnifying the State of Oklahoma against loss by reason of nonpayment of gross production tax upon any oil reclaiming plants. In all cases where such permit is not secured, the State of Oklahoma may institute, upon relation of the Tax Commission, suit to restrain such person from operating such reclaiming plant, until such permit is secured.

B. 1. Said permits shall expire three (3) years after the date of issuance or renewal thereof and shall become invalid on said date unless renewed. The fee for issuance of such permit or renewal thereof shall be determined by the Commission but shall not exceed One Hundred Fifty Dollars (\$150.00).

2. A permit issued prior to the effective date of this act shall be valid until it expires.

C. The application for and acceptance of the permit required by subsection A of this section and any renewal thereof shall be conclusively deemed consent by the applicant for the inspections of the property of the applicant by the Oklahoma Tax Commission as authorized by Section 206 of this title and by the Oklahoma State Bureau of Investigation.

Added by Laws 1985, c. 187, § 9, eff. Nov. 1, 1985. Amended by Laws 1992, c. 30, § 12, emerg. eff. March 31, 1992; Laws 1994, c. 258, § 9, eff. Sept. 1, 1994.

§68-1016. Distribution of proceeds to General Revenue Fund in certain cases.

In all cases where gross production tax is paid to the Tax Commission and the reports accompanying such tax are insufficient to enable the Tax Commission to determine the source, by wells or leasehold, the oil, gas or casinghead gas upon which said gross production tax is paid and where the Tax Commission is unable to secure such information as will enable it to determine the source of such oil, gas or casinghead gas, it shall be the duty of the Tax Commission, at the expiration of six (6) months from the date of payment of such gross production tax, to apportion and distribute the same to the General Revenue Fund of the State of Oklahoma.

Laws 1963, c. 365, § 2; Laws 1965, c. 215, § 2.

§68-1017. Noncompliance by producers, refiners, processors or purchasers.

Failure on the part of any person, producer, refiner, processor, reclainer, transporter, or purchaser of oil, petroleum oil, tank bottoms, pit oil, liquid hydrocarbons, natural gas, or casinghead gas, to comply with the provisions of this article shall be deemed a misdemeanor, and upon conviction therefor, such person, producer, refiner, processor, reclainer, transporter, or purchaser of oil or gas shall be punished by the imposition of a fine of not to exceed One Thousand Dollars (\$1,000.00), or of a jail sentence of not to exceed six (6) months, or by the

imposition of both such fine and imprisonment. Each day's failure to comply with the provisions of this article within the period of time fixed therein, shall constitute a separate offense. Laws 1963, c. 365, § 2; Laws 1965, c. 215, § 2.

§68-1018. Tax on uranium.

The purpose of the following sections of this article is to broaden the tax provided for in the preceding sections, so as to subject to gross production tax the interest of all persons in ore bearing uranium as the term uranium is hereinafter defined. In the event the ore bears any other metal, mineral, substance or matter subjected to the aforesaid gross production tax, the tax levied by Section 1019 shall be in addition to said tax. Provided, however, that any mineral, substance or matter subjected to the tax levied by the preceding sections of this article shall not be subjected to the tax levied by Section 1019.

Laws 1963, c. 365, § 2; Laws 1965, c. 215, § 2.

§68-1019. Definitions.

The following words, terms and phrases shall when used in Sections 1017 through 1020, except where the context clearly indicates a different meaning, have the following meaning:

(a) The word "Tax Commission" shall mean the Oklahoma Tax Commission.

(b) The word "person" shall mean and include an individual, a limited liability company, a corporation, a trust and any other entity recognized as such under the laws of the State of Oklahoma.

(c) The word "ore" or "ores" shall mean and include alluvium soil or earth or any sedimentary formation or rocks, or intrusive or igneous dike, vein, or fissure, or any liquid substance or matter which bears uranium, thorium, and any other fissionable material together with vanadium, manganese, and nonfissionable materials associated with fissionable materials or which bear tin, vanadium, molybdenum, bismuth and any other metal or mineral, excepting coal only, provided a tax is not levied in connection therewith under the Gross Production Act referred to in Section 1001 hereof.

(d) The word "uranium" shall mean and include uranium, thorium, and any other fissionable material together with vanadium, manganese, and nonfissionable materials associated with fissionable materials, also tin, vanadium, molybdenum, bismuth and any other metal or mineral, excepting coal only, provided a tax is not levied in connection therewith under Sections 1001 - 1016 of this Code.

(e) The words "gross value" mean the value of ore immediately after being mined or produced, therefore, the amount received or the amount that could or should have been received for ore if sold, including any and all premiums, inducement payments, bonus payments, or subsidies. In case ore is sold under circumstances where the sales price does not represent the cash price thereof prevailing for ore of like kinds, character or quality in the area from which the ore is produced, the Tax Commission may require the tax to be paid upon the basis of the prevailing price then being paid at the time of production thereof in said area for ore of like kind, quality and character.

Laws 1963, c. 365, § 2, emerg. eff. June 22, 1963. Renumbered from § 10-1019 by Laws 1965, c. 215, § 2. Amended by Laws 1993, c. 366, § 37, eff. Sept. 1, 1993.

§68-1020. Application of Sections 1017 to 1020.

A gross production tax equal to five percent (5%) of the gross value of all ores bearing uranium, as that term is defined in the preceding section, that are mined or produced in this state, is hereby levied.

(a) The tax hereby levied shall apply and attach immediately upon ore bearing uranium being mined or produced, provided the ore is mined or produced for the purpose of obtaining uranium or is in fact so used. The tax shall be measured by the gross value of the ore at the time and place same is mined or produced.

(b) The payment of the taxes herein imposed shall be in full, and in lieu of all taxes by the state, counties, cities, towns, school districts and other municipalities upon any property rights attached to or inherent in the right to ore upon producing leases for the mining ores bearing uranium, upon the uranium rights and privileges to the uranium aforesaid belonging or appertaining to land, upon the machinery, appliances and equipment used in and around any mine producing ore and actually used in the operation of such mine; and also upon the ores bearing uranium hereinbefore mentioned during the tax year in which the same is produced, and upon any investment in any of the leases, rights, privileges, minerals or other property hereinbefore in this paragraph mentioned or described; and any interest in the land, other than that herein enumerated, and ores bearing uranium which are mined, (produced) and on hand at the date as of which property is assessed for general and ad valorem taxation for any subsequent tax year, shall be assessed and taxed as other property within the taxing district in which such property is situated at the time.

(c) No equipment, material or property shall be exempt from the payment of ad valorem tax by reason of the payment of ad valorem tax by reason of the payment of the gross production tax as herein provided except such equipment, machinery, tools, materials or property as is actually necessary and being used and in use in the production of ores bearing uranium; and it is expressly declared that no ice plants, hospitals, office buildings, garages, residences, gasoline extractions or absorption plants, water systems, fuel systems, rooming houses and other buildings, nor any equipment or material used in connection therewith shall be exempt from ad valorem tax.

(d) The State Board of Equalization, upon its own initiative, may, and upon complaint of any person who claims that he is taxed too great a rate hereunder shall, take testimony to determine whether the taxes herein imposed are greater, or less, than the general ad valorem tax for all purposes would be on the property of such producer subject to taxation in the district or districts where the same is situated and also the value of ore, or of the mining ore rights, the machinery, equipment or appliances used in the actual operation of in and around any such mine, the value of the ore produced and any other element of value in lieu of which the tax herein is levied. The said Board shall have power and it shall be its duty to raise or lower the rate herein imposed to conform thereto. An appeal may be had from the decision of the State Board of Equalization thereon, by any person aggrieved to the Supreme Court, in like manner and with like effect as provided by law in other appeals from said Board to said Court; provided, that after such tax has been collected and distributed or paid without protest, no complaint with reference to rate thereof shall be heard or considered.

Laws 1963, c. 365, § 2; Laws 1965, c. 215, § 2.

§68-1021. Reports and collection - Apportionment.

The gross production tax levied by the preceding section shall be reported to and collected by the Tax Commission at the same time and in the same manner as is now provided by law for

the collection of gross production tax on ore. Upon being collected the taxes shall be apportioned precisely like taxes collected under Sections 1001-1016 of this Code. On ores sold at the time of production, the tax thereon shall be paid by the producer, who is hereby authorized to deduct in making settlement with the producer and/or royalty owner the amount of tax so paid; provided, that in the event ore on which such tax becomes due is not sold at the time of production, but is retained by the producer, the tax on such ore not so sold shall be paid by the producer for himself, including the tax due on royalty ore not sold; provided, further, that in settlement with the royalty owner, such producer shall have the right to deduct the amount of tax so paid on royalty ore, or to deduct therefrom royalty ore equivalent in value at the time such tax becomes due with the amount of tax paid.

Laws 1963, c. 365, § 2; Laws 1965, c. 215, § 2.

§68-1022. Conditional increase in value of natural gas - Handling and distribution of tax levied thereon.

Section 1022. When an increase in the gross value of petroleum or other crude or mineral oil, natural gas, casinghead gas or liquids extracted therefrom sold by a producer is subject to the approval of an agency of the United States of America or a court of competent jurisdiction adjudicating an appeal from said agency, the gross production tax provided for in this article on any such proposed increase in gross value when collected by a producer shall be separately reported and conditionally paid, subject to and pending the final outcome of any proceeding by such agency or court relating to a determination of the amount of such increase in gross value; provided, however that nothing herein shall be construed to impose any duty upon a producer to collect any proposed increase in gross value; and provided further, that "gross value" or "increase in gross value" as used in this section shall mean the amount a producer is collecting for the sale of any petroleum or other crude or mineral oil, natural gas, casinghead gas or liquids extracted therefrom sold which is subject to the jurisdiction of such agency or court. All monies so conditionally collected by the Tax Commission under the provisions of this section shall be accounted for in the following manner:

(a) At least once each month the Tax Commission shall deposit such collections in a special account in a bank or banks approved as a depository for monies of the State of Oklahoma. Each bank in which such monies are deposited shall credit the account at the end of each calendar quarter with the highest rate of interest then being paid by such bank for deposited monies of the State of Oklahoma, calculated on the total daily average balance on deposit during such calendar quarter.

(b) When a producer or purchaser gives written notice to the Tax Commission that such agency or court has, by final order, disapproved, in whole or in part, the proposed increase in gross value, then the Tax Commission shall, within thirty (30) days after receipt of such notice, withdraw from the bank holding such monies an amount of money equal to the tax conditionally paid on the proposed increase in gross value which has been disapproved, together with the interest earned on such money, and remit it to the person, firm, association or corporation which conditionally paid such tax.

(c) When such agency or court approves, by final order, the proposed increase in gross value, in whole or in part, the producer or purchaser involved having paid the tax conditionally shall immediately give written notice of such approval to the Tax Commission and it shall promptly withdraw from the bank holding such monies an amount of money equal to said tax conditionally paid on the proposed increase in gross value which has been approved, together

with the interest earned on such money, and shall distribute the same as provided by the law then in force for the distribution of gross production taxes.

Laws 1968, c. 155, § 2, emerg. eff. April 9, 1968; Laws 1978, c. 211, § 5, emerg. eff. April 19, 1978.

§68-1023. Downward adjustment of value of oil and gas - Refund of excess tax.

Section 1023. In the event the gross value of petroleum or other crude or mineral oil, natural gas, casinghead gas or liquids extracted therefrom is adjusted downward by any agency of the United States of America or a court of competent jurisdiction adjudicating an appeal from said agency, then the amount of the tax paid in excess of the tax due on the adjusted gross value shall be considered excess tax. Within one (1) year following the final determination of the gross value, any producer or purchaser who has paid any such excess tax may apply for a refund, and the Tax Commission, upon proper finding, shall have the authority to refund the amount of excess tax paid. Any refund may, at the discretion of the Tax Commission, be made in the form of a credit against future tax payments.

Laws 1978, c. 211, § 6, emerg. eff. April 19, 1978.

§68-1024. Release of information - Costs - Civil and criminal liability - Disposition of funds - Examination of records and files - Construction with other sections.

A. The Tax Commission may release to any person the volume of production, during any specified available period of time, of any substance taxable pursuant to the provisions of this article from any lease lawfully plugged, pursuant to the laws of this state after certification of the plugging by the Oklahoma Corporation Commission.

B. The Tax Commission may release the lease name, legal description, Oklahoma Tax Commission assigned production unit number for any lease or unit in this state and the Oklahoma Tax Commission assigned purchaser or producer reporting number and purchaser or producer name to any person.

C. The Tax Commission may release the volume of production, producing formation and well classification, active or inactive, on a lease by lease basis to any person.

D. The Tax Commission shall release information provided in the Reclaimer's and Transporters Monthly Tax Report of Lease Production Stored and Sold, OTC Form 323A-7-81, or any form succeeding this form, to any person.

E. The Tax Commission shall release the following information to any person executing an affidavit, under penalty of perjury, declaring that they are an interest owner in the well, lease or unit for which the information is requested:

1. The gross, exempt and net volumes and values of production, tax reimbursements, additional values and taxes remitted thereon, during any available period of time of any substance taxable pursuant to the provisions of this article or the Petroleum Excise Tax of this state.

2. The lease name, legal description, industry or company well or lease unique number, Oklahoma Tax Commission assigned production unit number for any lease or unit in this state and the Oklahoma Tax Commission assigned purchaser or producer reporting number and purchaser or producer name.

3. The producing formation and well classification, active or inactive, on a lease by lease basis and if available, on a well by well basis, and British Thermal Unit content, NGPA classification, gas code, gravity, tier, category and oil class.

F. It is specifically provided that:

1. The Tax Commission shall establish a schedule of costs for the furnishing of the information in accordance with the provisions of subsections A and B of this section and shall collect such costs;

2. No civil or criminal liability shall attach to any member of the Tax Commission, or to any agents, servants, or employees of the Tax Commission for any error or omission in the preparation and publication of the requested information;

3. No costs shall be charged to the Oklahoma Corporation Commission Oil and Gas Conservation Division or Energy Conservation Services Division or to the Oklahoma Geological Survey for examination of the files and records of the Tax Commission; and

4. All funds collected pursuant to the provisions of this section shall be paid to the State Treasury and deposited to the credit of the Tax Commission Revolving Fund.

G. In addition to the information which may be released pursuant to subsections A, B and C of this section, a duly authorized agent of the Oklahoma Corporation Commission Oil and Gas Conservation Division or Energy Conservation Services Division or of the Oklahoma Geological Survey may examine necessary records and files of the Tax Commission relating to the gross production tax for the purpose of estimating or forecasting reserves or production of oil or gas. Such examination shall be limited to information of volume of production, producing formation and well classification, active or inactive, on a lease by lease basis.

H. A duly authorized agent of the Commissioners of the Land Office may examine necessary records and files of the Tax Commission relating to the gross production tax for the purpose of determining the amount of erroneous payment of gross production tax made to the Oklahoma Tax Commission after January 1, 1978.

I. The provisions of this section shall be exceptions to the provisions of Sections 205 and 205.1 of this title and those sections shall be strictly construed against the disclosure of any other information contained in the records and files of the Tax Commission except as otherwise provided by law.

J. Any violation of the provisions of this section shall constitute a misdemeanor and shall be punishable as provided for in Section 205 of this title.

Added by Laws 1979, c. 100, § 1. Amended by Laws 1981, c. 76, § 1; Laws 1983, c. 107, § 1, eff. Nov. 1, 1983; Laws 1986, c. 223, § 40, operative July 1, 1986; Laws 1988, c. 281, § 20, operative July 1, 1988; Laws 1990, c. 310, § 4, eff. Sept. 1, 1990; Laws 1991, c. 224, § 2, emerg. eff. May 23, 1991; Laws 1992, c. 30, § 13, emerg. eff. March 30, 1992; Laws 1992, c. 392, § 2, emerg. eff. June 9, 1992; Laws 2013, c. 277, § 2, eff. Nov. 1, 2013.

§68-1101. Excise tax on oil - Additional tax.

A. Prior to July 1, 2016, and as provided in Section 1103.1 of this title, there is hereby levied, in addition to the gross production tax, an excise tax equal to ninety-five one thousandths of one percent (.095 of 1%) of the gross value on each barrel of petroleum oil produced in the State of Oklahoma which is subject to gross production tax in the State of Oklahoma. Such excise tax of ninety-five one thousandths of one percent (.095 of 1%) of the gross value shall be reported to and collected by the Tax Commission at the same time and in the same manner as is provided by law for the collection of gross production tax on petroleum oil. On petroleum oil sold at the time of production, the excise tax thereon shall be paid by the purchaser, who is hereby authorized to deduct in making settlement with the producer and/or royalty owner the amount of tax so paid; provided, that in the event oil on which such tax becomes due is not sold

at the time of production, but is retained by the producer, the tax on such oil not so sold shall be paid by the producer, including the tax due on royalty oil not sold; and provided, further, that in settlement with royalty owner, such producer shall have the right to deduct the amount of tax so paid on royalty oil, or to deduct therefrom royalty oil equivalent in value at the time such tax becomes due with the amount of tax paid.

The provisions of this subsection shall terminate on June 30, 2016.

B. Beginning on July 1, 2016, there is hereby levied, in addition to the gross production tax, an excise tax equal to eighty-five one thousandths of one percent (.085 of 1%) of the gross value on each barrel of petroleum oil produced in the State of Oklahoma which is subject to gross production tax in the State of Oklahoma. Such excise tax of eighty-five one thousandths of one percent (.085 of 1%) of the gross value shall be reported to and collected by the Tax Commission at the same time and in the same manner as is provided by law for the collection of gross production tax on petroleum oil. On petroleum oil sold at the time of production, the excise tax thereon shall be paid by the purchaser, who is hereby authorized to deduct in making settlement with the producer and/or royalty owner the amount of tax so paid; provided, that in the event oil on which such tax becomes due is not sold at the time of production, but is retained by the producer, the tax on such oil not so sold shall be paid by the producer, including the tax due on royalty oil not sold; and provided, further, that in settlement with royalty owner, such producer shall have the right to deduct the amount of tax so paid on royalty oil, or to deduct therefrom royalty oil equivalent in value at the time such tax becomes due with the amount of tax paid.

Added by Laws 1965, c. 442, § 2. Amended by Laws 1974, c. 63, § 1, operative July 1, 1974; Laws 1976, c. 100, § 1, operative July 1, 1976; Laws 1990, c. 107, § 5, eff. Oct. 1, 1990; Laws 1995, c. 328, § 9, eff. July 1, 1995; Laws 2001, c. 249, § 5, eff. July 1, 2001; Laws 2006, c. 252, § 2, eff. July 1, 2006; Laws 2011, c. 154, § 2.

§68-1101.1. Renumbered as § 1001.1 of this title by Laws 1991, c. 342, § 27, emerg. eff. June 15, 1991.

§68-1102. Excise tax on gas - Additional tax.

A. Prior to July 1, 2016, and as provided in Section 1103.1 of this title, there is hereby levied, in addition to the gross production tax, an excise tax equal to ninety-five one thousandths of one percent (.095 of 1%) of the gross value of all natural gas and/or casinghead gas produced in the State of Oklahoma which is subject to gross production tax in the State of Oklahoma. Such excise tax of ninety-five one thousandths of one percent (.095 of 1%) of the gross value shall be reported to and collected by the Tax Commission at the same time and in the same manner as is provided by law for the collection of gross production tax on natural gas and/or casinghead gas, and this excise tax shall apply in all cases where the gross production tax provided for by law applies to the production of natural gas and/or casinghead gas. The excise tax shall be paid by the purchaser, who is hereby authorized to deduct in making settlement with the producer and/or royalty owner the amount of tax so paid, provided, however, that if such natural gas and/or casinghead gas is retained by the producer, then the tax shall be paid by the producer, who shall have the right to deduct the amount of tax so paid on royalty gas at the time of settlement with the royalty owner.

The provisions of this subsection shall terminate on June 30, 2016.

B. Beginning on July 1, 2016, there is hereby levied, in addition to the gross production tax, an excise tax equal to eighty-five one thousandths of one percent (.085 of 1%) of the gross value of all natural gas and/or casinghead gas produced in the State of Oklahoma which is subject to gross production tax in the State of Oklahoma. Such excise tax of eighty-five one thousandths of one percent (.085 of 1%) of the gross value shall be reported to and collected by the Tax Commission at the same time and in the same manner as is provided by law for the collection of gross production tax on natural gas and/or casinghead gas, and this excise tax shall apply in all cases where the gross production tax provided for by law applies to the production of natural gas and/or casinghead gas. The excise tax shall be paid by the purchaser, who is hereby authorized to deduct in making settlement with the producer and/or royalty owner the amount of tax so paid, provided, however, that if such natural gas and/or casinghead gas is retained by the producer, then the tax shall be paid by the producer, who shall have the right to deduct the amount of tax so paid on royalty gas at the time of settlement with the royalty owner.

Added by Laws 1965, c. 442, § 2. Amended by Laws 1967, c. 208, § 1, eff. July 1, 1967; Laws 1974, c. 63, § 2, operative July 1, 1974; Laws 1976, c. 100, § 2, operative July 1, 1976; Laws 1990, c. 107, § 6, eff. Oct. 1, 1990; Laws 1995, c. 328, § 10, eff. July 1, 1995; Laws 2001, c. 249, § 6, eff. July 1, 2001; Laws 2006, c. 252, § 3, eff. July 1, 2006; Laws 2011, c. 154, § 3.

§68-1103. Deposit, apportionment and use of proceeds of tax.

A. 1. Prior to July 1, 2016, and as provided in Section 1103.1 of this title, all monies derived from the levy of the excise tax on petroleum oil provided for by Section 1101 of this title shall be deposited with the State Treasurer, who shall credit and apportion the same as follows:

- a. eighty-two and six hundred thirty-four thousandths percent (82.634%) of said excise tax shall be credited to the General Revenue Fund of the State Treasury; provided, in each fiscal year beginning on or after July 1, 2013, the first One Million Three Hundred Fifty Thousand Dollars (\$1,350,000.00) which would otherwise have been apportioned to the General Revenue Fund pursuant to this subparagraph shall be transferred to the Oil and Gas Division Revolving Fund of the Oklahoma Corporation Commission;
- b. ten and five hundred twenty-six thousandths percent (10.526%) shall be credited and apportioned to a separate and distinct fund to be known as the "Corporation Commission Plugging Fund"; and
- c. the remaining six and eighty-four hundredths percent (6.84%) of said excise tax shall be credited and apportioned to a separate and distinct fund to be known as "The Interstate Oil Compact Fund of Oklahoma", which fund is hereby created.

2. Prior to July 1, 2016, and as provided in Section 1103.1 of this title, all monies derived from the levy of the excise tax on natural gas and/or casinghead gas provided for by Section 1102 of this title shall be deposited with the State Treasurer, who shall credit and apportion the same as follows:

- a. eighty-two and six thousand forty-five ten thousandths percent (82.6045%) of said excise tax shall be credited to the General Revenue Fund of the State Treasury; provided, in each fiscal year beginning on or after July 1, 2013, the first One Million Three Hundred Fifty Thousand Dollars (\$1,350,000.00) which would otherwise have been apportioned to the

General Revenue Fund pursuant to this subparagraph shall be transferred to the Oil and Gas Division Revolving Fund of the Oklahoma Corporation Commission;

- b. ten and five thousand five hundred fifty-five ten thousandths percent (10.5555%) shall be credited and apportioned to the Corporation Commission Plugging Fund; and
- c. six and eighty-four hundredths percent (6.84%) of said excise tax shall be credited and apportioned to The Interstate Oil Compact Fund of Oklahoma.

3. Prior to July 1, 2016, and as provided in Section 1103.1 of this title, all monies to accrue to "The Interstate Oil Compact Fund of Oklahoma" under the provisions of this article, together with all monies remaining unexpended in "The Interstate Oil Compact Fund of Oklahoma" created under this subsection are hereby appropriated and shall be used for the payment of the compensation of the assistant representative of the State of Oklahoma on "The Interstate Oil Compact Commission", the compensation of such clerical, technical, and legal assistants as he or she may with the consent of the Governor employ; the actual and necessary traveling expenses of the assistant representative and employees, and of the Governor when traveling in the Governor's capacity as official representative of the State of Oklahoma on "The Interstate Oil Compact Commission"; all items of office expense, including the cost of office supplies and equipment; such contributions as the Governor shall deem necessary and proper to pay to "The Interstate Oil Compact Commission" to defray its expenses; and such other necessary expenses as may be incurred in enabling the State of Oklahoma to fully cooperate in accomplishing the objects of the Interstate Compact to conserve oil and gas. The fund shall be disbursed by the State Treasurer upon sworn, itemized claims approved by the assistant representative and the Governor; provided, that if at the end of any fiscal year any part of the special fund shall remain unexpended, such balance shall be transferred by the State Treasurer to, and become a part of, the General Revenue Fund of the state for the ensuing fiscal year. Provided, further, that if the State of Oklahoma withdraws from the Interstate Compact to conserve oil and gas, any unencumbered monies in "The Interstate Oil Compact Fund of Oklahoma" shall be transferred to and become a part of the General Revenue Fund of the State Treasury and thereafter the excise tax on petroleum oil, natural gas and/or casinghead gas levied by this article shall be levied, collected and deposited in the General Revenue Fund of the State Treasury.

4. All monies to accrue to the Corporation Commission Plugging Fund are hereby appropriated and shall be used for payment of expenses related to the statutory purpose of the fund.

The provisions of this subsection shall terminate on June 30, 2016.

B. 1. Beginning on July 1, 2016, all monies derived from the levy of the excise tax on petroleum oil provided for by Section 1101 of this Code shall be deposited with the State Treasurer, who shall credit and apportion the same as follows:

- a. ninety-two and thirty-five hundredths percent (92.35%) of said excise tax shall be credited and apportioned to the General Revenue Fund of the State Treasury; provided, in each fiscal year beginning on or after July 1, 2013, the first One Million Three Hundred Fifty Thousand Dollars (\$1,350,000.00) which would otherwise have been apportioned to the General Revenue Fund pursuant to this subparagraph shall be transferred to

the Oil and Gas Division Revolving Fund of the Oklahoma Corporation Commission, and

- b. the remaining seven and sixty-five hundredths percent (7.65%) of said excise tax shall be credited and apportioned to a separate and distinct fund to be known as "The Interstate Oil Compact Fund of Oklahoma", which fund is hereby created.

2. Beginning on July 1, 2016, all monies derived from the levy of the excise tax on natural gas and/or casinghead gas provided for by Section 1102 of this Code shall be deposited with the State Treasurer, who shall credit and apportion the same as follows:

- a. ninety-two and thirty-five hundredths percent (92.35%) of said excise tax shall be credited and apportioned to the General Revenue Fund of the State Treasury; provided, in each fiscal year beginning on or after July 1, 2013, the first One Million Three Hundred Fifty Thousand Dollars (\$1,350,000.00) which would otherwise have been apportioned to the General Revenue Fund pursuant to this subparagraph shall be transferred to the Oil and Gas Division Revolving Fund of the Oklahoma Corporation Commission, and
- b. seven and sixty-five hundredths percent (7.65%) of said excise tax shall be credited and apportioned to The Interstate Oil Compact Fund of Oklahoma.

3. Beginning on July 1, 2016, all monies to accrue to "The Interstate Oil Compact Fund of Oklahoma" under the provisions of this article, together with all monies remaining unexpended in "The Interstate Oil Compact Fund of Oklahoma" created under this subsection are hereby appropriated and shall be used for the payment of the compensation of the assistant representative of the State of Oklahoma on "The Interstate Oil Compact Commission", the compensation of such clerical, technical, and legal assistants as he or she may with the consent of the Governor employ; the actual and necessary traveling expenses of the assistant representative and employees, and of the Governor when traveling in the Governor's capacity as official representative of the State of Oklahoma on "The Interstate Oil Compact Commission"; all items of office expense, including the cost of office supplies and equipment; such contributions as the Governor shall deem necessary and proper to pay to "The Interstate Oil Compact Commission" to defray its expenses; and such other necessary expenses as may be incurred in enabling the State of Oklahoma to fully cooperate in accomplishing the objects of the Interstate Compact to conserve oil and gas. The fund shall be disbursed by the State Treasurer upon sworn, itemized claims approved by the assistant representative and the Governor; provided, that if at the end of any fiscal year any part of the special fund shall remain unexpended, such balance shall be transferred by the State Treasurer to, and become a part of, the General Revenue Fund of the State Treasury for the ensuing fiscal year. Provided, further, that if the State of Oklahoma withdraws from the Interstate Compact to conserve oil and gas, any unencumbered monies in "The Interstate Oil Compact Fund of Oklahoma" shall be transferred to and become a part of the General Revenue Fund of the State Treasury and thereafter the excise tax on petroleum oil, natural gas and/or casinghead gas levied by this article shall be levied, collected and deposited in the General Revenue Fund of the State Treasury.

Added by Laws 1965, c. 442, § 2. Amended by Laws 1967, c. 208, § 2, eff. July 1, 1967; Laws 1974, c. 63, § 3, operative July 1, 1974; Laws 1979, c. 47, § 72, emerg. eff. April 9, 1979; Laws 1990, c. 107, § 7, eff. Oct. 1, 1990; Laws 1995, c. 328, § 11, eff. July 1, 1995; Laws 1997, c. 275, § 12, eff. July 1, 1997; Laws 2001, c. 249, § 7, eff. July 1, 2001; Laws 2005, c. 436, § 2, eff.

July 1, 2005; Laws 2006, c. 252, § 4, eff. July 1, 2006; Laws 2011, c. 154, § 4; Laws 2012, c. 331, § 1, eff. July 1, 2012.

§68-1103.1. Maintenance of Corporation Commission Plugging Fund minimal level.

The additional excise tax levied by subsection A of Section 5 of this act and subsection A of Section 6 of this act which is credited and apportioned to the Corporation Commission Plugging Fund pursuant to Section 7 of this act shall be imposed and collected at such times as required by Section 1 of this act to maintain the Corporation Commission Plugging Fund at a five-million-dollar maintenance level.

Added by Laws 1990, c. 107, § 8, eff. Oct. 1, 1990.

§68-1104. Due date of tax - Delinquency - Reports on leases.

(a) The tax provided for in Section 1101 and Section 1102 of this Code shall become due on the first day of each calendar month on all petroleum oil, natural gas and/or casinghead gas, produced in the State of Oklahoma during the preceding monthly period, and if the tax is not paid on or before the last day of the month when the same becomes due, such tax shall become delinquent.

(b) Every person, firm, association, or corporation responsible for paying or remitting the petroleum excise tax levied by this article on the production from any lease shall file with the Tax Commission a monthly report on each lease, regardless of sales or purchases of production from said lease during the period, at the same time and in the same manner as is required for the reporting of the gross production tax.

Laws 1965, c. 442, § 2; Laws 1968, c. 142, § 1.

§68-1105. Failure to make report.

If any person, firm, association or corporation shall fail to make the report of the production, purchase, or production without sale, as the case may be, of petroleum oil, natural gas and/or casinghead gas, or the computation of the excise tax hereby levied, within the time prescribed by law for such report, it shall be the duty of the Tax Commission to examine the books, records and files of such persons, firm, association or corporation to ascertain the amount of oil produced and/or sold, and compute and assess the tax and penalty accrued thereon, as provided herein. Any such person, firm, association or corporation who shall fail to file any sworn statement or report required by the provisions of this article in the manner and in the time prescribed, or who shall fail to provide any information regarding the production from any lease in this state within thirty (30) days of the mailing by the Commission of a demand for such information, shall be liable for the assessment by the Commission and the payment thereto of the penalties as prescribed in Section 1010 of this title.

Laws 1965, c. 442, § 2.

§68-1106. Exemption - Refund.

The provisions of the gross production tax law in respect to refunds of such tax on the production derived from restricted Indian lands and lands owned by the United States, the state, counties, cities, towns and school districts, and therefore exempt from taxation, shall apply to petroleum excise tax on such exempt interest in said production from said lands.

Laws 1965, c. 442, § 2.

§68-1107. Repealed by Laws 1994, c. 311, § 3, emerg. eff. July 1, 1995.

§68-1108. Repealed by Laws 1994, c. 311, § 3, emerg. eff. July 1, 1995.

§68-1109. Repealed by Laws 1994, c. 311, § 3, emerg. eff. July 1, 1995.

§68-1110. Repealed by Laws 1994, c. 311, § 3, emerg. eff. July 1, 1995.

§68-1111. Repealed by Laws 1994, c. 311, § 3, emerg. eff. July 1, 1995.

§68-1135.3. Editorially renumbered as § 1135.3 of Title 47 of the Oklahoma Statutes to provide consistency in numbering.

§68-1201. Corporations and organizations to which article applicable.

The terms of this article shall apply to every corporation organized under the laws of this state, or qualified to do, or doing business in Oklahoma in a corporate or organized capacity by virtue of creation or organization under the laws of this or any other state, territory or district, or a foreign country, including associations, joint-stock companies and business trusts as defined by Section 202 of this title, but not including limited liability companies as defined by Section 2001 of Title 18 of the Oklahoma Statutes.

Laws 1963, c. 366, § 2, emerg. eff. June 18, 1963. Renumbered from § 12-1201 by Laws 1965, c. 215, § 2. Amended by Laws 1985, c. 182, § 2, emerg. eff. June 20, 1985; Laws 1993, c. 366, § 38, eff. Sept. 1, 1993.

§68-1202. “Doing Business” defined.

When the term “doing business” is used in this article, it shall mean and include each and every act, power or privilege exercised or enjoyed in this state, as an incident to, or by virtue of the powers and privileges acquired by the nature of such organizations, as are enumerated in the preceding section.

Laws 1963, c. 366, § 2; Laws 1965, c. 215, § 2.

§68-1203. Tax on domestic corporations and business organizations.

There is hereby levied and assessed a franchise or excise tax upon every corporation, association, joint-stock company and business trust organized under the laws of this state, equal to One Dollar and twenty-five cents (\$1.25) for each One Thousand Dollars (\$1,000.00) or fraction thereof of the amount of capital used, invested or employed in the exercise of any power, privilege or right inuring to such organization, within this state; it being the purpose of this section to require the payment to the State of Oklahoma this tax for the right granted by the laws of this state to exist as such organization and enjoy, under the protection of the laws of this state, the powers, rights, privileges and immunities derived from the state by reason of the form of such existence.

Amended by Laws 1985, c. 182, § 3, emerg. eff. June 20, 1985.

§68-1204. Tax on foreign corporations and business organizations.

There is hereby levied and assessed upon every corporation, association, joint-stock company and business trust, organized and existing by virtue of the laws of some other state,

territory or country, now or hereafter doing business in this state, as hereinbefore defined, a franchise or excise tax equal to One Dollar and twenty-five cents (\$1.25) for each One Thousand Dollars (\$1,000.00) or fraction thereof of the amount of capital used, invested or employed within this state; it being the purpose of this section to require the payment of a tax by all organizations not organized under the laws of this state, measured by the amount of capital, or its equivalent, used, invested or employed in this state for which such organization receives the benefit and protection of the government and laws of the state.
Amended by Laws 1985, c. 182, § 4, emerg. eff. June 20, 1985.

§68-1205. Minimum and maximum taxes.

A. In determining the amount of tax to be levied, assessed and collected under the terms of this Article, the maximum amount shall not exceed Twenty Thousand Dollars (\$20,000.00).

B. If, as a result of the computation of tax required by Section 1209 of this title, the resulting liability is Two Hundred Fifty Dollars (\$250.00) or less, the corporation or other entity shall be exempt from the tax levied by Section 1203 or Section 1204 of this title for such reporting period.

Added by Laws 1963, c. 366, § 2, eff. July 1, 1963. Renumbered from § 12-1205 of this title by Laws 1965, c. 215, § 2. Amended by Laws 2005, c. 388, § 1, eff. July 1, 2006; Laws 2007, c. 136, § 1, eff. Jan. 1, 2008.

§68-1206. Corporations and organization exempted.

The terms of this article shall not apply to the following institutions, foreign or domestic: Savings and loan associations, small business investment companies licensed under the Federal Small Business Act of 1958, credit unions, trust companies, real estate trusts operating under the Federal Real Estate Trust Act of 1960, insurance companies, including surety and bond companies, retirement or pension funds, savings banks and savings fund societies; nor to any organization enumerated in Section 1201 of this title if such organization is neither organized for profit nor operated for profit, irrespective of the form of organization.

Amended by Laws 1983, c. 167, § 1, operative July 1, 1983; Laws 1985, c. 182, § 5, emerg. eff. June 20, 1985.

§68-1207. No tax for year in which other tax or fee paid.

The tax herein levied shall not be exacted for the fiscal year during which a domestic or foreign corporation, association or organization has paid an incorporating, filing or qualifying fee or tax to the Secretary of State. However, such corporations or organizations shall file a "no tax" report to comply with such regulations as shall be adopted by the Tax Commission, who shall, upon such filing, issue a "no tax" license expiring on the next ensuing June 30th. Provided, that in the computation of the tax imposed by this article no credit shall be allowed against such tax by reason of any money paid to the Secretary of State as additional incorporation, qualifying or filing fee covering an increase of authorized capital or capital apportioned to this state.

Laws 1963, c. 366, § 2; Laws 1965, c. 215, § 2.

§68-1208. Purpose and disposition of revenue - When due.

A. It is hereby declared to be the purpose of Section 1201 et seq. of this title to provide for revenue for general governmental functions of the State of Oklahoma.

B. All monies collected under Section 1201 et seq. of this title shall be transmitted monthly to the State Treasurer of the State of Oklahoma to be placed to the credit of the General Revenue Fund of the state, to be paid out only pursuant to direct appropriations of the Legislature.

C. The tax levied by Section 1201 et seq. of this title shall become due and payable on July 1 of each year or at the option of the taxpayer upon the last day of the income tax year of the taxpayer, and if not paid on or before the next ensuing September 1 for taxpayers electing to pay tax by July 1, or the date by which an income tax return is required to be filed pursuant to the provisions of subsection G of Section 2368 of this title or pursuant to the provisions of Section 216 of this title, for taxpayers electing to pay the tax at the time such income tax return is due, the penalties hereinafter provided shall apply.

Added by Laws 1963, c. 366, § 2. Renumbered from § 12-1208 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1997, c. 249, § 2, eff. Sept. 1, 1998.

§68-1209. Capital - Computation.

(a) For the purpose of computing the amount of annual franchise tax levied upon and payable by the corporations, associations and organizations enumerated in Sections 1203 and 1204 of this title, the word "capital" shall be construed to include the following:

Outstanding capital stock, surplus and undivided profits, which shall include any amounts designated for the payment of dividends until such amounts are definitely and irrevocably placed to the credit of stockholders subject to withdrawal on demand, plus the amount of bonds, notes, debentures or other evidences of indebtedness maturing and payable more than three (3) years after issuance. The term "capital" stock where herein used shall include all written evidence of interest or ownership in the control or management of a corporation or other organization. The term "evidence of indebtedness" where herein used shall not include any deposit made in any bank.

(b) Advances made by a parent to a subsidiary or by a subsidiary to a parent corporation, organization or association shall be eliminated by both the parent and subsidiary from the calculations necessary to determine the amount of taxable capital employed in the business of either or both the parent and subsidiary. Provided, however, advances made for purely operating expenses may, upon proper showing, satisfactory to the Tax Commission, be included in such calculations.

(c) The amount of capital employed in this state is hereby declared to be that portion of the capital of the corporation, association or organization which equals the proportion which the property owned, or property owned and business done, in Oklahoma bears to the total property owned, or total property owned and total business done, by the corporation, association or organization.

(d) In the determination of the amount of tax payable under this article where intangibles are involved, such as notes, accounts receivable, stocks, bonds, and other securities, including cash, and the business of the corporation is managed, directed and controlled from within the State of Oklahoma, the value of such intangibles shall be apportioned wholly to Oklahoma, unless a commercial or business situs for such intangibles has been established elsewhere.

(e) Management, direction and control of the corporation's business shall be deemed to be within the State of Oklahoma where (1) the corporation is incorporated under the laws of Oklahoma, or (2) where any corporation organized under the laws of some other state transacts

in Oklahoma its principal business, or maintains in this state its “business domicile” or “commercial domicile”.

(f) The portion of capital of any corporation, association or organization employed in this state, shall be segregated, and its value stated, based upon the proportions herein prescribed, and shall be reported to the Tax Commission; and the amount of said capital so reported shall be prima facie the measure of the value of the capital of such corporation, association or organization, apportioned to this state, for the purposes of this article.

(g) The capital of a bank holding company or multi-bank holding company shall not include the capital, as defined in this article, of the owned bank or banks. Such banks, bank holding companies and multi-bank holding companies each shall comply with the terms of this article as separate corporations.

Amended by Laws 1985, c. 182, § 6, emerg. eff. June 20, 1985.

§68-1210. Annual statement or return.

A. In addition to any other statement required by law, each and every corporation, association or organization, as enumerated in Sections 1201, 1203, and 1204 of this title, subject to the provisions of Section 1201 et seq. of this title, either during the period of July 1 to August 31, inclusive, of each year or on or before the date by which an income tax return is required to be filed pursuant to the provisions of subsection G of Section 2368 of this title or pursuant to the provisions of Section 216 of this title, based upon the election by the taxpayer regarding the due date for payment of tax, shall file with the Oklahoma Tax Commission a statement under oath of its president, secretary or managing officer, or managing agent in this state. The statement shall be in such form as the Tax Commission shall prescribe, including balance sheets as at the close of its last preceding taxable year for which an income tax return was required to be filed, showing the following:

1. The amount of its authorized capital stock, interests, certificates, or other evidence of interest or ownership;
 2. The amount thereof then paid up;
 3. The number of units into which the same is divided;
 4. The par value of each unit and the number of such units issued and outstanding;
 5. The location of the office or offices;
 6. The value of all property owned or used in its business and wherever located;
 7. The value of all property owned or used in its business within this state as it existed on the last day of the tax year;
 8. The total amount of all business wherever transacted during the tax year;
 9. The total amount of business transacted within the State of Oklahoma during such year;
- and
10. The names of its officers and the residence and post office address of each as the same appear of record on the last day of the tax year, based upon the election by the taxpayer regarding the due date for payment of tax.

B. If any corporation, association or organization making a return under the provisions of Section 1201 et seq. of this title has no authorized capital, or if any of its shares of stock or other evidences of interest or ownership have no par value, then such corporation, association or organization shall so state in its return, and shall, in addition thereto, state the book value of its shares of stock or other evidences of interest or ownership. It shall also, in making its return, make the showing required of all other corporations, associations and organizations, and each

foreign corporation shall state the name of its registered agent residing at the capital of the state. The return shall be in such form as the Tax Commission shall prescribe.

C. A corporation or organization subject to the tax levied by Section 1203 or Section 1204 of this title for which the computation of capital employed in the state equals or exceeds Sixteen Million Dollars (\$16,000,000.00), shall file a maximum franchise tax return on such form as may be prescribed by the Oklahoma Tax Commission.

D. The Tax Commission shall prescribe a form for use by corporations or organizations subject to the maximum tax imposed by Section 1205 of this title in order for such corporations or organizations to determine if the value of capital employed in this state requires filing a maximum franchise tax return. The Tax Commission shall also prescribe a form for use by corporations or organizations exempt from the tax imposed by Sections 1203 and 1204 of this title pursuant to Section 1205 of this title. Such form shall include the names of the officers of the corporation or organization and the residence and post office address of each as the same appears of record on the last day of the tax year and a statement attesting that no tax is due for the taxable period. If a corporation or organization is required to file the maximum franchise tax return or is exempt from the tax imposed by Sections 1203 and 1204 of this title pursuant to Section 1205 of this title, such return shall not be subject to the requirements of subsection A of this section and the return shall only contain such information as may be prescribed by the Commission. The return shall be in such form as the Tax Commission shall prescribe.

Added by Laws 1963, c. 366, § 2, eff. July 1, 1963. Renumbered from § 12-1210 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1989, c. 249, § 24, eff. July 1, 1989; Laws 1997, c. 249, § 3, eff. Sept. 1, 1998; Laws 2005, c. 388, § 2, eff. July 1, 2006.

§68-1211. Organization of business trust.

The county clerks of the several counties of the state shall not receive for filing in their offices any instrument providing for the organization of any business trust unless and until a duplicate of such instrument is provided for filing with the Tax Commission, which duplicate shall show the filing references of the county clerk in whose office the original of such instrument is filed, and it is hereby made the duty of such county clerk to see that such duplicate is immediately forwarded to the Tax Commission.

Amended by Laws 1985, c. 182, § 7, emerg. eff. June 20, 1985.

§68-1212. Penalties - Uniform procedure - Operation without license - Suspension and forfeiture.

A. If the report required pursuant to the provisions of Section 1210 of this title is not filed and the tax levied pursuant to the provisions of Section 1203, 1204 or 1205 of this title is not paid within the time provided under subsection C of Section 1208 of this title, the Oklahoma Tax Commission shall levy and collect a penalty for such delinquency in the amount of ten percent (10%) of the tax due. Such penalty shall be collected and apportioned in the same manner as is the tax itself. In such event, or if a form is not filed, as required by subsection D of Section 1210 of this title by a corporation, association or organization exempt from the tax pursuant to subsection B of Section 1205 of this title, the Tax Commission may enter an order directing the suspension of the charter or other instrument of organization, under which the corporation, association or organization may be organized, and the forfeiture of all corporate or other rights inuring thereunder. However, no such order of the Tax Commission shall be issued nor effective as to any corporation, association or organization the charter or certificate of authority of which

is issued by the State Banking Board or State Banking Commissioner rather than the Secretary of State and the Tax Commission shall only notify the registered agents or managing officer of the corporation, association, or organization and shall notify the State Banking Board or State Banking Commissioner of the amount of unpaid tax. The Commissioner shall require the payment of such tax, plus interest and penalty, if any, within a reasonable time.

B. Any person who attempts or purports to exercise any of the rights, privileges or powers of any such domestic corporation, association or organization, or who does or attempts to do any business in the state in behalf of any such foreign corporation, association or organization, without having first obtained a license therefor, as provided herein, or after any such license so obtained shall have been canceled, forfeited, or expired, shall be guilty of a misdemeanor.

C. Each trustee, director or officer of any such corporation, association or organization, whose right to do business within this state shall be so forfeited, shall, as to any and all debts of such corporation, association or organization, which may be created or incurred with his or her knowledge, approval and consent, within this state after such forfeiture and before the reinstatement of the right of such corporation to do business, be deemed and held liable thereon in the same manner and to the same extent as if such trustees, directors, and officers of such corporation, association or organization were partners. Any corporation, association or organization whose right to do business shall be thus forfeited shall be denied the right to sue or defend in any court of this state, except in a suit to forfeit the charter of such corporation, association or organization. In any suit against such corporation, association or organization on a cause of action arising before such forfeiture, no affirmative relief shall be granted to such corporation, association or organization unless its right to do business in this state shall be reinstated as provided herein. Every contract entered into by or in behalf of such corporation, association or organization, after such forfeiture as provided herein, is hereby declared to be voidable.

D. Notice of such suspension and forfeiture shall be forwarded by certified mail, return receipt requested, to the last-known address of the registered agent or managing officer of each corporation, association or organization, and the Tax Commission may cause notice of such suspension and forfeiture to be published in a newspaper of general circulation in the county in which the general business office of each such corporation, association or organization is located in this state.

E. The Tax Commission, shall immediately upon entering an order suspending and forfeiting any such charter or other instrument of organization, transmit the name of each such corporation, association or organization named therein to the Secretary of State or the county clerk of the county in which the instrument under which it may be organized is filed, and the Secretary of State or county clerk, as the case may be, shall immediately record the same and such record shall constitute notice to the public. The suspension and forfeiture herein provided for shall become effective immediately upon such record being made and the certificate of the Secretary of State or the county clerk shall be prima facie evidence of such suspension and forfeiture.

F. After the issuance of such order of suspension and forfeiture by the Tax Commission, the charter or other instrument of organization may only be revived and reinstated upon the payment of the accrued fees and penalties and a reinstatement fee in the amount of Fifteen Dollars (\$15.00), and a showing by the corporation, association or organization of a full compliance with the laws of this state. Such payment of accrued fees and penalties must be

made prior to the expiration of the time provided in such charter or other instrument of organization for the life of such corporation, association or organization.

Added by Laws 1963, c. 366, § 2, eff. July 1, 1963. Renumbered from § 12-1212 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1985, c. 182, § 8, emerg. eff. June 20, 1985; Laws 1985, c. 356, § 12, emerg. eff. July 30, 1985; Laws 1991, c. 342, § 12, emerg. eff. June 15, 1991; Laws 2005, c. 388, § 3, eff. July 1, 2006.

§68-1212.1. Moratorium on requirement to pay or remit certain taxes.

A. Notwithstanding any other provision of law, there is hereby declared a moratorium on any and all requirements to pay or remit any and all taxes due or which would have been due pursuant to the provisions of Sections 1201 through 1212 of Title 68 of the Oklahoma Statutes for the taxable periods beginning July 1, 2010, and ending before July 1, 2013.

B. Notwithstanding any other provision of law, there is hereby declared a moratorium on requirements to file any and all reports or returns due or which would have been due pursuant to the provisions of Sections 1201 through 1212 of Title 68 of the Oklahoma Statutes for the taxable periods beginning July 1, 2010, and ending before July 1, 2013.

Added by Laws 2010, S.J.R. No. 61, § 17.

§68-1213. Tax Commission may furnish names - Certificates of compliance or noncompliance.

The provisions of Section 205 of this title shall not be construed to prevent the Tax Commission from furnishing the names of officers, or registered agents, and it may furnish certificates to show the compliance or noncompliance with the provisions of this article by any particular corporation, association or organization, under such rules as the Tax Commission may adopt, and shall collect a fee of One Dollar (\$1.00) for each certificate so furnished.

Added by Laws 1963, c. 366, § 2, emerg. eff. June 18, 1963. Renumbered from § 12-1213 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1997, c. 294, § 14, eff. July 1, 1997.

§68-1214. Exemption from excise and income taxes - License fee.

Each cooperative and each foreign corporation transacting business in this State pursuant to the Rural Electric Cooperative Act (18 O.S.1961 Sections 437 - 437.30) shall pay annually, on or before the Thirty-first day of August, to the Tax Commission, a fee of One Dollar (\$1.00) for each one hundred persons or fraction thereof to whom electricity is supplied within the state by it, as of June 30th preceding, but shall be exempt from all other excise and income taxes whatsoever.

Laws 1963, c. 366, § 2; Laws 1965, c. 215, § 2.

§68-1215. Short title.

Sections 2 through 16 of this act shall be known and may be cited as the "Oklahoma Business Activity Tax Code".

Added by Laws 2010, S.J.R. No. 61, § 2.

§68-1216. Purpose - Apportionment of monies.

A. It is hereby declared to be the purpose of the Oklahoma Business Activity Tax Code to establish a revenue-neutral mechanism to provide a more fair and simplified taxation of businesses and individuals in this state while maintaining revenue levels for support of general governmental functions of the State of Oklahoma.

B. All monies collected pursuant to the provisions of subsection A of Section 5 of this act shall be apportioned and distributed monthly in the same manner as provided in paragraph 1 of Section 2352 of Title 68 of the Oklahoma Statutes.

C. All monies collected pursuant to the provisions of subsections B and C of Section 5 of this act shall be transmitted monthly to the State Treasurer of the State of Oklahoma to be placed to the credit of the General Revenue Fund of the state, to be paid out only pursuant to direct appropriations of the Legislature.

Added by Laws 2010, S.J.R. No. 61, § 3.

§68-1217. Definitions.

As used in the Oklahoma Business Activity Tax Code:

1. "Business activity" means and includes:

- a. the conducting of an active trade or business if:
 - (1) the activities being carried on by a person include one or more active operations that form a part of the process of attempting to earn income or profit, and
 - (2) the person performs active management and operational functions, and
- b. activities performed by other persons, including independent contractors, to the extent the activities performed are on behalf of the person and constitute all or part of the person's trade or business. A person conducts an active trade or business if assets, including royalties, patents, trademarks, and other intangible assets, held by the person are used in the active trade or business of one or more related businesses. For purposes of this section:
 - (1) the ownership of a royalty interest or a working interest in mineral rights does not constitute conduct of an active trade or business,
 - (2) payment of compensation to employees or independent contractors for financial or legal services reasonably necessary for the operation of the entity does not constitute conduct of an active trade or business, and
 - (3) holding a seat on the board of directors of an entity does not by itself constitute conduct of an active trade or business;

2. "Charter" means a limited liability company's certificate of organization, a limited partnership's certificate of limited partnership, and the registration of a limited liability partnership;

3. "Doing business" means and includes each and every act, power or privilege exercised or enjoyed in this state, as an incident to, or by virtue of the powers and privileges acquired by individual persons or entities;

4. "Entity" means any person other than an individual;

5. "Internal Revenue Code" means the United States Internal Revenue Code, as the same may be amended or adopted from time to time applicable to the taxable year; and other provisions of the laws of the United States relating to federal income taxes, as the same may be or become effective at any time or from time to time applicable to the taxable year;

6. "Net revenue" means "total revenue" less all ordinary trade or business expenses other than interest, income taxes, depreciation and amortization. Deduction items allocated or

apportioned to this state which are attributable to excluded revenues items shall not be deductible in arriving at net revenue;

7. "Person" means any natural person, firm, partnership, joint venture, association, limited liability company, corporation, state banking association, national banking association, credit union organized under the laws of this state, joint-stock company, business trust, estate, trust, and any other group or combination doing business as a unit;

8. "Tax Commission" or "Commission" means the Oklahoma Tax Commission;

9. "Tax year" means the calendar year on the basis of which a person is required to pay the tax levied or imposed under this act; and

10. "Total revenue" means all revenues reportable by a person on the federal income tax return filed by such person or if a federal income tax return is not required to be filed by a person and such nonfiling person is not otherwise exempt from ad valorem taxes on such person's intangible personal property, such nonfiling person's total income revenues received or accrued, without deduction for the cost of property sold, materials used, labor performed, or other costs incurred, unless otherwise specifically provided herein. The following revenues shall be excluded from the definition of "total revenue":

- a. interest, except interest from credit sales,
- b. dividends and distributions received from corporations, and distributive or proportionate shares of total receipts and other income from a pass-through entity as defined under Section 2385.29 of Title 68 of the Oklahoma Statutes;
- c. real estate rentals,
- d. royalty interests or working interests in mineral rights,
- e. net capital gains, as defined in Section 1222(11) of the Internal Revenue Code, included in the federal income tax return of a person, and
- f. compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement.

Added by Laws 2010, S.J.R. No. 61, § 4.

§68-1218. Tax levy - Applicability.

A. For tax years beginning on or after January 1, 2010, there is hereby levied on each person doing business in this state an annual tax in the amount of Twenty-five Dollars (\$25.00).

B. In addition to the tax levied in subsection A of this section, there shall be levied a tax equal to one percent (1%) of the net revenue derived from business activity that is allocated or apportioned to Oklahoma.

C. Notwithstanding the provisions of subsection B of this section for tax years 2010, 2011, 2012, and 2013, corporations and any other persons subject to the franchise tax levied under the provisions of Sections 1203, 1204 or 1205 of this title, the tax due under this section shall be equal to the amount such person paid or was required to pay for the taxable period ending prior to December 31, 2010.

D. Except as provided in subsections A and C of this section, no person shall be required to remit the tax levied pursuant to subsection B of this section for tax years 2010, 2011, 2012, and 2013.

E. The tax hereby levied shall be payable annually as provided in Section 1220 of this title.

F. The tax so levied or imposed pursuant to this section, when paid in full as provided in the Oklahoma Business Activity Tax Code, shall be in lieu of any and all other taxes imposed by the state, counties, cities, towns, townships, school districts, and other municipalities or political subdivisions of the state on intangible personal property of each such person, except for public service corporations, railroads and air carriers.

G. For the tax years beginning on or after January 1, 2011, the tax remitted shall also be in lieu of the ad valorem tax on intangible personal property of each such person, except for public service corporations, railroads and air carriers for the calendar years 2007, 2008, and 2009 in which the person was doing business in the state. No taxpayer shall be entitled to nor be allowed any refund of taxes paid upon intangible personal property prior to August 26, 2011. On and after August 26, 2011, there shall be no changes in the valuation methodology of personal property, and the valuation methodology of personal property for the January 1, 2010, assessment year shall be maintained and preserved.

H. A person is doing business in this state if any one of the paragraphs in this subsection applies. The person:

1. Is domiciled in this state as an individual for business purposes or is domiciled in this state for corporate, commercial or other business purposes;
2. Owns or uses a part or all of its capital in this state;
3. Has at any time during the calendar year property in this state with an aggregate value of at least Fifty Thousand Dollars (\$50,000.00). For the purpose of this subsection, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge;
4. Has during the calendar year payroll in this state of at least Fifty Thousand Dollars (\$50,000.00). Payroll in this state includes all of the following:
 - a. any amount subject to withholding by the person under Section 2385.2 of this title,
 - b. any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state, and
 - c. any amount the person pays for services performed in this state on its behalf by another;
5. Has during the calendar year sales in this state of at least Five Hundred Thousand Dollars (\$500,000.00);
6. Has at any time during the calendar year within this state at least twenty-five percent (25%) of the person's total property, total payroll, or total sales; or
7. Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under the Oklahoma Business Activity Tax Code under the Constitution of the United States.

Added by Laws 2010, S.J.R. No. 61, § 5. Amended by Laws 2012, c. 332, § 1, eff. Nov. 1, 2012.

§68-1219. Tax credit.

For taxable years beginning on or after January 1, 2010 and ending on or before December 31, 2013, there shall be allowed a credit against the tax levied by Section 2355 of this title in the amount of Twenty-five Dollars (\$25.00) of the Oklahoma Business Activity Tax paid; provided, no credit shall be allowed for any amount of tax paid pursuant to subsection C of Section 1218 of this title. The credit may only be taken for the year in which the Business Activity Tax is levied and may only be taken if the Business Activity Tax is timely paid. The credit shall not be refundable and shall not carry forward.

Added by Laws 2010, S.J.R. No. 61, § 6. Amended by Laws 2012, c. 332, § 2, eff. Nov. 1, 2012.

§68-1220. Date tax due and payable.

A. The tax levied by the Oklahoma Business Activity Tax Code shall become due and payable as provided in this section.

B. For individuals, the tax shall be due and payable on the same dates as provided for the filing of individual income tax returns under the provisions of Section 2368 of Title 68 of the Oklahoma Statutes.

C. For all other persons, the tax shall be due and payable on or before the first day of July following the close of the taxable year and if not paid before the next ensuing September 15, the penalties provided in Section 11 of this act shall apply.

D. The Oklahoma Tax Commission is directed to amend its individual income tax returns for tax years beginning on or after January 1, 2010, as necessary to allow individuals to report and pay the Business Activity Tax on the individual income tax return.

E. For tax years beginning on or after January 1, 2013, all payments and reports required under this act shall be paid and filed under the Tax Commission's electronic funds transfer and electronic data interchange program.

Added by Laws 2010, S.J.R. No. 61, § 7.

§68-1221. Required statement - Contents.

A. In addition to any other statement required by law, each and every person subject to the provisions of this act shall file with the Oklahoma Tax Commission a statement under oath of one of its principal officers, partners, members or other responsible party. The statement shall be in such form as the Tax Commission shall prescribe, including but not limited to the following:

1. The amount of total revenue allocated or apportioned to Oklahoma and the deductions provided in this act to arrive at net revenue;

2. Identification of the type of person for which the return is filed;

3. The North American Industry Classification System (NAICS) code for the business activity in which the person is engaged;

4. The location of the person's office or offices;

5. The names of its officers, members, partners or registered agents, if any, and the residence and post office address of each as the same appear of record on the last day of the tax year; and

6. Such further information as the Tax Commission may require to enable it to compute correctly and collect the tax herein levied. In addition to the information required on reports, the Tax Commission may request and the person must furnish any information deemed necessary for a correct computation of the tax levied herein.

B. The provisions of Section 205 of this title shall not be construed to prevent the Tax Commission from furnishing the names of officers, members, partners or registered agents of

any person subject to tax under this act, and it may furnish certificates to show the compliance or noncompliance with the provisions of this act by any person, under such rules as the Tax Commission may adopt, and shall collect a fee of One Dollar (\$1.00) for each certificate so furnished.

C. For tax years 2010, 2011, and 2012, the Tax Commission shall promulgate rules for the furnishing of information as required under this section. The Tax Commission shall make a good faith effort to prescribe a form that will enable persons to comply with this act based on the latest information available in a manner that will be the least burdensome on the person.

Added by Laws 2010, S.J.R. No. 61, § 8.

§68-1222. Discount against tax.

A. On and after January 1, 2014, there shall be allowed a discount against the tax levied in subsection B of Section 1218 of this title as provided herein:

1. For a person for which the net revenue from its business activity is equal to or less than Fifty Thousand Dollars (\$50,000.00), the person is entitled to a discount of one hundred percent (100%) of the tax due from its net revenue;

2. For a person for which the net revenue from its business activity is greater than Fifty Thousand Dollars (\$50,000.00) but is equal to or less than One Hundred Thousand Dollars (\$100,000.00), the person is entitled to a discount of eighty percent (80%) of the tax due from its net revenue;

3. For a person for which the net revenue from its business activity is greater than One Hundred Thousand Dollars (\$100,000.00) but is equal to or less than One Hundred Fifty Thousand Dollars (\$150,000.00), the person is entitled to a discount of sixty percent (60%) of the tax due from its net revenue;

4. For a person for which the net revenue from its business activity is greater than One Hundred Fifty Thousand Dollars (\$150,000.00) but is equal to or less than Two Hundred Thousand Dollars (\$200,000.00), the person is entitled to a discount of forty percent (40%) of the tax due from its net revenue; and

5. For a person for which the net revenue from its business activity is greater than Two Hundred Thousand Dollars (\$200,000.00) but is equal to or less than Two Hundred Fifty Thousand Dollars (\$250,000.00), the person is entitled to a discount of twenty percent (20%) percent of the tax due from its net revenue.

Added by Laws 2010, S.J.R. No. 61, § 9. Amended by Laws 2012, c. 332, § 3, eff. Nov. 1, 2012.

§68-1223. Tax applicability - First year of business.

The Business Activity Tax shall not be levied for the taxable year during which the person begins doing business in this state. However, such person shall file a "no tax" report to comply with such regulations as shall be adopted by the Oklahoma Tax Commission.

Added by Laws 2010, S.J.R. No. 61, § 10.

§68-1224. Penalty for payment delinquency - Forfeiture of right to do business - Procedures.

A. If the report required pursuant to the provisions of Section 8 of this act is not filed and the tax levied pursuant to the provisions of Section 5 of this act is not paid within the time provided under Section 7 of this act, the Oklahoma Tax Commission shall levy and collect a penalty for such delinquency in the amount of ten percent (10%) of the tax due and delinquent. Such penalty shall be collected and apportioned in the same manner as is the tax itself. In such

event, or if a form is not filed, as required in this act by a person, corporation, association or organization, the Tax Commission may enter an order directing the suspension of the charter or other instrument of organization, under which the corporation, association or organization may be organized, and the forfeiture of all corporate or other rights inuring thereunder. However, no such order of the Tax Commission shall be issued nor effective as to any corporation, association or organization the charter or certificate of authority of which is issued by the State Banking Board or State Banking Commissioner rather than the Secretary of State and the Tax Commission shall only notify the registered agents or managing officer of the corporation, association or organization and shall notify the State Banking Board or State Banking Commissioner of the amount of unpaid tax. The Commissioner shall require the payment of such tax, plus interest and penalty, if any, within a reasonable time.

B. Each trustee, director or officer of any such corporation, association or organization, whose right to do business within this state shall be so forfeited, shall, as to any and all debts of such corporation, association or organization, which may be created or incurred with his or her knowledge, approval and consent, within this state after such forfeiture and before the reinstatement of the right of such corporation to do business, be deemed and held liable thereon in the same manner and to the same extent as if such trustees, directors, and officers of such corporation, association or organization were partners. Any corporation, association or organization whose right to do business shall be thus forfeited shall be denied the right to sue or defend in any court of this state, except in a suit to forfeit the charter of such corporation, association or organization. In any suit against such corporation, association or organization on a cause of action arising before such forfeiture, no affirmative relief shall be granted to such corporation, association or organization unless its right to do business in this state shall be reinstated as provided herein. Every contract entered into by or in behalf of such corporation, association or organization, after such forfeiture as provided herein, is hereby declared to be voidable.

C. Notice of such suspension and forfeiture shall be forwarded by certified mail, return receipt requested, to the last-known address of the registered agent or managing officer of each corporation, association or organization, and the Tax Commission may cause notice of such suspension and forfeiture to be published in a newspaper of general circulation in the county in which the general business office of each such corporation, association or organization is located in this state.

D. The Tax Commission, shall immediately upon entering an order suspending and forfeiting any such charter or other instrument of organization, transmit the name of each such corporation, association or organization named therein to the Secretary of State or the county clerk of the county in which the instrument under which it may be organized is filed, and the Secretary of State or county clerk, as the case may be, shall immediately record the same and such record shall constitute notice to the public. The suspension and forfeiture herein provided for shall become effective immediately upon such record being made and the certificate of the Secretary of State or the county clerk shall be prima facie evidence of such suspension and forfeiture.

E. After the issuance of such order of suspension and forfeiture by the Tax Commission, the charter or other instrument of organization may only be revived and reinstated upon the payment of the accrued fees and penalties and a reinstatement fee in the amount of Fifteen Dollars (\$15.00), and a showing by the corporation, association or organization of a full compliance with the laws of this state. Such payment of accrued fees and penalties must be

made prior to the expiration of the time provided in such charter or other instrument of organization for the life of such corporation, association or organization.

F. The Tax Commission may, for the same reasons and using the same procedures as provided in this section for the forfeiture of the corporate privileges of a corporation, forfeit the charter and right of any person to transact business in this state. The provisions of this section that apply to the forfeiture and revival of corporate privileges apply to the forfeiture and revival of the charter and person's right to transact business in this state.

Added by Laws 2010, S.J.R. No. 61, § 11.

§68-1225. Definitions - Consolidated groups - Combined groups.

A. The provisions of this section shall apply to tax years beginning on or after January 1, 2014.

B. As used in this section:

1. "Affiliated group" means a group of one or more entities in which a controlling interest is owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member entities;

2. "Combined group" means entities that are part of an affiliated group engaged in a unitary business and that are required to file a group report under this section;

3. "Consolidated group" means a group of two or more corporations treated as a single person for purposes of the Oklahoma Business Activity Tax Code under the provisions of subsection C of this section;

4. "Controlling interest" means:

- a. for a corporation, either more than fifty percent (50%), owned directly or indirectly, of the total combined voting power of all classes of stock of the corporation, or more than fifty percent (50%), owned directly or indirectly, of the beneficial ownership interest in the voting stock of the corporation,
- b. for a partnership, association, trust, or other entity other than a limited liability company, more than fifty percent (50%), owned directly or indirectly, of the capital, profits, or beneficial interest in the partnership, association, trust, or other entity, and
- c. for a limited liability company, either more than fifty percent (50%), owned directly or indirectly, of the total membership interest of the limited liability company or more than fifty percent (50%), owned directly or indirectly, of the beneficial ownership interest in the membership interest of the limited liability company;

5. "Reporting person" means a person in a consolidated group or combined group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under the Oklahoma Business Activity Tax Code; and

6. "Unitary business" means a single economic enterprise that is made up either of separate parts of a single business entity, of multiple business entities that are related under Section 267 or 1563 of the Internal Revenue Code, or of a commonly controlled group of business entities that are sufficiently interdependent, integrated, and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. Two or more business entities are presumed to be a unitary business if the businesses have unity of ownership, operation, and use as indicated by a centralized management or a centralized executive force;

centralized purchasing, advertising, or accounting; inter-entity sales or leases; inter-entity services, including administrative, employee benefits, human resources, legal, financial, and cash management services; inter-entity debts; inter-entity use of proprietary materials; interlocking directorates; or interlocking inter-entity officers. In no event and under no circumstances shall the preceding sentence be construed as exclusive of any and all other factors indicative of a unitary business. For purposes of this section, the term "unitary business" shall be broadly construed, to the extent permitted by the U.S. Constitution.

Any business conducted by a pass-through entity that is owned directly or indirectly by an entity shall be treated as conducted by the entity, to the extent of the entity's distributive share of the pass-through entity's income, regardless of the percentage of the entity's ownership interest. A business conducted directly or indirectly by one entity is unitary with that portion of a business conducted by another entity through its direct or indirect interest in a pass-through entity if there is a synergy and exchange and flow of value between the two parts of the business and the two entities are members of the same commonly controlled group.

C. 1. If two or more corporations file federal income tax returns on a consolidated basis such corporations shall be required to file consolidated returns for purposes of determining their Oklahoma business activity tax liability.

2. Corporations, or any portion thereof, in such consolidated group which are also included in a combined group as part of a unitary business shall determine the combined group's total revenue and net revenue which shall be separately stated as an entity in the consolidated group's returns for purposes of determining their Oklahoma business activity tax liability.

3. Corporations, or any portion thereof, in such consolidated group which are not included in a combined group shall determine such corporation's total revenue and net revenue on a component member by component member basis in accordance with the provisions of the Oklahoma Business Activity Tax Code.

4. The net revenue for business done in this state to determine the Oklahoma business activity tax liability for the consolidated group shall be the sum of each of the component member's and combined group's net revenue or net loss, if any, properly apportioned to this state.

D. 1. Except for entities that are a member of a consolidated group under subsection C of this section, all entities that are part of an affiliated group engaged in a unitary business shall file a combined group report in lieu of individual reports based on the combined group's business. The combined group may not include an entity that conducts business outside the United States if eighty percent (80%) or more of the entity's property and payroll, as determined by factors under Section 2358 of this title, are assigned to locations outside the United States. The combined group may not include an entity that conducts business outside the United States and has no property or payroll if eighty percent (80%) or more of the entity's total revenue is assigned to locations outside the United States.

2. The combined group is a single entity for purposes of the application of the tax levied under the Oklahoma Business Activity Tax Code.

3. For purposes of the Oklahoma Business Activity Tax Code, a combined group shall determine its total revenue by:

- a. determining the total revenue of each of its members as if the member were a separate entity;
- b. adding the total revenues of the members determined under subparagraph a of this paragraph together; and

- c. subtracting, to the extent included under subparagraph a of this paragraph, items of total revenue received from another member of the combined group.

4. For purposes of the Oklahoma Business Activity Tax Code, a combined group shall determine its deduction for ordinary trade or business expenses to arrive at net revenue by:

- a. determining the ordinary trade or business expenses other than interest, taxes, depreciation and amortization for each of its members as if the member were a separate entity;
- b. adding the amounts of ordinary trade or business expenses determined under subparagraph a of this paragraph together; and
- c. subtracting from the amount determined under subparagraph b of this paragraph any ordinary trade or business expenses paid from one member of the combined group to another member of the combined group, but only to the extent the corresponding item of total revenue was subtracted under subparagraph c of paragraph 3 of this subsection.

5. Each entity that is part of a combined group report shall, for purposes of determining net revenue and apportionment, include its activities for the same period used by the combined group.

6. The members of a combined group shall be jointly and severally liable for the tax of the combined group. The members of a combined group shall be jointly and severally liable for the interest, penalties, and costs associated with the combined report.

Added by Laws 2010, S.J.R. No. 61, § 12. Amended by Laws 2012, c. 332, § 4, eff. Nov. 1, 2012.

§68-1226. Net revenue apportionment factors.

In determining the manner that a person's net revenue is apportioned to this state for purposes of the amount of tax levied under Section 5 of this act, three factors shall be determined by utilizing the total revenue as defined in this act as one factor and the property factor and payroll factor as determined in accordance with the procedures provided in Section 2358 of Title 68 of the Oklahoma Statutes. The numerator of the fraction for the total revenue factor is the entity's total revenue from business activities done in this state, as determined under this act, and the denominator of which is the entity's total revenue from its entire business activities done both in this state and outside this state, as determined under this act. A person's net revenue is apportioned to this state by multiplying the person's net revenue from the entire business done in all locations by the sum of eighty percent (80%) of the total revenue factor and ten percent (10%) of each of the property factor and the payroll factor.

Added by Laws 2010, S.J.R. No. 61, § 13.

§68-1227. Assessment of Business Activity Tax.

A. The period of time prescribed in Section 223 of Title 68 of the Oklahoma Statutes, in which the procedures for the assessment of the Business Activity Tax may be commenced by the Oklahoma Tax Commission, shall be tolled and extended until the amount of taxable income for any year of a person under the Internal Revenue Code has been finally determined under applicable federal law and for the additional period of time hereinafter provided in this subsection.

B. If, in such final determination, the amount of taxable income for any year of a person under the Internal Revenue Code is changed or corrected from the amounts included in the federal return of the person for such year and such change or correction affects the Oklahoma net revenue of the person for such year, the person, within one (1) year after such final determination of the corrected taxable income, shall file an amended return under this act reporting the corrected Oklahoma net revenue, and the Tax Commission shall make assessment or refund within two (2) years from the date the return required by this paragraph is filed and not thereafter, unless a waiver is agreed to and signed by the Tax Commission and the person.

C. In the event of failure by a person to comply with the provisions of subsection B of this section, the statute of limitations shall be tolled for a period of time equal to the time between the date the amended return under this section is required until such return is actually furnished.

D. In administering the provisions of this section, the Tax Commission shall have the authority to audit each and every item of revenue, deduction, credit or any other matter related to the return where such items or matters relate to allocation or apportionment between the State of Oklahoma and some other state or the federal government even if such items or matters were not affected by revisions made in such final determination. Where such items or matters do not relate to allocation or apportionment between the State of Oklahoma and some other state or the federal government, the Tax Commission shall be bound by the revisions made in such final determination.

Added by Laws 2010, S.J.R. No. 61, § 14.

§68-1228. Expiration of Business Activity Tax.

Upon the certification by the State Election Board of the approval by the people of this state of the provisions of Enrolled Senate Joint Resolution No. 52 of the 2nd Session of the 53rd Oklahoma Legislature, the Oklahoma Business Activity Tax Code shall expire and cease to have the force and effect of law for tax years beginning after December 31, 2012.

Added by Laws 2010, S.J.R. No. 61, § 16. Amended by Laws 2012, c. 332, § 5, eff. Nov. 1, 2012.

§68-1350. Citation.

This article shall be known as and may be cited as the “Oklahoma Sales Tax Code”.
Laws 1981, c. 313, § 2 emerg. eff. June 29, 1981.

§68-1351. Intent.

It is hereby declared that the intent of the Legislature is that this Code shall be construed as amending, revising and renumbering the present statutes relating to sales tax in respect to matters herein. It is further hereby declared that the intent of the Legislature is that the excise tax levy re-enacted herein and all other provisions of this Code shall be construed as imposing a tax upon the sale of tangible personal property and services, not otherwise exempted, to the consumer.
Laws 1981, c. 313, § 2, emerg. eff. June 29, 1981.

§68-1352. Definitions.

As used in the Oklahoma Sales Tax Code:

1. “Bundled transaction” means the retail sale of two or more products, except real property and services to real property, where the products are otherwise distinct and identifiable, and the products are sold for one nonitemized price. A “bundled transaction” does not include

the sale of any products in which the sales price varies, or is negotiable, based on the selection by the purchaser of the products included in the transaction. As used in this paragraph:

- a. “distinct and identifiable products” does not include:
 - (1) packaging such as containers, boxes, sacks, bags, and bottles, or other materials such as wrapping, labels, tags, and instruction guides, that accompany the retail sale of the products and are incidental or immaterial to the retail sale thereof, including but not limited to, grocery sacks, shoeboxes, dry cleaning garment bags and express delivery envelopes and boxes,
 - (2) a product provided free of charge with the required purchase of another product. A product is provided free of charge if the sales price of the product purchased does not vary depending on the inclusion of the product provided free of charge, or
 - (3) items included in the definition of gross receipts or sales price, pursuant to this section,
- b. “one nonitemized price” does not include a price that is separately identified by product on binding sales or other supporting sales-related documentation made available to the customer in paper or electronic form including, but not limited to an invoice, bill of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and services, rate card, or price list,

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

- (1) the retail sale of tangible personal property and a service where the tangible personal property is essential to the use of the service, and is provided exclusively in connection with the service, and the true object of the transaction is the service,
- (2) the retail sale of services where one service is provided that is essential to the use or receipt of a second service and the first service is provided exclusively in connection with the second service and the true object of the transaction is the second service, or
- (3) a transaction that includes taxable products and nontaxable products and the purchase price or sales price of the taxable products is de minimis. For purposes of this subdivision, “de minimis” means the seller’s purchase price or sales price of taxable products is ten percent (10%) or less of the total purchase price or sales price of the bundled products. Sellers shall use either the purchase price or the sales price of the products to determine if the taxable products are de minimis. Sellers may not use a combination of the purchase price and sales price of the products to determine if the taxable products are de minimis. Sellers shall use the full term of a service contract to determine if the taxable products are de minimis, or
- (4) the retail sale of exempt tangible personal property and taxable tangible personal property where:
 - (a) the transaction includes food and food ingredients, drugs, durable medical equipment, mobility enhancing equipment,

over-the-counter drugs, prosthetic devices or medical supplies, and

- (b) the seller's purchase price or sales price of the taxable tangible personal property is fifty percent (50%) or less of the total purchase price or sales price of the bundled tangible personal property. Sellers may not use a combination of the purchase price and sales price of the tangible personal property when making the fifty percent (50%) determination for a transaction;

2. "Business" means any activity engaged in or caused to be engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect;

3. "Commission" or "Tax Commission" means the Oklahoma Tax Commission;

4. "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;

5. "Computer software" means a set of coded instructions designed to cause a "computer" or automatic data processing equipment to perform a task;

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

7. "Contractor" means any person who performs any improvement upon real property and who, as a necessary and incidental part of performing such improvement, incorporates tangible personal property belonging to or purchased by the person into the real property being improved;

8. "Drug" means a compound, substance or preparation, and any component of a compound, substance or preparation:

- a. recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them,
- b. intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease, or
- c. intended to affect the structure or any function of the body;

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

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

11. "Fair authority" means:

- a. any county, municipality, school district, public trust or any other political subdivision of this state, or
- b. any not-for-profit corporation acting pursuant to an agency, operating or management agreement which has been approved or authorized by the governing body of any of the entities specified in subparagraph a of this

paragraph which conduct, operate or produce a fair commonly understood to be a county, district or state fair;

12. a. "Gross receipts", "gross proceeds" or "sales price" means the total amount of consideration, including cash, credit, property and services, for which personal property or services are sold, leased or rented, valued in money, whether received in money or otherwise, without any deduction for the following:
 - (1) the seller's cost of the property sold,
 - (2) the cost of materials used, labor or service cost,
 - (3) interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller,
 - (4) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges,
 - (5) delivery charges and installation charges, unless separately stated on the invoice, billing or similar document given to the purchaser, and
 - (6) credit for any trade-in.
- b. Such term shall not include:
 - (1) discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale,
 - (2) interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser, and
 - (3) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser,
- c. Such term shall include consideration received by the seller from third parties if:
 - (1) the seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale,
 - (2) the seller has an obligation to pass the price reduction or discount through to the purchaser,
 - (3) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser, and
 - (4) one of the following criteria is met:
 - (a) the purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented,
 - (b) the purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price

- reduction or discount; provided, a “preferred customer” card that is available to any patron does not constitute membership in such a group, or
- (c) the price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser;

13. “Maintaining a place of business in this state” means and includes having or maintaining in this state, directly or by subsidiary, an office, distribution house, sales house, warehouse, or other physical place of business, or having agents operating in this state, whether the place of business or agent is within this state temporarily or permanently or whether the person or subsidiary is authorized to do business within this state;

14. “Manufacturing” means and includes the activity of converting or conditioning tangible personal property by changing the form, composition, or quality of character of some existing material or materials, including natural resources, by procedures commonly regarded by the average person as manufacturing, compounding, processing or assembling, into a material or materials with a different form or use. “Manufacturing” does not include extractive industrial activities such as mining, quarrying, logging, and drilling for oil, gas and water, nor oil and gas field processes, such as natural pressure reduction, mechanical separation, heating, cooling, dehydration and compression;

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

16. “Manufacturing site” means a location where a manufacturing operation is conducted, including a location consisting of one or more buildings or structures in an area owned, leased, or controlled by a manufacturer;

17. “Over-the-counter drug” means a drug that contains a label that identifies the product as a drug as required by 21 C.F.R., Section 201.66. The over-the-counter-drug label includes:

- a. a “Drug Facts” panel, or
- b. a statement of the “active ingredient(s)” with a list of those ingredients contained in the compound, substance or preparation;

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

19. “Prescription” means an order, formula or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed “practitioner” as defined in Section 1357.6 of this title;

20. “Prewritten computer software” means “computer software”, including prewritten upgrades, which is not designed and developed by the author or other creator to the

specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software;

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

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

- a. the exchange, barter, lease, or rental of tangible personal property resulting in the transfer of the title to or possession of the property,
- b. the disposition for consumption or use in any business or by any person of all goods, wares, merchandise, or property which has been purchased for resale, manufacturing, or further processing,
- c. the sale, gift, exchange, or other disposition of admission, dues, or fees to clubs, places of amusement, or recreational or athletic events or for the privilege of having access to or the use of amusement, recreational, athletic or entertainment facilities,
- d. the furnishing or rendering of services taxable under the Oklahoma Sales Tax Code, and
- e. any use of motor fuel or diesel fuel by a supplier, as defined in Section 500.3 of this title, upon which sales tax has not previously been paid, for purposes other than to propel motor vehicles over the public highways of this state. Motor fuel or diesel fuel purchased outside the state and used for purposes other than to propel motor vehicles over the public highways of this state shall not constitute a sale within the meaning of this paragraph;

23. "Sale for resale" means:

- a. a sale of tangible personal property to any purchaser who is purchasing tangible personal property for the purpose of reselling it within the geographical limits of the United States of America or its territories or possessions, in the normal course of business either in the form or condition in which it is purchased or as an attachment to or integral part of other tangible personal property,

- b. a sale of tangible personal property to a purchaser for the sole purpose of the renting or leasing, within the geographical limits of the United States of America or its territories or possessions, of the tangible personal property to another person by the purchaser, but not if incidental to the renting or leasing of real estate,
- c. a sale of tangible goods and products within this state if, simultaneously with the sale, the vendor issues an export bill of lading, or other documentation that the point of delivery of such goods for use and consumption is in a foreign country and not within the territorial confines of the United States. If the vendor is not in the business of shipping the tangible goods and products that are purchased from the vendor, the buyer or purchaser of the tangible goods and products is responsible for providing an export bill of lading or other documentation to the vendor from whom the tangible goods and products were purchased showing that the point of delivery of such goods for use and consumption is a foreign country and not within the territorial confines of the United States, or
- d. a sales of any carrier access services, right of access services, telecommunications services to be resold, or telecommunications used in the subsequent provision of, use as a component part of, or integrated into, end-to-end telecommunications service;

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

25. "Taxpayer" means any person liable to pay a tax imposed by the Oklahoma Sales Tax Code;

26. "Tax period" or "taxable period" means the calendar period or the taxpayer's fiscal period for which a taxpayer has obtained a permit from the Tax Commission to use a fiscal period in lieu of a calendar period;

27. "Tax remitter" means any person required to collect, report, or remit the tax imposed by the Oklahoma Sales Tax Code. A tax remitter who fails, for any reason, to collect, report, or remit the tax shall be considered a taxpayer for purposes of assessment, collection, and enforcement of the tax imposed by the Oklahoma Sales Tax Code; and

28. "Vendor" means:

- a. any person making sales of tangible personal property or services in this state, the gross receipts or gross proceeds from which are taxed by the Oklahoma Sales Tax Code,
- b. any person maintaining a place of business in this state and making sales of tangible personal property or services, whether at the place of business or elsewhere, to persons within this state, the gross receipts or gross proceeds from which are taxed by the Oklahoma Sales Tax Code,
- c. any person who solicits business by employees, independent contractors, agents, or other representatives or by distribution of catalogs or other advertising matter, and thereby makes sales to persons within this state of tangible personal property or services, the gross receipts or gross proceeds from which are taxed by the Oklahoma Sales Tax Code, or

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

Added by Laws 1981, c. 313, § 2, emerg. eff. June 29, 1981. Amended by Laws 1983, c. 8, § 1, eff. Jan. 1, 1984; Laws 1985, c. 161, § 1, eff. July 1, 1985; Laws 1987, c. 213, § 1, operative July 1, 1987; Laws 1988, c. 52, § 1, emerg. eff. March 23, 1988; Laws 1989, c. 167, § 3, eff. July 1, 1989; Laws 1991, c. 342, § 13, emerg. eff. June 15, 1991; Laws 1992, c. 172, § 1, emerg. eff. May 5, 1992; Laws 1993, c. 366, § 39, eff. Sept. 1, 1993; Laws 1994, c. 2, § 22, emerg. eff. March 2, 1994; Laws 1998, c. 301, § 3, eff. Nov. 1, 1998; Laws 2001, c. 153, § 6; Laws 2003, c. 125, § 1; Laws 2003, c. 413, § 1, eff. Nov. 1, 2003; Laws 2004, c. 5, § 64, emerg. eff. March 1, 2004; Laws 2007, c. 155, § 4, eff. Nov. 1, 2007; Laws 2007, c. 353, § 4, eff. Nov. 1, 2007. NOTE: Laws 1987, c. 203, § 143 repealed by Laws 1988, c. 52, § 2, emerg. eff. March 23, 1988. Laws 1993, c. 146, § 20 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994. Laws 2003, c. 472, § 13 repealed by Laws 2004, c. 5, § 65, emerg. eff. March 1, 2004.

§68-1352.1. “Farm”, “farming”, “farming operation”, “agricultural production” and “production of agricultural products” defined.

As used in the Oklahoma Sales Tax Code, the terms “farm”, “farming”, “farming operation”, “agricultural production” and “production of agricultural products” shall be deemed to include the planting, growing, cultivation and harvesting of shrubs, flowers, trees and other plants for sale in the wholesale division of a nursery operation and the planting, growing, cultivation and harvesting of sod by commercial growers of sod.

Added by Laws 1989, c. 24, § 3, emerg. eff. March 30, 1989. Amended by Laws 1994, c. 289, § 5, emerg. eff. June 6, 1994.

§68-1353. Purpose of article - Apportionment of revenues.

A. It is hereby declared to be the purpose of the Oklahoma Sales Tax Code to provide funds for the financing of the program provided for by the Oklahoma Social Security Act and to provide revenues for the support of the functions of the state government of Oklahoma, and for this purpose it is hereby expressly provided that, revenues derived pursuant to the provisions of the Oklahoma Sales Tax Code, subject to the apportionment requirements for the Oklahoma Tax Commission and Office of Management and Enterprise Services Joint Computer Enhancement Fund provided by Section 265 of this title, shall be apportioned as follows:

- 1. a. the following amounts shall be paid to the State Treasurer to be placed to the credit of the General Revenue Fund to be paid out pursuant to direct appropriation by the Legislature:

| Fiscal Year | Amount |
|---|--------|
| FY 2003 and FY 2004 | 86.04% |
| FY 2005 | 85.83% |
| FY 2006 | 85.54% |
| FY 2007 | 85.04% |
| FY 2008 and each fiscal year thereafter | 83.61% |

- b. in the event that additional monies are necessary pursuant to paragraph 6 of this subsection, such additional monies shall be deducted in the proportion determined by the State Board of Equalization pursuant to paragraph 3 of Section 2355.1B of this title from the monies apportioned to the General Revenue Fund;

2. For FY 2003, FY 2004 and FY 2005, ten and forty-two one-hundredths percent (10.42%), shall be paid to the State Treasurer to be placed to the credit of the Education Reform Revolving Fund of the State Department of Education and for FY 2006 and each fiscal year thereafter, ten and forty-six one-hundredths percent (10.46%) shall be paid to the State Treasurer to be placed to the credit of the Education Reform Revolving Fund of the State Department of Education;

3. The following amounts shall be paid to the State Treasurer to be placed to the credit of the Teachers' Retirement System Dedicated Revenue Revolving Fund:

| Fiscal Year | Amount |
|---|--------|
| FY 2003 and FY 2004 | 3.54% |
| FY 2005 | 3.75% |
| FY 2006 | 4.0% |
| FY 2007 | 4.5% |
| FY 2008 and each fiscal year thereafter | 5.0% |

4. For the fiscal year beginning July 1, 2010, and for each fiscal year thereafter, eighty-seven one-hundredths percent (0.87%) shall be paid to the State Treasurer to be further apportioned as follows:

- a. thirty-six percent (36%) shall be placed to the credit of the Oklahoma Tourism Promotion Revolving Fund, and
- b. sixty-four percent (64%) shall be placed to the credit of the Oklahoma Tourism Capital Improvement Revolving Fund; and

5. For the fiscal year beginning July 1, 2010, and for each fiscal year thereafter, six one-hundredths percent (0.06%) shall be placed to the credit of the Oklahoma Historical Society Capital Improvement and Operations Revolving Fund.

6. During the first fiscal year after the State Board of Equalization has made a determination as provided in Section 2355.1B of this title, regarding a baseline amount of revenue apportioned pursuant to paragraph 3 of this subsection, and for each fiscal year thereafter, in no event shall monies apportioned pursuant to paragraph 3 of this subsection, paragraph 3 of Section 1403 of this title and subparagraph c of paragraph 1 of Section 2352 of this title be less than such baseline amount.

B. Provided, for the fiscal year beginning July 1, 2007, and every fiscal year thereafter, an amount of revenue shall be apportioned to each municipality or county which levies a sales tax subject to the provisions of Section 1357.10 of this title and subsection F of Section 2701 of this title equal to the amount of sales tax revenue of such municipality or county exempted by the provisions of Section 1357.10 of this title and subsection F of Section 2701 of this title. The Oklahoma Tax Commission shall promulgate and adopt rules necessary to implement the provisions of this subsection.

Added by Laws 1981, c. 313, § 2, emerg. eff. June 29, 1981. Amended by Laws 1982, c. 244, § 1; Laws 1983, c. 183, § 3, emerg. eff. June 9, 1983; Laws 1984, c. 2, § 1, emerg. eff. Feb. 15, 1984; Laws 1985, c. 179, § 85, operative July 1, 1985; Laws 1987, c. 5, § 142, operative March

31, 1987; Laws 1996, c. 269, § 3, eff. June 1, 1996; Laws 1999, c. 254, § 8, eff. June 30, 1999; Laws 2002, c. 482, § 1, eff. July 1, 2002; Laws 2003, c. 3, § 58, emerg. eff. March 19, 2003; Laws 2005, c. 479, § 11, eff. July 1, 2005; Laws 2006, 2nd Ex. Sess., c. 44, § 17, eff. July 1, 2007; Laws 2007, c. 105, § 3, eff. Nov. 1, 2007; Laws 2007, c. 366, § 3, eff. Nov. 1, 2007; Laws 2008, c. 3, § 34, emerg. eff. Feb. 28, 2008; Laws 2008, c. 278, § 8, eff. July 1, 2008; Laws 2010, c. 466, § 1, eff. July 1, 2010; Laws 2012, c. 304, § 540.

NOTE: Laws 2002, c. 458, § 6 repealed by Laws 2003, c. 3, § 59, emerg. eff. March 19, 2003. Laws 2007, c. 136, § 2 repealed by Laws 2008, c. 3, § 35, emerg. eff. Feb. 28, 2008.

§68-1354. Tax levy - Rate - Sales subject to tax.

A. There is hereby levied upon all sales, not otherwise exempted in the Oklahoma Sales Tax Code, an excise tax of four and one-half percent (4.5%) of the gross receipts or gross proceeds of each sale of the following:

1. Tangible personal property, except newspapers and periodicals;
2. Natural or artificial gas, electricity, ice, steam, or any other utility or public service, except water, sewage and refuse. Provided, the rate of four and one-half percent (4.5%) shall not apply to sales subject to the provisions of paragraph 6 of Section 1357 of this title;
3. Transportation for hire to persons by common carriers, including railroads both steam and electric, motor transportation companies, pullman car companies, airlines, and other means of transportation for hire, excluding:

- a. transportation services provided by a tourism service broker which are incidental to the rendition of tourism brokerage services by such broker to a customer regardless of whether or not such transportation services are actually owned and operated by the tourism service broker. For purposes of this subsection, "tourism service broker" means any person, firm, association or corporation or any employee of such person, firm, association or corporation which, for a fee, commission or other valuable consideration, arranges or offers to arrange trips, tours or other vacation or recreational travel plans for a customer, and
- b. transportation services provided by a funeral establishment to family members and other persons for purposes of conducting a funeral in this state;

4. Intrastate, interstate and international telecommunications services sourced to this state in accordance with Section 1354.30 of this title and ancillary services. Provided:

- a. the term "telecommunications services" shall mean 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. The term "telecommunications services" includes such 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 without regard to whether such service is referred to as voice-over Internet protocol services or is classified by the Federal Communications Commission as enhanced or value added.

"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 such purchaser's primary purpose for the underlying transaction is the processed data or information,
- (2) 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) Internet access services,
 - (7) 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, or
 - (9) digital products delivered electronically, including but not limited to, software, music, video, reading materials or ring tones,
- b. the term "interstate" means a "telecommunications service" that originates in one United States state, or a United States territory or possession, and terminates in a different United States state or a United States territory or possession,
 - c. the term "intrastate" means a telecommunications service that originates in one United States state or a United States territory or possession, and terminates in the same United States state or a United States territory or possession,
 - d. the term "ancillary services" means services that are associated with or incidental to the provision of telecommunications services, including but not limited to "detailed telecommunications billing", "directory assistance", "vertical service", and "voice mail services",
 - e. in the case of a bundled transaction that includes telecommunication service, ancillary service, internet access or audio or video programming service:
 - (1) if the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable products may be subject to tax unless the provider can identify by reasonable and verifiable standards such portion for its books and records kept in the regular course of business for other purposes, including, but not limited to, nontax purposes, and
 - (2) the provisions of this paragraph shall apply unless otherwise provided by federal law, and
 - f. a sale of prepaid calling service or prepaid wireless calling service shall be taxable at the time of sale to the customer;

5. Telecommunications nonrecurring charges, which means an amount billed for the installation, connection, change or initiation of telecommunications services received by a customer;

6. Printing or printed matter of all types, kinds, or character and, except for services of printing, copying or photocopying performed by a privately owned scientific and educational library sustained by monthly or annual dues paid by members sharing the use of such services with students interested in the study of geology, petroleum engineering or related subjects, any service of printing or overprinting, including the copying of information by mimeograph, multigraph, or by otherwise duplicating written or printed matter in any manner, or the production of microfiche containing information from magnetic tapes or other media furnished by customers;

7. Service of furnishing rooms by hotel, apartment hotel, public rooming house, motel, public lodging house, or tourist camp;

8. Service of furnishing storage or parking privileges by auto hotels or parking lots;

9. Computer hardware, software, coding sheets, cards, magnetic tapes or other media on which prewritten programs have been coded, punched, or otherwise recorded, including the gross receipts from the licensing of software programs;

10. Foods, confections, and all drinks sold or dispensed by hotels, restaurants, or other dispensers, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere;

11. Advertising of all kinds, types, and characters, including any and all devices used for advertising purposes except those specifically exempt pursuant to the provisions of Section 1357 of this title;

12. Dues or fees to clubs including free or complimentary dues or fees which have a value equivalent to the charge that would have otherwise been made, including any fees paid for the use of facilities or services rendered at a health spa or club or any similar facility or business;

13. Tickets for admission to or voluntary contributions made to places of amusement, sports, entertainment, exhibition, display, or other recreational events or activities, including free or complimentary admissions which have a value equivalent to the charge that would have otherwise been made;

14. Charges made for the privilege of entering or engaging in any kind of activity, such as tennis, racquetball, or handball, when spectators are charged no admission fee;

15. Charges made for the privilege of using items for amusement, sports, entertainment, or recreational activity, such as trampolines or golf carts;

16. The rental of equipment for amusement, sports, entertainment, or other recreational activities, such as bowling shoes, skates, golf carts, or other sports or athletic equipment;

17. The gross receipts from sales from any vending machine without any deduction for rental to locate the vending machine on the premises of a person who is not the owner or any other deductions therefrom;

18. The gross receipts or gross proceeds from the rental or lease of tangible personal property, including rental or lease of personal property when the rental or lease agreement requires the vendor to launder, clean, repair, or otherwise service the rented or leased property on a regular basis, without any deduction for the cost of the service rendered. If the rental or lease charge is based on the retail value of the property at the time of making the rental or lease agreement and the expected life of the property, and the rental or lease charge is separately stated

from the service cost in the statement, bill, or invoice delivered to the consumer, the cost of services rendered shall be deducted from the gross receipts or gross proceeds;

19. Flowers, plants, shrubs, trees, and other floral items, whether or not produced by the vendor, sold by persons engaged in florist or nursery business in this state, including all orders taken by an Oklahoma business for delivery in another state. All orders taken outside this state for delivery within this state shall not be subject to the taxes levied in this section;

20. Tangible personal property sold to persons, peddlers, solicitors, or other salesmen, for resale when there is likelihood that this state will lose tax revenue due to the difficulty of enforcing the provisions of the Oklahoma Sales Tax Code because of:

- a. the operation of the business,
- b. the nature of the business,
- c. the turnover of independent contractors,
- d. the lack of place of business in which to display a permit or keep records,
- e. lack of adequate records,
- f. the fact that the persons are minors or transients,
- g. the fact that the persons are engaged in service businesses, or
- h. any other reasonable reason;

21. Any taxable services and tangible personal property including materials, supplies, and equipment sold to contractors for the purpose of developing and improving real estate even though said real estate is intended for resale as real property, hereby declared to be sales to consumers or users, however, taxable materials, supplies and equipment sold to contractors as provided by this subsection which are purchased as a result of and subsequent to the date of a contract entered into either prior to the effective date of any law increasing the rate of sales tax imposed by this article, or entered into prior to the effective date of an ordinance or other measure increasing the sales tax levy of a political subdivision shall be subject to the rate of sales tax applicable, as of the date such contract was entered into, to sales of such materials, supplies and equipment if such purchases are required in order to complete the contract. Such rate shall be applicable to purchases made pursuant to the contract or any change order under the contract until the contract or any change order has been completed, accepted and the contractor has been discharged from any further obligation under the contract or change order or until two (2) years from the date on which the contract was entered into whichever occurs first. The increased sales tax rate shall be applicable to all such purchases at the time of sale and the contractor shall file a claim for refund before the expiration of three (3) years after the date of contract completion or five (5) years after the contract was entered into, whichever occurs earlier. However, the Oklahoma Tax Commission shall prescribe rules and regulations and shall provide procedures for the refund to a contractor of sales taxes collected on purchases eligible for the lower sales tax rate authorized by this subsection;

22. Any taxable services and tangible personal property sold to persons who are primarily engaged in selling their services, such as repairmen, hereby declared to be sales to consumers or users; and

23. Canoes and paddleboats as defined in Section 4002 of Title 63 of the Oklahoma Statutes.

B. All solicitations or advertisements in print or electronic media by Group Three vendors, for the sale of tangible property to be delivered within this state, shall contain a notice that the sale is subject to Oklahoma sales tax, unless the sale is exempt from such taxation.

Added by Laws 1981, c. 313, § 2, emerg. eff. June 29, 1981. Amended by Laws 1984, c. 2, § 2, emerg. eff. Feb. 15, 1984; Laws 1985, c. 179, § 86, operative July 1, 1985; Laws 1985, c. 356, § 13, emerg. eff. July 30, 1985; Laws 1987, c. 113, § 16, operative June 1, 1987; Laws 1988, c. 142, § 1, emerg. eff. April 25, 1988; Laws 1988, c. 192, § 1, operative July 1, 1988; Laws 1989, 1st Ex. Sess., c. 2, § 101, operative Feb. 1, 1990; Laws 1990, c. 280, § 1, emerg. eff. May 25, 1990; Laws 1991, c. 342, § 14, emerg. eff. June 15, 1991; Laws 1992, c. 175, § 1, emerg. eff. May 6, 1992; Laws 1992, c. 383, § 1, emerg. eff. June 9, 1992; Laws 1994, c. 278, § 13, eff. Sept. 1, 1994; Laws 1997, c. 252, § 1, emerg. eff. May 23, 1997; Laws 1998, c. 301, § 4, eff. Nov. 1, 1998; Laws 1999, c. 390, § 7, emerg. eff. June 8, 1999; Laws 2001, c. 153, § 7; Laws 2003, c. 413, § 2, eff. Nov. 1, 2003; Laws 2004, c. 535, § 4, eff. Nov. 1, 2004; Laws 2005, c. 1, § 104, emerg. eff. March 15, 2005; Laws 2005, c. 479, § 12, eff. July 1, 2005; Laws 2007, c. 155, § 5, eff. Nov. 1, 2007; Laws 2012, c. 323, § 2, eff. July 1, 2013.
NOTE: Laws 2004, c. 362, § 1 repealed by Laws 2005, c. 1, § 105, emerg. eff. March 15, 2005.

§68-1354.1. Intent of Legislature - Sales tax.

It is hereby declared to be the intent of the Oklahoma Legislature that this act constitutes an amendment to the levy in the Oklahoma Sales Tax Code, Sections 1350 et seq. of Title 68 of the Oklahoma Statutes; that this act does not impose a tax in addition to the tax levied in Section 1354 of Title 68 of the Oklahoma Statutes; and, that this act constitutes a reenactment for the purpose of clarification of the sales tax levy.

It is the intent of the Oklahoma Legislature to specifically include within the sales and use tax levies by this state all sales of tangible personal property and all storage, use or other consumption of tangible personal property occurring within this state through the continuous, regular or systematic solicitation in the Oklahoma consumer market by out-of-state vendors by advertisement in the newspapers or radio or television media operating within Oklahoma.

It is the intent of the Oklahoma Legislature to specifically include within the sales and use tax levies by this state all sales of tangible personal property and all storage, use or other consumption of tangible personal property occurring within this state through the continuous, regular or systematic solicitation in the Oklahoma consumer market by out-of-state vendors through mail order and catalog publications.

The Oklahoma Legislature finds that out-of-state vendors regularly, continuously and systematically engage in retail sales business in the Oklahoma marketplace by display of products in the homes and businesses of Oklahoma consumers through advertisement. These retail sales are made to Oklahoma consumers who reside in Oklahoma, who are employed in Oklahoma, and, who enjoy the services provided by Oklahoma. The consumers of these retail sales are escaping the sales and use tax burdens because the out-of-state vendor does not have an established place of business in this state, nor an agent solicitor in this state.

The absence of a place of business or agent in this state does not diminish the protections afforded the taxpayer consumer by this state. The consumers of these retail sales escape the sales and use tax burdens paid by other Oklahoma consumers who buy from local businesses. The incidence of the sales or use tax in the purchase or use by the Oklahoma consumer user, even though the burdens of recordkeeping, reporting, collecting and remitting Oklahoma's sales or use tax are upon the out-of-state vendor. The vendor is compensated for this burden by the discount allowed under the applicable tax laws of this state.

Added by Laws 1986, c. 41, § 1, operative July 1, 1986.

§68-1354.2. Out-of-state vendors - Tax on sales within state.

(A) There is hereby levied upon all sales, not otherwise exempted in the Oklahoma Sales Tax Code, an excise tax of four and one-half percent (4.5%) of the gross receipts or gross proceeds of each sale of tangible personal property to the consumer-user in this state by an out-of-state vendor who engages in business in this state through the continuous, regular or systematic solicitation of retail sales by advertisement in the newspapers or radio or television media operating within Oklahoma. The tax shall be collected, reported, and remitted or paid in accordance with the Oklahoma Sales Tax Code.

(B) For purposes of administration of the sales tax laws, a sale occurs within this state if delivery or transfer of possession of the tangible personal property occurs within this state.

(C) Any advertisement soliciting sales to the Oklahoma consumer, subject to this section, to be published or broadcasted by newspapers or radio or television media operating in this state, shall contain a notice that the sale is subject to Oklahoma sales or use tax and shall include the sales tax permit number issued the advertising vendor by the Oklahoma Tax Commission. It shall be the duty of the vendor to provide such notice in advertisements referred to herein. No penalty as a result of this act shall lie against any newspaper, broadcaster or other Oklahoma advertising media.

(D) Any out-of-state vendor required to collect, report and remit or pay sales or use tax in accordance with this act shall be entitled to the discount allowed other vendors pursuant to the Oklahoma Sales Tax Code.

(E) Any out-of-state vendor doing business in this state subject to this act shall be subject to all the civil and criminal penalties and liabilities imposed by the Oklahoma Sales Tax Code on vendors within the state.

(F) All sales or use tax revenues collected pursuant to this act shall be apportioned in the same manner as other sales or use tax revenues.

Added by Laws 1986, c. 41, § 2, operative July 1, 1986. Amended by Laws 1987, c. 113, § 17, operative June 1, 1987; Laws 1989, 1st Ex.Sess., c. 2, § 102, operative Feb. 1, 1990.

§68-1354.3. Mail order or catalog out-of-state vendors - Tax on sales within state.

(A) There is hereby levied upon all sales, not otherwise exempted in the Oklahoma Sales Tax Code, Sections 1350 et seq. of Title 68 of the Oklahoma Statutes, or the Oklahoma Use Tax Code, Sections 1401 et seq. of Title 68 of the Oklahoma Statutes, an excise tax of four and one-half percent (4.5%) of the gross receipts or gross proceeds of each sale or use of tangible personal property to or by a consumer-user in this state purchased from an out-of-state vendor who engages in business in this state through the continuous, regular or systematic solicitation of retail sales by advertisement through mail order or catalog publications. The tax shall be collected, reported and remitted or paid and apportioned in the same manner as any other sales or use tax levied by this state.

(B) Any out-of-state vendor required to collect, report or remit or pay sales or use tax in accordance with this act shall be entitled to the discount allowed other vendors required to collect and report Oklahoma sales or use tax.

Added by Laws 1986, c. 41, § 3, operative July 1, 1986. Amended by Laws 1987, c. 113, § 18, operative June 1, 1987; Laws 1989, 1st Ex.Sess., c. 2, § 103, operative Feb. 1, 1990.

§68-1354.4. Solicitation permit - Fee.

Every person desiring to engage in continuous, regular or systematic solicitation through display of products by advertisement in newspapers or radio or television media located in this state shall be required to secure from the Oklahoma Tax Commission every three (3) years a written permit for a fee of Twenty Dollars (\$20.00) prior to engaging in such solicitation within this state. Each such person shall file with the Tax Commission an application for a permit to engage in or transact business in this state, setting forth such information as the Commission may require. The application shall be signed by the owner of the business or representative of the business entity as a legally constituted and authorized officer thereof and as a natural person.

The permit required herein shall be issued in accordance with the Oklahoma Sales Tax Code and the applicant shall be subject to all the provisions of the Oklahoma Sales Tax Code. Added by Laws 1986, c. 41, § 4, operative July 1, 1986.

§68-1354.5. Collection of sales or use tax by certain out-of-state vendors.

Every person desiring to engage in continuous, regular or systematic solicitation through display of products by advertisement in mail order or catalog publications in this state is authorized to collect the Oklahoma sales or use tax levied upon the sale or use of such products whether or not such person maintains a place of business in this state. The Oklahoma Tax Commission is hereby authorized, upon application in accordance with the sales or use tax laws of this state, to issue permits to such out-of-state vendors to collect such taxes, without charge. Such permit may be canceled when, at any time, the Commission determines the tax can be more effectively collected from the consumer-user. In all instances where the sales are made or completed by delivery or transfer of possession to the consumer within this state by the out-of-state vendor, the state and any applicable local sales tax shall be collected and reported under the vendor's sales tax permit number.

Added by Laws 1986, c. 41, § 5, operative July 1, 1986.

§68-1354.6. Collection of sales or use tax - Reciprocal agreements.

(A) For the purpose of providing for the efficient administration of the Oklahoma sales and use tax laws when in its judgment it is necessary or beneficial in order to secure the collection of sales or use taxes, penalty and interest thereon, due or to become due under the sales and use tax laws of this state, the Oklahoma Tax Commission is authorized to enter into reciprocal agreements with the tax departments of other states in respect to the collection, payment and enforcement of such taxes on sales of tangible personal property to residents of Oklahoma by vendors and retailers maintaining places of business in this state or in such other states.

In consideration of such an agreement by the tax departments or administrators of such other states, the Tax Commission is authorized to make similar agreements for the collection, payment and enforcement of sales and use taxes imposed by such other states on sales of tangible personal property to residents of the other state by vendors or retailers maintaining places of business in Oklahoma.

The administration of this act is vested in the Oklahoma Tax Commission and it is hereby authorized to make and enforce such rules and regulations as it may deem necessary to carry out the provisions and purpose of this act.

(B) Any reciprocal agreement entered into between the Tax Commission and another state may, when it is deemed advisable by the Tax Commission, include the exchange of information to officials of the other state with respect to sales tax reports and the performance of joint audits

of the vendor. Any such agreement shall require the other state to maintain confidentiality, for any purpose other than the administration of that state's sales or use tax law in accordance with the Uniform Tax Procedure Code, Section 201 et seq. of Title 68 of the Oklahoma Statutes, of any such information provided by the Commission.

(C) For the purpose of providing for the efficient and uniform enforcement of the Oklahoma sales and use tax laws, specifically as to those vendors regularly making sales in Oklahoma, whether such vendor is located within or without this state, the Tax Commission is authorized to take all necessary actions, to enter into reciprocal agreements if necessary, to secure from other states recognition of tax debts due this state which are entitled to full faith and credit in the other state. In furtherance of this subsection, the Tax Commission is authorized to enter into reciprocal agreements with other states to provide the attorneys employed by the Tax Commission to enter appearances as local counsel in the courts of this state on behalf of the reciprocal state enforcing its tax laws in Oklahoma courts. The Tax Commission is authorized to utilize its attorneys for collection and enforcement of Oklahoma's sales and use tax laws, including injunctive proceedings, in the courts of any other state, as the complaining party. Added by Laws 1986, c. 41, § 6, operative July 1, 1986.

§68-1354.7. Streamlined Sales Tax System Act - Short title.

This act shall be known and may be cited as the "Streamlined Sales Tax System Act". Added by Laws 2000, c. 314, § 8, eff. July 1, 2000.

§68-1354.8. Streamlined Sales Tax System Act - Legislative findings.

The Legislature finds that:

1. State and local tax systems should treat transactions in a competitively neutral manner;
2. A simplified sales and use tax system that treats all transactions in a competitively neutral manner will strengthen and preserve the sales and use tax as vital state and local revenue sources and preserve state fiscal sovereignty;
3. Remote sellers should not receive preferential tax treatment at the expense of local "Main Street" merchants, nor should such vendors be burdened with special, discriminatory or multiple taxes;
4. The state should simplify sales and use taxes to reduce the administrative burden of collection; and
5. While states have the sovereign right to set their own tax policies, states working together have the opportunity to develop a more simple, uniform and fair system of state sales and use taxation without federal government mandates or interference.

Added by Laws 2000, c. 314, § 9, eff. July 1, 2000.

§68-1354.9. Streamlined Sales Tax System Act - Multi-state discussions - Tax exempt status.

The Oklahoma Tax Commission shall enter into discussions with states regarding development of a multi-state, voluntary, streamlined system for sales and use tax collection and administration. These discussions shall focus on a system that would have the capability to determine whether the transaction is taxable or tax exempt, the appropriate tax rate applied to the transaction, and the total tax due on the transaction, and shall provide a method for collecting and remitting sales and use taxes to the state. Such system may provide compensation for the costs of collecting and remitting sales and use taxes. Discussions between the Tax Commission and other states may include, but are not limited to:

1. The development of a “Joint Request for Information” from potential public and private parties governing the specifications for such system;
2. The mechanism for compensating parties for the development and operation of such system;
3. Establishment of minimum statutory simplification measures necessary for state participation in such system; and
4. Measures to preserve confidentiality of taxpayer information and privacy rights of consumers.

Following these discussions, the Tax Commission may proceed to issue a Joint Request for Information.

Added by Laws 2000, c. 314, § 10, eff. July 1, 2000.

§68-1354.10. Streamlined Sales Tax System Act - Sales tax pilot project.

The Oklahoma Tax Commission is authorized to participate in a sales tax pilot project with other states and selected businesses to test means for simplifying sales and use tax administration and may enter into joint agreements for that purpose.

Agreements to participate in the test shall establish provisions for the administration, imposition and collection of sales and use taxes resulting in revenues paid that are the same as would be paid under existing law.

Parties to the agreements are excused from complying with the provisions of the Oklahoma Sales Tax Code or the Oklahoma Use Tax Code to the extent a different procedure is required by the agreements, except for confidentiality of taxpayer information as detailed in Section 12 of this act.

Agreements authorized under this section shall terminate no later than December 31, 2001.
Added by Laws 2000, c. 314, § 11, eff. July 1, 2000.

§68-1354.11. Streamlined Sales Tax System Act - Confidential taxpayer information.

Return information submitted to any party or parties acting for and on behalf of the state shall be treated as confidential taxpayer information. Disclosure of confidential taxpayer information necessary under Sections 10 and 11 of this act shall be pursuant to a written agreement between the Oklahoma Tax Commission and the party or parties. Such party or parties shall be bound by the same requirements of confidentiality as the Tax Commission pursuant to the provisions of Section 205 of Title 68 of the Oklahoma Statutes.

Added by Laws 2000, c. 314, § 12, eff. July 1, 2000.

§68-1354.12. Repealed by Laws 2013, c. 227, § 22, eff. Nov. 1, 2013.

§68-1354.13. Repealed by Laws 2013, c. 227, § 22, eff. Nov. 1, 2013.

§68-1354.14. Streamlined Sales and Use Tax Administration Act - Short title.

Sections 1354.14 through 1354.23 of this title shall be known and may be cited as the “Streamlined Sales and Use Tax Administration Act”.

Added by Laws 2001, c. 272, § 1, eff. Nov. 1, 2001. Amended by Laws 2003, c. 413, § 3, eff. Nov. 1, 2003.

§68-1354.15. Definitions.

As used in the Streamlined Sales and Use Tax Administration Act:

1. "Agreement" means the Streamlined Sales and Use Tax Agreement;
2. "Certified automated system" means software certified jointly by the states that are signatories to the Agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction;
3. "Certified service provider" means an agent certified jointly by the states that are signatories to the Agreement to perform all of the seller's sales tax functions;
4. "Commission" or "Tax Commission" means the Oklahoma Tax Commission;
5. "Model 1 Seller" means a seller that has selected a certified service provider as its agent to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases;
6. "Model 2 Seller" means a seller that has selected a certified automated system to perform part of its sales and use tax functions but retains responsibility for remitting the tax;
7. "Model 3 Seller" means a seller that has sales in at least five states that are members of the Streamlined Sales and Use Tax Agreement, has total annual sales revenue of at least Five Hundred Million Dollars (\$500,000,000.00), has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this definition, a seller includes an affiliated group of sellers using the same proprietary system;
8. "Model 4 Seller" means a seller registered under the Agreement which is not a Model 1 Seller, Model 2 Seller or Model 3 Seller;
9. "Person" means an individual, trust, estate, fiduciary, partnership, limited liability company, limited liability partnership, corporation, or any other legal entity;
10. "Sales tax" means a tax levied by the state, by a county or by another entity under Section 1350 et seq. of this title or a sales tax levied by a municipality under Section 2701 of this title;
11. "Seller" means any person making sales, leases or rentals of personal property or services;
12. "State" means any state of the United States and the District of Columbia; and
13. "Use tax" means a tax levied under Section 1401 et seq. of this title or a use tax levied by a county, municipality or other entity as provided by law.

Added by Laws 2001, c. 272, § 2, eff. Nov. 1, 2001. Amended by Laws 2003, c. 413, § 4, eff. Nov. 1, 2003; Laws 2010, c. 419, § 2, eff. Nov. 1, 2010.

§68-1354.16. Streamlined Sales and Use Tax Administration Act - Purpose.

The Legislature finds that a streamlined sales and use tax system will reduce and, over time, eliminate the burden and cost for all vendors to collect sales and use taxes levied by this state and its political subdivisions. The Legislature further finds that this state should enter into the Streamlined Sales and Use Tax Agreement to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce.

Added by Laws 2001, c. 272, § 3, eff. Nov. 1, 2001. Amended by Laws 2003, c. 413, § 5, eff. Nov. 1, 2003.

§68-1354.17. Streamlined Sales and Use Tax Administration Act - Representatives on governing board.

For the purposes of representing this state on the governing board authorized by the Streamlined Sales and Use Tax Agreement, there shall be four representatives as authorized by this section. The state shall be represented by one member of the State Senate appointed by the President Pro Tempore of the Senate, one member of the Oklahoma House of Representatives appointed by the Speaker of the Oklahoma House of Representatives, one state employee employed in the area of taxation or finance appointed by the Governor and one member or employee of the Oklahoma Tax Commission appointed by the Tax Commission.

Added by Laws 2001, c. 272, § 4, eff. Nov. 1, 2001. Amended by Laws 2003, c. 413, § 6, eff. Nov. 1, 2003.

§68-1354.18. Streamlined Sales and Use Tax Administration Act - Duties and authority of Tax Commission - Entry into Streamlined Sales and Use Tax Agreement.

Subject to the provisions of Section 1354.20 of this title, the Oklahoma Tax Commission is authorized and directed to enter into the Streamlined Sales and Use Tax Agreement with one or more states to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance for all sellers and for all types of commerce. In furtherance of the Agreement, the Tax Commission is authorized to act jointly with other states that are members of the Agreement to establish standards for certification of a certified service provider and certified automated system and establish performance standards for multistate sellers.

The Tax Commission is further authorized to take other actions reasonably required to implement the provisions set forth in the Streamlined Sales and Use Tax Administration Act, including, but not limited to, the promulgation of rules and the joint procurement, with other member states, of goods and services in furtherance of the cooperative agreement.

The Tax Commission or the Tax Commission's designee is authorized to represent this state before the other states that are signatories to the Agreement.

Added by Laws 2001, c. 272, § 5, eff. Nov. 1, 2001. Amended by Laws 2003, c. 413, § 7, eff. Nov. 1, 2003.

§68-1354.19. Simplified Sales and Use Tax Administration Act - Effect of Agreements on laws of state.

No provision of the Agreement authorized by this act in whole or part invalidates or amends any provision of the law of this state. Adoption of the Agreement by this state does not amend or modify any law of this state. Implementation of any condition of the Agreement in this state, whether adopted before, at, or after membership of this state in the Agreement, must be by the action of this state.

Added by Laws 2001, c. 272, § 6, eff. Nov. 1, 2001.

§68-1354.20. Streamlined Sales and Use Tax Administration Act - Requirements for entering into Streamlined Sales and Use Tax Agreement.

The Oklahoma Tax Commission shall not enter into the Streamlined Sales and Use Tax Agreement unless the Agreement requires each state to abide by the following requirements:

1. Simplified State Rate. The Agreement must set restrictions to limit over time the number of state rates;

2. Uniform Standards. The Agreement must establish uniform standards for the following:

- a. the sourcing of transactions to taxing jurisdictions,
- b. the administration of exempt sales, and
- c. sales and use tax returns and remittances;

3. Central Registration. The Agreement must provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states;

4. No Nexus Attribution. The Agreement must provide that registration with the central registration system and the collection of sales and use taxes in the signatory states will not be used as a factor in determining whether the seller has nexus with a state for any tax;

5. Local Sales and Use Taxes. The Agreement must provide for reduction of the burdens of complying with local sales and use taxes through the following:

- a. restricting variances between the state and local tax bases,
- b. requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions,
- c. restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes, and
- d. providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions;

6. Monetary Allowances. The Agreement must outline any monetary allowances that are to be provided by the states to sellers or certified service providers. The Agreement must allow for a review of the costs and benefits of administration and collection of sales and use taxes incurred by states and sellers under the existing sales and use tax laws at the time of adoption of the Agreement and the proposed Streamlined Sales and Use Tax Agreement;

7. State Compliance. The Agreement must require each state to certify compliance with the terms of the Agreement prior to joining and to maintain compliance, under the laws of the member state, with all provisions of the Agreement while a member;

8. Consumer Privacy. The Agreement must require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information; and

9. Advisory Councils. The Agreement must provide for the appointment of an advisory council of private sector representatives and an advisory council of nonmember state representatives to consult with in the administration of the Agreement.

Added by Laws 2001, c. 272, § 7, eff. Nov. 1, 2001. Amended by Laws 2003, c. 413, § 8, eff. Nov. 1, 2003.

§68-1354.21. Simplified Sales and Use Tax Administration Act - Effect of Agreement.

The Agreement authorized by this act is an accord among individual cooperating sovereigns in furtherance of their governmental functions. The Agreement provides a mechanism among the member states to establish and maintain a cooperative, simplified system for the application and administration of sales and use taxes under the duly adopted law of each member state.

Added by Laws 2001, c. 272, § 8, eff. Nov. 1, 2001.

§68-1354.22. Simplified Sales and Use Tax Administration Act - Persons benefitted by Agreement.

A. The Agreement authorized by this act binds and inures only to the benefit of this state and the other member states. No person, other than a member state, is an intended beneficiary of the Agreement. Any benefit to a person other than a state is established by the law of this state and the other member states and not by the terms of the Agreement.

B. Consistent with subsection A of this section, no person shall have any cause of action or defense under the Agreement or by virtue of this state's approval of the Agreement. No person may challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of this state, or any political subdivision of this state on the ground that the action or inaction is inconsistent with the Agreement.

C. No law of this state, or the application thereof, may be declared invalid as to any person or circumstance on the ground that the provision or application is inconsistent with the Agreement.

Added by Laws 2001, c. 272, § 9, eff. Nov. 1, 2001.

§68-1354.23. Simplified Sales and Use Tax Administration Act - Certified service provider defined - Seller liability.

A. A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes. As the seller's agent, the certified service provider is liable for sales and use tax due each member state on all sales transactions it processes for the seller except as set out in this section.

A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider. A seller is subject to audit for transactions not processed by the certified service provider. The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

B. A person that provides a certified automated system is responsible for the proper functioning of that system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.

C. A seller that has a proprietary system for determining the amount of tax due on transactions and has signed an agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.

Added by Laws 2001, c. 272, § 10, eff. Nov. 1, 2001.

§68-1354.24. Amnesty for uncollected or unpaid sales or use taxes.

A. If the Oklahoma Tax Commission enters into the Streamlined Sales and Use Tax Agreement under Section 1354.18 of Title 68 of the Oklahoma Statutes and subject to the limitations in this section:

1. Amnesty shall be granted for uncollected or unpaid sales or use taxes to a seller who registers to pay or to collect and remit applicable sales or use taxes on sales made to purchasers in this state in accordance with the terms of the Streamlined Sales and Use Tax Agreement, provided that the seller was not registered in this state in the twelve-month period preceding the effective date of this state's participation in the Agreement; and

2. The amnesty will preclude assessment for uncollected or unpaid sales or use tax together with penalty or interest for sales made during the period the seller was not registered in this state, provided registration occurs within twelve (12) months of the effective date of this state's participation in the Agreement.

B. The amnesty is not available to a seller with respect to any matter or matters for which the seller received notice of the commencement of an audit and which audit is not yet finally resolved including any related administrative and judicial processes.

C. The amnesty is not available for sales or use taxes already paid or remitted to the state or to taxes collected by the seller.

D. The amnesty is fully effective, absent the seller's fraud or intentional misrepresentation of a material fact, as long as the seller continues registration and continues payment or collection and remittance of applicable sales or use taxes for a period of at least thirty-six (36) months. The statute of limitations applicable to asserting a tax liability during this thirty-six-month period shall be tolled.

E. The amnesty is applicable only to sales or use taxes due from a seller in its capacity as a seller and not to sales or use taxes due from a seller in its capacity as a buyer.

Added by Laws 2003, c. 413, § 17, eff. Nov. 1, 2003.

§68-1354.25. Effective date of state or local sales and use tax rate changes.

The effective date of state or local sales and use tax rate changes for services covering a period starting before and ending after the statutory effective date shall be as follows:

1. For a rate increase, the new rate shall apply to the first billing period starting on or after the effective date; and

2. For a rate decrease, the new rate shall apply to bills rendered on or after the effective date.

Added by Laws 2003, c. 413, § 18, eff. Nov. 1, 2003.

§68-1354.26. Refund of incorrectly paid sales or use taxes.

A. A consumer may seek a refund of incorrectly paid sales or use taxes directly from the state or it may seek a refund from its vendor.

B. These refund procedures provide the first course of remedy available to purchasers seeking a return of over-collected sales or use taxes from the seller. A cause of action against the seller for the over-collected sales or use taxes does not accrue until a purchaser has provided written notice to a seller and the seller has had sixty (60) days to respond. Such notice to the seller must contain the information necessary to determine the validity of the request.

C. In connection with a purchaser's request from a seller of over-collected sales or use taxes, a seller shall be presumed to have a reasonable business practice, if in the collection of such sales or use taxes, the seller uses either a certified service provider or a certified automated system, including a proprietary system, that is certified by the Oklahoma Tax Commission and has remitted to the state all taxes collected less any deductions, credits, or collection allowances.

D. Nothing in this section shall operate to extend any person's time to seek a refund of sales or use taxes collected or remitted in error.

Added by Laws 2003, c. 413, § 19, eff. Nov. 1, 2003.

§68-1354.27. Sourcing of retail sale or lease or rental.

A. The retail sale, excluding lease or rental, of a product shall be sourced as follows:

1. When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location;

2. When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser, or the purchaser's donee, designated as such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser or donee, known to the seller. Provided, this subsection shall not apply to florists. All sales by florists shall be sourced to its business location;

3. When the provisions of paragraphs 1 and 2 of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business when use of this address does not constitute bad faith;

4. When the provisions of paragraphs 1, 2 and 3 of this subsection do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument, if no other address is available, when use of this address does not constitute bad faith; and

5. When none of the previous rules of paragraphs 1, 2, 3 and 4 of this subsection apply, including the circumstance in which the seller is without sufficient information to apply the previous rules, then the location will be determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided, disregarding for these purposes any location that merely provided the digital transfer of the product sold. In the case of a sale of mobile telecommunications service that is a prepaid telecommunications service, the location will be that which is associated with the mobile telephone number.

B. The lease or rental of tangible personal property, other than property identified in subsection C or D of this section, shall be sourced as follows:

1. For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subsection A of this section. Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls; and

2. For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection A of this section.

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

C. The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in subsection D of this section, shall be sourced as follows:

1. For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location shall be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location shall not be altered by intermittent use at different locations; and

2. For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subsection A of this section.

This subsection does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

D. The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of subsection A of this section, notwithstanding the exclusion of lease or rental in subsection A of this section. "Transportation equipment" means any of the following:

1. Locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce;

2. Trucks and truck-tractors with a Gross Vehicle Weight Rating (GVWR) of ten thousand one (10,001) pounds or greater, trailers, semitrailers, or passenger buses that are:

- a. registered through the International Registration Plan, and
- b. operated under authority of a carrier authorized and certificated by the United States Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce;

3. Aircraft that are operated by air carriers authorized and certificated by the United States Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate or foreign commerce; and

4. Containers designed for use on and component parts attached or secured on the items set forth in paragraphs 1, 2 and 3 of this subsection.

E. For the purposes of this section, the terms "receive" and "receipt" mean:

1. Taking possession of tangible personal property;
2. Making first use of services; or
3. Taking possession or making first use of digital goods, whichever comes first.

The terms "receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

Added by Laws 2003, c. 413, § 20, eff. Nov. 1, 2003. Amended by Laws 2006, c. 327, § 4, eff. July 1, 2006; Laws 2007, c. 155, § 6, eff. Nov. 1, 2007; Laws 2008, c. 378, § 11, emerg. eff. June 4, 2008; Laws 2010, c. 419, § 3, eff. Nov. 1, 2010.

§68-1354.28. Repealed by Laws 2007, c.155, § 17 , eff. July 1, 2007.

§68-1354.29. Purchase of digital good, computer software delivered electronically, or service delivered electronically - Multiple Points of Use (MPU) Exemption Form.

A. Notwithstanding the provisions of Section 20 of this act, a purchaser of direct mail that is not a holder of a direct pay permit shall provide to the seller in conjunction with the purchase

either a Direct Mail Form or information to show the jurisdictions to which the direct mail is delivered to recipients.

Upon receipt of the Direct Mail Form, the seller is relieved of all obligations to collect, pay or remit the applicable tax and the purchaser is obligated to pay or remit the applicable tax on a direct pay basis. A Direct Mail Form shall remain in effect for all future sales of direct mail by the seller to the purchaser until it is revoked in writing.

Upon receipt of information from the purchaser showing the jurisdictions to which the direct mail is delivered to recipients, the seller shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the seller is relieved of any further obligation to collect tax on any transaction where the seller has collected tax pursuant to the delivery information provided by the purchaser.

B. If the purchaser of direct mail does not have a direct pay permit and does not provide the seller with either a Direct Mail Form or delivery information, as required by subsection A of this section, the seller shall collect the tax according to paragraph 5 of subsection A of Section 20 of this act. Nothing in this subsection shall limit a purchaser's obligation for sales or use tax to any state to which the direct mail is delivered.

C. If a purchaser of direct mail provides the seller with documentation of direct pay authority, the purchaser shall not be required to provide a Direct Mail Form or delivery information to the seller.

Added by Laws 2003, c. 413, § 22, eff. Nov. 1, 2003.

§68-1354.30. Sourcing of sale of telecommunications services sold on call-by-call basis.

A. For the purpose of this section, the following definitions apply:

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;

2. "Call-by-call basis" means any method of charging for telecommunications services where the price is measured by individual calls;

3. "Communications channel" means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points;

4. "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;

5. "Customer channel termination point" means the location where the customer either inputs or receives the communications;

6. "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;

7. "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;

8. "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;

9. "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;

10. "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;

11. "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;

12. "Prepaid wireless calling service" means a telecommunications wireless service that provides the right to utilize mobile wireless service as well as other nontelecommunications 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;

13. "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; and

14. "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.

B. Except for the defined telecommunications services in subsection D of this section, the sale of telecommunications services sold on a call-by-call basis shall be sourced to:

1. Each level of taxing jurisdiction where the call originates and terminates in that jurisdiction; or

2. Each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

C. Except for the defined telecommunications services in subsection D of this section, a sale of telecommunications services sold on a basis other than a call-by-call basis, is sourced to the customer's place of primary use.

D. The sale of the following telecommunications services shall be sourced to each level of taxing jurisdiction as follows:

1. A sale of mobile telecommunications services other than air-to-ground radiotelephone service and prepaid calling service, is sourced to the customer's place of primary use as required by the provisions of Section 55001 of this title;

2. A sale of post-paid calling service is sourced to the origination point of the telecommunications signal as first identified by either:

- a. the seller's telecommunications system, or
- b. information received by the seller from its service provider, where the system used to transport such signals is not that of the seller;

3. A sale of prepaid calling service or a sale of a prepaid wireless calling service is sourced in accordance with Section 1354.27 of this title. Provided, in the case of a sale of a prepaid wireless calling service, the provisions of paragraph 5 of subsection A of Section 1354.27 of this title shall apply; and

4. A sale of a private communication service is sourced as follows:

- a. service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which such customer channel termination point is located,
- b. service where all customer termination points are located entirely within one jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located,
- c. service for segments of a channel between two customer channel termination points located in different jurisdictions and which segment of channel are separately charged is sourced fifty percent (50%) in each level of jurisdiction in which the customer channel termination points are located, and
- d. service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in such jurisdiction by the total number of customer channel termination points.

Added by Laws 2003, c. 413, § 23, eff. Nov. 1, 2003. Amended by Laws 2007, c. 155, § 7, eff. Nov. 1, 2007.

§68-1354.31. Entry into Streamlined Sales and Use Tax Agreement - Monetary allowance from taxes collected - Compensation for start-up costs.

A. If the Oklahoma Tax Commission enters into the Streamlined Sales and Use Tax Agreement under Section 1354.18 of this title, the Tax Commission is authorized to provide a monetary allowance from the taxes collected to each of the following:

1. A certified service provider, in accordance with the agreement and under the terms of the contract signed with the provider;

2. Any vendor registered under the agreement that selects a certified automated system to perform part of its sales or use tax functions; and

3. Any vendor registered under the agreement that uses a proprietary system to calculate taxes due and has entered into a performance agreement with states that are members to the Streamlined Sales and Use Tax Agreement.

B. The monetary allowance provided for in paragraph 2 or 3 of subsection A of this section shall be given to the vendor for the period established by, and at the rate set in, the Streamlined Sales and Use Tax Agreement entered into under Section 1354.18 of Title 68 of the Oklahoma Statutes if the Tax Commission determines that such terms are reasonable and provide adequate incentive for such vendors.

C. Any vendor that is a remote seller that initially contracts with a certified service provider for the collection and remittance of sales and use taxes to this state on or after October 1, 2010, and before July 1, 2011, shall be allowed compensation for the start-up costs associated with utilizing a certified service provider as provided in this subsection. The seller shall be allowed to retain twenty percent (20%) of the sales and use taxes collected by such seller, for a period of up to six (6) months, beginning with the first month such taxes are remitted by the certified service provider. The total amount retained by the seller as compensation may not exceed the sum of Five Hundred Dollars (\$500.00). A seller which retains such compensation shall be required to continue to collect and remit applicable sales and use taxes for a period of at least thirty-six (36) months. A seller which does not continue to collect and remit applicable sales and use taxes for a period of at least thirty-six (36) months shall be required to forfeit and repay all compensation to this state that it had retained pursuant to this subsection.

D. On or after October 1, 2010, in addition to any compensation provided pursuant to subsection C of this section, and in lieu of the deduction provided by subsections A, B, C and D of Section 1367.1 of this title, a remote seller that collects and remits sales and use taxes to this state shall be eligible, at the option of the seller, for either the compensation in the amounts, and subject to the limitations provided in the Streamlined Sales and Use Tax Agreement, or for the Oklahoma Tax Commission to assume the direct cost of contracting with a certified service provider. In the event the Streamlined Sales and Use Tax Agreement has not adopted provisions for vendor compensation, a remote seller shall be eligible, at the option of the seller, for the deductions provided by Section 1367.1 of this title or for the Oklahoma Tax Commission to assume the direct cost of contracting with a certified service provider.

E. For purposes of this section, the term "remote seller" shall mean a seller that would not register to collect sales and use taxes in this state but for the ability of this state to require such remote seller to collect sales or use tax under federal authority.

Added by Laws 2003, c. 413, § 24, eff. Nov. 1, 2003. Amended by Laws 2010, c. 412, § 13, eff. July 1, 2010.

§68-1354.32. Database describing boundary changes for taxing jurisdictions.

The Oklahoma Tax Commission shall:

1. Provide and maintain a database that describes boundary changes for all taxing jurisdictions within this state for sales and use tax purposes. This database shall include a description of the change and the effective date of the change for sales and use tax purposes;
2. Provide and maintain a database of all sales and use tax rates for all of the jurisdictions levying taxes within the state. For the identification of the state, counties, and cities, codes corresponding to the rates must be provided according to Federal Information Processing Standards (FIPS) as developed by the National Institute of Standards and Technology;
3. Provide and maintain a database that assigns each five-digit and nine-digit zip code within the state to the proper tax rates and jurisdictions. The lowest combined tax rate imposed in the zip code area shall apply if the area includes more than one tax rate in any level of taxing jurisdictions. The collections from an area that includes more than one jurisdiction in a level

shall be allocated between the jurisdictions according to the pro rata population of each jurisdiction in the area. If a nine-digit zip code designation is not available for a street address or if a seller or certified service provider (CSP) is unable to determine the nine-digit zip code designation applicable to a purchaser after exercising due diligence to determine the designation, the seller or CSP may apply the rate for the five-digit zip code area. For the purposes of this section, there is a rebuttable presumption that a seller has exercised due diligence if the seller or CSP has attempted to determine the nine-digit zip code designation by utilizing software approved by the Tax Commission that makes this designation from the street address and the five-digit zip code applicable to the purchaser;

4. Have the option of providing address-based database records for assigning taxing jurisdictions and their associated rates which shall be in addition to the requirements of paragraph 3 of this section. The database records must be in the same approved format as the database records pursuant to paragraph 3 of this section and must meet the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 119(a). If the Tax Commission develops and adopts address-based assignment database records pursuant to the Agreement, a seller or CSP may use those database records in place of the five- and nine-digit zip code database records provided for in paragraph 3 of this section. If a seller or CSP is unable to determine the applicable rate and jurisdiction using an address-based database record after exercising due diligence, the seller or CSP may apply the nine-digit zip code designation applicable to a purchase. If a nine-digit zip code designation is not available for a street address or if a seller or CSP is unable to determine the nine-digit zip code designation applicable to a purchase after exercising due diligence to determine the designation, the seller or CSP may apply the rate for the five-digit zip code area. For the purposes of this section, there is a rebuttable presumption that a seller or CSP has exercised due diligence if the seller or CSP has attempted to determine the tax rate and jurisdiction by utilizing software approved by the governing board that makes this assignment from the address and zip code information applicable to the purchase;

5. Have the option, upon meeting the requirements of paragraph 4 of this section, to certify vendor provided address-based databases for assigning tax rates and jurisdictions. The databases must be in the same approved format as the database records pursuant to paragraph 4 of this section and must meet the requirements developed pursuant to the federal Mobile Telecommunications Sourcing Act, 4 U.S.C.A., Sec. 119(a). If the Tax Commission certifies a vendor address-based database, a seller or CSP may use that database in place of the database provided for in paragraph 3 or 4 of this section;

6. Review software submitted for certification as a certified automated system (CAS). The review shall include a review to determine that the program adequately classifies that state's product-based exemptions. The Tax Commission shall certify its acceptance of the classifications made by the system;

7. Relieve vendors and certified service providers from liability for having charged and collected the incorrect amount of sales or use tax resulting from the seller of the certified service provider relying on erroneous data provided by the Tax Commission on tax rates, boundaries, or taxing jurisdiction assignments. Provided, the vendor or certified service provider shall not be relieved from liability for errors resulting from the reliance on the information provided pursuant to paragraph 3 of this section if the Tax Commission has provided or certified an address-based system pursuant to paragraph 4 or 5 of this section;

8. Be authorized to provide relief from liability to vendors and certified service providers who are participating with the Tax Commission in the use of a sales and use tax collection system that incorporates one or more databases provided or certified by the Tax Commission under this section if the Tax Commission has reviewed and approved such sales and use tax collection system; and

9. Relieve CSPs and Model 2 sellers from liability for not collecting sales or use taxes resulting from the CSP or Model 2 seller relying on the certification provided by the Tax Commission pursuant to paragraph 6 of this section. If the Tax Commission determines that an item or transaction is incorrectly classified as to its taxability, it shall notify the CSP or Model 2 seller of the incorrect classification. The CSP or Model 2 seller shall have ten (10) days to revise the classification after receipt of notice from the Tax Commission of the determination.

Added by Laws 2003, c. 413, § 25, eff. Nov. 1, 2003. Amended by Laws 2004, c. 535, § 5, eff. Nov. 1, 2004; Laws 2007, c. 155, § 8, eff. Nov. 1, 2007.

§68-1354.33. Streamlined Sales and Use Tax Agreement system - Confidentiality rights and privacy interests.

A. The purpose of this section is to set forth the intent of the Legislature to protect the confidentiality rights of all participants in the Streamlined Sales and Use Tax Agreement system and of the privacy interests of consumers who deal with Model 1 sellers.

B. As used in this section:

1. The term “confidential taxpayer information” means all information that is protected pursuant to Section 205 of Title 68 of the Oklahoma Statutes;

2. The term “personally identifiable information” means information that identifies a person; and

3. The term “anonymous data” means information that does not identify a person.

C. The fundamental precept in Model 1 is to preserve the privacy of consumers by protecting their anonymity. With very limited exceptions, a certified service provider shall perform its tax calculation, remittance, and reporting functions without retaining the personally identifiable information of consumers.

D. The Tax Commission shall provide public notification to consumers, including their exempt purchasers, of the state’s practices relating to the collection, use and retention of personally identifiable information.

E. When any personally identifiable information that has been collected and retained is no longer required for the purposes of verifying the validity of an exemption, such information shall no longer be retained by the Tax Commission.

F. When personally identifiable information regarding an individual is retained, the Tax Commission shall provide reasonable access by such individual to his or her own information in the state's possession and a right to correct any inaccurately recorded information.

G. If anyone other than the state, or a person authorized by this state’s law or the Agreement, seeks to discover personally identifiable information, a reasonable and timely effort to notify the individual of such request shall be made.

H. This privacy policy is subject to enforcement in the same manner as set out in Section 205 of Title 68 of the Oklahoma Statutes.

I. All laws and other rules regarding the collection, use, and maintenance of confidential taxpayer information remain fully applicable and binding.

Added by Laws 2003, c. 413, § 26, eff. Nov. 1, 2003.

§68-1354.34. Taxability matrix - Relief from liability.

A. The Tax Commission shall complete a taxability matrix as required under the Streamlined Sales and Use Tax Agreement to verify application of terms defined within the Library of Definitions in the Agreement.

B. Sellers and certified service providers shall be relieved from liability for having charged and collected the incorrect amount of sales or use tax resulting from the seller or certified service provider relying on erroneous data provided in the taxability matrix.

Added by Laws 2003, c. 413, § 27, eff. Nov. 1, 2003.

§68-1354.35. Tax on bundled transactions.

The total gross receipts or sales price of a “bundled transaction”, as the term is defined in Section 1352 of Title 68 of the Oklahoma Statutes, shall be subject to the tax levied by Section 1350 et seq. of Title 68 of the Oklahoma Statutes, without any deduction for the value of the nontaxable products or service.

Added by Laws 2007, c. 155, § 10, eff. Nov. 1, 2007.

§68-1355. Exemptions - Subject to other tax.

There are hereby specifically exempted from the tax levied pursuant to the provisions of Section 1350 et seq. of this title:

1. Sale of gasoline, motor fuel, methanol, “M-85” which is a mixture of methanol and gasoline containing at least eighty-five percent (85%) methanol, compressed natural gas, liquefied natural gas, or liquefied petroleum gas on which the Motor Fuel Tax, Gasoline Excise Tax, Special Fuels Tax or the fee in lieu of Special Fuels Tax levied in Section 500.1 et seq., Section 601 et seq. or Section 701 et seq. of this title has been, or will be paid;

2. Sale of motor vehicles or any optional equipment or accessories attached to motor vehicles on which the Oklahoma Motor Vehicle Excise Tax levied in Section 2101 et seq. of this title has been, or will be paid;

3. Sale of crude petroleum or natural or casinghead gas and other products subject to gross production tax pursuant to the provisions of Section 1001 et seq. and Section 1101 et seq. of this title. This exemption shall not apply when such products are sold to a consumer or user for consumption or use, except when used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas. This paragraph shall not operate to increase or repeal the gross production tax levied by the laws of this state;

4. Sale of aircraft on which the tax levied pursuant to the provisions of Sections 6001 through 6007 of this title has been, or will be paid or which are specifically exempt from such tax pursuant to the provisions of Section 6003 of this title;

5. Sales from coin-operated devices on which the fee imposed by Sections 1501 through 1512 of this title has been paid;

6. Leases of twelve (12) months or more of motor vehicles in which the owners of the vehicles have paid the vehicle excise tax levied by Section 2103 of this title;

7. Sales of charity game equipment on which a tax is levied pursuant to the Oklahoma Charity Games Act, Section 401 et seq. of Title 3A of the Oklahoma Statutes, or which is sold to an organization that is:

- a. a veterans’ organization exempt from taxation pursuant to the provisions of paragraph (4), (7), (8), (10) or (19) of subsection (c) of Section 501 of the

United States Internal Revenue Code of 1986, as amended, 26 U.S.C., Section 501(c) et seq., or

- b. a group home for mentally disabled individuals exempt from taxation pursuant to the provisions of paragraph (3) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended, 26 U.S.C., Section 501(c) et seq.;
8. Sales of cigarettes or tobacco products to:
- a. a federally recognized Indian tribe or nation which has entered into a compact with the State of Oklahoma pursuant to the provisions of subsection C of Section 346 of this title or to a licensee of such a tribe or nation, upon which the payment in lieu of taxes required by the compact has been paid, or
 - b. a federally recognized Indian tribe or nation or to a licensee of such a tribe or nation upon which the tax levied pursuant to the provisions of Section 349 or Section 426 of this title has been paid;
9. Leases of aircraft upon which the owners have paid the aircraft excise tax levied by Section 6001 et seq. of this title or which are specifically exempt from such tax pursuant to the provisions of Section 6003 of this title;

10. The sale of low-speed or medium speed electrical vehicles on which the Oklahoma Motor Vehicle Excise Tax levied in Section 2101 et seq. of this title has been or will be paid; and

11. Effective January 1, 2005, sales of cigarettes on which the tax levied in Section 301 et seq. of this title or tobacco products on which the tax levied in Section 401 et seq. of this title has been paid.

Added by Laws 1981, c. 313, § 2, emerg. eff. June 29, 1981. Amended by Laws 1984, c. 138, § 1, operative July 1, 1984; Laws 1984, c. 153, § 7, emerg. eff. April 21, 1984; Laws 1988, c. 47, § 15, operative July 1, 1988; Laws 1989, c. 167, § 4, eff. July 1, 1989; Laws 1990, c. 113, § 1, operative July 1, 1990; Laws 1991, 1st. Ex. Sess., c. 2, § 3, emerg. eff. Jan. 18, 1991; Laws 1991, c. 337, § 1, emerg. eff. June 15, 1991; Laws 1992, c. 328, § 32, eff. Dec. 1, 1992; Laws 1993, c. 10, § 10, emerg. eff. March 21, 1993; Laws 1993, c. 224, § 8, eff. Sept. 1, 1993; Laws 1994, c. 54, § 1, eff. July 1, 1994; Laws 1995, c. 337, § 3, emerg. eff. June 9, 1995; Laws 2000, c. 239, § 1, eff. July 1, 2000; Laws 2001, c. 243, § 5, eff. Nov. 1, 2001; Laws 2004, c. 322, § 12, eff. Dec. 1, 2004 (State Question No. 713, Legislative Referendum No. 336, adopted at election held Nov. 2, 2004); Laws 2005, c. 1, § 106, emerg. eff. March 15, 2005; Laws 2007, c. 203, § 2, eff. July 1, 2007; Laws 2008, c. 302, § 10, emerg. eff. June 2, 2008.

NOTE: Laws 1991, c. 235, § 19 repealed by Laws 1992, c. 328, § 33, eff. Dec. 1, 1992 (State Question No. 650, Legislative Referendum No. 294, adopted at election held Nov. 3, 1992) and Laws 1992, c. 339, § 22, eff. Jan. 1, 1993. Laws 1992, c. 339, § 21 repealed by Laws 1993, c. 10, § 16, emerg. eff. March 21, 1993. Laws 2004, c. 330, § 3 repealed by Laws 2005, c. 1, § 107, emerg. eff. March 15, 2005.

§68-1355.1. Leased passenger vehicles - Report of lease.

Any person, firm, corporation or other entity which leases a passenger motor vehicle for use in the State of Oklahoma shall file a report with the Oklahoma Tax Commission on forms prescribed by the Commission on the number of such motor vehicles leased to any other person, firm, corporation or other entity. Such report shall be filed at the same time and in the same manner as sales tax reports.

Added by Laws 1990, c. 113, § 2, operative July 1, 1990.

§68-1356. Exemptions - Governmental and nonprofit entities.

Exemptions - Governmental and nonprofit entities.

There are hereby specifically exempted from the tax levied by Section 1350 et seq. of this title:

1. Sale of tangible personal property or services to the United States government or to the State of Oklahoma, any political subdivision of this state or any agency of a political subdivision of this state; provided, all sales to contractors in connection with the performance of any contract with the United States government, State of Oklahoma or any of its political subdivisions shall not be exempted from the tax levied by Section 1350 et seq. of this title, except as hereinafter provided;

2. Sales of property to agents appointed by or under contract with agencies or instrumentalities of the United States government if ownership and possession of such property transfers immediately to the United States government;

3. Sales of property to agents appointed by or under contract with a political subdivision of this state if the sale of such property is associated with the development of a qualified federal facility, as provided in the Oklahoma Federal Facilities Development Act, and if ownership and possession of such property transfers immediately to the political subdivision or the state;

4. Sales made directly by county, district or state fair authorities of this state, upon the premises of the fair authority, for the sole benefit of the fair authority or sales of admission tickets to such fairs or fair events at any location in the state authorized by county, district or state fair authorities; provided, the exemption provided by this paragraph for admission tickets to fair events shall apply only to any portion of the admission price that is retained by or distributed to the fair authority. As used in this paragraph, "fair event" shall be limited to an event held on the premises of the fair authority in conjunction with and during the time period of a county, district or state fair;

5. Sale of food in cafeterias or lunch rooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils and are not operated primarily for the public or for profit;

6. Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for a profit which inures to the benefit of any individual member or members thereof to the exclusion of other members and dues paid monthly or annually to privately owned scientific and educational libraries by members sharing the use of services rendered by such libraries with students interested in the study of geology, petroleum engineering or related subjects;

7. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or a similar business or sale of tangible personal property or services by an organization exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, made on behalf of or at the request of a church or churches if the sale of such property is conducted not more than once each calendar year for a period not to exceed three (3) days by the organization and proceeds from the sale of such property are used by the church or churches or by the organization for charitable purposes;

8. The amount of proceeds received from the sale of admission tickets which is separately stated on the ticket of admission for the repayment of money borrowed by any accredited state-supported college or university or any public trust of which a county in this state is the beneficiary, for the purpose of constructing or enlarging any facility to be used for the staging of an athletic event, a theatrical production, or any other form of entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket. Such facilities include, but are not limited to, athletic fields, athletic stadiums, field houses, amphitheaters and theaters. To be eligible for this sales tax exemption, the amount separately stated on the admission ticket shall be a surcharge which is imposed, collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the college or university to effect the capital improvements hereinbefore described;

9. Sales of tangible personal property or services to the council organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A. and Camp Fire USA;

10. Sale of tangible personal property or services to any county, municipality, rural water district, public school district, the institutions of The Oklahoma State System of Higher Education, the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Municipal Power Authority, City of Tulsa-Rogers County Port Authority, Muskogee City-County Port Authority, the Oklahoma Department of Veterans Affairs, the Broken Bow Economic Development Authority, Ardmore Development Authority, Durant Industrial Authority, Oklahoma Ordnance Works Authority, Central Oklahoma Master Conservancy District, Arbuckle Master Conservancy District, Fort Cobb Master Conservancy District, Foss Reservoir Master Conservancy District, Mountain Park Master Conservancy District, Waurika Lake Master Conservancy District, Office of Management and Enterprise Services only when carrying out a public construction contract on behalf of the Oklahoma Department of Veterans Affairs or to any person with whom any of the above-named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully or erroneously certifies that purchases are for any of the above-named subdivisions or agencies of this state or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

11. Sales of tangible personal property or services to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), including materials, supplies, and equipment used in the construction and improvement of buildings and other structures owned by the institutions and operated for educational purposes.

Any person, firm, agency or entity making purchases on behalf of any institution, agency or subdivision in this state, shall certify in writing, on the copy of the invoice or sales ticket the

nature of the purchases, and violation of this paragraph shall be a misdemeanor as set forth in paragraph 10 of this section;

12. Tuition and educational fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

13. a. Sales of tangible personal property made by:
- (1) a public school,
 - (2) a private school offering instruction for grade levels kindergarten through twelfth grade,
 - (3) a public school district,
 - (4) a public or private school board,
 - (5) a public or private school student group or organization,
 - (6) a parent-teacher association or organization other than as specified in subparagraph b of this paragraph, or
 - (7) public or private school personnel for purposes of raising funds for the benefit of a public or private school, public school district, public or private school board or public or private school student group or organization, or
- b. Sales of tangible personal property made by or to nonprofit parent-teacher associations or organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and before July 1, 2014, nonprofit local public or private school foundations which solicit money or property in the name of any public or private school or public school district.

The exemption provided by this paragraph for sales made by a public or private school shall be limited to those public or private schools accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs. Sale of tangible personal property in this paragraph shall include sale of admission tickets and concessions at athletic events;

14. Sales of tangible personal property by:
- a. local 4-H clubs,
 - b. county, regional or state 4-H councils,
 - c. county, regional or state 4-H committees,
 - d. 4-H leader associations,
 - e. county, regional or state 4-H foundations, and
 - f. authorized 4-H camps and training centers.

The exemption provided by this paragraph shall be limited to sales for the purpose of raising funds for the benefit of such organizations. Sale of tangible personal property exempted by this paragraph shall include sale of admission tickets;

15. The first Seventy-five Thousand Dollars (\$75,000.00) each year from sale of tickets and concessions at athletic events by each organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(4);

16. Items or services which are subsequently given away by the Oklahoma Tourism and Recreation Department as promotional items pursuant to Section 1834 of Title 74 of the Oklahoma Statutes and the sale of advertising in travel brochures and other promotional materials produced at the direction of the Department;

17. Sales of tangible personal property or services to fire departments organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes which items are to be used for the purposes of the fire department. Any person making purchases on behalf of any such fire department shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such fire department and set out the name of such fire department. Any person who wrongfully or erroneously certifies that the purchases are for any such fire department or who otherwise violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or both;

18. Complimentary or free tickets for admission to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities which are issued through a box office or other entity which is operated by a state institution of higher education with institutional employees or by a municipality with municipal employees;

19. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property by fire departments organized pursuant to Titles 11, 18, or 19 of the Oklahoma Statutes for the purposes of raising funds for the benefit of the fire department. Fire departments selling tangible personal property for the purposes of raising funds shall be limited to no more than six (6) days each year to raise such funds in order to receive the exemption granted by this paragraph;

20. Sales of tangible personal property or services to any Boys & Girls Clubs of America affiliate in this state which is not affiliated with the Salvation Army and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

21. Sales of tangible personal property or services to any organization, which takes court-adjudicated juveniles for purposes of rehabilitation, and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), provided that at least fifty percent (50%) of the juveniles served by such organization are court adjudicated and the organization receives state funds in an amount less than ten percent (10%) of the annual budget of the organization;

22. Sales of tangible personal property or services to:

- a. any health center as defined in Section 254b of Title 42 of the United States Code,
- b. any clinic receiving disbursements of state monies from the Indigent Health Care Revolving Fund pursuant to the provisions of Section 66 of Title 56 of the Oklahoma Statutes,
- c. any community-based health center which meets all of the following criteria:
 - (1) provides primary care services at no cost to the recipient, and
 - (2) is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and
- d. any community mental health center as defined in Section 3-302 of Title 43A of the Oklahoma Statutes;

23. Dues or fees, including free or complimentary dues or fees which have a value equivalent to the charge that could have otherwise been made, to YMCAs, YWCAs or municipally-owned recreation centers for the use of facilities and programs;

24. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property or services to or by a cultural organization established to sponsor and promote educational, charitable and cultural events for disadvantaged children, and which organization is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

25. Sales of tangible personal property or services to museums or other entities which have been accredited by the American Association of Museums. Any person making purchases on behalf of any such museum or other entity shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such museum or other entity and set out the name of such museum or other entity. Any person who wrongfully or erroneously certifies that the purchases are for any such museum or other entity or who otherwise violates the provisions of this paragraph shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or by both such fine and incarceration;

26. Sales of tickets for admission by any museum accredited by the American Association of Museums. In order to be eligible for the exemption provided by this paragraph, an amount equivalent to the amount of the tax which would otherwise be required to be collected pursuant to the provisions of Section 1350 et seq. of this title shall be separately stated on the admission ticket and shall be collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the museum to effect the construction, enlarging or renovation of any facility to be used for entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket;

27. Sales of tangible personal property or services occurring on or after June 1, 1995, to children's homes which are supported or sponsored by one or more churches, members of which serve as trustees of the home;

28. Sales of tangible personal property or services to the organization known as the Disabled American Veterans, Department of Oklahoma, Inc., and subordinate chapters thereof;

29. Sales of tangible personal property or services to youth camps which are supported or sponsored by one or more churches, members of which serve as trustees of the organization;

30. Transfer of tangible personal property made pursuant to Section 3226 of Title 63 of the Oklahoma Statutes by the University Hospitals Trust;

31. Sales of tangible personal property or services to a municipality, county or school district pursuant to a lease or lease-purchase agreement executed between the vendor and a municipality, county or school district. A copy of the lease or lease-purchase agreement shall be retained by the vendor;

32. Sales of tangible personal property or services to any spaceport user, as defined in the Oklahoma Space Industry Development Act;

33. The sale, use, storage, consumption, or distribution in this state, whether by the importer, exporter, or another person, of any satellite or any associated launch vehicle, including components of, and parts and motors for, any such satellite or launch vehicle, imported or caused to be imported into this state for the purpose of export by means of launching into space. This exemption provided by this paragraph shall not be affected by:

- a. the destruction in whole or in part of the satellite or launch vehicle,
- b. the failure of a launch to occur or be successful, or
- c. the absence of any transfer or title to, or possession of, the satellite or launch vehicle after launch;

34. The sale, lease, use, storage, consumption, or distribution in this state of any space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity, including components thereof;

35. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property, placed on or used aboard any space facility, space propulsion system or space vehicle, satellite, or station possessing space flight capacity, which is launched into space, irrespective of whether such tangible property is returned to this state for subsequent use, storage, or consumption in any manner;

36. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property meeting the definition of “section 38 property” as defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of 1986, that is an integral part of and used primarily in support of space flight; however, section 38 property used in support of space flight shall not include general office equipment, any boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States government, or any other property not specifically suited to supporting space activity. The term “in support of space flight”, for purposes of this paragraph, means the altering, monitoring, controlling, regulating, adjusting, servicing, or repairing of any space facility, space propulsion systems or space vehicle, satellite, or station possessing space flight capacity, including the components thereof;

37. The purchase or lease of machinery and equipment for use at a fixed location in this state, which is used exclusively in the manufacturing, processing, compounding, or producing of any space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity. Provided, the exemption provided for in this paragraph shall not be allowed unless the purchaser or lessee signs an affidavit stating that the item or items to be exempted are for the exclusive use designated herein. Any person furnishing a false affidavit to the vendor for the purpose of evading payment of any tax imposed by Section 1354 of this title shall be subject to the penalties provided by law. As used in this paragraph, “machinery and equipment” means “section 38 property” as defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of 1986, which is used as an integral part of the manufacturing, processing, compounding, or producing of items of tangible personal property. Such term includes parts and accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph;

38. The amount of a surcharge or any other amount which is separately stated on an admission ticket which is imposed, collected and used for the sole purpose of constructing, remodeling or enlarging facilities of a public trust having a municipality or county as its sole beneficiary;

39. Sales of tangible personal property or services which are directly used in or for the benefit of a state park in this state, which are made to an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and which is organized primarily for the purpose of supporting one or more state parks located in this state;

40. The sale, lease or use of parking privileges by an institution of The Oklahoma State System of Higher Education;

41. Sales of tangible personal property or services for use on campus or school construction projects for the benefit of institutions of The Oklahoma State System of Higher Education, private institutions of higher education accredited by the Oklahoma State Regents for Higher Education or any public school or school district when such projects are financed by or through the use of nonprofit entities which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

42. Sales of tangible personal property or services by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), in the course of conducting a national championship sports event, but only if all or a portion of the payment in exchange therefor would qualify as the receipt of a qualified sponsorship payment described in Internal Revenue Code, 26 U.S.C., Section 513(i). Sales exempted pursuant to this paragraph shall be exempt from all Oklahoma sales, use, excise and gross receipts taxes;

43. Sales of tangible personal property or services to or by an organization which:

- a. is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
- b. is affiliated with a comprehensive university within The Oklahoma State System of Higher Education, and
- c. has been organized primarily for the purpose of providing education and teacher training and conducting events relating to robotics;

44. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property to or by youth athletic teams which are part of an athletic organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(4), for the purposes of raising funds for the benefit of the team;

45. Sales of tickets for admission to a collegiate athletic event that is held in a facility owned or operated by a municipality or a public trust of which the municipality is the sole beneficiary and that actually determines or is part of a tournament or tournament process for determining a conference tournament championship, a conference championship, or a national championship;

46. Sales of tangible personal property or services to or by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and is operating the Oklahoma City National Memorial and Museum, an affiliate of the National Park System;

47. Sales of tangible personal property or services to organizations which are exempt from federal taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), the memberships of which are limited to honorably discharged veterans, and which furnish financial support to area veterans' organizations to be used for the purpose of constructing a memorial or museum;

48. Sales of tangible personal property or services on or after January 1, 2003, to an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) that is expending monies received from a private foundation grant in conjunction with expenditures of local sales tax revenue to construct a local public library;

49. Sales of tangible personal property or services to a state that borders this state or any political subdivision of that state, but only to the extent that the other state or political subdivision exempts or does not impose a tax on similar sales of items to this state or a political subdivision of this state;

50. Effective July 1, 2005, sales of tangible personal property or services to the Career Technology Student Organizations under the direction and supervision of the Oklahoma Department of Career and Technology Education;

51. Sales of tangible personal property to a public trust having either a single city, town or county or multiple cities, towns or counties or combination thereof as beneficiary or beneficiaries or a nonprofit organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) for the purpose of constructing improvements to or expanding a hospital or nursing home owned and operated by any such public trust or nonprofit entity prior to the effective date of this act in counties with a population of less than one hundred thousand (100,000) persons, according to the most recent Federal Decennial Census. As used in this paragraph, "constructing improvements to or expanding" shall not mean any expense for routine maintenance or general repairs and shall require a project cost of at least One Hundred Thousand Dollars (\$100,000.00). For purposes of this paragraph, sales made to a contractor or subcontractor that enters into a contractual relationship with a public trust or nonprofit entity as described by this paragraph shall be considered sales made to the public trust or nonprofit entity. The exemption authorized by this paragraph shall be administered in the form of a refund from the sales tax revenues apportioned pursuant to Section 1353 of this title and the vendor shall be required to collect the sales tax otherwise applicable to the transaction. The purchaser may apply for a refund of the sales tax paid in the manner prescribed by this paragraph. Within thirty (30) days after the end of each fiscal year, any purchaser that is entitled to make application for a refund based upon the exempt treatment authorized by this paragraph may file an application for refund of the sales taxes paid during such preceding fiscal year. The Tax Commission shall prescribe a form for purposes of making the application for refund. The Tax Commission shall determine whether or not the total amount of sales tax exemptions claimed by all purchasers is equal to or less than Six Hundred Fifty Thousand Dollars (\$650,000.00). If such claims are less than or equal to that amount, the Tax Commission shall make refunds to the purchasers in the full amount of the documented and verified sales tax amounts. If such claims by all purchasers are in excess of Six Hundred Fifty Thousand Dollars (\$650,000.00), the Tax Commission shall determine the amount of each purchaser's claim, the total amount of all claims by all purchasers, and the percentage each purchaser's claim amount bears to the total. The resulting percentage determined for each purchaser shall be multiplied by Six Hundred Fifty Thousand Dollars (\$650,000.00) to determine the amount of refundable sales tax to be paid to each purchaser. The pro rata refund amount shall be the only method to recover sales taxes paid during the preceding fiscal year and no balance of any sales taxes paid on a pro rata basis shall be the subject of any subsequent refund claim pursuant to this paragraph;

52. Effective July 1, 2006, sales of tangible personal property or services to any organization which assists, trains, educates, and provides housing for physically and mentally handicapped persons and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and that receives at least eighty-five percent (85%) of its annual budget from state or federal funds. In order to receive the benefit of the exemption authorized by this paragraph, the taxpayer shall be required to make payment of

the applicable sales tax at the time of sale to the vendor in the manner otherwise required by law. Notwithstanding any other provision of the Oklahoma Uniform Tax Procedure Code to the contrary, the taxpayer shall be authorized to file a claim for refund of sales taxes paid that qualify for the exemption authorized by this paragraph for a period of one (1) year after the date of the sale transaction. The taxpayer shall be required to provide documentation as may be prescribed by the Oklahoma Tax Commission in support of the refund claim. The total amount of sales tax qualifying for exempt treatment pursuant to this paragraph shall not exceed One Hundred Seventy-five Thousand Dollars (\$175,000.00) each fiscal year. Claims for refund shall be processed in the order in which such claims are received by the Oklahoma Tax Commission. If a claim otherwise timely filed exceeds the total amount of refunds payable for a fiscal year, such claim shall be barred;

53. The first Two Thousand Dollars (\$2,000.00) each year of 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. As used in this paragraph, "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 this act;

54. Sales of tangible personal property to a nonprofit organization, exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), organized primarily for the purpose of providing services to homeless persons during the day and located in a metropolitan area with a population in excess of five hundred thousand (500,000) persons according to the latest Federal Decennial Census. The exemption authorized by this paragraph shall be applicable to sales of tangible personal property to a qualified entity occurring on or after January 1, 2005;

55. Sales of tangible personal property or services to or by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) for events the principal purpose of which is to provide funding for the preservation of wetlands and habitat for wild ducks;

56. Sales of tangible personal property or services to or by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) for events the principal purpose of which is to provide funding for the preservation and conservation of wild turkeys;

57. Sales of tangible personal property or services to an organization which:

- a. is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and
- b. is part of a network of community-based, autonomous member organizations that meets the following criteria:
 - (1) serves people with workplace disadvantages and disabilities by providing job training and employment services, as well as job placement opportunities and post-employment support,
 - (2) has locations in the United States and at least twenty other countries,

- (3) collects donated clothing and household goods to sell in retail stores and provides contract labor services to business and government, and
- (4) provides documentation to the Oklahoma Tax Commission that over seventy-five percent (75%) of its revenues are channeled into employment, job training and placement programs and other critical community services;

58. Sales of tickets made on or after September 21, 2005, and complimentary or free tickets for admission issued on or after September 21, 2005, which have a value equivalent to the charge that would have otherwise been made, for admission to a professional athletic event in which a team in the National Basketball Association is a participant, which is held in a facility owned or operated by a municipality, a county or a public trust of which a municipality or a county is the sole beneficiary, and sales of tickets made on or after the effective date of this act, and complimentary or free tickets for admission issued on or after the effective date of this act, which have a value equivalent to the charge that would have otherwise been made, for admission to a professional athletic event in which a team in the National Hockey League is a participant, which is held in a facility owned or operated by a municipality, a county or a public trust of which a municipality or a county is the sole beneficiary;

59. Sales of tickets for admission and complimentary or free tickets for admission which have a value equivalent to the charge that would have otherwise been made to a professional sporting event involving ice hockey, baseball, basketball, football or arena football, or soccer. As used in this paragraph, "professional sporting event" means an organized athletic competition between teams that are members of an organized league or association with centralized management, other than a national league or national association, that imposes requirements for participation in the league upon the teams, the individual athletes or both, and which uses a salary structure to compensate the athletes;

60. Sales of tickets for admission to an annual event sponsored by an educational and charitable organization of women which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and has as its mission promoting volunteerism, developing the potential of women and improving the community through the effective action and leadership of trained volunteers;

61. Sales of tangible personal property or services to an organization, which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which is itself a member of an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), if the membership organization is primarily engaged in advancing the purposes of its member organizations through fundraising, public awareness or other efforts for the benefit of its member organizations, and if the member organization is primarily engaged either in providing educational services and programs concerning health-related diseases and conditions to individuals suffering from such health-related diseases and conditions or their caregivers and family members or support to such individuals, or in health-related research as to such diseases and conditions, or both. In order to qualify for the exemption authorized by this paragraph, the member nonprofit organization shall be required to provide proof to the Oklahoma Tax Commission of its membership status in the membership organization;

62. Sales of tangible personal property or services to or by an organization which is part of a national volunteer women's service organization dedicated to promoting patriotism, preserving

American history and securing better education for children and which has at least 168,000 members in 3,000 chapters across the United States;

63. Sales of tangible personal property or services to or by a YWCA or YMCA organization which is part of a national nonprofit community service organization working to meet the health and social service needs of its members across the United States;

64. Sales of tangible personal property or services to or by a veteran's organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(19) and which is known as the Veterans of Foreign Wars of the United States, Oklahoma Chapters;

65. Sales of boxes of food by a church or by an organization, which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c)(3). To qualify under the provisions of this paragraph, the organization must be organized for the primary purpose of feeding needy individuals or to encourage volunteer service by requiring such service in order to purchase food. These boxes shall only contain edible staple food items;

66. Sales of tangible personal property or services to any person with whom a church has duly entered into a construction contract, necessary for carrying out such contract or to any subcontractor to such a construction contract;

67. Sales of tangible personal property or services used exclusively for charitable or educational purposes, to or by an organization which:

- a. is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
- b. has filed a Not-for-Profit Certificate of Incorporation in this state, and
- c. is organized for the purpose of:
 - (1) providing training and education to developmentally disabled individuals,
 - (2) educating the community about the rights, abilities and strengths of developmentally disabled individuals, and
 - (3) promoting unity among developmentally disabled individuals in their community and geographic area;

68. Sales of tangible personal property or services to any organization which is a shelter for abused, neglected, or abandoned children and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3); provided, until July 1, 2008, such exemption shall apply only to eligible shelters for children from birth to age twelve (12) and after July 1, 2008, such exemption shall apply to eligible shelters for children from birth to age eighteen (18);

69. Sales of tangible personal property or services to a child care center which is licensed pursuant to the Oklahoma Child Care Facilities Licensing Act and which:

- a. possesses a 3-star rating from the Department of Human Services Reaching for the Stars Program or a national accreditation, and
- b. allows on site universal pre-kindergarten education to be provided to four-year-old children through a contractual agreement with any public school or school district.

For the purposes of this paragraph, sales made to any person, firm, agency or entity that has entered previously into a contractual relationship with a child care center for construction and improvement of buildings and other structures owned by the child care center and operated for educational purposes shall be considered sales made to a child care center. Any such person,

firm, agency or entity making purchases on behalf of a child care center shall certify in writing, on the copy of the invoice or sales ticket the nature of the purchase. Any such person, or person acting on behalf of a firm, agency or entity making purchases on behalf of a child care center in violation of this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

70. a. Sales of tangible personal property to a service organization of mothers who have children who are serving or who have served in the military, which service organization is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(19) and which is known as the Blue Star Mothers of America, Inc. The exemption provided by this paragraph shall only apply to the purchase of tangible personal property actually sent to United States military personnel overseas who are serving in a combat zone and not to any other tangible personal property purchased by the organization. Provided, this exemption shall not apply to any sales tax levied by a city, town, county, or any other jurisdiction in this state.
- b. The exemption authorized by this paragraph shall be administered in the form of a refund from the sales tax revenues apportioned pursuant to Section 1353 of this title, and the vendor shall be required to collect the sales tax otherwise applicable to the transaction. The purchaser may apply for a refund of the state sales tax paid in the manner prescribed by this paragraph. Within sixty (60) days after the end of each calendar quarter, any purchaser that is entitled to make application for a refund based upon the exempt treatment authorized by this paragraph may file an application for refund of the state sales taxes paid during such preceding calendar quarter. The Tax Commission shall prescribe a form for purposes of making the application for refund.
- c. A purchaser who applies for a refund pursuant to this paragraph shall certify that the items were actually sent to military personnel overseas in a combat zone. Any purchaser that applies for a refund for the purchase of items that are not authorized for exemption under this paragraph shall be subject to a penalty in the amount of Five Hundred Dollars (\$500.00);

71. Sales of food and snack items to or by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), whose primary and principal purpose is providing funding for scholarships in the medical field;

72. Sales of tangible personal property or services for use solely on construction projects for organizations which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and whose purpose is providing end-of-life care and access to hospice services to low-income individuals who live in a facility owned by the organization. The exemption provided by this paragraph applies to sales to the organization as well as to sales to any person with whom the organization has duly entered into a construction contract, necessary for carrying out such contract or to any subcontractor to such a construction contract. Any person making purchases on behalf of such organization shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such organization and set out the name of such organization. Any person

who wrongfully or erroneously certifies that purchases are for any of the above-named organizations or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

73. Sales of tickets for admission to events held by organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) that are organized for the purpose of supporting general hospitals licensed by the State Department of Health; and

74. Sales of tangible personal property or services:

- a. to a foundation which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and which raises tax-deductible contributions in support of a wide range of firearms-related public interest activities of the National Rifle Association of America and other organizations that defend and foster Second Amendment rights, and
- b. to or by a grassroots fundraising program for sales related to events to raise funds for a foundation meeting the qualifications of subparagraph a of this paragraph.

Added by Laws 1981, c. 313, § 2, emerg. eff. June 29, 1981. Amended by Laws 1985, c. 177, § 1, eff. Jan. 1, 1986; Laws 1987, c. 149, § 1, emerg. eff. June 24, 1987; Laws 1987, c. 203, § 144, operative July 1, 1987; Laws 1988, c. 142, § 2, emerg. eff. April 25, 1988; Laws 1988, c. 192, § 2, operative July 1, 1988; Laws 1988, c. 312, § 4, eff. July 1, 1989; Laws 1989, c. 4, § 1, emerg. eff. March 14, 1989; Laws 1989, c. 249, § 26, eff. July 1, 1989; Laws 1989, c. 351, § 1, emerg. eff. June 3, 1989; Laws 1991, c. 243, § 1, emerg. eff. May 28, 1991; Laws 1991, c. 335, § 24, emerg. eff. June 15, 1991; Laws 1992, c. 110, § 1, emerg. eff. April 20, 1992; Laws 1993, c. 1, § 9, emerg. eff. Feb. 8, 1993; Laws 1993, c. 246, § 1, emerg. eff. May 26, 1993; Laws 1994, c. 26, § 1, eff. July 1, 1994; Laws 1994, c. 278, § 14, eff. Sept. 1, 1994; Laws 1995, c. 183, § 1, eff. July 1, 1995; Laws 1995, c. 337, § 4, emerg. eff. June 9, 1995; Laws 1996, c. 3, § 13, emerg. eff. March 6, 1996; Laws 1996, c. 156, § 1, eff. July 1, 1996; Laws 1996, c. 289, § 1, eff. July 1, 1996; Laws 1997, c. 190, § 1, eff. July 1, 1997; Laws 1997, c. 294, § 15, eff. July 1, 1997; Laws 1997, c. 390, § 4, eff. July 1, 1997; Laws 1998, c. 203, § 2, emerg. eff. May 11, 1998; Laws 1998, c. 385, § 7, eff. July 1, 1998; Laws 1999, c. 149, § 4, eff. July 1, 1999; Laws 1999, c. 164, § 40, eff. July 1, 1999; Laws 1999, c. 390, § 8, emerg. eff. June 8, 1999; Laws 2000, c. 214, § 1, eff. July 1, 2000; Laws 2000, c. 314, § 15, eff. July 1, 2000; Laws 2001, c. 5, § 37, emerg. eff. March 21, 2001; Laws 2001, c. 358, § 14, emerg. eff. June 4, 2001; Laws 2002, c. 22, § 25, emerg. eff. March 8, 2002; Laws 2002, c. 162, § 2, eff. July 1, 2002; Laws 2002, c. 503, § 1, emerg. eff. June 7, 2002; Laws 2003, c. 3, § 60, emerg. eff. March 19, 2003; Laws 2003, c. 472, § 14; Laws 2004, c. 5, § 66, emerg. eff. March 1, 2004; Laws 2004, c. 56, § 1, emerg. eff. April 1, 2004; Laws 2004, c. 535, § 6, eff. Nov. 1, 2004; Laws 2005, c. 1, § 108, emerg. eff. March 15, 2005; Laws 2005, c. 296, § 1, eff. July 1, 2005; Laws 2006, c. 16, § 51, emerg. eff. March 29, 2006; Laws 2006, 2nd Ex. Sess., c. 44, § 2, eff. July 1, 2007; Laws 2007, c. 353, § 5, eff. Nov. 1, 2007; Laws 2008, c. 278, § 2, eff. July 1, 2009; Laws 2009, c. 2, § 23, eff. July 1, 2009; Laws 2009, c. 426, § 8, eff. July 1, 2009; Laws 2012, c. 304, § 541; Laws 2013, c. 334, § 3, eff. July 1, 2013.

NOTE: Laws 1988, c. 281, § 21 repealed by Laws 1989, c. 4, § 2, emerg. eff. March 14, 1989. Laws 1991, c. 208, § 1 repealed by Laws 1991, c. 335, § 37, emerg. eff. June 15, 1991. Laws 1995, c. 271, § 3 repealed by Laws 1996, c. 3, § 25, emerg. eff. March 6, 1996. Laws 1996, c.

108, § 1 repealed by Laws 1996, c. 289, § 10, eff. July 1, 1996. Laws 2000, c. 268, § 1 and Laws 2000, c. 274, § 1 repealed by Laws 2001, c. 5, § 38, emerg. eff. March 21, 2001. Laws 2001, c. 2, § 1 repealed by Laws 2001, c. 223, § 2, emerg. eff. May 21, 2001 and Laws 2001, c. 358, § 31, emerg. eff. June 4, 2001. Laws 2001, c. 223, § 1 repealed by Laws 2002, c. 22, § 34, emerg. eff. March 8, 2002. Laws 2002, c. 393, § 1 repealed by Laws 2003, c. 3, § 61, emerg. eff. March 19, 2003. Laws 2002, c. 458, § 7 repealed by Laws 2003, c. 3, § 62, emerg. eff. March 19, 2003. Laws 2003, c. 291, § 1 repealed by Laws 2004, c. 5, § 67, emerg. eff. March 1, 2004. Laws 2003, c. 431, § 1 repealed by Laws 2004, c. 5, § 68, emerg. eff. March 1, 2004. Laws 2004, c. 384, § 1 repealed by Laws 2005, c. 1, § 109, emerg. eff. March 15, 2005. Laws 2004, c. 518, § 1 repealed by Laws 2005, c. 1, § 110, emerg. eff. March 15, 2005. Laws 2005, c. 279, § 1 repealed by Laws 2006, c. 16, § 52, emerg. eff. March 29, 2006. Laws 2005, c. 381, § 8 repealed by Laws 2006, c. 16, § 53, emerg. eff. March 29, 2006. Laws 2005, c. 449, § 1 repealed by Laws 2006, c. 16, § 54, emerg. eff. March 29, 2006. Laws 2005, c. 456, § 1 repealed by Laws 2006, c. 16, § 55, emerg. eff. March 29, 2006. Laws 2005, c. 475, § 1 repealed by Laws 2006, c. 16, § 56, emerg. eff. March 29, 2006. Laws 2005, c. 479, § 13 repealed by Laws 2006, c. 16, § 57, emerg. eff. March 29, 2006. Laws 2006, c. 5, § 1 repealed by Laws 2006, c. 272, § 23. Laws 2006, c. 66, § 1 repealed by Laws 2006, c. 272, § 24. Laws 2006, c. 272, § 11 repealed by Laws 2006, 2nd Ex. Sess., c. 44, § 3, eff. July 1, 2007. Laws 2006, c. 300, § 1 repealed by Laws 2006, 2nd Ex. Sess., c. 44, § 4, eff. July 1, 2007. Laws 2008, c. 378, § 12 repealed by Laws 2009, c. 2, § 24, eff. July 1, 2009. Laws 2008, c. 436, § 2 repealed by Laws 2009, c. 2, § 25, eff. July 1, 2009.

§68-1356.1. Fire departments for unincorporated areas - Qualification for exemption - Proof of eligibility.

(A) In order to qualify for any exemption authorized by paragraph 17 of Section 1356 of this title, at the time of sale, the person to whom the sale is made may be required to furnish the vendor proof of eligibility for such exemption as required by this section.

(B) All vendors shall honor the proof of eligibility for sales tax exemption as authorized by this section and sales to a person providing such proof shall be exempt from the tax levied by this article.

(C) A fire department organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes may obtain one card, the size and design of which shall be prescribed by the Oklahoma Tax Commission, which shall constitute proof of eligibility for sales tax exemptions authorized by paragraph 17 of Section 1356 of this title. Such card may be obtained upon application to the Tax Commission on a form prescribed by the Tax Commission. The application shall contain such other information as may be required by the Tax Commission. Upon approval by the Tax Commission, the fire department shall be issued one card as prescribed by this section. The card shall be renewable every three (3) years upon application therefor, as provided by this section, to the Tax Commission.

Added by Laws 1991, c. 208, § 2, eff. July 1, 1991. Amended by Laws 2004, c. 535, § 7, eff. Nov. 1, 2004.

§68-1356.2. Sales tax exemption - Unlawful use - Penalties.

A. No person shall claim a sales tax exemption granted an organization pursuant to Section 1356 or 1357 of Title 68 of the Oklahoma Statutes in order to make a purchase exempt from sales tax for his or her personal use.

B. Any person who knowingly makes a purchase in violation of subsection A of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved, or incarcerated for not more than sixty (60) days, or both.

C. In addition to the penalty provided in subsection B of this section, any person violating subsection A of this section shall be subject to an administrative fine of not more than Five Hundred Dollars (\$500.00). Administrative fines collected pursuant to the provisions of this subsection shall be deposited to the General Revenue Fund.

Added by Laws 2012, c. 298, § 1, eff. Nov. 1, 2012.

§68-1357. Exemptions – General.

Exemptions - General.

There are hereby specifically exempted from the tax levied by the Oklahoma Sales Tax Code:

1. Transportation of school pupils to and from elementary schools or high schools in motor or other vehicles;
2. Transportation of persons where the fare of each person does not exceed One Dollar (\$1.00), or local transportation of persons within the corporate limits of a municipality except by taxicabs;
3. Sales for resale to persons engaged in the business of reselling the articles purchased, whether within or without the state, provided that such sales to residents of this state are made to persons to whom sales tax permits have been issued as provided in the Oklahoma Sales Tax Code. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salespersons who do not have an established place of business and a sales tax permit. The exemption provided by this paragraph shall apply to sales of motor fuel or diesel fuel to a Group Five vendor, but the use of such motor fuel or diesel fuel by the Group Five vendor shall not be exempt from the tax levied by the Oklahoma Sales Tax Code. The purchase of motor fuel or diesel fuel is exempt from sales tax when the motor fuel is for shipment outside this state and consumed by a common carrier by rail in the conduct of its business. The sales tax shall apply to the purchase of motor fuel or diesel fuel in Oklahoma by a common carrier by rail when such motor fuel is purchased for fueling, within this state, of any locomotive or other motorized flanged wheel equipment;
4. Sales of advertising space in newspapers and periodicals;
5. Sales of programs relating to sporting and entertainment events, and sales of advertising on billboards (including signage, posters, panels, marquees, or on other similar surfaces, whether indoors or outdoors) or in programs relating to sporting and entertainment events, and sales of any advertising, to be displayed at or in connection with a sporting event, via the Internet, electronic display devices, or through public address or broadcast systems. The exemption authorized by this paragraph shall be effective for all sales made on or after January 1, 2001;
6. Sales of any advertising, other than the advertising described by paragraph 5 of this section, via the Internet, electronic display devices, or through the electronic media, including radio, public address or broadcast systems, television (whether through closed circuit broadcasting systems or otherwise), and cable and satellite television, and the servicing of any advertising devices;

7. Eggs, feed, supplies, machinery and equipment purchased by persons regularly engaged in the business of raising worms, fish, any insect or any other form of terrestrial or aquatic animal life and used for the purpose of raising same for marketing. This exemption shall only be granted and extended to the purchaser when the items are to be used and in fact are used in the raising of animal life as set out above. Each purchaser shall certify, in writing, on the invoice or sales ticket retained by the vendor that the purchaser is regularly engaged in the business of raising such animal life and that the items purchased will be used only in such business. The vendor shall certify to the Oklahoma Tax Commission that the price of the items has been reduced to grant the full benefit of the exemption. Violation hereof by the purchaser or vendor shall be a misdemeanor;

8. Sale of natural or artificial gas and electricity, and associated delivery or transmission services, when sold exclusively for residential use. Provided, this exemption shall not apply to any sales tax levied by a city or town, or a county, or any other jurisdiction in this state;

9. In addition to the exemptions authorized by Section 1357.6 of this title, sales of drugs sold pursuant to a prescription written for the treatment of human beings by a person licensed to prescribe the drugs, and sales of insulin and medical oxygen. Provided, this exemption shall not apply to over-the-counter drugs;

10. Transfers of title or possession of empty, partially filled, or filled returnable oil and chemical drums to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty, partially filled, or filled returnable oil drums;

11. Sales of one-way utensils, paper napkins, paper cups, disposable hot containers and other one-way carry out materials to a vendor of meals or beverages;

12. Sales of food or food products for home consumption which are purchased in whole or in part with coupons issued pursuant to the federal food stamp program as authorized by Sections 2011 through 2029 of Title 7 of the United States Code, as to that portion purchased with such coupons. The exemption provided for such sales shall be inapplicable to such sales upon the effective date of any federal law that removes the requirement of the exemption as a condition for participation by the state in the federal food stamp program;

13. Sales of food or food products, or any equipment or supplies used in the preparation of the food or food products to or by an organization which:

- a. is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which provides and delivers prepared meals for home consumption to elderly or homebound persons as part of a program commonly known as "Meals on Wheels" or "Mobile Meals", or
- b. is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which receives federal funding pursuant to the Older Americans Act of 1965, as amended, for the purpose of providing nutrition programs for the care and benefit of elderly persons;

14. a. Sales of tangible personal property or services to or by organizations which are exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and:
 - (1) are primarily involved in the collection and distribution of food and other household products to other organizations that facilitate the distribution of such products to the needy and such distributee

organizations are exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), or

(2) facilitate the distribution of such products to the needy.

- b. Sales made in the course of business for profit or savings, competing with other persons engaged in the same or similar business shall not be exempt under this paragraph;

15. Sales of tangible personal property or services to children's homes which are located on church-owned property and are operated by organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

16. 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. For purposes of this paragraph, "qualified aircraft maintenance or manufacturing facility" means a new or expanding facility primarily engaged in aircraft repair, building or rebuilding whether or not on a factory basis, 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 Oklahoma Employment Security Commission, upon completion of the facility. In order to qualify for the exemption provided for by this paragraph, the cost of the items purchased by the qualified aircraft maintenance or manufacturing facility shall equal or exceed the sum of Two Million Dollars (\$2,000,000.00);

17. Sales of tangible personal property consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility as defined in paragraph 16 of this section. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified aircraft maintenance or manufacturing facility for construction or expansion of such a facility shall be considered sales made to a qualified aircraft maintenance or manufacturing facility;

18. Sales of the following telecommunications services:

- a. Interstate and International "800 service". "800 service" means a "telecommunications service" that allows a caller to dial a toll-free number without incurring a charge for the call. The service is typically marketed under the name "800", "855", "866", "877", and "888" toll-free calling, and any subsequent numbers designated by the Federal Communications Commission, or
- b. Interstate and International "900 service". "900 service" means an inbound toll "telecommunications service" purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service. "900 service" does not include the charge 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. The service is typically marketed under the name "900" service, and any subsequent numbers designated by the Federal Communications Commission,
- c. Interstate and International "private communications service". "Private communications service" means a "telecommunications 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,

- d. "Value-added nonvoice data service". "Value-added nonvoice data service" means a service that otherwise meets the definition of "telecommunications services" in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance or routing,
- e. Interstate and International telecommunications service which is:
 - (1) rendered by a company for private use within its organization, or
 - (2) used, allocated, or distributed by a company to its affiliated group,
- f. Regulatory assessments and charges, including charges to fund the Oklahoma Universal Service Fund, the Oklahoma Lifeline Fund and the Oklahoma High Cost Fund, and
- g. 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;

19. Sales of railroad track spikes manufactured and sold for use in this state in the construction or repair of railroad tracks, switches, sidings and turnouts;

20. Sales of aircraft and aircraft parts provided such sales occur at a qualified aircraft maintenance facility. As used in this paragraph, "qualified aircraft maintenance facility" means a facility operated by an air common carrier at which there were employed at least two thousand (2,000) full-time-equivalent employees in the preceding year as certified by the Oklahoma Employment Security Commission and which is primarily related to the fabrication, repair, alteration, modification, refurbishing, maintenance, building or rebuilding of commercial aircraft or aircraft parts used in air common carriage. For purposes of this paragraph, "air common carrier" shall also include members of an affiliated group as defined by Section 1504 of the Internal Revenue Code, 26 U.S.C., Section 1504;

21. Sales of machinery and equipment purchased and used by persons and establishments primarily engaged in computer services and data processing:

- a. as defined under Industrial Group Numbers 7372 and 7373 of the Standard Industrial Classification (SIC) Manual, latest version, which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and
- b. as defined under Industrial Group Number 7374 of the SIC Manual, latest version, which derive 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.

Eligibility for the exemption set out in this paragraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers or consumers, all sales to the federal government shall be considered to be to an out-of-state buyer or consumer;

22. Sales of prosthetic devices to an individual for use by such individual. For purposes of this paragraph, "prosthetic device" shall have the same meaning as provided in Section 1357.6 of this title, but shall not include corrective eye glasses, contact lenses or hearing aids;

23. Sales of tangible personal property or services to a motion picture or television production company to be used or consumed in connection with an eligible production. For purposes of this paragraph, "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. The provisions of this paragraph shall apply to sales occurring on or after July 1, 1996. In order to qualify for the exemption, the motion picture or television production company shall file any documentation and information required to be submitted pursuant to rules promulgated by the Tax Commission;

24. Sales of diesel fuel sold for consumption by commercial vessels, barges and other commercial watercraft;

25. Sales of tangible personal property or services to tax-exempt independent nonprofit biomedical research foundations that provide educational programs for Oklahoma science students and teachers and to tax-exempt independent nonprofit community blood banks headquartered in this state;

26. Effective May 6, 1992, sales of wireless telecommunications equipment to a vendor who subsequently transfers the equipment at no charge or for a discounted charge to a consumer as part of a promotional package or as an inducement to commence or continue a contract for wireless telecommunications services;

27. Effective January 1, 1991, leases of rail transportation cars to haul coal to coal-fired plants located in this state which generate electric power;

28. Beginning July 1, 2005, sales of aircraft engine repairs, modification, and replacement parts, sales of aircraft frame repairs and modification, aircraft interior modification, and paint, and sales of services employed in the repair, modification and replacement of parts of aircraft engines, aircraft frame and interior repair and modification, and paint;

29. Sales of materials and supplies to the owner or operator of a ship, motor vessel or barge that is used in interstate or international commerce if the materials and supplies:

- a. are loaded on the ship, motor vessel or barge and used in the maintenance and operation of the ship, motor vessel or barge, or
- b. enter into and become component parts of the ship, motor vessel or barge;

30. Sales of tangible personal property made at estate sales at which such property is offered for sale on the premises of the former residence of the decedent by a person who is not required to be licensed pursuant to the Transient Merchant Licensing Act, or who is not otherwise required to obtain a sales tax permit for the sale of such property pursuant to the provisions of Section 1364 of this title; provided:

- a. such sale or event may not be held for a period exceeding three (3) consecutive days,
- b. the sale must be conducted within six (6) months of the date of death of the decedent, and
- c. the exemption allowed by this paragraph shall not be allowed for property that was not part of the decedent's estate;

31. Beginning January 1, 2004, sales of electricity and associated delivery and transmission services, when sold exclusively for use by an oil and gas operator for reservoir dewatering projects and associated operations commencing on or after July 1, 2003, in which the initial water-to-oil ratio is greater than or equal to five-to-one water-to-oil, and such oil and gas development projects have been classified by the Corporation Commission as a reservoir dewatering unit;

32. Sales of prewritten computer software that is delivered electronically. For purposes of this paragraph, "delivered electronically" means delivered to the purchaser by means other than tangible storage media;

33. Sales of modular dwelling units when built at a production facility and moved in whole or in parts, to be assembled on-site, and permanently affixed to the real property and used for residential or commercial purposes. The exemption provided by this paragraph shall equal forty-five percent (45%) of the total sales price of the modular dwelling unit. For purposes of this paragraph, "modular dwelling unit" means a structure that is not subject to the motor vehicle excise tax imposed pursuant to Section 2103 of this title;

34. Sales of tangible personal property or services to persons who are residents of Oklahoma and have been honorably discharged from active service in any branch of the Armed Forces of the United States or Oklahoma National Guard and who have been certified by the United States Department of Veterans Affairs or its successor to be in receipt of disability compensation at the one-hundred-percent rate and the disability shall be permanent and have been sustained through military action or accident or resulting from disease contracted while in such active service or the surviving spouse of such person if the person is deceased and the spouse has not remarried; provided, sales for the benefit of the person to a spouse of the eligible person or to a member of the household in which the eligible person resides and who is authorized to make purchases on the person's behalf, when such eligible person is not present at the sale, shall also be exempt for purposes of this paragraph. Sales qualifying for the exemption authorized by this paragraph shall not exceed Twenty-five Thousand Dollars (\$25,000.00) per year per individual while the disabled veteran is living. Sales qualifying for the exemption authorized by this paragraph shall not exceed One Thousand Dollars (\$1,000.00) per year for an unremarried surviving spouse. Upon request of the Tax Commission, a person asserting or claiming the exemption authorized by this paragraph shall provide a statement, executed under oath, that the total sales amounts for which the exemption is applicable have not exceeded Twenty-five Thousand Dollars (\$25,000.00) per year per living disabled veteran or One Thousand Dollars (\$1,000.00) per year for an unremarried surviving spouse. If the amount of such exempt sales exceeds such amount, the sales tax in excess of the authorized amount shall be treated as a direct sales tax liability and may be recovered by the Tax Commission in the same manner provided by law for other taxes, including penalty and interest;

35. Sales of electricity to the operator, specifically designated by the Corporation Commission, of a spacing unit or lease from which oil is produced or attempted to be produced using enhanced recovery methods, including, but not limited to, increased pressure in a producing formation through the use of water or saltwater if the electrical usage is associated with and necessary for the operation of equipment required to inject or circulate fluids in a producing formation for the purpose of forcing oil or petroleum into a wellbore for eventual recovery and production from the wellhead. In order to be eligible for the sales tax exemption authorized by this paragraph, the total content of oil recovered after the use of enhanced recovery methods shall not exceed one percent (1%) by volume. The exemption authorized by this

paragraph shall be applicable only to the state sales tax rate and shall not be applicable to any county or municipal sales tax rate;

36. Sales of intrastate charter and tour bus transportation. As used in this paragraph, “intrastate charter and tour bus transportation” means the transportation of persons from one location in this state to another location in this state in a motor vehicle which has been constructed in such a manner that it may lawfully carry more than eighteen persons, and which is ordinarily used or rented to carry persons for compensation. Provided, this exemption shall not apply to regularly scheduled bus transportation for the general public;

37. Sales of vitamins, minerals and dietary supplements by a licensed chiropractor to a person who is the patient of such chiropractor at the physical location where the chiropractor provides chiropractic care or services to such patient. The provisions of this paragraph shall not be applicable to any drug, medicine or substance for which a prescription by a licensed physician is required;

38. Sales of goods, wares, merchandise, tangible personal property, machinery and equipment to a web search portal located in this state which derives at least eighty percent (80%) of its annual gross revenue from the sale of a product or service to an out-of-state buyer or consumer. For purposes of this paragraph, “web search portal” means an establishment classified under NAICS code 519130 which operates web sites that use a search engine to generate and maintain extensive databases of Internet addresses and content in an easily searchable format;

39. Sales of tangible personal property consumed or incorporated in the construction or expansion of a facility for a corporation organized under Section 437 et seq. of Title 18 of the Oklahoma Statutes as a rural electric cooperative. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a rural electric cooperative for construction or expansion of a facility shall be considered sales made to a rural electric cooperative;

40. Sales of tangible personal property or services to a business primarily engaged in the repair of consumer electronic 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, 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 authorized by this paragraph directly to retail consumers or if the devices are sold to another business entity for sale to retail consumers;

41. Before July 1, 2019, sales of rolling stock when sold or leased by the manufacturer, regardless of whether the purchaser is a public services corporation engaged in business as a common carrier of property or passengers by railway, for use or consumption by a common carrier directly in the rendition of public service. For purposes of this paragraph, “rolling stock” means locomotives, autocars and railroad cars; and

42. Sales 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. To qualify for the exemption, the gold, silver, platinum, palladium or other bullion items must be stored within a recognized depository facility. As used in the paragraph, “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. As used in this paragraph, “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 as defined in subsection E of Section 71 of Title 62 of the Oklahoma Statutes. The exemption authorized by this paragraph shall not apply to fabricated metals that have been processed or manufactured for artistic use or as jewelry.

Added by Laws 1981, c. 313, § 2, emerg. eff. June 29, 1981. Amended by Laws 1981, c. 351, § 1, operative Jan. 1, 1982; Laws 1985, c. 161, § 2, eff. July 1, 1985; Laws 1987, c. 7, § 1, operative Sept. 30, 1987; Laws 1988, c. 142, § 3, emerg. eff. April 25, 1988; Laws 1988, c. 190, § 1, eff. June 1, 1988; Laws 1989, c. 167, § 5, eff. July 1, 1989; Laws 1990, c. 280, § 2, emerg. eff. May 25, 1990; Laws 1991, 1st Ex. Sess., c. 1, § 4, emerg. eff. Jan. 18, 1991; Laws 1991, 1st Ex. Sess., c. 2, § 4, emerg. eff. Jan. 18, 1991; Laws 1991, c. 342, § 15, emerg. eff. June 15, 1991; Laws 1992, c. 383, § 2, emerg. eff. June 9, 1992; Laws 1993, c. 53, § 1, eff. July 1, 1993; Laws 1993, c. 275, § 11, eff. July 1, 1993; Laws 1994, c. 2, § 23, emerg. eff. March 2, 1994; Laws 1994, c. 278, § 15, eff. Sept. 1, 1994; Laws 1995, c. 337, § 5, emerg. eff. June 9, 1995; Laws 1996, c. 342, § 3, eff. July 1, 1996; Laws 1997, c. 2, § 16, emerg. eff. Feb. 26, 1997; Laws 1997, c. 190, § 2, eff. July 1, 1997; Laws 1997, c. 294, § 16, eff. July 1, 1997; Laws 1998, c. 5, § 22, emerg. eff. March 4, 1998; Laws 1998, c. 301, § 5, eff. Nov. 1, 1998; Laws 1999, c. 163, § 1, emerg. eff. May 17, 1999; Laws 1999, c. 390, § 9, emerg. eff. June 8, 1999; Laws 2000, c. 6, § 15, emerg. eff. March 20, 2000; Laws 2000, c. 337, § 2, eff. July 1, 2000; Laws 2001, c. 402, § 1, eff. July 1, 2001; Laws 2002, c. 22, § 26, emerg. eff. March 8, 2002; Laws 2002, c. 163, § 1, eff. July 1, 2002; Laws 2002, c. 385, § 1, eff. July 1, 2002; Laws 2003, c. 3, § 63, emerg. eff. March 19, 2003; Laws 2003, c. 413, § 9, eff. Nov. 1, 2003; Laws 2004, c. 535, § 8, eff. Nov. 1, 2004; Laws 2005, c. 381, § 9, eff. July 1, 2005; Laws 2006, c. 16, § 58, emerg. eff. March 29, 2006; Laws 2006, 2nd Ex. Sess., c. 44, § 5, eff. July 1, 2007; Laws 2007, c. 155, § 9, eff. Nov. 1, 2007; Laws 2007, c. 253, § 1, eff. July 1, 2007; Laws 2008, c. 436, § 3, eff. July 1, 2009; Laws 2009, c. 2, § 26, eff. July 1, 2009; Laws 2010, c. 419, § 5, eff. Nov. 1, 2010; Laws 2012, c. 230, § 2, emerg. eff. May 9, 2012; Laws 2013, c. 15, § 82, emerg. eff. April 8, 2013; Laws 2013, c. 364, § 1, eff. Nov. 1, 2013.

NOTE: Laws 1991, c. 337, § 2 repealed by Laws 1992, c. 383, § 4, emerg. eff. June 9, 1992. Laws 1993, c. 246, § 2 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994. Laws 1996, c. 289, § 2 repealed by Laws 1997, c. 2, § 26, emerg. eff. Feb. 26, 1997. Laws 1997, c. 252, § 2 repealed by Laws 1998, c. 5, § 29, emerg. eff. March 4, 1998. Laws 1999, c. 243, § 1 and Laws 1999, c. 329, § 1 repealed by Laws 2000, c. 6, § 33, emerg. eff. March 20, 2000. Laws 2001, c. 358, § 15 repealed by Laws 2002, c. 22, § 34, emerg. eff. March 8, 2002. Laws 2002, c. 382, § 2 repealed by Laws 2003, c. 3, § 64, emerg. eff. March 19, 2003. Laws 2005, c. 293, § 1 repealed by Laws 2006, c. 16, § 59, emerg. eff. March 29, 2006. Laws 2005, c. 295, § 1 repealed by Laws 2006, c. 16, § 60, emerg. eff. March 29, 2006. Laws 2005, c. 383, § 1 repealed by Laws 2006, c. 16, § 61, emerg. eff. March 29, 2006. Laws 2005, c. 479, § 14 repealed by Laws 2006, c. 16, § 62, emerg. eff. March 29, 2006. Laws 2006, c. 281, § 28 repealed by Laws 2006, 2nd Ex. Sess., c. 44, § 6, eff. July 1, 2007. Laws 2006, c. 272, § 1 repealed by Laws 2006, 2nd Ex. Sess., c. 44, § 7, eff. July 1, 2007. Laws 2007, c. 143, § 1 repealed by Laws 2007, c. 253, § 2, eff. July 1, 2007. Laws 2008, c. 406, § 1 repealed by Laws 2009, c. 2, § 27, eff. July 1, 2009. Laws 2012, c. 233, § 1 repealed by Laws 2013, c. 15, § 83, emerg. eff. April 8, 2013.

§68-1357.1. Repealed by Laws 1993, c. 275, § 51, eff. July 1, 1993.

§68-1357.2 Repealed by Laws 1996, c. 289, § 10, emerg. eff. July 1, 1996.

§68-1357.3 Repealed by Laws 1996, c. 289, § 10, emerg. eff. July 1, 1996.

§68-1357.4. Aircraft maintenance or manufacturing facilities - Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunication services and equipment - Sales tax refund - Computation of interest - Claim documentation - Filing.

A. In order to administer the exemption for sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto to a qualified purchaser as provided by paragraph 11 of Section 1357 of this title, there shall be made a sales tax refund for state and local sales taxes paid by a qualified purchaser for the purchase of said items.

B. The Oklahoma Tax Commission shall transfer each month from sales tax collected the amount which the Commission estimates to be necessary to make the sales tax refund provided by this section to an account designated as the Commission determines.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local sales taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified purchaser of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto upon the principal amount of any refund made to such purchaser for purposes of administering the exemption provided by paragraph 11 of Section 1357 of this title, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-months Treasury Bill of the United States government as of the first working day of the month and such interest shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

D. The qualified purchaser of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto shall file, within thirty-six (36) months of the date of purchase, with the Oklahoma Tax Commission, the following documentation for any refund claimed:

1. Invoices indicating the amount of state and local sales tax paid;
2. Affidavit of each vendor that state and local sales tax billed to the purchaser has not been audited, rebated, or refunded to the purchaser but rather the sales tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and
3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

E. Only sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment may qualify for the refund established by this section, provided the total cost of said equipment equals or exceeds the sum of Two Million Dollars (\$2,000,000.00) and occurs after the effective date of this act.

F. The qualified purchaser shall file, within sixty (60) months of the date of the first purchase, with the Oklahoma Tax Commission a certification issued by the Oklahoma Employment Security Commission in order to qualify for the refund authorized by this section. Added by Laws 1991, 1st Ex. Sess., c. 2, § 6, emerg. eff. Jan. 18, 1991. Amended by Laws 1993, c. 275, § 12, eff. July 1, 1993.

§68-1357.5. Aircraft maintenance or manufacturing facilities - Sales of tangible property consumed or incorporated in construction or expansion - Sales tax refund - Computation of interest - Documentation of claims - Affidavits by contractors.

A. In order to administer the exemption for sales to a qualified aircraft maintenance or manufacturing facility as provided by paragraph 12 of Section 1357 of this title, there shall be made a sales tax refund for state and local sales taxes paid by a qualified purchaser for tangible personal property purchased to be consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility, as defined in paragraph 11 of Section 1357 of this title, in the state from the account created by this section.

B. The Oklahoma Tax Commission shall transfer each month from sales tax collected the amount which the Commission estimates to be necessary to make the sales tax refund provided by this section to an account designated as the Commission determines.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local sales taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified aircraft maintenance or manufacturing facility upon the principal amount of any refund made to such facility for purposes of administering the exemption provided by paragraph 12 of Section 1357 of this title, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-month Treasury Bill of the United States government as of the first working day of the month in which the transfer is made. The interest rate so determined shall accrue upon the amount transferred to the account. In each subsequent month, the Commission shall determine the interest rate paid for a three-month Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

D. For purposes of this section, state and local sales taxes paid by a contractor or subcontractor for tangible personal property purchased by that contractor or subcontractor to be consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility pursuant to a contract with a qualified facility shall, upon proper showing, be refunded to the qualified facility.

E. The qualified purchaser shall file, within thirty-six (36) months of the date of purchase, with the Oklahoma Tax Commission the following documentation for any refund claimed:

1. Invoices indicating the amount of state and local sales tax billed;
2. Affidavit of each vendor that state and local sales tax billed has not been audited, rebated, or refunded to the qualified purchaser but rather the sales tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and

3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

F. In the event that state and local sales tax was paid by a contractor or subcontractor, the qualified purchaser shall file with the Oklahoma Tax Commission all documentation required in subsection E of this section but in lieu of the affidavit of each vendor the qualified facility shall file, for any refund claimed, an affidavit from the contractor or subcontractor stating that the sales tax refund of the qualified purchaser is based on state and local sales tax paid by the contractor or subcontractor on tangible personal property purchased to be consumed or incorporated in the construction or expansion of a qualified aircraft maintenance facility and that the amount of state and local sales tax claimed was paid to the vendor and no credit, refund, or rebate has been claimed by the contractor or subcontractor.

G. Only sales of tangible personal property made after the effective date of this act, shall be eligible for the refund established by this section.

H. The qualified purchaser shall file, within sixty (60) months of the date of the first purchase, with the Oklahoma Tax Commission a certification issued by the Oklahoma Employment Security Commission in order to qualify for the refund authorized by this section. Added by Laws 1991, 1st Ex. Sess., c. 2, § 7 emerg. eff. Jan. 18, 1991. Amended by Laws 1993, c. 275, § 13, eff. July 1, 1993.

§68-1357.6. Drugs and medical devices and equipment - Exemption.

A. Effective July 1, 1992, there are hereby exempted from the tax levied by Section 1351 et seq. of, this title sales 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, as defined in subsection C of this section, durable medical equipment, as defined in subsection D of this section, and mobility enhancing equipment, as defined in subsection E of this section, when administered or distributed by a practitioner, as defined in subsection B of this section, who is authorized by law to administer or distribute such items or when purchased or leased by or on behalf of an individual for use by such individual under a prescription or work order of a practitioner who is authorized by law to prescribe such items and when the cost of such items will be reimbursed under the Medicare or Medicaid Program.

B. The term "practitioner" means a physician, osteopathic physician, surgeon, podiatrist, chiropractor, optometrist, pharmacist, psychologist, ophthalmologist, nurse practitioner, audiologist or hearing aid dealer or fitter who is licensed by the state as required by law.

C. The term "prosthetic device" means a replacement, corrective or supportive device, including repair and replacement parts for same, worn on or in the body to:

1. Artificially replace a missing portion of the body;
2. Prevent or correct physical deformity or malfunction; or
3. Support a weak or deformed portion of the body.

Provided, the term shall not include corrective eyeglasses, contact lenses or hearing aids.

D. The term "durable medical equipment" means equipment, including repair and replacement parts for same, which:

1. Can withstand repeated use;
2. Is primarily and customarily used to serve a medical purpose;
3. Generally is not useful to a person in the absence of illness or injury; and
4. Is not worn in or on the body.

The term “durable medical equipment” shall not include “mobility enhancing equipment” as defined in subsection E of this section.

E. The term “mobility enhancing equipment” means equipment, including repair and replacement parts for same, which:

1. Is primarily and customarily used to provide or increase the ability to move from one place to another and which is appropriate for use either in a home or a motor vehicle;
2. Is not generally used by persons with normal mobility; and
3. Does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

The term “mobility enhancing equipment” shall not include “durable medical equipment” as defined in subsection D of this section.

Added by Laws 1991, c. 342, § 16, emerg. eff. June 15, 1991. Amended by Laws 2003, c. 413, § 10, eff. Nov. 1, 2003; Laws 2004, c. 535, § 9, eff. Nov. 1, 2004.

§68-1357.7. Horses - Exemption.

There are hereby specifically exempted from the tax levied by this article, sales of horses after January 1, 1989.

Added by Laws 1992, c. 366, § 2, emerg. eff. June 9, 1992.

§68-1357.8. Repealed by Laws 2005, c. 381, § 18, eff. July 1, 2005.

§68-1357.9. Service transactions among related entities - Exemptions.

A. There are exempt from the taxes imposed by Section 1351 et seq. of Title 68 of the Oklahoma Statutes service transactions among related entities.

B. For purposes of this section, “related entity” includes persons as defined by subsection (b) of Section 267 of the Internal Revenue Code.

C. An exemption authorized by this section does not apply to a service that would have been taxable under Section 1351 et seq. of Title 68 of the Oklahoma Statutes as it existed on July 1, 2003.

D. Services that are exempt under this section may not be purchased for resale by the providing company.

E. Tangible personal property that is transferred as an integral part of a service exempted under this section may not be purchased for resale by the providing company.

Added by Laws 2003, c. 462, § 1, eff. July 1, 2003.

§68-1357.10. Clothing or footwear - Exemption of certain sales - Exceptions.

A. The sale of an article of clothing or footwear designed to be worn on or about the human body shall be exempt from the tax imposed by Section 1354 of Title 68 of the Oklahoma Statutes if:

1. The sales price of the article is less than One Hundred Dollars (\$100.00); and
2. The sale takes place during a period beginning at 12:01 a.m. on the first Friday in August and ending at 12 midnight on the following Sunday, covering a period of three (3) days.

B. Subsection A of this section shall not apply to:

1. Any special clothing or footwear that is primarily designed for athletic activity or protective use and that is not normally worn except when used for athletic activity or protective use for which it is designed;

2. Accessories, including jewelry, handbags, luggage, umbrellas, wallets, watches, and similar items carried on or about the human body, without regard to whether worn on the body in a manner characteristic of clothing; and

3. The rental of clothing or footwear.

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

Added by Laws 2007, c. 136, § 3, eff. July 1, 2007.

§68-1358. Exemptions - Agriculture.

Exemptions – Agriculture.

A. There are hereby specifically exempted from the tax levied by Section 1350 et seq. of this title:

1. Sales of agricultural products produced in this state by the producer thereof directly to the consumer or user when such articles are sold at or from a farm and not from some other place of business, as follows:

- a. farm, orchard or garden products, and
- b. dairy products sold by a dairy producer or farmer who owns all the cows from which the dairy products offered for sale are produced;

provided, the provisions of this paragraph shall not be construed as exempting sales by florists, nursery operators or chicken hatcheries, or sales of dairy products by any other business except as set out herein;

2. Livestock, including cattle, horses, mules or other domestic or draft animals, sold by the producer by private treaty or at a special livestock sale;

3. Sale of baby chicks, turkey poults and starter pullets used in the commercial production of chickens, turkeys and eggs, provided that the purchaser certifies, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the pullets will be used primarily for egg production;

4. Sale of salt, grains, tankage, oyster shells, mineral supplements, limestone and other generally recognized animal feeds for the following purposes and subject to the following limitations:

- a. feed which is fed to poultry and livestock, including breeding stock and wool-bearing stock, for the purpose of producing eggs, poultry, milk or meat for human consumption,
- b. feed purchased in Oklahoma for the purpose of being fed to and which is fed by the purchaser to horses, mules or other domestic or draft animals used directly in the producing and marketing of agricultural products, and
- c. any stock tonics, water purifying products, stock sprays, disinfectants or other such agricultural supplies.

“Poultry” shall not be construed to include any fowl other than domestic fowl kept and raised for the market or production of eggs. “Livestock” shall not be construed to include any pet animals such as dogs, cats, birds or such other fur-bearing animals. This exemption shall only be granted and extended where the purchaser of feed that is to be used and in fact is used for a purpose that would bring about an exemption hereunder executes an invoice or sales ticket in duplicate on a form to be prescribed by the Oklahoma Tax Commission. The purchaser may demand and receive a copy of the invoice or sales ticket and the vendor shall retain a copy;

5. Sales of items to be and in fact used in the production of agricultural products. Sale of the following items shall be subject to the following limitations:

- a. sales of agricultural fertilizer to any person regularly engaged, for profit, in the business of farming or ranching,
- b. sales of agricultural fertilizer to any person engaged in the business of applying such materials on a contract or custom basis to land owned or leased and operated by persons regularly engaged, for profit, in the business of farming or ranching. In addition to providing the vendor proof of eligibility as provided in Section 1358.1 of this title, the purchaser shall provide the name or names of such owner or lessee and operator and the location of the lands on which said materials are to be applied to each such land,
- c. sales of agricultural fertilizer, pharmaceuticals and biologicals to persons engaged in the business of applying such materials on a contract or custom basis shall not be considered to be sales to contractors under this article, and said sales shall not be considered to be taxable sales within the meaning of the Oklahoma Sales Tax Code. As used in this section, "agricultural fertilizer", "pharmaceuticals" and "biologicals" mean any substance sold and used for soil enrichment or soil corrective purposes or for promoting the growth and productivity of plants or animals,
- d. sales of agricultural seed or plants to any person regularly engaged, for profit, in the business of farming or ranching. This section shall not be construed as exempting from sales tax, seed which is packaged and sold for use in noncommercial flower and vegetable gardens, and
- e. sales of agricultural chemical pesticides to any person regularly engaged, for profit, in the business of farming or ranching. For the purposes of this subparagraph, "agricultural chemical pesticides" shall include any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insect, snail, slug, rodent, bird, nematode, fungus, weed or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other microorganism, except viruses, bacteria or other microorganisms on or in living man, or any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

The exemption provided in this paragraph shall only be granted and extended to the purchaser where the items are to be used and in fact are used in the production of agricultural products;

6. Sale of farm machinery, repair parts thereto or fuel, oil, lubricants and other substances used for operation and maintenance of the farm machinery 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. The exemption specified in this paragraph shall apply to such farm machinery, repair parts or fuel, oil, lubricants and other substances used by persons engaged in the business of custom production, cultivation, planting, sowing, harvesting, processing, spraying, preservation, or irrigation of any livestock, poultry, agricultural, or dairy products for farmers or ranchers. The exemption provided for herein shall not apply to motor vehicles;

7. Sales of supplies, machinery and equipment to persons regularly engaged in the business of raising evergreen trees for retail sale in which such trees are cut down on the

premises by the consumer purchasing such tree. This exemption shall only be granted and extended when the items in fact are used in the raising of such evergreen trees; and

8. Sales of materials, supplies and equipment to an agricultural permit holder or to any person with whom the permit holder has contracted to construct facilities which are or which will be used directly in the production of any livestock, including, but not limited to, facilities used in the production and storage of feed for livestock owned by the permit holder. Any person making purchases on behalf of the agricultural permit holder shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such permit holder and set out the name and permit number of such holder. Any person who wrongfully or erroneously certifies that purchases are for an agricultural permit holder or who otherwise violates this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of an amount equal to double the amount of sales tax involved or imprisonment in the county jail for not more than sixty (60) days or by both such fine and imprisonment.

B. As used in this section and Section 1358.1 of this title:

1. "Agricultural products" shall include horses; and
2. "Ranching" or "ranch" shall include the business, or facilities for the business, of raising horses.

Provided, sales of items at race meetings as defined in Section 200.1 of Title 3A of the Oklahoma Statutes shall not be exempt pursuant to the provisions of this section and Section 1358.1 of this title.

Added by Laws 1981, c. 313, § 2, emerg. eff. June 29, 1981. Amended by Laws 1984, c. 195, § 1, eff. Jan. 1, 1985; Laws 1985, c. 177, § 2, eff. Jan. 1, 1986; Laws 1989, c. 249, § 25, eff. July 1, 1989; Laws 1992, c. 70, § 1, eff. July 1, 1993; Laws 1995, c. 337, § 6, emerg. eff. June 9, 1995; Laws 1999, c. 390, § 10, emerg. eff. June 8, 1999.

§68-1358.1. Exemptions - Agriculture - Proof of eligibility.

A. In order to qualify for any exemption authorized by Section 1358 of this title, at the time of sale, the person to whom the sale is made shall be required to furnish the vendor proof of eligibility for the exemption as required by this section.

B. All vendors shall honor the proof of eligibility for sales tax exemption as authorized by this section and sales to a person providing such proof shall be exempt from the tax levied by this article, Section 1350 et seq. of this title.

C. The agricultural exemption permit, the size and design of which shall be prescribed by the Oklahoma Tax Commission, shall constitute proof of eligibility for sales tax exemptions authorized by Section 1358 of this title. The permit shall be obtained by listing personal property used in farming or ranching by the person with the county assessor each year as provided by law. If the assessor determines that the personal property is correctly listed and assessed for ad valorem taxation and the county treasurer certifies whether the person has delinquent accounts appearing on the personal property tax lien docket in the county treasurer's office, the assessor shall certify the assessment upon a form prescribed by the Oklahoma Tax Commission. One copy shall be retained by the assessor, one copy shall be forwarded to the Oklahoma Tax Commission and one copy shall be given to the person listing the personal property. Upon verification that the applicant qualifies for the exemptions authorized by Section 1358 of this title and that the applicant has no delinquent accounts appearing on the personal property tax lien docket in the office of the county treasurer, a permit shall be issued as

prescribed by this section. The permit shall be renewable every three (3) years in the manner provided by this section.

D. A person who does not otherwise qualify for a permit pursuant to subsection C of this section, except as provided in subsection E of this section, shall file with the Oklahoma Tax Commission an application for an agricultural exemption permit constituting proof of eligibility for the sales tax exemptions authorized by Section 1358 of this title, setting forth such information as the Tax Commission may require. The application shall be certified by the applicant that the applicant is engaged in custom farming operations or in the business of farming or ranching. If the applicant is a corporation, the application shall be certified by a legally constituted officer thereof.

E. Except as provided in this subsection, for a person who is a resident of another state and who is engaged in custom farming operations in this state, the person shall provide the vendor proof of residency, the name, address and telephone number of the person engaging the custom farmer and certification on the face of the invoice, under the penalty of perjury, that the property purchased shall be used in agricultural production as proof of eligibility for the sales tax exemption authorized by Section 1358 of this title. Any person who is a resident of another state and who is engaged in custom farming operations in this state and who owns property in this state, shall obtain proof of eligibility as provided in subsection C or D of this section.

F. If an agricultural exemption permit holder purchases tangible personal property from a vendor on a regular basis, the permit holder may furnish the vendor proof of eligibility as provided for in subsections C and D of this section and the vendor may subsequently make sales of tangible personal property to the permit holder without requiring proof of eligibility for each subsequent sale. Provided, the permit holder shall notify the vendor of all purchases which are not exempt from sales tax under the provisions of Section 1358 of this title and remit the applicable amount of tax thereon. If the permit holder fails to notify the vendor of purchases not exempt from sales tax, then sufficient grounds shall exist for the Oklahoma Tax Commission to cancel the agricultural exemption permit of the permit holder who so failed to notify the vendor.

G. If an out-of-state agricultural exemption permit holder purchases tangible personal property from a vendor within this state who is not in the business of shipping the tangible personal property purchased, then the out-of-state agricultural exemption permit holder is responsible for providing an export bill of lading or other documentation to the vendor from whom the tangible personal property was purchased showing that the point of delivery of such goods for use and consumption is outside the State of Oklahoma.

H. A purchaser who uses an agricultural exemption permit or provides proof of eligibility pursuant to subsection E of this section to purchase, exempt from sales tax, items not authorized for exemption under Section 1358 of this title shall be subject to a penalty in the amount of Five Hundred Dollars (\$500.00).

Added by Laws 1988, c. 146, § 3, operative Nov. 1, 1988. Amended by Laws 1992, c. 70, § 2, eff. July 1, 1993; Laws 1995, c. 182, § 1, eff. Nov. 1, 1995; Laws 1997, c. 294, § 17, eff. July 1, 1997; Laws 1998, c. 403, § 3, emerg. eff. June 10, 1998; Laws 1999, c. 1, § 20, emerg. eff. Feb. 24, 1999; Laws 2007, c. 353, § 6, eff. Nov. 1, 2007.

NOTE: Laws 1998, c. 300, § 2 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999.

§68-1359. Exemptions - Manufacturing.

Exemptions - Manufacturing.

There are hereby specifically exempted from the tax levied by Section 1350 et seq. of this title:

1. Sales of goods, wares, merchandise, tangible personal property, machinery and equipment to a manufacturer for use in a manufacturing operation. Goods, wares, merchandise, property, machinery and equipment used in a nonmanufacturing activity or process as set forth in paragraph 14 of Section 1352 of this title shall not be eligible for the exemption provided for in this subsection by virtue of the activity or process being performed in conjunction with or integrated into a manufacturing operation.

For the purposes of this paragraph, sales made to any person, firm or entity that has entered into a contractual relationship for the construction and improvement of manufacturing goods, wares, merchandise, property, machinery and equipment for use in a manufacturing operation shall be considered sales made to a manufacturer which is defined or classified in the North American Classification System (NAICS) Manual under Industry Group No. 324110. Such purchase shall be evidenced by a copy of the sales ticket or invoice to be retained by the vendor indicating that the purchases are made for and on behalf of such manufacturer and set out the name of such manufacturer as well as include a copy of the Manufacturing Exemption Permit of the manufacturer. Any person who wrongfully or erroneously certifies that purchases are being made on behalf of such manufacturer or who otherwise violates this paragraph shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

2. Ethyl alcohol when sold and used for the purpose of blending same with motor fuel on which motor fuel tax is levied by Section 500.4 of this title;

3. Sales of containers when sold to a person regularly engaged in the business of reselling empty or filled containers or when purchased for the purpose of packaging raw products of farm, garden, or orchard for resale to the consumer or processor. This exemption shall not apply to the sale of any containers used more than once and which are ordinarily known as returnable containers, except returnable soft drink bottles and the cartons, crates, pallets, and containers used to transport returnable soft drink bottles. Each and every transfer of title or possession of such returnable containers in this state to any person who is not regularly engaged in the business of selling, reselling or otherwise transferring empty or filled containers shall be taxable under this Code. Additionally, this exemption shall not apply to the sale of labels or other materials delivered along with items sold but which are not necessary or absolutely essential to the sale of the sold merchandise;

4. Sales of or transfers of title to or possession of any containers, after June 30, 1987, used or to be used more than once and which are ordinarily known as returnable containers and which do or will contain beverages defined by paragraphs 4 and 14 of Section 506 of Title 37 of the Oklahoma Statutes, or water for human consumption and the cartons, crates, pallets, and containers used to transport such returnable containers;

5. Sale of tangible personal property when sold by the manufacturer to a person who transports it to a state other than Oklahoma for immediate and exclusive use in a state other than Oklahoma. Provided, no sales at a retail outlet shall qualify for the exemption under this paragraph;

6. Machinery, equipment, fuels and chemicals or other materials incorporated into and directly used or consumed in the process of treatment to substantially reduce the volume or harmful properties of hazardous waste at treatment facilities specifically permitted pursuant to the Oklahoma Hazardous Waste Management Act and operated at the place of waste generation,

or facilities approved by the Department of Environmental Quality for the cleanup of a site of contamination. The term “hazardous” waste may include low-level radioactive waste for the purpose of this paragraph;

7. Except as otherwise provided by subsection I of Section 3658 of this title pursuant to which the exemption authorized by this paragraph may not be claimed, sales of tangible personal property to a qualified manufacturer or distributor to be consumed or incorporated in a new manufacturing or distribution facility or to expand an existing manufacturing or distribution facility. For purposes of this paragraph, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified manufacturer or distributor for construction or expansion of a manufacturing or distribution facility shall be considered sales made to a qualified manufacturer or distributor. For the purposes of this paragraph, “qualified manufacturer or distributor” means:

- a. any manufacturing enterprise whose total cost of construction of a new or expanded facility exceeds the sum of Five Million Dollars (\$5,000,000.00) and in which at least one hundred (100) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, are added and maintained for a period of at least thirty-six (36) months as a direct result of the new or expanded facility,
- b. any manufacturing enterprise whose total cost of construction of a new or expanded facility exceeds the sum of Ten Million Dollars (\$10,000,000.00) and the combined cost of construction material, machinery, equipment and other tangible personal property exempt from sales tax under the provisions of this paragraph exceeds the sum of Fifty Million Dollars (\$50,000,000.00) and in which at least seventy-five (75) new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, are added and maintained for a period of at least thirty-six (36) months as a direct result of the new or expanded facility,
- c. any manufacturing enterprise whose total cost of construction of an expanded facility exceeds the sum of Three Hundred Million Dollars (\$300,000,000.00) and in which the manufacturer has and maintains an average employment level of at least one thousand seven hundred fifty (1,750) full-time-equivalent employees, as certified by the Employment Security Commission, or
- d. any enterprise primarily engaged in the general wholesale distribution of groceries defined or classified in the North American Industry Classification System (NAICS) Manual under Industry Groups No. 4244 and 4245 and which has at least seventy-five percent (75%) of its total sales to in-state customers or buyers and whose total cost of construction of a new or expanded facility exceeds the sum of Forty Million Dollars (\$40,000,000.00) with such construction commencing on or after July 1, 2005, and before December 31, 2005, and which at least fifty new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, are added and maintained for a period of at least thirty-six (36) months as a direct result of the new or expanded facility.

For purposes of this paragraph, the total cost of construction shall include building and construction material and engineering and architectural fees or charges directly associated with

the construction of a new or expanded facility. The total cost of construction shall not include attorney fees. For purposes of subparagraph c of this paragraph, the total cost of construction shall also include the cost of qualified depreciable property as defined in Section 2357.4 of this title and labor services performed in the construction of an expanded facility. For the purpose of subparagraph d of this paragraph, the total cost of construction 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. The employment requirement of this paragraph can be satisfied by the employment of a portion of the required number of new full-time-equivalent employees at a manufacturing or distribution facility that is related to or supported by the new or expanded manufacturing or distribution facility as long as both facilities are owned by one person or business entity. For purposes of this section, "manufacturing facility" shall mean building and land improvements used in manufacturing as defined in Section 1352 of this title and shall also mean building and land improvements used for the purpose of packing, repackaging, labeling or assembling for distribution to market, products at least seventy percent (70%) of which are made in Oklahoma by the same company but at an off-site, in-state manufacturing or distribution facility or facilities. It shall not include a retail outlet unless the retail outlet is operated in conjunction with and on the same site or premises as the manufacturing facility. Up to ten percent (10%) of the square feet of a manufacturing or distribution facility building may be devoted to office space used to provide clerical support for the manufacturing operation. Such ten percent (10%) may be in a separate building as long as it is part of the same contiguous tract of property on which the manufacturing or distribution facility is located. Only sales of tangible personal property made after June 1, 1988, shall be eligible for the exemption provided by this paragraph. The exemption authorized pursuant to subparagraph d of this paragraph shall only become effective when the governing body of the municipality in which the enterprise 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;

8. Sales of tangible personal property purchased and used by a licensed radio or television station in broadcasting. This exemption shall not apply unless such machinery and equipment is used directly in the manufacturing process, is necessary for the proper production of a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. This exemption begins with the equipment used in producing live programming or the electronic equipment directly behind the satellite receiving dish or antenna, and ends with the transmission of the broadcast signal from the broadcast antenna system. For purposes of this paragraph, "proper production" shall include, but not be limited to, machinery or equipment required by Federal Communications Commission rules and regulations;

9. Sales of tangible personal property purchased or used by a licensed cable television operator in cablecasting. This exemption shall not apply unless such machinery and equipment is used directly in the manufacturing process, is necessary for the proper production of a cablecast signal or is such that the failure of the machinery or equipment to operate would cause cablecasting to cease. This exemption begins with the equipment used in producing local programming or the electronic equipment behind the satellite receiving dish, microwave tower or antenna, and ends with the transmission of the signal from the cablecast head-end system. For purposes of this paragraph, "proper production" shall include, but not be limited to, machinery or equipment required by Federal Communications Commission rules and regulations;

10. Sales of packaging materials for use in packing, shipping or delivering tangible personal property for sale when sold to a producer of agricultural products. This exemption shall not apply to the sale of any packaging material which is ordinarily known as a returnable container;

11. Sales of any pattern used in the process of manufacturing iron, steel or other metal castings. The exemption provided by this paragraph shall be applicable irrespective of ownership of the pattern provided that such pattern is used in the commercial production of metal castings;

12. Deposits or other charges made and which are subsequently refunded for returnable cartons, crates, pallets, and containers used to transport cement and cement products;

13. Beginning January 1, 1998, machinery, electricity, fuels, explosives and materials, excluding chemicals, used in the mining of coal in this state;

14. Deposits, rent or other charges made for returnable cartons, crates, pallets, and containers used to transport mushrooms or mushroom products from a farm for resale to the consumer or processor; and

15. Sales of tangible personal property and services used or consumed in all phases of the extraction and manufacturing of crushed stone and sand, including but not limited to site preparation, dredging, overburden removal, explosive placement and detonation, onsite material hauling and/or transfer, material washing, screening and/or crushing, product weighing and site reclamation.

Added by Laws 1981, c. 313, § 2, emerg. eff. June 29, 1981. Amended by Laws 1983, c. 275, § 8, emerg. eff. June 24, 1983; Laws 1987, c. 203, § 154, operative July 1, 1987; Laws 1988, c. 9, § 1, operative June 1, 1988; Laws 1988, c. 37, § 1, operative July 1, 1988; Laws 1990, c. 280, § 3, emerg. eff. May 25, 1990; Laws 1991, c. 133, § 1, emerg. eff. April 29, 1991; Laws 1991, c. 191, § 1, emerg. eff. May 15, 1991; Laws 1991, c. 342, § 17, emerg. eff. June 15, 1991; Laws 1992, c. 189, § 1, emerg. eff. May 8, 1992; Laws 1992, c. 403, § 44, eff. Sept. 1, 1992; Laws 1993, c. 10, § 11, emerg. eff. March 21, 1993; Laws 1994, c. 120, § 1, emerg. eff. April 28, 1994; Laws 1994, c. 278, § 16, eff. Sept. 1, 1994; Laws 1995, c. 349, § 5, emerg. eff. June 9, 1995; Laws 1996, c. 3, § 14, emerg. eff. March 6, 1996; Laws 1996, c. 289, § 5, eff. July 1, 1996; Laws 1997, c. 294, § 18, eff. July 1, 1997; Laws 1997, c. 390, § 5, eff. July 1, 1997; Laws 1998, c. 301, § 7, eff. Nov. 1, 1998; Laws 2000, c. 3, § 1, emerg. eff. March 2, 2000; Laws 2000, c. 314, § 16, eff. July 1, 2000; Laws 2001, c. 5, § 39, emerg. eff. March 21, 2001; Laws 2002, c. 299, § 12, emerg. eff. May 23, 2002; Laws 2003, c. 472, § 15; Laws 2005, c. 413, § 1, eff. July 1, 2005; Laws 2006, c. 327, § 5, eff. July 1, 2006; Laws 2006, 2nd Ex. Sess., c. 44, § 8, eff. July 1, 2007; Laws 2011, c. 358, § 1; Laws 2013, c. 334, § 4, eff. July 1, 2013.

NOTE: Laws 1992, c. 225, § 1 repealed by Laws 1993, c. 10, § 16, emerg. eff. March 21, 1993. Laws 1995, c. 285, § 20 repealed by Laws 1996, c. 3, § 25, emerg. eff. March 6, 1996. Laws 2000, c. 273, § 1 repealed by Laws 2001, c. 5, § 40, emerg. eff. March 21, 2001.

§68-1359.1. Manufacturers - Refund of certain state and local sales taxes.

A. In order to administer the exemption for sales to a qualified manufacturer or distributor as provided by Section 1359 of this title, there shall be made a sales tax refund for state and local sales taxes paid by qualified manufacturers or distributors for tangible personal property purchased to be consumed or incorporated in the construction of a new manufacturing or distribution facility or to expand an existing manufacturing or distribution facility in the state from the account created by this section. Provided, no claim for a refund shall be filed by a

distributor pursuant to subparagraph d of paragraph 7 of Section 1359 of this title before July 1, 2006.

B. The Oklahoma Tax Commission shall transfer each month from sales tax collected the amount which the Commission estimates to be necessary to make the sales tax refund provided by this section to an account designated as the Commission determines.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Tax Commission. The amount of the refund shall not exceed the total state and local sales taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified manufacturer or distributor upon the principal amount of any refund made to such manufacturer or distributor for purposes of administering the exemption provided by Section 1359 of this title shall be determined according to the amount earned as invested by the State Treasurer's Office. The interest rate shall accrue upon the amount transferred to the account.

D. For purposes of this section, state and local sales taxes paid by a contractor or subcontractor for tangible personal property purchased by that contractor or subcontractor to be consumed or incorporated in the construction of a new or expanded manufacturing facility pursuant to a contract with a qualified manufacturer or distributor shall, upon proper showing, be refunded to the qualified manufacturer or distributor.

E. The qualified manufacturer or distributor shall file with the Tax Commission the following documentation for any refund claimed:

1. Invoices indicating the amount of state and local sales tax billed;
2. Affidavit of each vendor that state and local sales tax billed has not been audited, rebated, or refunded to the qualified manufacturer but rather the sales tax charged has been collected by the vendor and remitted to the Tax Commission; and
3. All additional documentation required to be submitted pursuant to rules promulgated by the Tax Commission.

F. In the event that state and local sales tax was paid by a contractor or subcontractor, the qualified manufacturer or distributor shall file with the Tax Commission all documentation required in subsection E of this section but in lieu of the affidavit of each vendor the qualified manufacturer or distributor shall file, for any refund claimed, an affidavit from the contractor or subcontractor stating that the sales tax refund of the qualified manufacturer or distributor is based on state and local sales tax paid by the contractor or subcontractor on tangible personal property purchased to be consumed or incorporated in the construction of a new or expanded business activity and that the amount of state and local sales tax claimed was paid to the vendor and no credit, refund, or rebate has been claimed by the contractor or subcontractor.

G. Only sales of tangible personal property made after June 1, 1988, shall be eligible for the refund established by this section.

H. The qualified manufacturer or distributor shall file, within thirty-six (36) months of the date of the first purchase which is exempt from taxation pursuant to the provisions of paragraph 7 of Section 1359 of this title, with the Tax Commission a certification issued by the Employment Security Commission in order to qualify for the refund authorized by this section.

I. Notwithstanding the provisions of any state tax law, the amount refunded under this section shall be assessed if the number of full-time-equivalent employees drops below the number prescribed in paragraph 7 of Section 1359 of this title, at any time within thirty-six (36) months of the date certification is issued by the Oklahoma Employment Security Commission.

Added by Laws 1988, c. 9, § 2, operative June 1, 1988. Amended by Laws 1991, c. 133, § 2, emerg. eff. April 29, 1991; Laws 1992, c. 225, § 2, eff. July 1, 1992; Laws 2004, c. 535, § 10, eff. Nov. 1, 2004; Laws 2005, c. 413, § 2, eff. July 1, 2005.

§68-1359.2. Manufacturer exemption permit.

A. In order to qualify for the exemption authorized in paragraph 1 of Section 1359 of Title 68 of the Oklahoma Statutes, at the time of sale, the person to whom the sale is made, provided the purchaser is a resident of this state, shall be required to furnish the vendor proof of eligibility for the exemption as required by this section. All vendors shall honor the proof of eligibility for sales tax exemption as authorized under this section, and sales to a person providing such proof shall be exempt from the tax levied by Section 1350 et seq. of Title 68 of the Oklahoma Statutes.

B. Each resident manufacturer wishing to claim the exemption authorized in paragraph 1 of Section 1359 of Title 68 of the Oklahoma Statutes shall be required to secure from the Oklahoma Tax Commission a manufacturer exemption permit, the size and design of which shall be prescribed by the Tax Commission. This permit shall constitute proof of eligibility for the exemption provided in paragraph 1 of Section 1359 of Title 68 of the Oklahoma Statutes. Each such manufacturer shall file with the Tax Commission an application for an exemption permit, setting forth such information as the Tax Commission may require. The application shall be signed by the owner of the business or representative of the business entity and as a natural person, and, in the case of a corporation, as a legally constituted officer thereof.

C. Each manufacturer exemption permit issued shall be valid for a period of three (3) years from the date of issuance. If a manufacturer applying for a manufacturer exemption permit is already the holder of a manufacturer's sales tax permit issued under Section 1364 of Title 68 of the Oklahoma Statutes at the time of initial application, the manufacturer exemption permit shall be issued with an expiration date which corresponds with the expiration date of the manufacturer's sales tax permit. Thereafter, the Tax Commission shall issue the exemption permits at the same time of issuance or renewal of the manufacturer's sales tax permit issued under Section 1364 of Title 68 of the Oklahoma Statutes.

D. The Tax Commission shall honor all manufacturer's limited exemption certificates issued prior to the effective date of this act. However, holders of such certificates shall apply for a manufacturer exemption permit pursuant to the provisions of this section at the same time they apply for issuance or renewal of a manufacturer's sales tax permit.

Added by Laws 1998, c. 301, § 8, eff. Nov. 1, 1998.

§68-1360. Exemptions - Corporations - Partnerships.

Exemptions - Corporations - Partnerships.

There are hereby specifically exempted from the tax levied in this article:

1. The transfer of tangible personal property, as follows:

- a. from one corporation to another corporation pursuant to a reorganization. As used in this subparagraph the term "reorganization" means a statutory merger or consolidation or the acquisition by a corporation of substantially all of the properties of another corporation when the consideration is solely all or a part of the voting stock of the acquiring corporation, or of its parent or subsidiary corporation,

- b. in connection with the winding up, dissolution or liquidation of a corporation only when there is a distribution in kind to the shareholders of the property of such corporation,
- c. to a corporation for the purpose of organization of such corporation where the former owners of the property transferred are immediately after the transfer in control of the corporation, and the value of the stock or securities received by each is substantially in proportion to the value of such person's interest in the property transferred by all the former owners,
- d. to a partnership in the organization of such partnership if the former owners of the property transferred are, immediately after the transfer, members of such partnership and the value of the interest in the partnership, received by each, is substantially in proportion to the value of such person's interest in the property transferred by all former owners,
- e. from a partnership to the members thereof when made in kind in the dissolution of such partnership,
- f. to a limited liability company in the organization of the limited liability company if the former owners of the property transferred are, immediately after the transfer, members of the limited liability company and the value of the interest in the limited liability company received by each is substantially in proportion to the value of the interest in the property transferred by all the former owners, and
- g. from a limited liability company to the members thereof when made in kind in the dissolution of the limited liability company; and

2. Sale of an interest in tangible personal property to a partner or other person who after such sale owns a joint interest in such tangible personal property where the Oklahoma Sales or Use Tax has previously been paid on such tangible personal property. Laws 1981, c. 313, § 2, emerg. eff. June 29, 1981; Laws 1993, c. 366, § 40, eff. Sept. 1, 1993; Laws 2007, c. 346, § 1, eff. Jan. 1, 2008.

§68-1361. Consumer to pay tax - Vendor to collect tax - Penalties for failure to collect.

A. 1. Except as otherwise provided by subsection C of this section, the tax levied by Section 1350 et seq. of this title shall be paid by the consumer or user to the vendor as trustee for and on account of this state. Except as otherwise provided by subsection C of this section, each and every vendor in this state shall collect from the consumer or user the full amount of the tax levied by Section 1350 et seq. of this title, or an amount equal as nearly as possible or practicable to the average equivalent thereof. Every person required to collect any tax imposed by Section 1350 et seq. of this title, and in the case of a corporation, each principal officer thereof, shall be personally liable for the tax. In the case of a limited liability company, all managers and members under a duty to collect and remit taxes for the limited liability company shall be liable for the tax. If no managers or members have been specified to be under the duty of withholding and remitting taxes, then all managers and members shall be liable for the tax.

2. However, the Oklahoma Tax Commission shall relieve sellers or certified service providers that follow the requirements of this section from the tax otherwise applicable if it is determined that the purchaser improperly claimed an exemption and to hold the purchaser liable for the nonpayment of tax. This relief from liability does not apply to:

- a. a seller or certified service provider (CSP) who fraudulently fails to collect tax,
- b. a seller who solicits purchasers to participate in the unlawful claim of an exemption, or
- c. a seller who accepts an exemption certificate when the purchaser claims an entity-based exemption when:
 - (1) the subject of the transaction sought to be covered by the exemption certificate is actually received by the purchaser at a location operated by the seller, and
 - (2) the Tax Commission provides an exemption certificate that clearly and affirmatively indicates that the claimed exemption is not available in this state.

3. The Tax Commission shall relieve a seller or CSP of the tax otherwise applicable if the seller obtains a fully completed exemption certificate or captures the relevant data elements required by the Tax Commission within ninety (90) days subsequent to the date of sale.

If the seller or CSP has not obtained an exemption certificate or all relevant data elements as provided by the Tax Commission, the seller may, within one hundred twenty (120) days subsequent to a request for substantiation, either prove that the transaction was not subject to tax by other means or obtain a fully completed exemption certificate from the purchaser, taken in good faith.

The Tax Commission shall relieve a seller or CSP of the tax otherwise applicable if it obtains a blanket exemption certificate for a purchaser with which the seller has a recurring business relationship. The Tax Commission shall not request from the seller or CSP renewal of blanket certificates or updates of exemption certificate information or data elements when there is a recurring business relationship between the buyer and seller. For purposes of this section, a recurring business relationship exists when a period of no more than twelve (12) months elapses between sales transactions.

4. Upon the granting of relief from liability to the vendor as provided in this section, the purchaser shall be liable for the remittance of the tax, interest and penalty due thereon and the Tax Commission shall pursue collection thereof from the purchaser in any manner in which sales tax may be collected from a vendor.

B. Except as otherwise provided by subsection C of this section, vendors shall add the tax imposed by Section 1350 et seq. of this title, or the average equivalent thereof, to the sales price, charge, consideration, gross receipts or gross proceeds of the sale of tangible personal property or services taxed by Section 1350 et seq. of this title, and when added such tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to vendor until paid, and shall be recoverable at law in the same manner as other debts.

C. A person who has obtained a direct payment permit as provided in Section 1364.1 of this title shall accrue all taxes imposed pursuant to Section 1354 or 1402 of this title on all purchases made by the person pursuant to the permit at the time the purchased items are first used or consumed in a taxable manner and pay the accrued tax directly to the Oklahoma Tax Commission on reports as required by Section 1365 of this title.

D. Except as otherwise provided by subsection C of this section, a vendor who willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied by Section 1350 et seq. of this title, or willfully or intentionally fails, neglects or refuses to comply with the provisions of Section 1350 et seq. of this title, or remits or rebates to a consumer or user, either

directly or indirectly, and by whatsoever means, all or any part of the tax levied by Section 1350 et seq. of this title, or makes in any form of advertising, verbally or otherwise, any statement which implies that the vendor is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than Five Hundred Dollars (\$500.00), and upon conviction for a second or other subsequent offense shall be fined not more than One Thousand Dollars (\$1,000.00), or incarcerated for not more than sixty (60) days, or both. Provided, sales by vending machines may be made at a stated price which includes state and any municipal sales tax.

E. A consumer or user who willfully or intentionally fails, neglects or refuses to pay the full amount of tax levied by Section 1350 et seq. of this title or willfully or intentionally uses a sales tax permit or direct payment permit which is invalid, expired, revoked, canceled or otherwise limited to a specific line of business or willfully or intentionally issues a resale certificate to a vendor to evade the tax levied by Section 1350 et seq. of this title shall be subject to a penalty in the amount of Five Hundred Dollars (\$500.00) per reporting period upon determination thereof, which shall be apportioned as provided for the apportionment of the tax.

F. Any sum or sums collected or accrued or required to be collected or accrued in Section 1350 et seq. of this title shall be deemed to be held in trust for the State of Oklahoma, and, as trustee, the collecting vendor or holder of a direct payment permit as provided for in Section 1364.1 of this title shall have a fiduciary duty to the State of Oklahoma in regards to such sums and shall be subject to the trust laws of this state.

Added by Laws 1981, c. 313, § 2, emerg. eff. June 29, 1981. Amended by Laws 1985, c. 127, § 1, eff. Jan. 1, 1986; Laws 1991, c. 159, § 2, emerg. eff. May 6, 1991; Laws 1993, c. 366, § 41, eff. Sept. 1, 1993; Laws 1996, c. 126, § 2, eff. Nov. 1, 1996; Laws 1996, c. 288, § 5, eff. Nov. 1, 1996; Laws 1997, c. 133, § 561, eff. July 1, 1999; Laws 2002, c. 460, § 39, eff. Nov. 1, 2002; Laws 2007, c. 155, § 11, eff. Nov. 1, 2007.

NOTE: Laws 1996, c. 17, § 1 repealed by Laws 1996, c. 288, § 9, eff. Nov. 1, 1996.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 561 from July 1, 1998, to July 1, 1999.

§68-1361.1. Consumer exempt from tax - Liability of vendor - Confidentiality.

A. If a vendor, in good faith, timely accepts from a consumer properly completed documentation certified by the Oklahoma Tax Commission that such consumer is exempt from the taxes levied by the Oklahoma Sales Tax Code, the vendor shall be relieved of any liability for any sales tax or the duty to collect any sales tax imposed by the provisions of Section 1361 of this title upon such vendor with respect to such sale.

B. A vendor who has actual knowledge that a consumer is entitled to an exemption under paragraph 34 of Section 1357 of this title and who willfully or intentionally refuses to honor the exemption shall be punished by an administrative fine of Five Hundred Dollars (\$500.00) per offense. A second or subsequent violation of this subsection shall be unlawful and constitute a misdemeanor offense punishable by a fine of not more than Five Hundred Dollars (\$500.00) per such offense, in addition to any administrative fine. The Tax Commission shall refer any vendor who has more than once willfully or intentionally refused to honor the exemption, whether fined or not, to the district attorney where the vendor is located for prosecution. For the purposes of this subsection, "vendor" means any individual most responsible for supervising, and the conduct

of, any employee who intentionally refuses to honor the exemption including, but not limited to, a manager, owner, partner or corporate officer.

C. Any written communication between the Commission and any holder of a sales tax permit that is an attempt by the Commission to enforce the provisions of this section shall be public and, notwithstanding any other provision of law, no presumption of confidentiality shall exist for such communications. The Commission shall, upon request of any consumer entitled to an exemption under paragraph 34 of Section 1357 of this title, transmit to such consumer copies of such communication.

Added by Laws 1991, c. 159, § 1, emerg. eff. May 6, 1991. Amended by Laws 2006, c. 272, § 2; Laws 2010, c. 387, § 1, eff. July 1, 2010.

§68-1361.2. Disabled veterans' exemption - Proof of eligibility required.

In order to claim the exemption authorized by paragraph 34 of Section 1357 of Title 68 of the Oklahoma Statutes, the person to whom the sale is made shall be required to furnish the vendor proof of eligibility for the exemption as issued by the Oklahoma Tax Commission. All vendors shall honor the proof of eligibility for sales tax exemption and sales for the benefit of the disabled veteran to a person providing such proof shall be exempt from the tax levied pursuant to the Oklahoma Sales Tax Code.

Added by Laws 2006, c. 272, § 3.

§68-1362. Remittance of tax - Tax brackets.

A. Except as otherwise provided by Section 1361 of this title, the tax levied pursuant to the provisions of the Oklahoma Sales Tax Code shall be remitted or paid to the Oklahoma Tax Commission by the vendor of tangible personal property, services, privileges, admissions, dues, fees, or any other item subject to the tax levied pursuant to the provisions of the Oklahoma Sales Tax Code.

B. The amount of tax to be collected by the vendor or to be remitted by the holder of a direct payment permit on each sale shall be the applicable percentage of the gross receipts or gross proceeds thereof as provided by Section 1354 of this title. The applicable percentage shall equal the combination of the state and any applicable municipal and county sales tax rates. In computing the tax to be collected or remitted as the result of any transaction, the tax amount must be carried to the third decimal place when the tax amount is expressed in dollars. The tax must be rounded to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four. The vendor or direct payment permit holder may elect to compute the tax due on transactions on an item or invoice basis.

C. For the convenience of the vendor or direct payment permit holder, the Tax Commission is hereby authorized to establish and revise, when necessary, bracket system guidelines to be followed in collecting the tax levied pursuant to the provisions of the Oklahoma Sales Tax Code, any municipal sales tax, or county sales tax.

The use of bracket system guidelines does not relieve the vendor or direct payment permit holder from the duty and liability to remit to the Tax Commission, an amount equal to the applicable percentage of the gross receipts or gross proceeds derived from all sales during the taxable period as provided by Section 1354 of this title.

D. Except as otherwise provided by Section 1361 of this title, each person required pursuant to the provisions of the Oklahoma Sales Tax Code to make a sales tax report shall include in the gross proceeds derived from sales to consumers or users, the sales value of all

tangible personal property which has been purchased for resale, manufacturing, or further processing, and withdrawn from stock in trade for use or consumption during the taxable period covered by such report, and shall pay the tax on the sales value of this tangible personal property withdrawn from stock in trade for consumption or use; provided, such tax shall not be due on such tangible personal property which has been donated for the purpose of assisting persons affected by the tornadoes occurring May 3, 1999, or May 8 or 9, 2003, or a tornado occurring in the calendar year 2013 for which a Presidential Major Disaster Declaration was issued.

E. All persons, either within or without the state, selling merchandise or other tangible personal property in this state through peddlers, solicitors, or other salespersons who do not have established places of business in this state, shall remit or pay the tax levied pursuant to the provisions of the Oklahoma Sales Tax Code and shall be required to file reports and pay the taxes due on all sales made to consumers or users by themselves or by their peddlers, solicitors, or other salespersons.

F. All persons defined as Group Five vendors remitting sales tax based upon use of motor fuel or diesel fuel as a sale shall include in a monthly sales tax report the number of gallons of fuel so used and the sales price of the motor fuel or diesel fuel. The amount of tax to be remitted by the Group Five vendor shall be the applicable percentage as provided by Section 1354 of this title, of the sales price of the fuel used during the applicable reporting period.

Added by Laws 1981, c. 313, § 2, emerg. eff. June 29, 1981. Amended by Laws 1984, c. 2, § 3, emerg. eff. Feb. 15, 1984; Laws 1985, c. 179, § 87, operative July 1, 1985; Laws 1987, c. 113, § 19, operative June 1, 1987; Laws 1989, c. 167, § 6, eff. July 1, 1989; Laws 1996, c. 126, § 3, eff. Nov. 1, 1996; Laws 1999, c. 390, § 11, emerg. eff. June 8, 1999; Laws 2003, c. 413, § 11, eff. Nov. 1, 2003; Laws 2004, c. 5, § 69, emerg. eff. March 1, 2004; Laws 2013, c. 370, § 2, emerg. eff. May 29, 2013.

NOTE: Laws 2003, c. 374, § 2 repealed by Laws 2004, c. 5, § 70, emerg. eff. March 1, 2004.

§68-1363. Classification of vendors.

Classification of vendors.

For the purpose of this article, all vendors are classified into five groups:

1. Group One, vendors who are regularly and continuously engaged in a business at an established place of business and make sales subject to this article;
2. Group Two, vendors who occasionally make sales or become subject to this article;
3. Group Three, vendors who are transient persons, firms or corporations and make seasonal sales or in any manner become subject to this article, or vendors, either within or without this state, who make sales, subject to this article, through peddlers, solicitors or other salesmen who do not have established places of business in this state;
4. Group Four, vendors who continuously, regularly or systematically engage in retail sales to the Oklahoma consumer by solicitation through display of products by advertisement in newspapers, or radio or television media located in this state and make sales subject to this article; or vendors who continuously, regularly or systematically engage in retail sales to the consumer within Oklahoma by solicitation by advertisement through mail order or catalog publications; and
5. Group Five, vendors who hold a valid license pursuant to Section 33 of this act remitting sales tax based upon the use of motor fuel or diesel fuel as a sale defined pursuant to Section 1352 of this title.

Added by Laws 1981, c. 313, § 2, emerg. eff. June 29, 1981. Amended by Laws 1986, c. 41, § 7, operative July 1, 1986; Laws 1989, c. 167, § 7, eff. July 1, 1989; Laws 1991, c. 342, § 18, emerg. eff. June 15, 1991; Laws 1996, c. 345, § 64, eff. Oct. 1, 1996.

§68-1364. Permits to do business.

Permits to do business.

A. Every person desiring to engage in a business within this state who would be designated as a Group One or Group Three vendor, pursuant to Section 1363 of this title, shall be required to secure from the Oklahoma Tax Commission every three (3) years a written permit for a fee of Twenty Dollars (\$20.00) prior to engaging in such business in this state. Each such person shall file with the Tax Commission an application for a permit to engage in or transact business in this state, setting forth such information as the Tax Commission may require. The application shall be signed by the owner of the business or representative of the business entity and as a natural person, and, in the case of a corporation, as a legally constituted officer thereof.

B. Upon receipt of an initial application, the Tax Commission may issue a probationary permit effective for six (6) months which will automatically renew for an additional thirty (30) months unless the applicant receives written notification of the refusal of the Commission to renew the permit. If the applicant receives a notice of refusal, the applicant may request a hearing to show cause why the permit should be renewed. Upon receipt of a request for a hearing, the Tax Commission shall set the matter for hearing and give ten (10) days' notice in writing of the time and place of the hearing. At the hearing, the applicant shall set forth the qualifications of the applicant for a permit and proof of compliance with all state tax laws.

C. Holders of a probationary permit as provided in subsection B of this section shall not be permitted to present the permit to obtain a commercial license plate for their motor vehicle as provided in Section 1133.1 of Title 47 of the Oklahoma Statutes.

D. Upon verification that the applicant is a Group Three vendor, the Tax Commission may require such applicant to furnish a surety bond or other security as the Commission may deem necessary to secure payment of taxes under this article, prior to issuance of a permit for the place of business set forth in the application for permit. Provided, the Tax Commission is hereby authorized to set guidelines, by adoption of regulations, for the issuance of sales tax permits. Pursuant to said guidelines the Tax Commission may refuse to issue permits to any Group Three vendors, or any class of vendors included in the whole classification of Group Three vendors, if the Tax Commission determines that it is likely this state will lose tax revenue due to the difficulty of enforcing this article for any reasons stated in subsection (T) of Section 1354 of this title.

E. A separate permit for each additional place of business to be operated must be obtained from the Tax Commission for a fee of Ten Dollars (\$10.00). Such permit shall be good for a period of three (3) years. The Tax Commission shall grant and issue to each applicant a separate permit for each place of business in this state, upon proper application therefor and verification thereof by the Tax Commission.

F. A permit is not assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. The permit shall at all times be conspicuously displayed at the place of business for which issued in a position where it can be easily seen. The permit shall be in addition to all other permits required by the laws of this state. Provided, if the location of the business is changed, such person shall file with the Tax Commission an application for a permit to engage in or transact business at the new location.

Upon issuance of the permit to the new location of such business, no additional permit fee shall be due until the expiration of the permit issued to the previous location of such business.

G. It shall be unlawful for any person coming within the class designated as Group One or the class designated as Group Three to engage in or transact a business of reselling tangible personal property or services within this state unless a written permit or permits shall have been issued to such person. Any person who engages in a business subject to the provisions of this section without a permit or permits, or after a permit has been suspended, upon conviction, shall be guilty of a misdemeanor punishable by a fine of not more than One Thousand Dollars (\$1,000.00). Any person convicted of a second or subsequent violation hereof shall be guilty of a felony and punishable by a fine of not more than Five Thousand Dollars (\$5,000.00) or by a term of imprisonment in the State Penitentiary for not more than two (2) years, or both such fine and imprisonment.

H. Any person operating under a permit as provided in this article shall, upon discontinuance of business by sale or otherwise, return such permit to the Tax Commission for cancellation, together with a remittance for any unpaid or accrued taxes. Failure to surrender a permit and pay any and all accrued taxes will be sufficient cause for the Tax Commission to refuse to issue a permit subsequently to such person to engage in or transact any other business in this state. In the case of a sale of any business, the tax shall be deemed to be due on the sale of the fixtures and equipment, and the Tax Commission shall not issue a permit to continue or conduct the business to the purchaser until all tax claims due the State of Oklahoma have been settled.

I. All permits issued under the provisions of this article shall expire three (3) years from the date of issuance at the close of business at each place or location of the business within this state. No refund of the fee shall be made if the business is terminated prior to the expiration of the permit.

J. Whenever a holder of a permit fails to comply with any provisions of this article, the Tax Commission, after giving ten (10) days' notice in writing of the time and place of hearing to show cause why the permit should not be revoked, may revoke or suspend the permit, the permit to be renewed upon removal of cause or causes of revocation or suspension. However, if a holder of a permit becomes delinquent for a period of three (3) months or more in reporting or paying of any tax due under this article, any duly authorized agent of the Tax Commission may remove the permit from the taxpayer's premises and it shall be returned or renewed only upon the filing of proper reports and payment of all taxes due under this article.

K. Permits are not required of persons coming within the classification designated as Group Two. The Oklahoma Tax Commission shall issue a limited permit to Group Five vendors. The permit shall be in such form as the Tax Commission may prescribe.

L. Nothing in this article shall be construed to allow a permit holder to purchase, tax exempt, anything for resale that the permit holder is not regularly in the business of reselling.

M. All monies received pursuant to issuance of such permits to do business shall be paid to the State Treasurer and placed to the credit of the General Revenue Fund of the State Treasury.

N. Notwithstanding the provisions of Section 205 of this title, the Oklahoma Tax Commission is authorized to release the following information contained in the Master Sales and Use Tax File to vendors:

1. Permit number;
2. Name in which permit is issued;

3. Name of business operation if different from ownership (DBA);
4. Mailing address;
5. Business address;
6. Business class or Standard Industrial Code (SIC); and
7. Effective date and expiration or cancellation date of permit.

Release of such information shall be limited to tax remitters for the express purpose of determining the validity of sales permits presented as evidence of purchasers' sales tax resale status under this Code.

The provisions of this subsection shall be strictly interpreted and shall not be construed as permitting the disclosure of any other information contained in the records and files of the Tax Commission relating to sales tax or to any other taxes.

This information may be provided on a subscription basis, with periodic updates, and sufficient fee charged, not to exceed One Hundred Fifty Dollars (\$150.00) per year, to offset the administrative costs of providing the list. All revenue received by the Oklahoma Tax Commission from such fees shall be deposited to the credit of the Oklahoma Tax Commission Revolving Fund. No liability whatsoever, civil or criminal, shall attach to any member of the Tax Commission or any employee thereof for any error or omission in the disclosure of information pursuant to this subsection.

O. If the Tax Commission enters into the Streamlined Sales and Use Tax Agreement under Section 1354.18 of this title, the Tax Commission is authorized to participate in its online sales and use tax registration system and shall not require the payment of the registration fees or other charges provided in this section from a vendor who registers within the online system if the vendor has no legal requirement to register.

Added by Laws 1981, c. 313, § 2, emerg. eff. June 29, 1981. Amended by Laws 1985, c. 127, § 2, eff. Jan. 1, 1986; Laws 1986, c. 218, § 19, emerg. eff. June 9, 1986; Laws 1987, c. 213, § 2, operative July 1, 1987; Laws 1989, c. 167, § 8, eff. July 1, 1989; Laws 1989, c. 249, § 27, eff. July 1, 1989; Laws 1990, c. 278, § 1, eff. Sept. 1, 1990; Laws 1997, c. 294, § 19, eff. July 1, 1997; Laws 2003, c. 413, § 12, eff. Nov. 1, 2003.

NOTE: Laws 1986, c. 223, § 41 repealed by Laws 1987, c. 203, § 163, operative July 1, 1987 and by Laws 1987, c. 213, § 4, operative July 1, 1987. Laws 1987, c. 203, § 145 repealed by Laws 1989, c. 167, § 9, eff. July 1, 1989. Laws 1997, c. 133, § 562 repealed by Laws 1999, 1st Ex.Sess., c. 5, § 452, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 562 from July 1, 1998, to July 1, 1999.

§68-1364.1. Direct payment permits.

A. Every person who qualifies pursuant to subsection B of this section and desires to directly remit the taxes due under Section 1350 et seq. of this title or Section 1401 et seq. of this title to the Oklahoma Tax Commission rather than remit such taxes to the vendor may apply to the Tax Commission for a direct payment permit. The permit shall be valid for three (3) years. Each such person shall file with the Tax Commission an application for a direct payment permit, setting forth such information as the Tax Commission may require, including but not limited to:

1. An agreement that is signed by the owner of the business or representative of the business entity and as a natural person, and, in the case of a corporation, as a legally constituted officer thereof, that provides that the applicant agrees to:

- a. accrue and remit all taxes imposed by Section 1350 et seq. of this title or Section 1401 et seq. of this title on the sale or use of all taxable personal property or services sold to or leased or rented by the applicant. Provided, no tax shall be due from the holder of a direct payment permit on tangible personal property intended solely for use in other states, but which is stored in Oklahoma pending shipment to such other states or which is temporarily retained in Oklahoma for the purpose of fabrication, repair, testing, alteration, maintenance, or other service,
- b. pay such taxes as required by Section 1365 of this title. Provided, in lieu of monthly reports, persons qualifying pursuant to paragraph 2 of subsection B of this section owing an average per month of Five Hundred Dollars (\$500.00) or less may file quarterly reports and remit taxes due thereunder to the Tax Commission on or before the twentieth day of the month following the calendar quarter. If not paid on or before the twentieth day of such month, the tax shall be delinquent,
- c. waive the discount permitted by Section 1367.1 of this title on the payment of all taxes remitted directly to the Tax Commission; and

2. A description of the accounting method by which the applicant proposes to differentiate between taxable and exempt transactions.

Upon verification that the applicant is eligible to receive a direct payment permit, the Tax Commission shall issue a direct payment permit for the place of business set forth in the application for the permit. The Tax Commission shall be the sole judge of the applicant's qualifications and may refuse to issue a direct payment permit to an applicant. An applicant who has been denied the issuance of a permit may submit an amended application or may submit a new application after a reasonable period of time after the denial of the original application.

B. The following persons shall qualify for a direct payment permit as provided in subsection A of this section:

1. Every person who makes purchases of Eight Hundred Thousand Dollars (\$800,000.00) or more annually in taxable items for use in Oklahoma enterprises; or

2. Every person who makes 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 subsection B of Section 1357.6 of this title, who is authorized by law to administer or distribute such items and the cost of such items will be reimbursed under the Medicare or Medicaid program.

C. For exempt purchases made by persons that have been issued a permit under paragraph 2 of subsection B of this section, the Tax Commission shall accept the following information, maintained separate from confidential patient records, as an acceptable accounting method by which the applicant documents the purchase of items exempt under Section 1357.6 of this title:

1. Patient case number or account number;
2. Type of insurance; and
3. Item description or product number.

Added by Laws 1996, c. 126, § 1, eff. Nov. 1, 1996. Amended by Laws 1997, c. 294, § 20, eff. July 1, 1997; Laws 2000, c. 314, § 17, eff. July 1, 2000; Laws 2012, c. 230, § 1, emerg. eff. May 9, 2012; Laws 2013, c. 142, § 1, eff. July 1, 2013.

§68-1364.2. Special events - Permit - Fee - Sales tax collection by vendors - Report - Annual events - Definitions.

A. Promoters or organizers of special events shall submit an application for a special event permit to the Oklahoma Tax Commission at least twenty (20) days prior to the special event. The application shall be accompanied by a fee of Fifty Dollars (\$50.00). The application shall include the location and dates of the special event, expected number of vendors, and any other information that may be required by the Tax Commission. A separate permit shall be required for each special event and must be prominently displayed. Multiple events held at the same location during the calendar year may be included in one application.

B. All monies received from such fees shall be paid to the State Treasurer and placed to the credit of the General Revenue Fund of the State Treasurer.

C. Promoters or organizers shall provide forms to special event vendors for reporting sales tax collections and any other information that may be required by the Tax Commission.

D. Unless otherwise provided in this section, special event vendors shall collect sales tax from purchasers of tangible personal property and services taxable under Section 1350 et seq. of this title and shall remit the tax, along with a sales tax report, to the promoter or organizer.

E. Within fifteen (15) days following the conclusion of the special event, the organizer or promoter shall forward all reports and payments to the Tax Commission along with a completed sales tax report. If not filed on or before the fifteenth day, the tax shall be delinquent from such date. Reports timely mailed shall be considered timely filed. If a report is not timely filed, interest shall be charged from the date the report should have been filed until the report is actually filed.

F. Within fifteen (15) days following the conclusion of the special event, the organizer or promoter shall also submit a list of vendors at each event that hold a valid sales tax permit issued under Section 1364 of this title. The list shall include the vendor's name, address, telephone number and sales tax permit number.

G. For the purposes of compensating the promoter or organizer in keeping sales tax records, filing reports and remitting the tax when due, a promoter or organizer shall be allowed a deduction of the tax due as provided in Section 1367.1 of this title.

H. Promoters and organizers shall only be liable for failure to report and remit all taxes that are remitted to them by special event vendors.

I. Promoters or organizers of a special event that is held on an annual basis during the same thirty-day period each year may request that the Tax Commission limit their responsibilities to the following:

1. Submitting of an application for a special event permit as provided in subsection A of this section;

2. Providing report forms to special event vendors as provided in subsection C of this section; and

3. Within fifteen (15) days following the conclusion of the special event, submitting a list of special event vendors at each event, including the vendor's name, address, and telephone number.

Such requests may be denied by the Tax Commission for reasons including, but not limited to, failure by the promoter to comply with the requirements of this section or failure by vendors of the promoter's previous special events to comply with the provisions of subsection J of this section.

J. Special event vendors of special events that are approved under subsection I of this section shall remit the tax along with a sales tax report directly to the Tax Commission within fifteen (15) days following the conclusion of the special event. If not filed on or before the fifteenth day, the tax shall be delinquent from such date. Reports timely mailed shall be considered timely filed. If a report is not timely filed, interest shall be charged from the date the report should have been filed until the report is actually filed.

K. As used in this section:

1. "Promoter" or "organizer" means any person who organizes or promotes a special event which results in the rental, occupation, or use of any structure, lot, tract of land, sample or display case, table, or any other similar items for the exhibition and sale of tangible personal property or services taxable under Section 1350 et seq. of this title by special event vendors;

2. "Special event" means an entertainment, amusement, recreation, or marketing event that occurs at a single location on an irregular basis and at which tangible personal property is sold. "Special event" shall include, but not be limited to, gun shows, knife shows, craft shows, antique shows, flea markets, carnivals, bazaars, art shows, and other merchandise displays or exhibits. Special event shall not include any county, district, or state fair or public or private school or university-sponsored event. Special event shall not include an event sponsored by a city or town that includes less than ten special event vendors or any event sponsored by a church organization exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code. Special event shall not include a registered farmers market which is a designated area in which farmers, growers or producers from a defined region gather on a regularly scheduled basis to sell at retail nonpotentially hazardous farm food products and whole-shell eggs to the public; and

3. "Special event vendor" means a person making sales of tangible personal property or services taxable under Section 1350 et seq. of this title at a special event within this state and who is not permitted under Section 1364 of this title.

Added by Laws 2003, c. 472, § 16. Amended by Laws 2004, c. 518, § 2, eff. July 1, 2004; Laws 2007, c. 353, § 7, eff. Nov. 1, 2007; Laws 2013, c. 133, § 1, eff. July 1, 2013.

§68-1364.3. Hearings - Increased enforcement personnel.

In order to increase the collection of sales and use taxes, the Oklahoma Tax Commission shall:

1. Conduct hearings pursuant to Section 212 of Title 68 of the Oklahoma Statutes related to permits issued under the provisions of Section 1364 of Title 68 of the Oklahoma Statutes in at least two (2) locations in the state; and

2. Add ten (10) additional sales and use tax audit and/or enforcement personnel as soon as practicable after July 1, 2011.

Added by Laws 2011, c. 364, § 2.

§68-1365. When tax due - Reports - Records.

When Tax Due – Reports – Records.

A. The tax levied hereunder shall be due and payable on the first day of each month, except as herein provided, by any person liable to remit or pay any tax due under Section 1350 et seq. of this title. For the purpose of ascertaining the amount of the tax payable, it shall be the duty of all tax remitters, on or before the twentieth day of each month, to deliver to the Oklahoma Tax Commission, upon forms prescribed and furnished by it, sales tax reports signed under oath, showing the gross receipts or gross proceeds arising from all sales taxable or

nontaxable under Section 1350 et seq. of this title during the preceding calendar month. Such reports shall show such further information as the Tax Commission may require to enable it to compute correctly and collect the tax herein levied. In addition to the information required on reports, the Tax Commission may request and the taxpayer must furnish any information deemed necessary for a correct computation of the tax levied herein. Such tax remitter shall compute and remit to the Tax Commission the required tax due for the preceding calendar month, the remittance or remittances of the tax to accompany the reports herein required. If not filed on or before the twentieth day of such month, the tax shall be delinquent from such date. Reports timely mailed shall be considered timely filed. If a report is not timely filed, interest shall be charged from the date the report should have been filed until the report is actually filed.

B. Effective July 1, 2001, every person owing an average of One Hundred Thousand Dollars (\$100,000.00) or more per month in total sales taxes in the previous fiscal year shall remit the tax due and shall participate in the Tax Commission's electronic funds transfer and electronic data interchange program, according to the following schedule:

1. For sales from the first day through the fifteenth day of each month, the tax shall be due and payable on the twentieth day of such month and remitted to the Tax Commission by electronic funds transfer. A taxpayer will be considered to have complied with the reporting requirements of this paragraph if, on or before the twentieth day of such month, the taxpayer paid at least ninety percent (90%) of the liability for that fifteen-day period or at least fifty percent (50%) of the taxpayer's liability in the immediate preceding calendar year for the same month as the month in which the fifteen-day period occurs; and

2. For sales from the sixteenth day through the end of each month, the tax shall be due and payable on the twentieth day of the following month and remitted to the Tax Commission by electronic funds transfer.

Every person required to remit the tax due pursuant to this subsection shall file its monthly sales tax report in accordance with the Tax Commission's electronic data interchange program on the twentieth day of the month following the month the sales occurred.

Taxes not paid on or before the due dates specified in this subsection shall be delinquent from such dates.

C. Effective March 1, 2002, every person owing an average of Twenty-five Thousand Dollars (\$25,000.00) or more per month in total sales taxes in the previous fiscal year shall remit the tax due and shall participate in the Tax Commission's electronic funds transfer and electronic data interchange program, according to the following schedule:

1. For sales from the first day through the fifteenth day of each month, the tax shall be due and payable on the twentieth day of such month and remitted to the Tax Commission by electronic funds transfer. A taxpayer will be considered to have complied with the reporting requirements of this paragraph if, on or before the twentieth day of such month, the taxpayer paid at least ninety percent (90%) of the liability for that fifteen-day period or at least fifty percent (50%) of the taxpayer's liability in the immediate preceding calendar year for the same month as the month in which the fifteen-day period occurs; and

2. For sales from the sixteenth day through the end of each month, the tax shall be due and payable on the twentieth day of the following month and remitted to the Tax Commission by electronic funds transfer.

Every person required to remit the tax due pursuant to this subsection shall file its monthly sales tax report in accordance with the Tax Commission's electronic data interchange program on the twentieth day of the month following the month the sales occurred. Provided, persons

primarily engaged in selling lumber and other building materials, including cement and concrete, except for home centers classified under Industry No. 444110 of the North American Industrial Classification System (NAICS) Manual, shall remit and report as required in subsection A of this section, with the exception of taxes due on sales made during the periods of June 1 through June 15, 2002, which shall be remitted and reported on June 20, 2002, and June 1 through June 15, 2003, which shall be remitted and reported on June 20, 2003.

Taxes not paid on or before the due dates specified in this subsection shall be delinquent from such dates.

D. Effective October 1, 2003, every person owing an average of Two Thousand Five Hundred Dollars (\$2,500.00) or more per month in total sales taxes in the previous fiscal year shall remit the tax due and shall participate in the Tax Commission's electronic funds transfer and electronic data interchange program, according to the following schedule:

1. For sales from the first day through the fifteenth day of each month, the tax shall be due and payable on the twentieth day of such month and remitted to the Tax Commission by electronic funds transfer. A taxpayer will be considered to have complied with the reporting requirements of this paragraph if, on or before the twentieth day of such month, the taxpayer paid at least ninety percent (90%) of the liability for that fifteen-day period or at least fifty percent (50%) of the taxpayer's liability in the immediate preceding calendar year for the same month as the month in which the fifteen-day period occurs; and

2. For sales from the sixteenth day through the end of each month, the tax shall be due and payable on the twentieth day of the following month and remitted to the Tax Commission by electronic funds transfer.

Every person required to remit the tax due pursuant to this subsection shall file its monthly sales tax report in accordance with the Tax Commission's electronic data interchange program on the twentieth day of the month following the month the sales occurred. Provided, persons primarily engaged in selling lumber and other building materials, including cement and concrete, except for home centers classified under Industry No. 444110 of the North American Industrial Classification System (NAICS) Manual, shall remit and report as required in subsection A of this section.

Taxes not paid on or before the due dates specified in this subsection shall be delinquent from such dates.

E. In lieu of monthly reports, tax remitters or taxpayers who are classified as Group Three vendors in Section 1350 et seq. of this title or tax remitters or taxpayers whose total amount of tax liability for any one month does not exceed Fifty Dollars (\$50.00) may file semiannual reports and remit taxes due thereunder to the Tax Commission on or before the twentieth day of January and July of each year for the preceding six-month period. If not paid on or before the twentieth day of such month, the tax shall be delinquent.

F. It shall be the duty of every tax remitter required to make a sales tax report and pay any tax under Section 1350 et seq. of this title to keep and preserve suitable records of the gross daily sales together with invoices of purchases and sales, bills of lading, bills of sale and other pertinent records and documents which may be necessary to determine the amount of tax due hereunder and such other records of goods, wares and merchandise, and other subjects of taxation under Section 1350 et seq. of this title as will substantiate and prove the accuracy of such returns. It shall also be the duty of every person who makes sales for resale to keep records of such sales which shall be subject to examination by the Tax Commission or any authorized employee thereof while engaged in checking or auditing the records of any person required to

make a report under the terms of Section 1350 et seq. of this title. All such records shall remain in Oklahoma and be preserved for a period of three (3) years, unless the Tax Commission, in writing, has authorized their destruction or disposal at an earlier date, and shall be open to examination at any time by the Tax Commission or by any of its duly authorized agents. The burden of proving that a sale was not a taxable sale shall be upon the person who made the sale.

G. The purchaser must provide the vendor with the purchaser's sales tax permit number, the direct payment permit number or a copy of the direct payment permit if the sale is made within Oklahoma. In addition to furnishing the sales tax permit number to the vendor, the purchaser must certify in writing to the vendor that the purchaser is engaged in the business of reselling the articles purchased. Failure to so certify, or to falsely certify with the knowledge that the items purchased are not for resale, shall be sufficient grounds upon which the Tax Commission may cause the purchaser's sales tax permit to be canceled. Certification may be made on the bill, invoice or sales slip retained by the vendor or by furnishing a certification letter to the seller which contains the following:

1. The name and address of the purchaser;
2. The sales tax permit number of the permit issued to the purchaser;
3. A statement that the purchaser is engaged in the business of reselling the articles purchased, if applicable;
4. A statement that the articles purchased are purchased for resale, if applicable; and
5. The signature of the purchaser or a person authorized to legally bind the purchaser.

H. If a sales tax permit holder purchases goods, wares and merchandise from a vendor on a regular basis, then the permit holder may furnish the certification letter described in subsection G of this section to the vendor and the vendor may subsequently make sales of tangible personal property to the permit holder without requiring a certification letter or certification statement for each subsequent sale. The permit holder must notify the seller of all purchases which are not for resale and remit the applicable amount of tax thereon. If the permit holder fails to notify the vendor of purchases not intended for resale, then sufficient grounds shall exist for the Tax Commission to cancel the sales tax permit of the permit holder who so failed to notify the vendor.

I. In lieu of filing reports as required in subsection A of this section, tax remitters or taxpayers who agree to participate in the Tax Commission's electronic funds transfer and electronic data interchange programs may file according to the following schedule:

1. For sales from the first day through the fifteenth day of each month, the tax shall be due and payable on the twentieth day of such month and remitted to the Tax Commission by electronic funds transfer. A taxpayer will be considered to have complied with the reporting requirements of this paragraph if, on or before the twentieth day of such month, the taxpayer paid at least ninety percent (90%) of the liability for that fifteen-day period or at least fifty percent (50%) of the taxpayer's liability in the immediate preceding calendar year for the same month as the month in which the fifteen-day period occurs; and
2. For sales from the sixteenth day through the end of each month, the tax shall be due and payable on the twentieth day of the following month and remitted to the Tax Commission by electronic funds transfer.

Every person required to remit the tax due pursuant to this subsection shall file its monthly sales tax report in accordance with the Tax Commission's electronic data interchange program on the twentieth day of the month following the month the sales occurred.

Taxes not paid on or before the due dates specified in this subsection shall be delinquent from such dates.

Added by Laws 1981, c. 313, § 2, emerg. eff. June 29, 1981. Amended by Laws 1985, c. 127, § 3, eff. Jan. 1, 1986; Laws 1987, c. 113, § 20, operative June 1, 1987; Laws 1996, c. 126, § 4, eff. Nov. 1, 1996; Laws 2000, c. 420, § 1, emerg. eff. June 9, 2000; Laws 2001, c. 5, § 41, emerg. eff. March 21, 2001; Laws 2001, c. 383, § 3, eff. July 1, 2001; Laws 2002, c. 503, § 2, emerg. eff. June 7, 2002; Laws 2003, c. 376, § 2, eff. July 1, 2003; Laws 2004, c. 5, § 71, emerg. eff. March 1, 2004; Laws 2004, c. 535, § 11, eff. Nov. 1, 2004.

NOTE: Laws 2000, c. 314, § 18 repealed by Laws 2001, c. 5, § 42, emerg. eff. March 21, 2001. Laws 2003, c. 413, § 13 repealed by Laws 2004, c. 5, § 72, emerg. eff. March 1, 2004.

§68-1365.1. Model 1, Model 2, or Model 3 seller - Streamlined Sales and Use Tax Agreement - Returns in simplified format - Additional informational returns.

A. The Oklahoma Tax Commission shall allow any Model 1, Model 2 or Model 3 seller, as defined in Section 1354.15 of Title 68 of the Oklahoma Statutes, to submit its sales and use tax returns in a simplified format. The Tax Commission shall promulgate rules providing for the format in accordance with the Streamlined Sales and Use Tax Agreement. The Tax Commission is further authorized to promulgate rules requiring these sellers to file additional informational returns. Provided, the informational returns may not be required more frequently than every six (6) months.

B. All remittances from sellers under Models 1, 2 and 3 shall be remitted electronically.

C. Any seller that is registered under the Agreement, which does not have a legal requirement to register in this state, and is not a Model 1, Model 2 or Model 3 seller, shall submit its sales and use tax returns as follows:

1. Upon registration, the Tax Commission shall provide to the seller the returns required by this state;

2. The seller shall file a return within one year of the month of initial registration, and on an annual basis in succeeding years; and

3. In addition to the returns required in paragraph 2 of this subsection, a seller shall submit returns in the month following any month in which the seller has accumulated state and local tax funds for the state in the amount of One Thousand Dollars (\$1,000.00) or more.

D. The Tax Commission shall participate with other states which are members of the Agreement in developing a more uniform sales and use tax return that, when completed, would be available to all sellers.

Added by Laws 2003, c. 413, § 14, eff. Nov. 1, 2003.

§68-1366. Deduction from taxable sales for bad debts.

A. There is herein provided a deduction to the vendor from taxable sales for bad debts. Any deduction taken that is attributed to bad debts shall not include interest.

B. The federal definition of "bad debt" in 26 U.S.C., Section 166 shall be the basis for calculating bad debt recovery. However, the amount calculated pursuant to 26 U.S.C., Section 166, shall be adjusted to exclude:

1. Financing charges or interest;

2. Sales or use taxes charged on the purchase price;

3. Uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid; and

4. Expenses incurred in attempting to collect any debt and repossessed property.

C. Bad debts may be deducted on the return for the period during which the bad debt is written off as uncollectible in the claimant's books and records and is eligible to be deducted for federal income tax purposes if the taxpayer kept accounts on a cash basis or could be eligible to be claimed if the taxpayer kept accounts on an accrual basis. For purposes of this subsection, a claimant who is not required to file federal income tax returns may deduct a bad debt on a return filed for the period in which the bad debt is written off as uncollectible in the claimant's books and records and would be eligible for a bad debt deduction for federal income tax purposes if the claimant was required to file a federal income tax return.

D. If a deduction is taken for a bad debt and the debt is subsequently collected in whole or in part, the tax on the amount so collected must be paid and reported on the return filed for the period in which the collection is made.

E. When the amount of bad debt exceeds the amount of taxable sales for the period during which the bad debt is written off, a refund claim may be filed within the statute of limitations for refund claims provided in Section 227 of this title; however, the statute of limitations shall be measured from the due date of the return on which the bad debt could first be claimed.

F. Where filing responsibilities have been assumed by a certified service provider, the certified service provider may claim, on behalf of the seller, any bad debt allowance provided by this section. The certified service provider must credit or refund the full amount of any bad debt allowance or refund received to the seller.

G. For the purposes of reporting a payment received on a previously claimed bad debt, any payments made on a debt or account are applied first proportionally to the taxable price of the property or service and the sales tax thereon, and secondly to interest, service charges, and any other charges.

H. In situations where the books and records of the party claiming the bad debt allowance support an allocation of the bad debts among the states which are members of the Streamlined Sales and Use Tax Agreement, the allocation will be permitted.

Added by Laws 1981, c. 313, § 2, emerg. eff. June 29, 1981. Amended by Laws 1990, c. 339, § 18, emerg. eff. May 31, 1990; Laws 2003, c. 413, § 15, eff. Nov. 1, 2003.

§68-1367. Repealed by Laws 1993, c. 146, § 29.

§68-1367.1. Deduction for keeping records, filing reports and remitting tax when due.

A. For the purpose of compensating the seller or vendor in keeping sales tax records, filing reports and remitting the tax when due, a seller or vendor shall be allowed a deduction of one percent (1%) of the tax due under the applicable provisions of this title.

Such deduction shall not be allowed with respect to a direct payment permit.

B. No deductions from tax shall be allowed if any such report or payment of tax is delinquent; provided, the deduction shall be allowed if the Oklahoma Tax Commission determines that the reason that such report or payment of tax was delinquent was due to a tornado occurring in calendar year 2013 for which a Presidential Major Disaster Declaration was issued.

C. Notwithstanding the formula provided by subsection A of this section, the deduction provided by this section shall be limited to a maximum of Two Thousand Five Hundred Dollars (\$2,500.00) per month per sales tax permit. No such sales tax permit holder may change sales tax permit status in order to avoid the provisions of this subsection.

D. Notwithstanding any other provision of law, an amount equal to the excess of the amount calculated by the formula provided by subsection A of this section over the two-thousand-five-hundred-dollar limit provided by subsection C of this section shall be retained by the state as an administrative expense and deposited to the General Revenue Fund.

E. Notwithstanding the provisions of subsections A, B, C and D of this section, in the event that federal authority authorizes this state to require remote sellers to collect and remit sales and use taxes, the Oklahoma Tax Commission is authorized and directed to promulgate rules which provide for deductions in the amounts and subject to the limitations provided in the Streamlined Sales and Use Tax Agreement. All sellers or vendors shall be eligible for such deductions beginning on the date this state acquires such collection authority pursuant to federal authorization.

F. For purposes of this section, the term "remote seller" shall mean a seller that would not register to collect sales and use taxes in this state but for the ability of this state to require such remote seller to collect sales or use tax under federal authority.

Added by Laws 1993, c. 146, § 21. Amended by Laws 1996, c. 126, § 5, eff. Nov. 1, 1996; Laws 1999, c. 390, § 12, emerg. eff. June 8, 1999; Laws 2000, c. 314, § 19, eff. July 1, 2000; Laws 2003, c. 472, § 17, eff. Oct. 1, 2003; Laws 2004, c. 5, § 73, emerg. eff. March 1, 2004; Laws 2010, c. 412, § 14, eff. July 1, 2010; Laws 2013, c. 370, § 3, emerg. eff. May 29, 2013. NOTE: Laws 2003, c. 374, § 3 repealed by Laws 2004, c. 5, § 74, emerg. eff. March 1, 2004.

§68-1368. Bond or security.

Bond or Security.

(A) The Tax Commission may require every person who holds a sales tax permit pursuant to the provisions of the Oklahoma Sales Tax Code and is delinquent or becomes delinquent in the reporting or paying any taxes levied under this article or penalties or interest thereon to furnish to the Commission a cash bond, bond from a surety company chartered or authorized to do business in this state, certificates of deposits, certificates of savings or U.S. Treasury bonds, an assignment of negotiable stocks or bonds or such other security as the Commission may deem necessary to secure payment of taxes under this article. Any surety bond furnished under this section shall be a continuing instrument and shall constitute a new and separate obligation in the sum stated therein for each calendar year or a portion thereof while such bond is in force. Such bond shall remain in effect until the surety or sureties are released and discharged by the Tax Commission. The Tax Commission shall fix the amount of such bond or other security required in each case after considering the tax liability expected to accrue, not to exceed three times the amount of the average quarterly tax liability. Provided, any taxpayer who reports and remits taxes hereunder on a semiannual basis and is or becomes delinquent in reporting or paying may be required to provide a bond or other security in an amount not to exceed three times the amount of the average semiannual tax liability. Any bond or other security furnished shall be such as will protect this state against failure of the taxpayer to pay the tax levied by this article.

(B) If any vendor fails or refuses to furnish a bond or other security as required by the Tax Commission within ten (10) days after mailing of notice thereof to said vendor, any authorized agent of the Tax Commission may remove the permit issued under this article from the taxpayer's premises and cause the same to be revoked. The forfeiture or cancellation of such bond or security, for any reason whatsoever, shall automatically revoke the permit issued pursuant to the provisions of the Oklahoma Sales Tax Code.

(C) All persons doing business in this state, classified as Group Three vendors under this article, shall make a sufficient cash deposit or sufficient bond with the Tax Commission as the Tax Commission may deem necessary to secure payment of the semiannual tax liability before doing business in this state or before receiving a permit to do business in this state as provided in this article.

Amended by Laws 1986, c. 218, § 20, emerg. eff. June 9, 1986.

§68-1368.2. Repealed by Laws 2013, c. 334, § 5, eff. July 1, 2013.

§68-1368.3. Noncompliant taxpayer - Delinquency - Business closure.

A. As used in this section, “noncompliant taxpayer” means any taxpayer who, within any consecutive twenty-four-month period, has failed to file two (2) reports or remit tax due for any two (2) months, as required for sales taxes under the Oklahoma Sales Tax Code.

B. In addition to all other remedies provided by law for the collection of unpaid taxes, the Oklahoma Tax Commission may close the business of a noncompliant taxpayer, subject to the administrative and judicial appeal procedures provided in this section, if the noncompliant taxpayer, within any consecutive twenty-four-month period, fails to file three (3) reports or remit tax due for any three (3) months, as required for sales taxes under the Oklahoma Sales Tax Code.

C. 1. The Tax Commission shall give notice to a noncompliant taxpayer that the third delinquency in reporting or remitting tax in any consecutive twenty-four-month period will result in the closure of the business. The notice must be in writing and delivered to the noncompliant taxpayer by the United States Postal Service or by hand delivery.

2. If the noncompliant taxpayer has a third delinquency in reporting or remitting tax in any consecutive twenty-four-month period after the issuance of the notice provided in paragraph 1 of this subsection, the Tax Commission shall notify the noncompliant taxpayer by certified mail or by hand delivery that the business will be closed within five (5) business days from the date of the delivery or attempted delivery of the notice unless the noncompliant taxpayer makes arrangements with the Tax Commission to satisfy the tax delinquency. When the fifth day falls on a Saturday, Sunday, or legal holiday, the performance of the act is considered timely if it is performed on the next succeeding business day that is not a Saturday, Sunday, or legal holiday.

D. A noncompliant taxpayer may avoid closure of the business by:

1. Filing all delinquent reports and remitting the delinquent tax including any interest and penalty; or

2. Entering into a payment agreement approved by the Tax Commission to satisfy the tax delinquency.

E. The decision to close the business of a noncompliant taxpayer will be final and absolute if the noncompliant taxpayer fails to request an administrative hearing as provided in subsection F of this section.

F. 1. A noncompliant taxpayer may request an administrative hearing concerning the decision of the Tax Commission to close the business of a noncompliant taxpayer by filing with the Tax Commission a written protest, signed by the noncompliant taxpayer or the authorized agent of the noncompliant taxpayer, stating the reasons for opposing the closure of the business and requesting an administrative hearing. The protest shall be timely if filed within five (5) business days after the delivery or attempted delivery of the notice required by paragraph 2 of subsection C of this section.

2. A noncompliant taxpayer may request that an administrative hearing be held in person, by telephone, upon written documents furnished by the noncompliant taxpayer, or upon written documents and any evidence produced by the noncompliant taxpayer at an administrative hearing. The Tax Commission shall have the discretion to determine whether an administrative hearing at which testimony is to be presented will be conducted in person or by telephone. A noncompliant taxpayer who requests an administrative hearing based upon written documents is not entitled to any other administrative hearing prior to the date a decision is rendered by the hearing officer.

3. The administrative hearing will be conducted by a hearing officer appointed by the Tax Commission. The hearing officer will set the time and place for a hearing and will give the noncompliant taxpayer notice of the hearing. The noncompliant taxpayer may be represented by an authorized representative and may present evidence in support of the position of the noncompliant taxpayer.

4. The administrative hearing will be held within fourteen (14) calendar days of receipt by the Tax Commission of the request for hearing, as required in paragraph 1 of this subsection. The Tax Commission shall give the noncompliant taxpayer at least five (5) days' notice of the hearing.

G. The defense or defenses to the closure of a business under this section include written proof that the noncompliant taxpayer:

1. Filed all delinquent returns and paid the delinquent tax due including interest and penalty; or
2. Has entered into a written payment agreement, approved by the Tax Commission prior to the hearing, to satisfy the tax delinquency.

H. 1. The decision of the hearing officer must be rendered in writing with copies delivered to the noncompliant taxpayer by the United States Postal Service or by hand delivery.

2. If the decision of the hearing officer is to affirm the closure of the business, the decision shall be submitted in writing and delivered by the United States Postal Service or by hand to the noncompliant taxpayer.

3. The noncompliant taxpayer may seek judicial relief from the decision of a hearing officer as provided in Section 225 of Title 68 of the Oklahoma Statutes for relief from a final order of the Tax Commission.

I. The procedures established by this section are the sole methods for seeking relief from a written decision to close the business of a noncompliant taxpayer.

J. After being given notice of an order of closure of a business pursuant to this section, it shall be unlawful for any person to continue to operate the business. If a person continues or threatens to continue the unlawful operation of the business after having received proper notice of the closure, upon complaint of the Tax Commission, the person shall be enjoined from further operating or conducting the unlawful business. In all cases where injunction proceedings are brought under this subsection, the Tax Commission shall not be required to furnish bond. Where notice of closure has been given in accordance with the provisions of this section, no further notice shall be required before the issuance of a temporary restraining order.

K. If a noncompliant taxpayer fails to timely seek administrative or judicial review of a business closure decision pursuant to this section, or if the business closure decision is affirmed after administrative or judicial review, the Tax Commission shall affix a written notice to all entrances of the business that:

1. Identifies the business as being subject to a business closure order; and

2. States that the business is prohibited from further operation.
Added by Laws 2012, c. 338, § 1, eff. Nov. 1, 2012.

§68-1369. Collection of Delinquent Taxes - Political Subdivisions Failing to Pay.

(A) All taxes levied in this article which are delinquent together with any penalty and interest thereon may be collected in the same manner as any other taxes imposed by law in addition to any remedies or penalties set out in this article.

(B) All delinquent taxes levied in this article or penalties or interest shall at all times constitute a lien upon the property of any person liable for the payment thereof, which shall be prior, superior and paramount as against the claims of unsecured creditors. (C) In case any city, town, county or other political subdivision of this state shall fail or refuse to pay the tax, or any part thereof, becoming due the state under the terms and provisions of this article from such city, town, county or other political subdivision, when due, the Tax Commission shall issue a warrant for the amount of the tax, penalty and interest, due just as in the case of delinquency of any other delinquent taxpayer who fails or refuses to pay the said tax; and the sheriff shall serve such warrant upon the county treasurer of the county in which such delinquent taxpayer is located and from the date of such service the same shall constitute and be a lien upon all ad valorem tax penalties collected by said treasurer for and on account of such delinquent taxpayer until the amount of such delinquent tax due by such taxpayer is paid; and the county treasurer upon whom such tax warrant is served is hereby directed and required to remit the amount of all such ad valorem tax penalty when collected by him to the Tax Commission until the amount due the state by the taxpayer, against whom such warrant was issued, is paid.

Laws 1981, c. 313, § 2, emerg. eff. June 29, 1981.

§68-1370. County sales tax - Notice of rate change - Exemptions - Duration – Voting and elections for a levy.

A. Any county of this state may levy a sales tax of not to exceed two percent (2%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by this state. Before a sales tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by the board of county commissioners or by initiative petition signed by not less than five percent (5%) of the registered voters of the county who were registered at the time of the last general election. However, if a majority of the registered voters of a county voting fail to approve such a tax, the board of county commissioners shall not call another special election for such purpose for six (6) months. Any sales tax approved by the registered voters of a county shall be applicable only when the point of sale is within the territorial limits of such county. Any sales tax levied or any change in the rate of a sales tax levied pursuant to the provisions of this section shall become effective on the first day of the calendar quarter following approval by the voters of the county unless another effective date, which shall also be on the first day of a calendar quarter, is specified in the ordinance or resolution levying the sales tax or changing the rate of sales tax.

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

required by this section shall delay the effective date of the rate change to the first day of the next calendar quarter.

C. Initiative petitions calling for a special election concerning county sales tax proposals shall be in accordance with Sections 2, 3, 3.1, 6, 18 and 24 of Title 34 of the Oklahoma Statutes. Petitions shall be submitted to the office of county clerk for approval as to form prior to circulation. Following approval, the petitioner shall have ninety (90) days to secure the required signatures. After securing the requisite number of signatures, the petitioner shall submit the petition and signatures to the county clerk. Following the verification of signatures, the county clerk shall present the petition to the board of county commissioners. The special election shall be held within sixty (60) days of receiving the petition. The ballot title presented to the voters at the special election shall be identical to the ballot as presented in the initiative petition.

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

E. Any sales tax which may be levied by a county shall be designated for a particular purpose. Such purposes may include, but are not limited to, projects owned by the state, any agency or instrumentality thereof, the county and/or any political subdivision located in whole or in part within such county, regional development, economic development, common education, general operations, capital improvements, county roads, weather modification or any other purpose deemed, by a majority vote of the county commissioners or as stated by initiative petition, to be necessary to promote safety, security and the general well-being of the people, including any authorized purpose pursuant to the Oklahoma Community Economic Development Pooled Finance Act. The county shall identify the purpose of the sales tax when it is presented to the voters pursuant to the provisions of subsection A of this section. Except as otherwise provided in this section and except as required by the Oklahoma Community Economic Development Pooled Finance Act, the proceeds of any sales tax levied by a county shall be deposited in the general revenue or sales tax revolving fund of the county and shall be used only for the purpose for which such sales tax was designated. If the proceeds of any sales tax levied by a county pursuant to this section are pledged for the purpose of retiring indebtedness incurred for the specific purpose for which the sales tax is imposed, the sales tax shall not be repealed until such time as the indebtedness is retired. However, in no event shall the life of the tax be extended beyond the duration approved by the voters of the county.

F. 1. Notwithstanding any other provisions of law, any county that has approved a sales tax for the construction, support or operation of a county hospital may continue to collect such tax if such hospital is subsequently sold. Such collection shall only continue if the county remains indebted for the past construction, support or operation of such hospital. The collection may continue only until the debt is repaid or for the stated term of the sales tax, whichever period is shorter.

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

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

H. The life of the tax could be limited or unlimited in duration. The county shall identify the duration of the tax when it is presented to the voters pursuant to the provisions of subsections

A and C of this section. The maximum duration of a levy imposed pursuant to Section 14 of this act shall be no longer than allowed pursuant to the Oklahoma Community Economic Development Pooled Finance Act.

I. Except for the levies imposed pursuant to Section 14 of this act, there are hereby created one or more county sales tax revolving funds in each county which levies a sales tax under this section if any or all of the proceeds of such tax are not to be deposited in the general revenue fund of the county or comply with the provisions of subsection G of this section. Each such revolving fund shall be designated for a particular purpose and shall consist of all monies generated by such sales tax which are designated for such purpose. Monies in such funds shall only be expended for the purposes specifically designated as required by this section. A county sales tax revolving fund shall be a continuing fund not subject to fiscal year limitations.

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

Added by Laws 1983, c. 8, § 2, eff. Jan. 1, 1984. Amended by Laws 1983, c. 275, § 9, operative Jan. 1, 1984; Laws 1985, c. 1, § 1, emerg. eff. Feb. 4, 1985; Laws 1985, c. 167, § 1, emerg. eff. June 18, 1985; Laws 1993, c. 319, § 1, emerg. eff. June 7, 1993; Laws 1994, c. 159, § 1, eff. Sept. 1, 1994; Laws 1994, c. 303, § 1, eff. July 1, 1994; Laws 1996, c. 228, § 1, emerg. eff. May 23, 1996; Laws 1998, c. 301, § 9, eff. Nov. 1, 1998; Laws 2001, c. 23, § 1, emerg. eff. April 3, 2001; Laws 2002, c. 381, § 5, eff. July 1, 2002; Laws 2003, c. 472, § 18; Laws 2004, c. 5, § 75, emerg. eff. March 1, 2004; Laws 2004, c. 103, § 1, emerg. eff. April 14, 2004; Laws 2004, c. 317, § 1, emerg. eff. May 19, 2004; Laws 2007, c. 136, § 4, eff. July 1, 2007; Laws 2009, c. 309, § 17, eff. July 1, 2009.

NOTE: Laws 2003, c. 413, § 16 repealed by Laws 2004, c. 5, § 76, emerg. eff. March 1, 2004.

§68-1370.1. Counties - Sales tax.

Notwithstanding the provisions of Section 1370 of this title, any county of this state with a population of more than three hundred thousand (300,000) according to the latest Federal Decennial Census may levy a sales tax of not to exceed one-half of one percent (1/2 of 1%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by the state subject to the following conditions:

1. The proceeds of such sales tax shall be used solely for the purpose of constructing and equipping county jail facilities or capital improvements for jail facilities only;
2. Before a sales tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by resolution of the board of county commissioners;
3. Such sales tax can only be imposed for a period not to exceed three (3) years; and
4. Any special election called pursuant to this section must be held no later than January 1, 1992.

Added by Laws 1987, c. 149, § 2, emerg. eff. June 24, 1987. Amended by Laws 1990, c. 192, § 1, eff. Sept. 1, 1990.

§68-1370.2. Counties with population of more than 300,000 - Sales tax - Use of proceeds - Aircraft maintenance or manufacturing facilities - Approval by voters - Time period.

Notwithstanding the provisions of Section 1370 of this title, any county of this state with a population of more than three hundred thousand (300,000) according to the latest Federal Decennial Census may levy a sales tax of not to exceed one percent (1%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by the state, except as provided in subsection (F) of Section 1357 of this title, subject to the following conditions:

1. The proceeds of such sales tax and the interest thereon shall be used solely for the purpose of development of qualified aircraft maintenance or manufacturing facilities and any necessary infrastructure changes or airport improvements directly related to such facilities located within the county to be owned by the county, any municipality within the county or a public trust in which the county or municipality is a beneficiary. However, such municipality or public trust shall hold such title for the use and benefit of the residents of the entire county in which the tax is levied and collected. The acceptance by the municipality or public trust of any title or tax proceeds shall be deemed an acceptance of this requirement. The board of county commissioners of any county that has approved the imposition of a sales tax pursuant to this section may not commence the collection of any such sales tax until a qualified aircraft maintenance or manufacturing facility has signed an agreement to locate such facility within the county. As used in this paragraph, "qualified aircraft maintenance or manufacturing facility" means a new or expanding facility primarily engaged in aircraft repair, building or rebuilding, whether or not on a factory basis, whose total cost of construction exceeds the sum of One Hundred Fifty Million Dollars (\$150,000,000.00) and which employs at least one thousand (1,000) new full-time-equivalent employees, as certified by the Employment Security Commission upon completion of the facility;

2. Before a sales tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by resolution of the board of county commissioners;

3. The monies collected pursuant to the provisions of this section shall only be expended by the board of county commissioners to finance an amount not to exceed twenty-five percent (25%) of the total cost of construction of the qualified aircraft maintenance or manufacturing facility and any necessary infrastructure changes or airport improvements directly related to such facility; and

4. Such sales tax can only be imposed for a period not to exceed three (3) years.

Added by Laws 1991, 1st Ex. Sess., c. 1, § 5, emerg. eff. Jan. 18, 1991.

§68-1370.2A. Counties with population of more than 300,000 - Sales tax - Acquisition and development of qualified manufacturing facilities.

Notwithstanding the provisions of Section 1370 of this title, any county of this state with a population of more than three hundred thousand (300,000) according to the latest Federal Decennial Census may levy a sales tax of not to exceed one percent (1%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by the state subject to the following conditions:

1. The proceeds of such sales tax and the interest thereon shall be used solely for the purpose of acquisition and development of qualified manufacturing facilities, related machinery

and equipment and any necessary infrastructure changes or improvements related to such facilities located within the county to be owned by the county, any municipality within the county or a public trust in which the county or municipality is a beneficiary. However, such municipality or public trust shall hold such title for the use and benefit of the residents of the entire county in which the tax is levied and collected. The acceptance by the municipality or public trust of any title or tax proceeds shall be deemed an acceptance of this requirement. The board of county commissioners of any county that has approved the imposition of a sales tax pursuant to this section may not commence the collection of any such sales tax until a qualified manufacturing facility has signed an agreement to locate such facility within the county. As used in this paragraph, "qualified manufacturing facility" means a new or expanding facility primarily engaged in manufacturing, production and/or assembly of consumer or other products, whether or not on a factory basis, whose total cost of acquisition and construction exceeds the sum of Fifteen Million Dollars (\$15,000,000.00) and which will employ at least one thousand (1,000) new full-time-equivalent employees, as certified by the Employment Security Commission within three (3) years after the completion of the facility;

2. Before a sales tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by resolution of the board of county commissioners in the manner provided by law for county elections;

3. The monies collected pursuant to the provisions of this section shall only be expended by the board of county commissioners to finance an amount not to exceed twenty-five percent (25%) of the total cost related to the acquisition and construction of the qualified manufacturing facility, related machinery and equipment and any necessary infrastructure changes or improvements directly related to such facility; and

4. Such sales tax can only be imposed for a period not to exceed three (3) years.
Added by Laws 1994, c. 1, § 1, emerg. eff. Feb. 25, 1994. Amended by Laws 1994, c. 7, § 4, emerg. eff. March 29, 1994.

§68-1370.3. County sales tax - Aircraft maintenance or manufacturing facilities - Tax relief - Claims - Computation - Deadline for submission.

A. Any person who is a resident of and domiciled in a county which levies a sales tax pursuant to Section 1370.2 of this title or Section 2 of this act during the time such tax was in effect and whose gross household income does not exceed Twelve Thousand Dollars (\$12,000.00) per year for each year in which the tax is in effect shall be eligible to file a claim for sales tax relief pursuant to the provisions of this section.

B. 1. Except as otherwise provided in paragraph 2 of this subsection, any inmate in the custody of the Department of Corrections during any part of a calendar year shall not be eligible to file a claim for sales tax relief pursuant to subsection A of this section for such calendar year. The provisions of this subsection shall not prohibit all other members of the household of an inmate from filing a claim based upon the personal exemptions to which the household members would be entitled pursuant to the provisions of the Oklahoma Income Tax Act, Section 2351 et seq. of this title.

2. Any inmate in the custody of the Department of Corrections who is assigned to pre-parole conditional supervision, house arrest or is housed at a community treatment center or halfway house which is under contract with the Department shall be eligible to file a claim for sales tax relief pursuant to subsection A of this section.

C. The amount of the claim filed pursuant to this section shall be Forty Dollars (\$40.00) multiplied by the number of personal exemptions to which the taxpayer would be entitled pursuant to the provisions of the Oklahoma Income Tax Act, except for the exemptions such taxpayer would be entitled to pursuant to Section 2358 of this title if such taxpayer or spouse is blind or sixty-five (65) years of age or older at the close of the tax year.

D. All claims for relief authorized by this section shall be received by and in the possession of the board of county commissioners after December 31, 1993, and before July 1, 1994. The failure of a claimant to file a claim for relief as authorized by this subsection shall be deemed a forfeiture of the claimant's right to receive such relief.

E. All claims authorized by this section shall be made under oath and filed on forms prescribed and provided by the board of county commissioners. Such forms shall contain appropriate certifications, under a penalty of perjury, sufficient to verify the claim. The board of county commissioners or its designee may request additional information to determine the claimant's eligibility to receive the sales tax relief authorized by this section. Willful failure to provide such information shall be deemed by the board or its designee to be grounds for denial of the claim or modification of the amount of the claim.

F. As used in this section: "Gross household income" means the gross amount of income of every type, regardless of the source, received by all persons occupying the same household, whether such income was taxable or nontaxable for federal or state income tax purposes, including pensions, annuities, federal social security, unemployment payments, veteran disability compensation, public assistance payments, alimony, support money, worker's compensation, loss of time insurance payments, capital gains and any other type of income received; and excluding gifts.

Added by Laws 1991, 1st Ex. Sess., c. 1, § 6, emerg. eff. Jan. 18, 1991. Amended by Laws 1992, c. 287, § 1, eff. Sept. 1, 1992.

§68-1370.4. County sales tax - Conditions for levy.

Notwithstanding the provisions of Section 1370 of Title 68 of the Oklahoma Statutes, any county of this state with a population of more than three hundred thousand (300,000) according to the latest Federal Decennial Census may levy a sales tax of not to exceed one percent (1%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by the state, except as provided in subsection (F) of Section 1357 of Title 68 of the Oklahoma Statutes, subject to the following conditions:

1. The proceeds of such sales tax and the interest thereon shall be used solely for the purpose of development of facilities for lease or conveyance to the government of the United States and any necessary infrastructure changes or improvements directly related to such facilities located within the county. The board of county commissioners of any county that has approved the imposition of a sales tax pursuant to this section may not commence the collection of any such sales tax until an agreement to locate such facility within the county is reached;

2. Before a sales tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by resolution of the board of county commissioners;

3. The monies collected pursuant to the provisions of this section shall only be expended by the board of county commissioners to finance the construction of the facility and any necessary infrastructure changes or improvements directly related to such facility; and

4. Such sales tax can only be imposed for a period not to exceed three (3) years.

Added by Laws 1992, c. 287, § 2, eff. Sept. 1, 1992.

§68-1370.5. County sales tax - Levy of tax on gross proceeds or receipts derived from certain consumer sales and services to fund economic development projects.

A. Notwithstanding the provisions of Section 1370 of Title 68 of the Oklahoma Statutes, any county of this state with a population of more than three hundred thousand (300,000) according to the latest Federal Decennial Census may levy a sales tax of not to exceed one percent (1%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by the state, except as provided in paragraph 6 of Section 1357 of Title 68 of the Oklahoma Statutes, subject to the following conditions:

1. The proceeds of such sales tax shall be used solely for the purpose of funding one or more economic development projects;
2. Before a sales tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by resolution of the board of county commissioners;
3. Such sales tax can only be imposed for a period of not to exceed three (3) years; and
4. Any special election called pursuant to this section must be held no later than March 1, 1994.

B. The board of county commissioners shall create a limited-purpose fund and deposit therein any revenue generated by any sales tax levied pursuant to the provisions of subsection A of this section. The fund shall be placed in an insured or collateralized interest-bearing account and the interest which accrues to the fund shall be retained in the fund. Monies in the limited-purpose fund shall be expended only as accumulated and only for the purpose specifically described in paragraph 1 of subsection A of this section.

C. As used in this section, "economic development project" means any project which the board of county commissioners determines will promote, enhance or improve economic conditions within the county.

Added by Laws 1993, c. 275, § 14, eff. July 1, 1993.

§68-1370.6. County sales tax - Levy of tax on gross proceeds or receipts derived from certain consumer sales and services to fund projects for new public improvements.

A. Notwithstanding the provisions of Section 1370 of Title 68 of the Oklahoma Statutes, any county of this state with a population of more than three hundred thousand (300,000) according to the latest Federal Decennial Census may levy a sales tax of not to exceed one percent (1%) upon the gross proceeds or gross receipts derived from all sales or services in the county upon which a consumer's sales tax is levied by the state, except as provided in paragraph 6 of Section 1357 of Title 68 of the Oklahoma Statutes, subject to the following conditions:

1. The proceeds of such sales tax shall be used solely for the purpose of funding one or more projects for new public improvements;
2. Before a sales tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by resolution of the board of county commissioners;
3. Such sales tax can only be imposed for a period of not to exceed three (3) years; and
4. Any special election called pursuant to this section must be held no later than March 1, 1994.

B. The board of county commissioners shall create a limited-purpose fund and deposit therein any revenue generated by any sales tax levied pursuant to the provisions of subsection A of this section. The fund shall be placed in an insured interest-bearing account and the interest which accrues to the fund shall be retained in the fund. Monies in the limited-purpose fund shall be expended only as accumulated and only for the purpose specifically described in paragraph 1 of subsection A of this section.

C. As used in this section:

1. "Projects for new public improvements" means any new and beneficial change, addition, betterment or enhancement of or upon any real property belonging to a public agency, intended to enhance the value, beauty or utility of said property or to adapt it to new or further purposes; and

2. "Public agency" means the State of Oklahoma and any county, city, public trust or other public entity specifically created by the statutes of the State of Oklahoma or as a result of statutory authorization contained therein.

Added by Laws 1993, c. 275, § 15, eff. July 1, 1993.

§68-1370.7. Creation of transportation or regional economic development authorities – Sales tax levy – Dissolution.

A. As used in this section, the following terms shall have the following meanings:

1. "Agency" includes but is not limited to extant transportation operating systems;

2. "Operation" includes but is not limited to leasing services, contracting for services, planning, financing, construction and maintenance of a transportation or regional economic project regardless of the source of funding;

3. "Transportation project or system" includes but is not limited to transit, commuter and passenger rail service or operations or intermodal facilities, the components of which contribute to a system that incorporates transportation modes of highway, air, rail and waterway together in order to facilitate the movement of commerce; and

4. "User fees" means farebox revenues.

B. Any combination of cities, towns and counties, or their agencies, by resolution of their governing boards, may jointly create a transportation authority or regional economic development authority pursuant to the provisions of Section 176 of Title 60 of the Oklahoma Statutes for the purpose of planning, financing, construction, maintenance and operation of transportation or regional economic development projects located within the boundaries of such cities, towns or counties. An authority created pursuant to the provisions of this subsection shall have the powers granted pursuant to the provisions of Section 176 of Title 60 of the Oklahoma Statutes in addition to the powers granted pursuant to the provisions of this section except that no transportation or regional economic development authority created pursuant to the provisions of this subsection shall have any power or authority to exercise or to attempt to exercise any powers of eminent domain. The combination of cities, towns and counties, or their agencies, creating the authority shall be designated the beneficiary of the authority. The boundaries of the authority shall be coterminous with the boundaries of the cities, towns or counties creating the authority.

C. Any transportation authority or regional economic development authority created pursuant to the provisions of subsection B of this section may levy a sales tax of not to exceed two percent (2%) upon the gross proceeds or gross receipts derived from all sales or services in the cities, towns and counties comprising the authority upon which a consumer's sales tax is levied by this state. Before a sales tax may be levied by the authority, the imposition of the tax

shall first be approved by a majority of votes cast by the registered voters within the boundaries of each of the cities, towns and counties comprising the authority voting thereon at a special election jointly called by the governing boards of the cities, towns and counties comprising the authority. Provided, if a majority of the votes cast by registered voters of an authority voting fail to approve such a tax, the governing boards of such cities, towns and counties shall not jointly call another special election for such purpose for at least six (6) months. Any sales tax approved by the registered voters of an authority shall be applicable only when the point of sale is within the boundaries or limits of the authority.

D. All items that are exempt from the state sales tax shall be exempt from any sales tax levied pursuant to the provisions of this section.

E. Any sales tax which may be levied pursuant to the provisions of this section shall be designated for the purposes of planning, financing, construction, maintenance and operation of transportation or regional economic development projects within the boundaries of the authority. The authority shall identify the purpose of the sales tax when it is presented to the voters pursuant to the provisions of this section. The proceeds of any sales tax levied by an authority shall be used only for the purposes for which the sales tax was designated.

F. The authority shall identify the specific duration of the tax when it is presented to the voters pursuant to the provisions of this section and shall include specific language in the ballot title disclosing the duration of the tax. A levy by a transportation authority or a regional economic development authority shall have a maximum duration of thirty (30) years if the proceeds from the tax are pledged to the repayment of indebtedness and a maximum duration of twenty (20) years if the proceeds from the tax are to be used for expenditures other than the repayment of indebtedness.

G. An authority created pursuant to the provisions of subsection B of this section may utilize the provisions of the Local Development Act as it relates to the financing of such transportation or regional economic development projects.

H. A transportation or regional economic development authority created pursuant to this section shall exist for the duration of the operation and no longer than one (1) year after cessation of the operation.

I. Providing that at cessation of operations the proceeds of any tax levied by an authority pursuant to this section are pledged for the purpose of retiring indebtedness incurred for the specific purpose for which the tax is imposed, the tax shall not be repealed until such time as the indebtedness is retired. In no event shall the life of the tax be extended beyond the duration approved by the voters of the authority.

J. If the revenue collected from any taxes levied by the authority exceeds the amount necessary for payment of any and all expenses incurred by the authority in the planning, financing, construction, maintenance and operation of transportation or regional economic development projects, the excess funds shall be apportioned to the general funds of the cities, towns and counties comprising the authority in proportion to the population of each city, town and county.

K. A transportation authority created pursuant to the provisions of subsection B of this section may provide for the financing of a transportation system utilizing any revenue measures available pursuant to subsections B through J of this section in combination with revenue derived from user fees.

Added by Laws 1995, c. 332, § 1, eff. Nov. 1, 1995. Amended by Laws 2003, c. 336, § 2, emerg. eff. May 29, 2003; Laws 2006, c. 308, § 1, eff. Nov. 1, 2006; Laws 2010, c. 117, § 1, eff. Nov. 1, 2010; Laws 2011, c. 359, § 1, eff. Nov. 1, 2011.

§68-1370.8. Creation of hospital authorities - Sales tax levy - Dissolution.

A. Any combination of cities, towns and counties, by resolution of their governing boards, may jointly create a hospital authority pursuant to the provisions of Section 176 of Title 60 of the Oklahoma Statutes for the purpose of planning, financing and constructing hospitals or related medical facilities located within the boundaries of such cities, towns or counties. An authority created pursuant to the provisions of this subsection shall have the powers granted pursuant to the provisions of Section 176 of Title 60 of the Oklahoma Statutes in addition to the powers granted pursuant to the provisions of this section. The combination of cities, towns and counties creating the authority shall be designated the beneficiary of the authority. The boundaries of the authority shall be coterminous with the boundaries of the cities, towns or counties creating the authority.

B. Any hospital authority created pursuant to the provisions of subsection A of this section may levy a sales tax of not to exceed two percent (2%) upon the gross proceeds or gross receipts derived from all sales or services in the cities, towns and counties comprising the authority upon which a consumer's sales tax is levied by this state. Before a sales tax may be levied by the authority, the imposition of the tax shall first be approved by a majority of the registered voters within the boundaries of each of the cities, towns and counties comprising the authority voting thereon at a special election jointly called by the governing boards of the cities, towns and counties comprising the authority. Provided, if a majority of the registered voters of an authority voting fail to approve such a tax, the governing boards of such cities, towns and counties shall not jointly call another special election for such purpose for at least six (6) months. Any sales tax approved by the registered voters of an authority shall be applicable only when the point of sale is within the boundaries or limits of the authority.

C. All items that are exempt from the state sales tax shall be exempt from any sales tax levied pursuant to the provisions of this section.

D. Any sales tax which may be levied pursuant to the provisions of this section shall be designated for the purposes of planning, financing and constructing hospitals or related medical facilities within the boundaries of the authority. The authority shall identify the purpose of the sales tax when it is presented to the voters pursuant to the provisions of this section. The proceeds of any sales tax levied by an authority shall be used only for the purposes for which the sales tax was designated.

E. The authority shall identify the duration of the tax when it is presented to the voters pursuant to the provisions of this section.

F. An authority created pursuant to the provisions of subsection A of this section may utilize the provisions of the Local Development Act as it relates to the financing of such hospitals or related medical facilities.

G. An authority created pursuant to the provisions of subsection A of this section shall be dissolved:

1. At such time as the planning, financing and constructing of the hospitals or related medical facilities within the boundaries of the authority is completed; and

2. At such time as the revenue collected from any taxes levied by the authority is sufficient for payment of any and all expenses incurred by the authority in the planning, financing and constructing of a hospital or related medical facility.

H. If the proceeds of any tax levied by an authority pursuant to this section are pledged for the purpose of retiring indebtedness incurred for the specific purpose for which the tax is imposed, the tax shall not be repealed until such time as the indebtedness is retired.

Notwithstanding any other provisions of law, any county or hospital authority that has approved a sales tax for the support and operation of a county hospital may continue to collect such tax if such hospital is subsequently sold. Such collection shall only continue if the county or hospital authority remains indebted for the support and operation of such hospital and only until the debt is repaid or for the stated term of the tax, whichever period is shorter. In no event shall the life of the tax be extended beyond the duration approved by the voters of the authority.

I. If the revenue collected from any taxes levied by the authority exceeds the amount necessary for payment of any and all expenses incurred by the authority in the planning, financing and constructing of hospitals or related medical facilities, the excess funds shall be apportioned to the general funds of the cities, towns and counties comprising the authority in proportion to the population of each city, town and county.

J. If the construction, support, or operation of a hospital is funded through the levy of a sales tax by a county or hospital authority pursuant to this section and such hospital is subsequently sold, the county or hospital authority levying the tax may dissolve the governing board of such hospital at the time of the sale. When the sale of the hospital and dissolution of any governing board is final, the county or hospital authority is thereby relieved of any liability for the operation of such hospital.

Added by Laws 1996, c. 86, § 1, eff. Nov. 1, 1996. Amended by Laws 2004, c. 103, § 2, emerg. eff. April 14, 2004.

§68-1370.9. Lodging tax – Approval by voters – Designation of purpose – Revolving funds.

A. In addition to any other sales tax levied by a county pursuant to the provisions of Section 1350 et seq. of this title, any county of this state having a population of less than Two Hundred Thousand (200,000), according to the latest Federal Decennial Census, may levy a lodging tax, not to exceed five percent (5%), upon the gross proceeds or gross receipts derived from the service of furnishing of rooms by hotel, apartment hotel, or motel and for the furnishing of any other facility for public lodging, except campsites. Before such a tax may be levied by the county, the imposition of the tax shall first be approved by a majority of the registered voters of the county voting thereon at a special election called by the board of county commissioners or by initiative petition signed by not less than five percent (5%) of the registered voters of the county who were registered at the time of the last general election. However, if a majority of the registered voters of a county voting fail to approve such a tax, the board of county commissioners shall not call another special election for such purpose for six (6) months. Any tax levied or any change in the rate of a tax levied pursuant to the provisions of this section shall become effective on the first day of the calendar quarter following approval by the voters of the county unless another effective date, which shall also be on the first day of a calendar quarter, is specified in the ordinance or resolution levying the tax or changing the rate of tax.

B. Any tax which may be levied by a county pursuant to the provisions of this section shall be inapplicable to the furnishing of public lodging in the corporate limits of any municipality in the county which has levied a lodging tax.

C. Any tax which may be levied by a county pursuant to the provisions of this section shall be designated for a particular purpose. The proceeds of any tax levied by a county pursuant to the provisions of this section shall be deposited in the general revenue or a lodging tax revolving fund of the county pursuant to subsection E of this section.

D. The tax may be limited or unlimited in duration. The county shall identify the duration of the tax when it is presented to the voters pursuant to the provisions of subsection A of this section.

E. There are hereby created one or more county lodging tax revolving funds in each county which levies a tax pursuant to the provisions of this section if any or all of the proceeds of such tax are not to be deposited in the general revenue fund of the county. Each such revolving fund shall be designated for a particular purpose and shall consist of all monies generated by such tax which are designated for such purpose. Monies in such funds shall only be expended for the purposes specifically designated as required by this section. A county lodging tax revolving fund shall be a continuing fund, not subject to fiscal year limitations.

F. 1. The particular purpose required by subsection C of this section shall be presumed to include the following:

- a. advertising the particular purpose within or without this state, and
- b. investing the funds and later expending the funds or any earnings or both for the particular purpose.

2. The provisions of this subsection shall apply to any levy in effect on or after July 1, 2009.

Added by Laws 2001, c. 215, § 1, eff. Nov. 1, 2001. Amended by Laws 2002, c. 200, § 1, eff. Nov. 1, 2002; Laws 2009, c. 63, § 1.

§68-1371. County sales tax - Assessment, collection, and enforcement.

Any sales tax levied by a county pursuant to the provisions of Section 1370 of this title shall be paid by the consumer to the vendor. The board of county commissioners and the Oklahoma Tax Commission shall enter into a contract whereby the Tax Commission shall have authority to assess, collect, and enforce the sales tax, and any penalties or interest thereon, levied by such county, and to remit the same to the county. Such assessment, collection, and enforcement authority shall apply to any sales tax, and any penalty or interest liability existing at the time of contracting. Upon contracting, the Tax Commission shall have the power of enforcement of the sales tax, and any penalties or interest that are vested in the county. The contract shall provide for the assessment, collection, and enforcement of the sales tax, and the penalties or interest, in the same manner as the administration, collection, and enforcement of the state sales tax by the Tax Commission. For providing such collection assistance, the Tax Commission shall charge the county a fee of one percent (1%) of the gross collection proceeds.

The Tax Commission shall place all sales taxes, including penalties and interest, collected on behalf of a county pursuant to the provisions of this section in the Sales Tax Remitting Account as provided in Section 1373 of this title. As used in this section and Sections 1372, 1373 and 1374 of this title, "sales tax" includes any tax imposed pursuant to the provisions of Section 1 of this act.

Added by Laws 1983, c. 8, § 3, eff. Jan. 1, 1984. Amended by Laws 1989, c. 168, § 1, eff. Nov. 1, 1989; Laws 2001, c. 215, § 2, eff. Nov. 1, 2001; Laws 2010, c. 412, § 15, eff. July 1, 2010.

§68-1372. County sales tax as lien.

The sales tax levied by a county and any penalties or interest thereon shall constitute a lien in favor of such county from the date the sales tax is due and payable upon all real or personal property then belonging to or thereafter acquired by the person owing the tax, whether such property is employed by such person in the conduct of business or is in the hands of an assignee, trustee, or receiver for the benefit of creditors. The lien shall be coequal with all tax liens created by law, except for specific tax liens the Legislature by law declares to be first or prior liens. The liens created pursuant to the provisions of this section shall be prior, superior, and paramount to all other liens, claims, or encumbrances on the property of the person, firm, or corporation owing the tax. Such liens, however, shall be inferior to those of any bona fide mortgagee, pledgee, judgment creditor, or purchaser who has filed or recorded said mortgages or conveyances in the office of the county clerk of the county in which the property is located, and whose rights shall have attached prior to the date on which the notice of the lien of the claiming county is entered upon the district court judgment docket in the office of the court clerk in the county in which the property is located. Such sales tax, penalty, and interest owed the county shall, at all times, constitute a prior, superior, and paramount claim as against the claims of unsecured creditors. The lien of the county shall continue until the amount of the tax and penalty due and owing and interest subsequently accruing thereon is paid. In any action affecting the title to real estate or the ownership or right to possession of personal property, the county asserting a lien on such property may be made a party defendant for the purpose of determining its lien upon the property involved therein only in cases where notice of the lien of the county has been entered upon the district court judgment docket. In such action service of summons upon the county by serving the county clerk shall be sufficient service and binding upon the county.

Added by Laws 1983, c. 8, § 4, eff. Jan. 1, 1984.

§68-1373. Sales Tax Remitting Account - Creation - Contents - Investment of deposits.

A. There is hereby created within the State Treasury an account to be designated the "Sales Tax Remitting Account".

B. The account shall consist of all sales tax revenue, penalties and interest, collected by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code, Section 1350 et seq. of this title, all sales tax revenue, penalties and interest collected by the Oklahoma Tax Commission on behalf of counties or municipalities pursuant to a contractual agreement authorized by Section 1371 or Section 2702 of this title and all use tax revenue, penalties and interest collected by the Oklahoma Tax Commission on behalf of municipalities pursuant to a contractual agreement authorized by Section 2702 of this title.

C. The State Treasurer shall invest the monies deposited in the Sales Tax Remitting Account in investments as authorized by law for municipalities and counties and in a manner consistent with the requirements of law concerning remittance of sales tax revenue to municipalities and counties upon behalf of which the Oklahoma Tax Commission collects such taxes.

Added by Laws 1989, c. 168, § 3, eff. Oct 1, 1989. Amended by Laws 1990, c. 60, § 1, emerg. eff. April 16, 1990.

§68-1374. Sales Tax Remitting Account - Certification of interest earned - Remittance to municipalities and counties.

A. Not later than the fifth day of each month, the State Treasurer shall determine and shall certify to the Oklahoma Tax Commission the aggregate amount of interest earned upon the total of all amounts deposited to the Sales Tax Remitting Account during the preceding month.

B. Not later than the fifteenth day of each month, the Oklahoma Tax Commission, acting on behalf of a municipality or county for collection of sales taxes and on behalf of a municipality for collection of use taxes, shall determine and then remit to each municipality or county:

1. The amount of sales tax revenue, penalties and interest collected on behalf of the municipality or county and the amount of use tax revenue, penalties and interest collected on behalf of the municipality for the preceding month; and

2. An amount equal to the municipality's or county's proportionate share of the total interest earned upon all amounts deposited to the Sales Tax Remitting Account for the month as determined by the Oklahoma Tax Commission as provided in subsections C and D of this section.

C. The proportionate share of interest earned by each municipality shall be determined by dividing the total deposit of sales tax or use tax revenue, penalties and interest made on behalf of each municipality for the month, after deduction of the retention fee authorized by Section 2702 of Title 68 of the Oklahoma Statutes, by the total amount of all sales tax or use tax revenue, penalties and interest deposited into the Sales Tax Remitting Account for the same month. The resulting figure shall be multiplied by the total amount of interest earned upon all deposits of sales tax or use tax revenue, penalties and interest made to the Sales Tax Remitting Account for the same month. The resulting dollar amount shall be remitted to each municipality together with the amount as required by paragraph 1 of subsection B of this section.

D. The proportionate share of interest earned by each county shall be determined by dividing the total deposit of sales tax revenue, penalties and interest made on behalf of each county for the month, after deduction of the one-percent fee authorized by Section 1371 of Title 68 of the Oklahoma Statutes, by the total amount of all sales tax revenue, penalties and interest deposited into the Sales Tax Remitting Account for the same month. The resulting figure shall be multiplied by the total amount of interest earned upon all deposits of sales tax revenue, penalties and interest made to the Sales Tax Remitting Account for the same month. The resulting dollar amount shall be remitted to each county together with the amount as required by paragraph 1 of subsection B of this section.

Added by Laws 1989, c. 168, § 4, eff. Nov. 1, 1989. Amended by Laws 1990, c. 60, § 2, emerg. eff. April 16, 1990.

§68-1375. Digital mapping system - Information to vendors.

A. In order to provide for the efficient and accurate administration of sales and use taxes, the Oklahoma Tax Commission is authorized to develop and maintain a digital mapping system for municipal boundaries. The Tax Commission shall coordinate the development of the mapping system with municipalities.

B. The Tax Commission shall provide vendors subject to the provisions of subparagraph g of paragraph 13 of Section 1352 of this title with information as may be necessary to assist such vendors in determining the appropriate municipal or county sales or use tax rate at a place of delivery of tangible personal property or services subject to sales or use tax.

Added by Laws 2000, c. 314, § 20, eff. July 1, 2000. Amended by Laws 2003, c. 125, § 2, eff. July 1, 2003.

§68-1376. Printing - Printing-related activities - Distribution of printed materials - Exemptions.

The following activities, either singularly or in the aggregate, with respect to any person that is not otherwise required to remit sales and use taxes to the State of Oklahoma, that has contracted with a commercial printer for any printing, including printing-related activities and distribution of printed materials, to be performed in Oklahoma, shall not require such person to remit sales and use taxes to this state:

1. The ownership by that person of tangible or intangible property located at the Oklahoma premises of the commercial printer for use by the printer in performing its services for the owner;
2. The periodic presence of employees of that person at the Oklahoma premises of the commercial printer which is directly related to the services provided by that commercial printer;
- or
3. The printing, including printing-related activities and distribution of printed materials, performed by the commercial printer in Oklahoma for or on behalf of that person.

Added by Laws 2001, c. 15, § 1, emerg. eff. April 4, 2001.

§68-1377. Clothing or footwear - Certain sales exempted from county sales tax.

The sales tax imposed by any county or authority authorized by law to levy a sales tax shall not be imposed upon the sale of an article of clothing or footwear designed to be worn on or about the human body in accordance with and to the extent set forth in Section 3 of this act.

Added by Laws 2007, c. 136, § 5, eff. July 1, 2007.

§68-1401. Definitions.

The following words, terms and phrases when used in this article shall have the meanings respectively given to them in this section:

1. The term “person” shall mean and include any individual, company, partnership, joint venture, joint agreement, association (mutual or otherwise), limited liability company, corporation, estate, trust, business trust, receiver, or trustee appointed by the state or federal court, syndicate, this state, any county, city, municipality, or other political subdivision or agency of the state, or group or combination acting as a unit in the plural or singular number;
2. The term “Tax Commission” means the Oklahoma Tax Commission;
3. The term “purchase price” applies to the measure subject to the tax levied under Section 1402 of this title and has the same meaning as “gross receipts” or “gross proceeds” or “sales price” as defined in Section 1352 of this title;
4. The term “taxpayer” means any person liable to pay a tax hereunder, or charged with the collection and remission thereof, or to make a report for the purpose of claiming any exemptions in payment of any tax levied by this article;
5. The term “purchase at retail” means and includes all purchases except purchases made for the purpose of resale;
6. The term “sale” means and includes the transfer of either the title or possession for a valuable consideration of tangible personal property, regardless of the manner, method, instrumentality or device by which such transfer is accomplished. The term “sale” also includes the exchange, barter, lease, or rental of tangible personal property where such exchange, barter, lease or rental results in either the transfer of the title or the possession;
7. The term “purchase” means and includes any method whereby a transferee receives from a transferor either the title or possession, for a valuable consideration, of tangible personal

property, regardless of the manner, method, instrumentality or device by which such transfer is accomplished. The term “purchase” also includes the exchange, barter, lease or rental of tangible personal property where such exchange, barter, lease or rental results in either the transfer of the title or the possession to the transferee;

8. The term “use” means and includes the exercise of any right or power over tangible personal property incident to the ownership or possession of that property, except that it shall not include the sale of that property in the regular course of business;

9. a. The term “retailer” means every person engaged in the business of selling tangible personal property for use within the meaning of the article; provided, however, that when in the opinion of the Tax Commission it is necessary for the efficient administration of this article to regard any salesmen, representatives, truckers, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, employers, or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors, employers, or persons, the Tax Commission may so regard them and may regard the dealers, distributors, supervisors, employers or persons as retailers for purposes of this article.

b. A retailer shall be deemed to be engaged in the business of selling tangible personal property for use in this state if:

(1) both of the following conditions exist:

(a) the retailer holds a substantial ownership interest in, or is owned in whole or in substantial part by, a retailer maintaining a place of business within this state, and

(b) the retailer sells the same or a substantially similar line of products as the related Oklahoma retailer and does so under the same or a substantially similar business name, or the Oklahoma facilities or Oklahoma employees of the related Oklahoma retailer are used to advertise, promote or facilitate sales by the retailer to consumers, or

(2) the retailer holds a substantial ownership interest in, or is owned in whole or in substantial part by, a business that maintains a distribution house, sales house, warehouse or similar place of business in Oklahoma that delivers property sold by the retailer to consumers.

c. For purposes of subparagraph b of this paragraph:

(1) “substantial ownership interest” means an interest in an entity that is not less than the degree of ownership of equity interest in an entity that is specified by Section 78p of Title 15 of the United States Code, or any successor to that statute, with respect to a person other than a director or officer,

(2) “ownership” means and includes both direct ownership and indirect ownership through a parent, subsidiary or affiliate, and

(3) the processing of orders electronically, including facsimile, telephone, the Internet or other electronic ordering process, does not

relieve a retailer of responsibility for collection of the tax from the purchaser if the retailer is doing business in this state pursuant to this paragraph.

- d. Any retailer that is part of a controlled group of corporations, and that controlled group of corporations has a component member that is a retailer engaged in business in this state as described in subparagraph b of this paragraph, shall be presumed to be a retailer engaged in business in this state. This presumption may be rebutted by evidence that during the calendar year at issue the component member that is a retailer engaged in business in this state did not engage in any of the activities described in this subparagraph on behalf of the retailer. For purposes of this subparagraph, “controlled group of corporations” means “controlled group of corporations” as defined in Section 1563(a) of the Internal Revenue Code, and “component member” means “component member” as defined in Section 1563(b) of the Internal Revenue Code.
- e. Any retailer making sales of tangible personal property to purchasers in this state by mail, telephone, the Internet or other media which has a contractual relationship with an entity to provide and perform installation or maintenance services for the retailer’s purchasers within this state shall be included within the definition of “retailer” under the provisions of subparagraph a of this paragraph; and

10. The phrase “maintaining a place of business within the state” includes any person having or maintaining in the state, directly or by subsidiary, an office, distribution house, sales house, warehouse, or other place of business. It also includes any person having agents operating in the state under authority of the retailer or subsidiary, whether the place of business or agent is within the state permanently or temporarily, or whether the person or subsidiary is authorized to do business within the state is immaterial.

Added by Laws 1963, c. 368, § 2, emerg. eff. June 18, 1963. Renumbered from § 14-1401 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1993, c. 366, § 42, eff. Sept. 1, 1993; Laws 1998, c. 301, § 10, eff. Nov. 1, 1998; Laws 2003, c. 413, § 28, eff. Nov. 1, 2003; Laws 2010, c. 412, § 1, eff. July 1, 2010.

§68-1402. Excise tax on storage, use or other consumption of intangible personal property.

There is hereby levied and there shall be paid by every person storing, using, or otherwise consuming within this state, tangible personal property purchased or brought into this state, an excise tax on the storage, use, or other consumption in this state of such property at the rate of four and one-half percent (4.5%) of the purchase price of such property. Said tax shall not be levied on tangible personal property intended solely for use in other states, but which is stored in Oklahoma pending shipment to such other states or which is temporarily retained in Oklahoma for the purpose of fabrication, repair, testing, alteration, maintenance, or other service. The tax in such instances shall be paid at the time of importation or storage of the property within the state and a subsequent credit shall be taken by the taxpayer for the amount so paid upon removal of the property from the state. Such tax is hereby levied and shall be paid in an amount equal to four and one-half percent (4.5%) of the purchase price of such tangible personal property.

Amended by Laws 1984, c. 2, § 4, emerg. eff. Feb. 15, 1984; Laws 1985, c. 179, § 88, operative July 1, 1985; Laws 1987, c. 113, § 22, operative June 1, 1987; Laws 1989, 1st Ex.Sess., c. 2, § 104, operative Feb. 1, 1990.

§68-1403. Purpose of article - Apportionment of revenues.

It is hereby declared to be the purpose of Section 1401 et seq. of this title to provide for the support of the functions of the state and local government of Oklahoma; and for this purpose and to this end, it is hereby expressly provided that the revenues derived hereunder, subject to the apportionment requirements for the Oklahoma Tax Commission and Office of Management and Enterprise Services Joint Computer Enhancement Fund provided by Section 265 of this title, are hereby apportioned as follows:

1. a. the following amounts shall be paid by the Tax Commission to the State Treasurer and placed to the credit of the General Revenue Fund to be paid out pursuant to direct appropriation by the Legislature:

| Fiscal Year | Amount |
|---|--------|
| FY 2004 | 85.35% |
| FY 2005 | 85.14% |
| FY 2006 | 85.54% |
| FY 2007 | 85.04% |
| FY 2008 and each fiscal year thereafter | 83.61% |

- b. in the event that additional monies are necessary pursuant to paragraph 6 of this section, such additional monies shall be deducted in the proportion determined by the State Board of Equalization pursuant to paragraph 3 of Section 2355.1B of this title from the monies apportioned to the General Revenue Fund;

2. Ten and forty-six one-hundredths percent (10.46%) shall be paid to the State Treasurer to be placed to the credit of the Education Reform Revolving Fund of the State Department of Education;

3. The following amounts shall be paid to the State Treasurer to be placed to the credit of the Teachers' Retirement System Dedicated Revenue Revolving Fund:

| Fiscal Year | Amount |
|---|--------|
| FY 2003 and FY 2004 | 3.54% |
| FY 2005 | 3.75% |
| FY 2006 | 4.0% |
| FY 2007 | 4.5% |
| FY 2008 and each fiscal year thereafter | 5.0% |

4. For the fiscal year beginning July 1, 2010, and for each fiscal year thereafter, eighty-seven one-hundredths percent (0.87%) shall be paid to the State Treasurer to be further apportioned as follows:

- a. thirty-six percent (36%) shall be placed to the credit of the Oklahoma Tourism Promotion Revolving Fund, and
- b. sixty-four percent (64%) shall be placed to the credit of the Oklahoma Tourism Capital Improvement Revolving Fund; and

5. For the fiscal year beginning July 1, 2010, and for each fiscal year thereafter, six one-hundredths percent (0.06%) shall be placed to the credit of the Oklahoma Historical Society Capital Improvement and Operations Revolving Fund.

6. During the first fiscal year after the State Board of Equalization has made a determination as provided in Section 2355.1B of this title, regarding a baseline amount of revenue apportioned pursuant to paragraph 3 of this section, and for each fiscal year thereafter, in no event shall monies apportioned pursuant to paragraph 3 of this section, paragraph 3 of Section 1353 of this title and subparagraph c of paragraph 1 of Section 2352 of this title be less than such baseline amount.

Added by Laws 1963, c. 368, § 2, emerg. eff. June 18, 1963. Renumbered from § 14-1403 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1977, c. 113, § 2, eff. July 1, 1977; Laws 1996, c. 269, § 4, eff. June 1, 1996; Laws 1999, c. 254, § 9, eff. June 30, 1999; Laws 2002, c. 482, § 2, eff. July 1, 2002; Laws 2003, c. 3, § 65, emerg. eff. March 19, 2003; Laws 2005, c. 479, § 15, eff. July 1, 2005; Laws 2006, 2nd Ex. Sess., c. 44, § 18, eff. July 1, 2007; Laws 2007, c. 105, § 4, eff. Nov. 1, 2007; Laws 2007, c. 366, § 4, eff. Nov. 1, 2007; Laws 2008, c. 278, § 9, eff. July 1, 2008; Laws 2010, c. 466, § 2, eff. July 1, 2010; Laws 2012, c. 304, § 542.

NOTE: Laws 2002, c. 458, § 8 repealed by Laws 2003, c. 3, § 66, emerg. eff. March 19, 2003.

§68-1404. Exemptions.

The provisions of Section 1401 et seq. of this title shall not apply:

1. In respect to the use of any article of tangible personal property brought into the State of Oklahoma by a nonresident individual, visiting in this state, for his or her personal use or enjoyment, while within the state;

2. In respect to the use of tangible personal property purchased for resale before being used;

3. In respect to the use of any article of tangible personal property on which a tax, equal to or in excess of that levied by Section 1401 et seq. of this title, has been paid by the person using such tangible personal property in this state, whether such tax was levied under the laws of this state or some other state of the United States. If any article of tangible personal property has already been subjected to a tax, by this or any other state, in respect to its sale or use, in an amount less than the tax imposed by Section 1401 et seq. of this title, the provisions of Section 1401 et seq. of this title shall apply to it by a rate measured by the difference only between the rate herein provided and the rate by which the previous tax upon the sale or use was computed. Provided, that no credit shall be given for taxes paid in another state, if that state does not grant like credit for taxes paid in Oklahoma;

4. In respect to the use of tangible personal property now specifically exempted from taxation under Oklahoma Sales Tax Code;

5. In respect to the use of any article or tangible personal property brought into the state by an individual with intent to become a resident of this state where such personal property is for such individual's personal use or enjoyment;

6. In respect to the use of any article of tangible personal property used or to be used by commercial airlines or railroads;

7. In respect to livestock purchased outside this state and brought into this state for feeding or breeding purposes, and which is later resold; and

8. Effective January 1, 1991, in respect to the use of rail transportation cars to haul coal to coal-fired plants located in this state which generate electric power.

Added by Laws 1963, c. 368, § 2, emerg. eff. June 18, 1963. Renumbered from § 14-1404 by Laws 1965, c. 215, § 2. Amended by Laws 1998, c. 301, § 11, eff. Nov. 1, 1998; Laws 1999, c. 163, § 2, emerg. eff. May 17, 1999.

§68-1404.1. Manufacturers - Refund of certain state and local use taxes.

A. In order to administer the exemption for sales to a qualified manufacturer as provided by Section 1359 of this title as applicable to the use tax imposed by law, there shall be made a use tax refund for state and local taxes paid by qualified manufacturers for tangible personal property purchased to be consumed or incorporated in the construction of a new manufacturing facility or to expand an existing manufacturing facility in the state from the account created by this section.

B. The Oklahoma Tax Commission shall transfer each month from use tax collected the amount which the Commission estimates to be necessary to make the use tax refund provided by this section to an account designated as the Commission determines.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local use taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified manufacturer upon the principal amount of any refund made to such manufacturer for purposes of administering the exemption provided by Section 1359 of this title shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-month Treasury Bill of the United States government as of the first working day of the month in which the transfer is made. The interest rate so determined shall accrue upon the amount transferred to the account. In each subsequent month, the Commission shall determine the interest rate paid for a three-month Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

D. For purposes of this section, state and local use taxes paid by a contractor or subcontractor for tangible personal property purchased by that contractor or subcontractor to be consumed or incorporated in the construction of a new or expanded manufacturing facility pursuant to a contract with a qualified manufacturer shall, upon proper showing, be refunded to the qualified manufacturer.

E. The qualified manufacturer shall file with the Oklahoma Tax Commission the following documentation for any refund claimed:

1. Invoices indicating the amount of state and local use tax billed;
2. Affidavit of each vendor that state and local use tax billed has not been audited, rebated, or refunded to the qualified manufacturer but rather the use tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and
3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

F. In the event that state and local use tax was paid by a contractor or subcontractor, the qualified manufacturer shall file with the Oklahoma Tax Commission all documentation required in subsection E of this section but in lieu of the affidavit of each vendor the qualified manufacturer shall file, for any refund claimed, an affidavit from the contractor or subcontractor

stating that the use tax refund of the qualified manufacturer is based on state and local use tax, paid by the contractor or subcontractor on tangible personal property purchased to be consumed or incorporated in the construction of a new or expanded business activity and that the amount of the state and local use tax claimed was paid to the vendor and no credit, refund, or rebate has been claimed by the contractor or subcontractor.

G. Only sales of tangible personal property made after June 1, 1988, shall be eligible for the refund established by this section.

H. The qualified manufacturer shall file, within thirty-six (36) months of the date of the first purchase which is exempt from taxation pursuant to the provisions of subsection (H) of Section 1359 of this title, with the Oklahoma Tax Commission, a certification issued by the Employment Security Commission in order to qualify for the refund authorized by this section.

I. Notwithstanding the provisions of any state tax law, the amount refunded under this section shall be assessed if the number of full-time-equivalent employees drops below the number prescribed in subsection (H) of Section 1359 of this title, as amended by Section 1 of this act, at any time within thirty-six (36) months of the date certification is issued by the Oklahoma Employment Security Commission.

Added by Laws 1988, c. 9, § 3, operative June 1, 1988. Amended by Laws 1991, c. 133, § 3, emerg. eff. April 29, 1991; Laws 1992, c. 225, § 3, eff. July 1, 1992.

§68-1404.2. Repealed by Laws 1993, c. 275, § 51, eff. July 1, 1993.

§68-1404.3. Aircraft maintenance or manufacturing facilities - Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service or equipment - Use tax refund - Computation of interest - Documentation of claims - Filing of certification.

A. In order to administer the exemption for sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto to a qualified purchaser as provided by paragraph 11 of Section 1357 of this title, as applicable to the use tax imposed by law, there shall be made a use tax refund for state and local taxes paid by a qualified purchaser for the purchase of such items.

B. The Oklahoma Tax Commission shall transfer each month from use tax collected the amount which the Commission estimates to be necessary to make the use tax refund provided by this section to an account designated as the Commission determines.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local use taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified purchaser of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto upon the principal amount of any refund made to such purchaser for purposes of administering the exemption provided by paragraph 11 of Section 1357 of this title, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-months Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and

upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

D. The qualified purchaser of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment related thereto shall file, within thirty-six (36) months of the date of purchase, with the Oklahoma Tax Commission the following documentation for any refund claimed:

1. Affidavit of the purchaser that the amount of use tax claimed has been remitted to the State of Oklahoma and that no refund of the use tax paid has previously been requested;

2. In cases where the purchaser remitted the use tax to its vendor, invoices indicating the amount of state and local use tax paid and affidavit of each vendor that state and local use tax billed to the purchaser has not been audited, rebated, or refunded to the purchaser but rather the use tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and

3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

E. Only sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment may qualify for the refund established by this section, provided the total cost of said equipment equals or exceeds the sum of Two Million Dollars (\$2,000,000.00) and occurs after the effective date of this act.

F. The qualified purchaser shall file, within sixty (60) months of the date of the first purchase, with the Oklahoma Tax Commission a certification issued by the Oklahoma Employment Security Commission in order to qualify for the refund authorized by this section. Added by Laws 1991, 1st Ex. Sess., c. 2, § 9, emerg. eff. Jan. 18, 1991. Amended by Laws 1993, c. 275, § 16, eff. July 1, 1993.

§68-1404.4. Aircraft maintenance or manufacturing facilities - Sales of tangible personal property consumed or incorporated in construction or expansion - Use tax refund - Computation of interest - Taxes paid by contractors - Documentation of claims - Affidavits - Filing of certification.

A. In order to administer the exemption for sales to a qualified aircraft maintenance or manufacturing facility as provided by paragraph 12 of Section 1357 of this title, as applicable to the use tax imposed by law, there shall be made a use tax refund for state and local taxes paid by a qualified purchaser for tangible personal property purchased to be consumed or incorporated in the construction or expansion of a qualified aircraft maintenance or manufacturing facility in the state from the account created by this section.

B. The Oklahoma Tax Commission shall transfer each month from use tax collected the amount which the Commission estimates to be necessary to make the use tax refund provided by this section to an account designated as the Commission determines.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local use taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified aircraft maintenance or manufacturing facility upon the principal amount of any refund made to such facility for purposes of administering the exemption provided by paragraph 12 of Section 1357 of this title, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the

Commission shall determine an interest rate by determining the rate of interest paid for a three-month Treasury Bill of the United States government as of the first working day of the month in which the transfer is made. The interest rate so determined shall accrue upon the amount transferred to the account. In each subsequent month, the Commission shall determine the interest rate paid for a three-month Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

D. For purposes of this section, state and local use taxes paid by a contractor or subcontractor for tangible personal property purchased by that contractor or subcontractor to be consumed or incorporated in the construction of a qualified aircraft maintenance or manufacturing facility pursuant to a contract with a qualified facility shall, upon proper showing, be refunded to the qualified facility.

E. The qualified facility shall file, within thirty-six (36) months of the date of purchase, with the Oklahoma Tax Commission the following documentation for any refund claimed:

1. Invoices indicating the amount of state and local use tax billed;
2. Affidavit of each vendor that state and local use tax billed has not been audited, rebated, or refunded to the qualified facility but rather the use tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and
3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

F. In the event that state and local use tax was paid by a contractor or subcontractor, the qualified purchaser shall file with the Oklahoma Tax Commission all documentation required in subsection E of this section but in lieu of the affidavit of each vendor the qualified facility shall file, for any refund claimed, an affidavit from the contractor or subcontractor stating that the use tax refund of the qualified purchaser is based on state and local use tax, paid by the contractor or subcontractor on tangible personal property purchased to be consumed or incorporated in the construction of a qualified aircraft maintenance or manufacturing facility and that the amount of the state and local use tax claimed was paid to the vendor and no credit, refund, or rebate has been claimed by the contractor or subcontractor.

G. Only sales of tangible personal property made after the effective date of this act shall be eligible for the refund established by this section.

H. The qualified facility shall file, within sixty (60) months of the date of the first purchase, with the Oklahoma Tax Commission, a certification issued by the Oklahoma Employment Security Commission in order to qualify for the refund authorized by this section. Added by Laws 1991, 1st Ex. Sess., c. 2, § 10, emerg. eff. Jan. 18, 1991. Amended by Laws 1993, c. 275, § 17, eff. July 1, 1993.

§68-1404.5. Motion pictures or television - Refund of use taxes paid for property to be used in productions.

A. In order to administer the exemption for sales of tangible personal property to a motion picture or television production company as provided by paragraph 20 of Section 1357 of Title 68 of the Oklahoma Statutes there shall be made a use tax refund for state and local use taxes paid with regard to such items for use in an eligible production.

B. The Oklahoma Tax Commission shall transfer each month from use tax collected the amount which the Tax Commission estimates to be necessary to make the use tax refund provided by this section to an account designated as the Tax Commission determines.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local use taxes paid together with accrued interest upon such total. The amount of interest paid upon the principal amount of any refund made to such production company for purposes of administering the exemption provided by paragraph 20 of Section 1357 of Title 68 of the Oklahoma Statutes shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Tax Commission shall determine an interest rate by determining the rate of interest paid for a three-month Treasury Bill of the United States government as of the first working day of the month and such interest shall accrue upon any amount transferred to the account together with interest previously accrued upon such amounts.

D. The qualified purchaser shall file, during the preproduction phase, with the Oklahoma Tax Commission, a registration form containing the estimated production dates, estimated local production expenditures, name and address of the representative responsible for the expenditure records, and other such documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

E. The qualified purchaser shall file, within sixty (60) days after the completion of the filming, with the Oklahoma Tax Commission, the following documentation for any refund claimed:

1. Affidavit of the purchaser that the amount of use tax claimed has been remitted to the State of Oklahoma and that no refund of the use tax paid has previously been requested;

2. In cases where the purchaser remitted the use tax to its vendor, invoices indicating the amount of state and local use tax paid and affidavit of each vendor that state and local use tax billed to the purchaser has not been audited, rebated, or refunded to the purchaser but rather the use tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and

3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

Added by Laws 1996, c. 289, § 4, eff. July 1, 1996.

§68-1405. Time when due - Returns - Payment.

A. The tax levied by Section 1401 et seq. of this title is due and payable on the first day of each month for the preceding calendar month, and if not paid on or before the twentieth day of each month shall thereafter be delinquent. Each taxpayer subject to the provisions of this article shall, on or before the twentieth day of every calendar month, file with the Oklahoma Tax Commission on forms to be furnished by the Tax Commission, a return verified by affidavit showing in detail the total purchase price of tangible personal property used by the taxpayer within the state during the preceding calendar month subject to the tax herein levied and such other information as the Tax Commission may require. With each such return each taxpayer shall remit to the Tax Commission the amount of tax shown therein to be due. Reports timely mailed shall be considered timely filed. If a report is not timely filed, interest shall be charged from the date the report should have been filed until the report is actually filed.

B. In lieu of monthly reports, tax remitters whose total amount of tax liability for any one (1) month does not exceed Fifty Dollars (\$50.00) may file semiannual reports and remit taxes due thereunder to the Tax Commission on or before the twentieth day of January and July of each year for the preceding six-month period. If not paid on or before the twentieth day of such month, the tax shall be delinquent.

C. Effective March 1, 2003, every person owing an average of Twenty-five Thousand Dollars (\$25,000.00) or more per month in total use taxes in the previous fiscal year shall remit the tax due and shall participate in the Tax Commission's electronic funds transfer and electronic data interchange program, according to the following schedule:

1. For taxes levied from the first day through the fifteenth day of each month, the tax shall be due and payable on the twentieth day of such month and remitted to the Tax Commission by electronic funds transfer. A taxpayer will be considered to have complied with the reporting requirements of this paragraph if, on or before the twentieth day of such month, the taxpayer paid at least ninety percent (90%) of the liability for that fifteen-day period or at least fifty percent (50%) of the taxpayer's liability in the immediate preceding calendar year for the same month as the month in which the fifteen-day period occurs; and

2. For taxes levied from the sixteenth day through the end of each month, the tax shall be due and payable on the twentieth day of the following month and remitted to the Tax Commission by electronic funds transfer.

Every person required to remit the tax due pursuant to this subsection shall file its monthly use tax report in accordance with the Tax Commission's electronic data interchange program on the twentieth day of the month following the month the tax is levied. Provided, persons primarily engaged in selling lumber and other building materials, including cement and concrete, except for home centers classified under Industry No. 444110 of the North American Industrial Classification System (NAICS) Manual, shall remit and report as required in subsection A of this section, with the exception of taxes levied during the periods of June 1 through June 15, 2003, which shall be remitted and reported on June 20, 2003, and June 1 through June 15, 2004, which shall be remitted and reported on June 20, 2004.

Taxes not paid on or before the due dates specified in this subsection shall be delinquent from such dates.

D. Effective October 1, 2003, every person owing an average of Two Thousand Five Hundred Dollars (\$2,500.00) or more per month in total use taxes in the previous fiscal year shall remit the tax due and shall participate in the Tax Commission's electronic funds transfer and electronic data interchange program, according to the following schedule:

1. For taxes levied from the first day through the fifteenth day of each month, the tax shall be due and payable on the twentieth day of such month and remitted to the Tax Commission by electronic funds transfer. A taxpayer will be considered to have complied with the reporting requirements of this paragraph if, on or before the twentieth day of such month, the taxpayer paid at least ninety percent (90%) of the liability for that fifteen-day period or at least fifty percent (50%) of the taxpayer's liability in the immediate preceding calendar year for the same month as the month in which the fifteen-day period occurs; and

2. For taxes levied from the sixteenth day through the end of each month, the tax shall be due and payable on the twentieth day of the following month and remitted to the Tax Commission by electronic funds transfer.

Every person required to remit the tax due pursuant to this subsection shall file its monthly use tax report in accordance with the Tax Commission's electronic data interchange program on

the twentieth day of the month following the month the tax is levied. Provided, persons primarily engaged in selling lumber and other building materials, including cement and concrete, except for home centers classified under Industry No. 444110 of the North American Industrial Classification System (NAICS) Manual, shall remit and report as required in subsection A of this section, with the exception of taxes levied during the periods of June 1 through June 15, 2004, which shall be remitted and reported on June 20, 2004, and June 1 through June 15, 2005, which shall be remitted and reported on June 20, 2005.

Taxes not paid on or before the due dates specified in this subsection shall be delinquent from such dates.

Added by Laws 1963, c. 368, § 2, emerg. eff. June 18, 1963. Renumbered from § 14-1405 of this title by Laws 1965, c. 215, § 2. Amended by Laws 1987, c. 203, § 147, operative July 1, 1987; Laws 2002, c. 458, § 9, eff. July 1, 2002; Laws 2003, c. 376, § 3, eff. July 1, 2003; Laws 2004, c. 5, § 77, emerg. eff. March 1, 2004.

NOTE: Laws 2003, c. 413, § 29 repealed by Laws 2004, c. 5, § 78, emerg. eff. March 1, 2004.

§68-1406. Collection of tax by retailer or vendor.

Except as otherwise provided in Section 1 of this act, every retailer or vendor maintaining places of business both within and without this state and making sales of tangible personal property from a place of business outside this state for use in this state shall at the time of making such sales collect the use tax levied by Section 1401 et seq. of this title from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the Tax Commission, if the Tax Commission shall, by regulation, require such receipt. Each retailer or vendor shall list with the Tax Commission the name and address of all the retailer's or vendor's agents operating in this state and location of any and all distribution or sales houses or offices or other places of business in this state. The retailer or vendor shall not collect the use tax levied by Section 1402 of this title from a purchaser who is a holder of a direct payment permit issued pursuant to Section 1364.1 of this title.

Added by Laws 1963, c. 368, § 2, emerg. eff. June 18, 1963. Renumbered from § 14-1406 by Laws 1965, c. 215, § 2. Amended by Laws 1968, c. 112, § 2, eff. July 1, 1968; Laws 1996, c. 126, § 6, eff. Nov. 1, 1996; Laws 1996, c. 289, § 6, eff. July 1, 1996; Laws 2001, c. 15, § 2, emerg. eff. April 2, 2001.

§68-1406.1. Notification of imposed use tax on out-of-state sales.

A. Each retailer or vendor making sales of tangible personal property from a place of business outside this state for use in this state that is not required to collect use tax, shall provide notification on its retail Internet website or retail catalog and invoices provided to its customers that use tax is imposed and must be paid by the purchaser, unless otherwise exempt, on the storage, use, or other consumption of the tangible personal property in this state. The notification shall be readily visible. It is further provided that no retailer shall advertise on its retail Internet website or retail catalog that there is no tax due on purchases made from the retailer for use in this state. The provisions of this section, except for notification on invoices, shall apply to online auction websites. The Oklahoma Tax Commission is hereby authorized and directed to define the term "online auction websites" through the promulgation of a rule. The rule shall include an exception for websites with sales below a threshold to be set by the Tax Commission.

B. The provisions of this section shall not be effective as law until an administrative rule, whether an emergency rule or permanent rule or both, has become effective as law pursuant to the Oklahoma Administrative Procedures Act.

Added by Laws 2010, c. 412, § 2, eff. July 1, 2010.

§68-1407. Collection of tax by retailer or vendor not maintaining place of business within State or both within and without State - Permits.

The Tax Commission may in its discretion, upon application, authorize the collection of the tax herein levied by any retailer or vendor not maintaining a place of business within this state but who makes sales of tangible personal property for use in this state and by the out-of-state place of business of any retailer or vendor maintaining places of business both within and without Oklahoma and making sales of tangible personal property at such out-of-state place of business for use in this state. Such retailer or vendor shall be issued, without charge, a permit to collect such taxes, in such manner and subject to such regulations and agreements as the Tax Commission shall prescribe. When so authorized, it shall be the duty of such retailer or vendor to collect the tax upon all tangible personal property sold to his knowledge for use within this state. Such authority and permit may be canceled when at any time the Tax Commission considers that such tax can more effectively be collected from the person using such property in this state. Provided, however, that in all instances where such sales are made or completed by delivery to the purchaser within this state by the retailer or vendor in such retailer's or vendor's vehicle, whether owned or leased (not by common carrier), such sales or transactions shall continue to be subject to applicable state and any local sales tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly.

Laws 1963, c. 368, § 2; Laws 1965, c. 215, § 2; Laws 1968, c. 112, § 3, eff. July 1, 1968.

§68-1407.1. Tax paid on worthless or uncollectible gross receipts - Credit.

Any taxes paid by vendors pursuant to Sections 1406 and 1407 of Title 68 of the Oklahoma Statutes on gross receipts represented by accounts receivable which, on or after December 31, 1990, are found to be worthless or uncollectible and that are eligible to be claimed if the taxpayer kept accounts on a cash basis or could be eligible to be claimed if the taxpayer kept accounts on an accrual basis, as a deduction pursuant to Section 166 of the Internal Revenue Code, or the unpaid portion of any account at the time repossession is accomplished under the terms of a conditional sales contract, may be credited upon subsequent reports and remittances of the tax levied in this article, in accordance with the rules and regulations of the Tax Commission. If such accounts are thereafter collected, the same shall be reported and the tax shall be paid upon the amount so collected.

Added by Laws 1993, c. 146, § 19.

§68-1407.2. Retailer Compliance Initiative.

A. For the purpose of encouraging the voluntary registration, collection, and remittance of use taxes owed to this state, the Oklahoma Tax Commission is hereby authorized and directed to establish a Retailer Compliance Initiative for out-of-state retailers, as provided in this section.

B. 1. The Tax Commission shall not seek payment of uncollected use taxes from an out-of-state retailer who registers to collect and remit applicable use taxes on sales made to purchasers in this state prior to registration under the Retailer Compliance Initiative, provided

that the retailer was not registered in this state in the twelve-month period preceding the effective date of this section.

2. The provisions of this subsection will preclude assessment for uncollected use taxes together with penalty or interest for sales made during the period the retailer was not registered in this state, provided registration occurs prior to July 1, 2011.

3. The relief provided herein shall not be available to a retailer with respect to any matter or matters for which the retailer received notice of the commencement of an audit and which audit is not yet finally resolved including any related administrative and judicial processes and is not available for use taxes already paid or remitted to the state or taxes collected, but not remitted, by the retailer.

4. The relief provided herein is fully effective, absent the retailer's fraud or intentional misrepresentation of a material fact, as long as the retailer continues registration and continues collection and remittance of applicable use taxes for a period of at least thirty-six (36) months. The statute of limitations applicable to asserting a tax liability during this thirty-six-month period shall be tolled.

5. The relief provided herein is applicable only to use taxes due from a retailer in its capacity as a retailer and not to use taxes due from a retailer in its capacity as a buyer.

C. The registration by an out-of-state retailer for the collection of use taxes under the Retailer Compliance Initiative shall not be used as a factor in determining whether the retailer has nexus with this state for any other taxes, including income taxes, at any time.

D. Out-of-state retailers registering under the Retailer Compliance Initiative shall receive a discount for timely reporting and remitting use taxes as provided in Section 1354.31 of Title 68 of the Oklahoma Statutes.

E. No registration fee shall be charged against any voluntary out-of-state retailer that comes forward to register to collect and remit use taxes under the Retailer Compliance Initiative.

F. The Tax Commission shall promulgate rules detailing the terms and other conditions of this program.

Added by Laws 2010, c. 412, § 3, eff. July 1, 2010.

§68-1407.3. Oklahoma Tax Commission - Internet retailer outreach program.

In an effort to improve compliance by Internet retailers for the collection of use tax on their sales to Oklahoma residents, the Oklahoma Tax Commission shall implement an outreach program to Internet retailers. The program shall include contacting Internet retailers for a review of their business activities to determine if such activities may require the registration and collection of Oklahoma use taxes and the providing of information to the out-of-state retailers about the Retailer Compliance Initiative to encourage registration in this state.

Added by Laws 2010, c. 412, § 4, eff. July 1, 2010.

§68-1407.4. Consumer Compliance Initiative.

A. For the purpose of encouraging the voluntary disclosure and payment of use taxes owed to this state, the Oklahoma Tax Commission is hereby authorized and directed to establish a Consumer Compliance Initiative for consumers liable for payment of use taxes, as provided in this section. A taxpayer shall be entitled to a waiver of penalty, interest and other collection fees due if the taxpayer voluntarily files delinquent tax returns and pays the taxes due during the initiative.

B. No assessment of use tax levied under the provisions of Section 1401 et seq. of Title 68 of the Oklahoma Statutes shall be made for more than one (1) year prior to the date the consumer registers to pay applicable use taxes under this initiative.

C. The relief provided herein shall not be available to a consumer with respect to any matter or matters for which the consumer received notice of the commencement of an audit and which audit is not yet finally resolved including any related administrative and judicial processes and is not available for use taxes already paid or remitted to the state.

D. The Tax Commission shall promulgate rules detailing the terms and other conditions of this program.

E. The Tax Commission shall develop and distribute a fact sheet explaining responsibilities regarding the reporting and payment of use taxes and how business entities can examine their records to establish the use tax due on purchases from out-of-state sellers. The Tax Commission shall make the fact sheet available on the Oklahoma Tax Commission's website, mail to targeted industries, existing licensees, and all Tax Commission license applicants.

F. The Tax Commission is authorized to expend necessary available funds, including contracting with third parties, to publicly advertise the Consumer Compliance Initiative and shall be exempt from the provisions of Section 85.7 of Title 74 of the Oklahoma Statutes for the purpose of implementing this section.

G. To assist consumers in remitting use taxes due, the Tax Commission shall develop and maintain an option for consumers to remit use taxes through an Internet-based portal.
Added by Laws 2010, c. 412, § 5, eff. July 1, 2010.

§68-1407.5. Legislative findings - Sales and use tax system.

A. It is hereby declared to be the intent of the Oklahoma Legislature to specifically include within the use tax levied by this article all storage, use or other consumption of tangible personal property purchased or brought into this state through the continuous, regular or systematic solicitation in the Oklahoma consumer market by out-of-state retailers through the Internet, mail order and catalog publications.

B. The Oklahoma Legislature finds that out-of-state retailers purposefully direct their activities through the Internet and other media at Oklahoma residents, that the magnitude of those contacts are more than sufficient for due process purposes, and that the use tax is related to the benefits the out-of-state retailers receive from access to the state. The consumers of these retail sales are not paying use taxes when the out-of-state retailer does not collect the tax as provided in this article. The failure of these out-of-state retailers to collect the use tax due and owing to the State of Oklahoma and its jurisdictions is detrimental to the ability of the state and local governments to provide the services and benefits bestowed upon the out-of-state retailer and their Oklahoma consumers.

C. The Oklahoma Legislature finds that the sales and use tax system established under Oklahoma law does not pose an undue burden on out-of-state retailers and provides sufficient simplification to warrant the collection and remittance of use taxes by out-of-state retailers that are due and owing to the State of Oklahoma and its local jurisdictions. In support of this finding:

1. The state is a member of the Streamlined Sales and Use Tax Agreement and has amended its laws to be in full compliance with its terms;

2. The state provides state level administration of sales and use taxes levied by its cities, counties and other local jurisdictions by contracting with these entities. All cities, counties and other local jurisdictions levying sales and use taxes shall continue to contract with the Oklahoma

Tax Commission for administration of its sales and use taxes so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from the local taxing jurisdictions;

3. The state provides and maintains a database that describes boundary changes for all taxing jurisdictions within this state for sales and use tax purposes and the sales and use tax rates for all of the jurisdictions levying taxes within the state;

4. The state provides a deduction of the tax due to all retailers, including out-of-state retailers, to compensate them for recordkeeping, filing reports, collecting and remitting the tax in a timely manner;

5. The state provides a mechanism for the electronic submission of sales and use tax reports and payments;

6. The state provides liability relief to sellers for collecting an incorrect amount of tax as a result of relying on erroneous data provided by the Tax Commission on rates, boundaries or taxing jurisdiction assignments;

7. The state participates in a central registration system that allows out-of-state retailers to register one time in one place for multiple states;

8. All local jurisdictions have the same tax base as the state for sales and use taxes, except as permitted under the Streamlined Sales and Use Tax Agreement;

9. The state does not require the payment of a registration fee from an out-of-state retailer which does not have a legal requirement to register;

10. The state requires the Oklahoma Tax Commission to give notice to vendors of local rate changes and boundary changes at least sixty (60) days prior to the effective date of the change;

11. The state has the same tax rate for every taxable item;

12. The state only requires the filing of a single tax return to cover all taxing jurisdictions with the state;

13. The Oklahoma Tax Commission provides, free of charge, business tax workshops for sellers designed to provide information and answer questions regarding the Oklahoma sales and use tax system;

14. The state allows electronic payments to be made by either ACH credit or by ACH debit;

15. The state allows a deduction from taxable sales for bad debts;

16. The state provides a taxability matrix which gives information on the taxability of a wide variety of items including all items defined in the Streamlined Sales and Use Tax Agreement; and

17. The state pays the direct cost of a certified service provider to perform all of an out-of-state seller's sales and use tax functions other than the seller's obligation to remit taxes on its own purchases.

Added by Laws 2010, c. 412, § 8, eff. July 1, 2010.

§68-1408. Revoking permits.

Whenever any retailer or vendor not maintaining a place of business in this state, or both within and without this state, and authorized to collect the tax herein levied, fails to comply with any of the provisions of this article or any order, rules or regulations of the Commission, prescribed and adopted under this article, the Tax Commission may, upon notice and hearing as hereinafter provided, by order revoke the use tax permit, if any, issued to such retailer or vendor,

and if any such retailer or vendor is a corporation authorized to do business in this state may, after notice and hearing as herein provided, cancel said corporation's license to do business in this state and shall issue a new license only when such corporation has complied with the obligations under this article. No order authorized in this section shall be made until the retailer or vendor is given an opportunity to be heard and to show cause why such order should not be made and he shall be given ten (10) days' notice by mail of the time, place and purpose of such hearing.

Laws 1963, c. 368, § 2; Laws 1965, c. 215, § 2; Laws 1968, c. 112, § 4, eff. July 1, 1968.

§68-1409. Reciprocal agreements with other states in administration of Sales and Use Tax Laws.

For the purpose of providing for the efficient administration of the Oklahoma Sales and Use Tax Laws the Oklahoma Tax Commission, when in its judgment it is necessary or beneficial in order to secure the collection of sales or use taxes, penalty and interest thereon, due or to become due under the Sales and Use Tax Codes of this state, is authorized to enter into reciprocal agreements with the tax departments of other states in respect to the collection, payment and enforcement of such taxes on sales of tangible personal property to residents of Oklahoma by vendors and retailers maintaining places of business in such other states.

In consideration of such an agreement by the tax departments or administrators of such other states, the Tax Commission is authorized to make similar agreements for the collection, payment and enforcement of sales and use taxes imposed by such other states on sales of tangible personal property to residents of the other states by vendors or retailers maintaining places of business in Oklahoma.

The administration of this act is vested in the Oklahoma Tax Commission and it is hereby authorized to make and enforce such rules and regulations as it may deem necessary to carry out the provisions and purpose of this act.

Laws 1968, c. 112, § 1, eff. July 1, 1968.

§68-1410. Repealed by Laws 1993, c. 146, § 29.

§68-1410.1. Deduction for keeping records, filing reports and remitting tax when due.

For the purpose of compensating the seller or vendor in keeping use tax records, filing reports and remitting the tax when due, a seller or vendor shall be allowed a deduction equal to the amount provided for vendors under the Oklahoma Sales Tax Code.

Added by Laws 1993, c. 146, § 22. Amended by Laws 1994, c. 278, § 17, eff. Sept. 1, 1994; Laws 2010, c. 412, § 7, eff. July 1, 2010.

§68-1411. Additional excise tax on storage, use or other consumption of tangible personal property.

The board of county commissioners of a county levying a county sales tax or the governing body of a municipality levying a municipal sales tax may levy an additional excise tax, at a rate that equals the county or municipal sales tax rate of such county or municipality, whichever is applicable, on the storage, use or other consumption of tangible personal property used, stored or consumed within the county or municipality. This authorization to levy and impose a county or municipal use tax shall be in addition to the tax levied by Section 1402 of this title. Such tax shall be paid by every person storing, using or otherwise consuming, within the county or municipality, tangible personal property purchased or brought into the county or municipality.

The tax levy permitted in this section shall not be levied against tangible personal property intended solely for use outside the county or municipality, but which is stored in the county or municipality pending shipment outside the county or municipality or which is temporarily retained in the county or municipality for the purpose of fabrication, repair, testing, alteration, maintenance or other service.

The additional tax levied pursuant to this section shall be paid at the time of importation or storage of the property within the county or municipality. This tax shall be assessed to only property purchased outside Oklahoma.

Any person liable for payment of the tax authorized pursuant to this section, may deduct from such tax any local, county, or municipal sales tax previously paid on such goods or services. However, the amount deducted shall not exceed the amount that would have been due if the taxes imposed by the county or municipality had been levied on the sale of such goods or services.

Added by Laws 1980, c. 172, § 1. Amended by Laws 1984, c. 295, § 1, eff. Jan. 1, 1985; Laws 1998, c. 301, § 12, eff. Jan. 1, 1999; Laws 2004, c. 535, § 12, eff. Nov. 1, 2004.

§68-1501. Definitions.

As used in Sections 1501 through 1512 of this title:

1. "Person" means any individual, partnership, association, limited liability company or corporation;
2. "Music device" means any and all mechanical devices which render, cause to sound, or release music where the same may be heard by one or more public patrons, and each separate loudspeaker, phonograph, juke box, or outlet from which such music emits shall each be construed to be a separate "music device" as herein defined; except in the case where the music emits from more than one speaker transmitting from the same music-producing mechanism, in which case the several outlets or speakers in each place of business shall be collectively considered one such music device;
3. "Coin-operated music device" means any such music device which is operated, motivated, released, or played by or upon the payment or insertion of a coin, token or similar object, whether there is one or more boxes or devices in the premises for the reception of such coin, tokens, or similar objects; coin-operated radio or television receiving sets in hotels, motels, or tourist cabins for the use and benefit of the guests and visitors of such hotels, motels, or tourist rooms or cabins shall be included in such definition;
4. "Coin-operated amusement device" means any and all nongambling mechanical or electronic machines which, upon the payment or insertion of a coin, token, or similar object, provide music, amusement or entertainment, including, but not limited to, such games as pool, phonographs, video television, shooting galleries, pinball, foosball, bowling, shuffle board, or any other amusement device with or without a replay feature which can be legally shipped interstate according to federal law;
5. "Coin-operated vending device" means any and all machines or devices which, upon the payment or insertion of a coin, token or similar object, dispenses tangible personal property, including but not limited to cigarettes, candies, gum, cold drinks, hot drinks, sandwiches, or chips. It shall not mean vending machines or devices used exclusively for the purpose of selling services, such as pay telephone booths, parking meters, gas and electric meters or other distribution of needful service;

6. "Coin-operated bulk vending device" means a machine or device which, upon the payment or insertion of a coin, token or similar object dispenses to the purchaser ballpoint pens, combs, cigarette lighters, prophylactics, filled capsules, peanuts, gum balls, mints, perfume or novelties; and

7. "Coin-operated devices" means coin-operated music devices, coin-operated amusement devices, coin-operated vending devices and coin-operated bulk vending devices. Laws 1949, p. 482, § 1, emerg. eff. May 7, 1949; Laws 1959, p. 308, § emerg. eff. July 15, 1959. Renumbered from § 1545 by Laws 1965, c. 175, § 1. Amended by Laws 1965, c. 215, § 1; Laws 1981, c. 142, § 1; Laws 1988, c. 47, § 1, operative July 1, 1988; Laws 1993, c. 366, § 43, eff. Sept. 1, 1993.

§68-1503. Amount of fee - In lieu of sales tax - Special decal.

A. Every person who owns and has available to any of the public for operation, or who permits to be operated in or on his place of business, coin-operated devices shall pay for such privilege an annual fee. A fee shall be required for each machine, regardless of the number of coin slots, if the machine, upon insertion of a coin, token or similar object, provides music, amusement or entertainment or dispenses one or more products separate and apart from any other provider of music, amusement or entertainment or dispenser of one or more products. The test to determine whether the machine can operate separate and apart from any other shall be whether the provider or dispenser can still function if separated from the others to which it is attached. When multiple machines are placed on a single stand, a decal shall be required for each machine as provided in Section 1501 et seq. of this title. The annual fee required shall be as follows:

1. For each coin-operated music device or coin-operated amusement device, Seventy-five Dollars (\$75.00);

2. For each coin-operated vending device requiring a coin or thing of value of twenty-five cents (\$0.25) or more, Seventy-five Dollars (\$75.00);

3. For each coin-operated vending device requiring a coin or thing of value of less than twenty-five cents (\$0.25), Ten Dollars (\$10.00);

4. For each coin-operated bulk vending device which vends one or more products through a single distribution mechanism requiring a coin or thing of value of twenty-five cents (\$0.25) or more, Five Dollars (\$5.00);

5. For each coin-operated bulk vending device which vends one or more products through more than one but not more than five distribution mechanisms, requiring a coin or thing of value of twenty-five cents (\$0.25) or more, Fifteen Dollars (\$15.00). For each coin-operated bulk vending device which vends one or more products through six or more distribution mechanisms, the appropriate number of fifteen-dollar decals will be required. The number of decals required shall be determined by dividing the number of distribution mechanisms by five and rounding to the next highest whole number; and

6. For each coin-operated bulk vending device requiring a coin or thing of value less than twenty-five cents (\$0.25), Two Dollars (\$2.00).

B. The annual fee required by this section shall be in lieu of sales tax levied pursuant to Sections 1350 through 1372 of this title.

C. In those instances where it is shown to the satisfaction of the Tax Commission that a coin-operated device, upon which an annual fee is imposed, will be placed available for use by the public for a definite but limited period of time less than one (1) year, such as where displayed in connection with fairs, carnivals, and places of amusement that operate only during certain

seasons of the year, the Commission may issue a special decal therefor. Such special decal may be issued for any number of calendar months less than a full year, and shall indicate that it is a special decal; and shall be for one or more calendar months and shall state the precise months for which issued and shall not be transferred from one machine to another. The fee shall be computed and paid on the basis of one-tenth (1/10) of the annual rate for the type of device operated, for each calendar month for which such special decal is issued. In the event the mechanical device is made available to the public for a period beyond that for which the special decal is issued, then a full year's fee and penalty, as set out in Section 1506 of this title, shall be due.

Added by Laws 1949, p. 483, § 3, emerg. eff. May 7, 1949. Amended by Laws 1959, p. 308, § 2, emerg. eff. July 15, 1959. Renumbered from § 1547 of this title by Laws 1965, c. 215, § 1. Amended by Laws 1981, c. 142, § 2, eff. Oct. 1, 1981; Laws 1982, c. 292, § 1, eff. July 1, 1982; Laws 1988, c. 47, § 2, operative July 1, 1988; Laws 1990, c. 174, § 1, eff. July 1, 1990; Laws 2005, c. 479, § 16, eff. July 1, 2005; Laws 2010, c. 412, § 17, eff. July 1, 2010; Laws 2011, c. 67, § 1, eff. July 1, 2011.

§68-1503.1. Exempted devices.

The following coin-operated vending devices shall be exempt from the provisions of this article, Section 1501 et seq. of this title:

1. All coin-operated vending devices owned by and located in a public or private school, a church, or a governmental entity;
2. All coin-operated vending devices which dispense only newspapers or periodicals;
3. All coin-operated vending devices which dispense only postage stamps; and
4. All coin-operated vending devices installed on federal military bases.

Added by Laws 1990, c. 174, § 2, eff. July 1, 1990. Amended by Laws 1991, c. 342, § 19, emerg. eff. June 15, 1991.

§68-1504. Application and issuance of decal - Display.

Any person owning a coin-operated device or operating the premises where the same is to be operated or exposed to the public, shall apply to the Oklahoma Tax Commission for a decal for such device and shall, at the same time, pay to the Oklahoma Tax Commission the annual fee herein levied. The Oklahoma Tax Commission shall, upon receipt of such payment and approval of such application, issue a decal for the type of coin-operated device covered by such application and payment. The decal and application provided for herein shall be prescribed by the Oklahoma Tax Commission, and shall contain such information and description as shall be required by rule of said Commission. Any number of coin-operated devices may be included in one application. Before any coin-operated device is put in operation or placed where the same may be operated by any of the public, and at all times when the same is being operated or available to any of the public for operation, a decal shall be firmly affixed to the coin-operated device covered thereby, and plainly visible to and readable by the public.

Amended by Laws 1982, c. 292, § 2, eff. July 1, 1982; Laws 1988, c. 47, § 3, operative July 1, 1988.

§68-1505. Taxable year - Decal for remainder of year.

For the purpose of the decal issued under Sections 1501 et seq. of this title, the fee year shall begin on the first day of July and end on the last day of the following June; and shall be

divided into two (2) halves. The Tax Commission shall in each instance issue decals for the remainder of the fee year upon payment of the fee on the basis of the current and remaining half of such fee year. Any product purchased for resale, through a vending machine where fees have been paid and decals affixed, shall not be subject to sales tax.

Amended by Laws 1982, c. 292, § 3, eff. July 1, 1982; Laws 1988, c. 47, § 4, operative July 1, 1988.

§68-1506. Operation without decal - Fee and penalty.

Any owner of a coin-operated device who places such device in operation or in a place available to the public for operation, and any person who permits a coin-operated device to be in operation or accessible to the public for operation in his place of business, without a decal affixed as required by Section 1504 of this title, shall be liable for the fee on such device at the full annual rate as herein levied and shall be liable to a penalty, in addition to the amount of the fee, in the amount of One Hundred Dollars (\$100.00).

Amended by Laws 1988, c. 47, § 5, operative July 1, 1988.

§68-1507. Seizure and forfeiture of devices without decal affixed.

Where any coin-operated device as hereinbefore defined is placed on location, or, after having been placed on location is there left without the decal affixed thereon as herein provided, the device, including all cash in the receptacle thereof, shall be considered forfeited to the State of Oklahoma, and may be sealed until released by the Tax Commission or seized by any authorized agent of the Oklahoma Tax Commission, or any sheriff, constable, or other peace officer of this state, and upon so being seized shall, together with the cash, if any, contained in the receptacle of such device, forthwith, be delivered to the Oklahoma Tax Commission. The Oklahoma Tax Commission shall then proceed to hear and determine the matter of whether or not the device and cash, if any, should, in fact, be forfeited to the State of Oklahoma. The owner of the device shall be given at least ten (10) days' notice of the date of the hearing. In the event said Commission finds that the device including the cash contents, if any, should be forfeited to the State of Oklahoma, it shall make an order forfeiting the same to the State of Oklahoma, and directing the sale of such device. The device shall be sold in the county where seized or in Oklahoma County, at the discretion of the Commission, after ten (10) days' notice, which notice shall be by posting five notices in conspicuous places in the county where the sale is to be made, one of which notices shall be posted on the bulletin board at the county courthouse of said county. The sale shall be for cash, and the proceeds thereof shall be applied as follows: (1) To the payment of the costs incident to the seizure and sale; (2) To the payment of any taxes, including penalties, that may have accrued against the device; and (3) The balance, if any, shall be remitted to the owner. The cash contained in any device and forfeited under the provisions of this section shall be forfeited as an additional tax penalty and shall be in addition to all other penalties provided for in Sections 1501 through 1512 of this title. The order of the Tax Commission, declaring a forfeiture of the device including the cash contents thereof, if any, and directing the sale of such device shall be a final order and may be appealed from as provided for in the Uniform Tax Procedure Act. It shall be the duty of all sheriffs, constables and other peace officers to cooperate with the Oklahoma Tax Commission in the enforcement of the seizure and forfeiture provisions of this section.

Added by Laws 1949, p. 484, § 7, emerg. eff. May 7, 1949. Renumbered from § 1551 by Laws 1965, c. 215, § 1. Amended by Laws 1988, c. 47, § 6, operative July 1, 1988; Laws 1993, c. 146, § 23.

§68-1508. Operating device without decal affixed - Punishment.

Any owner of a coin-operated device who places such device in operation or in a place available to the public for operation, and any person who permits a coin-operated device to be in operation or accessible to the public for operation in his place of business, without attaching the decal herein provided for, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding Two Hundred Dollars (\$200.00) or by imprisonment in the county jail for a period not exceeding thirty (30) days or by both such fine and imprisonment. Amended by Laws 1988, c. 47, § 7, operative July 1, 1988.

§68-1509. Prohibited devices not legalized - Fees not refunded.

Nothing in Sections 1501 through 1512 of this title shall be construed to legalize any device that may be prohibited by any of the statutes of this state. The Oklahoma Tax Commission may assume that any device described in any application, and for which a fee is paid, is lawful and no claim for refund of any such fee will be entertained based on an owner's inability to operate such device because of any law of this state or for any other reason. Amended by Laws 1988, c. 47, § 8, operative July 1, 1988.

§68-1509.1. Sale or distribution of coin-operated devices - Permit required - Rules and regulations.

The Tax Commission shall issue permits for the sale or distribution of one or more coin-operated devices pursuant to the provisions of Sections 1509.2 et seq. of this title and shall adopt such rules and regulations as are necessary to implement such provisions. Amended by Laws 1982, c. 292, § 4, eff. July 1, 1982; Laws 1988, c. 47, § 9, operative July 1, 1988.

§68-1509.2. Requirements to obtain permit.

To obtain a permit to sell or distribute coin-operated devices, an applicant shall comply with the following requirements:

1. Be a resident of this state for two (2) years preceding the date of the application;
 2. Not be a convicted felon;
 3. Have obtained an Oklahoma Sales Tax Permit to be used exclusively to report the sale of coin-operated devices; and
 4. Be either an owner or partner of a business selling or distributing coin-operated devices.
- Laws 1981, c. 142, § 5, eff. Oct. 1, 1981; Laws 1982, c. 292, § 5, eff. July 1, 1982; Laws 1988, c. 47, § 10, operative July 1, 1988; Laws 1993, c. 146, § 24.

§68-1509.3. Distributor's permit - Fees.

A. The seller or distributor of coin-operated devices shall be required to purchase a distributor's permit at an annual fee of Two Hundred Dollars (\$200.00).

B. The permit and fees required by this section shall be in lieu of any similar permit or fee requirements of any county or municipality.

C. All permit fees collected hereunder shall be distributed in accordance with Section 1510 of this title.

Amended by Laws 1982, c. 292, § 6, eff. July 1, 1982; Laws 1988, c. 47, § 11, operative July 1, 1988.

§68-1509.4. Failure to obtain permit - Purchase or sale of replay game - Application of act.

A. Failure to obtain a permit under the provisions of this act shall be a misdemeanor, punishable by a fine in the amount of twice the permit fee required and ineligibility to apply for a permit for two (2) years from date of adjudication of a violation of this act.

B. Purchasing or selling a replay game shall be a felony.

C. The provisions of this act shall not apply to retail sales to individuals for personal use. The licensing provisions of this act shall not apply to machines installed on federal military bases.

Laws 1981, c. 142, § 7.

§68-1510. Distribution of revenues.

It is hereby declared to be the purpose of this act to provide revenues for general government functions of the state government, and for that purpose and to that end, it is expressly provided that the revenue derived herefrom, including penalties, shall be deposited monthly to the credit of the General Revenue Fund of the state for the support of the state government, to be paid out only pursuant to appropriation by the Legislature.

Amended by Laws 1986, c. 223, § 43, operative July 1, 1986.

§68-1511. Fee in lieu of taxes.

The fee herein levied is the exclusive fee to be imposed by the state, and is in lieu of all taxes upon coin-operated devices, except ad valorem taxes and municipal license fees except as otherwise provided by Sections 1509.1 through 1509.4 of this title. It is further provided that cities, municipalities and towns are authorized to levy a license or occupation tax upon coin-operated devices, or persons operating the same, or premises where same are located, in an amount not in excess of seventy-five percent (75%) of the fee hereby imposed.

Amended by Laws 1988, c. 47, § 12, operative July 1, 1988.

§68-1512. Partial invalidity.

If any section, or part hereof, of this act is declared invalid such declaration shall not affect the remaining portions thereof.

Laws 1949, p. 485, § 12; Laws 1965, c. 215, § 1.

§68-1621. Purpose and intent of act.

The purpose and intent of this act is to establish orderly sales, use and storage of fireworks, to specify conditions of sales and licensing provisions, to prohibit certain fireworks, to provide for seizure and disposition of illegal fireworks and to establish penalties for violations.

Laws 1969, c. 337, § 1, operative June 1, 1969; Laws 1981, c. 268, § 1, emerg. eff. June 25, 1981.

§68-1622. Definitions.

As used in Section 1621 et seq. of this title:

1. "Fireworks" means any composition or device for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and which are further described as Consumer Fireworks 1.4G, Display Fireworks 1.3G, Articles, Pyrotechnic 1.4G or 1.4S as defined by the United States Department of Transportation (DOT) Title 49, CFR. The term "consumer fireworks" shall not include toy cap pistols and caps, blank cartridges, railroad flares and model rockets or any novelty. This provision shall not impose labeling requirements for any fireworks or novelties other than those required under federal law;

2. "Consumer Fireworks" means any devices suitable for use by the public that conform with the requirements of the United States Consumer Products Safety Commission (CPSC) and are designed primarily to produce visible effects by combustion, and some small devices designed to produce an audible effect;

3. "Display Fireworks" means fireworks devices that are primarily intended for commercial displays which are designed to produce visible and/or audible effects by combustion, deflagration or detonation. Display Fireworks include, but are not limited to, salutes containing more than two grains (130mg) of explosive composition, aerial shells containing more than forty (40) grams of pyrotechnic compositions and other exhibition display items that exceed the limits for Consumer Fireworks according to the Department of Transportation (DOT);

4. "Manufacturer" means any person engaged in the making or constructing of fireworks;

5. "Novelty" means a device containing small amounts of pyrotechnic and/or explosive composition. Such devices produce limited visible or audible effects. These items must be approved by the United States Department of Transportation (DOT) or have been deregulated by DOT;

6. "Distributor" means any person who sells fireworks and novelties to other distributors, wholesalers or retailers for resale or provides them as part of a pyrotechnic display service in the State of Oklahoma;

7. "Wholesaler" means any person who purchases fireworks and novelties for resale only to retailers and consumers;

8. "Retailer" means any person who purchases fireworks and novelties for resale to consumers only. A retailer who sells fireworks to the consumer buys only an Oklahoma Retail License and may purchase merchandise in or out of the state as long as the retailer buys from a person that has a legal license to do business in the State of Oklahoma; and

9. "Person" means any corporation, association, partnership or one or more individuals. Added by Laws 1969, c. 337, § 2, operative June 1, 1969. Amended by Laws 1981, c. 268, § 2, emerg. eff. June 25, 1981; Laws 2010, c. 408, § 1, emerg. eff. June 8, 2010.

§68-1623. Conditions for storage, transportation, sale, and use.

A. Consumer Fireworks may be legally stored, transported, sold and used in this state with the exceptions and conditions specified under the provisions of Section 1621 et seq. of this title and consistent with Section 22-110 of Title 11 of the Oklahoma Statutes. Novelties may be legally stored, transported, sold and used in this state.

B. All fireworks storage and sales areas shall be conspicuously posted with signs reading "FIREWORKS-NO SMOKING".

C. Fireworks offered for retail sale must be sold according to the National Fire Protection Association (NFPA) 1124 Chapter 7, 2006 Edition. Any facility licensed to sell consumer fireworks prior to November 15, 2009, shall be exempt from the NFPA regulations listed in this subsection but shall remain under the regulation of the date of licensure. Mail-order sales to

consumers are prohibited through any medium of either interstate or intrastate commerce. Sales of fireworks may only be made at properly licensed retail locations within the State of Oklahoma. A sales clerk must be on duty to serve the consumer at the time of purchase.

D. Fireworks shall not be sold or displayed to the public within any building or portion thereof or any vehicle which allows entry by any persons other than employees within such building or vehicle unless the fireworks are kept where they cannot be reached or handled by those persons. An enclosed building used for sale of fireworks to the public shall be built according to the International Building Code (IBC) 2006 Edition and/or the codes and standards adopted by the State Fire Marshal Commission or the Oklahoma Uniform Building Code Commission. The use of tents or other nonrigid shelters for the sale or storage of fireworks where the public may move about under or within the confines of a shelter is prohibited.

E. The retail license holder shall be responsible for the safe operation of retail sales to the public. The retail license holder shall be at least sixteen (16) years of age.

F. Fireworks may be sold by licensed manufacturers, distributors or wholesalers at wholesale or retail to residents and nonresidents of the state from January 1 until December 31 of each calendar year. Fireworks may only be sold by licensed retailers from June 15 until July 6, and from December 15 until January 2 to residents and nonresidents of the state each calendar year.

G. Nothing in this act shall be construed to require the State Fire Marshal to inspect or cause to be inspected portable retail fireworks stands prior to opening; provided, the provisions of this subsection shall not prohibit the local governing authority of the location of the portable retail fireworks stand from inspecting such stands prior to opening.

Added by Laws 1969, c. 337, § 3, operative June 1, 1969. Amended by Laws 1981, c. 268, § 3, emerg. eff. June 25, 1981; Laws 1983, c. 17, § 1, emerg. eff. March 25, 1983; Laws 2010, c. 408, § 2, emerg. eff. June 8, 2010; Laws 2013, c. 167, § 1, emerg. eff. April 26, 2013.

§68-1624. Certain fireworks prohibited - Labeling of fireworks.

A. From and after July 5, 1981, the sale, gift, distribution or use of skyrockets with sticks as defined by the United States Consumer Product Safety Commission is hereby prohibited within the State of Oklahoma. This prohibition shall include, but is not limited to, explosive devices commonly known as “bottlerockets” or “stickrockets”. Distribution, gift or sale from Oklahoma to a person outside the State of Oklahoma shall not be considered as occurring within the State of Oklahoma.

B. Any and all items of Consumer Fireworks not properly labeled according to the United States Consumer Product Safety Commission and identified with the appropriate United States Department of Transportation markings is prohibited under the provisions of Section 1621 et seq. of this title.

Added by Laws 1969, c. 337, § 4, operative June 1, 1969. Amended by Laws 1981, c. 268, § 4, emerg. eff. June 25, 1981; Laws 2010, c. 408, § 3, emerg. eff. June 8, 2010.

§68-1624.1. Aerial luminaries.

A. It shall be unlawful to sell, offer for sale, distribute, possess, ignite, or otherwise use aerial luminaries, commonly known as sky lanterns, Hawaii lanterns, Knogming Lanterns, Chinese lanterns, sky candles, fire balloons or flying luminaries.

B. As used in this section, "aerial luminary" means an airborne paper lantern containing a small candle, or other device for fuel, that heats air from inside the lantern causing the lantern to rise into the air and remain airborne until the candle or other device extinguishes.

Added by Laws 2013, c. 166, § 1.

§68-1625. License fees.

The following license fees shall be due and payable on or before March 1 of each year to the Office of the State Fire Marshal. Any licensed manufacturer, distributor or wholesaler permitted to sell fireworks at wholesale or retail, pursuant to Section 1623 of this title, may apply for a license.

1. A license fee of One Thousand Dollars (\$1,000.00) annually shall be charged for the license to do business within this state as a manufacturer. Provided, no manufacturer's license shall be issued without:

- a. proof of inspection by the State Fire Marshal pursuant to Section 1633 of this title, and
- b. proof of workers' compensation coverage pursuant to the provisions of Title 85 of the Oklahoma Statutes.

2. A license fee of One Thousand Dollars (\$1,000.00) annually shall be charged for the license to do business within this state as a distributor.

3. A license fee of Five Hundred Dollars (\$500.00) annually shall be charged for the license to do business within this state as a wholesaler.

4. Any person operating a retail location where fireworks are sold directly to the consumer shall be required to purchase a retail fireworks license. The retail license fee shall be Ten Dollars (\$10.00) annually and may be purchased from any licensed wholesaler, manufacturer or distributor. These serially numbered licenses shall be made available at any time to the licensed wholesalers, manufacturers or distributors in books of twenty licenses to a book. Retail licenses which are unsold may be exchanged for new licenses. Any person purchasing a retail fireworks license pursuant to this paragraph shall, at the time of purchasing such license, sign an affidavit attesting to the fact that the name, mailing address and telephone number of the purchaser as it appears on such license is correct and that the purchaser operates a retail location where fireworks are sold directly to the consumer. Said affidavit shall be an integral but easily detachable part of the application form for a retail fireworks license. Any person who signs said affidavit as required by this paragraph when such person knows that it is not true, upon conviction, shall be guilty of the felony of perjury and shall be punished as provided for by law.

Any person engaged in more than one of the licensed activities provided in this section shall only pay one fee to be based on the classification requiring the higher fee.

Added by Laws 1969, c. 337, § 5, operative June 1, 1969. Amended by Laws 1981, c. 268, § 5, emerg. eff. June 25, 1981; Laws 1985, c. 308, § 1, emerg. eff. July 24, 1985; Laws 1986, c. 239, § 1, operative Aug. 1, 1986; Laws 1997, c. 133, § 563, eff. July 1, 1999; Laws 2010, c. 408, § 4, emerg. eff. June 8, 2010; Laws 2011, c. 238, § 10, eff. May 1, 2012.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 563 from July 1, 1998, to July 1, 1999.

§68-1625.1. Certain person to deliver license copies to Office of the State Fire Marshal.

A. Any wholesaler, manufacturer or distributor who sells retail fireworks licenses, pursuant to paragraph 4 of Section 1625 of this title, shall deliver to the Office of the State Fire

Marshal on January 31 and July 31 of each calendar year all copies of retail fireworks licenses which such wholesaler, manufacturer or distributor has issued during the preceding six-month period.

B. If the license copies are not delivered to the Office of the State Fire Marshal on January 31 and July 31 of each calendar year, an additional penalty of Five Dollars (\$5.00) shall accrue for each day thereafter that said license copies are not delivered pursuant to the provisions of this section.

Added by Laws 1986, c. 239, § 2, operative Aug. 1, 1986. Amended by Laws 2012, c. 369, § 1, emerg. eff. June 8, 2012.

§68-1626. Collection and disposition of fees.

All license fees specified in Section 1625 of this title shall be collected by the Office of the State Fire Marshal and shall be paid to the State Treasurer of the State of Oklahoma, to be placed to the credit of the State Fire Marshall Revolving Fund.

Added by Laws 1969, c. 337, § 6, operative June 1, 1969. Amended by Laws 1984, c. 180, § 3, operative July 1, 1984; Laws 1985, c. 308, § 2, emerg. eff. July 24, 1985; Laws 1986, c. 190, § 6, operative July 1, 1986; Laws 1986, c. 223, § 44, operative July 1, 1986; Laws 2012, c. 369, § 2, emerg. eff. June 8, 2012.

§68-1627. Necessity for licenses - Unlawful sales - Unlawful discharging.

(a) No person shall knowingly sell, purchase or deliver, or cause to be sold, purchased or delivered, fireworks for resale to any other person who does not possess a valid license under this act. It shall be unlawful for a distributor, wholesaler or retailer, licensed under this act, to purchase fireworks from any person, unless the distributor, wholesaler or retailer determines that the person holds a valid distributor's, wholesaler's or manufacturer's license under this act. All retail sales outlets shall have a current retail license. The license shall be conspicuously posted in the immediate vicinity of the sales operation and shall be immediately available for examination by the public or any enforcement officer. No license provided for herein shall be transferable nor shall any person be permitted to operate under a license granted to another person.

(b) It shall be unlawful to offer for retail sale or to sell any fireworks to children under the age of twelve (12) years, unless accompanied by an adult, or to any intoxicated or irresponsible person.

(c) It shall be unlawful to explode or ignite fireworks within five hundred (500) feet of any church, hospital, asylum, unharvested, flammable agricultural crop, public school or where fireworks are stored, sold or offered for sale. No person shall ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle; nor shall any person place or throw any ignited article of fireworks into or at such a motor vehicle or at or near any group of people.

Laws 1969, c. 337, § 7, operative June 1, 1969; Laws 1981, c. 268, § 6, emerg. eff. June 25, 1981.

§68-1628. Violations and penalties - Contraband - Enforcement.

A. Violation of any provision of this act is a misdemeanor punishable as follows:

1. Discharging fireworks or igniting aerial luminaries in violation of this act shall be punishable by a fine not to exceed One Hundred Dollars (\$100.00); and

2. Illegal sale, violation of licensing provision, false labeling, or any other violation of this act shall be punishable by a fine not to exceed One Thousand Dollars (\$1,000.00), ninety (90) days' imprisonment in the county jail, or both. In the event of a second conviction the license shall be revoked for a period of eighteen (18) months. Each violation of this act shall constitute a separate offense. No other person shall be granted a license to operate in the same location during the period of a revoked license.

B. The State Fire Marshal, his deputies, or any authorized police or peace officer of this state shall seize as contraband any illegal fireworks or aerial luminaries as defined under the terms of this act. Fireworks or aerial luminaries seized in the enforcement of this act shall be held in custody of the county sheriff in which county such fireworks or aerial luminaries were seized. The party surrendering the fireworks or aerial luminaries, if aggrieved by the action, may file an appeal in writing to the district court in the county where fireworks or aerial luminaries were seized. Upon hearing the appeal, the district court may authorize the return of part or all of the confiscated fireworks or aerial luminaries; otherwise, the court shall authorize and direct that such contraband fireworks or aerial luminaries be destroyed.

C. The provisions of this act shall be enforced by the State Fire Marshal and local fire marshals, the sheriff, the police or any peace officer licensed or authorized by this state or by their respective deputies.

Added by Laws 1969, c. 337, § 8, operative June 1, 1969. Amended by Laws 1981, c. 268, § 7, emerg. eff. June 25, 1981; Laws 2013, c. 166, § 2.

§68-1629. Public displays.

Nothing in this act shall be construed as applying to shipping, sale, possession or use of display fireworks when displayed by holders of a permit for a public display to be conducted in accordance with the rules and regulations of the State Fire Marshal Commission.

Applications for permits for display fireworks must be submitted in writing prior to the date of display to the Authority Having Jurisdiction (AHJ) as defined by the NFPA 1123 where the display is to occur. If the display is in an area outside the jurisdiction of a city or town, application for permit shall be submitted in writing to the State Fire Marshal's Office ten (10) days prior to the date of the display. Every display shall be under the direction of a competent, responsible operator of legal age and be conducted under the code of regulations as adopted by the State Fire Marshal Commission. The person or organization making application for permit must submit to the authority having jurisdiction evidence of a general liability insurance policy in an amount of not less than One Million Dollars (\$1,000,000.00) or the amount set forth by the local governing authority. Before a permit is granted, a local fire inspector or an agent of the State Fire Marshal shall inspect and approve or reject the site of the display. No permit so granted shall be transferable.

Added by Laws 1969, c. 337, § 9, operative June 1, 1969. Amended by Laws 1981, c. 268, § 8, emerg. eff. June 25, 1981; Laws 2010, c. 408, § 5, emerg. eff. June 8, 2010.

§68-1630. Sale or possession of display fireworks - Interstate transportation.

It shall be unlawful for any person to sell display fireworks to any holder of a permit unless the seller possesses a valid manufacturer's, distributor's or wholesaler's license under Section 1621 et seq. of this title.

No person shall ship Display Fireworks into the State of Oklahoma except under the rules and regulations of the Department of Transportation (DOT). It shall be unlawful for any person

to sell or possess Display Fireworks in the State of Oklahoma unless they are licensed or permitted as noted in this act.

Added by Laws 1969, c. 337, § 10, operative June 1, 1969. Amended by Laws 1981, c. 268, § 9, emerg. eff. June 25, 1981; Laws 2010, c. 408, § 6, emerg. eff. June 8, 2010.

§68-1631. Minimum requirements - Additional regulation by city ordinance.

The provisions of this act shall be construed as imposing minimum requirements and shall not be construed as prohibiting any city or town within the State of Oklahoma from passing such ordinances as may be deemed necessary to properly regulate or prohibit the sale and use of fireworks within its corporate limits.

Laws 1969, c. 337, § 11, operative June 1, 1969.

§68-1633. Inspection and certification of Display Fireworks facilities.

No person shall engage in the business of manufacturing Display Fireworks without first requesting the State Fire Marshal to conduct a fire and safety inspection and receiving certification that a satisfactory inspection was conducted. All manufacturers of Display Fireworks shall be required to comply with the standards promulgated by the National Fire Protection Agency, Section 1124-Code for Manufacture, Transportation and Storage of Fireworks.

Upon written request of a Display Fireworks manufacturer, the State Fire Marshal shall, within ten (10) days, conduct a fire and safety inspection and shall, upon satisfactory inspection, issue certification of the inspection. Thereafter, the State Fire Marshal shall conduct a fire and safety inspection at least once every six (6) months.

Whenever the State Fire Marshal shall find any violation of NFPA-1124 which would endanger persons or property, the State Fire Marshal shall immediately order the manufacturing facility closed until such time as the violations are remedied and a new inspection and certification takes place.

Any person engaging in the business of manufacturing Display Fireworks without current certification of a satisfactory fire and safety inspection or any person refusing to comply with the State Fire Marshal's order to close a Display Fireworks manufacturing facility shall, upon conviction, be guilty of a misdemeanor and be punished by imprisonment in the county jail not exceeding one (1) year or by a fine not exceeding Ten Thousand Dollars (\$10,000.00) or both such fine and imprisonment.

Any person manufacturing Display Fireworks on the effective date of this act shall, within ninety (90) days, be licensed and inspected pursuant to this act.

Added by Laws 1985, c. 308, § 5, emerg. eff. July 24, 1985. Amended by Laws 2010, c. 408, § 7, emerg. eff. June 8, 2010.

§68-1634. Sales tax on fireworks - Tax permit.

A. Every retail sale of fireworks by a wholesaler, distributor, manufacturer or a retailer shall be subject to the levy and collection of sales tax pursuant to the provisions of the Oklahoma State Tax Code.

B. Every retail fireworks location shall possess a valid current sales tax permit issued by the Oklahoma Tax Commission. The sales tax permit shall be conspicuously posted in the immediate vicinity of the sales operation and shall be immediately available for examination by the public or any enforcement officer.

C. Vendors that fail to collect sales tax as required by subsection A of this section shall be subject to the penalties provided in Section 1361 of this title.

Added by Laws 1986, c. 239, § 3, operative Aug. 1, 1986. Amended by Laws 2011, c. 331, § 1.

§68-1635. Purpose - Definitions.

A. The purpose of this act is to enact a licensing program for outdoor display fireworks for Oklahoma entities and a licensing program for individuals conducting outdoor fireworks displays in this state. The purpose of these programs is to ensure a level of competence that promotes safety for the public, fire service personnel, and fireworks display operators and their employees and service personnel. It is not the purpose of this act to regulate United States Department of Transportation Division 1.4G consumer fireworks as defined by NFPA standards or paragraph 2 of Section 1622 of Title 68 of the Oklahoma Statutes.

B. As used in this act:

1. "Licensed outdoor display operator" means an individual who by experience, training, and examination recognized and approved by the State Fire Marshal has demonstrated the necessary knowledge and ability to safely assemble, discharge and supervise outdoor display fireworks in accordance with NFPA 1123;

2. "Operator" shall have the same meaning as "licensed outdoor display operator", as defined in paragraph 1 of this subsection;

3. "Display fireworks" means fireworks devices that are primarily intended for commercial displays which are designed to produce visible and/or audible effects by combustion, deflagration or detonation. Display fireworks include, but are not limited to, salutes containing more than two grains (130mg) of explosive composition, aerial shells containing more than forty (40) grams of pyrotechnic compositions and other exhibition display items that exceed the limits for consumer fireworks according to the United States Department of Transportation (DOT);

4. "Event" means any function or gathering at which there will be a fireworks display. If a function or gathering lasts more than one (1) day, each day is a separate event. Event does not include any function or gathering at which only consumer fireworks, as defined in paragraph 2 of Section 1622 of Title 68 of the Oklahoma Statutes, will be used exclusively;

5. "Distributor" means any person engaged in the business of making sales of display fireworks as defined in paragraph 3 of Section 1622 of Title 68 of the Oklahoma Statutes or materials to Oklahoma-licensed or -permitted entities for the purpose of providing fireworks or pyrotechnic display services in this state. A distributor may sell display fireworks only to Oklahoma-licensed or -permitted entities. An out-of-state distributor shall not be required to obtain an Oklahoma license when selling exclusively to a holder of an Oklahoma manufacturer, distributor, or wholesaler license;

6. "NFPA" means the National Fire Protection Association;

7. "NFPA 1123" means the NFPA publication entitled "NFPA 1123: Code for Fireworks Display", 2010 Edition or any subsequent edition that has been adopted by the State Fire Marshal by rule;

8. "NFPA 1124" means the NFPA publication entitled "NFPA 1124: Code for Manufacture, Transportation, Storage, and Retail Sale of Fireworks and Pyrotechnic Articles", 2006 Edition or any subsequent edition that has been adopted by the State Fire Marshal by rule;

9. "NFPA 1126" means the NFPA publication entitled "NFPA 1126: Standards for the Use of Pyrotechnics Before a Proximate Audience", 2011 Edition or any subsequent edition that has been adopted by the State Fire Marshal by rule;

10. "Outdoor fireworks display" means a presentation of display fireworks for a public or private gathering as defined by NFPA 1123;

11. "Proximate pyrotechnics" means pyrotechnic devices for professional use only, used outdoors or indoors, that are similar to consumer fireworks in chemical composition but that are not intended for consumer use, and that are defined by NFPA 1126 as 1.4G or 1.4S fireworks or pyrotechnics;

12. "Proximate pyrotechnic display" means the use of pyrotechnic devices and materials, 1.4G or 1.4S fireworks or pyrotechnics when any portion of the audience is closer than permitted by NFPA 1123, and subject to NFPA 1126 requirements; and

13. "Sponsor" means any person or organization which contracts with a licensed entity, licensed distributor or licensed outdoor display operator to conduct a fireworks display.

Added by Laws 2011, c. 238, § 1, eff. May 1, 2012.

§68-1636. Fireworks display - Licenses or permits.

A. An individual or entity shall have the appropriate Oklahoma license or permit to conduct an outdoor fireworks display on or after January 1, 2013.

B. To receive a manufacturer, distributor or wholesaler license, an applicant shall make application to the State Fire Marshal on a form prescribed by the State Fire Marshal. The application shall be accompanied by the required fee. An individual seeking a license as a sole proprietor or on behalf of a business entity shall be at least twenty-one (21) years of age and shall not have been convicted of or pled guilty or nolo contendere to any state or federal felony. In the case of a business seeking a license, no officer or member of its governing board shall have been convicted of or pled guilty or nolo contendere to any state or federal felony.

Nothing in this act shall be construed as applying to shipping, sale, possession or use of display fireworks when displayed by holders of a permit for a public display to be conducted in accordance with the rules and regulations of the State Fire Marshal Commission.

Applications for permits for display fireworks shall be submitted in writing prior to the date of display to the Authority Having Jurisdiction (AHJ) as defined by the NFPA 1123 where the display is to occur. If the display is in an area outside the jurisdiction of a municipality, application for the permit shall be submitted in writing to the Office of the State Fire Marshal ten (10) days prior to the date of the display. Every display shall be under the direction of a competent, responsible, licensed outdoor display operator, of legal age, and shall be conducted under the code of regulations as adopted by the State Fire Marshal Commission. The individual or organization applying for a permit shall submit to the AHJ evidence of a general liability insurance policy in an amount of not less than One Million Dollars (\$1,000,000.00) or the amount set forth by the local governing authority. Before a permit is granted, a local fire inspector or an agent of the State Fire Marshal shall inspect and approve or reject the site of the display. No permit so granted shall be transferable.

Added by Laws 2011, c. 238, § 2, eff. May 1, 2012. Amended by Laws 2012, c. 369, § 3, emerg. eff. June 8, 2012.

§68-1637. Issuance of license.

If an applicant for an outdoor display operator license complies with the requirements of this act and the rules of the State Fire Marshal, the State Fire Marshal shall issue the license within sixty (60) days of receiving the application. The term of the license is three (3) years from the date of issuance. Each license issued shall contain a distinct number assigned to the

particular operator. The State Fire Marshal shall maintain a list of all licensed operators. In this list, next to the operator's name, the State Fire Marshal shall insert the period of licensure and the operator's license number. The list of licensed operators shall be posted on the State Fire Marshal's website.

Added by Laws 2011, c. 238, § 3, eff. May 1, 2012.

§68-1638. Application for new license.

A holder of an operator's license with an unexpired license may apply for a new license at any time before the license expires.

Added by Laws 2011, c. 238, § 4, eff. May 1, 2012.

§68-1639. Revocation, suspension, refusal to grant or renew license.

The State Fire Marshal may refuse to grant, or may suspend, revoke, or refuse to renew, any license or certification held under the provisions of this act. The provisions of the Administrative Procedures Act shall govern all matters and procedures respective to hearings and judicial review of any contested case arising under this act.

Added by Laws 2011, c. 238, § 5, eff. May 1, 2012.

§68-1640. Licensure program.

A. The State Fire Marshal shall establish a program for licensure of outdoor display operators. To receive licensure, an individual shall apply for licensure to the State Fire Marshal on a form to be prescribed by the State Fire Marshal, shall be at least twenty-one (21) years of age and shall not have been convicted of or pled guilty or nolo contendere to any state or federal felony, and shall show that the applicant has worked under complete supervision on at least three displays in the three (3) years immediately preceding the application. In addition, an applicant shall meet the following requirements:

1. Complete eight (8) hours of classroom and hands-on training;
2. Take and pass a written examination approved by and conducted under the auspices of the State Fire Marshal that tests outdoor operator knowledge; and
3. Pay a license fee not to exceed Seventy-five Dollars (\$75.00), to be deposited in the State Fire Marshal Revolving Fund.

B. The State Fire Marshal shall establish the scope and type of curriculum and examinations required by subsection A of this section, and may require applicants to take a test created by a nationally recognized pyrotechnic association. The State Fire Marshal may administer the examination or may enter into an agreement with a testing service or organization. The tests may be administered at a specific location or time. The State Fire Marshal may set by rule and collect a reasonable fee calculated to cover the costs of classroom instruction and administering the test. Written tests may be supplemented by practical tests or demonstrations deemed necessary to determine the skill and ability of the applicant. The content, type, frequency, and location of the training and testing shall be designated by the State Fire Marshal.

C. An operator license or renewal expires three (3) years after the date of the approval or reissuance. To renew the license, an individual shall show to the satisfaction of the State Fire Marshal that the individual has attended at least six (6) hours of continuing education training to meet the approval of the State Fire Marshal in the areas of licensing desired during the three-year period and pay the applicable fee.

Added by Laws 2011, c. 238, § 6, eff. May 1, 2012.

§68-1641. Requirement of licensure to conduct fireworks displays.

A. It is unlawful for anyone other than a licensed outdoor display operator to conduct an outdoor display using only display fireworks.

B. It is unlawful for any licensed outdoor display operator to conduct an outdoor fireworks display except in accordance with NFPA 1123.

C. It is allowable for a licensed outdoor display operator to use 1.4G or 1.4S fireworks in outdoor displays.

D. A violation of subsection A or B of this section shall be a misdemeanor.

E. Any municipality may adopt the provisions of subsections A and B of this section by reference or substantial duplication as an ordinance violation.

F. The provisions of subsection A or B of this section shall not apply to individuals or organizations employing consumer fireworks for their personal or display use.

Added by Laws 2011, c. 238, § 7, eff. May 1, 2012.

§68-1642. Storage of fireworks or pyrotechnic materials.

Any person or entity that stores fireworks or pyrotechnic materials, or both, that are defined as consumer fireworks 1.4G, display fireworks 1.3G, Articles, Pyrotechnic 1.4G or 1.4S as defined by the United States Department of Transportation (DOT) in Title 49 of the Code of Federal Regulations, shall store them in accordance with current NFPA standards, including NFPA 1124, and any applicable federal, state, and local laws or ordinances. Violations of this section shall be a misdemeanor.

Added by Laws 2011, c. 238, § 8, eff. May 1, 2012.

§68-1643. Administration and enforcement of act.

The State Fire Marshal shall administer and enforce the provisions of this act and may call upon any federal, state, county, or municipal officer or employee for assistance. The State Fire Marshal may promulgate rules to carry out the responsibilities under this act, including rules relative to:

1. Certification of or licensing of outdoor display operators;
2. Training;
3. Examinations;
4. The responsible handling of display fireworks; and
5. Any other reasonable rules the State Fire Marshal deems necessary to implement this act.

act.

Added by Laws 2011, c. 238, § 9, eff. May 1, 2012.

§68-1701. Definitions.

As used in Sections 1701 through 1707 of this title:

1. "Contractor" includes all prime and general contractors, subcontractors, independent contractors and persons engaged in contract labor who through negotiations or competitive bidding enter into contracts to furnish labor, materials or both and the required equipment to perform the contract for a fixed price and who in pursuit of independent business undertake a job in whole or in part retaining substantial control of the method and manner of accomplishing the desired result and means any person, firm, joint venture, partnership, copartnership, association, corporation, or other organization engaged in the business of the construction, alteration,

repairing, dismantling, or demolition of roads, bridges, viaducts, sewers, water and gas mains, streets, disposal plants, water filters, tanks, towers, airports, buildings, dams, levees, canals, railways and rail facilities, oil and gas wells, water wells, pipelines, refineries, industrial or processing plants, chemical plants, power plants, electric or telephone or any other type of energy or message transmission lines or equipment, or any other type of construction excluding family farm operations. The term contractor shall not include the state or any agency, institution, or political subdivision of the state or any duly constituted authority of a political subdivision;

2. "Resident contractor" means a contractor who maintains his principal place of business in this state or a multi state employer who maintains a permanent work force of three or more employees in this state;

3. "Nonresident contractor" means a contractor who maintains his principal place of business outside this state or a multi state employer who does not maintain a permanent work force of three or more employees in this state.

Amended by Laws 1984, c. 213, § 1, operative July 1, 1984.

§68-1701.1. Employer identification numbers - Responsibility of contractors - Violations and liability - Exemptions.

A. All contractors as defined in Section 1701 of this title shall have and be able to prove current employer identification numbers issued to them by the Oklahoma Tax Commission, the Oklahoma Employment Security Commission, the Internal Revenue Service, and the Social Security Administration, and a workers' compensation policy in compliance with the provisions of Title 85 of the Oklahoma Statutes. A bona fide association representing construction related entities may, through such insurance carriers and products approved by the Commissioner, offer benefits plans and insurance coverage to a particular trade, business, profession or industry or their subsidiaries as authorized by Title 85 of the Oklahoma Statutes. Any workers' compensation policy for a nonresident contractor shall show "Oklahoma" or "All States" for Other States Insurance on Section 3C of the policy. Each contractor shall be responsible for maintaining his or her own payroll reports and records including reports and records required by the Oklahoma Tax Commission, the Oklahoma Employment Security Commission, the Internal Revenue Service, and the Social Security Administration. No contractor shall be required to keep payroll records or make any other report for any other contractor.

B. Owners, lessees, or renters awarding a contract shall not be required to ascertain if a contractor has complied with the provisions of subsection A of this section or be responsible for a contractor's reports, records, or be liable for any penalty resulting from the contract.

C. Any contractor who violates or does not comply with the provisions of subsection A of this section shall be liable for any unpaid taxes and wages resulting from the contract in addition to the penalties provided in Section 1707 of this title. The failure of a contractor to comply with the provisions of subsection A of this section shall neither present any liability or responsibility for any unpaid taxes, wages, or penalties resulting from the contract upon any other contractor nor shall any future contracts of the contractor be impaired because of a failure to comply with the provisions of subsection A of this section on a prior contract.

D. Subsection A of this section shall not apply if a contract for an entire project requires the services of less than three employees. A resident contractor shall not be required to comply with the provisions of subsection A of this section in the construction of a single family dwelling when the total cost of the project is less than the average sales price of a single family dwelling in this state as set each year by the National Association of Home Builders. This subsection shall

not be construed to exempt any person of any tax liabilities or other requirements provided for by law.

Added by Laws 1984, c. 213, § 2, operative July 1, 1984. Amended by Laws 2013, c. 381, § 1, eff. July 1, 2013.

§68-1702. Notice to state and local taxing authorities as to contracts.

To the end that the State of Oklahoma and the political subdivisions thereof may receive all taxes due in every instance, nonresident contractors desiring to engage in, prosecute, follow, or carry on the business of contracting shall give written notice by certified mail, with return receipt requested, to the Oklahoma Tax Commission, the Oklahoma Employment Security Commission, the Workers' Compensation Court, and the county assessor of each county in which such contract work or service is to be performed before actually commencing work or undertaking to perform any duties pursuant to any such contract. The notice shall state the approximate amount of the contract price, the location where work is to be performed, the approximate date work is to be commenced, a description of the general nature of the work to be performed and a complete list of all subcontractors, if any, including their addresses, and the amount of each such subcontract. The prime contractor shall also notify the above if they have a subcontract let after the work begins, so that the name of every subcontractor shall be known to the above before said subcontractor initiates his work.

Amended by Laws 1984, c. 213, § 3, operative July 1, 1984.

§68-1703. Surety bond conditioned upon compliance with tax laws - Waiver.

Notwithstanding the provisions of Sections 1103 and 1731 of Title 69 of the Oklahoma Statutes, every nonresident contractor, including those in the position of subcontractor, subject to the provisions of this article, before actually commencing work or undertaking to perform any services or duties under any such contract in excess of One Hundred Thousand Dollars (\$100,000.00), shall file with the Oklahoma Tax Commission a surety bond with a surety authorized to do business in this state, in the penal sum of not less than three times the tax liability incurred or to be incurred under any such contract, payable to the State of Oklahoma, or, in lieu of such surety bonds, cash or negotiable bonds or other obligations of the United States of America, the State of Oklahoma or its subdivisions, conditioned upon compliance with the tax laws of Oklahoma, both state and local, the Oklahoma Employment Security Act, the Oklahoma Workers' Compensation Act, and the provisions and requirements of this article; provided:

1. If such contractor receives another contract to perform services or duties in this state or if, in the judgment of the Tax Commission the amount of tax liability incurred or to be incurred under such contract is increased from the amount used to compute the amount of the original bond, the amount of such bond shall be increased to meet the requirements set forth in this subsection;

2. The amount of such tax liability may be reduced by the amount of the tax liability incurred or to be incurred by nonresident contractors in the position of subcontractors, who actually post bonds on their subcontracts, listed in the notice to the Oklahoma Tax Commission by a prime contractor, as required by the preceding section; and

3. If the Tax Commission, after making an investigation at the request of a nonresident contractor, finds that such nonresident contractor has and will continue to have property within Oklahoma, and has regularly engaged in business in this state and will continue to do so, and the Tax Commission, for said reason, determines in writing that such nonresident contractor's

financial responsibility is sufficient to cover its tax liability and the other obligations covered by this article, such nonresident contractor shall not be required to make and file the surety bond required in this section nor to give the notices required by this article, and the Tax Commission shall notify the nonresident contractor of its findings.

Added by Laws 1965, c. 30, § 2. Amended by Laws 1971, c. 330, § 2, emerg. eff. June 26, 1971; Laws 1972, c. 165, § 1, emerg. eff. April 7, 1972; Laws 1989, c. 279, § 11, operative July 1, 1989; Laws 1994, c. 278, § 18, eff. Sept. 1, 1994; Laws 2004, c. 535, § 13, eff. Nov. 1, 2004.

§68-1704. Failure to give notice or execute bond.

Every contractor shall provide the information required in subsection A of Section 1701.1 of this title and shall provide proof of the executed bond provided by Section 1703 of this title, if required, to the agency or entity administering the contract before actually commencing work or undertaking the performance of any services. Any contractor who fails to provide the required information or proof of bond, if required, shall be fined by the Oklahoma Tax Commission in an amount not to exceed ten percent (10%) of the contractor's total bid, which shall be in addition to any other penalties allowed by law.

Added by Laws 1965, c. 30, § 2. Amended by Laws 2013, c. 381, § 2, eff. July 1, 2013.

§68-1705. Notice upon completion of work.

Every such contractor shall also give written notice to the Tax Commission, the Oklahoma Employment Security Commission, the State Industrial Court, and the county assessor of each county in which such contract work or service has been performed, by certified mail, with return receipt requested, immediately upon completion of the work and services required by any such contract. The date of mailing such notice shall, for the purposes of this article, be considered the date of the completion of said contract. No action shall be commenced on the surety bond required by this article after the expiration of one (1) year from the date of the mailing of said notice of the completion of the contract.

Laws 1965, c. 30, § 2.

§68-1706. Actions.

(a) An action against any contractor or the surety on any bond required by this article may be brought in any court of competent jurisdiction in Oklahoma County or any county in which any work under any such contract is performed. The entering into of any contract for the performance of work in the State of Oklahoma by any such nonresident contractor shall be deemed to constitute an agreement to be subject to the jurisdiction of the courts of this state and shall constitute an appointment of the Secretary of State of Oklahoma as service agent of such contractor in any such action, and the service of summons or other process issued in any such action when served on the Secretary of State shall have the same legal force and validity as if served upon the contractor personally within the State; provided, that the service agent may be served in any manner now provided by law or in lieu thereof by mailing such summons to said service agent by certified mail with return receipt requested, postage prepaid, which such in lieu service shall be sufficient upon proof of mailing with the return receipt attached.

(b) The summons shall be directed to the Secretary of State and shall require the defendant to answer by a day certain not less than forty-one (41) days from the return date fixed therein. The Secretary of State shall immediately forward a copy of the summons to the contractor by certified mail, return receipt requested, to the address given by such contractor in the notice

given to the Tax Commission, and shall thereupon make his return of said summons to the court from which the same issued, showing the date of its receipt by him, the date of forwarding, and the name and address of the contractor to whom the same was forwarded. The Secretary of State shall keep a suitable record of every such action showing the name of the court in which the action is brought, the date of commencement, the style of the case, and the date and manner of service. The plaintiff in any such action shall cause a fee of Two Dollars (\$2.00) to be paid to the Secretary of State at the time of service. Every notice required of a contractor under this article to be given to the Tax Commission shall also contain the address of the principal place of business of the contractor, which shall be deemed to be the mailing address of such contractor for the purpose of service of process in any action brought under this article.
Laws 1965, c. 30, § 2.

§68-1707. Penalty.

Any contractor who, or which, fails to make and file a bond or to give the notices to the Oklahoma Tax Commission, the Employment Security Commission, the Workers' Compensation Court, and the county assessor of each county involved, as required by Sections 1701 through 1706 of this title, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00). Any contractor who violates the provisions of Section 2 of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00). Venue for such prosecution shall be in Oklahoma County, or in any county where such contract work is performed.

Amended by Laws 1984, c. 213, § 4, operative July 1, 1984.

§68-1708. Employer identification numbers - Proof required for public project bids - Penalties.

A. All contractors as defined in Section 1701 of this title signing any contract to provide materials or labor on a public construction project in this state shall show proof of all documentation required pursuant to Section 1701.1 of this title.

B. Any contractor who fails to provide proof as required in subsection A of this section, or any contractor who performs work in this state as a contractor without registration as required by Section 1701.1 of this title, shall be fined by the Oklahoma Tax Commission an amount not to exceed ten percent (10%) of the contractor's total bid, which shall be in addition to any other penalties allowed by law.

C. Any contractor who intentionally misclassifies individuals as independent contractors rather than employees for the purpose of affecting procedures and payments relating to withholding and social security, unemployment tax or workers' compensation premiums shall be fined by the Oklahoma Tax Commission an amount not to exceed ten percent (10%) of the contractor's total bid, which shall be in addition to any other penalties allowed by law.

Added by Laws 2012, c. 351, § 1, eff. Nov. 1, 2012. Amended by Laws 2013, c. 381, § 3, eff. July 1, 2013.

§68-1709. Employee misclassification - Agencies - Investigation and enforcement.

The Oklahoma Tax Commission, Oklahoma Workers' Compensation Court, Department of Labor, CompSource Oklahoma and Oklahoma Employment Security Commission shall share information and coordinate investigative and enforcement efforts for the purpose of detecting

those contractors who intentionally misclassify individuals as independent contractors rather than employees for the purpose of affecting procedures and payments relating to withholding and social security, unemployment tax or workers' compensation premiums. The agencies required by this section to share information and coordinate efforts shall be authorized to create a secure database of information accessible by agency representatives responsible for enforcement and shall be further authorized to enter into contracts and interagency agreements and promulgate such rules as may be necessary to implement this section.

Added by Laws 2012, c. 351, § 2, eff. Nov. 1, 2012.

§68-1801. Classification for taxation.

Cooperative, nonprofit, membership corporations organized or operating under the provisions of the Rural Electric Cooperative Act, Senate Bill No. 141, as enacted by the Seventeenth Oklahoma Legislature, for the generation, transmission and distribution of electric energy, are hereby expressly classified for purposes of taxation. Such corporations are hereinafter referred to as "Cooperatives".

Laws 1943, p. 178, § 1; Laws 1965, c. 215, § 1.

§68-1802. Statements of gross receipts.

Within sixty (60) days after this act shall become effective, each Cooperative shall file with the Oklahoma Tax Commission, on forms prescribed thereby, a statement of its total gross receipts derived from the sale and distribution of electric energy during the period beginning January 1, 1943, and ending on the last day of the calendar month next preceding the time for making such statement and shall pay the tax hereinafter levied thereon; and, on or before the twentieth day of each month thereafter each cooperative shall so file such statement of such gross receipts so derived during the next preceding calendar month and pay the tax hereinafter levied thereon; each such statement shall contain such other and further information as the Oklahoma Tax Commission may require and shall be sworn to and verified by an officer of the cooperative.

Laws 1943, p. 178, § 2; Laws 1965, c. 215, § 1.

§68-1803. Tax levied - Rate - Payment monthly - In lieu of other taxes.

There is hereby levied on each Cooperative an annual tax which shall equal two percent (2%) of the gross receipts derived by it from the sale and distribution of electric energy during the calendar year. The tax hereby levied shall be payable monthly according to, and as and when the statements shall be made as required in Section 2 of this act. The tax so levied or so imposed shall, when paid as herein provided, be in full and in lieu of any and all other taxes imposed by the state, counties, cities, towns, townships, school district, and other municipalities or political subdivisions of the state on the property of each such cooperative.

Laws 1943, p. 178, § 3; Laws 1965, c. 215, § 1.

§68-1804. Definition of property.

For the purposes of this act "property" shall include any and all property, tangible and intangible, real, personal, and/or mixed, used or intended for use, in generation, transmission and distribution of electric energy, and for the operation and maintenance of such rural electric cooperatives, hereinabove classified, for the taxable year 1943, and subsequent years.

Added by Laws 1943, p. 178, § 4, emerg. eff. April 1, 1943. Renumbered from § 864 of this title by Laws 1965, c. 215, § 1.

§68-1805. Statements of mileage of lines.

On or prior to the first day of May, 1943, and on or before the first day of March of each succeeding year, each such cooperative shall file with the Oklahoma Tax Commission, on forms prescribed by said Commission, a statement of the total number of miles of line of such cooperative, owned, maintained, and operated by such cooperative, in each county and school district of the state as of January first of each year; and each such cooperative shall likewise file a statement of the total number of miles of line owned, maintained, and operated as of January first of each year within each school district of each county with the county treasurer of each county. Added by Laws 1943, p. 178, § 5, emerg. eff. April 1, 1943. Renumbered from § 865 of this title by Laws 1965, c. 215, § 1.

§68-1806. Proceeds of tax, how applied.

All monies, funds and revenues arising, collected, received, by the Oklahoma Tax Commission pursuant to the provisions of this act shall be applied as follows:

(a) Five percent (5%) of all monies collected under the provisions of this act shall be paid to the State Treasurer and placed to the credit of the General Revenue Fund of the State Treasury.

- (b) (1) Except as provided in paragraph (2) of this subsection, the remaining ninety-five percent (95%) of all monies collected under this act shall be apportioned and paid each month by the Oklahoma Tax Commission to the school treasurers or school districts of the respective counties in which the remitting cooperative owns and operates property, as defined in Section 1804 of this title, according to the proportion which the number of miles of electrical distribution lines of such cooperative in such school district bears to the total number of miles of such lines owned and operated by such cooperative within the state.
- (2) Beginning July 1, 1991, if the amendment to Section 12a of Article X of the Constitution of the State of Oklahoma contained in Enrolled House Joint Resolution No. 1005 of the 1st Extraordinary Session of the 42nd Oklahoma Legislature is approved by the people, the remaining ninety-five percent (95%) of all monies collected under this act shall be remitted to the State Treasurer to be deposited in the Common School Fund.

Amended by Laws 1986, c. 223, § 45, operative July 1, 1986; Laws 1989, 1st Ex.Sess., c. 2, § 96, emerg. eff. April 25, 1990.

§68-1807. Liberal construction.

The provisions of this act shall be liberally construed.
Laws 1943, p. 179, § 7; Laws 1965, c. 215, § 1.

§68-1901. Real estate mortgage defined.

The words or term "real estate mortgage" as used in this article shall be understood to include every species of conveyance intended to secure the payment of money by lien upon real estate. Any contract for the sale of real estate in which title is retained in the vendor for the

purpose of enforcing payment of the balance due shall be deemed a mortgage upon real property. If an indebtedness is secured by both real and personal property, said mortgage shall be deemed to be a mortgage on real property for the purpose of this article. Any contract or agreement by which the indebtedness secured by any mortgage is increased or added to shall be deemed a mortgage of real property for the purposes of this article and shall be taxable as such upon the amount of such increase or addition.

Laws 1965, c. 31, § 2.

§68-1902. Exemption from other taxes.

All mortgages of real property situated within this state which are taxed by this article, and the debts and obligations which they secure, together with the paper writings evincing the same, shall be exempt from ad valorem and all other taxation by the state, counties, towns, cities, school districts and other local subdivisions of the state, except this article shall not affect in any manner the collection of any income tax payable in whole or in part from the interest received from such mortgage indebtedness. The exemption conferred by this exemption shall not be construed to impair or in any manner affect the purchaser of real estate which may be sold for nonpayment of taxes levied by any local authority.

Laws 1965, c. 31, § 2.

§68-1903. Exemptions prohibited.

No mortgage of real property situated within this state shall be exempt, and no person or corporation owning any debt or obligation secured by mortgage of real property situated within this state shall be exempt, from the tax imposed by this article by reason of anything contained in any other statute, or by reason of nonresidence within this state, or for any other cause.

Laws 1965, c. 31, § 2.

§68-1904. Amount of tax - Fee - Payment.

A. The following taxes are hereby levied on real estate mortgages:

1. A tax of ten cents (\$0.10) for each One Hundred Dollars (\$100.00) and each remaining fraction thereof where such mortgage is for five (5) years or more;
2. A tax of eight cents (\$0.08) for each One Hundred Dollars (\$100.00) for each mortgage where such mortgage is for four (4) years or more but less than five (5) years;
3. A tax of six cents (\$0.06) for each One Hundred Dollars (\$100.00) where such mortgage is for three (3) years or more but less than four (4) years;
4. A tax of four cents (\$0.04) for each One Hundred Dollars (\$100.00) where such mortgage is for two (2) years or more but less than three (3) years; and
5. A tax of two cents (\$0.02) for each One Hundred Dollars (\$100.00) where such mortgage is for less than two (2) years.

If the principal debt or obligation secured by the mortgage is less than One Hundred Dollars (\$100.00), a tax of ten cents (\$0.10) shall be levied on such mortgage and shall be collected and paid as provided for in this article.

B. In addition to the taxes levied pursuant to the provisions of subsection A of this section, the county treasurer shall collect a fee of Five Dollars (\$5.00) on each mortgage presented to the county treasurer for certification. The fees collected pursuant to the provisions of this subsection shall be deposited into a cash account to be known as the "County Treasurer's Mortgage

Certification Fee Account". Monies from the account shall be expended by the county treasurer in the lawful operation of the treasurer's office.

C. The tax provided for in subsection A of this section may be paid by the mortgagor, the mortgagee or any other interested party.

Added by Laws 1965, c. 31, § 2. Amended by Laws 1984, c. 195, § 2, eff. Jan. 1, 1985; Laws 1986, c. 135, § 7, emerg. eff. April 17, 1986; Laws 1992, c. 208, § 1; Laws 2000, c. 217, § 25, eff. July 1, 2000.

§68-1905. Supplemental instruments or assignments of mortgages - Procedure.

If subsequent to the recording of a mortgage on which all taxes, if any, accrued under this article have been paid, a supplemental instrument or mortgage is recorded for the purpose of correcting or perfecting any recorded mortgage, or pursuant to some provision or covenant therein, or an additional mortgage is recorded imposing the lien thereof upon property not originally covered by or not described in such recorded primary mortgage for the purpose of securing the principal indebtedness which is, or under any contingency may be, secured by such recorded primary mortgage, or an assignment of mortgage is recorded, such supplemental instrument or assignment of mortgage or mortgage shall not be subject to the tax or fee levied and imposed by Section 1904 of this title unless it creates or secures a new or further indebtedness or obligation other than the principal indebtedness or obligation secured by or which under any contingency may be secured by the recorded primary mortgage, in which case a tax is levied on such new or further indebtedness or obligation as heretofore provided in Section 1904 of this title, and shall be paid to the county treasurer before the time such instrument or additional mortgage is recorded. If, at the time of recording such instrument, or additional mortgage, any exemption is claimed under this section, there shall be filed with the county treasurer and preserved in the office of the county treasurer a statement under oath of the facts on which such claim for exemption is based. The determination of the county treasurer upon the question of exemption shall be reviewable on appeal to the district court under the same procedure as appeals from the county commissioners to the district court.

Added by Laws 1965, c. 31, § 2. Amended by Laws 1996, c. 100, § 1, eff. July 1, 1996.

§68-1906. Mortgages for indefinite amounts - Procedure.

If the principal indebtedness secured or which by any contingency may be secured by a mortgage is not determinable from the terms of the mortgage, or if a mortgage is given to secure the performance by the mortgagor, or of any other person of a contract obligation other than the payment of a specific sum of money and the maximum amount secured or which by any contingency may be secured by the mortgage is not expressed therein, such mortgage shall be taxable upon the value of the property covered by the mortgage, which shall be determined by the county treasurer to whom such mortgage is presented for taxation, unless at the time of presenting such mortgage for taxation the owner thereof shall file with the county treasurer a sworn statement of the maximum amount secured by the mortgage. If such maximum amount is expressed in the mortgage or in a sworn statement filed as required by this section, such amount shall be the basis for assessing the tax levied by this article. The statement filed by the owner of a mortgage pursuant to this section shall thereafter at all times be binding upon and conclusive against such owner, the holders of any bonds or obligations secured by such mortgage and all persons claiming through the mortgagee any interest in the mortgage or the mortgaged premises. If the maximum amount secured or which by any contingency may be secured by the mortgage is

not expressed in the mortgage or in a sworn statement so authorized by this section, the county treasurer at the time such mortgage is offered for taxation may require the mortgagor or mortgagee to furnish him with proofs as to such facts as he deems necessary for the purpose of computing the value of the property covered by the mortgage, and such proofs shall be preserved in his office. His determination as to the basis for computing the tax on such mortgage shall be subject to review on appeal to the district court under the same procedure as cases appealed from the county commissioners to the district court.

Laws 1965, c. 31, § 2.

§68-1907. Payment prerequisite to recording, use as evidence.

No mortgage of real property shall be recorded by any county clerk unless there shall be paid the tax imposed by and as in this article provided. No mortgage of real property which is subject to the taxes levied by this article shall be released, discharged of record or received in evidence in any action or proceeding, nor shall any agreement extending any such mortgage be recorded unless the taxes levied thereon by this article shall have been paid as provided in this article. No judgment or final order in any action or proceeding shall be made for the foreclosure or enforcement of any mortgage which is subject to the taxes levied by this article or of any debt or obligation secured by or which secures any such mortgage unless the taxes levied by this article shall have been paid as provided in this article.

Added by Laws 1965, c. 31, § 2. Amended by Laws 1996, c. 100, § 2, eff. July 1, 1996.

§68-1908. Corporate mortgages - Further loans - Additional tax.

In the case of mortgages made by corporations in trust to secure payments of bonds or obligations issued or to be issued thereafter, if the total amount of principal indebtedness which under any contingency may be advanced or accrued, or which may become secured by any such mortgage which is subject to this article has not been advanced or secured thereon or become secured thereby before such mortgage is recorded, it may contain at the end thereof a statement of the amount which at the time of the execution and delivery thereof has been advanced or accrued thereon or which is then secured by such mortgage; thereupon the tax payable on the recording of the mortgage shall be computed on the basis of the amount so stated to have been so advanced or accrued thereon, or which is stated to be secured thereby. Such statement shall thereafter at all times be binding upon and conclusive against the mortgagee, the holders of any bonds or obligations secured by such mortgage and all persons claiming through the mortgagee any interest in the mortgage or in the mortgaged premises. Whenever a further amount is to be advanced under the original mortgage, or shall accrue thereon or become secured thereby, the corporation making such mortgage shall, at or before the time when such amount is to be advanced, accrues or becomes secured, file in the office of the county treasurer in the county where such mortgage has been or is first recorded, a statement, verified by the secretary, treasurer or other proper officer of said corporation of the amount of principal indebtedness to be so advanced, accruing or becoming secured, and the tax on such amount shall become due and payable at the time of filing such statement. Such additional tax shall be paid to the county treasurer in the county where such mortgage has been or is first recorded and a receipt therefor shall be noted in the margin of the record of such mortgage and if requested a duplicate receipt for such payment shall also be given to the party paying such tax and the note of such payment or additional payment or such receipt shall have the same force and effect as the record of receipt of the tax which under this article is payable at or before the recording of the mortgage. If such

additional tax is not paid as required by this section, the trust mortgagee shall not certify any bond or other obligation issued on account thereof, and the district attorney of the county in which such mortgage has been or is first recorded may maintain an action against the corporation making such mortgage to recover the amount of such tax, with interest at the rate of one percent (1%) per month from the date when the same became due, and upon recovering such tax and interest such district attorney shall pay the same to the county treasurer of such county in satisfaction of such tax. The corporation making such mortgage or the owner of the property which secures the mortgage debt shall annually within thirty (30) days after July 1st, until the maximum amount of principal indebtedness secured by such mortgage has been advanced, has accrued or become secured and the tax thereon paid, file in the office of the county treasurer in the county where such mortgage has been or is first recorded, a statement, verified by the secretary, treasurer or other proper

officer of said corporation, of the total amount of principal indebtedness that has been advanced or has accrued on such mortgage, or has become secured thereby, prior to the first day of July preceding the filing of such statement. A failure to file any statement required by this section within the time required shall subject the corporation making such mortgage to a penalty of One Hundred Dollars (\$100.00) per day for each day such failure continues, recoverable by the district attorney of the county in which such mortgage has been or is first recorded. Provided, however, that where a mortgage, or deed of trust, is executed to secure the payment of bonds issued by any domestic railroad, transportation, transmission or industrial corporation and the money derived from the sale of said bonds so secured by said mortgage, or deed of trust, is to be used for the creation, construction, building, improving and erecting of property that will be subject to an ad valorem tax in the county where same is situated, there shall be paid a recording fee on said mortgage, or deed of trust, so executed for recording said mortgage, or deed of trust, the sum of twenty-five cents (\$0.25) for first folio and ten cents (\$0.10) for each additional folio and fifty cents (\$0.50) for indexing and recorder's certificate instead of the fees designated in this article, and on payment of same shall not be subject to the penalties prescribed in this article. Laws 1965, c. 31, § 2.

§68-1909. Property in more than one county - Apportionment.

When property is in more than one county, or when the real property covered by a mortgage is assessed in more than one county, it shall be the duty of the county treasurer of the county where said mortgage is offered for taxation to ascertain the assessed value of the property in each county and to apportion the amount upon which the tax shall be paid to the county treasurer in each of the said counties upon the basis of the relative assessments. Where the mortgage is a first lien upon the real property situate in another county, it shall be his duty to apportion the amount of the tax property to be credited to said county by ascertaining the valuation of each parcel as appears from the last preceding assessment roll of the county in which such parcel is located, after deducting therefrom the taxable amount of any prior lien. If, however, the whole or a part of the property covered by the mortgage in a county is not assessed in the last preceding assessment roll or rolls of said county in which it is located, or is assessed as a part of a larger tract in such a manner that the assessed value cannot be determined from the assessment rolls or roll, or improvements have been made upon the property so assessed, the county treasurer may determine the value of the property covered by the mortgage and for such purpose may require the mortgagor or mortgagee to furnish him with proofs as to such facts as he deems necessary for the purpose of computing such value, and the value so determined shall

be deemed to be the assessed value for the purpose of such apportionment. When the real property covered by a mortgage is located partly within the state and partly without the state, it shall be the duty of the county treasurer to whom said mortgage is offered for taxation to determine what proportion shall be taxable under this article by determining the relative value of the mortgaged property within this state as compared to the total value of the entire mortgaged property, taking into consideration in so doing the amount of all prior encumbrances upon such property or any portion thereof. If a mortgage covering property located partly within the state and partly without the state is presented for taxation before such determination has been made, then there may be presented to the recording officers, with such mortgage, or at the time when the first advance is made on prior advance mortgage as provided in Section 1911 of this article, a statement in duplicate verified by the mortgagor or an officer or a duly authorized agent or attorney of the mortgagor, specifying the value of the property covered by the mortgage within the state and the property covered by the mortgage without the state, stated separately. Such statements shall be filed with the county treasurer. The tax payable under this article shall be computed upon such properties of the principal indebtedness secured by the mortgage or of the sum advanced thereon, as the case may be, as the value of the mortgaged property within the state shall bear to the total value of the entire mortgaged property, as set forth in such statement. In determining the separate values of the property covered by any such mortgage within and without the state for the purpose of ascertaining the proportion of the principal indebtedness secured by the mortgage which is taxable under this Article, the county treasurer shall consider only the value of the tangible property covered by each mortgage, taking into consideration in so doing the amount of all prior encumbrances thereon. For the purpose of determining such value the county treasurer may require the mortgagor or mortgagee to furnish him by affidavit or verified report such information or data as he deems needed for the purpose, or he may take the testimony of the mortgagor or any other person in relation thereto, and if any person whose testimony is desired can be found within the state, may require him by subpoena to attend before him at a specified time and place for the purpose of testifying in relation to the value of said property. He may also determine at the same time the proportion of the tax which shall be paid by the county treasurer who has received the same to the several county treasurers of the respective counties in the state in which parts of the mortgaged property are situated. When such county treasurer shall pay any portion of such tax to the county treasurer of any other county, he shall at the same time file in the office of the county clerk of such county a brief description of the mortgage on which such tax is paid sufficient to identify the same, together with a statement of the payment of such tax, and the amount thereof, and the county clerk of such other county shall note on the margin of the record of such mortgage the fact of such payment, attested by his signature.

Laws 1965, c. 31, § 2.

§68-1910. Mortgage tax turned into school fund.

The county treasurer shall place to the credit of the common school fund of the county, for distribution as all other common school funds, all money collected under the provisions of this article.

Laws 1965, c. 31, § 2.

§68-2001. Return by manufacturer - Amount of taxes - Powers of county assessors - Tax in lieu of other taxes - Complaints as to tax.

Every person, firm, association, or corporation engaged in the manufacture of products from lint cotton, wool, synthetic fibers, or any combination thereof, by carding, spinning, making twine, or weaving into cloth, or other processes, or using any property whatever in such enterprise, shall within thirty (30) days after the expiration of the quarter annual period ending the last day of March, June, September and December of each year, file with the County Assessor of the county in which said property so engaged, including all buildings housing such textile mill in which such cotton, wool or synthetic fibers are manufactured, is located, a statement under oath, on a form prescribed by the State Auditor and Inspector, showing the location of the said textile mill within the county, the kind of product manufactured by the said mill, the gross amount thereof produced, the selling price for all such products sold, and the actual cash value of the manufactured product on hand at the place of production, and such other information pertaining thereto, as the county assessor shall require, and shall at the same time pay to the county treasurer of the county a tax equal to one-tenth of one percent (1/10 of 1%) of the gross value of the manufactured product of the said textile mill or mills within such county.

This act is intended to classify property engaged in the manufacture of lint cotton, wool, or synthetic fibers in this State for the purposes of taxation, and the county assessor of any county in which any textile mill is located and operated shall have power to require the operating officers or agents of the said textile mill company or institution to furnish any information by him deemed to be necessary for the purpose of correctly computing the amount of the said tax and to examine the books, records and files of such person, firm, corporation, or association and shall have the power to examine witnesses, and if any witness shall fail or refuse to appear and testify at the summons or requests of the said county assessor, the said county assessor shall certify the facts and the name of the witness so failing and refusing to appear and testify or to produce any book, record or file to the district court of the county having jurisdiction of the party, and said court shall thereupon issue a

summons to said party to appear and give such evidence and produce such books, records and files as may be required and, upon failing to do so, the offending party shall be punished as provided by law in cases of contempt.

The county assessor shall have power to ascertain and determine whether or not any return herein required is a true and correct return of the gross products and of the value thereof of such textile manufactory engaged in the manufacture of textiles in this state.

The payment of the taxes herein imposed shall be in full and in lieu of all taxes by the state, counties, cities, towns, townships, school districts and other municipalities upon any property rights attached to or inherent in the property of the said textile manufactory, and upon any buildings, machinery, engines, spindles, weaving machines, and upon any and all other machinery and appliances and equipments used in and around such textile manufactory producing any manufactured product from lint cotton, wool, or synthetic fibers in the raw state in this state, and actually used in the operation of such textile mill and upon any investment whatever in such property; but the land exclusive of the buildings and such other property than that herein enumerated, and any raw cotton, wool, or synthetic fibers not purchased for and intended to be manufactured on the ad valorem taxing date and thereafter manufactured in said textile mill or mills, shall be assessed and taxed ad valorem as other property within the taxing district in which such property was situated at the time.

Any person, firm, or corporation who claims that he is erroneously or excessively taxed under this act shall have a right to make complaint before the board of county commissioners in the county in which the textile mill is located, and the said board shall have a right to hear and

determine the said complaint as in other cases for the equalization of taxes, and the said property so engaged and devoted to the textile manufacture shall not be subject to ad valorem tax or any other taxes than are herein provided for.

Laws 1927, c. 111, p. 173, § 1; Laws 1955, p. 390, § 1; Laws 1965, c. 215, § 1; Laws 1979, c. 30, § 116, emerg. eff. April 6, 1979.

§68-2002. Tax, when delinquent - How enforced - Tax warrant.

The tax provided for in the preceding section shall become delinquent thirty (30) days after the time fixed for the filing of each quarterly statement, and as to the tax on the land shall become delinquent as other taxes on land shall become delinquent, and the land taxation shall be enforced as other land taxes, and when any tax on the gross production of the said textile mill shall become delinquent, the county treasurer of the county shall issue the warrant directed to the sheriff wherein the same or any part thereof accrued for the collection of the said amount of the said tax, interest and penalty, and the sheriff shall levy the said tax warrant as in case of warrants and taxes upon personal property.

Laws 1927, c. 111, p. 175, § 2; Laws 1955, p. 391, § 2; Laws 1965, c. 215, § 1.

§68-2003. False oath to report - Penalty.

Any person who shall make any false oath to any report required by the provisions of this Act, shall be deemed guilty of perjury.

Laws 1927, c. 111, p. 175, § 3; Laws 1965, c. 215, § 1.

§68-2004. Purposes of tax.

The gross production tax provided for by this act is hereby levied and collected for the following specific purposes, to wit:

First: The tax on the land shall be collected and distributed by the county treasurer to the same funds as other land taxes in the taxing district shall go and be distributed.

Second: The tax on the buildings, mill, machinery, appliances, equipments and property used in the production of textile manufactured products shall go to and be distributed by the county treasurer to the various funds as follows:

One thirtieth (1/30) of the said tax to the State of Oklahoma for the general revenue purposes.

Fifteen thirtieths (15/30) of the said tax to the school district in which the mill is located for school purposes.

Seven thirtieths (7/30) of the said tax to the city or township in which the said mill is located for city or township purposes, as the case may be.

Two thirtieths (2/30) of the said tax to the sinking funds of the county school district and city or township in which the said mill is located to be divided in proportion to the respective levies made for that year for the said sinking funds.

Five thirtieths (5/30) of the said tax to the county general fund.

Said apportionment and distribution for the said funds shall be made by the county treasurer of the said county.

Laws 1927, c. 111, p. 175, § 4; Laws 1955, p. 391, § 3; Laws 1965, c. 215, § 1.

§68-2005. Date of application of act.

This act shall be applicable to any and all properties of any and all textile mills in this state on the first day of January, 1927, and for all years thereafter, and the said properties shall be taxed from that date forward only under the provisions of this act.

Laws 1927, c. 111, p. 175, § 5; Laws 1955, p. 391, § 4; Laws 1965, c. 215, § 1. der 6

§68-2006. Partial invalidity.

The invalidity of any Sections or Clauses in this Act shall not in any manner affect the validity of the remaining portion or portions thereof.

Laws 1927, c. 111, p. 175, § 6; Laws 1965, c. 215, § 1.

§68-2101. Definitions.

For the purpose of this article:

1. The term “motor vehicle” means and includes every automobile, truck, truck-tractor, all-terrain vehicle, utility vehicle or any motor bus or any self-propelled vehicle not operated or driven upon fixed rails or tracks or in the air or on water;

2. The term “vehicle” means and includes every device in, upon, or by which any person or property is, or may be, transported or drawn, excepting devices moved by human or animal power, when not used upon fixed rails or tracks, or in the air or on water;

3. The term “low-speed electrical vehicle” means and includes any four-wheeled electrical vehicle that is powered by an electric motor that draws current from rechargeable storage batteries or other sources of electrical current and whose top speed is greater than twenty (20) miles per hour but not greater than twenty-five (25) miles per hour and is manufactured in compliance with the National Highway Traffic Safety Administration standards for low-speed vehicles in 49 C.F.R. 571.500;

4. The term “automobile” means and includes every motor vehicle constructed and used solely for the transportation of persons for purposes other than for hire or compensation;

5. The term “motorcycle” means and includes every motor vehicle designed to travel on not more than three wheels other than an all-terrain vehicle;

6. The term “truck” means and includes every motor vehicle constructed or used for the transportation of property not falling within the definition of truck-tractor, trailer or semitrailer, as herein defined;

7. The term “truck-tractor” means and includes every motor vehicle of the truck type designed to draw or support the front end of a semitrailer;

8. The term “trailer” means and includes any vehicle designed to be drawn by a truck, tractor or a truck-tractor, but supported upon its own wheels;

9. The term “semitrailer” means and includes any vehicle designed to be attached to, and having its front end supported by a truck, tractor, or truck-tractor;

10. The term “motor bus” means and includes every motor vehicle constructed so as to carry persons, and which is used or rented to carry persons for compensation;

11. The term “manufactured home” means a residential dwelling built in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C., Section 5401 et seq., and rules promulgated pursuant thereto and the rules promulgated by the Oklahoma Used Motor Vehicle and Parts Commission pursuant to Section 582 of Title 47 of the Oklahoma Statutes;

12. The term “farm tractor” means and includes any vehicle of tractor type owned and operated by the purchaser and used exclusively for agricultural purposes;

13. The term “all-terrain vehicle” means and includes every vehicle defined as an all-terrain vehicle in Section 1102 of Title 47 of the Oklahoma Statutes;

14. The terms “legal ownership” and “legally owned” mean the right to possession, whether acquired by purchase, barter, exchange, assignment, gift, operation of law, or in any other manner;

15. The term “person” means and includes natural persons, individuals, partnerships, firms, associations, limited liability companies, corporations, estates, trustees, business trusts, syndicates, this state, any county, city, municipality, school district or other political subdivision of the state, or any corporation or combination acting as a unit or any receiver appointed by any state or federal court; and the use of the singular number shall include the plural number;

16. The term “Tax Commission” means the Oklahoma Tax Commission;

17. The term “utility vehicle” means every vehicle defined as a utility vehicle in Section 1102 of Title 47 of the Oklahoma Statutes; and

18. The term “medium-speed electrical vehicle” means any self-propelled, electrically powered four-wheeled motor vehicle, equipped with a roll cage or crush-proof body design, whose speed attainable in one (1) mile is more than thirty (30) miles per hour but not greater than thirty-five (35) miles per hour.

Added by Laws 1963, c. 361, § 2, eff. July 1, 1963. Renumbered from § 21-101 of Title 47 by Laws 1965, c. 215, § 3. Amended by Laws 1981, c. 118, § 27, eff. Oct. 1, 1981; Laws 1993, c. 366, § 44, eff. Sept. 1, 1993; Laws 2000, c. 150, § 8, eff. July 1, 2000; Laws 2001, c. 243, § 6, eff. Nov. 1, 2001; Laws 2005, c. 284, § 8, eff. July 1, 2005; Laws 2008, c. 98, § 11, eff. July 1, 2008; Laws 2008, c. 302, § 11, emerg. eff. June 2, 2008.

§68-2102. Purpose of article - Apportionment of revenue.

A. It is hereby declared to be the purpose of this article to provide funds for general governmental functions of state government.

B. All revenue derived under this article shall be apportioned and distributed by the Oklahoma Tax Commission as provided for in Section 1104 of Title 47 of the Oklahoma Statutes, except as provided in subsection A of Section 2103 of this title, and all revenue derived from transfers of legal ownership of all-terrain vehicles or motorcycles used exclusively off roads and highways which occur on or after July 1, 2005, and transfers of utility vehicles used exclusively off roads and highways which occur on or after July 1, 2008, shall be apportioned as provided for in Section 1353 of this title.

Added by Laws 1963, c. 361, § 2, eff. July 1, 1963. Renumbered from § 21-2102 of Title 47 by Laws 1965, c. 215, § 3. Amended by Laws 1975, c. 169, § 1, emerg. eff. May 21, 1975; Laws 1977, c. 103, § 63, emerg. eff. May 30, 1977; Laws 1978, c. 209, § 28, eff. July 1, 1978; Laws 1980, c. 116, § 4, emerg. eff. April 14, 1980; Laws 1981, c. 210, § 4, operative July 1, 1982; Laws 1985, c. 179, § 89, operative July 1, 1985; Laws 2005, c. 284, § 9, eff. July 1, 2005; Laws 2008, c. 98, § 12, eff. July 1, 2008; Laws 2009, c. 443, § 5, eff. July 1, 2009.

§68-2103. Tax on transfer of legal ownership, use and first registration of vehicles — Credit.

A. 1. Except as otherwise provided in Sections 2101 through 2108 of this title, there shall be levied an excise tax upon the transfer of legal ownership of any vehicle registered in this state and upon the use of any vehicle registered in this state and upon the use of any vehicle registered for the first time in this state. Except for persons that possess an agricultural exemption pursuant to Section 1358.1 of this title, the excise tax shall be levied upon transfers of legal ownership of

all-terrain vehicles and motorcycles used exclusively off roads and highways which occur on or after July 1, 2005, and upon transfers of legal ownership of utility vehicles used exclusively off roads and highways which occur on or after July 1, 2008. The excise tax for new and used all-terrain vehicles, utility vehicles and motorcycles used exclusively off roads and highways shall be levied at four and one-half percent (4 1/2%) of the actual sales price of each new and used all-terrain vehicle and motorcycle used exclusively off roads and highways before any discounts or credits are given for a trade-in. Provided, the minimum excise tax assessment for such all-terrain vehicles, utility vehicles and motorcycles used exclusively off roads and highways shall be Five Dollars (\$5.00). The excise tax for new vehicles shall be levied at three and one-fourth percent (3 1/4%) of the value of each new vehicle. The excise tax for used vehicles shall be as follows:

- a. from October 1, 2000, until June 30, 2001, Twenty Dollars (\$20.00) on the first One Thousand Dollars (\$1,000.00) or less of value of such vehicle, and three and one-fourth percent (3 1/4%) of the remaining value of such vehicle,
 - b. for the year beginning July 1, 2001, and ending June 30, 2002, Twenty Dollars (\$20.00) on the first One Thousand Two Hundred Fifty Dollars (\$1,250.00) or less of value of such vehicle, and three and one-fourth percent (3 1/4%) of the remaining value of such vehicle, and
 - c. for the year beginning July 1, 2002, and all subsequent years, Twenty Dollars (\$20.00) on the first One Thousand Five Hundred Dollars (\$1,500.00) or less of value of such vehicle, and three and one-fourth percent (3 1/4%) of the remaining value of such vehicle.
2. There shall be levied an excise tax of Ten Dollars (\$10.00) for any:
- a. truck or truck-tractor registered under the provisions of subsection A of Section 1133 of Title 47 of the Oklahoma Statutes, for a laden weight or combined laden weight of fifty-five thousand (55,000) pounds or more,
 - b. trailer or semitrailer registered under subsection C of Section 1133 of Title 47 of the Oklahoma Statutes, which is primarily designed to transport cargo over the highways of this state and generally recognized as such, and
 - c. frac tank, as defined by Section 54 of Title 17 of the Oklahoma Statutes, and registered under subsection C of Section 1133 of Title 47 of the Oklahoma Statutes.

Except for frac tanks, the excise tax levied pursuant to this paragraph shall not apply to special mobilized machinery, trailers, or semitrailers manufactured, modified or remanufactured for the purpose of providing services other than transporting cargo over the highways of this state. The excise tax levied pursuant to this paragraph shall also not apply to pickup trucks, vans, or sport utility vehicles.

3. The tax levied pursuant to this section shall be due at the time of the transfer of legal ownership or first registration in this state of such vehicle; provided, the tax shall not be due at the time of the issuance of a certificate of title for an all-terrain vehicle, utility vehicle or motorcycle used exclusively off roads and highways which is not required to be registered but which the owner chooses to register pursuant to the provisions of subsection B of Section 1115.3 of Title 47 of the Oklahoma Statutes, and shall be collected by the Oklahoma Tax Commission or Corporation Commission, as applicable, or an appointed motor license agent, at the time of the issuance of a certificate of title for any such vehicle. In the event an excise tax is collected on the transfer of legal ownership or use of the vehicle during any calendar year, then an additional

excise tax must be collected upon all subsequent transfers of legal ownership. In computing the motor vehicle excise tax, the amount collected shall be rounded to the nearest dollar. The excise tax levied by this section shall be delinquent from and after the thirtieth day after the legal ownership or possession of any vehicle is obtained. Any person failing or refusing to pay the tax as herein provided on or before date of delinquency shall pay in addition to the tax a penalty of One Dollar (\$1.00) per day for each day of delinquency, but such penalty shall in no event exceed the amount of the tax. Of each dollar penalty collected pursuant to this subsection:

- a. twenty-five cents (\$0.25) shall be apportioned as provided in Section 1104 of this title;
- b. twenty-five cents (\$0.25) shall be retained by the motor license agent; and
- c. fifty cents (\$0.50) shall be deposited in the General Revenue Fund for the fiscal year beginning on July 1, 2011, and for all subsequent fiscal years, shall be deposited in the State Highway Construction and Maintenance Fund.

B. The excise tax levied in subsection A of this section assessed on all commercial vehicles registered pursuant to Section 1120 of Title 47 of the Oklahoma Statutes shall be in lieu of all sales and use taxes levied pursuant to the Sales Tax Code or the Use Tax Code. The transfer of legal ownership of any motor vehicle as used in this section and the Sales Tax Code and the Use Tax Code shall include the lease, lease purchase or lease finance agreement involving any truck in excess of eight thousand (8,000) pounds combined laden weight or any truck-tractor provided the vehicle is registered in Oklahoma pursuant to Section 1120 of Title 47 of the Oklahoma Statutes or any frac tank, trailer, semitrailer or open commercial vehicle registered pursuant to Section 1133 of Title 47 of the Oklahoma Statutes. The excise tax levied pursuant to this section shall not be subsequently collected at the end of the lease period if the lessee acquires complete legal title of the vehicle.

C. The provisions of this section shall not apply to transfers made without consideration between:

1. Husband and wife;
2. Parent and child; or
3. An individual and an express trust which that individual or the spouse, child or parent of that individual has a right to revoke.

D. 1. There shall be a credit allowed with respect to the excise tax paid for a new vehicle which is a replacement for:

- a. a new original vehicle which is stolen from the purchaser/registrant within ninety (90) days of the date of purchase of the original vehicle as certified by a police report or other documentation as required by the Tax Commission, or
- b. a defective new original vehicle returned by the purchaser/registrant to the seller within six (6) months of the date of purchase of the defective new original vehicle as certified by the manufacturer.

2. The credit allowed pursuant to paragraph 1 of this subsection shall be in the amount of the excise tax which was paid for the new original vehicle and shall be applied to the excise tax due on the replacement vehicle. In no event shall the credit be refunded.

E. Despite any other definitions of the terms "new vehicle" and "used vehicle", to the contrary, contained in any other law, the term "new vehicle" as used in this section shall also include any vehicle of the latest manufactured model which is owned or acquired by a licensed

used motor vehicle dealer which has not previously been registered in this state and upon which the motor vehicle excise tax as set forth in this section has not been paid. However, upon the sale or transfer by a licensed used motor vehicle dealer located in this state of any such vehicle which is the latest manufactured model, the vehicle shall be considered a used vehicle for purposes of determining excise tax.

F. The provisions of this section shall not apply to state government entities.

Added by Laws 1963, c. 361, § 2, eff. July 1, 1963. Renumbered from § 21-103 of Title 47 by Laws 1965, c. 215, § 3. Amended by Laws 1979, c. 181, § 4, eff. and operative July 1, 1979; Laws 1982, c. 95, § 14, emerg. eff. April 6, 1982; Laws 1985, c. 179, § 90, operative July 1, 1985; Laws 1986, c. 68, § 1, eff. July 1, 1986; Laws 1987, c. 6, § 13, emerg. eff. March 16, 1987; Laws 1988, c. 156, § 4, emerg. eff. May 5, 1988; Laws 1988, c. 179, § 5, operative July 1, 1988; Laws 1988, c. 240, § 6, emerg. eff. June 24, 1988; Laws 1991, c. 148, § 5, eff. Sept. 1, 1991; Laws 1997, c. 294, § 21, eff. July 1, 1997; Laws 2000, c. 250, § 8, eff. Oct. 1, 2000 (State Question No. 691, Legislative Referendum No. 319, adopted at election held Aug. 22, 2000); Laws 2004, c. 555, § 2, eff. Nov. 1, 2004; Laws 2005, c. 1, § 111, emerg. eff. March 15, 2005; Laws 2005, c. 284, § 10, eff. July 1, 2005; Laws 2006, c. 295, § 8, eff. July 1, 2006; Laws 2008, c. 98, § 13, eff. July 1, 2008; Laws 2008, c. 168, § 11, emerg. eff. May 12, 2008; Laws 2009, c. 443, § 6, eff. July 1, 2009; Laws 2010, c. 412, § 21, eff. July 1, 2010; Laws 2011, c. 376, § 4; Laws 2012, c. 316, § 4, eff. Nov. 1, 2012.

NOTE: Laws 1988, c. 204, § 10 repealed by Laws 1988, c. 240, § 9, emerg. eff. June 24, 1988. Laws 2004, c. 522, § 27 repealed by Laws 2005, c. 1, § 112, emerg. eff. March 15, 2005.

§68-2103.1. Credit for replacement of vehicles destroyed in tornadoes.

There shall be a credit allowed with respect to the excise tax paid for a vehicle which is:

1. A replacement for a vehicle which was destroyed by a tornado on May 3, 1999, and upon which excise tax had been paid pursuant to the provisions of Section 2103 of this title on or after May 3, 1998;
2. A replacement for a vehicle which was destroyed by a tornado on October 9, 2001, and upon which excise tax had been paid pursuant to the provisions of Section 2103 of this title on or after October 9, 2000;
3. A replacement for a vehicle which was destroyed by a tornado on May 8 or 9, 2003, and upon which excise tax had been paid pursuant to the provisions of Section 2103 of this title on or after May 8 or 9, 2002; or
4. A replacement for a vehicle which was destroyed by a tornado in calendar year 2013 for which a Presidential Major Disaster Declaration was issued, and upon which excise tax had been paid pursuant to the provisions of Section 2103 of this title on or after January 1, 2012.

The credit shall be in the amount of the excise tax which was paid for the destroyed vehicle and shall be applied to the excise tax due on the replacement vehicle. In no event shall the credit be refunded.

Added by Laws 1999, c. 186, § 2, emerg. eff. May 21, 1999. Amended by Laws 2002, c. 190, § 1, emerg. eff. May 6, 2002; Laws 2003, c. 374, § 4, emerg. eff. June 4, 2003; Laws 2013, c. 370, § 4, emerg. eff. May 29, 2013.

§68-2104. Value of vehicles.

A. The value of any motor vehicle, except a manufactured home, for the purposes of the excise tax levied by Section 2103 of this title, shall be determined as of the time the person

applying for a certificate of title thereto obtained either ownership or possession of the vehicle, which shall be presumed to be the actual date of the sale or other transfer of ownership, and assignment of the certificate of title.

B. The value of any vehicle, for purposes of the excise tax levied by Section 2103 of this title, shall be the actual sales price of such a vehicle before any discounts or credits are given for a trade-in. However, the value of the vehicle prior to the subtraction of such discounts or credits for a trade-in shall be required to be within twenty percent (20%) of the average retail price value of such vehicle as listed in the automotive reference material prescribed by the Oklahoma Tax Commission. The actual sales price of the vehicle, which total shall be the basis of the motor vehicle excise tax, as well as the number of tires on the vehicle and the tire rim diameters, shall be entered on the bill of sale furnished by the seller to the purchaser, or on such other form as may be prescribed by the Tax Commission.

Upon receipt of the properly completed bill of sale or other form as prescribed by the Tax Commission, and the payment of all applicable taxes and fees, the Tax Commission or an appointed motor license agent shall issue a vehicle certificate of title in accordance with the provisions of the Oklahoma Vehicle License and Registration Act.

Added by Laws 1963, c. 361, § 2, eff. July 1, 1963. Renumbered from § 21-104 of this title by Laws 1965, c. 215, § 3. Amended by Laws 1980, c. 85, § 13, eff. Jan. 1, 1981; Laws 1981, c. 118, § 28, eff. Oct. 1, 1981; Laws 1982, c. 95, § 15, emerg. eff. April 6, 1982; Laws 1985, c. 179, § 91, operative July 1, 1985; Laws 1992, c. 300, § 2, eff. July 1, 1992; Laws 2000, c. 250, § 9, eff. Oct. 1, 2000, and adopted by State Question No. 691, Legislative Referendum No. 319, at election held Aug. 22, 2000; Laws 2007, c. 273, § 1, eff. Nov. 1, 2007.

§68-2104.1. Repealed by Laws 2000, c. 250, § 10, eff. Oct. 1, 2000, and adopted by State Question No. 691, Legislative Referendum No. 319, at election held Aug. 22, 2000.

§68-2104.3. Manufactured home - Payment of tax - Valuation - Apportionment of tax collected.

A. Any person purchasing a new or used manufactured home or owning a manufactured home which has not been registered in this state pursuant to the provisions of Section 6 of this act shall pay the excise tax levied by Section 2103 of Title 68 of the Oklahoma Statutes at the time such person is applying for a certificate of title for such manufactured home.

B. The value of any manufactured home for the purposes of the excise tax levied by Section 2103 of Title 68 of the Oklahoma Statutes shall be determined as of the date the person applying for a certificate of title obtained either legal ownership or possession of the manufactured home. Such date shall be presumed to be the actual date of sale or other transfer of legal ownership and assignment of the certificate of title. The value of a new manufactured home shall be one-half (1/2) of the actual retail selling price of such a home excluding Oklahoma state taxes. The value of a used manufactured home shall be sixty-five percent (65%) of one-half (1/2) of the new actual retail selling price of said home, excluding Oklahoma state taxes.

C. The excise tax collected pursuant to subsection B of this section shall be apportioned in accordance with the provisions of Section 2102 of Title 68 of the Oklahoma Statutes.

Added by Laws 1984, c. 253, § 18, operative July 1, 1984.

§68-2105. Exemptions.

An original or a transfer certificate of title shall be issued without the payment of the excise tax levied by Section 2101 et seq. of this title for:

1. Any vehicle owned by a nonresident person who operates principally in some other state but who is in Oklahoma only occasionally;
 2. Any vehicle brought into this state by a person formerly living in another state, who has owned and registered the vehicle in such other state of residence at least sixty (60) days prior to the time it is required to be registered in this state; provided, however, this paragraph shall not apply to businesses engaged in renting cars without a driver;
 3. Any vehicle registered by the State of Oklahoma, by any of the political subdivisions thereof, or by a fire department organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes to be used for the purposes of the fire department, or a vehicle which is the subject of a lease or lease-purchase agreement executed between the person seeking an original or transfer certificate of title for the vehicle and a municipality, county, school district, or fire protection district. The person seeking an original or transfer certificate of title shall provide adequate proof that the vehicle is subject to a lease or lease-purchase agreement with a municipality, county, school district, or fire protection district at the time the excise tax levied would otherwise be payable. The Oklahoma Tax Commission shall have the authority to determine what constitutes adequate proof as required by this section;
 4. Any vehicle, the legal ownership of which is obtained by the applicant for a certificate of title by inheritance;
 5. Any used motor vehicle, travel trailer, or commercial trailer which is owned and being offered for sale by a person licensed as a dealer to sell the same, under the provisions of the Oklahoma Vehicle License and Registration Act:
 - a. if such vehicle, travel trailer, or commercial trailer has been registered in Oklahoma and the excise tax paid thereon, or
 - b. when such vehicle, travel trailer, or commercial trailer has been registered in some other state but is not the latest manufactured model.
- Provided, the provisions of this paragraph shall not be construed as allowing an exemption to any person not licensed as a dealer of used motor vehicles, travel trailers, or commercial trailers, or as an automotive dismantler and parts recycler in this state;
6. Any vehicle which was purchased by a person licensed to sell new or used motor vehicles in another state:
 - a. if such vehicle is not purchased for operation or resale in this state, and
 - b. the state from which the dealer is licensed offers reciprocal privileges to a dealer licensed in this state, pursuant to a reciprocal agreement between the duly authorized agent of the Tax Commission and the licensing state;
 7. Any vehicle, the ownership of which was obtained by the lienholder or mortgagee under or by foreclosure of a lien or mortgage in the manner provided by law or to the insurer under subrogated rights arising by reason of loss under an insurance contract;
 8. Any vehicle which is taxed on an ad valorem basis;
 9. Any vehicle or motor vehicle, the legal ownership of which is obtained by transfers:
 - a. from one corporation to another corporation pursuant to a reorganization. As used in this subsection the term "reorganization" means:
 - (1) a statutory merger or consolidation, or
 - (2) the acquisition by a corporation of substantially all of the properties of another corporation when the consideration is solely all or a part of the voting stock of the acquiring corporation, or of its parent or subsidiary corporation,

- b. in connection with the winding up, dissolution, or liquidation of a corporation only when there is a distribution in kind to the shareholders of the property of such corporation,
- c. to a corporation where the former owners of the vehicle or motor vehicle transferred are, immediately after the transfer, in control of the corporation, and the stock or securities received by each is substantially in proportion to the interest in the vehicle or motor vehicle prior to the transfer,
- d. to a partnership if the former owners of the vehicle or motor vehicle transferred are, immediately after the transfer, members of such partnership and the interest in the partnership received by each is substantially in proportion to the interest in the vehicle or motor vehicle prior to the transfer,
- e. from a partnership to the members thereof when made in the dissolution of such partnership,
- f. to a limited liability company if the former owners of the vehicle or motor vehicle transferred are, immediately after the transfer, members of the limited liability company and the interest in the limited liability company received by each is substantially in proportion to the interest in the vehicle or motor vehicle prior to the transfer, or
- g. from a limited liability company to the members thereof when made in the dissolution of such partnership;

10. Any vehicle which is purchased by a person to be used by a business engaged in renting motor vehicles without a driver, provided:

- a. the vehicle shall not be rented to the same person for a period exceeding ninety (90) days,
- b. any such vehicle exempted from the excise tax by these provisions shall not be placed under any type of lease agreement,
- c. on any such vehicle exempted from the excise tax by this subsection that is reregistered in this state, without a prior sale or transfer to the persons specified in divisions (1) and (2) of this subparagraph, at any time prior to the expiration of twelve (12) months from the date of issuance of the original title, the seller shall pay immediately the amount of excise tax which would have been due had this exemption not been granted plus a penalty of twenty percent (20%). No such excise tax or penalty shall become due and payable if the vehicle is sold or transferred in a condition either physical or mechanical which would render it eligible for a salvage title pursuant to law or if the vehicle is sold and transferred in this state at any time prior to the expiration of twelve (12) months:
 - (1) to the manufacturer of the vehicle or its controlled financing arm, or
 - (2) to a factory authorized franchised new motor vehicle dealer which holds a franchise of the same line-make of the vehicle being purchased, or
- d. when this exemption is claimed, the Tax Commission shall issue a special title which shall restrict the transfer of the title only within this state prior to the expiration of twelve (12) months unless:
 - (1) payment of the excise tax plus penalty as provided in this section is made,

- (2) the sale is made to a person specified in division (1) or (2) of subparagraph c of this paragraph, or
- (3) the vehicle is eligible for a salvage title.

For all other tax purposes vehicles herein exempted shall be treated as though the excise tax has been paid;

11. Any vehicle of the latest manufactured model, registered from a title in the name of the original manufacturer or assigned to the original manufacturer and issued by any state and transferred to a licensed, franchised Oklahoma motor vehicle dealer, as defined by Section 1102 of Title 47 of the Oklahoma Statutes, which holds a franchise of the same line-make as the vehicle being registered;

12. Any new motor vehicle, registered in the name of a manufacturer or dealer of new motor vehicles, for which a license plate has been issued pursuant to Section 1116.1 of Title 47 of the Oklahoma Statutes, if such vehicle is authorized by the manufacturer or dealer for personal use by an individual. The authorization for such use shall not exceed four (4) months which shall not be renewed or the exemption provided by this subsection shall not be applicable. The exemption provided by this subsection shall not be applicable to a transfer of ownership or registration subsequent to the first registration of the vehicle by a manufacturer or dealer;

13. Any vehicle, travel trailer, or commercial trailer of the latest manufacturer model purchased by a franchised Oklahoma dealer licensed to sell the same which holds a franchise of the same line-make as the vehicle, travel trailer, or commercial trailer being registered;

14. Any vehicle which is the subject of a lease or lease-purchase agreement and which the ownership of such vehicle is being obtained by the lessee, if the vehicle excise tax was paid at the time of the initial lease or lease-purchase agreement;

15. Any vehicle which:

- a. is purchased by a private, nonprofit organization which is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which is primarily funded by a fraternal or civic service organization with at least one hundred local chapters or clubs, and
- b. is designed and used to provide mobile health screening services to the general public at no cost to the recipient, and for which no reimbursement of any kind is received from any health insurance provider, health maintenance organization, or governmental program;

16. Any vehicle which is purchased by an individual who has been honorably discharged from active service in any branch of the Armed Forces of the United States or Oklahoma National Guard and who has been certified by the United States Department of Veterans Affairs, its successor, or the Armed Forces of the United States to be a disabled veteran in receipt of compensation at the one-hundred-percent rate for a permanent disability sustained through military action or accident resulting from disease contracted while in such active service. Provided, this exemption may not be claimed by an individual for more than one vehicle in a consecutive three-year period; or

17. Any vehicle on which ownership is transferred by a reposessor directly back to the owner or owners from whom the vehicle was repossessed; provided, ownership shall be assigned by the reposessor within thirty (30) days of issuance of the repossession title and shall be identical to that reflected in the vehicle title record immediately prior to the repossession.

Added by Laws 1963, c. 361, § 2, eff. July 1, 1963. Renumbered from § 21-105 by Laws 1965, c. 215, § 3. Amended by Laws 1980, c. 85, § 14, eff. Jan. 1, 1981; Laws 1982, c. 180, § 1; Laws 1986, c. 172, § 6, eff. July 1, 1986; Laws 1986, c. 284, § 14, operative July 1, 1986; Laws 1988, c. 34, § 1, emerg. eff. March 17, 1988; Laws 1988, c. 156, § 5, emerg. eff. May 5, 1988; Laws 1988, c. 240, § 7, emerg. eff. June 24, 1988; Laws 1989, c. 290, § 6, emerg. eff. May 24, 1989; Laws 1991, c. 331, § 60, eff. Sept. 1, 1991; Laws 1993, c. 93, § 6, eff. July 1, 1993; Laws 1993, c. 366, § 45, eff. Sept. 1, 1993; Laws 1994, c. 2, § 24, emerg. eff. March 2, 1994; Laws 1995, c. 41, § 1, eff. Sept. 1, 1995; Laws 1996, c. 289, § 7, eff. July 1, 1996; Laws 1998, c. 179, § 3, emerg. eff. April 29, 1998; Laws 1999, c. 149, § 5, eff. July 1, 1999; Laws 2001, c. 248, § 1, emerg. eff. May 23, 2001; Laws 2005, c. 413, § 3, eff. July 1, 2005; Laws 2013, c. 283, § 1, eff. Nov. 1, 2013.

NOTE: Laws 1993, c. 347, § 1 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994.

§68-2106. Excise tax in lieu of other taxes - Exemptions.

(a) The excise tax levied by this article is in lieu of all other taxes on the transfer or the first registration in this state of vehicles, including the optional equipment and accessories attached thereto at the time of sale and sold as a part thereof, except:

- (1) Annual vehicle registration and license fees;
- (2) The fee of One Dollar (\$1.00) for the issuance of a certificate of title; and
- (3) Any fee charged under the jurisdiction of the Corporation Commission.

(b) This section shall not relieve any new or used motor vehicle dealer or any other vendor of vehicles from liability for the sales tax on all sales of accessories or optional equipment, or parts, which are not attached to, and sold as a part thereof and included in the sale of such vehicles.

Laws 1963, c. 361, § 2; Laws 1965, c. 215, § 3; Laws 1980, c. 85, § 15, eff. Jan. 1, 1981.

§68-2108. Nonpayment of tax.

(a) In any case where the owner of a vehicle subject to the tax levied by this article fails or refuses to pay the same, after proper demand therefor by an officer or agent of the Tax Commission, such officer or agent shall immediately report such failure to the Tax Commission, and shall at the same time in case of failure to pay, seize and hold the said vehicle, as now provided by law in case of failure to pay the annual vehicle license or registration fee.

(b) The Tax Commission shall, upon demand of the owner of the vehicle, accord a hearing to said owner as provided by law and enter its findings and order accordingly. If it is determined by the Tax Commission that said tax is due and payable, then it shall issue its warrant, directly to the sheriff of the county, ordering and directing the sale of such vehicle according to the same procedure now provided by law for the sale of vehicles for failure to pay the annual license fee. Such seizure and sale may at the time include both the registration fee due and the excise tax levied by this article, together with all costs of advertisement and sale. The sale shall be conducted in all manner as provided by law for the sale of personal property under execution.

Laws 1963, c. 361, § 2; Laws 1965, c. 215, § 3.

§68-2110. Rental tax on motor vehicle rentals.

A. There is hereby levied a rental tax of six percent (6%) on the gross receipts of all motor vehicle rental agreements as provided in this section. This tax shall be levied on any rental agreement of ninety (90) days or less duration on any motor vehicle that is rented to a person by

a business engaged in renting motor vehicles without a driver in Oklahoma, irrespective of the state in which the vehicle is registered. This rental tax shall not apply to the following:

1. Any lease agreements;
2. Any truck or truck-tractor registered pursuant to the provisions of Section 1120 or Section 1133 of Title 47 of the Oklahoma Statutes having a laden weight or a combined laden weight of eight thousand (8,000) pounds or more; or
3. Any trailer or semitrailer registered pursuant to the provisions of Section 1133 of Title 47 of the Oklahoma Statutes. For purposes of this section, "vehicle" and "person" shall have the same meanings as defined in Section 2101 of this title.

B. The rental tax specified in subsection A of this section shall be apportioned in the manner as provided in Section 2102 of this title.

C. A deduction from gross receipts for bad debts shall be allowed for the rental tax specified in subsection A of this section. For purposes of this section, "bad debts" shall have the same meaning as defined in Section 1366 of this title.

D. The tax hereby levied shall be collected at the time of the payment of the rental agreement and shall be due and payable to the Oklahoma Tax Commission by the business engaged in renting these vehicles on the twentieth day of each month following the month in which payments for rental agreements subject to tax are made. The Tax Commission shall implement such rules and regulations and devise such forms as it deems necessary for the orderly collection of this tax and the excise tax and penalty provided for in paragraph 9 of Section 2105 of this title.

E. The provisions of this section shall not apply to state government entities.

Added by Laws 1982, c. 180, § 2. Amended by Laws 1985, c. 179, § 92, operative July 1, 1985; Laws 1989, c. 249, § 28, eff. July 1, 1989; Laws 1991, c. 331, § 62, eff. Sept. 1, 1991; Laws 1992, c. 138, § 1, emerg. eff. April 30, 1992; Laws 2005, c. 479, § 17, eff. July 1, 2005; Laws 2008, c. 278, § 3, eff. July 1, 2009; Laws 2012, c. 316, § 5, eff. Nov. 1, 2012.

§68-2201. Definitions.

As used in this act the following terms shall be construed as follows:

(a) "Gross revenue" shall mean and include all earnings or revenue derived from the use or operation of freight cars, as hereinafter defined, upon or over the lines of any railroad company, as hereinafter defined.

(b) "Gross revenue in this state" shall mean and include (a) all gross revenue on intrastate business and (b) a portion of the gross revenue on all interstate business passing through or into or out of the state, based, in each instance, on the proportion of mileage over which such business is done within this state.

(c) "Freight cars" shall mean and include all stockcars, furniture cars, refrigerator cars, tank cars, or any other kind of cars used to transport any commodity over the lines of any railroad company in this state, as hereinafter defined. All such freight cars are hereby declared to have, and are hereby given a situs for taxation purposes in this state. This act does not include (1) cars owned by an express company, or (2) cars owned by a sleeping-car company, such as the Pullman Company, or (3) cars owned by a railroad company.

(d) "Company" shall mean and include all persons, firms, associations and corporations.

(e) "Freight line company" shall mean and include all companies engaged in the business of operating freight cars or engaged in the business of furnishing, renting or leasing freight cars for the transportation of freight (whether such cars be owned by such company or by any other

person or company) over any line of railroad, in whole or in part, within this state, such line or lines not being owned, rented, leased or operated by such company.

(f) "Equipment company" shall mean and include every company engaged in the business of furnishing, renting or leasing freight cars to be used in the operation of any line of railroad wholly or partially within this state, such line or lines not being owned, leased or operated by such company.

(g) "Mercantile company" shall mean and include every company whose principal business is other than that of a freight line company or equipment company, as hereinbefore defined, but which owns, operates, leases, rents, or otherwise uses any freight cars in the operation of its business.

(h) "Railroad company" shall mean and include every steam railroad, street railway, or interurban railway company operating or doing business in this state as a common carrier. Laws 1939, p. 416, § 1; Laws 1965, c. 215, § 1.

§68-2202. Classification of freight cars - Percentage of gross revenue - In lieu of ad valorem tax - Application to public service and private corporations.

All freight cars owned, operated, rented, leased, or used by any freight line company, equipment company, or mercantile company which are moved over, or used in the operation of, the line of any railroad company, as hereinbefore defined, wholly or partially within this state, are hereby classified for the purpose of taxation; and a tax equivalent to four percent (4%) of the gross revenue in this state, is hereby levied on such freight cars; and such tax shall be in lieu of ad valorem taxes upon such freight cars.

Nothing in this act shall be construed to exempt from ad valorem taxation any real or personal property other than freight cars, or any freight cars which are not operated over the line of any common carrier railroad, as hereinbefore defined, upon which the gross revenue tax herein levied does not apply. It is hereby expressly provided that the provisions of this act shall apply to both public service and private corporations.

Added by Laws 1939, p. 417, § 2. Amended by Laws 1965, c. 215, § 1.

§68-2203. Tax not to exceed what ad valorem tax would have been - Review by Oklahoma Tax Commission.

It is hereby declared to be the intention of the Legislature that the tax herein imposed be not greater than the amount of tax such freight line companies, equipment companies, and mercantile companies would pay if their cars were taxed on an ad valorem basis, including any value inuring to such cars by reason of being a part of a going concern.

The Oklahoma Tax Commission upon the complaint of any person who claims he is taxed too great a rate hereunder, shall take testimony to determine whether the taxes herein imposed are greater than the general ad valorem tax for all purposes would be on such freight cars, if taxed on an ad valorem basis. The Commission shall have the power and it shall be its duty to lower the rate herein imposed to conform to the facts disclosed at said hearing.

In order to determine the amount of tax such companies would pay, said Commission may value all cars of any company as a unit and allocate to Oklahoma that proportion of the total value which the Oklahoma car mileage bears to the total car mileage of the cars of any such company during the twelve-month period ending on December 31 of any year, and may then apply to such value so ascertained the average ad valorem tax rate applied to property throughout the state for that calendar year.

Added by Laws 1939, p. 417, § 3, emerg. eff. April 15, 1939. Renumbered from § 805b by Laws 1965, c. 215, § 1. Amended by Laws 1994, c. 278, § 19, eff. Sept. 1, 1994.

§68-2204. Disposition of taxes collected.

All revenues collected pursuant to the provisions of Section 2201 et seq. of this title shall be paid by the Tax Commission to the State Treasurer and placed to the credit of the Oklahoma Department of Transportation in the Railroad Maintenance Revolving Fund for the implementation of the Railroad Revitalization Act or for matching of available federal funds for at-grade railroad crossing protection projects. Such crossing projects must be authorized by the Transportation Commission.

Added by Laws 1939, p. 417, § 4, emerg. eff. April 15, 1939. Renumbered from § 805c by Laws 1965, c. 215, § 1. Amended by Laws 1978, c. 164, § 8, emerg. eff. April 10, 1978; Laws 1992, c. 17, § 1, emerg. eff. March 30, 1992; Laws 1994, c. 278, § 20, eff. Sept. 1, 1994.

§68-2205. Statements to be filed with Oklahoma Tax Commission.

On or before April 1 of each year, every freight line company, equipment company, and mercantile company owning, operating, renting or leasing any freight car or cars which are moved over or used in the operation of the line of any railroad company wholly or partially within this state, shall prepare and file with the Oklahoma Tax Commission a true and accurate statement showing the gross earnings in this state on each freight car owned, operated, leased or rented by such company within the twelve-month period ending December 31 next preceding the date of the report; provided:

1. For the period from July 1, 1993, through June 30, 1994, such statement shall be due on or before October 1, 1994; and

2. For the period from July 1, 1994, through December 31, 1994, such statement shall be due on or before April 1, 1995.

Such statements shall be subscribed and sworn to by the president, secretary or general accounting officer of the company, and shall be made on forms prescribed and furnished by the Tax Commission, and shall contain such other information as the Commission shall deem necessary to enable it to correctly compute the taxes due upon all such freight cars.

Added by Laws 1939, p. 418, § 5, emerg. eff. April 15, 1939. Renumbered from § 805d by Laws 1965, c. 215, § 1. Amended by Laws 1994, c. 278, § 21, eff. Sept. 1, 1994.

§68-2206. Railroads renting or leasing cars from taxpayers to withhold amount of tax - Statements by such railroads - Payment - Liability of taxpayers.

Every railroad company using, renting or leasing the freight cars of any freight line company, equipment company, or mercantile company shall, upon making payment to such company for the use, rental, or lease of such cars, withhold from such payment four percent (4%) of the amount constituting the gross revenue in this state from such source of each and every freight car so used, rented or leased.

On or before April 1 of each year, such railroad company shall prepare and file with the Tax Commission a statement under oath showing the amount of such payment for the next preceding twelve-month period ending December 31, and of the amount so withheld by it; provided:

1. For the period from July 1, 1993, through June 30, 1994, such statement shall be due on or before October 1, 1994; and

2. For the period from July 1, 1994, through December 31, 1994, such statement shall be due on or before April 1, 1995.

The statement shall be on forms prescribed and furnished by the Tax Commission, and shall contain such information as the Tax Commission may deem necessary.

Such statements shall be accompanied by remittance in full of all taxes withheld by the railroad company from freight line companies, equipment companies and mercantile companies during the next preceding twelve-month period ending December 31 or the period specified in paragraphs 1 and 2 of this section. Each railroad company shall be liable for the withholding and payment on or before April 1 of each year, of four percent (4%) of the gross revenue of each freight line company, equipment company and mercantile company, to the extent that such gross earnings were derived from payments or amounts due from such railroad company.

Each freight line company, equipment company and mercantile company shall be liable for the payment of four percent (4%) of all gross revenue in this state over and above payments and amounts due from railroads, and shall be liable for the payment of any additional taxes which the Commission may find due under its authority to raise or lower the rate to conform to the taxes which would be payable if the cars were taxed on an ad valorem basis.

Added by Laws 1939, p. 418, § 6, emerg. eff. April 15, 1939. Renumbered from § 805e by Laws 1965, c. 215, § 1. Amended by Laws 1994, c. 278, § 22, eff. Sept. 1, 1994.

§68-2207. Examination of statements - Determination of tax - Monies paid by railroads to be segregated - Protests.

A. As soon as practicable after the date specified in Sections 2205 and 2206 of this title, the Tax Commission shall examine the statements required by Sections 2205 and 2206 of this title, and shall determine:

1. The amount of money which should have been withheld and remitted by each railroad company; and
2. The total amount of taxes due from each freight line company, equipment company and mercantile company, including the amounts remitted by railroad companies, and the amount of tax, if any, due from each such company in addition to amounts remitted by railroad companies.

B. The Commission shall thereupon make demand of each railroad for any additional amounts required to be remitted by railroad companies, and shall notify each freight line company, equipment company and mercantile company of:

1. The total amount of taxes due from each such company for the next preceding twelve-month period ending December 31 or the period specified in Sections 2205 and 2206 of this title;
2. The amount of money remitted by the various railroad companies for the account of such company; and
3. The amount of additional taxes, if any, due to be paid by such company, or the amount, if any, due to be refunded.

C. All monies paid to the Commission by railroads for the account of freight line companies, equipment companies and mercantile companies shall be segregated by the Commission and held in its depository account with the State Treasurer until the companies for whose account such monies are paid shall have had an opportunity to file protest as provided by Section 221 of this title, and if such protest is filed an opportunity to notify the Commission that the tax is paid under protest and the taxpayer intends to file suit for recovery, as provided by Section 226 of this title.

D. In any case where protest is not filed within thirty (30) days from the mailing of the notices herein required, the monies paid by railroad companies for the account of others shall be released and apportioned to the proper fund.

Added by Laws 1939, p. 419, § 7, emerg. eff. April 15, 1939. Renumbered from § 805f by Laws 1965, c. 215, § 1. Amended by Laws 1994, c. 278, § 23, eff. Sept. 1, 1994.

§68-2208. Refusal of railroad to comply with act, liability - Taxpayer estopped to question Commission's determination, when.

If any railroad company shall fail or refuse to make any report required by this act, or shall fail or refuse to withhold and pay the tax due from any such company within the time hereinbefore provided, it shall be liable for the full amount of such tax, penalty and costs of collection.

If any freight line company, equipment company or mercantile company as hereinbefore defined, shall refuse or neglect to make any reports required by this act, or shall refuse or neglect to permit an examination of its books, records, accounts and papers upon demand of the Tax Commission, or shall refuse or neglect to appear before the said Commission in obedience to its citation or summons; it shall be estopped to question or impeach the action or determination of the said Commission or the validity of the tax imposed hereunder.

Laws 1939, p. 419, § 8; Laws 1965, c. 215, § 1.

§68-2336. Renumbered as § 2385.7 of this title by Laws 1971, c. 137, § 32, emerg. eff. May 11, 1971.

§68-2338. Renumbered as § 2385.9 of this title by Laws 1971, c. 137, § 32, emerg. eff. May 11, 1971.

[key]

§68-2351. Short title and effective date.

This article may be cited as the "Oklahoma Income Tax Act" and shall be applicable to all years commencing after December 31, 1970.

Added by Laws 1971, c. 137, § 1, emerg. eff. May 11, 1971.

§68-2352. Purpose of article - Distribution of revenues.

It is hereby declared to be the purpose of Section 2351 et seq. of this title to provide revenue for general governmental functions of state government; and, for that purpose and to that end, it is expressly declared that the revenue derived herefrom and penalties and interest thereon, subject to the apportionment requirements for the Rebuilding Oklahoma Access and Driver Safety Fund, the Oklahoma Tourism and Passenger Rail Revolving Fund and the Public Transit Revolving Fund to be derived from income tax revenue that would otherwise be apportioned to the General Revenue Fund as provided by Section 1521 of Title 69 of the Oklahoma Statutes, subject to the apportionment requirements for the Oklahoma Tax Commission and Office of Management and Enterprise Services Joint Computer Enhancement Fund provided by Section 265 of this title, and subject to the apportionment requirements for the Oklahoma State Capitol Building Repair and Restoration Fund provided by Section 4 of this act, shall be distributed as follows:

1. For the fiscal year beginning July 1, 2002, the first Five Million Eight Hundred Thousand Dollars (\$5,800,000.00) of revenue derived pursuant to the provisions of subsections A, B and E of Section 2355 of this title shall be apportioned to the Education Reform Revolving Fund. The remainder of such revenue for the fiscal year beginning July 1, 2002, and all such revenue for each fiscal year thereafter shall be apportioned monthly as follows:

- a. (1) the following amounts shall be paid to the State Treasurer to be placed to the credit of the General Revenue Fund of the state for such fiscal year for the support of the state government to be paid out only pursuant to appropriation by the Legislature:

| Fiscal Year | Amount |
|---|--------|
| FY 2003 and FY 2004 | 87.12% |
| FY 2005 | 86.91% |
| FY 2006 | 86.66% |
| FY 2007 | 86.16% |
| FY 2008 and each fiscal year thereafter | 85.66% |
- (2) in the event that additional monies are necessary pursuant to paragraph 3 of this section, such additional monies shall be deducted in the proportion determined by the State Board of Equalization pursuant to paragraph 3 of Section 2355.1B of this title from the monies apportioned to the General Revenue Fund,

b. for FY 2003 and each fiscal year thereafter, eight and thirty-four one-hundredths percent (8.34%) shall be paid to the State Treasurer to be placed to the credit of the Education Reform Revolving Fund,

c. the following amounts shall be paid to the State Treasurer to be placed to the credit of the Teachers' Retirement System Dedicated Revenue Revolving Fund:

| Fiscal Year | Amount |
|---|--------|
| FY 2003 and FY 2004 | 3.54% |
| FY 2005 | 3.75% |
| FY 2006 | 4.0% |
| FY 2007 | 4.5% |
| FY 2008 and each fiscal year thereafter | 5.0% |

d. for FY 2003 and each fiscal year thereafter, one percent (1%) shall be placed to the credit of the Ad Valorem Reimbursement Fund;

2. Beginning July 1, 2003, for any period of time as certified by the Oklahoma Development Finance Authority and the Oklahoma Department of Commerce to be necessary for the repayment of obligations issued by the Oklahoma Development Finance Authority pursuant to Section 3654 of this title if the other sources of revenue paid to or apportioned to the Quality Jobs Program Incentive Leverage Fund are not adequate, including the proceeds from payment pursuant to the guaranty required by subsection M of Section 3654 of this title, an amount certified by the Oklahoma Development Finance Authority to the Oklahoma Tax Commission shall be apportioned to the Quality Jobs Program Incentive Leverage Fund before any other apportionments are made as otherwise authorized by this paragraph. The Oklahoma Development Finance Authority shall certify to the Oklahoma Tax Commission the time as of

which the revenue authorized for apportionment pursuant to this paragraph is no longer required. After the certification, the revenue derived from the income tax shall be apportioned in the manner otherwise provided by this section. Except as otherwise provided by this paragraph, for the fiscal year beginning July 1, 2002, the first Forty-One Million One Hundred Ninety Thousand Eight Hundred Dollars (\$41,190,800.00) of revenue derived pursuant to the provisions of subsections D and E of Section 2355 of this title shall be apportioned to the Education Reform Revolving Fund. The remainder of such revenue for the fiscal year beginning July 1, 2002, and all such revenue for each fiscal year thereafter, subject to the apportionment requirements for the Oklahoma Tax Commission and Office of Management and Enterprise Services Joint Computer Enhancement Fund provided by Section 265 of this title, shall be apportioned monthly as follows:

- a. the following amounts shall be paid to the State Treasurer to be placed to the credit of the General Revenue Fund of the state for such fiscal year for the support of the state government to be paid out only pursuant to appropriation by the Legislature:

| Fiscal Year | Amount |
|---|--------|
| FY 2003 and FY 2004 | 78.96% |
| FY 2005 | 78.75% |
| FY 2006 | 78.50% |
| FY 2007 | 78.0% |
| FY 2008 and each fiscal year thereafter | 77.50% |

- b. for FY 2003 and each fiscal year thereafter, sixteen and five-tenths percent (16.5%) shall be paid to the State Treasurer to be placed to the credit of the Education Reform Revolving Fund of the State Department of Education,

- c. the following amounts shall be paid to the State Treasurer to be placed to the credit of the Teachers' Retirement System Dedicated Revenue Revolving Fund:

| Fiscal Year | Amount |
|---|--------|
| FY 2003 and FY 2004 | 3.54% |
| FY 2005 | 3.75% |
| FY 2006 | 4.0% |
| FY 2007 | 4.5% |
| FY 2008 and each fiscal year thereafter | 5.0% |

- d. for FY 2003 and each fiscal year thereafter, one percent (1%) shall be placed to the credit of the Ad Valorem Reimbursement Fund; and

3. During the first fiscal year after the State Board of Equalization has made a determination as provided in Section 2355.1B of this title, regarding a baseline amount of revenue apportioned pursuant to subparagraph c of paragraph 1 of this section, and for each fiscal year thereafter, in no event shall monies apportioned pursuant to subparagraph c of paragraph 1 of this section, paragraph 3 of Section 1353 of this title and paragraph 3 of Section 1403 of this title be less than such baseline amount.

Added by Laws 1971, c. 137, § 2, emerg. eff. May 11, 1971. Amended by Laws 1975, c. 131, § 1, emerg. eff. May 13, 1975; Laws 1976, c. 26, § 1, emerg. eff. March 15, 1976; Laws 1976, c. 232, § 9, emerg. eff. June 15, 1976; Laws 1978, c. 193, § 1, emerg. eff. April 14, 1978; Laws

1979, c. 195, § 1, emerg. eff. May 24, 1979; Laws 1980, c. 252, § 1, emerg. eff. May 16, 1980; Laws 1981, c. 210, § 5, emerg. eff. May 29, 1981; Laws 1983, c. 183, § 5, emerg. eff. June 9, 1983; Laws 1985, c. 15, § 1, emerg. eff. April 11, 1985; Laws 1986, c. 223, § 46, operative July 1, 1986; Laws 1987, c. 204, § 131, operative July 1, 1987; Laws 1988, c. 204, § 11, operative July 1, 1988; Laws 1989, c. 279, § 15, operative July 1, 1989; Laws 1990, c. 258, § 78, operative July 1, 1990; Laws 1991, c. 274, § 10, emerg. eff. May 28, 1991; Laws 1996, c. 269, § 5, eff. June 1, 1996; Laws 1999, c. 254, § 10, eff. June 30, 1999; Laws 2002, c. 458, § 10, eff. July 1, 2002; Laws 2002, c. 503, § 4, emerg. eff. June 7, 2002; Laws 2003, c. 3, § 67, emerg. eff. March 19, 2003; Laws 2005, c. 444, § 2, eff. July 1, 2005; Laws 2007, c. 105, § 5, eff. Nov. 1, 2007; Laws 2007, c. 366, § 5, eff. Nov. 1, 2007; Laws 2008, c. 278, § 10, eff. July 1, 2008; Laws 2012, c. 304, § 543; Laws 2013, c. 253, § 1, eff. July 1, 2013.

NOTE: Laws 2002, c. 299, § 13 repealed by Laws 2003, c. 3, § 68, emerg. eff. March 19, 2003. Laws 2002, c. 482, § 3 repealed by Laws 2003, c. 3, § 69, emerg. eff. March 19, 2003.

§68-2352.1. Repealed by Laws 1998, c. 364, § 38, emerg. eff. June 8, 1998.

§68-2353. Definitions.

For the purpose of and when used in the Oklahoma Income Tax Act, unless the context otherwise requires:

1. "Tax Commission" means the Oklahoma Tax Commission;
2. "Internal Revenue Code" means the United States Internal Revenue Code, as the same may be amended or adopted from time to time applicable to the taxable year; and other provisions of the laws of the United States relating to federal income taxes, as the same may be or become effective at any time or from time to time applicable to the taxable year;
3. Any term used in the Oklahoma Income Tax Act shall have the same meaning as when used in a comparable context in the Internal Revenue Code, unless a different meaning is clearly required. For all taxable periods covered by the Oklahoma Income Tax Act, the tax status and all elections of all taxpayers covered by the Oklahoma Income Tax Act shall be the same for all purposes material hereto as they are for federal income tax purposes except when the Oklahoma Income Tax Act specifically provides otherwise;
4. "Resident individual" means a natural person who is domiciled in this state, and any other natural person who spends in the aggregate more than seven (7) months of the taxable year within this state shall be presumed to be a resident for purposes of the Oklahoma Income Tax Act in absence of proof to the contrary. A natural person who resides less than seven (7) months of the taxable year within this state is presumed to be a "part-year resident individual" for purposes of the Oklahoma Income Tax Act, in absence of proof to the contrary. A "nonresident individual" means an individual other than a resident individual or a part-year resident individual.

For all tax years beginning after December 31, 1981, a nonresident individual, with respect to foreign earned income and deductions, shall include an individual who:

- a. during any period of twenty-four (24) consecutive months is out of the United States at least five hundred fifty (550) days,
- b. during such period referred to in subparagraph a of this paragraph is not present in this state for more than ninety (90) days during any taxable year,
- c. during any period of less than an entire taxable year, which period is contained within the period referred to in subparagraph a of this paragraph,

is not present in this state for a number of days in excess of an amount which bears the same ratio to ninety (90) days as the number of days contained in the period of less than an entire taxable year bears to three hundred sixty-five (365), and

- d. during such period referred to in subparagraph a of this paragraph does not maintain a permanent place of abode in this state at which the spouse of the individual, unless such spouse is legally separated, or minor children of the individual are present for more than one hundred eighty (180) days;

5. "Resident estate" means the estate of a decedent who at death was domiciled in this state. "Nonresident estate" means an estate other than a resident estate;

6. "Resident trust" means:

- a. a trust, or a portion of a trust, consisting of property transferred by will of a decedent domiciled in this state at death, or a trust, or a portion of a trust, consisting of the property of a person domiciled in this state if such trust is not irrevocable, and
- b. a trust, or portion of a trust, consisting of property of a person domiciled in this state at the time such property was transferred to the trust if such trust or portion was then irrevocable or a person domiciled in this state at the time such trust or portion became irrevocable. A trust, or portion of a trust, is irrevocable if it is not subject to a power exercisable solely by the transferor of such property, at any time, to revest title in the transferor.

"Nonresident trust" means a trust other than a resident trust;

7. "Resident partner" means a partner who is a resident individual, a resident estate, a resident trust or a resident corporation. "Nonresident partner" means a partner other than a resident partner;

8. "Resident beneficiary" means a beneficiary of an estate or trust which beneficiary is a resident individual, a resident estate, a resident trust or a resident corporation. "Nonresident beneficiary" means a beneficiary other than a resident beneficiary;

9. "Resident corporation" means a corporation whose principal place of business is located within the State of Oklahoma. "Nonresident corporation" means any corporation other than a resident corporation;

10. "Taxable income" with respect to any taxpayer means the "taxable income", "life insurance company taxable income", "mutual insurance company taxable income", "(regulated) investment company taxable income", "real estate investment trust taxable income", and "cooperatives' taxable income" and any other "taxable income" as defined in the Internal Revenue Code as applies to such taxpayer or any other income of such taxpayer including, but not limited to, lump sum distributions as defined by the Internal Revenue Code of 1986, as amended; provided, in the case of income derived from oil and gas well production, any taxpayer, at his or her option, may deduct as an allowance for depletion, in lieu of other calculation of depletion based on the cost of the oil and gas deposit, twenty-two percent (22%) of the gross income derived from the properties during the taxable year. Provided further, for tax years beginning on or after January 1, 2001, and ending on or before December 31, 2011, and for tax years beginning on or after January 1, 2014, for major oil companies as defined in Section 288.2 of Title 52 of the Oklahoma Statutes, such allowance shall not exceed fifty percent (50%) of the net income of the taxpayer (computed without allowance for depletion) from the property. During taxable years other than those specified herein, for all taxpayers, such allowance shall not

exceed fifty percent (50%) of the net income of the taxpayer (computed without allowance for depletion) from the property. If a depletion allowance is allowed as a deduction in arriving at the adjusted gross income in the case of an individual, or taxable income for corporations and trusts, or distributable income of partnerships by the Internal Revenue Service, the percentage depletion so calculated shall in no event be a duplication of depletion allowed on the Federal Income Tax Return;

11. "Adjusted gross income" means "adjusted gross income" as defined in the Internal Revenue Code;

12. "Oklahoma taxable income" means "taxable income" as reported (or as would have been reported by the taxpayer had a return been filed) to the federal government, and in the event of adjustments thereto by the federal government as finally ascertained under the Internal Revenue Code, adjusted further as hereinafter provided;

13. "Oklahoma adjusted gross income" means "adjusted gross income" as reported to the federal government (or as would have been reported by the taxpayer had a return been filed), or in the event of adjustments thereby by the federal government as finally ascertained under the Internal Revenue Code, adjusted further as hereinafter provided;

14. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States or any political subdivision thereof; and

15. "Taxpayer" means any person subject to a tax imposed by this Article, or whose income is, in whole or in part, subject to a tax imposed by any provision of this article.

Added by Laws 1971, c. 137, § 3, emerg. eff. May 11, 1971. Amended by Laws 1972, c. 252, § 1, emerg. eff. April 7, 1972; Laws 1975, c. 264, § 1, emerg. eff. June 4, 1975; Laws 1982, c. 293, § 1, emerg. eff. May 24, 1982; Laws 1989, c. 249, § 29, eff. Jan. 1, 1990; Laws 1994, c. 278, § 24, eff. Sept. 1, 1994; Laws 1996, c. 360, § 3, eff. July 1, 1996; Laws 2001, c. 249, § 3, eff. July 1, 2001; Laws 2003, c. 463, § 2, emerg. eff. June 7, 2003; Laws 2006, c. 272, § 12, eff. Nov. 1, 2006; Laws 2013, c. 401, § 4, eff. Nov. 1, 2013.

§68-2354. Optional transitional deduction.

A. If a taxpayer (including a partnership) shall have been required to report his taxable income to the State of Oklahoma for years prior to the effective date of this act, in a manner different than he has been required to report his federal income for the same period of time, and, as a consequence of the differences in reporting income during that period of time, has a different basis of assets for gain or loss through the taking of different amounts for depletion, depreciation or amortization, or shall have a different amount of some prepaid income or deferred expense or other similar balance sheet item, such taxpayer shall be entitled, at his option, to a transitional deduction. The determination of the amount of the deduction shall be made as though an application to change accounting method had been granted and shall include all items subject to adjustment, whether resulting in an increase or decrease in the transitional deduction. Items subject to adjustment shall be only those which:

1. Have been treated differently in determining amounts subject to tax under Oklahoma and federal income tax laws which were applicable in a prior period;

2. Have been an element in determining Oklahoma income subject to tax in periods with respect to which Oklahoma income tax was paid; and

3. Except for the required change in reporting income, would have produced in a subsequent taxable period an adjustment to income subject to tax on account of the differences in federal and Oklahoma tax reporting.

Items subject to adjustment may consist of deductions taken or not taken in prior years, or amounts of income required to be included or excluded in such years, but such items shall be disregarded to the extent it can be shown that the prior treatment of such items had no actual effect on the amount of Oklahoma income tax paid; in making such showing, no items other than the items subject to this transitional adjustment shall be considered.

No net addition to Oklahoma taxable income shall be required by reason of this section, but, at the election of the taxpayer, a deduction in the amount of such net adjustment shall be available as provided below.

B. An affirmative election to use the optional transitional deduction shall be made on the income tax return filed for the first taxable period in which a deduction under this section is allowable, on or before the due date of the return including any extension of time granted in which to file said return or on an amended return. Failure to claim such deduction within three (3) years shall be deemed an election not to claim the optional transitional deduction.

C. The net deduction allowable under this section shall be deductible only in equal amounts of one-third (1/3) each over the first three taxable periods ending after the effective date of this act except that if such net deduction is less than Twenty-five Thousand Dollars (\$25,000.00) the deduction shall be allowable in full in the first taxable period after the effective date hereof to the extent of the taxpayer's taxable income and to the second and third taxable period thereafter to the extent not previously taken in the earliest successive taxable year. In no event shall the deduction allowed under this section be carried back or applied against income for years prior to the effective date of this act or carried forward to any taxable year subsequent to the third full taxable year following the effective date hereof.

Added by Laws 1971, c. 137, § 4. Amended by Laws 1971, p. 1042, H.J.R. No. 1026, § 2A2, emerg. eff. June 22, 1971.

§68-2355. Tax imposed - Classes of taxpayers.

A. Individuals. For all taxable years beginning after December 31, 1998, and before January 1, 2006, a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual, which tax shall be computed at the option of the taxpayer under one of the two following methods:

1. METHOD 1.

a. Single individuals and married individuals filing separately not deducting federal income tax:

- (1) 1/2% tax on first \$1,000.00 or part thereof,
- (2) 1% tax on next \$1,500.00 or part thereof,
- (3) 2% tax on next \$1,250.00 or part thereof,
- (4) 3% tax on next \$1,150.00 or part thereof,
- (5) 4% tax on next \$1,300.00 or part thereof,
- (6) 5% tax on next \$1,500.00 or part thereof,
- (7) 6% tax on next \$2,300.00 or part thereof, and
- (8) (a) for taxable years beginning after December 31, 1998, and before January 1, 2002, 6.75% tax on the remainder,

- (b) for taxable years beginning on or after January 1, 2002, and before January 1, 2004, 7% tax on the remainder, and
 - (c) for taxable years beginning on or after January 1, 2004, 6.65% tax on the remainder.
- b. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code not deducting federal income tax:
 - (1) 1/2% tax on first \$2,000.00 or part thereof,
 - (2) 1% tax on next \$3,000.00 or part thereof,
 - (3) 2% tax on next \$2,500.00 or part thereof,
 - (4) 3% tax on next \$2,300.00 or part thereof,
 - (5) 4% tax on next \$2,400.00 or part thereof,
 - (6) 5% tax on next \$2,800.00 or part thereof,
 - (7) 6% tax on next \$6,000.00 or part thereof, and
 - (8)
 - (a) for taxable years beginning after December 31, 1998, and before January 1, 2002, 6.75% tax on the remainder,
 - (b) for taxable years beginning on or after January 1, 2002, and before January 1, 2004, 7% tax on the remainder, and
 - (c) for taxable years beginning on or after January 1, 2004, 6.65% tax on the remainder.

2. METHOD 2.

- a. Single individuals and married individuals filing separately deducting federal income tax:
 - (1) 1/2% tax on first \$1,000.00 or part thereof,
 - (2) 1% tax on next \$1,500.00 or part thereof,
 - (3) 2% tax on next \$1,250.00 or part thereof,
 - (4) 3% tax on next \$1,150.00 or part thereof,
 - (5) 4% tax on next \$1,200.00 or part thereof,
 - (6) 5% tax on next \$1,400.00 or part thereof,
 - (7) 6% tax on next \$1,500.00 or part thereof,
 - (8) 7% tax on next \$1,500.00 or part thereof,
 - (9) 8% tax on next \$2,000.00 or part thereof,
 - (10) 9% tax on next \$3,500.00 or part thereof, and
 - (11) 10% tax on the remainder.
- b. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code deducting federal income tax:
 - (1) 1/2% tax on the first \$2,000.00 or part thereof,
 - (2) 1% tax on the next \$3,000.00 or part thereof,
 - (3) 2% tax on the next \$2,500.00 or part thereof,
 - (4) 3% tax on the next \$1,400.00 or part thereof,
 - (5) 4% tax on the next \$1,500.00 or part thereof,
 - (6) 5% tax on the next \$1,600.00 or part thereof,
 - (7) 6% tax on the next \$1,250.00 or part thereof,

- (8) 7% tax on the next \$1,750.00 or part thereof,
- (9) 8% tax on the next \$3,000.00 or part thereof,
- (10) 9% tax on the next \$6,000.00 or part thereof, and
- (11) 10% tax on the remainder.

B. Individuals. For all taxable years beginning on or after January 1, 2008, and ending not later than December 31, 2014, a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual, which tax shall be computed as follows:

1. Single individuals and married individuals filing separately:

- (a) 1/2% tax on first \$1,000.00 or part thereof,
- (b) 1% tax on next \$1,500.00 or part thereof,
- (c) 2% tax on next \$1,250.00 or part thereof,
- (d) 3% tax on next \$1,150.00 or part thereof,
- (e) 4% tax on next \$2,300.00 or part thereof,
- (f) 5% tax on next \$1,500.00 or part thereof,
- (g) 5.50% tax on the remainder for the 2008 tax year and any subsequent tax year unless the rate prescribed by subparagraph (h) of this paragraph is in effect, and
- (h) 5.25% tax on the remainder for the 2009 and subsequent tax years. The decrease in the top marginal individual income tax rate otherwise authorized by this subparagraph shall be contingent upon the determination required to be made by the State Board of Equalization pursuant to Section 2355.1A of this title.

2. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code:

- (a) 1/2% tax on first \$2,000.00 or part thereof,
- (b) 1% tax on next \$3,000.00 or part thereof,
- (c) 2% tax on next \$2,500.00 or part thereof,
- (d) 3% tax on next \$2,300.00 or part thereof,
- (e) 4% tax on next \$2,400.00 or part thereof,
- (f) 5% tax on next \$2,800.00 or part thereof,
- (g) 5.50% tax on the remainder for the 2008 tax year and any subsequent tax year unless the rate prescribed by subparagraph (h) of this paragraph is in effect, and
- (h) 5.25% tax on the remainder for the 2009 and subsequent tax years. The decrease in the top marginal individual income tax rate otherwise authorized by this subparagraph shall be contingent upon the determination required to be made by the State Board of Equalization pursuant to Section 2355.1A of this title.

C. Individuals. For all taxable years beginning on or after January 1, 2015, a tax is hereby imposed upon the Oklahoma taxable income of every resident or nonresident individual, which tax shall be computed as follows:

1. Single individuals and married individuals filing separately:

- (a) 1/2% tax on first \$1,000.00 or part thereof,
- (b) 1% tax on next \$1,500.00 or part thereof,
- (c) 2% tax on next \$1,250.00 or part thereof,

- (d) 3% tax on next \$1,150.00 or part thereof,
- (e) 4% tax on next \$2,300.00 or part thereof,
- (f) 5% tax on the remainder for the 2015 tax year and any subsequent tax year unless the rate prescribed by subparagraph (g) of this paragraph is in effect, and
- (g) 4.85% tax on the remainder for tax year 2016 and subsequent tax years. The decrease in the top marginal individual income tax rate otherwise authorized by this subparagraph shall be contingent upon the determination required to be made by the State Board of Equalization pursuant to Section 3 of this act.

2. Married individuals filing jointly and surviving spouse to the extent and in the manner that a surviving spouse is permitted to file a joint return under the provisions of the Internal Revenue Code and heads of households as defined in the Internal Revenue Code:

- (a) 1/2% tax on first \$2,000.00 or part thereof,
- (b) 1% tax on next \$3,000.00 or part thereof,
- (c) 2% tax on next \$2,500.00 or part thereof,
- (d) 3% tax on next \$2,300.00 or part thereof,
- (e) 4% tax on next \$2,400.00 or part thereof,
- (f) 5% tax on the remainder for the 2015 tax year and any subsequent tax year unless the rate prescribed by subparagraph (g) of this paragraph is in effect, and
- (g) 4.85% tax on the remainder for tax year 2016 and subsequent tax years. The decrease in the top marginal individual income tax rate otherwise authorized by this subparagraph shall be contingent upon the determination required to be made by the State Board of Equalization pursuant to Section 3 of this act.

No deduction for federal income taxes paid shall be allowed to any taxpayer to arrive at taxable income.

D. Nonresident aliens. In lieu of the rates set forth in subsection A above, there shall be imposed on nonresident aliens, as defined in the Internal Revenue Code, a tax of eight percent (8%) instead of thirty percent (30%) as used in the Internal Revenue Code, with respect to the Oklahoma taxable income of such nonresident aliens as determined under the provision of the Oklahoma Income Tax Act.

Every payer of amounts covered by this subsection shall deduct and withhold from such amounts paid each payee an amount equal to eight percent (8%) thereof. Every payer required to deduct and withhold taxes under this subsection shall for each quarterly period on or before the last day of the month following the close of each such quarterly period, pay over the amount so withheld as taxes to the Tax Commission, and shall file a return with each such payment. Such return shall be in such form as the Tax Commission shall prescribe. Every payer required under this subsection to deduct and withhold a tax from a payee shall, as to the total amounts paid to each payee during the calendar year, furnish to such payee, on or before January 31, of the succeeding year, a written statement showing the name of the payer, the name of the payee and the payee's social security account number, if any, the total amount paid subject to taxation, and the total amount deducted and withheld as tax and such other information as the Tax Commission may require. Any payer who fails to withhold or pay to the Tax Commission any

sums herein required to be withheld or paid shall be personally and individually liable therefor to the State of Oklahoma.

E. Corporations. For all taxable years beginning after December 31, 1989, a tax is hereby imposed upon the Oklahoma taxable income of every corporation doing business within this state or deriving income from sources within this state in an amount equal to six percent (6%) thereof.

There shall be no additional Oklahoma income tax imposed on accumulated taxable income or on undistributed personal holding company income as those terms are defined in the Internal Revenue Code.

F. Certain foreign corporations. In lieu of the tax imposed in the first paragraph of subsection D of this section, for all taxable years beginning after December 31, 1989, there shall be imposed on foreign corporations, as defined in the Internal Revenue Code, a tax of six percent (6%) instead of thirty percent (30%) as used in the Internal Revenue Code, where such income is received from sources within Oklahoma, in accordance with the provisions of the Internal Revenue Code and the Oklahoma Income Tax Act.

Every payer of amounts covered by this subsection shall deduct and withhold from such amounts paid each payee an amount equal to six percent (6%) thereof. Every payer required to deduct and withhold taxes under this subsection shall for each quarterly period on or before the last day of the month following the close of each such quarterly period, pay over the amount so withheld as taxes to the Tax Commission, and shall file a return with each such payment. Such return shall be in such form as the Tax Commission shall prescribe. Every payer required under this subsection to deduct and withhold a tax from a payee shall, as to the total amounts paid to each payee during the calendar year, furnish to such payee, on or before January 31, of the succeeding year, a written statement showing the name of the payer, the name of the payee and the payee's social security account number, if any, the total amounts paid subject to taxation, the total amount deducted and withheld as tax and such other information as the Tax Commission may require. Any payer who fails to withhold or pay to the Tax Commission any sums herein required to be withheld or paid shall be personally and individually liable therefor to the State of Oklahoma.

G. Fiduciaries. A tax is hereby imposed upon the Oklahoma taxable income of every trust and estate at the same rates as are provided in subsection B or C of this section for single individuals. Fiduciaries are not allowed a deduction for any federal income tax paid.

H. Tax rate tables. For all taxable years beginning after December 31, 1991, in lieu of the tax imposed by subsection A, B or C of this section, as applicable there is hereby imposed for each taxable year on the taxable income of every individual, whose taxable income for such taxable year does not exceed the ceiling amount, a tax determined under tables, applicable to such taxable year which shall be prescribed by the Tax Commission and which shall be in such form as it determines appropriate. In the table so prescribed, the amounts of the tax shall be computed on the basis of the rates prescribed by subsection A, B or C of this section. For purposes of this subsection, the term "ceiling amount" means, with respect to any taxpayer, the amount determined by the Tax Commission for the tax rate category in which such taxpayer falls.

Added by Laws 1971, c. 137, § 5, emerg. eff. May 11, 1971. Amended by Laws 1971, pp. 1042 and 1043, H.J.R. No. 1026, §§ 2A3 to 2A6 and 3A, emerg. eff. June 22, 1971; Laws 1977, c. 53, § 1, eff. Jan. 1, 1979; Laws 1979, c. 195, § 2, emerg. eff. May 24, 1979; Laws 1980, c. 288, § 4, eff. July 1, 1980; Laws 1985, c. 179, § 93, operative July 1, 1985; Laws 1985, c. 200, § 1,

operative July 1, 1985; Laws 1988, c. 204, § 12, operative July 1, 1988; Laws 1989, 1st Ex. Sess., c. 2, § 99, operative Jan. 1, 1990; Laws 1992, c. 311, § 1, eff. Sept. 1, 1992; Laws 1998, c. 427, § 2, eff. Jan. 1, 1999; Laws 2001, c. 383, § 2, eff. July 1, 2001; Laws 2004, c. 322, § 13, eff. Dec. 1, 2004 (State Question No. 713, Legislative Referendum No. 336, adopted at election held Nov. 2, 2004); Laws 2005, c. 413, § 4, eff. July 1, 2005; Laws 2006, c. 16, § 63, emerg. eff. March 29, 2006; Laws 2006, 2nd Ex. Sess., c. 42, § 3, eff. Jan. 1, 2007; Laws 2007, c. 136, § 7, eff. Jan. 1, 2008; Laws 2013, c. 253, § 2, eff. July 1, 2013.

NOTE: Laws 2005, c. 381, § 10 repealed by Laws 2006, c. 16, § 64, emerg. eff. March 29, 2006.

§68-2355.1. Repealed by Laws 1980, c. 68, § 1, emerg. eff. April 10, 1980.

§68-2355.1A. Determinations by State Board of Equalization - Income tax rate changes.

A. The provisions of this section shall be applicable with respect to the implementation of the decreases in the top marginal rate of individual income tax otherwise authorized pursuant to the provisions of subparagraph (h) of paragraphs 1 and 2 of subsection B of Section 2355 of this title which shall be contingent upon a determination by the State Board of Equalization made by a comparison of the revenue computations described by this section which shall be conducted until the income tax rate of five and twenty-five hundredths percent (5.25%) is effective.

B. In addition to any other duties prescribed by law, at the meeting required by paragraph 1 of Section 23 of Article X of the Oklahoma Constitution to be held in December 2008, and for any subsequent December meeting of the State Board of Equalization if the top marginal income tax rate prescribed by subparagraph (h) of paragraphs 1 and 2 of subsection B of Section 2355 of this title has not become effective, the State Board of Equalization shall determine:

1. The amount of revenue growth in the General Revenue Fund of the State Treasury by comparing the fiscal year General Revenue Fund estimate for the fiscal year beginning on the next ensuing July 1 date to the revised General Revenue Fund estimate for the then current fiscal year; and

2. The amount by which the income tax revenue for the tax year which will begin on the second January 1 date following such December meeting is estimated to be reduced by the increase in the standard deduction provided in paragraph 2 of subsection E of Section 2358 of this title, plus an amount equal to four percent (4%) of the revised General Revenue Fund estimate for the then current fiscal year in order for a top marginal income tax rate of five and twenty-five hundredths percent (5.25%) to be effective.

If the amount determined pursuant to the provisions of paragraph 1 of this subsection is equal to or greater than the amount determined pursuant to the provisions of paragraph 2 of this subsection, the Board shall make a preliminary finding that the Board anticipates that a finding will be made at the February meeting immediately subsequent to the December meeting that applicable revenue growth in the state will authorize the implementation of the provisions of subparagraph (h) of paragraphs 1 and 2 of subsection B of Section 2355 of this title beginning on the second January 1 following such December meeting.

If the amount determined pursuant to the provisions of paragraph 1 of this subsection is less than the amount determined pursuant to the provisions of paragraph 2 of this subsection, the Board shall make a preliminary finding that the Board anticipates that a finding will be made at the February meeting immediately subsequent to the December meeting that applicable revenue growth in the state will not authorize the implementation of the provisions of subparagraph (h) of

paragraphs 1 and 2 of subsection B of Section 2355 of this title beginning on the second January 1 following such December meeting.

C. In addition to any other duties prescribed by law, at the meeting required by paragraph 3 of Section 23 of Article X of the Oklahoma Constitution to be held in February 2009, and for any subsequent February meeting of the State Board of Equalization if the top marginal income tax rate prescribed by subparagraph (h) of paragraphs 1 and 2 of subsection B of Section 2355 of this title has not become effective the State Board of Equalization shall determine:

1. The amount of revenue growth in the General Revenue Fund of the State Treasury by comparing the fiscal year General Revenue Fund estimate for the fiscal year beginning on the next ensuing July 1 date to the revised General Revenue Fund estimate for the then current fiscal year; and

2. The amount by which the income tax revenue for the tax year which will begin on the January 1 date immediately following such February meeting is estimated to be reduced by the increase in the standard deduction provided in paragraph 2 of subsection E of Section 2358 of this title plus an amount equal to four percent (4%) of the revised General Revenue Fund estimate for the then current fiscal year in order for a top marginal income tax rate of five and twenty-five hundredths percent (5.25%) to be effective.

If the amount determined pursuant to the provisions of paragraph 1 of this subsection is equal to or greater than the amount determined pursuant to the provisions of paragraph 2 of this subsection, the Board shall make a finding that applicable revenue growth in the state will authorize the implementation of the provisions of subparagraph (h) of paragraphs 1 and 2 of subsection B of Section 2355 of this title beginning on the January 1 date immediately following such February meeting.

If the amount determined pursuant to the provisions of paragraph 1 of this subsection is less than the amount determined pursuant to the provisions of paragraph 2 of this subsection, the Board shall make a finding that applicable revenue growth in the state does not authorize the implementation of the provisions of subparagraph (h) of paragraphs 1 and 2 of subsection B of Section 2355 of this title beginning with the January 1 date immediately following such February meeting.

D. If the Board makes a finding that applicable revenue growth in the state does not authorize the implementation of the provisions of subparagraph (h) of paragraphs 1 and 2 of subsection B of Section 2355 of this title beginning with calendar year 2010 pursuant to the provisions of subsection C of this section, the procedures prescribed by subsection A, subsection B, and subsection C of this section shall be repeated by the State Board of Equalization for each successive two-year comparison. Once the income tax rate otherwise authorized pursuant to subparagraph (h) of paragraphs 1 and 2 of subsection B of Section 2355 of this title has been implemented as a result of the analysis of the General Revenue Fund estimates together with the fiscal impact of the standard deduction as authorized pursuant to paragraph 2 of subsection E of Section 2358 of this title, such income tax rate shall be in effect for the tax years as prescribed by subparagraph (h) of paragraphs 1 and 2 of subsection B of Section 2355 of this title.

Added by Laws 2006, 2nd Ex.Sess., c. 42, § 4, eff. Jan. 1, 2007. Amended by Laws 2007, c. 346, § 2, eff. Nov. 1, 2007; Laws 2008, c. 378, § 13, emerg. eff. June 4, 2008.

§68-2355.1B. Determination of initial baseline amount of revenue apportioned to teachers' retirement revolving fund - Annual review.

In addition to any other duties prescribed by law, at the meeting required by paragraph 3 of Section 23 of Article X of the Oklahoma Constitution to be held in February of the first calendar year after an income tax rate reduction implemented pursuant to Section 2355.1A of Title 68 of the Oklahoma Statutes has been in place for twelve (12) months, the State Board of Equalization shall:

1. Determine an initial baseline amount of revenue which was finally apportioned to the credit of the Teachers' Retirement System Dedicated Revenue Revolving Fund pursuant to Sections 1353, 1403 and 2352 of Title 68 of the Oklahoma Statutes for the most recent twelve (12) months;

2. Beginning with the February meeting in the sixth year after the Board determines an initial baseline amount, annually review such amount to determine if it differs from the average annual amount of revenue which was finally apportioned to the credit of the Teachers' Retirement System Dedicated Revenue Revolving Fund pursuant to Sections 1353, 1403 and 2352 of Title 68 of the Oklahoma Statutes over the most recent five (5) fiscal years. If the Board determines that the initial baseline amount is less than the five-year average annual amount, a new baseline equal to the five-year average annual amount shall be determined and applied as provided in paragraph 5 of Section 1353, paragraph 5 of Section 1403 and paragraph 3 of Section 2352 of Title 68 of the Oklahoma Statutes; and

3. Determine the proportion of the baseline amount attributable to each revenue source specified in paragraph 2 of this section whenever the Board determines a baseline amount. Added by Laws 2007, c. 105, § 2, eff. Nov. 1, 2007. Amended by Laws 2007, c. 366, § 2, eff. Nov. 1, 2007.

§68-2355.1C. Special Committee on Soldier Relief.

A. As used in this section:

1. "Revenue collections" means the amount of revenue estimated to have been collected and expected to be collected by the state beginning on July 1, 2010, and ending before January 1, 2015, from sales tax, motor vehicle taxes and fees, vehicle excise tax and motor fuel tax from all taxpayers who receive salary or compensation in any form other than retirement benefits from the United States as a member of any component of the Armed Forces of the United States or as the dependent of such member;

2. "Revenue reductions" means the amount of income tax revenue which is exempt pursuant to subparagraph b of paragraph 5 of subsection E of Section 2358 of Title 68 of the Oklahoma Statutes.

B. 1. There is hereby created until December 1, 2014, the Special Committee on Soldier Relief. The special committee shall conduct a comprehensive multi-year review of the amount of state tax revenue generated by members of the armed forces and their families who are Oklahoma residents.

2. The special committee shall be comprised of the following:

- a. each of the members of the Veterans and Military Affairs Committee of the Oklahoma House of Representatives,
- b. each of the members of the Veterans and Military Affairs Committee of the Oklahoma State Senate,
- c. two members of the Oklahoma Senate who do not serve on the Senate Veterans and Military Affairs Committee, appointed by the President Pro Tempore of the Senate,

- d. two members of the Oklahoma House of Representatives who do not serve on the House Veterans and Military Affairs Committee, appointed by the Speaker of the Oklahoma House of Representatives,
- e. one member appointed by the President Pro Tempore of the Senate who shall represent the United States Armed Forces recruitment efforts in the State of Oklahoma, and
- f. one member appointed by the Speaker of the Oklahoma House of Representatives who shall represent the Oklahoma Military Department, Oklahoma National Guard or reserve forces serving in Oklahoma;

D. The task force shall:

1. Estimate the amount of revenue collected and expected to be collected by the state beginning on July 1, 2010, and ending before January 1, 2015, from sales tax, motor vehicle taxes and fees, vehicle excise tax and motor fuel tax from all taxpayers who receive salary or compensation in any form other than retirement benefits from the United States as a member of any component of the Armed Forces of the United States; provided, where such data has not yet become available or is available only through projections, estimates shall be provided and noted as such and methodology shall be provided;

2. Review all available data from the United States Department of Defense, the Oklahoma Tax Commission and any other government-generated data on the number of individuals recruited in Oklahoma, the number of such individuals who claim Oklahoma as their home of record, and the number of those recruited here who do not claim Oklahoma as their home of record;

3. Review any additional data and information which the Committee considers relevant to the development of an estimate of the amount of state tax revenue collected as the result of members of any component of the Armed Forces of the United States claiming Oklahoma as their home; and

4. Submit a report by December 1, 2014, to the State Board of Equalization. The report shall include findings and recommendations regarding the impact of members of any component of the Armed Forces of the United States in Oklahoma on state tax revenue collections and expected collections between July 1, 2010, and January 1, 2015.

E. Members of the task force shall receive no compensation for serving on the task force, but shall receive travel reimbursement as follows:

1. State employees who are members of the task force shall be reimbursed for travel expenses incurred in the performance of their duties by their respective agencies in accordance with the State Travel Reimbursement Act;

2. All other task force members shall be reimbursed by the appointing authority for travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act; and

3. Legislative members shall be reimbursed in accordance with Section 456 of Title 74 of the Oklahoma Statutes.

F. The Special Committee on Soldier Relief shall meet as often as necessary to conduct business but shall meet no less than three (3) times, with an organizational meeting to be held prior to December 31, 2009. The organizational meeting shall be called by the Chair of the Finance Committee of the Oklahoma State Senate. A majority of members of the Special Committee shall constitute a quorum.

G. Administrative support for the Special Committee shall be provided by the State Senate, House of Representatives and the Oklahoma Tax Commission.
Added by Laws 2009, c. 436, § 2, eff. July 1, 2010.

§68-2355.1D. Implementation of deduction for members of armed forces provided in Section 2358 of Title 68.

A. The provisions of this section shall be applicable with respect to the implementation of the income tax deduction provided pursuant to the provisions of subparagraph b of paragraph 5 of subsection E of Section 2358 of Title 68 of the Oklahoma Statutes which shall be contingent upon a determination by the State Board of Equalization made by a comparison of the revenue collections and revenue deductions described by this section and by consideration of the recommendations and findings of the Special Committee on Soldier Relief.

B. In addition to any other duties prescribed by law, at the meeting required by paragraph 1 of Section 23 of Article X of the Oklahoma Constitution to be held in December 2014, the State Board of Equalization shall determine:

1. The amount of state revenue estimated to have been collected and expected to be collected beginning on July 1, 2010, and ending before January 1, 2015, from sales tax, motor vehicle taxes and fees, vehicle excise tax and motor fuel tax from all taxpayers who receive salary or compensation in any form other than retirement benefits from the United States as a member of any component of the Armed Forces of the United States; and

2. The amount by which the income tax revenue beginning on July 1, 2010, and ending before January 1, 2015, is estimated to have been reduced by the exemption provided pursuant to subparagraph b of paragraph 5 of subsection E of Section 2358 of Title 68 of the Oklahoma Statutes.

C. If the amount determined pursuant to the provisions of paragraph 1 of subsection B of this section is equal to or greater than the amount determined pursuant to the provisions of paragraph 2 of subsection B of this section, the Board shall make a finding that applicable revenue collections will authorize the implementation of the provisions of subparagraph c of paragraph 5 of subsection E of Section 2358 of Title 68 of the Oklahoma Statutes, and the one hundred percent (100%) deduction authorized by subparagraph c of paragraph 5 of subsection E of Section 2358 of Title 68 of the Oklahoma Statutes shall remain in effect.

D. If the amount determined pursuant to the provisions of paragraph 1 of subsection B of this section is less than the amount determined pursuant to the provisions of paragraph 2 of subsection B of this section, the Board shall make a finding that applicable revenue collections will not authorize the implementation of the provisions of subparagraph c of paragraph 5 of subsection E of Section 2358 of Title 68 of the Oklahoma Statutes, and the One Thousand Five Hundred Dollar (\$1,500.00) deduction authorized by subparagraph d of paragraph 5 of subsection E of Section 2358 of Title 68 of the Oklahoma Statutes shall become effective for the tax year beginning on January 1, 2015, and every year thereafter.

Added by Laws 2009, c. 436, § 3, eff. July 1, 2010.

§68-2355.1E. Determinations of State Board of Equalization – Top marginal rates.

A. The provisions of this section shall be applicable with respect to the implementation of the decreases in the top marginal rate of individual income tax otherwise authorized pursuant to the provisions of subparagraph (g) of paragraphs 1 and 2 of subsection C of Section 2355 of Title 68 of the Oklahoma Statutes, which shall be contingent upon a determination by the State Board

of Equalization made by a comparison of the revenue computations described by this section which shall be conducted until the income tax rate of four and eighty-five hundredths percent (4.85%) is effective.

B. In addition to any other duties prescribed by law, at the meeting required by paragraph 1 of Section 23 of Article X of the Oklahoma Constitution to be held in December 2014, and for any subsequent December meeting of the State Board of Equalization if the top marginal income tax rate prescribed by subparagraph (g) of paragraphs 1 and 2 of subsection C of Section 2355 of Title 68 of the Oklahoma Statutes has not become effective, the State Board of Equalization shall determine:

1. The amount of estimated revenue growth in the General Revenue Fund of the State Treasury for the fiscal year beginning on the next ensuing July 1; and

2. The amount by which the income tax revenue for the tax year which will begin on the second January 1 following such December meeting is estimated to be reduced by a fifteen hundredths percent (0.15%) decrease in the top marginal income tax rate, in order for a top marginal income tax rate of four and eighty-five hundredths percent (4.85%) to be effective.

If the amount determined pursuant to the provisions of paragraph 1 of this subsection is equal to or greater than the amount determined pursuant to the provisions of paragraph 2 of this subsection, the Board shall make a preliminary finding that the Board anticipates that a finding will be made at the February meeting immediately subsequent to the December meeting that the revenue computations required by this section will authorize the implementation of the provisions of subparagraph (g) of paragraphs 1 and 2 of subsection C of Section 2355 of Title 68 of the Oklahoma Statutes beginning on the second January 1 following the December meeting.

If the amount determined pursuant to the provisions of paragraph 1 of this subsection is less than the amount determined pursuant to the provisions of paragraph 2 of this subsection, the Board shall make a preliminary finding that the Board anticipates that a finding will be made at the February meeting immediately subsequent to the December meeting that the revenue computations required by this section will not authorize the implementation of the provisions of subparagraph (g) of paragraphs 1 and 2 of subsection C of Section 2355 of Title 68 of the Oklahoma Statutes beginning on the second January 1 following the December meeting.

C. In addition to any other duties prescribed by law, at the meeting required by paragraph 3 of Section 23 of Article X of the Oklahoma Constitution to be held in February 2015, and for any subsequent February meeting of the State Board of Equalization if the top marginal income tax rate prescribed by subparagraph (g) of paragraphs 1 and 2 of subsection C of Section 2355 of Title 68 of the Oklahoma Statutes has not become effective the State Board of Equalization shall determine:

1. The amount of estimated revenue growth in the General Revenue Fund of the State Treasury for the fiscal year beginning on the next ensuing July 1; and

2. The amount by which the income tax revenue for the tax year which will begin on the January 1 immediately following the February meeting is estimated to be reduced by a fifteen hundredths percent (.15%) decrease in the top marginal income tax rate, in order for a top marginal income tax rate of four and eighty-five hundredths percent (4.85%) to be effective.

If the amount determined pursuant to the provisions of paragraph 1 of this subsection is equal to or greater than the amount determined pursuant to the provisions of paragraph 2 of this subsection, the Board shall make a finding that the revenue computations required by this section will authorize the implementation of the provisions of subparagraph (g) of paragraphs 1 and 2 of

subsection C of Section 2355 of Title 68 of the Oklahoma Statutes beginning on the January 1 immediately following the February meeting.

If the amount determined pursuant to the provisions of paragraph 1 of this subsection is less than the amount determined pursuant to the provisions of paragraph 2 of this subsection, the Board shall make a finding that the revenue computations required by this section do not authorize the implementation of the provisions of subparagraph (g) of paragraphs 1 and 2 of subsection C of Section 2355 of Title 68 of the Oklahoma Statutes beginning with the January 1 immediately following the February meeting.

D. If the Board makes a finding that the revenue computations required by this section do not authorize the implementation of the provisions of subparagraph (g) of paragraphs 1 and 2 of subsection C of Section 2355 of Title 68 of the Oklahoma Statutes beginning with calendar year 2016 pursuant to the provisions of subsection C of this section, the procedures prescribed by subsection A, subsection B, and subsection C of this section shall be repeated by the State Board of Equalization for each successive two-year comparison. Once the income tax rate otherwise authorized pursuant to subparagraph (g) of paragraphs 1 and 2 of subsection C of Section 2355 of Title 68 of the Oklahoma Statutes has been implemented, such income tax rate shall be in effect for the tax years as prescribed by subparagraph (g) of paragraphs 1 and 2 of subsection C of Section 2355 of Title 68 of the Oklahoma Statutes.

Added by Laws 2013, c. 253, § 3, eff. July 1, 2013.

§68-2355.2. Oklahoma Taxpayer Relief Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the State Treasurer to be designated the "Oklahoma Taxpayer Relief Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of the monies transferred to such fund pursuant to paragraph 2 of subsection A of Section 46.1 of Title 62 of the Oklahoma Statutes. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Treasurer for the purpose of providing payments to Oklahoma residents who have filed an income tax return pursuant to Section 2355 of this title for the preceding tax year, except for those residents who were inmates in the custody of the Department of Corrections, and for the purpose of administrative costs incurred by the State Treasurer in making payments provided by this section. The payments to taxpayers filing as married filing jointly, surviving spouse or head of household shall be equal to two times the payment to taxpayers filing as an individual or married filing separately. No taxpayer filing as an individual who claims zero personal exemptions shall receive a payment. During each year funds accrue pursuant to Section 46.1 of Title 62 of the Oklahoma Statutes, the Oklahoma Tax Commission shall provide the State Treasurer with information necessary for such payments to be issued. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. The State Treasurer shall promulgate any necessary rules in order to administer the provisions of this section.

C. The Oklahoma Taxpayer Relief Revolving Fund shall be abolished and all monies remaining in such fund transferred to the Special Cash Fund on June 30, 2012. Any liabilities payable from the Oklahoma Taxpayer Relief Revolving Fund shall be extinguished upon its abolishment and shall not be transferred to the Special Cash Fund. The Special Cash Fund refers to the fund created by Section 253 of Title 62 of the Oklahoma Statutes.

Added by Laws 2005, c. 446, § 3, eff. July 1, 2005. Amended by Laws 2011, c. 261, § 2, eff. Nov. 1, 2011; Laws 2012, c. 304, § 544.

§68-2357. Credits against tax.

A. The withheld taxes and estimated taxes paid shall be allowed as credits as provided by law.

B. 1. There shall be allowed as a credit against the tax imposed by Section 2355 of this title the amount of tax paid another state by a resident individual, as defined in paragraph 4 of Section 2353 of this title, upon income received as compensation for personal services in such other state; provided, such credit shall not be allowed with respect to any income specified in Section 114 of Title 4 of the United States Code, 4 U.S.C., Section 114, upon which a state is prohibited from imposing an income tax. The credit shall not exceed such proportion of the tax payable under Section 2355 of this title as the compensation for personal services subject to tax in the other state and also taxable under Section 2355 of this title bears to the Oklahoma adjusted gross income as defined in paragraph 13 of Section 2353 of this title.

2. For tax years beginning after December 31, 2007, there shall be allowed to a resident individual or part-year resident individual or nonresident individual member of the Armed Forces as a credit against the tax imposed by Section 2355 of this title twenty percent (20%) of the credit for child care expenses allowed under the Internal Revenue Code of the United States or five percent (5%) of the child tax credit allowed under the Internal Revenue Code, whichever amount is greater. Neither credit authorized by this paragraph shall exceed the tax imposed by Section 2355 of this title. The maximum child care credit allowable on the Oklahoma income tax return shall be prorated on the ratio that Oklahoma adjusted gross income bears to the federal adjusted gross income. The credit authorized by this paragraph shall not be claimed by any taxpayer if the federal adjusted gross income reflected on the Oklahoma return for the taxpayer is in excess of One Hundred Thousand Dollars (\$100,000.00).

C. No additions to tax shall be made in Oklahoma income tax returns by reason of the recapture or restoration of credits under the Internal Revenue Code, and no other credits against tax shall be allowed in Oklahoma income tax returns except with respect to credits provided in this section.

Added by Laws 1971, c. 137, § 7, emerg. eff. May 11, 1971. Amended by Laws 1971, p. 1042, H.J.R. No. 1026, §§ 2A7, 8, emerg. eff. June 22, 1971; Laws 1977, c. 3, § 1, emerg. eff. Feb. 8, 1977; Laws 1977, c. 47, § 1, emerg. eff. May 11, 1977; Laws 1978, c. 214, § 1, emerg. eff. April 19, 1978; Laws 1980, c. 224, § 1, eff. July 1, 1980; Laws 1987, c. 113, § 23, operative Jan. 1, 1987; Laws 1996, c. 289, § 8, eff. July 1, 1996; Laws 1997, c. 294, § 22, eff. July 1, 1997; Laws 2007, c. 136, § 8, eff. Jan. 1, 2008; Laws 2010, c. 327, § 3, eff. July 1, 2010; Laws 2013, c. 363, § 1, eff. Jan. 1, 2014.

§68-2357.1. Solar energy system defined.

As used in this section and Section 2357.2 of this title, “solar energy system” means a system primarily designed to provide heating or cooling, electrical or mechanical power, or any combination thereof by means of collecting, transferring or storing solar generated energy for such purposes. Such term shall include passive structural and nonstructural features which are designed to provide a calculated net energy gain to a structure from renewable energy sources, commonly referred to as “passive solar energy systems”, but shall not include those parts of a structural system which would be required regardless of the energy source being utilized. Solar

energy may be derived from either direct processes or indirect processes using wind energy systems.

Amended by Laws 1982, c. 322, § 1, operative July 1, 1982.

§68-2357.1A-1. Task Force for the Study of State Tax Credits and Economic Incentives.

A. There is hereby created the Task Force for the Study of State Tax Credits and Economic Incentives.

B. The Task Force shall consist of ten (10) members to be appointed or selected as follows:

1. The Chair of the Appropriations and Budget Committee of the Oklahoma House of Representatives;
2. The Chair of the Appropriations Committee of the Oklahoma State Senate;
3. The Chair of the Revenue and Taxation Subcommittee of the Appropriations and Budget Committee of the Oklahoma House of Representatives;
4. The Chair of the Senate Finance Committee;
5. The Director of the Office of Management and Enterprise Services or a designee;
6. The State Treasurer or a designee;
7. The Oklahoma Secretary of State or a designee;
8. Minority Leader of the Oklahoma House of Representatives;
9. Minority Leader of the Oklahoma State Senate; and
10. The State Auditor and Inspector.

C. The Task Force shall conduct an organizational meeting not later than September 30, 2011. A majority of the members present at the organizational meeting or any subsequent meeting shall constitute a quorum for the purpose of any action taken including the preparation and approval of the final report required by subsection I of this section.

D. The cochairs of the Task Force shall be the member who is the Chair of the Revenue and Taxation Subcommittee of the Appropriations and Budget Committee and the member who is the Chair of the Finance Committee of the State Senate.

E. The Task Force shall be authorized to meet as necessary in order to perform the duties imposed upon it. Legislative members of the Task Force shall be reimbursed for travel expenses pursuant to the provisions of Section 456 of Title 74 of the Oklahoma Statutes. Other members of the Task Force shall be reimbursed as provided by the appointing authority.

F. The Task Force shall conduct a study regarding all state tax credits regardless of the tax type against which such credit may be claimed and any other economic incentives that affect state or local tax liabilities. The study shall include, but shall not be limited to:

1. The justification for the enactment of any state tax credits based upon the relevant economics of the applicable industry or economic sector affected;
2. The economic impact related to the utilization of state tax credits;
3. Analysis of the utilization of the credits by tax credit purchasers;
4. The impact of tax credits on any and all economic sectors of the state economy;
5. The adequacy or inadequacy of state tax credits or other economic incentives; and
6. Such other matters related to state tax credits or economic incentives as the Task Force deems relevant.

G. The Task Force shall be subject to the provisions of:

1. The Oklahoma Open Meeting Act; and
2. The Oklahoma Open Records Act.

H. Staff assistance for the Task Force shall be provided by the staff of the Oklahoma House of Representatives and the State Senate.

I. The Task Force shall produce a final written report of its findings and any recommendations regarding transferable tax credits. The report shall be submitted to the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the State Senate not later than December 31, 2011.

J. The provisions of this section shall cease to have the force and effect of law and the Task Force shall terminate effective January 1, 2012.

Added by Laws 2011, c. 295, § 1, eff. July 1, 2011. Amended by Laws 2012, c. 304, § 545.

§68-2357.1A-2. Transfer or allocation of tax credits - Reporting.

A. Notwithstanding any other provision of law, the transfer or allocation of any tax credit authorized pursuant to the provisions of this title, except as provided in this section, shall be reported to the Oklahoma Tax Commission and any tax credit authorized pursuant to the provisions of Title 36 of the Oklahoma Statutes shall be reported to the Oklahoma Insurance Department as provided in subsection B of this section.

B. The transfer or allocation of any tax credit shall be reported to the Tax Commission or Insurance Department by the entity transferring or allocating the credit on or before the twentieth day of the second month after the tax year in which an act occurs which allows the tax credit to eventually be claimed. If the credit is transferable, the report shall state whether the credit will or may be transferred to another taxpayer and the names of the taxpayers to whom the credit is transferred. The report shall also provide whether the credit will or may be allocated by a pass-through entity to one or more of the shareholders, partners or members of the pass-through entity and the identity of the shareholders, partners or members of the pass-through entity to whom the credit was allocated. Further, the report shall include the tax type, the amount of the credit, the statutory or other legal authority which forms the basis for the credit, and other information that may be required by the Tax Commission or the Insurance Department. The report to the Tax Commission or to the Insurance Department shall be on such form as the Commission or Department may prescribe. The Tax Commission and the Insurance Department shall be authorized to require the report to be filed electronically.

C. Notwithstanding the provisions of Section 205 of Title 68 of the Oklahoma Statutes the Tax Commission and the Insurance Department shall compile a list of all tax credits reported as required by this section and shall provide the list to the Governor, the Speaker of the Oklahoma House of Representatives, the President Pro Tempore of the State Senate and the Director of the Office of Management and Enterprise Services not later than June 1 of each year. Not later than five (5) working days after the report has been provided to the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the State Senate, the Oklahoma Tax Commission shall publish the report on its website.

D. The compiled list shall identify the tax credits reported pursuant to subsection A of this section and shall separately identify the amount of tax credits that may be claimed against each separate state tax under the jurisdiction of the administering agency and the name of the entity that will be claiming the credit.

E. To the extent possible, the Tax Commission and the Insurance Department shall make an estimate of the revenue impact to the State of Oklahoma resulting from the credits reported on a separate fiscal year by fiscal year basis. Each agency shall make its estimate only for tax credits under the jurisdiction of each administering agency.

F. If a taxpayer claims a credit on any state tax return that was not previously reported to the Tax Commission or Insurance Department pursuant to this section, the Tax Commission or Insurance Department shall disallow the credit and recompute the applicable tax liability including any penalty or interest; provided, upon the filing of the report required by this section, the credit shall be allowed.

G. This section shall not be applicable to the following tax credits:

1. The sales tax relief credit authorized by Section 5011 of this title;
2. The low income property tax relief credit authorized by Section 2907 of this title;
3. The earned income tax credit authorized by Section 2357.43 of this title;
4. The child care/child tax credit authorized by Section 2357 of this title;
5. The credit for taxes paid to another state authorized by Section 2357 of this title; and
6. The credit for property taxes paid on tornado damaged residential property authorized by Section 2357.29 of this title.

Added by Laws 2011, c. 349, § 1, eff. July 1, 2011. Amended by Laws 2012, c. 304, § 546.

NOTE: Editorially renumbered from § 2357.1A-1 of this title to avoid duplication in numbering.

§68-2357.2. Repealed by Laws 1996, c. 289, § 10, emerg. eff. July 1, 1996.

§68-2357.4. Business credit for investment or increase in full-time Employees.

A. Except as otherwise provided in subsection F of Section 3658 of this title and in subsection J of this section, for taxable years beginning after December 31, 1987, there shall be allowed a credit against the tax imposed by Section 2355 of this title for:

1. Investment in qualified depreciable property placed in service during those years for use in a manufacturing operation, as defined in Section 1352 of this title, which has received a manufacturer exemption permit pursuant to the provisions of Section 1359.2 of this title or a qualified aircraft maintenance or manufacturing facility as defined in paragraph 14 of Section 1357 of this title in this state or a qualified web search portal as defined paragraph 35 of Section 1357 of this title; or

2. A net increase in the number of full-time-equivalent employees engaged in manufacturing, processing or aircraft maintenance in this state including employees engaged in support services.

B. Except as otherwise provided in subsection F of Section 3658 of this title and in subsection J of this section, for taxable years beginning after December 31, 1998, there shall be allowed a credit against the tax imposed by Section 2355 of this title for:

1. Investment in qualified depreciable property with a total cost equal to or greater than Forty Million Dollars (\$40,000,000.00) within three (3) years from the date of initial qualifying expenditure and placed in service in this state during those years for use in the manufacture of products described by any Industry Number contained in Division D of Part I of the Standard Industrial Classification (SIC) Manual, latest revision; or

2. A net increase in the number of full-time-equivalent employees in this state engaged in the manufacture of any goods identified by any Industry Number contained in Division D of Part I of the Standard Industrial Classification (SIC) Manual, latest revision, if the total cost of qualified depreciable property placed in service by the business entity within the state equals or exceeds Forty Million Dollars (\$40,000,000.00) within three (3) years from the date of initial qualifying expenditure.

C. The business entity may claim the credit authorized by subsection B of this section for expenditures incurred or for a net increase in the number of full-time-equivalent employees after the business entity provides proof satisfactory to the Oklahoma Tax Commission that the conditions imposed pursuant to paragraph 1 or paragraph 2 of subsection B of this section have been satisfied.

D. If a business entity fails to expend the amount required by paragraph 1 or paragraph 2 of subsection B of this section within the time required, the business entity may not claim the credit authorized by subsection B of this section, but shall be allowed to claim a credit pursuant to subsection A of this section if the requirements of subsection A of this section are met with respect to the investment in qualified depreciable property or net increase in the number of full-time-equivalent employees.

E. The credit provided for in subsection A of this section, if based upon investment in qualified depreciable property, shall not be allowed unless the investment in qualified depreciable property is at least Fifty Thousand Dollars (\$50,000.00). The credit provided for in subsection A or B of this section shall not be allowed if the applicable investment is the direct cause of a decrease in the number of full-time-equivalent employees. Qualified property shall be limited to machinery, fixtures, equipment, buildings or substantial improvements thereto, placed in service in this state during the taxable year. The taxable years for which the credit may be allowed if based upon investment in qualified depreciable property shall be measured from the year in which the qualified property is placed in service. If the credit provided for in subsection A or B of this section is calculated on the basis of the cost of the qualified property, the credit shall be allowed in each of the four (4) subsequent years. If the qualified property on which a credit has previously been allowed is acquired from a related party, the date such property is placed in service by the transferor shall be considered to be the date such property is placed in service by the transferee, for purposes of determining the aggregate number of years for which credit may be allowed.

F. The credit provided for in subsection A or B of this section, if based upon an increase in the number of full-time-equivalent employees, shall be allowed in each of the four (4) subsequent years only if the level of new employees is maintained in the subsequent year. In calculating the credit by the number of new employees, only those employees whose paid wages or salary were at least Seven Thousand Dollars (\$7,000.00) during each year the credit is claimed shall be included in the calculation. Provided, that the first year a credit is claimed for a new employee, such employee may be included in the calculation notwithstanding paid wages of less than Seven Thousand Dollars (\$7,000.00) if the employee was hired in the last three quarters of the tax year, has wages or salary which will result in annual paid wages in excess of Seven Thousand Dollars (\$7,000.00) and the taxpayer submits an affidavit stating that the employee's position will be retained in the following tax year and will result in the payment of wages in excess of Seven Thousand Dollars (\$7,000.00). The number of new employees shall be determined by comparing the monthly average number of full-time employees subject to Oklahoma income tax withholding for the final quarter of the taxable year with the corresponding period of the prior taxable year, as substantiated by such reports as may be required by the Tax Commission.

G. The credit allowed by subsection A of this section shall be the greater amount of either:

1. One percent (1%) of the cost of the qualified property in the year the property is placed in service; or

2. Five Hundred Dollars (\$500.00) for each new employee. No credit shall be allowed in any taxable year for a net increase in the number of full-time-equivalent employees if such increase is a result of an investment in qualified depreciable property for which an income tax credit has been allowed as authorized by this section.

H. The credit allowed by subsection B of this section shall be the greater amount of either:

1. Two percent (2%) of the cost of the qualified property in the year the property is placed in service; or

2. One Thousand Dollars (\$1,000.00) for each new employee.

No credit shall be allowed in any taxable year for a net increase in the number of full-time-equivalent employees if such increase is a result of an investment in qualified depreciable property for which an income tax credit has been allowed as authorized by this section.

I. Except as provided by subsection G of Section 3658 of this title, any credits allowed but not used in any taxable year may be carried over in order as follows:

1. To each of the four (4) years following the year of qualification;

2. To the extent not used in those years in order to each of the fifteen (15) years following the initial five-year period; and

3. If a C corporation that otherwise qualified for the credits under subsection A of this section subsequently changes its operating status to that of a pass-through entity which is being treated as the same entity for federal tax purposes, the credits will continue to be available as if the pass-through entity had originally qualified for the credits subject to the limitations of this section.

To the extent not used in paragraphs 1 and 2 of this subsection, such credits from qualified depreciable property placed in service on or after January 1, 2000, may be utilized in any subsequent tax years after the initial twenty-year period.

J. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable until the provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, according to the provisions of this section; provided, credits accrued during the period from July 1, 2010, through June 30, 2012, shall be limited to a period of two (2) taxable years. The credit shall be limited in each taxable year to fifty percent (50%) of the total amount of the accrued credit. Any tax credits which accrue during the period of July 1, 2010, through June 30, 2012, may not be claimed for any period prior to the taxable year beginning January 1, 2012. No credits which accrue during the period of July 1, 2010, through June 30, 2012, may be used to file an amended tax return for any taxable year prior to the taxable year beginning January 1, 2012.

Added by Laws 1980, c. 299, § 1. Amended by Laws 1984, c. 94, § 1, eff. Jan. 1, 1985; Laws 1985, c. 342, § 1, eff. Jan. 1, 1986; Laws 1986, c. 52, § 1, eff. Jan. 1, 1987; Laws 1987, c. 228, § 10, eff. Jan. 1, 1988; Laws 1991, 1st Ex. Sess., c. 2, § 11, emerg. eff. Jan. 18, 1991; Laws 1992, c. 383, § 3, emerg. eff. June 9, 1992; Laws 1997, c. 190, § 3, eff. July 1, 1997; Laws 1998, c. 364, § 20, emerg. eff. June 8, 1998; Laws 1999, c. 1, § 21, emerg. eff. Feb. 24, 1999; Laws 2000, c. 3, § 2, emerg. eff. March 2, 2000; Laws 2000, c. 214, § 2, eff. July 1, 2000; Laws 2002, c. 299, § 14, emerg. eff. May 23, 2002; Laws 2003, c. 462, § 2, eff. July 1, 2003; Laws 2006, c. 281, § 29, emerg. eff. June 7, 2006; Laws 2009, c. 426, § 9, eff. Jan. 1, 2010; Laws 2010, c. 327, § 4, July 1, 2010; Laws 2010, c. 418, § 2, emerg. eff. June 10, 2010.

NOTE: Laws 1998, c. 301, § 13 and Laws 1998, c. 349, § 5 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999.

§68-2357.6. Repealed by Laws 2013, c. 363, § 4, eff. Jan. 1, 2014.

§68-2357.7. Credit for investments in qualified venture capital companies.

A. For taxable years beginning after December 31, 1986, and before January 1, 2009, there shall be allowed a credit against the tax imposed by Section 2355 of this title or Section 624 of Title 36 of the Oklahoma Statutes for investments in qualified venture capital companies whose purpose is to establish or expand the development of business and industry within Oklahoma. Provided, tax credits against liabilities imposed pursuant to Section 624 of Title 36 of the Oklahoma Statutes shall be limited to the amount that would otherwise be collected and allocated to the General Revenue Fund of the State Treasury.

B. For purposes of this section:

1. "Qualified venture capital company" means a C corporation, as defined by the Internal Revenue Code of 1986, as amended, incorporated pursuant to the laws of Oklahoma or a registered business partnership with a certificate of partnership filed as required by law if such corporation or partnership is organized to provide the direct investment of debt and equity funds to companies within this state, with its principal place of business located within this state and which meets the following criteria:

- a. capitalization of not less than Five Million Dollars (\$5,000,000.00),
- b. having a purpose and objective of investing at least seventy-five percent (75%) of its capitalization in Oklahoma business ventures. The temporary investment of funds by a qualified venture capital company in obligations of the United States, state and municipal bonds, bank certificates of deposit, or money market securities pending investment in Oklahoma business ventures is hereby authorized, and
- c. investment of not more than ten percent (10%) of its funds in any one company;

2. "Oklahoma business venture" means a business, incorporated or unincorporated, which:

- a. has or will have, within one hundred eighty (180) days after an investment is made by a qualified venture capital company, at least fifty percent (50%) of its employees or assets located in Oklahoma,
- b. needs financial assistance in order to commence or expand such business which provides or intends to provide goods or services,
- c. is not engaged in oil and gas exploration, real estate development, real estate sales, retail sales of food or clothing, farming, ranching, banking, or lending or investing funds in other businesses. Provided, however, businesses which provide or intend to provide goods or services, including, but not limited to, goods or services involving new technology, equipment, or techniques to such businesses listed in this subparagraph, and investments in the development of tourism facilities in the form of amusement parks, entertainment parks, theme parks, golf courses, or museums shall not be subject to said prohibition, and
- d. expends within eighteen (18) months after the date of the investment at least fifty percent (50%) of the proceeds of the investment for the acquisition of

tangible or intangible assets which are used in the active conduct of the trade or business of the Oklahoma business venture or to provide working capital for the active conduct of such trade or business. For purposes of this subparagraph, "working capital" shall not include consulting, brokerage or transaction fees. Provided, that the Oklahoma Tax Commission, upon request and demonstration of need by a qualified venture capital company or an Oklahoma business venture, may extend the eighteen-month period otherwise required by this subparagraph for a period not to exceed six (6) months. Provided, the expenditure of the invested funds by the Oklahoma business venture shall otherwise comply with the requirements applicable to the usage of tax credits for investment in the Oklahoma business venture. As used in this subparagraph, "tangible assets" shall include the acquisition of real property and the construction of improvements upon real property if such acquisition and construction otherwise complies with the requirements applicable to the usage of tax credits for investment in the Oklahoma business venture and "intangible assets" shall be limited to computer software, licenses, patents, copyrights, and similar items;

3. "Direct investment" means the purchase of securities of a private company, or securities of a public company if the securities constitute a new issue of a public company and such public company had previous year sales of less than Ten Million Dollars (\$10,000,000.00); and

4. "Debt and equity funds" means investments in debt securities; including unsecured, undersecured, subordinated or convertible loans or debt securities; and/or equity securities, including common and preferred stock, royalty rights, limited partnership interest, and any other securities or rights that evidence ownership in businesses; provided such investment of debt and equity funds shall not have a repayment schedule that is faster than a level principal amortization over five (5) years.

C. The credit provided for in subsection A of this section shall be twenty percent (20%) of the cash amount invested in qualified venture capital companies which is subsequently invested in an Oklahoma business venture by the qualified venture capital company and may only be claimed for a taxable year during which the qualified venture capital company makes an investment in an Oklahoma business venture. The credit shall be allowed for the amount of the investment in an Oklahoma business venture if the funds are used in pursuit of a legitimate business purpose of the Oklahoma business venture consistent with its organizational instrument, bylaws or other agreement responsible for the governance of the business venture. The qualified venture capital company shall issue such reports as the Oklahoma Tax Commission may require attributing the source of funds of each investment it makes in an Oklahoma business venture. The Oklahoma Capital Investment Board shall have the authority to certify an entity as a qualified venture capital company and to certify an investment to be a qualifying Oklahoma business venture for purposes of complying with subsection B of this section. Such certification shall be binding on the Oklahoma Tax Commission. Such certification shall not be mandatory but may be requested by any entity that desires to be certified. A reasonable certification fee may be charged by the Oklahoma Capital Investment Board for this service. If the tax credit allowed pursuant to subsection A of this section exceeds the amount of taxes due or if there are no state taxes due of the taxpayer, the amount of the claim not used as an offset against the taxes of a taxable year may be carried forward as a credit against subsequent tax liability for a period

not to exceed three (3) years. No investor in a venture capital company organized after July 1, 1992, may claim tax credits under the provisions of this section.

D. No taxpayer may claim the credit provided for in subsection A of this section for investments in qualified venture capital companies made prior to January 1, 1987.

E. No investor whose capital is guaranteed by the Oklahoma Capital Investment Board may claim or transfer the credit provided for in subsection A of this section for investments in such guaranteed portfolio.

F. The credit provided for in subsection A of this section, to the extent not previously utilized, shall be freely transferable to and by subsequent transferees for a period of three (3) years from the date of investment in the Oklahoma business venture.

G. If a pass-through entity is entitled to a credit under this section, the pass-through entity shall allocate such credit to one or more of the shareholders, partners or members of the pass-through entity; provided, the total of all credits allocated shall not exceed the amount of the credit to which the pass-through entity is entitled. The credit may also be claimed for funds borrowed by the pass-through entity to make a qualified investment if a shareholder, partner or member to whom the credit is allocated has an unlimited and continuing legal obligation to repay the borrowed funds but the allocation may not exceed such shareholder's, partner's or member's pro-rata equity share of the pass-through entity even if the taxpayer's legal obligation to repay the borrowed funds is in excess of such pro-rata share of such borrowed funds. For purposes of this act, "pass-through entity" means a corporation that for the applicable tax years is treated as an S corporation under the Internal Revenue Code, general partnership, limited partnership, limited liability partnership, trust or limited liability company that for the applicable tax year is not taxed as a corporation for federal income tax purposes.

Added by Laws 1986, c. 265, § 1, eff. Jan. 1, 1987. Amended by Laws 1987, c. 222, § 110, operative July 1, 1987; Laws 1988, 3rd Ex.Sess., c. 2, § 2, emerg. eff. Sept. 9, 1988; Laws 1989, c. 350, § 3, operative July 1, 1989; Laws 1990, c. 328, § 14, eff. Sept. 1, 1990; Laws 1991, c. 188, § 13, eff. July 1, 1991; Laws 1998, c. 226, § 1, eff. Jan. 1, 1999; Laws 2003, c. 181, § 2, eff. Nov. 1, 2003; Laws 2006, c. 281, § 2, emerg. eff. June 7, 2006; Laws 2008, c. 440, § 1.

§68-2357.7A. Commission to file annual report on qualified venture capital company investment credit.

On or before November 1 of each year subsequent to the effective date of this act, the Oklahoma Tax Commission shall file a report with the Speaker of the House of Representatives and the President Pro Tempore of the Senate. The report shall state the amount of credits actually claimed and allowed pursuant to the provisions of Section 2357.7 of Title 68 of the Oklahoma Statutes during the previous calendar year, statistical information on the qualified investments made by qualified venture capital companies during the previous year, an estimate of the number of jobs created in this state during the previous year pursuant to qualified investments made by qualified venture capital companies, and such other information as the Tax Commission may deem relevant.

Added by Laws 2006, c. 281, § 3, emerg. eff. June 7, 2006.

§68-2357.8. Qualified venture capital company - Annual report - Written statement to investors - Violations and penalties - Registration system.

A. Each qualified venture capital company, as defined in Section 2357.7 of this title, shall file an annual report within one hundred twenty (120) days after each successive calendar year

end with the Oklahoma Tax Commission which lists all funds invested in such company which may qualify for the tax credit allowed by Section 2357.7 of this title. Said report shall state the amount of funds invested in such company during the taxable year by persons or corporations, the Social Security number of such person or the federal identification number of such corporation making such investments, and shall include a schedule listing the type and amount of investments made by said venture capital company together with such other information as the Tax Commission may prescribe.

B. Each qualified venture capital company shall furnish to each person or corporation who made an investment in such company during the preceding year a written statement showing the name of the venture capital company, the name of the investor, the total amount of investments in the company made by such person or corporation and such other information as the Tax Commission may require. Said statement shall be attached to the income tax return of such person or corporation in order to qualify for said tax credit.

C. Any qualified venture capital company who refuses or fails to comply with the provisions of this section or is hereafter found guilty in a court of competent jurisdiction of any violation of any Oklahoma income tax law shall not be eligible to be a qualified venture capital company for purposes of Section 2357.7 of this title. For investments in a venture capital company made prior to the effective date of this act, if a venture capital company does not invest its funds in a business that meets the definition of an "Oklahoma business venture" or the Oklahoma business venture fails to expend the proceeds of the investment, as provided for in Section 2357.7 of this title, the venture capital company shall pay to the Tax Commission a penalty equal to the aggregate amount of tax credit provided to investors in such venture capital company multiplied by a fraction, the numerator of which is a percentage equal to the difference between the percentage of capitalization required to be invested in Oklahoma business ventures and the percentage of funds invested in Oklahoma business ventures calculated in accordance with subparagraph b of paragraph 1 of subsection B of Section 2357.7 of this title and the denominator of which is the percentage of capitalization required to be invested in Oklahoma business ventures. Provided, to the extent that the penalty cannot be collected from the venture capital company, the penalty shall be collected from the taxpayers to whom the tax credits have been granted or transferred. Tax credits granted for investments in venture capital companies made on or after the effective date of this act shall be subject to the provisions of Section 5 of this act.

D. Any taxpayer who refuses or fails to comply with the provisions of this section or is hereafter found guilty in a court of competent jurisdiction of any violation of any Oklahoma income tax law shall not be eligible for the tax credit granted in Section 2357.7 of this title.

E. The Tax Commission is directed to immediately develop a system for registration of any income tax credits issued pursuant to Section 2357.7 et seq. of this title and a system which permits verification that any tax credit claimed upon an income tax return is validly issued and properly taken in the year of claim and ensures that any transfers of the income tax credit are not unduly restricted or hindered.

Added by Laws 1986, c. 265, § 2, eff. Jan. 1, 1987. Amended by Laws 1987, c. 222, § 111, operative July 1, 1987; Laws 1988, 3rd Ex.Sess., c. 2, § 3, emerg. eff. Sept. 9, 1988; Laws 1998, c. 226, § 2, eff. Jan. 1, 1999; Laws 2006, c. 281, § 4, emerg. eff. June 7, 2006.

§68-2357.8A. Qualified venture capital company investment credit - Recaptured credit amount - Tax increase.

A. The provisions of this section shall only be applicable to investments in qualified venture capital companies made on or after June 7, 2006, pursuant to Section 2357.7 of this title. As used in this section, "recapture event" means that with respect to an investment in an Oklahoma business venture by a qualified venture capital company:

1. The Oklahoma business venture fails to expend at least fifty percent (50%) of the proceeds of qualified investments for acquisition of tangible or intangible assets to be used in the active conduct of the trade or business of the Oklahoma business venture or for working capital for the active conduct of such trade or business within eighteen (18) months after the investment is made or within an extension of such period as provided in Section 2357.7 of this title. For purposes of this paragraph, "working capital" shall not include consulting, brokerage or transaction fees;

2. The investment in the Oklahoma business venture is transferred, withdrawn or otherwise returned within five (5) years; provided, a "recapture event" shall not include the transfer, withdrawal or return of an investment as a result of a "market-based liquidity event". As used in Section 2351 et seq. of this title, a "market-based liquidity event" means that an Oklahoma business venture:

- a. sells all or substantially all of its assets to, or is acquired by share acquisition, share exchange, merger, consolidation or other similar transaction by another person or entity other than a person or entity controlled by a person that made an investment in the qualified venture capital company that provided funds for use by the Oklahoma business venture,
- b. conducts an initial public offering of a class of its equity securities pursuant to the requirements of the United States Securities Act of 1933 or other applicable federal law governing the sale of securities in interstate commerce,
- c. makes an amortization payment under the terms of a debt instrument, or
- d. repays indebtedness from net income as determined in accordance with generally accepted accounting principles or proceeds of the sale of assets in the ordinary course of business; or

3. The Oklahoma Tax Commission finds that the investment does not meet the requirements of Section 2357.7 of this title.

B. If a recapture event occurs with respect to an investment for which a credit authorized by Section 2357.7 of this title was claimed, the tax imposed pursuant to the applicable provisions of Title 36 of the Oklahoma Statutes or this title shall be increased to the extent of the recaptured credit amount.

C. For purposes of this section, the recapture amount shall be equal to the sum of:

1. The aggregate decrease in the credits previously allowed to the taxpayer pursuant to Section 2357.7 of this title for all prior taxable periods which would have resulted if no credit had been authorized with respect to the qualified investment; plus

2. Interest at the rate prescribed by Section 217 of this title on the amount determined pursuant to paragraph 1 of this subsection for each prior taxable period for the period beginning on the due date for filing the applicable report or return for the prior taxable period.

D. The tax for the taxable period shall be increased pursuant to this section only with respect to credits which were used to reduce tax liability. In the case of credits not used to reduce tax liability, the carryforwards allowed shall be adjusted accordingly.

E. For any transaction that is audited by the Tax Commission after such credits have been allowed, but which is subsequently determined to constitute a recapture event, the Tax Commission shall be required to disallow any and all credits claimed in violation of the requirements of this section or any other provision of Section 2357.7 or 2357.8 of this title for a period of ten (10) years after the date as of which any applicable tax report or return utilizing such credits is filed.

F. The provisions of subsection E of this section shall supersede any other provision of the Uniform Tax Procedure Code or any other state tax law that would prohibit the disallowance of such credits based upon an otherwise applicable statute of limitations.

Added by Laws 2006, c. 281, § 5, emerg. eff. June 7, 2006. Amended by Laws 2008, c. 440, § 2.

§68-2357.9. Repealed by Laws 1998, c. 364, § 38, emerg. eff. June 8, 1998.

§68-2357.10. Oklahoma Coal Production Incentive Act - Short title.

This act shall be known and may be cited as the "Oklahoma Coal Production Incentive Act".

Added by Laws 1988, c. 316, § 1, eff. Jan. 1, 1989.

§68-2357.11. Tax credit.

A. For purposes of this section, the term "person" means any legal business entity including limited and general partnerships, corporations, sole proprietorships, and limited liability companies, but does not include individuals.

B. 1. Except as provided in subsection M of this section, for tax years beginning on or after January 1, 1993, and ending on or before December 31, 2021, there shall be allowed a credit against the tax imposed by Section 1803 or Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes for every person in this state furnishing water, heat, light or power to the state or its citizens, or for every person in this state burning coal to generate heat, light or power for use in manufacturing operations located in this state.

2. For tax years beginning on or after January 1, 1993, and ending on or before December 31, 2005, and for the period of January 1, 2006, through June 30, 2006, the credit shall be in the amount of Two Dollars (\$2.00) per ton for each ton of Oklahoma-mined coal purchased by such person.

3. For the period of July 1, 2006 through December 31, 2006, and for tax years beginning on or after January 1, 2007, and ending on or before December 31, 2021, the credit shall be in the amount of Two Dollars and eighty-five cents (\$2.85) per ton for each ton of Oklahoma-mined coal purchased by such person.

4. In addition to the credit allowed pursuant to the provisions of paragraph 3 of this subsection, for the period of July 1, 2006, through December 31, 2006, and except as provided in subsection M of this section, for tax years beginning on or after January 1, 2007, and ending on or before December 31, 2021, there shall be allowed a credit in the amount of Two Dollars and fifteen cents (\$2.15) per ton for each ton of Oklahoma-mined coal purchased by such person. The credit allowed pursuant to the provisions of this paragraph may not be claimed or transferred prior to January 1, 2008.

C. For tax years beginning on or after January 1, 1995, and ending on or before December 31, 2005, and for the period beginning January 1, 2006, through June 30, 2006, there shall be allowed, in addition to the credits allowed pursuant to subsection B of this section, a credit

against the tax imposed by Section 1803 or Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes for every person in this state which:

1. Furnishes water, heat, light or power to the state or its citizens, or burns coal to generate heat, light or power for use in manufacturing operations located in this state; and
2. Purchases at least seven hundred fifty thousand (750,000) tons of Oklahoma-mined coal in the tax year.

The additional credit allowed pursuant to this subsection shall be in the amount of Three Dollars (\$3.00) per ton for each ton of Oklahoma-mined coal purchased by such person.

D. Except as otherwise provided in subsection E of this section and in subsection M of this section, for tax years beginning on or after January 1, 2001, and ending on or before December 31, 2021, there shall be allowed a credit against the tax imposed by Section 1803 or Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes for every person in this state primarily engaged in mining, producing or extracting coal, and holding a valid permit issued by the Oklahoma Department of Mines. For tax years beginning on or after January 1, 2001, and ending on or before December 31, 2005, and for the period beginning January 1, 2006, through June 30, 2006, the credit shall be in the amount of ninety-five cents (\$0.95) per ton and for the period of July 1, 2006, through December 31, 2006, and for tax years beginning on or after January 1, 2007, the credit shall be in the amount of Five Dollars (\$5.00) for each ton of coal mined, produced or extracted in on, under or through a permit in this state by such person.

E. In addition to the credit allowed pursuant to the provisions of subsection D of this section and except as otherwise provided in subsection F of this section, for tax years beginning on or after January 1, 2001, and ending on or before December 31, 2005, and for the period of January 1, 2006, through June 30, 2006, there shall be allowed a credit against the tax imposed by Section 1803 or Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes for every person in this state primarily engaged in mining, producing or extracting coal, and holding a valid permit issued by the Oklahoma Department of Mines in the amount of ninety-five cents (\$0.95) per ton for each ton of coal mined, produced or extracted from thin seams in this state by such person; provided, the credit shall not apply to such coal sold to any consumer who purchases at least seven hundred fifty thousand (750,000) tons of Oklahoma-mined coal per year.

F. In addition to the credit allowed pursuant to the provisions of subsection D of this section and except as otherwise provided in subsection G of this section, for tax years beginning on or after January 1, 2005, and ending on or before December 31, 2005, and for the period of January 1, 2006, through June 30, 2006, there shall be allowed a credit against the tax imposed by Section 1803 or Section 2355 of this title or that portion of the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes, which is actually paid to and placed into the General Revenue Fund, in the amount of ninety-five cents (\$0.95) per ton for each ton of coal mined, produced or extracted from thin seams in this state by such person on or after July 1, 2005.

G. The credits provided in subsections D and E of this section shall not be allowed for coal mined, produced or extracted in any month in which the average price of coal is Sixty-eight Dollars (\$68.00) or more per ton, excluding freight charges, as determined by the Tax Commission.

H. The additional credits allowed pursuant to subsections B, C, D and E of this section but not used shall be freely transferable after January 1, 2002, but not later than December 31, 2013, by written agreement to subsequent transferees at any time during the five (5) years following

the year of qualification; provided, the additional credits allowed pursuant to the provisions of paragraph 4 of subsection B of this section but not used shall be freely transferable after January 1, 2008, but not later than December 31, 2013, by written agreement to subsequent transferees at any time during the five (5) years following the year of qualification. An eligible transferee shall be any taxpayer subject to the tax imposed by Section 1803 or Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes. The person originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring person and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the validity and timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly restrict or hinder the transfers of such tax credit.

I. The additional credit allowed pursuant to subsection F of this section but not used shall be freely transferable on or after July 1, 2006, but not later than December 31, 2013, by written agreement to subsequent transferees at any time during the five (5) years following the year of qualification. An eligible transferee shall be any taxpayer subject to the tax imposed by Section 1803 or Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes. The person originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring person and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the validity and timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly restrict or hinder the transfers of such tax credit.

J. Any person receiving tax credits pursuant to the provisions of this section shall apply the credits against taxes payable or, subject to the limitation that credits earned after December 31, 2013, shall not be transferred, shall transfer the credits as provided in this section or, for credits earned on or after January 1, 2014, shall receive a refund pursuant to the provisions of subsection L of this section. Credits shall not be used to lower the price of any Oklahoma-mined coal sold that is produced by a subsidiary of the person receiving a tax credit under this section to other buyers of the Oklahoma-mined coal.

K. Except as provided by paragraph 2 of subsection L of this section, the credits allowed by subsections B, C, D, E and F of this section, upon election of the taxpayer, shall be treated and may be claimed as a payment of tax, a prepayment of tax or a payment of estimated tax for purposes of Section 1803 or 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes.

L. 1. With respect to credits allowed pursuant to the provisions of subsections B, C, D, E and F of this section earned prior to January 1, 2014, but not used in any tax year may be carried over in order to each of the five (5) years following the year of qualification.

2. With respect to credits allowed pursuant to the provisions of subsections B, C, D, E and F of this section which are earned but not used, based upon activity occurring on or after January 1, 2014, the Oklahoma Tax Commission shall, at the taxpayer's election, refund directly to the taxpayer eighty-five percent (85%) of the face amount of such credits. The direct refund of the

credits pursuant to this paragraph shall be available to all taxpayers, including, without limitation, pass-through entities and taxpayers subject to Section 2355 of this title. The amount of any direct refund of credits actually received at the eighty-five percent (85%) level by the taxpayer pursuant to this paragraph shall not be subject to the tax imposed by Section 2355 of this title. If the pass-through entity does not file a claim for a direct refund, the pass-through entity shall allocate the credit to one or more of the shareholders, partners or members of the pass-through entity; provided, the total of all credits refunded or allocated shall not exceed the amount of the credit or refund to which the pass-through entity is entitled. For the purposes of this paragraph, "pass-through entity" means a corporation that for the applicable tax year is treated as an S corporation under the Internal Revenue Code of 1986, as amended, general partnership, limited partnership, limited liability partnership, trust or limited liability company that for the applicable tax year is not taxed as a corporation for federal income tax purposes.

M. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section.

Added by Laws 1988, c. 316, § 2, eff. Jan. 1, 1989. Amended by Laws 1992, c. 162, § 1, emerg. eff. May 5, 1992; Laws 1993, c. 138, § 1, eff. Sept. 1, 1993; Laws 1994, c. 278, § 25, eff. Sept. 1, 1994; Laws 1996, c. 360, § 4, eff. July 1, 1996; Laws 1999, c. 79, § 1, eff. July 1, 1999; Laws 2001, c. 402, § 2, eff. July 1, 2001; Laws 2002, c. 170, § 1, emerg. eff. May 6, 2002; Laws 2002, c. 458, § 11, eff. July 1, 2002; Laws 2005, c. 413, § 5, eff. July 1, 2005; Laws 2006, c. 272, § 13; Laws 2006, 2nd Ex.Sess., c. 44, § 9, eff. July 1, 2006; Laws 2010, c. 327, § 6, eff. July 1, 2010; Laws 2010, c. 361, § 1, eff. Nov. 1, 2010; Laws 2013, c. 371, § 1, eff. Jan. 1, 2014.

§68-2357.11A. Task Force for the Study of Transferable Tax Credits.

A. There is hereby created the Task Force for the Study of Transferable Tax Credits.

B. The Task Force shall consist of nine (9) members to be appointed or selected as follows:

1. Three members to be appointed by the Governor at least one of whom shall be a principal member of the Governor's staff;

2. Three members, who shall be members of the Oklahoma House of Representatives, to be appointed by the Speaker of the Oklahoma House of Representatives, one of whom shall be the Chair of the Revenue and Taxation Subcommittee of the Appropriations and Budget Committee; and

3. Three members, who shall be members of the Oklahoma State Senate, to be appointed by the President Pro Tempore of the State Senate, one of whom shall be the Chair of the Senate Finance Committee.

C. The Task Force shall conduct an organizational meeting not later than September 30, 2009. A majority of the members present at the organizational meeting or any subsequent meeting shall constitute a quorum for the purpose of any action taken including the preparation and approval of the final report required by subsection I of this section.

D. The cochairs of the Task Force shall be the member who is the Chair of the Revenue and Taxation Subcommittee of the Appropriations and Budget Committee and the Chair of the Finance Committee of the State Senate.

E. The Task Force shall be authorized to meet as necessary in order to perform the duties imposed upon it. Legislative members of the Task Force shall be reimbursed for travel expenses pursuant to the provisions of Section 456 of Title 74 of the Oklahoma Statutes. Other members of the Task Force shall be reimbursed as provided by the appointing authority.

F. The Task Force shall conduct a study regarding all tax credits that are transferable to any person or entity other than the entity to whom or to which the credits are initially made available pursuant to the statute creating the credit. The study shall include, but shall not be limited to:

1. The justification for the enactment of transferable tax credits based upon the relevant economics of the applicable industry or economic sector affected;
2. The economic impact related to the utilization of transferable tax credits;
3. Analysis of the utilization of the credits by tax credit purchasers; and
4. Such other matters related to the tax credit as the Task Force deems relevant.

G. The Task Force shall be subject to the provisions of:

1. The Oklahoma Open Meeting Act; and
2. The Oklahoma Open Records Act.

H. Staff assistance for the Task Force shall be provided by the staff of the Oklahoma House of Representative and the State Senate.

I. The Task Force shall produce a final written report of its findings and any recommendations regarding transferable tax credits. The report shall be submitted to the Governor, the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the State Senate not later than December 31, 2009.

J. The provisions of this section shall cease to have the force and effect of law and the Task Force shall terminate effective January 1, 2010.

Added by Laws 2009, c. 325, § 1.

§68-2357.12. Renumbered as § 2358.2 of this title by Laws 1986, c. 269, § 23, operative July 1, 1986.

§68-2357.13. Repealed by Laws 2013, c. 363, § 5, eff. Jan. 1, 2014.

§68-2357.14. Renumbered as § 2-11-301 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§68-2357.15. Renumbered as § 2-11-302 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§68-2357.16. Renumbered as § 2-11-303 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§68-2357.17. Renumbered as § 2-11-304 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§68-2357.18. Renumbered as § 2-11-305 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§68-2357.19. Renumbered as § 2-11-306 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§68-2357.20. Renumbered as § 2-11-307 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§68-2357.21. Repealed by Laws 1993, c. 145, § 362, eff. July 1, 1993 and by Laws 1993, c. 275, § 51, eff. July 1, 1993.

§68-2357.22. Credit for investments in qualified clean-burning motor fuel vehicle property or qualified electric motor vehicle property.

A. For tax years beginning before January 1, 2020, there shall be allowed a one-time credit against the income tax imposed by Section 2355 of this title for investments in qualified clean-burning motor vehicle fuel property placed in service after December 31, 1990.

B. As used in this section, “qualified clean-burning motor vehicle fuel property” means:

1. Equipment installed to modify a motor vehicle which is propelled by gasoline or diesel fuel so that the vehicle may be propelled by a hydrogen fuel cell, compressed natural gas, liquefied natural gas or liquefied petroleum gas; provided, equipment installed on a vehicle propelled by a hydrogen fuel cell shall only be eligible for tax year 2010. The equipment covered by this paragraph must:

- a. be new, not previously used to modify or retrofit any vehicle propelled by gasoline or diesel fuel and be installed by an alternative fuels equipment technician who is certified in accordance with the Alternative Fuels Technician Certification Act,
- b. meet all Federal Motor Vehicle Safety Standards set forth in 49 CFR 571, or
- c. for any commercial motor vehicle (CMV), follow the Federal Motor Carrier Safety Regulations or Oklahoma Intrastate Motor Carrier Regulations;

2. A motor vehicle originally equipped so that the vehicle may be propelled by a hydrogen fuel cell, compressed natural gas, liquefied natural gas or liquefied petroleum gas but only to the extent of the portion of the basis of such motor vehicle which is attributable to the storage of such fuel, the delivery to the engine of such motor vehicle of such fuel, and the exhaust of gases from combustion of such fuel. A motor vehicle originally equipped so that the vehicle may be propelled by a hydrogen fuel cell shall only be eligible for tax year 2010;

3. Property, not including a building and its structural components, which is:

- a. directly related to the delivery of compressed natural gas, liquefied natural gas or liquefied petroleum gas, or hydrogen, for commercial purposes or for a fee or charge, into the fuel tank of a motor vehicle propelled by such fuel including compression equipment and storage tanks for such fuel at the point where such fuel is so delivered but only if such property is not used to deliver such fuel into any other type of storage tank or receptacle and such fuel is not used for any purpose other than to propel a motor vehicle, or
- b. a metered-for-fee, public access recharging system for motor vehicles propelled in whole or in part by electricity. The property covered by this paragraph must be new, and must not have been previously installed or used

to refuel vehicles powered by compressed natural gas, liquefied natural gas or liquefied petroleum gas, hydrogen or electricity.

Any property covered by this paragraph which is related to the delivery of hydrogen into the fuel tank of a motor vehicle shall only be eligible for tax year 2010; or

4. Property which is directly related to the compression and delivery of natural gas from a private home or residence, for noncommercial purposes, into the fuel tank of a motor vehicle propelled by compressed natural gas. The property covered by this paragraph must be new and must not have been previously installed or used to refuel vehicles powered by natural gas.

C. As used in this section, "motor vehicle" means a motor vehicle originally designed by the manufacturer to operate lawfully and principally on streets and highways.

D. The credit provided for in subsection A of this section shall be as follows:

1. For the qualified clean-burning motor vehicle fuel property defined in paragraph 1 or 2 of subsection B of this section, fifty percent (50%) of the cost of the qualified clean-burning motor vehicle fuel property;

2. For qualified clean-burning motor vehicle fuel property defined in paragraph 3 of subsection B of this section, a per-location credit of seventy-five percent (75%) of the cost of the qualified clean-burning motor vehicle fuel property; and

3. For qualified clean-burning motor vehicle fuel property defined in paragraph 4 of subsection B of this section, a per-location credit of the lesser of fifty percent (50%) of the cost of the qualified clean-burning motor vehicle fuel property or Two Thousand Five Hundred Dollars (\$2,500.00).

E. In cases where no credit has been claimed pursuant to paragraph 1 of subsection D of this section by any prior owner and in which a motor vehicle is purchased by a taxpayer with qualified clean-burning motor vehicle fuel property installed by the manufacturer of such motor vehicle and the taxpayer is unable or elects not to determine the exact basis which is attributable to such property, the taxpayer may claim a credit in an amount not exceeding the lesser of ten percent (10%) of the cost of the motor vehicle or One Thousand Five Hundred Dollars (\$1,500.00).

F. If the tax credit allowed pursuant to subsection A of this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit not used as an offset against the income taxes of a taxable year may be carried forward as a credit against subsequent income tax liability for a period not to exceed five (5) years.

G. A husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half (1/2) of the tax credit that would have been allowed for a joint return.

H. The Oklahoma Tax Commission is herein empowered to promulgate rules by which the purpose of this section shall be administered, including the power to establish and enforce penalties for violations thereof.

Added by Laws 1990, c. 336, § 12, operative July 1, 1990. Amended by Laws 1991, c. 235, § 20, eff. July 1, 1991; Laws 1992, c. 306, § 1, eff. July 1, 1992; Laws 1993, c. 271, § 1, eff. July 1, 1993; Laws 1994, c. 2, § 25, emerg. eff. March 2, 1994; Laws 1994, c. 379, § 1, eff. Sept. 1, 1994; Laws 1996, c. 224, § 1, eff. Nov. 1, 1996; Laws 2001, c. 144, § 2, eff. Nov. 1, 2001; Laws 2003, c. 186, § 1, eff. Nov. 1, 2003; Laws 2008, c. 126, § 1, eff. Jan. 1, 2009; Laws 2009, c. 308, § 1, eff. Jan. 1, 2010; Laws 2010, c. 418, § 3, emerg. eff. June 9, 2010; Laws 2013, c. 95, § 2, emerg. eff. April 22, 2013; Laws 2013, c. 252, § 1, eff. Nov. 1, 2013.

NOTE: Laws 1993, c. 224, § 9 repealed by Laws 1994, c. 2, § 34, emerg. eff. March 2, 1994.

§68-2357.23. Qualified clean-burning train locomotive fuel property - Tax credit.

A. For taxable years beginning after December 31, 1992, there shall be allowed a one-time credit against the income tax imposed by Section 2355 of this title for investments in qualified clean-burning train locomotive fuel property.

B. As used in this section, “qualified clean-burning train locomotive fuel property” means:

1. Equipment installed to modify a train locomotive which is propelled by diesel or other means so that the train locomotive may be propelled by compressed natural gas, liquefied natural gas or liquefied petroleum gas if such installation occurs in the State of Oklahoma; and

2. Property which is directly related to the delivery of compressed natural gas, liquefied natural gas or liquefied petroleum gas into the fuel tank of a train locomotive propelled by such fuel including compression equipment and storage tanks for such fuel at the point where such fuel is so delivered but only if such property is not used to deliver such fuel into any other type of storage tank or receptacle and such fuel is not used for any purpose other than to propel a train locomotive.

C. The credit provided for in subsection A of this section shall be fifty percent (50%) of the cost of the qualified clean-burning train locomotive fuel property.

D. In cases where no credit has been claimed pursuant to subsection C of this section and in which a train locomotive is purchased in the State of Oklahoma by a taxpayer with qualified clean-burning train locomotive fuel property installed by the manufacturer of such train locomotive and the taxpayer is unable or elects not to determine the exact basis which is attributable to such property, the taxpayer may claim a credit in an amount not exceeding the lesser of ten percent (10%) of the cost of the train locomotive or One Thousand Five Hundred Dollars (\$1,500.00).

E. If the tax credit allowed pursuant to subsection A of this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit not used as an offset against the income taxes of a taxable year may be carried forward as a credit against subsequent income tax liability for a period not to exceed three (3) years.

Added by Laws 1992, c. 287, § 3, eff. Sept. 1, 1992. Amended by Laws 1993, c. 58, § 1, emerg. eff. April 12, 1993.

§68-2357.24. Repealed by Laws 2013, c. 363, § 6, eff. Jan. 1, 2014.

§68-2357.25. Credit for investments in agricultural processing cooperatives, ventures and marketing associations.

A. Except as provided in subsection K of this section, there shall be allowed a credit against the tax imposed by Section 2355 of this title for direct investments by Oklahoma agricultural producers in Oklahoma producer-owned agricultural processing cooperatives, Oklahoma producer-owned agricultural processing ventures, or Oklahoma producer-owned agricultural processing marketing associations or Oklahoma-owned and -based corporations or partnerships created and designed to develop and advance the production, processing, handling and marketing of agricultural commodities grown, made or manufactured in Oklahoma. For calendar years 1997 and 1998, the amount of the credit shall be thirty percent (30%) of the

amount of the investment by the Oklahoma agricultural producer in Oklahoma producer-owned agricultural processing cooperatives, ventures, or marketing associations.

B. For calendar year 2006, and all subsequent years, the credit percentage, not to exceed thirty percent (30%), shall be adjusted annually so that the total estimate of credits does not exceed Two Million Dollars (\$2,000,000.00) annually. The formula to be used for the percentage adjustment shall be thirty percent (30%) times Two Million Dollars (\$2,000,000.00) divided by the credits claimed in the preceding year. In no event shall the credit be claimed more than once by a taxpayer each taxable year.

C. In the event the total tax credits authorized by this section exceed Two Million Dollars (\$2,000,000.00) in any calendar year, the Oklahoma Tax Commission shall permit any excess over Two Million Dollars (\$2,000,000.00) but shall factor such excess into the percentage adjustment formula for subsequent years.

D. The credits authorized by this act may only be claimed for taxable years beginning after December 31, 2006, and ending before January 1, 2010. The provisions of this subsection shall not be applicable to any credits earned, but not utilized, prior to the effective date of this act.

E. If the credit allowed pursuant to this section exceeds the amount of state income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of credit allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding six (6) years following the year in which the investment was originally made.

F. The Oklahoma Tax Commission shall have the authority to prescribe forms for purposes of claiming the credit authorized by this section. The Oklahoma Tax Commission shall be authorized to conduct an investigation of the relevant facts as may be required in order to verify the eligibility of a claimant to receive a credit for any applicable income tax year.

G. 1. For any taxable year during which a taxpayer sells or otherwise disposes of the ownership interest for which a tax credit has previously been allowed to the taxpayer or for which a tax credit will be allowed to the taxpayer for the year in which the sale or other disposition of the ownership interest is made, the taxpayer shall be required to reduce the cost of the ownership interest in the Oklahoma producer-owned agricultural processing cooperative, venture, or marketing association, as reported upon the applicable income tax return, by the amount of the tax credit which has previously been granted or for which the taxpayer is claiming credit if the credit is allowable for the year during which the sale or other disposition is made.

2. If a taxpayer sells or otherwise disposes of an ownership interest in the Oklahoma producer-owned agricultural processing cooperative, venture, or marketing association for which the tax credit authorized by this section may be taken in a taxable year following the year in which the ownership interest in the Oklahoma producer-owned agricultural processing cooperative, venture, or marketing association is sold or otherwise disposed of, the credit authorized by this section shall be reduced to account for the prior sale or other disposition.

H. The tax credit authorized by this section shall not be available or taken for any calendar year during which the claimant of the credit received any incentive payments pursuant to the Oklahoma Quality Jobs Program Act or the Saving Quality Jobs Act.

I. As used in this section:

1. "Direct investment" means the payment of money in an Oklahoma producer-owned agricultural processing cooperative, venture, or marketing association or the transfer of any form of economic value, whether tangible or intangible, other than money;

2. "Oklahoma producer-owned agricultural processing cooperative" means a legal entity in the nature of a partnership or business undertaking agricultural transactions or agricultural commercial enterprises for mutual profit which are owned and controlled by Oklahoma agricultural producers. An Oklahoma producer-owned agricultural processing cooperative requires a community of interest in the performance of the undertaking, transaction or enterprise, a right to direct and govern the policy in connection therewith and the duty, which may be altered by agreement, to share both in profit and losses. The term does not include a cooperative that provides only, and nothing more than, storage, cleaning, or transportation of agricultural commodities;

3. "Oklahoma producer-owned agricultural processing venture" means a legal entity in the nature of a corporation or company organized to invest in or operate an agricultural commodity processing facility operated primarily for the processing or production of marketable products from agricultural commodities. The term shall include a dairy operation that requires a depreciable investment of at least Two Hundred Fifty Thousand Dollars (\$250,000.00) and which produces milk from dairy cows. The term does not include a venture that provides only, and nothing more than, storage, cleaning, or transportation of agricultural commodities;

4. "Oklahoma producer-owned agricultural processing marketing association" means:
- a. a legal entity owned by Oklahoma producers of agricultural commodities and organized to jointly market agricultural commodities and/or natural-resource-based recreational activities, facilitate the marketing process and to promote and stimulate the processing, sales, and marketing of agricultural commodities, or
 - b. a legal entity owned by Oklahoma producers of agricultural commodities and organized for collective marketing and improvement of land for natural-resource-based recreational activity;

The term does not include a marketing association that provides only, and nothing more than, storage, cleaning, or transportation of agricultural commodities;

5. "Oklahoma agricultural producer" means any person who produces agricultural commodities in this state;

6. "Oklahoma-based corporation or partnership" means an entity created pursuant to the Oklahoma General Corporation Act or other laws of the state authorizing either a corporate entity or an entity with limited liability or any form of partnership, whether general, limited or other authorized partnership form having either its principal place of business within the state or substantial assets located within the state. For the purpose of this section, the definition contained in this paragraph shall not include an Oklahoma-based corporation or partnership that engages only in and nothing more than the storage, cleaning, and transportation or production of its commodity;

7. "Agricultural commodities" means a farm or ranch product, including but not limited to, wheat, corn, soybeans, cotton, timber, cattle, hogs, sheep, horses, poultry, animals of the families bovidae, cervidae and antilocapridae or birds of the ratite group produced in farming or ranching operations or a product of such crop or livestock in its unmanufactured state such as ginned cotton, wool-dip, maple syrup, milk and eggs, or any other commodity listed under any Industry Group Number under Major Group 20 of Division D of the Standard Industrial Classification (SIC) Manual; and

8. "Dairy operation" means and includes equipment and facilities to store and prepare feed, dairy cows, milking parlors, bulk cooling tanks, buildings, and all such depreciable investment commonly utilized in the dairy industry.

J. For purposes of this section, an agricultural commodity shall be deemed to be produced within this state if it is substantially produced, by any person, partnership, company, association or corporation:

1. Authorized to do and doing business under the laws of this state;
2. Paying all taxes duly assessed; and
3. Domiciled within this state by having a location of production within this state.

K. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section.

Added by Laws 1996, c. 296, § 2, eff. Jan. 1, 1997. Amended by Laws 1998, c. 385, § 8, eff. Nov. 1, 1998; Laws 1999, c. 1, § 22, emerg. eff. Feb. 24, 1999; Laws 2000, c. 271, § 2, eff. Nov. 1, 2000; Laws 2005, c. 299, § 1, eff. Jan. 1, 2006; Laws 2010, c. 327, § 7, eff. July 1, 2010.

NOTE: Laws 1998, c. 364, § 21 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999.

§68-2357.25A. Credit for recreational activities groups that are Oklahoma producer-owned agricultural processing marketing associations.

No recreational activities group as described in Section 1 of this act can receive more than fifteen percent (15%) of the tax credits allowed pursuant to Section 1 of this act.

Added by Laws 2005, c. 299, § 2, eff. Jan. 1, 2006.

§68-2357.26. Repealed by Laws 2013, c. 363, § 7, eff. Jan. 1, 2014.

§68-2357.27. Tax credits - Child care services - Definitions.

A. Except as otherwise provided by subsection E of this section, for tax years beginning after December 31, 1998 there shall be allowed a credit against the tax imposed by Section 2355 of this title for eligible expenses incurred by entities primarily engaged in the business of providing child care services.

B. As used in this section, "eligible expenses" means amounts paid by an entity primarily engaged in the business of providing child care services for expenses incurred by the entity to comply with the standards promulgated by a national accrediting association recognized by the Department of Human Services and which would not have been incurred by the entity to comply with the Oklahoma Child Care Facilities Licensing Act.

C. The credit allowed by subsection A of this section shall be twenty percent (20%) of the amount of eligible expenses. Such credit shall not be allowed for any amounts for which the entity claims or receives an income tax credit, exemption or deduction.

D. Any credits allowed but not used in any tax year may be carried over in order to each of the four (4) tax years following the year of qualification.

E. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to

be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section.

Added by Laws 1998, c. 386, § 5, eff. Nov. 1, 1998. Amended by Laws 2004, c. 347, § 1, eff. Nov. 1, 2004; Laws 2010, c. 327, § 9, eff. July 1, 2010.

§68-2357.28. Tax credit for investment in certain enterprises.

A. For tax years beginning after December 31, 1999, and ending before January 1, 2006, there shall be allowed to an investor making an eligible investment a credit against the tax imposed by Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes. The credit may be used in the payment of estimated tax payments for the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes. The credit shall be in the amount as set forth in subsection F or subsection G of this section.

B. The amount of the credit shall be freely transferable to subsequent transferees.

C. As used in this section:

1. "Capitalization commitment" means a commitment by a local governmental entity or the beneficiary thereof or a private entity, whether by contract, letter agreement, terms sheet, resolution, ordinance or indenture, to provide funds, personal property or real property.

"Capitalization commitment" shall also mean, in circumstances limited to local governmental entities or the beneficiaries thereof, a moral obligation to provide future funds, personal property or real property. To provide funds, personal property or real property shall include but not be limited to providing funds, personal property or real property in the form of security or collateral to a financial lending institution in support of a revenue bond, financial obligation or other evidence of indebtedness issued by a local governmental entity;

2. "Consideration" means, but is not limited to, funds, personal property or real property and a capitalization commitment. The source of the funds or other consideration for the investment by one or more investors, whether borrowed or otherwise, is irrelevant to the determination of investment. The fact that the source of funds is from a financial lending institution is also irrelevant;

3. "Eligible investment" means an investment made during a period not earlier than January 1, 1999, and not later than December 31, 2002, in an establishment that:

a. is headquartered in this state or is ultimately controlled by an entity headquartered in this state, and

b. has been certified by the Tax Commission as meeting the following minimum qualifications:

(1) is included within the definition of "basic industry" as set forth in division (7) of subparagraph a of paragraph 1 of subsection A of Section 3603 of this title and has been preapproved by the Oklahoma Department of Commerce to receive incentive payments pursuant to the Oklahoma Quality Jobs Program Act. The Department shall establish a process for preapproval of applicants for the Oklahoma Quality Jobs Program Act for purposes of this division. The establishment shall agree to submit such information as may be required under this section and the Oklahoma Quality Jobs Program Act to allow the Tax Commission to determine the amount of the tax credit allowed pursuant to the provisions of this

section and the amount of incentive payments allowed pursuant to the Oklahoma Quality Jobs Program Act for purposes of subsection K of this section,

- (2) can demonstrate commitments from not fewer than twenty entities doing business in this state, with such entities having in the aggregate not fewer than two thousand (2,000) employees in this state, to utilize the services of the establishment in providing nonstop air transportation from this state to either the west coast or the east coast of the continental United States, or both. Such commitments, at a minimum, may be in the form of letters of intent from authorized officers of such entities which demonstrate a best efforts intention to utilize such air transportation, and
- (3) has received, or its parent has received, in calendar year 2000, a capitalization commitment in the amount of Fifteen Million Dollars (\$15,000,000.00) or more from a local governmental entity, including, but not limited to, proceeds from the issuance of revenue bonds, financial obligations or other evidences of indebtedness. For purposes of this section and notwithstanding the provisions of Section 5063.4 of Title 74 of the Oklahoma Statutes or any other laws to the contrary, credit enhancement by the Oklahoma Development Finance Authority through the Oklahoma Credit Enhancement Reserve Fund up to a maximum of Ten Million Dollars (\$10,000,000.00) is hereby authorized, subject to the approval of the Executive and Legislative Bond Oversight Commissions pursuant to Section 695.8 of Title 62 of the Oklahoma Statutes.

The tax credit provided for in this section shall not be allowed or, if already claimed, shall be subject to recapture as to the initial investor or investors, with respect to any amount of an eligible investment made which is subsequently refunded or returned to any such investor. Any such recapture shall only apply as to that part of the tax credit as is associated with the investment refunded or returned.

Nothing in this subsection is intended to preclude an establishment from utilizing a wholly owned operating subsidiary to perform its flight and related operations to meet the requirements of this subsection;

4. "Financial lending institution" means a bank, credit union, savings and loan association, commercial finance company, governmental agency, including a local governmental entity, or other entity principally engaged in investment, finance or the extension of credit;

5. "Investment" means:

- a. consideration in exchange for "equity and near-equity", which means common stock, preferred stock, warrants or other rights to subscribe to stock or its equivalent, or an interest in a partnership, or debt that is convertible into or entitles the holder to receive upon its exercise, common stock, preferred stock, royalty interest, or an interest in a partnership,
- b. consideration in exchange for "subordinated debt", which means indebtedness that is subordinated to other indebtedness of the issuer that has been issued or is to be issued by a financial lending institution, or

- c. in the event of a capitalization commitment in accordance with the provisions of division (3) of subparagraph b of paragraph 3 of this subsection, where a local governmental entity is issuing revenue bonds, financial obligations or other evidences of indebtedness, the receipt of the proceeds of revenue bonds, financial obligations or other evidences of indebtedness issued by a local governmental entity by a parent and the subsequent transfer of such proceeds to a subsidiary.

Actions of the establishment to use such investment as security for indebtedness, even as security for that of another party, or other uses, in compliance with loan covenants as may be part of the issuance of revenue bonds, financial obligations or other evidences of indebtedness, shall not affect its determination as investment. For purposes of this section, investment in an establishment which has, prior to February 1, 2002, been certified as an eligible establishment by the Oklahoma Tax Commission shall be treated as an eligible investment in such establishment for the purposes of this section with respect to investment made at any time prior to December 31, 2002;

6. "Investor" means one or more persons or entities making an investment and may include one or more persons or entities which wholly or partially own the establishment;

7. "Local governmental entity" includes, but is not limited to, a county, municipality or public authority or trust created pursuant to the provisions of Title 60 of the Oklahoma Statutes of which the state or a county or municipality or combination thereof, is a beneficiary, or a state public authority or trust;

8. "Parent" means an entity owning fifty-one percent (51%) or more of the establishment and providing fifty-one percent (51%) or more of the investment in the establishment; and

9. "Subsequently refunded or returned", when used in reference to an eligible investment, means an actual redemption by the establishment of the securities or other indicia of ownership in the establishment received by the investor from the investor's investment. The failure to allow the tax credits or the recapture of the tax credits shall not affect the validity of the tax credits in the hands of a transferee of the initial investor or subsequent transferees. Provided, an investor to whom an eligible investment, or portion thereof, is subsequently refunded or returned shall reimburse the Tax Commission the amount of any credits claimed by a transferee with respect to any such amount.

D. The Oklahoma Tax Commission shall:

1. Certify, upon request of an authorized agent or representative of an establishment described by paragraph 3 of subsection C of this section, that the establishment for which the certification is sought meets the qualifications prescribed by subparagraphs a and b of paragraph 3 of subsection C of this section. The certification shall be in writing and signed by an authorized representative of the Tax Commission and, for purposes of determining qualifications of an establishment in which an investment may be eligible for the credit authorized by this section, shall be binding upon the Tax Commission; and

2. Issue a certificate to an investor that provides adequate documentation of qualification for the credit authorized by this section even if the credit may not be claimed until after the date upon which the certificate is requested. Upon issuance, the certificate shall be evidence that an investor or a transferee of the original tax credit claimant submitting the certificate, or a certified copy thereof, with the relevant tax return or other form, has the legal right to exercise the credit in order to reduce the relevant tax liability for the period authorized by this section.

E. Except as otherwise provided by subsection G of this section, the maximum amount of all eligible investments for which tax credits may be claimed under this section shall be Thirty Million Dollars (\$30,000,000.00). If more than one establishment has been certified by the Tax Commission pursuant to the provisions of subsection D of this section, the investors in the first such approved establishment shall be entitled to a credit based on their investment of the lesser of their eligible investment or Thirty Million Dollars (\$30,000,000.00). The investors in the second such approved establishment shall then be entitled to a credit based on their investment of the lesser of their eligible investment or the difference between the total eligible investments in previously approved establishments and Thirty Million Dollars (\$30,000,000.00). This same procedure will apply for all subsequently approved establishments. If the amount of eligible investments exceeds the amount upon which the tax credit may be claimed as provided herein, investors shall be allowed a share of the amount of the available tax credit in order of the dates of receipt of certification therefor by the Tax Commission pursuant to the provisions of paragraph 1 of subsection D of this section.

F. Except as otherwise provided by subsection G of this section, the amount of the tax credit allowed pursuant to the provisions of subsection A of this section shall be deemed fully earned as of the date of the investment and shall be fully redeemable as follows:

| Period for Which Tax Liability Determined | Credit Allowed |
|--|-----------------------------------|
| Tax year subsequent to year of eligible investment | 10.6% of eligible investment |
| Second tax year subsequent to year of eligible investment | 11.236% of eligible investment |
| Third tax year subsequent to year of eligible investment | 11.910% of eligible investment |
| Fourth tax year subsequent to year of eligible investment | 12.624% of eligible investment |
| Fifth tax year subsequent to year of eligible investment | 13.381% of eligible investment |

G. An investor or investors in an establishment that has been approved for eligible investment before February 1, 2002, pursuant to this section may receive tax credits for additional eligible investment in such establishment during the period February 1, 2002, to December 31, 2002. The maximum amount of such additional tax credits shall be Nine Million Dollars (\$9,000,000.00) with One Dollar (\$1.00) of tax credit for each dollar of eligible investment. The tax credits authorized by this subsection may not be used as to any tax obligation that is due and payable before July 1, 2003. For the fiscal year that begins July 1, 2003, and the fiscal years that begin July 1, 2004, and July 1, 2005, the amount of tax credits authorized by this subsection which may be used during each such fiscal year shall not exceed Three Million Dollars (\$3,000,000.00).

H. The amount of a tax credit allowed pursuant to the provisions of this section not used in payment of taxes due in the year in which such credit is allowed pursuant to subsection F or

subsection G of this section may be used as a credit against subsequent tax liability of the investor or a subsequent transferee for a period not to exceed three (3) years from the year in which such credit is originally allowed.

I. The Tax Commission shall develop and issue appropriate forms and instructions to enable investors to claim the tax credit provided for in this section.

J. An establishment in which an eligible investment qualifies for a credit authorized by this section shall maintain a record of investment made in the establishment for the period beginning January 1, 1999, and ending December 31, 2002. The establishment shall notify the Tax Commission not later than January 31, 2003, of the total investment amount for such period. Any such establishment which refunds or returns any amount of an eligible investment to the investor shall notify the Tax Commission in writing of the amount and recipient of such refunds or returns. The Tax Commission shall compute the maximum amount of credits available pursuant to this section based upon notification of the investment amount transmitted to the Tax Commission by the establishment.

K. An establishment in which eligible investments qualify for the tax credit authorized by this section shall not receive incentive payments pursuant to the Oklahoma Quality Jobs Program Act until the total of such incentive payments the establishment would otherwise receive exceeds the total amount of the credit authorized by this section as computed by the Tax Commission pursuant to subsection J of this section. The amount of incentive payments for any year which would otherwise be paid to the establishment shall be distributed as follows:

1. If the amount of such incentive payments equals or exceeds the amount of the tax credit for the year, the amount of such payments which is equal to the amount of the tax credit shall be apportioned as if collected from the tax imposed by Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes according to which tax the credit was claimed against. The amount of such payments which is in excess of the amount of the tax credit shall be retained by the Tax Commission to be paid as provided for in this paragraph for subsequent years for which the tax credit is allowed to the establishment;

2. If the amount of such incentive payments and any amount retained by the Tax Commission pursuant to the provisions of paragraph 1 of this subsection is less than the amount of the tax credit for the year, notwithstanding the provisions of Section 1727 of Title 69 of the Oklahoma Statutes, the Tax Commission shall withhold a portion of the taxes levied and collected pursuant to the provisions of paragraph 1 of subsection A of Section 500.4 of this title which would otherwise be paid over to the Department of Transportation by the Oklahoma Turnpike Authority pursuant to the provisions of paragraph (2) of subsection (d) of Section 1730 of Title 69 of the Oklahoma Statutes equal to the amount of the deficit. The Tax Commission shall apportion all funds collected pursuant to the provisions of this paragraph as if collected from the tax imposed by Section 2355 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes according to the tax against which the credit was claimed; and

3. If any amount is withheld by or paid to the Tax Commission pursuant to the provisions of paragraph 2 of this subsection, the amount of incentive payments to be subsequently paid to the establishment shall be apportioned by the Tax Commission to the Department of Transportation until such time as all amounts paid pursuant to the provisions of paragraph 2 of this subsection are repaid.

L. No establishment in which investments qualify for the credit allowed by this section shall be entitled to payment of any incentive payments accrued prior to the date authorized for the initial eligible investments as provided by this subsection.

M. Notwithstanding the provisions of this section, an establishment may, prior to the issuance of a tax credit with respect to the establishment pursuant to the provisions of this section, elect to receive incentive payments pursuant to the provisions of the Oklahoma Quality Jobs Program Act in lieu of allowing the tax credit provided for herein, in which case it shall so notify the Tax Commission in writing and the provisions of this section shall not be applicable.

N. Except as provided by subsection M of this section, no establishment defined by this section which would otherwise qualify for incentive payments pursuant to the provisions of the Oklahoma Quality Jobs Program Act may receive such incentive payments prior to January 1, 2001.

O. No establishment defined by this section which has made application to the Oklahoma Department of Commerce or which has executed any agreement with the Oklahoma Department of Commerce with respect to the receipt of incentive payments pursuant to the provisions of the Oklahoma Quality Jobs Program Act or which has received any incentive payment pursuant to the Oklahoma Quality Jobs Program Act prior to June 9, 1999, may be certified as an establishment for purposes of determining eligibility for the credit authorized by this section. Added by Laws 1999, c. 393, § 1, emerg. eff. June 9, 1999. Amended by Laws 2000, c. 339, § 19, emerg. eff. June 6, 2000; Laws 2002, c. 18, § 1, emerg. eff. Feb. 19, 2002.

§68-2357.29. Repealed by Laws 2013, c. 363, § 8, eff. Jan. 1, 2014.

§68-2357.29A. Credit for homeowners who lost primary residence to natural disasters in 2012 and 2013.

A. For tax years beginning after December 31, 2011, there shall be allowed a credit against the tax imposed by Section 2355 of this title for owners of residential real property whose primary residence was damaged or destroyed in a natural disaster occurring in calendar year 2012 or 2013 for which a Presidential Major Disaster Declaration was issued. The amount of the credit shall be the difference between the ad valorem property tax paid on such property and improvements in the year prior to the damage or destruction and the amount of ad valorem property tax paid on the property and improvements the first year after the improvement is complete. For purposes of this credit, the amount of ad valorem property tax paid the first year after the improvement is complete shall be based on the same or similar square footage as the property which was damaged or destroyed. For purposes of this section, a “natural disaster” shall mean a weather or fire event for which a Presidential Major Disaster Declaration was issued.

B. The credit shall be a refundable credit. Eligible taxpayers shall be entitled to claim this credit for five (5) consecutive years. After the first year the credit is claimed, the amount of the credit shall be eighty percent (80%) of the previous year’s credit. If the taxpayer has no income tax liability, or if the credit exceeds the amount of the income tax liability of the taxpayer, then the credit, or balance thereof, shall be paid out in the same manner and out of the same fund as refunds of income taxes are paid and so much of the fund as is necessary for such purposes is hereby appropriated.

C. In order to qualify for this credit:

1. The property shall have been damaged or destroyed by a natural disaster during calendar year 2012 or 2013;
2. The property shall be within an area which has been declared a federal disaster area;

3. The property shall be the primary residence of the owner both prior to and after the natural disaster;

4. The owner shall have been granted a homestead exemption or be eligible to claim a homestead exemption both prior to and after the natural disaster;

5. The primary residence shall be repaired or rebuilt on the same property as it existed prior to the natural disaster; and

6. The primary residence shall be repaired or rebuilt and used as the primary residence no later than December 31, 2015, with respect to the calendar year 2012 or 2013 natural disaster.

D. The credit shall not be allowed if the property is transferred or title is changed or conveyed as defined in Section 2802.1 of this title. Any credit claimed and allowed prior to the transfer of the property or the change or conveyance of title shall not be affected.

E. The Oklahoma Tax Commission shall promulgate any necessary rules and develop any necessary forms to implement the provisions of this section.

Added by Laws 2013, c. 370, § 5, emerg. eff. May 29, 2013.

§68-2357.30. Repealed by Laws 2013, c. 363, § 9, eff. Jan. 1, 2014.

§68-2357.31. Definitions - Tax credit.

A. As used in this section:

1. "Eligible employer" means a corporation, partnership or proprietorship which:

- a. has done business in this state for at least one (1) year,
- b. has not provided group health insurance within the fifteen (15) months preceding the offer to purchase group health insurance which meets the requirements of this section to at least seventy-five percent (75%) of its employees who are residents of this state and work an average of twenty-four (24) hours or more a week for said employer,
- c. offers the state-certified, basic health benefits plan to all eligible employees who worked an average of twenty-four (24) hours or more a week during the calendar quarter preceding the purchase of the policy, and
- d. pays fifty percent (50%) or more of the full cost of the portion of the premium attributable to the employee for which the employer is claiming credit;

2. "Eligible employee" means an employee, proprietor or partner of the employer claiming the credit who:

- a. is a resident of this state,
- b. works an average of twenty-four (24) hours a week or more for the employer, and
- c. was not covered by a group health insurance policy or plan offered by the same employer within the fifteen (15) months preceding the offer to purchase health insurance which meets the requirements of this section; and

3. "State-certified, basic health benefits plan" means the basic health benefits plan developed and approved by the Oklahoma Basic Health Benefits Board prior to July 1, 1995.

B. 1. For tax years beginning after December 31, 1990, there shall be allowed to an eligible employer a credit against the tax imposed by Section 2355 of this title for premiums paid on behalf of each eligible employee who elects to participate in the state-certified, basic health benefits plan and meets the requirements of this section. The credit shall be in the amount of

Fifteen Dollars (\$15.00) a month for each eligible employee and shall be allowed for two (2) consecutive tax years. Provided, if the tax liability of an employer pursuant to Section 2355 of this title is less than the credit to which the employer is entitled pursuant to this section, the Oklahoma Tax Commission shall pay a refund to the employer. The refund shall equal the difference between the amount of taxes owed, after any other credits or exemptions to which the employer is entitled have been applied to the tax liability, and the credit to which the employer is entitled pursuant to this section for the tax year.

2. Tax credits or refunds may not be granted pursuant to the provisions of this section to an employer who, prior to July 1, 1995, was not covered under a state-certified, basic health benefits plan.

C. The credit shall not be granted unless the eligible employer certifies to the Oklahoma Tax Commission that each employee for which the credit is claimed is participating in the state-certified, basic health benefits plan.

D. The Oklahoma Tax Commission shall develop and issue appropriate forms and instructions to enable eligible employers to claim the tax credit. The Commission shall promulgate rules to facilitate the implementation of this section.

Added by Laws 1990, c. 338, § 8, eff. July 1, 1990. Amended by Laws 1991, c. 344, § 7, emerg. eff. June 15, 1991; Laws 1995, c. 355, § 3, eff. July 1, 1995; Laws 1997, c. 109, § 4, eff. Nov. 1, 1997.

§68-2357.32. Repealed by Laws 2013, c. 363, § 10, eff. Jan. 1, 2014.

§68-2357.32A. Electricity generated by zero-emission facilities - Tax credit.

A. Except as otherwise provided in subsection H of this section, for tax years beginning on or after January 1, 2003, there shall be allowed a credit against the tax imposed by Section 2355 of this title to a taxpayer for the taxpayer's production and sale to an unrelated person of electricity generated by zero-emission facilities located in this state. As used in this section:

1. "Electricity generated by zero-emission facilities" means electricity that is exclusively produced by any facility located in this state with a rated production capacity of one megawatt (1 mw) or greater, constructed for the generation of electricity and placed in operation after June 4, 2001, which utilizes eligible renewable resources as its fuel source. The construction and operation of such facilities shall result in no pollution or emissions that are or may be harmful to the environment, pursuant to a determination by the Department of Environmental Quality; and

2. "Eligible renewable resources" means resources derived from:

- a. wind,
- b. moving water,
- c. sun, or
- d. geothermal energy.

B. For facilities placed in operation on or after January 1, 2003, and before January 1, 2007, the amount of the credit for the electricity generated on or after January 1, 2003, but prior to January 1, 2004, shall be seventy-five one-hundredths of one cent (\$0.0075) for each kilowatt-hour of electricity generated by zero-emission facilities. For electricity generated on or after January 1, 2004, but prior to January 1, 2007, the amount of the credit shall be fifty one-hundredths of one cent (\$0.0050) per kilowatt-hour for electricity generated by zero-emission facilities. For electricity generated on or after January 1, 2007, but prior to January 1, 2012, the amount of the credit shall be twenty-five one-hundredths of one cent (\$0.0025) per kilowatt-hour

of electricity generated by zero-emission facilities. For facilities placed in operation on or after January 1, 2007, and before January 1, 2021, the amount of the credit for the electricity generated on or after January 1, 2007, shall be fifty one-hundredths of one cent (\$0.0050) for each kilowatt-hour of electricity generated by zero-emission facilities.

C. Credits may be claimed with respect to electricity generated on or after January 1, 2003, during a ten-year period following the date that the facility is placed in operation on or after June 4, 2001.

D. 1. For credits generated prior to January 1, 2014, if the credit allowed pursuant to this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit allowed but not used in any tax year may be carried forward as a credit against subsequent income tax liability for a period not exceeding ten (10) years.

2. For credits generated, but not used, on or after January 1, 2014, the Oklahoma Tax Commission shall refund, at the taxpayer's election, directly to the taxpayer eighty-five percent (85%) of the face amount of such credits. The direct refund of the credits pursuant to this paragraph shall be available to all taxpayers, including, without limitation, pass-through entities and taxpayers subject to Section 2355 of this title, but shall not be available to any entities falling within the provisions of subsection E of this section. The amount of any direct refund of credits actually received at the eighty-five percent (85%) level by the taxpayer pursuant to this paragraph shall not be subject to the tax imposed by Section 2355 of this title. If the pass-through entity does not file a claim for a direct refund, the pass-through entity shall allocate the credit to one or more of the shareholders, partners or members of the pass-through entity; provided, the total of all credits refunded or allocated shall not exceed the amount of the credit or refund to which the pass-through entity is entitled. For the purposes of this paragraph, "pass-through entity" means a corporation that for the applicable tax year is treated as an S corporation under the Internal Revenue Code of 1986, as amended, general partnership, limited partnership, limited liability partnership, trust or limited liability company that for the applicable tax year is not taxed as a corporation for federal income tax purposes.

E. Any nontaxable entities, including agencies of the State of Oklahoma or political subdivisions thereof, shall be eligible to establish a transferable tax credit in the amount provided in subsection B of this section. Such tax credit shall be a property right available to a state agency or political subdivision of this state to transfer or sell to a taxable entity, whether individual or corporate, who shall have an actual or anticipated income tax liability under Section 2355 of this title. These tax credit provisions are authorized as an incentive to the State of Oklahoma, its agencies and political subdivisions to encourage the expenditure of funds in the development, construction and utilization of electricity from zero-emission facilities as defined in subsection A of this section.

F. For credits generated prior to January 1, 2014, the amount of the credit allowed, but not used, shall be freely transferable at any time during the ten (10) years following the year of qualification. Any person to whom or to which a tax credit is transferred shall have only such rights to claim and use the credit under the terms that would have applied to the entity by whom or by which the tax credit was transferred. The provisions of this subsection shall not limit the ability of a tax credit transferee to reduce the tax liability of the transferee, regardless of the actual tax liability of the tax credit transferor, for the relevant taxable period. The transferor initially allowed the credit and any subsequent transferees shall jointly file a copy of any written transfer agreement with the Oklahoma Tax Commission within thirty (30) days of the transfer.

The written agreement shall contain the name, address and taxpayer identification number or social security number of the parties to the transfer, the amount of the credit being transferred, the year the credit was originally allowed to the transferor, and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the validity and timeliness of the tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules that unduly restrict or hinder the transfers of such tax credit. The tax credit allowed by this section, upon the election of the taxpayer, may be claimed as a payment of tax, a prepayment of tax or a payment of estimated tax for purposes of Section 1803 or Section 2355 of this title.

G. For electricity generation produced and sold in a calendar year, the tax credit allowed by the provisions of this section, upon election of the taxpayer, shall be treated and may be claimed as a payment of tax, a prepayment of tax or a payment of estimated tax for purposes of Section 2355 of this title on or after July 1 of the following calendar year.

H. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable until the provisions of this subsection shall cease to be operative on July 1, 2011. Beginning July 1, 2011, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, according to the provisions of this section. Any tax credits which accrue during the period of July 1, 2010, through June 30, 2011, may not be claimed for any period prior to the taxable year beginning January 1, 2012. No credits which accrue during the period of July 1, 2010, through June 30, 2011, may be used to file an amended tax return for any taxable year prior to the taxable year beginning January 1, 2012.

Added by Laws 2001, c. 397, § 5, emerg. eff. June 4, 2001. Amended by Laws 2002, c. 313, § 2, eff. Nov. 1, 2002; Laws 2006, 2nd Ex.Sess., c. 44, § 10, eff. Jan. 1, 2007; Laws 2010, c. 327, § 11, eff. July 1, 2010; Laws 2010, c. 418, § 4, emerg. eff. June 10, 2010; Laws 2013, c. 371, § 2, eff. Jan. 1, 2014.

§68-2357.32B. Credit for manufacturers of small wind turbines.

A. Except as otherwise provided by subsection G of this section, for tax years beginning on or after January 1, 2003, and ending on or before December 31, 2012, there shall be allowed a credit against the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes, and actually paid to and placed into the General Revenue Fund, or Section 2370 or 2355 of this title to Oklahoma manufacturers of advanced small wind turbines. As used in this section:

1. "Oklahoma manufacturers" means manufacturers who operate facilities located in this state which have the capability to manufacture small wind turbine products, including rotor blade and alternator fabrication; and

2. "Advanced small wind turbines" means upwind, furling wind turbines that meet the following requirements:

- a. have a rated capacity of at least one kilowatt (1 kw) but not greater than fifty kilowatts (50 kw),
- b. incorporate advanced technologies such as new airfoils, new generators, and new power electronics, variable speed,
- c. at least one unit of each model has undergone testing at the US-DOE National Wind Technology Center, and

d. comply with appropriate interconnection safety standards of the Institute of Electrical and Electronics Engineers applicable to small wind turbines.

B. The amount of the credit shall be based on the square footage of rotor swept area of advanced small wind turbines manufactured in this state. The amount of the credit shall be Twenty-five Dollars (\$25.00) per square foot produced in calendar year 2003, Twelve Dollars and fifty cents (\$12.50) per square foot produced in calendar year 2004, and Twenty-five Dollars (\$25.00) per square foot produced in calendar years 2005 through 2012.

C. The companies claiming the credit allowed by this section shall agree in advance to allow their production and claims to be audited by the Oklahoma Tax Commission and they must be able to show that they have made economic development investments in this state over the period of time for which the credit was claimed that exceed the net proceeds from the amount of credit claimed.

D. If the amount of the credits allowed pursuant to this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding ten (10) years.

E. The amount of the credit allowed but not used shall be freely transferable at any time during the ten (10) years following the year of qualification. Any person to whom or to which a tax credit is transferred shall have only such rights to claim and use the credit under the terms that would have applied to the entity by whom or by which the tax credit was transferred. The provisions of this subsection shall not limit the ability of a tax credit transferee to reduce the tax liability of the transferee regardless of the actual tax liability of the tax credit transferor for the relevant taxable period. The transferor originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of the credit being transferred, the year the credit was originally allowed to the transferor and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the validity and timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules that unduly restrict or hinder the transfers of such tax credit.

F. For advanced small wind turbines produced in a calendar year, the tax credit allowed by the provisions of this section, upon election of the taxpayer, shall be treated and may be claimed as a payment of tax, a prepayment of tax or a payment of estimated tax for purposes of Section 624 or 628 of Title 36 of the Oklahoma Statutes, and actually paid to and placed into the General Revenue Fund, or Section 2370 or 2355 of this title on or after July 1 of the following calendar year.

G. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section.

Added by Laws 2002, c. 313, § 1, eff. Nov. 1, 2002. Amended by Laws 2005, c. 384, § 1, emerg. eff. June 6, 2005; Laws 2006, c. 272, § 14; Laws 2010, c. 327, § 12, eff. July 1, 2010.

§68-2357.33. Repealed by Laws 2013, c. 363, § 11, eff. Jan. 1, 2014.

§68-2357.34. Repealed by Laws 2013, c. 363, § 12, eff. Jan. 1, 2014.

§68-2357.35. Repealed by Laws 2013, c. 363, § 12, eff. Jan. 1, 2014.

§68-2357.36. Repealed by Laws 2013, c. 363, § 12, eff. Jan. 1, 2014.

§68-2357.37. Repealed by Laws 2013, c. 363, § 12, eff. Jan. 1, 2014.

§68-2357.38. Repealed by Laws 2013, c. 363, § 12, eff. Jan. 1, 2014.

§68-2357.39. Repealed by Laws 2013, c. 363, § 12, eff. Jan. 1, 2014.

§68-2357.40. Repealed by Laws 2013, c. 363, § 12, eff. Jan. 1, 2014.

§68-2357.41. Tax credit for qualified rehabilitation expenditures - Certified historic structures.

A. Except as otherwise provided by subsection I of this section, for tax years beginning after December 31, 2000, there shall be allowed a credit against the tax imposed by Sections 2355 and 2370 of this title or that portion of the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes that would otherwise have been apportioned to the General Revenue Fund for qualified rehabilitation expenditures incurred in connection with any certified historic hotel or historic newspaper plant building located in an increment or incentive district created pursuant to the Local Development Act or for qualified rehabilitation expenditures incurred after January 1, 2006, in connection with any certified historic structure.

B. The amount of the credit shall be one hundred percent (100%) of the federal rehabilitation credit provided for in Section 47 of Title 26 of the United States Code. The credit authorized by this section may be claimed at any time after the relevant local governmental body responsible for doing so issues a certificate of occupancy or other document that is a precondition for the applicable use of the building or structure that is the basis upon which the credit authorized by this section is claimed.

C. All requirements with respect to qualification for the credit authorized by Section 47 of Title 26 of the United States Code shall be applicable to the credit authorized by this section.

D. If the credit allowed pursuant to this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding ten (10) years following the qualified expenditures.

E. All rehabilitation work to which the credit may be applied shall be reviewed by the State Historic Preservation Office which will in turn forward the information to the National Park Service for certification in accordance with 36 C.F.R., Part 67. A certified historic structure may be rehabilitated for any lawful use or uses, including without limitation mixed uses and still retain eligibility for the credit provided for in this section.

F. The amount of the credit allowed for any credit claimed for a certified historic hotel or historic newspaper plant building or any certified historic structure, but not used, shall be freely transferable, in whole or in part, to subsequent transferees at any time during the five (5) years

following the year of qualification. Any person to whom or to which a tax credit is transferred shall have only such rights to claim and use the credit under the terms that would have applied to the entity by whom or by which the tax credit was transferred. The provisions of this subsection shall not limit the ability of a tax credit transferee to reduce the tax liability of the transferee regardless of the actual tax liability of the tax credit transferor for the relevant taxable period. The transferor of the credit and the transferee shall jointly file a copy of the written credit transfer agreement with the Oklahoma Tax Commission within thirty (30) days of the transfer. Such filing of the written credit transfer agreement with the Oklahoma Tax Commission shall perfect such transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferor, the tax year or years for which the credit may be claimed, and a representation by the transferor that the transferor has neither claimed for its own behalf nor conveyed such credits to any other transferee. The Tax Commission shall develop a standard form for use by subsequent transferees of the credit demonstrating eligibility for the transferee to reduce its applicable tax liabilities resulting from ownership of the credit. The Tax Commission shall develop a system to record and track the transfers of the credit and certify the ownership of the credit and may promulgate rules to permit verification of the validity and timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly restrict or hinder the transfers of such tax credit.

G. Notwithstanding any other provisions in this section, on or after January 1, 2009, if a credit allowed pursuant to this section which has been transferred is subsequently reduced as the result of an adjustment by the Internal Revenue Service, Tax Commission, or any other applicable government agency, only the transferor originally allowed the credit and not any subsequent transferee of the credit, shall be held liable to repay any amount of disallowed credit.

H. As used in this section:

1. "Certified historic hotel or historic newspaper plant building" means a hotel or newspaper plant building that is listed on the National Register of Historic Places within thirty (30) months of taking the credit pursuant to this section.

2. "Certified historic structure" means a building that is listed on the National Register of Historic Places within thirty (30) months of taking the credit pursuant to this section or a building located in Oklahoma which is certified by the State Historic Preservation Office as contributing to the historic significance of a certified historic district listed on the National Register of Historic Places, or a local district that has been certified by the State Historic Preservation Office as eligible for listing in the National Register of Historic Places; and

3. "Qualified rehabilitation expenditures" means capital expenditures that qualify for the federal rehabilitation credit provided in Section 47 of Title 26 of the United States Code and that were paid after December 31, 2000. Qualified rehabilitation expenditures do not include capital expenditures for nonhistoric additions except an addition that is required by state or federal regulations that relate to safety or accessibility. In addition, qualified rehabilitation expenditures do not include expenditures related to the cost of acquisition of the property.

I. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable until the provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, according to the provisions of this section. Any tax credits which accrue

during the period of July 1, 2010, through June 30, 2012, may not be claimed for any period prior to the taxable year beginning January 1, 2012. No credits which accrue during the period of July 1, 2010, through June 30, 2012, may be used to file an amended tax return for any taxable year prior to the taxable year beginning January 1, 2012.

Added by Laws 2000, c. 351, § 8, emerg. eff. June 6, 2000. Amended by Laws 2001, c. 382, § 4, eff. Jan. 1, 2002; Laws 2003, c. 186, § 2, eff. Nov. 1, 2003; Laws 2005, c. 413, § 6, eff. July 1, 2005; Laws 2006, c. 272, § 15; Laws 2008, c. 436, § 4, eff. Jan. 1, 2009; Laws 2010, c. 327, § 14, eff. July 1, 2010; Laws 2010, c. 418, § 5, emerg. eff. June 10, 2010.

NOTE: Editorially renumbered from Title 68, § 2357.34 to avoid duplication in numbering.

§68-2357.42. Tax credit for investments by space transportation vehicle providers.

A. For tax years beginning after December 31, 2000, and ending before January 1, 2009, there shall be allowed to an investor making an eligible investment a credit against the tax imposed by Section 2355 or 2370 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes. The credit may be used in the payment of estimated tax payments for the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes. The credit shall be in the amount as set forth in subsection G of this section.

B. The amount of the credit shall be transferable to subsequent transferees.

C. As used in this section:

1. "Eligible investment" means an investment made during a period not earlier than January 1, 2001, and not later than December 31, 2003, in a qualified space transportation vehicle provider that:

- a. is headquartered in this state or is ultimately controlled by an entity headquartered in this state,
- b. has been certified by the Oklahoma Tax Commission as meeting the following minimum qualifications:
 - (1) is included within the definition of "basic industry" as set forth in division (1) of subparagraph a of paragraph 1 of subsection A of Section 3603 of this title and has been preapproved by the Oklahoma Department of Commerce to receive incentive payments pursuant to the Oklahoma Quality Jobs Program Act or the Former Military Facility Development Act. The Department shall establish a process for preapproval of applicants for the Oklahoma Quality Jobs Program Act or the Former Military Facility Development Act for purposes of this division. The qualified space transportation vehicle provider shall agree to submit such information as may be required under this section and the Oklahoma Quality Jobs Program Act or the Former Military Facility Development Act to allow the Tax Commission to determine the amount of the tax credit allowed pursuant to the provisions of this section and the amount of incentive payments allowed pursuant to the Oklahoma Quality Jobs Program Act or the Former Military Facility Development Act for purposes of subsection K of this section,
 - (2) has equity capitalization of not less than Ten Million Dollars (\$10,000,000.00), and

- (3) has received a commitment by a local governmental entity, whether by contract, letter agreement, terms sheet, resolution, ordinance or indenture, to provide funds, personal property or real property in the aggregate amount of Fifteen Million Dollars (\$15,000,000.00) or more which will be utilized by one or more qualified space transportation vehicle providers. For purposes of this division, such property may include personal or real property owned by a local governmental entity which has been leased to a state authority pursuant to a long-term lease or personal or real property which a local governmental entity has transferred to a state authority. If such property has been so transferred, the commitment required by this division may be satisfied if the state authority agrees in writing to make the property so transferred available for use by one or more qualified space transportation vehicle providers;

2. "Qualified space transportation vehicle provider" means any commercial provider organized under the laws of this state as a corporation or a limited liability company and engaged in designing, developing, producing, or operating commercial space transportation vehicles in this state;

3. "Space transportation vehicle" includes all types of vehicles or orbital or suborbital spacecraft, whether now in existence, developed in the future, or currently under design, development, construction, reconstruction, or reconditioning, constructed in this state and owned by a qualified space transportation vehicle provider, for the purpose of operating in, or transporting a payload to, from, or within, outer space, or in suborbital trajectory, and includes any component of such vehicle or spacecraft not specifically designed or adapted for a payload; and

4. "Subsequently refunded or returned", when used in reference to an eligible investment, means an actual redemption by the qualified space transportation vehicle provider of the securities or other indicia of ownership in the qualified space transportation vehicle provider received by the investor from the investor's investment. The failure to allow the tax credits or the recapture of the tax credits shall not affect the validity of the tax credits in the hands of a transferee of the initial investor or subsequent transferees. Provided, an investor to whom an eligible investment, or portion thereof, is subsequently refunded or returned shall reimburse the Tax Commission the amount of any credits claimed by a transferee with respect to any such amount.

D. The tax credit provided for in this section shall not be allowed or, if already claimed, shall be subject to recapture as to the initial investor or investors with respect to any amount of an eligible investment made which is subsequently refunded or returned to such investor. Further, a tax credit shall not be allowed to an investor making an eligible investment in a qualified space transportation vehicle provider or shall be subject to recapture as to the initial investor or investors if previously allowed if the qualified space transportation vehicle provider in which the investment was made fails to make use of such funds or property within three (3) years of the date the tax credit was allowed. Any recapture under this subsection shall only apply as to that part of the tax credit as is associated with the amount of the investment which is subsequently refunded or returned or which is not utilized.

E. The Tax Commission shall:

1. Certify, upon request of an authorized agent or representative of a qualified space transportation vehicle provider, that the qualified space transportation vehicle provider for which the certification is sought meets the qualifications prescribed by subparagraph b of paragraph 1 of subsection C of this section. The certification shall be in writing and signed by an authorized representative of the Tax Commission and, for purposes of determining qualifications of a qualified space transportation vehicle provider in which an investment may be eligible for the credit authorized by this section, shall be binding upon the Tax Commission; and

2. Issue a certificate to an investor that provides adequate documentation of qualification for the credit authorized by this section even if the credit may not be claimed until after the date upon which the certificate is requested. Upon issuance, the certificate shall be evidence that an investor or a transferee of the original tax credit claimant submitting the certificate, or a certified copy thereof, with the relevant tax return or other form, has the legal right to exercise the credit in order to reduce the relevant tax liability for the period authorized by this section.

F. The maximum amount of all eligible investments for which tax credits may be claimed under this section shall be Thirty Million Dollars (\$30,000,000.00). If more than one qualified space transportation vehicle provider has been certified by the Tax Commission pursuant to the provisions of subsection E of this section, the investors in the first such approved qualified space transportation vehicle provider shall be entitled to a credit based on their investment of the lesser of their eligible investment or Thirty Million Dollars (\$30,000,000.00). The investors in the second such approved qualified space transportation vehicle provider shall then be entitled to a credit based on their investment of the lesser of their eligible investment or the difference between the total eligible investments in previously approved qualified space transportation vehicle providers and Thirty Million Dollars (\$30,000,000.00). This same procedure will apply for all subsequently approved qualified space transportation vehicle providers. If the amount of eligible investments exceeds the amount upon which the tax credit may be claimed as provided herein, investors shall be allowed a share of the amount of the available tax credit in order of the dates of receipt of certification therefor by the Tax Commission pursuant to the provisions of paragraph 1 of subsection E of this section.

G. The amount of the tax credit allowed pursuant to the provisions of subsection A of this section shall be deemed fully earned as of the date of the investment and shall be fully redeemable as follows:

| Period for Which Tax Liability Determined | Credit Allowed |
|---|--------------------------------|
| Tax year subsequent to year of eligible investment | 10.6% of eligible investment |
| Second tax year subsequent to year of eligible investment | 11.236% of eligible investment |
| Third tax year subsequent to year of eligible investment | 11.910% of eligible investment |
| Fourth tax year subsequent to year of eligible investment | 12.624% of eligible investment |

Fifth tax year subsequent to year of eligible investment

13.381% of eligible investment

H. The amount of a tax credit allowed pursuant to the provisions of this section not used in payment of taxes due in the year in which such credit is allowed pursuant to subsection G of this section may be used as a credit against subsequent tax liability of the investor or a subsequent transferee for a period not to exceed three (3) years from the year in which such credit is originally allowed.

I. The Tax Commission shall develop and issue appropriate forms and instructions to enable investors to claim the tax credit provided for in this section.

J. A qualified space transportation vehicle provider in which an eligible investment qualifies for a credit authorized by this section shall maintain a record of investment made in the qualified space transportation vehicle provider for the period beginning January 1, 2001, and ending December 31, 2003. The qualified space transportation vehicle provider shall notify the Tax Commission not later than January 31, 2004, of the total investment amount for such period. Any such qualified space transportation vehicle provider which refunds or returns any amount of an eligible investment to the investor shall notify the Tax Commission in writing of the amount and recipient of such refunds or returns. The Tax Commission shall compute the maximum amount of credits available pursuant to this section based upon notification of the investment amount transmitted to the Tax Commission by the qualified space transportation vehicle provider.

K. A qualified space transportation vehicle provider in which eligible investments qualify for the tax credit authorized by this section shall not receive incentive payments pursuant to the Oklahoma Quality Jobs Program Act or the Former Military Facility Development Act until the total of such incentive payments the qualified space transportation vehicle provider would otherwise receive exceeds the total amount of the credit authorized by this section as computed by the Tax Commission pursuant to subsection J of this section. The amount of incentive payments for any year which would otherwise be paid to the qualified space transportation vehicle provider shall be distributed as follows:

1. If the amount of such incentive payments equals or exceeds the amount of the tax credit for the year, the amount of such payments which is equal to the amount of the tax credit shall be apportioned as if collected from the tax imposed by Section 2355 or 2370 of this title or Section 624 or 628 of Title 36 of the Oklahoma Statutes according to the tax against which the credit was claimed. The amount of such payments which is in excess of the amount of the tax credit shall be retained by the Tax Commission to be paid as provided for in this paragraph for subsequent years for which the tax credit is allowed to the qualified space transportation vehicle provider;

2. If the amount of such incentive payments and any amount retained by the Tax Commission pursuant to the provisions of paragraph 1 of this subsection is less than the amount of the tax credit for the year, notwithstanding the provisions of Section 1727 of Title 69 of the Oklahoma Statutes, the Tax Commission shall withhold a portion of the taxes levied and collected pursuant to the provisions of paragraph 1 of subsection A of Section 500.4 of this title which would otherwise be paid to the Department of Transportation by the Oklahoma Transportation Authority pursuant to the provisions of paragraph (2) of subsection (d) of Section 1730 of Title 69 of the Oklahoma Statutes equal to the amount of the deficit.

The Tax Commission shall apportion all funds collected pursuant to the provisions of this paragraph as if collected from the tax imposed by Section 2355 or 2370 of this title or Section

624 or 628 of Title 36 of the Oklahoma Statutes according to the tax against which the credit was claimed; and

3. If any amount is withheld by or paid to the Tax Commission pursuant to the provisions of paragraph 2 of this subsection, the amount of incentive payments to be subsequently paid to the qualified space transportation vehicle provider shall be apportioned by the Tax Commission to the Department of Transportation until such time as all amounts paid pursuant to the provisions of paragraph 2 of this subsection are repaid.

L. A qualified space transportation vehicle provider in which investments qualify for the credit allowed by this section shall not be entitled to payment of any incentive payments accrued prior to January 1, 2001, under the Oklahoma Quality Jobs Program Act or the Former Military Facility Development Act.

M. Notwithstanding the provisions of this section, a qualified space transportation vehicle provider may, prior to the issuance of a tax credit with respect to the qualified space transportation vehicle provider pursuant to the provisions of this section, elect to receive incentive payments pursuant to the provisions of the Oklahoma Quality Jobs Program Act or the Former Military Facility Development Act in lieu of allowing the tax credit provided for herein, in which case it shall so notify the Tax Commission in writing and the provisions of this section shall not be applicable.

N. Except as provided by subsection M of this section, no qualified space transportation vehicle provider which would otherwise qualify for incentive payments pursuant to the provisions of the Oklahoma Quality Jobs Program Act or the Former Military Facility Development Act may receive such incentive payments prior to January 1, 2003.

O. No qualified space transportation vehicle provider which has made application to the Oklahoma Department of Commerce or which has executed any agreement with the Oklahoma Department of Commerce with respect to the receipt of incentive payments pursuant to the provisions of the Oklahoma Quality Jobs Program Act or the Former Military Facility Development Act or which has received any incentive payment pursuant to the Oklahoma Quality Jobs Program Act or the Former Military Facility Development Act prior to May 24, 2001, may be certified for purposes of determining eligibility for the credit authorized by this section.

Added by Laws 2001, c. 266, § 1, emerg. eff. May 24, 2001. Amended by Laws 2002, c. 379, § 1, emerg. eff. June 4, 2002; Laws 2004, c. 13, § 1, emerg. eff. March 23, 2004.

§68-2357.43. State earned income tax credit.

For tax years beginning after December 31, 2001, there shall be allowed to a resident individual or a part-year resident individual as a credit against the tax imposed by Section 2355 of this title five percent (5%) of the earned income tax credit allowed under Section 32 of the Internal Revenue Code of the United States, 26 U.S.C., Section 32. However, this credit shall not be paid in advance pursuant to the provisions of Section 3507 of the Internal Revenue Code. If the credit exceeds the tax imposed by Section 2355 of this title, the excess amount shall be refunded to the taxpayer. The maximum earned income tax credit allowable on the Oklahoma income tax return shall be prorated on the ratio that Oklahoma adjusted gross income bears to the federal adjusted gross income.

Added by Laws 2001, c. 383, § 1, eff. July 1, 2001.

NOTE: Editorially renumbered from Section 2357.42 of this title to avoid a duplication in numbering.

§68-2357.44. Repealed by Laws 2002, c. 31, § 5, emerg. eff. April 10, 2002.

§68-2357.45. Donation to independent biomedical or cancer research institute - Tax credit.

A. 1. For tax years beginning after December 31, 2004, there shall be allowed against the tax imposed by Section 2355 of this title, a credit for any taxpayer who makes a donation to an independent biomedical research institute and for tax years beginning after December 31, 2010, a credit for any taxpayer who makes a donation to a cancer research institute.

2. The credit authorized by paragraph 1 of this subsection shall be limited as follows:

- a. for calendar year 2007 and all subsequent years, the credit percentage, not to exceed fifty percent (50%), shall be adjusted annually so that the total estimate of the credits does not exceed Two Million Dollars (\$2,000,000.00) annually. The formula to be used for the percentage adjusted shall be fifty percent (50%) times One Million Dollars (\$1,000,000.00) divided by the credits claimed in the preceding year for each donation to an independent biomedical research institute and fifty percent (50%) times One Million Dollars (\$1,000,000.00) divided by the credits claimed in the preceding year for each donation to a cancer research institute,
- b. in no event shall a taxpayer claim more than one credit for a donation to any independent biomedical research institute and one credit for a donation to a cancer research institute in each taxable year nor shall the credit exceed One Thousand Dollars (\$1,000.00) for each taxpayer for each type of donation,
- c. for tax year 2011, no more than Fifty Thousand Dollars (\$50,000.00) in total tax credits for donations to a cancer research institute shall be allowed,
- d. in no event shall more than fifty percent (50%) of the Two Million Dollars (\$2,000,000.00) in total tax credits authorized by this section, for any calendar year after the effective date of this act, be allocated for credits for donations to a cancer research institute, and
- e. in the event the total tax credits authorized by this section exceed One Million Dollars (\$1,000,000.00) in any calendar year for either a cancer research institute or an independent biomedical research institute, the Oklahoma Tax Commission shall permit any excess over One Million Dollars (\$1,000,000.00) but shall factor such excess into the percentage adjustment formula for subsequent years for that type of donation. However, any such adjustment to the formula for donations to an independent biomedical research institute shall not affect the formula for donations to a cancer research institute, and any such adjustment to the formula for donations to a cancer research institute shall not affect the formula for donations to an independent biomedical research institute.

3. For purposes of this section, "independent biomedical research institute" means an organization which is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) whose primary focus is conducting peer-reviewed basic biomedical research. The organization shall:

- a. have a board of directors,
- b. be able to accept grants in its own name,

- c. be an identifiable institute that has its own employees and administrative staff, and
- d. receive at least Fifteen Million Dollars (\$15,000,000.00) in National Institute of Health funding each year.

4. For purposes of this section, "cancer research institute" means an organization which is exempt from taxation pursuant to the Internal Revenue Code and whose primary focus is raising the standard of cancer clinical care in Oklahoma through peer-reviewed cancer research and education or a not-for-profit supporting organization, as that term is defined by the Internal Revenue Code, affiliated with a tax-exempt organization whose primary focus is raising the standard of cancer clinical care in Oklahoma through peer-reviewed cancer research and education. The tax-exempt organization whose primary focus is raising the standard of cancer clinical care in Oklahoma through peer-reviewed cancer research and education shall:

- a. either be an independent research institute or a program that is part of a state university which is a member of The Oklahoma State System of Higher Education, and
- b. receive at least Four Million Dollars (\$4,000,000.00) in National Cancer Institute funding each year.

B. In no event shall the amount of the credit exceed the amount of any tax liability of the taxpayer.

C. Any credits allowed but not used in any tax year may be carried over, in order, to each of the four (4) years following the year of qualification.

D. The Tax Commission shall have the authority to prescribe forms for purposes of claiming the credit authorized by this section.

Added by Laws 2003, c. 472, § 19, eff. Jan. 1, 2005. Amended by Laws 2004, c. 518, § 3, eff. July 1, 2004; Laws 2010, c. 265, § 1, eff. Jan. 1, 2011.

§68-2357.46. Tax credit for contractor expenditures for construction of certain energy efficient residential properties.

A. Except as otherwise provided by subsection G of this section, for tax years beginning after December 31, 2005, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of Oklahoma Statutes for eligible expenditures incurred by a contractor in the construction of energy efficient residential property of two thousand (2,000) square feet or less. The amount of the credit shall be based upon the following:

1. For any eligible energy efficient residential property constructed and certified as forty percent (40%) or more above the International Energy Conservation Code 2003 and any supplement in effect at the time of completion, the amount of the credit shall be equal to the eligible expenses, not to exceed Four Thousand Dollars (\$4,000.00) for the taxpayer who is the contractor; and

2. For any eligible energy efficient residential property constructed and certified as between twenty percent (20%) and thirty-nine percent (39%) above the International Energy Conservation Code 2003 and any supplement in effect at the time of completion, the credit shall be equal to the eligible expenditures, not to exceed Two Thousand Dollars (\$2,000.00) for the taxpayer who is the contractor.

B. As used in this section:

1. "Eligible expenditure" means any:

- a. energy efficient heating or cooling system,

- b. insulation material or system which is specifically and primarily designed to reduce the heat gain or loss of a residential property when installed in or on such property,
- c. exterior windows, including skylights,
- d. exterior doors, and
- e. any metal roof installed on a residential property, but only if such roof has appropriate pigmented coatings which are specifically and primarily designed to reduce the heat gain of such dwelling unit and which meet Energy Star program requirements;

2. "Contractor" means the taxpayer who constructed the residential property or manufactured home, or if more than one taxpayer qualifies as the contractor, the primary contractor; and

3. "Eligible energy efficient residential property" means a newly constructed residential property or manufactured home property which is located in the State of Oklahoma and substantially complete after December 31, 2005, and which is two thousand (2,000) square feet or less:

- a. for the credit provided pursuant to paragraph 1 of subsection A of this section, which is certified by an accredited Residential Energy Services Network Provider using the Home Energy Rating System to have:
 - (1) a level of annual heating and cooling energy consumption which is at least forty percent (40%) below the annual level of heating and cooling energy consumption of a comparable residential property constructed in accordance with the standards of Chapter 4 of the 2003 International Energy Conservation Code, as such code is in effect on the effective date of this act,
 - (2) heating and cooling equipment efficiencies which correspond to the minimum allowed under the regulations established by the Department of Energy pursuant to the National Appliance Energy Conservation Act of 1987 and in effect at the time of construction of the property, and
 - (3) building envelope component improvements which account for at least one-fifth of the reduced annual heating and cooling energy consumption levels,
- b. for the credit provided pursuant to paragraph 2 of subsection A of this section, which is certified by an accredited Residential Energy Services Network Provider using the Home Energy Rating System to have:
 - (1) a level of annual heating and cooling energy consumption which is between twenty percent (20%) and thirty-nine percent (39%) below the annual level of heating and cooling energy consumption of a comparable residential property constructed in accordance with the standards of Chapter 4 of the 2003 International Energy Conservation Code, as such code is in effect on the effective date of this act,
 - (2) heating and cooling equipment efficiencies which correspond to the minimum allowed under the regulations established by the Department of Energy pursuant to the National Appliance Energy

Conservation Act of 1987 and in effect at the time of construction of the property, and

- (3) building envelope component improvements which account for at least one-third of the reduced annual heating and cooling energy consumption levels.

C. The credit provided for in subsection A of this section may only be claimed once for the contractor of any eligible residential energy efficient property during the taxable year when the property is substantially complete.

D. If the credit allowed pursuant to this section exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of credit allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding four (4) years following the qualified expenditures.

E. For credits earned on or after the effective date of this act, the credits authorized by this section shall be freely transferable to subsequent transferees.

F. The Oklahoma Tax Commission shall promulgate rules necessary to implement this act.

G. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010 for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section.

Added by Laws 2005, c. 439, § 1, eff. Nov. 1, 2005. Amended by Laws 2006, c. 272, § 16; Laws 2010, c. 327, § 15, eff. July 1, 2010.

§68-2357.47. Employers - Eligible wages paid - Eligible modification expenses.

A. 1. Except as otherwise provided in subsection D of this section, for tax years beginning after December 31, 2005, there shall be allowed against the tax imposed by Section 2355 of this title, a credit for eligible wages paid by an employer to an employee. The amount of the credit shall be ten percent (10%) of the amount of the gross wages paid to the employee for a period not to exceed ninety (90) days but in no event shall the credit exceed Five Thousand Dollars (\$5,000.00) for each employee of each taxpayer. In no event shall the total credit claimed exceed Twenty-five Thousand Dollars (\$25,000.00) in any one year for any taxpayer.

2. Except as otherwise provided by subsection D of this section, for tax years beginning after December 31, 2005, there shall be allowed against the tax imposed by Section 2355 of this title, a credit for eligible modification expenses of an employer. The amount of the credit shall be fifty percent (50%) of the amount of the funds expended for eligible modification expenses or new tools or equipment but in no event shall the credit exceed One Thousand Dollars (\$1,000.00) for eligible modification expenses incurred for any single employee. In no event shall the total credit claimed exceed Ten Thousand Dollars (\$10,000.00) in any year for any taxpayer.

3. As used in this section:

- a. "employee", "employer", "maximum medical improvement", "treating physician", and "wages" shall be defined as in Section 3 of Title 85 of the Oklahoma Statutes,

- b. “eligible wages” means gross wages paid by an employer to an employee who is injured as a result of an injury which is compensable under the Workers’ Compensation Act and which are paid beginning when the employee returns to work with restricted duties as provided by the employee’s treating physician or an independent medical examiner before the employee has reached maximum medical improvement, and ending after ninety (90) days or when the employee has reached maximum medical improvement, and
- c. “eligible modification expenses” means expenses incurred by an employer to modify a workplace, tools or equipment or to obtain new tools or equipment and which are incurred by an employer solely to enable a specific injured employee who is injured as a result of an injury which is compensable under the Workers’ Compensation Act to return to work with restricted duties as provided by the employee’s treating physician or an independent medical examiner before the employee has reached maximum medical improvement, and which workplace, tools or equipment are used primarily by the injured employee.

B. In no event shall the amount of the credit(s) exceed the amount of any tax liability of the taxpayer.

C. The Oklahoma Tax Commission shall have the authority to promulgate rules necessary to effectuate the purposes of this section.

D. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section.

Added by Laws 2005, 1st Ex.Sess., c. 1, § 5, eff. July 1, 2006. Amended by Laws 2010, c. 327, § 16, eff. July 1, 2010.

NOTE: Editorially renumbered from Title 68, § 2357.46 to avoid a duplication in numbering.

§68-2357.51. Repealed by Laws 1993, c. 275, § 51, eff. July 1, 1993.

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§68-2357.55. Repealed by Laws 1993, c. 275, § 51, eff. July 1, 1993.

§68-2357.56. Repealed by Laws 1993, c. 275, § 51, eff. July 1, 1993.

§68-2357.57. Repealed by Laws 1993, c. 275, § 51, eff. July 1, 1993.

§68-2357.58. Repealed by Laws 1993, c. 275, § 51, eff. July 1, 1993.

§68-2357.59. Certain tax credits to be allowed.

A. Except as otherwise provided by subsection F of this section, if any person, firm, corporation, partnership or other legal entity has made application or filed an information report on forms prescribed by the Oklahoma Tax Commission to receive a credit against the tax imposed by Section 2355 of this title or Section 624 of Title 36 of the Oklahoma Statutes pursuant to the provisions of Sections 2357.23, 2357.51, 2357.52, 2357.53, 2357.54, 2357.55, 2357.56, 2357.57 or 2357.58 of this title on or before July 1, 1993, such credit may be received notwithstanding the provisions of Section 51 of Senate Bill No. 459 of the 1st Session of the 44th Oklahoma Legislature or that the other requirements for allowance of such credit are not established until after July 1, 1993.

B. Except as provided in this section, no person, firm, corporation, partnership or other legal entity shall qualify to receive any such credit after July 1, 1993.

C. For any person, firm, corporation, partnership or other legal entity or its successor who has filed the information report specified in subsection A of this section, for taxable years beginning after December 31, 1995, and ending on or before December 31, 2000, there shall be allowed a credit against the tax imposed by Section 2355 of this title for fifteen percent (15%) of the investment cost of a new qualified recycling facility. A person, firm, corporation, partnership or other legal entity or its successor which has withdrawn its application or information report specified in subsection A of this section shall not be eligible for such credit. For purposes of this subsection, a "qualified recycling facility" shall mean buildings, land, improvements, machinery and equipment located in Oklahoma and used in manufacturing as defined by the Standard Industrial Classification Code and at which facility is produced a qualified finished product, provided that up to ten percent (10%) of the square feet of a building may be devoted to office space used to provide clerical support for the manufacturing operation. Such ten percent (10%) may be in a separate building as long as it is part of the same contiguous tract of property on which the manufacturing facility is located. For purposes of this subsection, a "qualified finished product" shall mean a marketable product or component thereof which has economic value to the consumer and ninety percent (90%) of which is composed of materials which have been separated, diverted or removed from the waste stream and incorporated into the finished product by any means or method.

D. The credit provided for in subsection C of this section shall be subject to the following limitations:

1. The credit shall apply to investment in a qualified recycling facility only if construction or on-site installation of the facility commences on or after January 1, 1996, and before December 31, 1999;

2. The credit shall only be available if the total cost of the new qualified recycling facility exceeds Twenty Million Dollars (\$20,000,000.00) and employs at least seventy-five new full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission;

3. The credit shall be initially allowed for the tax year in which the qualified recycling facility is placed in service. However, any credit allowed but not used in any tax year due to the limitation provided in paragraph 4 of this subsection shall be carried over in order, but used only once, to each of the fourteen (14) years following the year of initial allowance; and

4. The credit shall not be utilized in any tax year to reduce the income tax liability of the owner of the qualified recycling facility for such year by more than fifty percent (50%) of the tax liability calculated from the income of the qualified recycling facility. For purposes of

subsections C and D of this section, the “owner” shall include the user of a qualified recycling facility under a lease with a term of five (5) years or more.

E. The Oklahoma Tax Commission may promulgate rules in order to implement the provisions of this section including requirements to submit any additional information as deemed necessary to implement and administer this credit.

F. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section.

Added by Laws 1993, c. 275, § 49, eff. July 1, 1993. Amended by Laws 1996, c. 342, § 4, emerg. eff. June, 14, 1996; Laws 1998, c. 101, § 1, eff. Nov. 1, 1998; Laws 2010, c. 327, § 17, eff. July 1, 2010.

§68-2357.60. Short title.

Sections 2357.60 through 2357.65 of this title, including the provisions of Sections 10, 11, 12, 13 and 14 of this act, shall be known and may be cited as the “Small Business Capital Formation Incentive Act”.

Added by Laws 1997, c. 167, § 1, eff. Jan. 1, 1998. Amended by Laws 2006, c. 281, § 6, emerg. eff. June 7, 2006.

§68-2357.61. Definitions.

As used in the Small Business Capital Formation Incentive Act:

1. “Acquisition” means the use of capital by an Oklahoma small business venture within six (6) months after obtaining the capital to purchase fifty-one percent (51%) or more of the voting interest entitled to elect the governing board, or its equivalent, of any other legal entity, regardless of the legal form of the entity. As used in the Small Business Capital Formation Incentive Act, “acquisition” does not mean the right to participate in the proceeds from sale of goods or services, whether denominated a royalty, royalty interest or otherwise, and does not mean the right to intellectual property, whether the rights arise from copyright, trademark or patent law;

2. “Capitalization” means the amount of:

- a. any funds that have actually been contributed to the qualified small business capital company,
- b. any contractual commitment to provide funds to the qualified small business capital company to the extent that such commitment is payable on demand and has substantial economic penalties for breach of the commitment to provide such funds, and
- c. any allocation of tax credit authority awarded to the qualified small business capital company by the Community Development Financial Institutions Fund pursuant to Section 45D of the Internal Revenue Code of 1986, as amended, to the extent such allocation has not been previously designated by the qualified small business capital company as contemplated by Section 45D(b)(1)(C) of the Internal Revenue Code of 1986, as amended;

3. "Equity and near-equity security" means common stock, preferred stock, warrants or other rights to subscribe to stock or its equivalent, or an interest in a limited liability company, partnership, or subordinated debt that is convertible into, or entitles the holder to receive upon its exercise, common stock, preferred stock, a royalty or net profits interest, or an interest in a limited liability company or partnership;

4. "Financial lending institution" means a bank, credit union, savings and loan, commercial finance company or other entity principally engaged in the extension of credit;

5. "Oklahoma small business venture" means a business, incorporated or unincorporated, which:

- a. has or will have, within one hundred eighty (180) days after a qualified investment is made by a qualified small business capital company, at least fifty percent (50%) of its employees or assets located in Oklahoma,
- b. needs financial assistance in order to commence or expand such business which provides or intends to provide goods or services,
- c. is engaged in a lawful business activity under any Industry Number appearing under any Major Group Number of Divisions A, C, D, E, F or I of the Standard Industrial Classification Manual, 1987 revision with the following exceptions:
 - (1) Major Group 1 of Division A, and
 - (2) Major Group 2 of Division A,
- d. qualifies as a small business as defined by the federal Small Business Administration, and
- e. expends within eighteen (18) months after the date of the qualified investment at least fifty percent (50%) of the proceeds of the qualified investment for the acquisition of tangible or intangible assets which are used in the active conduct of the trade or business or to provide working capital for the active conduct of the trade or business for which the determination of the small business qualification pursuant to subparagraph d of this paragraph was made. For purposes of this subparagraph, "working capital" shall not include consulting, brokerage or transaction fees. Provided, that the Oklahoma Tax Commission, upon request and demonstration of need by a qualified small business capital company or an Oklahoma small business venture, or an investor or an authorized agent of any such entities, may extend the 18-month period otherwise required by this subparagraph for a period not to exceed six (6) months. Provided, the expenditure of the invested funds by the Oklahoma small business venture shall otherwise comply with the requirements applicable to the usage of tax credits for qualified investment in the Oklahoma small business venture. As used in this subparagraph, "tangible assets" shall include the acquisition of real property and the construction of improvements upon real property if such acquisition and construction otherwise comply with the requirements applicable to the usage of tax credits for qualified investment in the Oklahoma small business venture, and "intangible assets" shall be limited to computer software, licenses, patents, copyrights and similar items;

6. "Qualified investment" means an investment of funds in the form of "equity" and "near-equity" as defined in paragraph 3 of this section or "subordinated debt" as defined in paragraph 8

of this section; provided, an investment which is contingent upon the occurrence of an event or which is subject to being refunded or returned in the absence of such event shall only be deemed to have been made upon the occurrence of the event;

7. "Qualified small business capital company" means a C corporation or a subchapter S corporation, as defined by the Internal Revenue Code of 1986, as amended, incorporated pursuant to the laws of Oklahoma, limited liability company or a registered business partnership with a certificate of partnership filed as required by law, which meets the following criteria:

- a. the corporation, limited liability company or partnership is organized to provide the direct investment of equity and near-equity funds to companies within this state,
- b. the principal place of business of the corporation, limited liability company or partnership is located within this state,
- c. the capitalization of the corporation, limited liability company or partnership is not less than One Million Dollars (\$1,000,000.00), and
- d. the corporation, limited liability company or partnership has investment of not more than twenty percent (20%) of its capitalization in any one company at any time during the calendar year of the corporation, limited liability company or partnership; and

8. "Subordinated debt" means indebtedness with a maturity date of not less than five (5) years that is subordinated to all other indebtedness of the issuer that has been issued or is to be issued to a financial lending institution. The indebtedness shall not have a repayment schedule that is faster than a level principal amortization over five (5) years.

Added by Laws 1997, c. 167, § 2, eff. Jan. 1, 1998. Amended by Laws 2004, c. 508, § 1, emerg. eff. June 9, 2004; Laws 2005, c. 479, § 18, eff. July 1, 2005; Laws 2006, c. 281, § 7, emerg. eff. June 7, 2006; Laws 2008, c. 440, § 3.

§68-2357.61a. Moratorium on certain tax credits.

The Legislature hereby establishes a moratorium on tax credits authorized pursuant to Sections 2357.62 and 2357.63 of Title 68 of the Oklahoma Statutes, subject to the provisions of subsection A of Section 2357.62 and subsection A of Section 2357.63 of Title 68 of the Oklahoma Statutes. Unless otherwise repealed or revoked by the Oklahoma Legislature, the moratorium shall be in effect for investments made on or after June 1, 2010, through December 31, 2011.

Added by Laws 2010, c. 433, § 1.

§68-2357.62. Credit for qualified investment in qualified small business capital companies.

A. Except as provided in Section 1 of this act, for taxable years beginning after December 31, 1997, and before January 1, 2012, there shall be allowed a credit against the tax imposed by Section 2355 or, effective January 1, 2001, Section 2370 of this title or, effective July 1, 2001, against the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes, for qualified investment in qualified small business capital companies. No amount of a qualified investment made in a qualified small business capital company which has not been invested in one or more Oklahoma small business ventures prior to the effective date of the moratorium provided for in Section 1 of this act shall be eligible for any credit otherwise authorized pursuant to this section. No qualified investment made in a qualified small business capital company or qualified investment made by a qualified small business capital company in one or more Oklahoma small

business ventures during the period of the moratorium pursuant to Section 1 of this act shall be eligible for any credit otherwise authorized pursuant to this section.

B. The credit provided for in subsection A of this section shall be twenty percent (20%) of the qualified investment in qualified small business capital companies which is subsequently invested in an Oklahoma small business venture by the qualified venture capital company and may only be claimed for a taxable year during which the qualified small business capital company makes the qualified investment in an Oklahoma small business venture. The credit shall be allowed for the amount of the qualified investment in an Oklahoma small business venture if the funds are used in pursuit of a legitimate business purpose of the Oklahoma small business venture consistent with its organizational instrument, bylaws or other agreement responsible for the governance of the small business venture. The qualified small business capital company shall issue such reports as the Oklahoma Tax Commission may require attributing the source of funds of each investment it makes in an Oklahoma business venture. If the tax credit exceeds the amount of taxes due or if there are no state taxes due of the taxpayer, the amount of the claim not used as an offset against the taxes of a taxable year may be carried forward for a period not to exceed three (3) taxable years.

C. No taxpayer may claim the credit provided for in this section for qualified investments in qualified small business capital companies made prior to January 1, 1998.

D. No taxpayer may claim the credit provided for in this section if the capital provided by a qualified small business capital company is used by an Oklahoma small business venture for the acquisition of any other legal entity.

E. No financial lending institution shall be eligible to claim the credit provided for in this section except with respect to qualified investments in a qualified small business capital company.

F. No taxpayer may claim the credit authorized by this section for the same qualified investment for which any credit is claimed pursuant to either Section 2357.73 or 2357.74 of this title.

G. If a pass-through entity is entitled to a credit under this section, the pass-through entity shall allocate such credit to one or more of the shareholders, partners or members of the pass-through entity; provided, the total of all credits allocated shall not exceed the amount of the credit to which the pass-through entity is entitled. The credit may also be claimed for funds borrowed by the pass-through entity to make a qualified investment if a shareholder, partner or member to whom the credit is allocated has an unlimited and continuing legal obligation to repay the borrowed funds but the allocation may not exceed such shareholder's, partner's or member's pro-rata equity share of the pass-through entity even if the taxpayer's legal obligation to repay the borrowed funds is in excess of such pro-rata share of such borrowed funds. For purposes of the Small Business Capital Formation Incentive Act, "pass-through entity" means a corporation that for the applicable tax years is treated as an S corporation under the Internal Revenue Code, general partnership, limited partnership, limited liability partnership, trust, or limited liability company that for the applicable tax year is not taxed as a corporation for federal income tax purposes.

Added by Laws 1997, c. 167, § 3, eff. Jan. 1, 1998. Amended by Laws 1998, c. 226, § 3, emerg. eff. May 20, 1998; Laws 2000, c. 241, § 1; Laws 2001, c. 382, § 5, emerg. eff. June 4, 2001; Laws 2004, c. 508, § 2, emerg. eff. June 9, 2004; Laws 2005, c. 299, § 3, eff. July 1, 2006; Laws 2006, c. 281, § 8, emerg. eff. June 7, 2006; Laws 2008, c. 440, § 4; Laws 2010, c. 433, § 2.

NOTE: A July 1, 2001, effective date for Laws 2000, c. 241, § 1 was repealed by Laws 2001, c. 382, § 10, emerg. eff. June 4, 2001.

§68-2357.63. Credit for qualified investment made in Oklahoma small business ventures in conjunction with investment made by qualified small business capital company.

A. Except as provided in Section 1 of this act, for taxable years beginning after December 31, 1997, and before January 1, 2012, there shall be allowed a credit against the tax imposed by Section 2355 or, effective January 1, 2001, Section 2370 of this title or, effective July 1, 2001, against the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes, for qualified investment made in Oklahoma small business ventures in conjunction with investment in such ventures made by a qualified small business capital company. No amount of a qualified investment made in conjunction with investment made by a qualified small business capital company which has not been invested in one or more Oklahoma small business ventures prior to the effective date of the moratorium provided for in Section 1 of this act shall be eligible for any credit otherwise authorized pursuant to this section. No qualified investment made in conjunction with investment made by a qualified small business capital company in one or more Oklahoma small business ventures during the period of the moratorium pursuant to Section 1 of this act shall be eligible for any credit otherwise authorized pursuant to this section.

B. The credit provided for in this section shall be twenty percent (20%) of the qualified investment made in Oklahoma small business ventures in conjunction with qualified investment in such ventures made by a qualified small business capital company and shall be allowed for the taxable year during which the qualified investment is made in an Oklahoma small business venture. If the tax credit allowed pursuant to subsection A of this section exceeds the amount of taxes due or if there are no state taxes due of the taxpayer, the amount of the claim not used as an offset against the taxes of a taxable year may be carried forward for a period not to exceed three (3) taxable years. To qualify for the credit authorized by this section, a qualified investment shall be:

1. Made by a shareholder, member or partner of a qualified small business capital company that has made a qualified investment in an Oklahoma small business venture;
2. Invested in the purchase of equity or near-equity in an Oklahoma small business venture;
3. Made under the same terms and conditions as the qualified investment made by the qualified small business capital company; and
4. Limited to the lesser of:
 - a. two hundred percent (200%) of any qualified investment by the taxpayer in the qualified small business capital company, or
 - b. two hundred percent (200%) of the qualified investment made by the qualified small business capital company in the Oklahoma small business venture.

C. No taxpayer may claim the credit provided for in this section for a qualified investment made prior to January 1, 1998.

D. No taxpayer may claim the credit authorized by this section for the same qualified investment amount for which any credit is claimed pursuant to either Section 2357.73 or 2357.74 of this title.

E. If a pass-through entity is entitled to a credit under this section, the pass-through entity shall allocate such credit to one or more of the shareholders, partners or members of the pass-

through entity; provided, the total of all credits allocated shall not exceed the amount of the credit to which the pass-through entity is entitled. The credit may only be claimed for funds borrowed by the pass-through entity to make a qualified investment if a shareholder, partner or member to whom the credit is allocated has an unlimited and continuing legal obligation to repay the borrowed funds but the allocation may not exceed such shareholder's, partner's or member's pro-rata equity share of the pass-through entity even if the taxpayer's legal obligation to repay the borrowed funds is in excess of such amount. For purposes of the Oklahoma Small Business Capital Formation Incentive Act, "pass-through entity" means a corporation that for the applicable tax years is treated as an S corporation under the Internal Revenue Code, general partnership, limited partnership, limited liability partnership, trust, or limited liability company that for the applicable tax year is not taxed as a corporation for federal income tax purposes. Added by Laws 1997, c. 167, § 4, eff. Jan. 1, 1998. Amended by Laws 1998, c. 226, § 4, emerg. eff. May 20, 1998; Laws 2000, c. 241, § 2; Laws 2001, c. 382, § 6, emerg. eff. June 4, 2001; Laws 2004, c. 508, § 3, emerg. eff. June 9, 2004; Laws 2005, c. 299, § 4, eff. July 1, 2006; Laws 2006, c. 281, § 9, emerg. eff. June 7, 2006; Laws 2008, c. 440, § 5; Laws 2010, c. 433, § 3. NOTE: A July 1, 2001, effective date for Laws 2000, c. 241, § 2 was repealed by Laws 2001, c. 382, § 10, emerg. eff. June 4, 2001.

§68-2357.63A. Requirements for funds invested in Oklahoma small business ventures - Recapture of credits - Use of near equity or subordinated debt - Offering material statement.

A. For purposes of claiming any tax credits authorized by Sections 2357.62 and 2357.63 of Title 68 of the Oklahoma Statutes, any funds invested in an Oklahoma small business venture shall be subject to the following requirements:

1. The Oklahoma small business venture must issue its equity securities or subordinated debt instruments in exchange for a qualified investment within thirty (30) days of the date as of which the investment occurs;
2. The qualified small business capital company or any entity making an investment in conjunction with investment by a qualified small business capital company pursuant to Section 2357.63 of this title must reflect the documented qualified investment in the Oklahoma small business venture as an asset in its accounting system;
3. The qualified small business capital company shall not make a qualified investment in an Oklahoma small business venture in which it has, at any time, more than fifty percent (50%) ownership, whether directly or indirectly, of the voting interest entitled to elect the governing board of any Oklahoma small business venture;
4. The qualified small business capital company cannot enter into any agreement, whether formal or informal, written or unwritten, the purpose of which is to control, directly or indirectly, the return of a specific amount of qualified investment by the Oklahoma small business venture to the qualified small business capital company or the purpose of which is to cause or require the transfer of such specific amount of qualified investment to any other entity within five (5) years from the date the qualified investment is made available to the Oklahoma small business venture; and
5. The Oklahoma small business venture cannot enter into any agreement, whether formal or informal, written or unwritten, the purpose of which is to control, directly or indirectly, the return of a specific amount of qualified investment to the qualified small business capital company or the purpose of which is to cause or require the transfer of such specific amount of

qualified investment to any other entity within five (5) years from the time the qualified investment is made available to the Oklahoma small business venture.

B. The Oklahoma Tax Commission shall have the authority to make an independent determination that any proposed use of monies, assets, funds or other things of value which are to be used for purposes of claiming any credits authorized by Sections 2357.62 and 2357.63 of Title 68 of the Oklahoma Statutes are for a legitimate business purpose of the Oklahoma small business venture and not for the primary purpose of obtaining the tax credits authorized by such sections on the basis of activity which does not have substantial economic profit-based potential.

C. The Tax Commission shall be authorized to recapture the credits otherwise authorized by the provisions of Sections 2357.62 and 2357.63 of Title 68 of the Oklahoma Statutes according to the provisions of Section 11 of this act if it finds that the transaction does not meet the requirements of the Small Business Capital Formation Incentive Act.

D. The provisions of this section shall not prohibit a qualified small business capital company from using near equity or subordinated debt, as those terms are defined by Section 2357.61 of Title 68 of the Oklahoma Statutes, if the near equity or subordinated debt is a contractual obligation owed by the Oklahoma small business venture directly to the qualified small business capital company and if the agreement governing the obligation complies with all of the other requirements of this section.

E. The provisions of this section shall not prohibit the shareholders or partners of a qualified small business capital company from using near equity or subordinated debt, as those terms are defined by Section 2357.61 of Title 68 of the Oklahoma Statutes, if the near equity or subordinated debt is a contractual obligation owed by the Oklahoma small business venture directly to a shareholder or partner of a qualified small business capital company that has invested funds in an Oklahoma small business venture pursuant to Section 2357.63 of Title 68 of the Oklahoma Statutes and if the agreement governing the obligation complies with all of the other requirements of this section.

F. Any offering material involving the solicitation of qualified investments in exchange for equity securities or subordinated debt instruments of the qualified small business capital company shall include the following statement:

“Any favorable determination letter obtained from the Oklahoma Tax Commission does not guarantee the granting of tax credits under the provisions of the Small Business Capital Formation Incentive Act. In the event applicable provisions of the Small Business Capital Formation Incentive Act are violated, the Tax Commission may require forfeiture of unused tax credits and recapture or repayment of tax credits as provided by law.”

Added by Laws 2006, c. 281, § 10, emerg. eff. June 7, 2006.

§68-2357.63B. Recapture event - Tax increase due to recaptured credit amount.

A. As used in this section, “recapture event” means that with respect to a qualified investment in an Oklahoma small business venture:

1. The Oklahoma small business venture fails to expend at least fifty percent (50%) of the proceeds of qualified investments for acquisition of tangible or intangible assets to be used in the active conduct of the trade or business or for working capital for the active conduct of the trade or business of the small business venture within eighteen (18) months after the qualified investment is made or within an extension of such period as provided in Section 2357.61 of this title. For purposes of this paragraph, “working capital” shall not include consulting, brokerage or transaction fees;

2. The investment in the Oklahoma small business venture is transferred, withdrawn or otherwise returned within five (5) years; provided, a “recapture event” shall not include the transfer, withdrawal or return of an investment as a result of a “market-based liquidity event”. As used in the Small Business Capital Formation Incentive Act, a “market-based liquidity event” means that an Oklahoma small business venture:

- a. sells all or substantially all of its assets to, or is acquired by share acquisition, share exchange, merger, consolidation or other similar transaction by another person or entity other than:
 - (1) a person or entity controlled by a person that made a qualified investment in the qualified small business capital company that provided funds for use by the Oklahoma small business venture, or
 - (2) a person or entity controlled by a person that made an investment in conjunction with a qualified investment made by the qualified small business capital company that provided funds for use by the Oklahoma small business venture,
- b. conducts an initial public offering of a class of its equity securities pursuant to the requirements of the United States Securities and Exchange Commission or other applicable federal law governing the sale of securities in interstate commerce,
- c. makes an amortization payment under the terms of a subordinated debt instrument, or
- d. repays indebtedness from net income as determined in accordance with generally accepted accounting principles or proceeds of the sale of assets in the ordinary course of business; or

3. The Oklahoma Tax Commission finds that the qualified investment does not meet the requirements of the Small Business Capital Formation Incentive Act.

B. If a recapture event occurs with respect to a qualified investment for which a credit authorized by either Section 2357.62 or Section 2357.63 of this title was claimed, the tax imposed pursuant to the applicable provisions of Title 36 or this title of the Oklahoma Statutes shall be increased to the extent of the recaptured credit amount.

C. For purposes of this section, the recapture amount shall be equal to the sum of:

1. The aggregate decrease in the credits previously allowed to the taxpayer pursuant to Section 2357.62 or Section 2357.63 of this title for all prior taxable periods which would have resulted if no credit had been authorized with respect to the qualified investment; plus
2. Interest at the rate prescribed by Section 217 of this title on the amount determined pursuant to paragraph 1 of this subsection for each prior taxable period for the period beginning on the due date for filing the applicable report or return for the prior taxable period.

D. The tax for the taxable period shall be increased pursuant to this section only with respect to credits which were used to reduce tax liability. In the case of credits not used to reduce tax liability, the carryforwards allowed shall be adjusted accordingly.

E. For any transaction that is audited by the Tax Commission after such credits have been allowed, but which is subsequently determined to constitute a recapture event, the Tax Commission shall be required to disallow any and all credits claimed in violation of the requirements of this section or any other provision of the Small Business Capital Formation Incentive Act for a period of ten (10) years after the date as of which any applicable tax report or return utilizing such credits is filed.

F. The provisions of subsection E of this section shall supersede any other provision of the Uniform Tax Procedure Code or any other state tax law that would prohibit the disallowance of such credits based upon an otherwise applicable statute of limitations.

Added by Laws 2006, c. 281, § 11, emerg. eff. June 7, 2006. Amended by Laws 2008, c. 440, § 6.

§68-2357.63C. Required records to be prepared and maintained.

A. Each qualified small business capital company shall prepare and maintain on a current basis the following records and make them available to the Oklahoma Tax Commission upon request:

1. Files for each director and principal of the capital company including the name, address, social security number or federal identification number and such other identifying information as the Tax Commission may require;

2. Records concerning all securities and subordinated debt issued by the capital company which include:

- a. the type of the security and subordinated debt issued,
- b. the name, address and telephone number of the investor,
- c. the date of the transaction, and
- d. the total amount of the qualified investment;

3. Records relating to each person making a qualified investment which shall include the social security number or federal tax identification number of each investor;

4. Records relating to each Oklahoma small business venture in which the capital company made a qualified investment which includes:

- a. the name of the business,
- b. location of the headquarters and principal business operations of the business,
- c. a description of the type of business in which engaged,
- d. evidence that the venture meets the definition of an Oklahoma small business venture,
- e. a copy of any contractual agreement entered into between the capital company and the venture,
- f. the amount of qualified investment in the venture,
- g. the type of investment along with supporting documentation,
- h. the date of the investment, and
- i. the source of funds invested;

5. Organizational documents of the qualified small business capital company and any additional documents relating to the organization or operation of the capital company as requested by the Tax Commission;

6. Records relating to all capitalization of the capital company which is not invested in Oklahoma small business ventures;

7. Records relating to all distributions made by the capital company which includes the date of the distribution, the amount of the distribution, to whom the distribution was paid, and the purpose of the distribution; and

8. All other records that may be requested by the Tax Commission.

B. All records required by this section shall be preserved for a period of ten (10) years. Added by Laws 2006, c. 281, § 12, emerg. eff. June 7, 2006.

§68-2357.63D. Rules regarding determination letter procedures.

The Oklahoma Tax Commission shall promulgate rules establishing procedures under which:

1. A qualified small business capital company may, prior to making an investment in an Oklahoma small business venture, request a determination letter from the Tax Commission that a business in which it proposes to invest is an "Oklahoma small business venture";
2. A person or entity may request a determination letter that a company meets the definition of a "qualified small business capital company"; and
3. A person or entity may request a determination letter that a transfer of funds meets the definition of a "qualified investment".

Added by Laws 2006, c. 281, § 13, emerg. eff. June 7, 2006.

§68-2357.63E. Effect of favorable determination letters issued prior to March 15, 2006 - Credit requirements.

A. Any person or entity that has obtained a favorable determination letter from the Oklahoma Tax Commission prior to March 15, 2006, regarding the ability to claim or otherwise utilize any of the tax credits authorized pursuant to the provisions of Section 2357.62 or 2357.63 of Title 68 of the Oklahoma Statutes shall not be subject to the amendments to the Small Business Venture Capital Formation Incentive Act made by this legislative measure to qualify for the tax credits authorized pursuant to the provisions of Section 2357.62 or 2357.63 of this title except as provided in this section. Notwithstanding any determination letter issued with respect to such investment, no credit shall be allowed unless:

1. Such qualified investment is made prior to November 1, 2006, to satisfy a legitimate business purpose of the entity receiving such investment which is consistent with its organizational instrument, bylaws or other agreement responsible for the governance of the business venture;
2. The investor's funds were at risk; and
3. The investment was not made chiefly for the purpose of reducing tax liability.

B. Any investment in a qualified small business capital company or an Oklahoma small business venture that occurs on or after November 1, 2006, shall be subject to all of the provisions of the Small Business Capital Formation Incentive Act as amended by the provisions of this legislative measure.

Added by Laws 2006, c. 281, § 14, emerg. eff. June 7, 2006.

§68-2357.64. Annual report on qualified investments and financial statements to Commission - Annual written statement to investors - Required notification to Commission - Credit reporting and report filing systems.

A. Each qualified small business capital company shall file an annual report with the Oklahoma Tax Commission no later than April 30 of each year which lists all qualified investments in or in conjunction with such company which may qualify for the tax credit allowed by Section 2357.62 or Section 2357.63 of this title. The report shall state the amount of qualified investments in or in conjunction with such company during the taxable year by persons, partnerships or corporations and the social security number of such person or the federal identification number of such partnership or corporation making such qualified investments. The report shall also include a schedule listing the type and amount of qualified investment made by

or in conjunction with the small business capital company and such other information as the Tax Commission may prescribe.

B. Each qualified small business capital company shall furnish to each person, partnership or corporation which made a qualified investment in or in conjunction with such company during the preceding year a written statement showing the name of the small business capital company, the name of the investor, the total amount of qualified investment in or in conjunction with the company made by such person, partnership or corporation, the amount of the qualified investment which was subsequently invested by the capital company in a small business venture, the date of such investment and the name of the business venture invested in and such other information as the Tax Commission may require. The statement shall be attached to the income tax return or other applicable tax report or return of such person, partnership or corporation in order to qualify for the tax credit allowed by Section 2357.62 or Section 2357.63 of this title.

C. On or before April 30 of each year, the qualified small business capital company shall provide to the Tax Commission a copy of its annual financial statements, including documentation which shall address, to the satisfaction of the Oklahoma Tax Commission, the methods of operation and conduct of the business of the capital company to determine whether the capital company is complying with the terms of the Small Business Capital Formation Incentive Act and any rules promulgated by the Tax Commission, including whether qualified investments in Oklahoma small business ventures have been made in the manner required by law. No credit shall be allowed for an investment in a small business capital company unless the report required by this subsection for the year in which the investment is made is provided.

D. Qualified small business capital companies or any entity making an investment in conjunction with investment by a qualified small business capital company pursuant to Section 2357.63 of this title must notify the Tax Commission within twenty (20) business days if:

1. The investment in an Oklahoma small business venture is transferred, withdrawn or otherwise returned; or
2. An occurrence upon which an investment is contingent has taken place.

If the qualified investment is held in the Oklahoma small business venture for less than five (5) years, the Tax Commission shall revoke the verification of tax credits and take action to recapture the tax credits pursuant to Section 11 of this act to the extent such credits were authorized based upon an amount of qualified investment that was transferred, withdrawn or otherwise returned.

E. Any qualified small business capital company who refuses or fails to comply with the provisions of this section or is hereafter found guilty in a court of competent jurisdiction of any violation of any Oklahoma tax law shall not be eligible to be a qualified small business capital company for purposes of this act.

F. Any taxpayer who refuses or fails to comply with the provisions of this section or is hereafter found guilty in a court of competent jurisdiction of any violation of any Oklahoma tax law shall not be eligible for the tax credits granted in Sections 2357.62 and 2357.63 of this title.

G. The Tax Commission is directed to immediately develop a system for reporting of any income tax credits issued pursuant to Sections 2357.62 and 2357.63 of this title and a system which requires the filing of informational reports on how the qualified investments were used, economic benchmarks achieved, implementation of a business plan for the Oklahoma small business venture, commercialization success, additional investments in the business by other investors and job creation that has taken place.

Added by Laws 1997, c. 167, § 5, eff. Jan. 1, 1998. Amended by Laws 2006, c. 281, § 15, emerg. eff. June 7, 2006.

§68-2357.65. Annual report to the Legislature.

On or before November 1 of each year subsequent to the effective date of this act, the Oklahoma Tax Commission shall file a report with the Speaker of the House of Representatives and the President Pro Tempore of the Senate. The report shall state the amount of credits actually claimed and allowed pursuant to the provisions of this act during the previous calendar year, statistical information on the qualified investments made by qualified small business capital companies during the previous year, an estimate of the number of jobs created in this state during the previous year, and such other information as the Tax Commission may deem relevant.

Added by Laws 1997, c. 167, § 6, eff. Jan. 1, 1998. Amended by Laws 2006, c. 281, § 16, emerg. eff. June 7, 2006.

§68-2357.65A. Federally regulated investment company exemption.

A. As used in this section:

1. "Federally regulated investment company" means a qualified small business capital company as defined by Section 2357.61 of this title and that is licensed by the United States Small Business Administration or the United States Department of Agriculture and which qualifies as one of the following types of entities:

- a. a Small Business Investment Company, or
- b. a Specialized Small Business Investment Company, or
- c. a Rural Business Investment Company, or
- d. a Community Development Entity as defined by Section 45D of the Internal Revenue Code of 1986, as amended; and

2. "Qualified small business capital company" means an entity meeting the requirements of Section 2357.61 of this title.

B. Federally regulated investment companies shall be exempt from the reporting requirements of subsections C and G of Section 2357.64 of this title.

C. As a condition of the exemption authorized by this section, the federally regulated investment company shall provide to the Oklahoma Tax Commission not later than March 15 each year:

1. A copy of the federal license issued by the applicable federal regulatory entity;
2. A copy of all reports and compliance documents required by the federal regulators; and
3. A copy of the annual financial audit of the federally regulated investment company.

D. A federally regulated investment company shall also prepare an annual summary report that discloses:

1. All investments made in for-profit business entities during the preceding calendar year;
2. The primary business address of each for-profit business entity in which any investment was made;
3. A statement of the business activity of each of the for-profit business entities described in paragraphs 1 and 2 of this subsection;
4. The type of investment instrument used to make the investment; and
5. A status report of all investments made by the federally regulated investment company.

E. The federally regulated investment company shall transmit a copy of the annual summary prescribed by subsection D of this section to the committees or subcommittees of the

Oklahoma House of Representatives and the Oklahoma State Senate having primary jurisdiction over the Small Business Capital Formation Incentive Act, the State Treasurer, the State Auditor and Inspector, the Director of the Office of Management and Enterprise Services and the Oklahoma Tax Commission.

F. The report required by subsection D of this section shall be prepared and submitted until all of the monies available to the federally regulated investment fund have been fully invested, all of the investments have been completed and the proceeds from the investment have been disbursed to the equity investors.

Added by Laws 2007, c. 353, § 8, eff. Nov. 1, 2007. Amended by Laws 2012, c. 304, § 547.

§68-2357.66. Repealed by Laws 2013, c. 363, § 13, eff. Jan. 1, 2014.

§68-2357.67. Repealed by Laws 2013, c. 363, § 14, eff. Jan. 1, 2014.

§68-2357.71. Short title.

Sections 2357.71 through 2357.76 of this title, including Sections 20, 21, 22, 23, 24 and 25 of this act, shall be known and may be cited as the “Rural Venture Capital Formation Incentive Act”.

Added by Laws 2000, c. 339, § 1, eff. Jan. 1, 2001. Amended by Laws 2006, c. 281, § 17, emerg. eff. June 7, 2006.

§68-2357.72. Definitions.

As used in the Rural Venture Capital Formation Incentive Act:

1. “Acquisition” means the use of capital by an Oklahoma rural small business venture within six (6) months after obtaining the capital to purchase fifty-one percent (51%) or more of the voting interest entitled to elect the governing board, or its equivalent, of any other legal entity, regardless of the legal form of the entity. As used in the Rural Venture Capital Formation Incentive Act, “acquisition” does not mean the right to participate in the proceeds from sale of goods or services, whether denominated a royalty, royalty interest or otherwise, and does not mean the right to intellectual property, whether the rights arise from copyright, trademark or patent law;

2. “Capitalization” means the amount of:

- a. any funds that have actually been contributed to the qualified rural small business capital company,
- b. any contractual commitment to provide funds to the qualified rural small business capital company to the extent that such commitment is payable on demand and has substantial economic penalties for breach of the commitment to provide such funds,
- c. any allocation of tax credit authority awarded to the qualified rural small business capital company by the Community Development Financial Institutions Fund pursuant to Section 45D of the Internal Revenue Code of 1986, as amended, to the extent such allocation has not been previously designated by the qualified rural small business capital company as contemplated by Section 45D(b)(1)(C) of the Internal Revenue Code of 1986, as amended, and

- d. any funds loaned to the qualified rural small business capital company, which is licensed as a rural business investment company under 7 U.S.C., Section 2009cc et seq., or any successor statute, by the U.S. Small Business Administration or U.S. Department of Agriculture;

3. "Equity and near-equity security" means common stock, preferred stock, warrants or other rights to subscribe to stock or its equivalent, or an interest in a limited liability company, partnership, or subordinated debt that is convertible into, or entitles the holder to receive upon its exercise, common stock, preferred stock, a royalty or net profits interest, or an interest in a limited liability company or partnership;

4. "Financial lending institution" means a bank, credit union, savings and loan, commercial finance company or other entity principally engaged in the extension of credit;

5. "Nonmetropolitan area" means all areas of the state except a county having a population in excess of one hundred thousand (100,000) persons according to the most recent Federal Decennial Census;

6. "Oklahoma rural small business venture" means a business, incorporated or unincorporated, which:

- a. has or will have, within one hundred eighty (180) days after a qualified investment is made by a qualified rural small business capital company, at least fifty percent (50%) of its employees or assets located in Oklahoma,
- b. needs financial assistance in order to commence or expand such business which provides or intends to provide goods or services,
- c. has its principal place of business within a nonmetropolitan area of the state and conducts the activity resulting in at least seventy-five percent (75%) of its gross annual revenue from a nonmetropolitan area of the state,
- d. except as otherwise provided by this subparagraph, is engaged in a lawful business activity under any Industry Number appearing under any Major Group Number of Divisions A, C, D, E, F or I of the Standard Industrial Classification Manual, 1987 revision with the following exceptions:
 - (1) Major Group 1 of Division A, and
 - (2) Major Group 2 of Division A,
- e. qualifies as a small business as defined by the federal Small Business Administration, and
- f. expends within eighteen (18) months after the date of the qualified investment at least fifty percent (50%) of the proceeds of the qualified investment for the acquisition of tangible or intangible assets which are used in the active conduct of the trade or business or for working capital for the active conduct of such trade or business for which the determination of the small business qualification pursuant to subparagraph e of this paragraph was made. For purposes of this subparagraph, "working capital" shall not include consulting, brokerage or transaction fees. Provided, that the Oklahoma Tax Commission, upon request and demonstration by a qualified rural small business capital company or an Oklahoma rural small business venture, or an investor or an authorized agent of any such entities, may extend the 18-month period otherwise required by this subparagraph for a period not to exceed six (6) months. Provided, the expenditure of the invested funds by the Oklahoma rural small business shall otherwise

comply with the requirements applicable to the usage of tax credits for qualified investment in the Oklahoma rural small business venture. As used in this subparagraph, “tangible assets” shall include the acquisition of real property and the construction of improvements upon real property if such acquisition and construction otherwise comply with the requirements applicable to the usage of tax credits for qualified investment in the Oklahoma rural small business venture, and “intangible assets” shall be limited to computer software, licenses, patents, copyrights and similar items;

7. “Qualified investment” means an investment of funds in the form of “equity” and “near-equity” as defined in paragraph 3 of this section or “subordinated debt” as defined in paragraph 9 of this section; provided, an investment which is contingent upon the occurrence of an event or which is subject to being refunded or returned in the absence of such event shall only be deemed to have been made upon the occurrence of the event;

8. “Qualified rural small business capital company” means a C corporation or a subchapter S corporation, as defined by the Internal Revenue Code of 1986, as amended, incorporated pursuant to the laws of Oklahoma, limited liability company or a registered business partnership with a certificate of partnership filed as required by law, which meets the following criteria:

- a. the corporation, limited liability company or partnership is organized to provide the direct investment of equity and near-equity funds to companies within this state,
- b. the principal place of business of the corporation, limited liability company or partnership is located within this state,
- c. the capitalization of the corporation, limited liability company or partnership is not less than Five Hundred Thousand Dollars (\$500,000.00), and
- d. the corporation, limited liability company or partnership has investment of not more than twenty-five percent (25%) of its capitalization in any one company at any time during the calendar year of the corporation, limited liability company or partnership; and

9. “Subordinated debt” means indebtedness with a maturity date of not less than five (5) years that is subordinated to all other indebtedness of the issuer that has been issued or is to be issued to a financial lending institution. The indebtedness shall not have a repayment schedule that is faster than a level principal amortization over five (5) years.

Added by Laws 2000, c. 339, § 2, eff. Jan. 1, 2001. Amended by Laws 2001, c. 382, § 7, emerg. eff. June 4, 2001; Laws 2004, c. 508, § 4, emerg. eff. June 9, 2004; Laws 2005, c. 479, § 19, eff. July 1, 2005; Laws 2006, c. 281, § 18, emerg. eff. June 7, 2006; Laws 2008, c. 440, § 7.

§68-2357.72a. Moratorium on certain tax credits.

The Legislature hereby establishes a moratorium on tax credits authorized pursuant to Sections 2357.73 and 2357.74 of Title 68 of the Oklahoma Statutes, subject to the provisions of subsection A of Section 2357.73 and subsection A of Section 2357.74. Unless otherwise repealed or revoked by the Oklahoma Legislature, the moratorium shall be in effect for investments made on or after June 1, 2010, through December 31, 2011.

Added by Laws 2010, c. 433, § 4.

§68-2357.73. Credits for investments in qualified rural small business capital companies.

A. Except as provided in Section 4 of this act, for taxable years beginning after December 31, 2000, and before January 1, 2012, there shall be allowed a credit against the tax imposed by Section 2355 or, effective January 1, 2001, Section 2370 of this title or, effective July 1, 2001, against the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes, for qualified investment in qualified rural small business capital companies. No amount of a qualified investment made in a qualified rural small business capital company which has not been invested in one or more Oklahoma rural small business ventures prior to the effective date of the moratorium provided for in Section 4 of this act shall be eligible for any credit otherwise authorized pursuant to this section. No qualified investment made in a qualified rural small business capital company or qualified investment made by a qualified rural small business capital company in one or more Oklahoma rural small business ventures during the period of the moratorium pursuant to Section 4 of this act shall be eligible for any credit otherwise authorized pursuant to this section.

B. The credit provided for in subsection A of this section shall be thirty percent (30%) of the amount of a qualified investment in qualified rural small business capital companies which is subsequently invested in an Oklahoma rural small business venture by the qualified rural small business capital company and may only be claimed for a taxable year during which the qualified rural small business capital company makes the qualified investment in an Oklahoma rural small business venture if the funds are used in pursuit of a legitimate business purpose of the Oklahoma rural small business venture consistent with its organizational instrument, bylaws or other agreement responsible for the governance of the rural small business venture. The qualified rural small business capital company shall issue such reports as the Oklahoma Tax Commission may require attributing the source of funds of each qualified investment it makes in an Oklahoma rural small business venture. If the tax credit exceeds the amount of taxes due or if there are no state taxes due of the taxpayer, the amount of the claim not used as an offset against the taxes of a taxable year may be carried forward for a period not to exceed three (3) taxable years.

C. No taxpayer may claim the credit provided for in this section for qualified investments in qualified rural small business capital companies made prior to January 1, 2001.

D. No taxpayer may claim the credit provided for in this section if the capital provided by a qualified rural small business capital company is used by an Oklahoma rural small business venture for the acquisition of any other legal entity.

E. No financial lending institution shall be eligible to claim the credit provided for in this section except with respect to qualified investments in a qualified rural small business capital company.

F. No taxpayer may claim the credit authorized by this section for the same qualified investment amount for which any credit is claimed pursuant to either Section 2357.62 or 2357.63 of this title.

G. If a pass-through entity is entitled to a credit under this section, the pass-through entity shall allocate such credit to one or more of the shareholders, partners or members of the pass-through entity; provided, the total of all credits allocated shall not exceed the amount of the credit to which the pass-through entity is entitled. The credit may only be claimed for funds borrowed by the pass-through entity to make a qualified investment if a shareholder, partner or member to whom the credit is allocated has an unlimited and continuing legal obligation to repay the borrowed funds but the allocation may not exceed such shareholder's, partner's or member's

pro-rata equity share of the pass-through entity even if the taxpayer's legal obligation to repay the borrowed funds is in excess of such amount. For purposes of the Rural Venture Capital Formation Incentive Act, "pass-through entity" means a corporation that for the applicable tax years is treated as an S corporation under the Internal Revenue Code, general partnership, limited partnership, limited liability partnership, trust, or limited liability company that for the applicable tax year is not taxed as a corporation for federal income tax purposes.

Added by Laws 2000, c. 339, § 3, eff. Jan. 1, 2001. Amended by Laws 2001, c. 382, § 8, emerg. eff. June 4, 2001; Laws 2004, c. 508, § 5, emerg. eff. June 9, 2004; Laws 2005, c. 299, § 5, eff. July 1, 2006; Laws 2006, c. 281, § 19, emerg. eff. June 7, 2006; Laws 2008, c. 440, § 8; Laws 2010, c. 433, § 5.

§68-2357.74. Credit for investment made in rural small business ventures in conjunction with investment made by qualified rural small business capital company.

A. Except as provided in Section 4 of this act, for taxable years beginning after December 31, 2000, and before January 1, 2012, there shall be allowed a credit against the tax imposed by Section 2355 or, effective January 1, 2001, Section 2370 of this title or, effective July 1, 2001, against the tax imposed by Section 624 or 628 of Title 36 of the Oklahoma Statutes, for qualified investment made in Oklahoma rural small business ventures in conjunction with investment in such ventures made by a qualified rural small business capital company. No amount of a qualified investment made in conjunction with investment made by a qualified rural small business capital company which has not been invested in one or more Oklahoma rural small business ventures prior to the effective date of the moratorium provided for in Section 4 of this act shall be eligible for any credit otherwise authorized pursuant to this section. No qualified investment made in conjunction with investment made by a qualified rural small business capital company in one or more Oklahoma rural small business ventures during the period of the moratorium pursuant to Section 4 of this act shall be eligible for any credit otherwise authorized pursuant to this section.

B. The credit provided for in this section shall be thirty percent (30%) of the qualified investment made in Oklahoma rural small business ventures in conjunction with qualified investment in such ventures made by a qualified rural small business capital company and shall be allowed for the taxable year during which the qualified investment is made in an Oklahoma rural small business venture. If the tax credit allowed pursuant to subsection A of this section exceeds the amount of taxes due or if there are no state taxes due of the taxpayer, the amount of the claim not used as an offset against the taxes of a taxable year may be carried forward for a period not to exceed three (3) taxable years. To qualify for the credit authorized by this section, a qualified investment shall be:

1. Made by a shareholder or partner of a qualified rural small business capital company that has made a qualified investment in an Oklahoma rural small business venture;
2. Invested in the purchase of equity or near-equity in an Oklahoma rural small business venture;
3. Made under the same terms and conditions as the qualified investment made by the qualified rural small business capital company; and
4. Limited to the lesser of:
 - a. two hundred percent (200%) of any qualified investment by the taxpayer in the qualified rural small business capital company, or

- b. two hundred percent (200%) of the qualified investment made by the qualified rural small business capital company in the Oklahoma rural small business venture.

C. No taxpayer may claim the credit provided for in this section for qualified investment made prior to January 1, 2001.

D. No taxpayer may claim the credit authorized by this section for the same qualified investment amount for which any credit is claimed pursuant to either Section 2357.62 or 2357.63 of this title.

E. If a pass-through entity is entitled to a credit under this section, the pass-through entity shall allocate such credit to one or more of the shareholders, partners or members of the pass-through entity; provided, the total of all credits allocated shall not exceed the amount of the credit to which the pass-through entity is entitled. The credit may also be claimed for funds borrowed by the pass-through entity to make a qualified investment if a shareholder, partner or member to whom the credit is allocated has an unlimited and continuing legal obligation to repay the borrowed funds but the allocation may not exceed such shareholder's, partner's or member's pro-rata equity share of the pass-through entity even if the taxpayer's legal obligation to repay the borrowed funds is in excess of such amount. For purposes of the Rural Venture Capital Formation Incentive Act, "pass-through entity" means a corporation that for the applicable tax years is treated as an S corporation under the Internal Revenue Code, general partnership, limited partnership, limited liability partnership, trust, or limited liability company that for the applicable tax year is not taxed as a corporation for federal income tax purposes.

Added by Laws 2000, c. 339, § 4, eff. Jan. 1, 2001. Amended by Laws 2001, c. 382, § 9, emerg. eff. June 4, 2001; Laws 2004, c. 508, § 6, emerg. eff. June 9, 2004; Laws 2005, c. 299, § 6, eff. July 1, 2006; Laws 2006, c. 281, § 20, emerg. eff. June 7, 2006; Laws 2008, c. 440, § 9; Laws 2010, c. 433, § 6.

§68-2357.74A. Requirements for funds invested in rural small business ventures - Recapture of credits - Use of near equity or subordinated debt - Offering material statement.

A. For purposes of claiming any tax credits authorized by Sections 2357.73 and 2357.74 of Title 68 of the Oklahoma Statutes, any funds invested in an Oklahoma rural small business venture shall be subject to the following requirements:

1. The Oklahoma rural small business venture must issue its equity securities or subordinated debt instruments in exchange for a qualified investment within thirty (30) days of the date as of which the investment occurs;

2. The qualified rural small business capital company or any entity making an investment in conjunction with investment by a qualified rural small business capital company pursuant to Section 2357.74 of Title 68 of the Oklahoma Statutes must reflect the documented qualified investment in the Oklahoma rural small business venture as an asset in its accounting system;

3. The qualified rural small business capital company shall not make a qualified investment in an Oklahoma small business venture in which it has, at any time, more than fifty percent (50%) ownership, whether directly or indirectly, of the voting interest entitled to elect the governing board of any Oklahoma rural small business venture in which a qualified investment is to be made by the qualified rural small business capital company;

4. The qualified rural small business capital company cannot enter into any agreement, whether formal or informal, written or unwritten, the purpose of which is to control, directly or indirectly, the return of a specific amount of qualified investment by the Oklahoma rural small

business venture to the qualified rural small business capital company or the purpose of which is to cause or require the transfer of such specific amount of qualified investment to any other entity within five (5) years of the date the qualified investment is made available to the Oklahoma rural small business venture; and

5. The Oklahoma rural small business venture cannot enter into any agreement, whether formal or informal, written or unwritten, the purpose of which is to control, directly or indirectly, the return of a specific amount of qualified investment to the qualified rural small business capital company or the purpose of which is to cause or require the transfer of such specific amount of qualified investment to any other entity within five (5) years of the date the qualified investment is made available to the Oklahoma rural small business venture.

B. The Oklahoma Tax Commission shall have the authority to make an independent determination that any proposed use of monies, assets, funds or other things of value which are to be used for purposes of claiming any credits authorized by Sections 2357.73 and 2357.74 of Title 68 of the Oklahoma Statutes are for a legitimate business purpose of the Oklahoma rural small business venture and not for the primary purpose of obtaining the tax credits authorized by such sections on the basis of activity which does not have substantial economic profit-based potential.

C. The Tax Commission shall be authorized to recapture the credits otherwise authorized by the provisions of Sections 2357.73 and 2357.74 of Title 68 of the Oklahoma Statutes according to the provisions of Section 22 of this act if it finds that the transaction does not meet the requirements of the Rural Venture Capital Formation Incentive Act.

D. The provisions of this section shall not prohibit a qualified rural small business capital company from using near equity or subordinated debt, as those terms are defined by Section 2357.72 of Title 68 of the Oklahoma Statutes, if the near equity or subordinated debt is a contractual obligation owed by the Oklahoma rural small business venture directly to the qualified rural small business capital company and if the agreement governing the obligation complies with all of the other requirements of this section.

E. The provisions of this section shall not prohibit the shareholders or partners of a qualified rural small business capital company from using near equity or subordinated debt, as those terms are defined by Section 2357.72 of Title 68 of the Oklahoma Statutes, if the near equity or subordinated debt is a contractual obligation owed by the Oklahoma rural small business venture directly to a shareholder or partner of a qualified rural small business capital company that has invested funds in an Oklahoma rural small business venture pursuant to Section 2357.74 of Title 68 of the Oklahoma Statutes and if the agreement governing the obligation complies with all of the other requirements of this section.

F. Any offering material involving the solicitation of qualified investments in exchange for equity securities or subordinated debt instruments of the qualified small business capital company shall include the following statement:

“Any favorable determination letter obtained from the Oklahoma Tax Commission does not guarantee the granting of tax credits under the provisions of the Rural Venture Capital Formation Incentive Act. In the event applicable provisions of the Rural Venture Capital Formation Incentive Act are violated, the Tax Commission may require forfeiture of unused tax credits and recapture or repayment of tax credits as provided by law.”

Added by Laws 2006, c. 281, § 21, emerg. eff. June 7, 2006.

§68-2357.74B. Recapture event - Tax increase due to recaptured credit amount.

A. As used in this section, “recapture event” means that with respect to a qualified investment in an Oklahoma rural small business venture:

1. The Oklahoma rural small business venture fails to expend at least fifty percent (50%) of the proceeds of qualified investments for acquisition of tangible or intangible assets to be used in the active conduct of the trade or business or for working capital for the active conduct of the trade or business of the rural small business venture within eighteen (18) months after the qualified investment is made or within an extension of such period as provided in Section 2357.72 of this title. For purposes of this paragraph, “working capital” shall not include consulting, brokerage or transaction fees;

2. The investment in the rural small business venture is transferred, withdrawn or otherwise returned within five (5) years; provided, a “recapture event” shall not include the transfer, withdrawal or return of an investment as a result of a “market-based liquidity event”. As used in the Rural Venture Capital Formation Incentive Act, a “market-based liquidity event” means that an Oklahoma rural small business venture:

- a. sells all or substantially all of its assets to, or is acquired by share acquisition, share exchange, merger, consolidation or other similar transaction by another person or entity other than:
 - (1) a person or entity controlled by a person that made a qualified investment in the qualified rural small business capital company that provided funds for use by the Oklahoma rural small business venture, or
 - (2) a person or entity controlled by a person that made an investment in conjunction with a qualified investment made by the qualified rural small business capital company that provided funds for use by the Oklahoma rural small business venture,
- b. conducts an initial public offering of a class of its equity securities pursuant to the requirements of the United States Securities and Exchange Commission or other applicable federal law governing the sale of securities in interstate commerce,
- c. makes an amortization payment under the terms of a subordinated debt instrument, or
- d. repays indebtedness from net income as determined in accordance with generally accepted accounting principles or proceeds of the sale of assets in the ordinary course of business; or

3. The Oklahoma Tax Commission finds that the qualified investment does not meet the requirements of the Rural Venture Capital Formation Incentive Act.

B. If a recapture event occurs with respect to a qualified investment for which a credit authorized by either Section 2357.73 or Section 2357.74 of this title has been claimed, the tax imposed pursuant to the applicable provisions of Title 36 or this title of the Oklahoma Statutes against which the credit has been claimed shall be increased to the extent of the recaptured credit amount.

C. For purposes of this section, the recapture amount shall be equal to the sum of:

1. The aggregate decrease in the credits previously allowed to the taxpayer pursuant to Section 2357.73 or Section 2357.74 of this title for all prior taxable periods which would have resulted if no credit had been authorized with respect to the qualified investment; plus

2. Interest at the rate prescribed by Section 217 of this title on the amount determined pursuant to paragraph 1 of this subsection for each prior taxable period for the period beginning on the due date for filing the applicable report or return for the prior taxable period.

D. The tax for the taxable period shall be increased pursuant to this section only with respect to credits which were used to reduce tax liability. In the case of credits not used to reduce tax liability, the carryforwards allowed shall be adjusted accordingly.

E. For any transaction that is audited by the Tax Commission after such credits have been allowed, but which is subsequently determined to constitute a recapture event, the Tax Commission shall be required to disallow any and all credits claimed in violation of the requirements of this section or any other provision of the Rural Venture Capital Formation Incentive Act for a period of ten (10) years after the date as of which any applicable tax report or return utilizing such credits is filed.

F. The provisions of subsection E of this section shall supersede any other provision of the Uniform Tax Procedure Code or any other state tax law that would prohibit the disallowance of such credits based upon an otherwise applicable statute of limitations.

G. Notwithstanding any other provision of this section, a recapture event shall not occur with respect to qualified investments made by a qualified rural small business capital company that is also licensed as a rural business investment company under 7 U.S.C., Section 2009cc et seq., or any successor statute, at the time of the qualified investment. The qualified rural small business capital company shall include in its annual report proof of a valid license under the federal statute.

Added by Laws 2006, c. 281, § 22, emerg. eff. June 7, 2006. Amended by Laws 2008, c. 440, § 10.

§68-2357.74C. Required records to be prepared and maintained.

A. Each qualified rural small business capital company shall prepare and maintain on a current basis the following records and make them available to the Oklahoma Tax Commission upon request:

1. Files for each director and principal of the capital company including the name, address, social security number or federal identification number and such other identifying information as the Tax Commission may require;

2. Records concerning all securities issued by the capital company which include:

- a. the type of the security issued,
- b. the name, address and telephone number of the investor,
- c. the date of the transaction, and
- d. the total amount of the qualified investment;

3. Records relating to each person making a qualified investment which shall include the social security number or federal tax identification number of each investor;

4. Records relating to each Oklahoma rural small business venture in which the capital company made a qualified investment which includes:

- a. the name of the business,
- b. location of the headquarters and principal business operations of the business,
- c. a description of the type of business in which engaged,
- d. evidence that the venture meets the definition of an Oklahoma rural small business venture,

- e. a copy of any contractual agreement entered into between the capital company and the venture,
- f. the amount of qualified investment in the venture,
- g. the type of investment along with supporting documentation,
- h. the date of the investment, and
- i. the source of the funds invested;

5. Organizational documents of the qualified rural small business capital company and any additional documents relating to the organization or operation of the capital company as requested by the Tax Commission;

6. Records relating to all capitalization of the capital company which is not invested in Oklahoma rural small business ventures;

7. Records relating to all distributions made by the capital company which includes the date of the distribution, the amount of the distribution, to whom the distribution was paid, and the purpose of the distribution; and

8. All other records that may be requested by the Tax Commission.

B. All records required by this section shall be preserved for a period of ten (10) years. Added by Laws 2006, c. 281, § 23, emerg. eff. June 7, 2006.

§68-2357.74D. Rules regarding determination letter procedures.

A. The Oklahoma Tax Commission shall promulgate rules establishing procedures under which:

1. A qualified rural small business capital company may, prior to making an investment in an Oklahoma rural small business venture, request a determination letter from the Tax Commission that a business in which it proposes to invest is an “Oklahoma rural small business venture”;

2. A person or entity may request a determination letter that a company meets the definition of a “qualified rural small business capital company”; and

3. A person or entity may request a determination letter that a transfer of funds meets the definition of a “qualified investment”.

Added by Laws 2006, c. 281, § 24, emerg. eff. June 7, 2006.

§68-2357.74E. Effect of favorable determination letters issued prior to March 15, 2006 - Credit requirements.

A. Any person or entity that has obtained a favorable determination letter from the Oklahoma Tax Commission prior to March 15, 2006, regarding the ability to claim or otherwise utilize any of the tax credits authorized pursuant to the provisions of Section 2357.73 or 2357.74 of Title 68 of the Oklahoma Statutes shall not be subject to the amendments to the Rural Capital Formation Incentive Act made by this legislative measure to qualify for the tax credits authorized pursuant to the provisions of Section 2357.73 or 2357.74 of this title except as provided in this section. Notwithstanding any determination letter issued with respect to such investment, no credit shall be allowed unless:

1. Such qualified investment is made prior to November 1, 2006, to satisfy a legitimate business purpose of the entity receiving such investment which is consistent with its organizational instrument, bylaws or other agreement responsible for the governance of the business venture;

2. The investor’s funds were at risk; and

3. The investment was not made chiefly for the purpose of reducing tax liability.

B. Any investment in a qualified rural small business capital company or an Oklahoma rural small business venture that occurs on or after November 1, 2006, shall be subject to all of the provisions of the Rural Venture Capital Formation Incentive Act as amended by the provisions of this legislative measure.

Added by Laws 2006, c. 281, § 25, emerg. eff. June 7, 2006.

§68-2357.75. Reporting to Oklahoma Tax Commission.

A. Each qualified rural small business capital company shall file an annual report with the Oklahoma Tax Commission no later than April 30 of each year which lists all qualified investments in or in conjunction with such company which may qualify for the tax credit allowed by Section 2357.73 or Section 2357.74 of this title. The report shall state the amount of qualified investments in or in conjunction with such company during the taxable year by persons, partnerships or corporations and the social security number of such person or the federal identification number of such partnership or corporation making such qualified investments. The report shall also include a schedule listing the type and amount of qualified investment made by or in conjunction with the rural small business capital company and such other information as the Tax Commission may prescribe.

B. Each qualified rural small business capital company shall furnish to each person, partnership or corporation which made a qualified investment in or in conjunction with such company during the preceding year a written statement showing the name of the rural small business capital company, the name of the investor, the total amount of qualified investment in or in conjunction with the company made by such person, partnership or corporation, the amount of the qualified investment which was subsequently invested by the capital company in a rural small business venture, the date of such investment and the name of the business venture invested in and such other information as the Tax Commission may require. The statement shall be attached to the income tax return or other applicable tax report or return of such person, partnership or corporation in order to qualify for the tax credit allowed by Section 2357.73 or Section 2357.74 of this title.

C. On or before April 30 of each year, the qualified rural small business capital company shall provide to the Tax Commission a copy of its annual financial statements, including documentation which, to the satisfaction of the Oklahoma Tax Commission, shall address the methods of operation and conduct of the business of the capital company to determine whether the capital company is complying with the terms of the Rural Venture Capital Formation Incentive Act and any rules promulgated by the Tax Commission, including whether qualified investments in Oklahoma rural small business ventures have been made in the manner required by law. No credit shall be allowed for an investment in a rural small business capital company unless the report required by this subsection for the year in which the investment is made is provided.

D. Qualified rural small business capital companies or any entity making an investment in conjunction with investment by a qualified rural small business capital company pursuant to Section 2357.74 of this title must notify the Tax Commission within twenty (20) business days if:

1. The investment in an Oklahoma rural small business venture is transferred, withdrawn or otherwise returned; or

2. An occurrence upon which an investment is contingent has taken place.

If the qualified investment is held in the Oklahoma rural small business venture for less than five (5) years, the Tax Commission shall revoke the verification of tax credits and take action to recapture the tax credits pursuant to Section 22 of this act to the extent such credits were authorized based upon an amount of qualified investment that was transferred, withdrawn or otherwise returned.

E. Any qualified rural small business capital company who refuses or fails to comply with the provisions of this section or is hereafter found guilty in a court of competent jurisdiction of any violation of any Oklahoma tax law shall not be eligible to be a qualified rural small business capital company for purposes of this act.

F. Any taxpayer who refuses or fails to comply with the provisions of this section or is hereafter found guilty in a court of competent jurisdiction of any violation of any Oklahoma tax law shall not be eligible for the tax credits granted in Sections 2357.73 and 2357.74 of this title.

G. The Tax Commission is directed to immediately develop a system for reporting of any tax credits issued pursuant to Sections 2357.73 and 2357.74 of this title and a system which requires the filing of informational reports on how the qualified investments were used, economic benchmarks achieved, implementation of a business plan for the Oklahoma rural small business venture, commercialization success, additional investments in the business by other investors and job creation that has taken place.

Added by Laws 2000, c. 339, § 5, eff. Jan. 1, 2001. Amended by Laws 2006, c. 281, § 26, emerg. eff. June 7, 2006.

§68-2357.76. Annual reporting to legislature.

On or before November 1 of each year subsequent to the effective date of the Rural Venture Capital Formation Incentive Act, the Oklahoma Tax Commission shall file a report with the Speaker of the House of Representatives and the President Pro Tempore of the Senate. The report shall state the amount of credits actually claimed and allowed pursuant to the provisions of this act during the previous calendar year, statistical information on the qualified investments made by qualified rural small business capital companies during the previous year, an estimate of the number of jobs created in this state during the previous year and such other information as the Tax Commission may deem relevant to the effective administration of the Rural Venture Capital Formation Incentive Act.

Added by Laws 2000, c. 339, § 6, eff. Jan. 1, 2001. Amended by Laws 2006, c. 281, § 27, emerg. eff. June 7, 2006.

§68-2357.76A. Federally regulated investment company exemption.

A. As used in this section:

1. "Federally regulated investment company" means a qualified rural small business capital company as defined by Section 2357.72 of this title and that is licensed by the United States Small Business Administration or the United States Department of Agriculture and which qualifies as one of the following types of entities:

- a. a Small Business Investment Company, or
- b. a Specialized Small Business Investment Company, or
- c. a Rural Business Investment Company, or
- d. a Community Development Entity as defined by Section 45D of the Internal Revenue Code of 1986, as amended; and

2. "Qualified rural small business capital company" means an entity meeting the requirements of Section 2357.72 of this title.

B. Federally regulated investment companies shall be exempt from the requirements of subsections C and G of Section 2357.75 of this title.

C. As a condition of the exemption authorized by this section, the federally regulated investment company shall provide to the Oklahoma Tax Commission not later than March 15 each year:

1. A copy of the federal license issued by the applicable federal regulatory entity;
2. A copy of all reports and compliance documents required by the federal regulators; and
3. A copy of the annual financial audit of the federally regulated investment company.

D. A federally regulated investment company shall also prepare an annual summary report that discloses:

1. All investments made in for-profit business entities during the preceding calendar year;
2. The primary business address of each for-profit business entity in which any investment was made;

3. A statement of the business activity of each of the for-profit business entities described in paragraphs 1 and 2 of this subsection;

4. The type of investment instrument used to make the investment; and

5. A status report of all investments made by the federally regulated investment company.

E. The federally regulated investment company shall transmit a copy of the annual summary prescribed by subsection D of this section to the committees or subcommittees of the Oklahoma House of Representatives and the Oklahoma State Senate having primary jurisdiction over the Rural Venture Capital Formation Incentive Act, the State Treasurer, the State Auditor and Inspector, the Director of the Office of Management and Enterprise Services and the Oklahoma Tax Commission.

F. The report required by subsection D of this section shall be prepared and submitted until all of the monies available to the federally regulated investment fund have been fully invested, all of the investments have been completed and the proceeds from the investment have been disbursed to the equity investors.

Added by Laws 2007, c. 353, § 9, eff. Nov. 1, 2007. Amended by Laws 2012, c. 304, § 548.

§68-2357.81. Repealed by Laws 2013, c. 363, § 15, eff. Jan. 1, 2014.

§68-2357.100. Credit for purchase and transportation of poultry litter – Calculation – Qualification – Carry-forward period.

A. For taxable years beginning after December 31, 2004, and ending on or before December 31, 2009, there shall be allowed a credit against the tax imposed by Section 2355 of this title for the purchase and transportation of poultry litter. Subject to the limitations provided in subsection C of this section, the credit shall be available to the purchaser of the poultry litter and shall equal Five Dollars (\$5.00) per ton purchased and transported.

B. Except as provided in subsection F of this section, for taxable years beginning after December 31, 2009, and ending on or before December 31, 2013, there shall be allowed a credit against the tax imposed by Section 2355 of this title for the purchase and transportation of poultry litter. Subject to the limitations provided in subsection C of this section, the credit shall be available to the purchaser of the poultry litter and shall equal Ten Dollars (\$10.00) per ton purchased and transported.

C. 1. The total of the credits authorized by this section shall not exceed Three Hundred Seventy-five Thousand Dollars (\$375,000.00) annually. The amount of the credit for each purchaser shall be adjusted annually so that the total estimate of the credits authorized by this section does not exceed Three Hundred Seventy-five Thousand Dollars (\$375,000.00). The formula to be used for the percentage adjustment shall be Three Hundred Seventy-five Thousand Dollars (\$375,000.00) divided by the credits claimed in the preceding year. In no event shall the credit be claimed more than once by a taxpayer each taxable year.

2. In the event the total tax credits authorized by this section exceed Three Hundred Seventy-five Thousand Dollars (\$375,000.00) in any calendar year, the Oklahoma Tax Commission shall permit any excess over Three Hundred Seventy-five Thousand Dollars (\$375,000.00) but shall factor such excess into the percentage adjustment formula for subsequent years.

D. In order to qualify for the credit provided for in subsections A and B of this section:

1. The poultry litter shall only be purchased from an Oklahoma-based poultry operation registered with the State Board of Agriculture and located within an environmentally sensitive and nutrient-limited watershed area as defined in the most recent Oklahoma Water Quality Standards;

2. The poultry litter shall be used or spread in a watershed that is not environmentally sensitive and nutrient-limited as defined in the most recent Oklahoma Water Quality Standards; and

3. The poultry litter shall be applied by a certified poultry waste applicator as defined by Section 10-9.1 of Title 2 of the Oklahoma Statutes and in accordance with the provisions of Sections 10-9.16 through 10-9.21 of Title 2 of the Oklahoma Statutes and any rules promulgated by the Oklahoma Department of Agriculture, Food, and Forestry.

E. The credit allowed by this section shall be available to the taxpayer in the year in which the poultry litter was purchased and transported, provided the taxpayer is found by the Oklahoma Department of Agriculture, Food, and Forestry to have applied the poultry litter in a manner consistent with an Animal Waste Management Plan, as defined in Section 10-9.1 of Title 2 of the Oklahoma Statutes, specifically designed to restore and protect beneficial uses from impairment from nutrients. If the credit exceeds the amount of income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of the credit not used as an offset against the income taxes for a year may be carried forward as a credit against subsequent income tax liability for a period not to exceed five (5) years.

F. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section.

Added by Laws 2004, c. 510, § 1, eff. Jan. 1, 2005. Amended by Laws 2005, c. 442, § 1, eff. Nov. 1, 2005; Laws 2008, c. 278, § 4, eff. Jan. 1, 2009; Laws 2010, c. 327, § 21, eff. July 1, 2010.

§68-2357.101. Credit for investment in film or music project.

A. Except as otherwise provided in subsection E of this section, for taxable years beginning after December 31, 2004, there shall be allowed against the tax imposed by Section

2355 of Title 68 of the Oklahoma Statutes, a credit equal to twenty-five percent (25%) of the amount of profit made by a taxpayer from investment in an existing Oklahoma film or music project with a production company to pay for production costs that is reinvested by the taxpayer with the production company to pay for the production cost of the production company for a new Oklahoma film or music project.

B. In no event shall the amount of the credit provided for in subsection A of this section for an eligible taxpayer exceed the tax liability of the taxpayer in a calendar year.

C. The Oklahoma Tax Commission shall have the authority to prescribe forms for purposes of claiming the credit authorized in subsection A of this section. The forms shall include, but not be limited to, requests for information that prove who the investment was with, the amount of the original investment and the amount of the profit realized from the investment.

D. As used in this section:

1. "Film" means a professional single media, multimedia program or feature, which is not child pornography as defined in subsection A of Section 1024.1 of Title 21 of the Oklahoma Statutes or obscene material as defined in paragraph 1 of subsection B of Section 1024.1 of Title 21 of the Oklahoma Statutes including, but not limited to, national advertising messages that are broadcast on a national affiliate or cable network, fixed on film or digital video, which can be viewed or reproduced and which is exhibited in theaters, licensed for exhibition by individual television stations, groups of stations, networks, cable television stations or other means or licensed for home viewing markets;

2. "Music project" means a professional recording released on a national or international level, whether via traditional manufacturing or distributing or electronic distribution, using technology currently in use or future technology including, but not limited to, music CDs, radio commercials, jingles, cues, or electronic device recordings;

3. "Production company" means a person who produces a film or music project for exhibition in theaters, on television or elsewhere;

4. "Total production cost" includes, but is not limited to:

- a. wages or salaries of persons who have earned income from working on a film or music project in this state, including payments to personal services corporations with respect to the services of qualified performing artists, as determined under Section 62(a)(A) of the Internal Revenue Code,
- b. the cost of construction and operations, wardrobe, accessories and related services,
- c. the cost of photography, sound synchronization, lighting and related services,
- d. the cost of editing and related services,
- e. rental of facilities and equipment, and
- f. other direct costs of producing a film or music project;

5. "Existing Oklahoma film or music project" means a film or music project produced after July 1, 2005;

6. "Profit" means the amount made by the taxpayer to be determined as follows:

- a. the gross revenues less gross expenses, including direct production, distribution and marketing costs and an allocation of indirect overhead costs, of the film or music project shall be multiplied by,
- b. a ratio, the numerator of which is Oklahoma production costs, as defined in paragraph 7 of this subsection, and the denominator of which is total

production costs, as defined in paragraph 4 of this subsection, which shall be multiplied by,

- c. the percent of the taxpayer's taxable income allocated to Oklahoma in a taxable year, and
- d. subtract from the result of the formula calculated pursuant to subparagraphs a through c of this paragraph the profit made by a taxpayer from investment in an existing Oklahoma film or music project in previous taxable years. Profit shall include either a net profit or net loss;

7. "Oklahoma production cost" means that portion of total production costs which are incurred with any qualified vendor;

- 8. a. "Qualified vendor" means an Oklahoma entity which provides goods or services to a production company and for which:
 - (1) fifty percent (50%) or more of its employees are Oklahoma residents, and
 - (2) fifty percent (50%) or more of gross wages, as reported on Internal Revenue Service Form W-2 or Form 1099, are paid to Oklahoma residents.
- b. For purposes of this paragraph, an employee shall include a self-employed individual reporting income from a qualified vendor on Internal Revenue Service Form 1040.
- c. The Oklahoma Tax Commission shall prescribe forms by which an entity may be certified to a production company as a qualified vendor for purposes of this section; and

9. "Investment" means costs associated with the original production company. Film or music projects acquired from an original production company do not qualify as investment under subsection A of this section.

E. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section.

Added by Laws 2005, c. 301, § 1, emerg. eff. June 6, 2005. Amended by Laws 2006, c. 260, § 1, eff. July 1, 2006; Laws 2010, c. 327, § 22, eff. July 1, 2010.

§68-2357.102. Repealed by Laws 2013, c. 363, § 16, eff. Jan. 1, 2014.

§68-2357.103. Short title.

A. Sections 7 and 8 of this act shall be known and may be cited as the "Railroad Modernization Act of 2005".

B. The exercise of the powers granted to the Department of Transportation and the Oklahoma Tax Commission by the Railroad Modernization Act of 2005 shall be in all respects for the benefit of the people of this state and for the increase of their commerce and prosperity. Added by Laws 2005, c. 413, § 7, eff. July 1, 2005.

NOTE: Editorially renumbered from § 2357.101 of this title to avoid duplication in numbering.

§68-2357.104. Tax credit for railroad reconstruction or replacement expenditures.

A. Except as otherwise provided by subsection G of this section, for taxable years beginning after December 31, 2005, there shall be allowed a credit against the tax imposed by Section 2355 of this title equal to fifty percent (50%) of an eligible taxpayer's qualified railroad reconstruction or replacement expenditures.

B. 1. Except as provided in paragraph 2 of this subsection, the amount of the credit shall be limited to the product of Five Hundred Dollars (\$500.00) for tax year 2007 and Two Thousand Dollars (\$2,000.00) for tax year 2008 and subsequent tax years and the number of miles of railroad track owned or leased within this state by the eligible taxpayer as of the close of the taxable year.

2. In tax year 2009 and subsequent tax years, a taxpayer may elect to increase the limit provided in paragraph 1 of this subsection to an amount equal to three times the limit specified in paragraph 1 of this subsection for qualified expenditures made in the tax year, provided the taxpayer may only claim one third (1/3) of the credit in any one taxable period.

C. The credit allowed pursuant to subsection A of this section but not used shall be freely transferable, by written agreement, to subsequent transferees at any time during the five (5) years following the year of qualification. An eligible transferee shall be any taxpayer subject to the tax imposed by Section 2355 of this title. The person originally allowed the credit and the subsequent transferee shall jointly file a copy of the written credit transfer agreement with the Oklahoma Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number of the parties to the transfer, the amount of credit being transferred, the year the credit was originally allowed to the transferring person and the tax year or years for which the credit may be claimed. The Tax Commission shall promulgate rules to permit verification of the timeliness of a tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules which unduly restrict or hinder the transfers of such tax credit. The Department of Transportation shall promulgate rules to permit verification of the eligibility of an eligible taxpayer's expenditures for the purpose of claiming the credit. The rules shall provide for the approval of qualified railroad reconstruction or replacement expenditures prior to commencement of a project and provide a certificate of verification upon completion of a project that uses qualified railroad reconstruction or replacement expenditures. The certificate of verification shall satisfy all requirements of the Tax Commission pertaining to the eligibility of the person claiming the credit.

D. Any credits allowed pursuant to the provisions of subsection A of this section but not used in any tax year may be carried over in order to each of the five (5) years following the year of qualification.

E. A taxpayer who elects to increase the limitation on the credit under paragraph 2 of subsection B of this section shall not be granted additional credits under subsection A of this section during the period of such election.

F. As used in this section:

1. "Class II and Class III railroad" means a railroad that is classified by the United States Surface Transportation Board as a Class II or Class III railroad;
2. "Eligible taxpayer" means any Class II or Class III railroad; and
3. "Qualified railroad reconstruction or replacement expenditures" means expenditures for:

- a. reconstruction or replacement of railroad infrastructure including track, roadbed, bridges, industrial leads and track-related structures owned or leased by a Class II or Class III railroad as of January 1, 2006, or
- b. new construction of industrial leads, switches, spurs and sidings and extensions of existing sidings by a Class II or Class III railroad.

G. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this section.

Added by Laws 2005, c. 413, § 8, eff. July 1, 2005. Amended by Laws 2006, 2nd Ex.Sess., c. 44, § 24, eff. July 1, 2007; Laws 2008, c. 122, § 1, eff. Nov. 1, 2008; Laws 2010, c. 327, § 24, eff. July 1, 2010.

NOTE: Editorially renumbered from Title 68, § 2357.102 to avoid a duplication in numbering.

§68-2357.201. Definitions - Amount of credit.

A. As used in this act:

1. "Qualified business enterprise" means an entity or affiliated group of entities electing to file a consolidated Oklahoma income tax return:

- a. organized as a corporation, partnership, limited liability company or other entity having limited liability pursuant to the laws of the State of Oklahoma or the laws of another state, if such entity is registered to do business within the state, a general partnership, limited liability partnership, limited liability limited partnership or other legal entity having the right to conduct lawful business within the state,
- b. whose principal business activities are described by the North American Industry Classification System by Industry No. 514210, or Industry No. 541512 or Industry No. 541519 as reflected in the 1997 edition of such publication,
- c. that makes at least seventy-five percent (75%) of its sales to out-of-state customers or buyers which shall be determined in the same manner as provided for purposes of the Oklahoma Quality Jobs Program Act,
- d. that is a high-speed processing facility in Oklahoma utilizing systems such as TPF, zTPF or other advanced technical systems,
- e. that, as of July 1, 2005, maintains an Oklahoma annual payroll of at least Eighty-five Million Dollars (\$85,000,000.00), and
- f. that, as of July 1, 2005, maintains an Oklahoma labor force of one thousand (1,000) or more persons;

2. "Qualified capital expenditures" means those costs incurred by the qualified business enterprise for acquisition of personal property to be used in business operations within the state that qualifies for depreciation and/or amortization pursuant to the Internal Revenue Code of 1986, as amended, during the taxable year for which the credit authorized by this section is claimed, or costs incurred to refurbish, repair or maintain any existing personal property located within the state;

3. "Qualified wages" means compensation, including any employer-paid health care benefits, to full-time or part-time employees of the qualified business enterprise if such employees are full-time residents of the state; and

4. "Qualified training expenses" means those costs, whether or not deductible as a business expense pursuant to the Internal Revenue Code of 1986, as amended, incurred to locate, interview, hire and educate an employee of the enterprise who has not previously been employed by the enterprise and who is a resident of the state.

B. For taxable years beginning after December 31, 2005, and ending not later than December 31, 2013, there shall be allowed as a credit against the tax imposed by Section 2355 of this title, subject to the limitations imposed by subsection C of this section, an amount equal to fifteen percent (15%) of:

1. Qualified capital expenditures; or
2. Qualified wages; or
3. Qualified training expenses; or
4. The sum of any of the expenses identified in paragraphs 1 through 3 of this subsection, in any combination.

C. For purposes of computing the credit amount prescribed by subsection B of this section, the expenses described by paragraphs 1, 2 and 3 of subsection B of this section may be added together or considered independently, but the total credit amount shall not exceed Three Hundred Fifty Thousand Dollars (\$350,000.00) each year for the fiscal year ending June 30, 2007, the fiscal year ending June 30, 2008, the fiscal year ending June 30, 2009, and for all subsequent fiscal years.

D. For purposes of the expenditures described by subsection B of this section a qualified business enterprise may incur expenditures beginning January 1, 2005, through December 31, 2013, for purposes of computing the credit amount. The claim for such credits earned for the fiscal year ending June 30, 2007, shall not be filed earlier than July 1, 2006, and the claims for each subsequent taxable year may be filed no earlier than July 1 of each of the applicable succeeding years.

E. For purposes of the limitation on the credit amount that may be claimed by a qualified business enterprise, an extension of time for filing of an income tax return shall not extend the time period for purposes of claiming the credit authorized by this section.

F. If the amount of the credit allowable is in excess of the tax liability, the amount of the credit not used shall be refunded to the taxpayer subject to the total limit of Three Hundred Fifty Thousand Dollars (\$350,000.00) each year for the fiscal year ending June 30, 2007, the fiscal year ending June 30, 2008, the fiscal year ending June 30, 2009, and each of the applicable subsequent fiscal years.

G. No credit for any fiscal year as otherwise authorized by this section shall be based upon any qualified expenditure used to compute a credit amount for any preceding taxable year.

H. The credit authorized by the provisions of this section shall not be transferable.

I. The Tax Commission may prescribe forms for purposes of claiming the credit authorized by this section and for verifying eligibility for the credit.

Added by Laws 2005, c. 458, § 1, eff. July 1, 2005. Amended by Laws 2008, c. 440, § 11.

§68-2357.202. Definitions – Amount of credit.

A. As used in this act:

1. "Qualified business enterprise" means an entity:

- a. organized as a corporation, partnership, limited partnership, limited liability company, business trust or other entity, if such entity is registered to do business within the state, or is otherwise lawfully conducting business within the state,
 - b. whose principal business activity in the state is described by the North American Industry Classification System by Industry No. 336413, as reflected in the 1997 edition of such publication, and is engaged in the manufacture of wing components for large commercial aircraft and other aerospace structures and components for commercial and government aerospace products, and
 - c. that makes at least seventy-five percent (75%) of its sales to out-of-state customers or buyers which shall be determined in the same manner as provided for purposes of determining eligibility for the incentive payment pursuant to the Oklahoma Quality Jobs Program Act;
2. "Qualified expenditures" means:
- a. costs incurred by the qualified business enterprise during the taxable year for the acquisition of personal property used, or to be used, in business operations within the state, to the extent a depreciation deduction is allowed or allowable for federal income tax purposes with respect to such property pursuant to Section 167, Section 168 or Section 179 of the Internal Revenue Code of 1986, as amended, in the taxable year for which the credit authorized by this section is claimed, and
 - b. costs incurred during the taxable year to refurbish, repair or maintain any existing personal property located within the state whether or not such costs are capitalized by the taxpayer;
3. "Qualified wages" means gross compensation and benefits paid by the taxpayer during the taxable year, including any employer-paid health care benefits, to full-time or part-time employees of the qualified business enterprise, if such employees are full-time residents of this state as of the time the services for which such qualified wages are received are performed; and
4. "Qualified training expenses" means those costs, whether or not deductible as a business expense pursuant to the Internal Revenue Code of 1986, as amended, incurred during the taxable year to locate, interview, hire and train employees and prospective employees of the qualified business enterprise who:
- a. have not previously been employed as employees by the qualified business enterprise, either full-time or part-time, at any time within the five (5) prior taxable years, and
 - b. are full-time residents of the state as of the end of the taxable year for which the credit authorized by this section is claimed.
- B. For taxable years beginning after December 31, 2005, and ending not later than December 31, 2008, there shall be allowed as a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes, subject to the limitations imposed by subsection C of this section, an amount equal to fifteen percent (15%) of:
1. Qualified expenditures; or
 2. Qualified wages; or
 3. Qualified training expenses; or

4. The sum of any of the expenses identified in paragraphs 1 through 3 of this subsection, in any combination.

C. For purposes of computing the credit amount prescribed by subsection B of this section, the expenses described by paragraphs 1, 2 and 3 of subsection B of this section may be added together or combined in any order or considered independently, but the total credit amount shall not exceed One Hundred Fifty Thousand Dollars (\$150,000.00) each year for the fiscal year ending June 30, 2007, the fiscal year ending June 30, 2008, and the fiscal year ending June 30, 2009.

D. For purposes of the expenditures described by subsection B of this section a qualified business enterprise may incur expenditures beginning January 1, 2005, through December 31, 2008, for purposes of computing the credit amount. The claim for such credits earned for the fiscal year ending June 30, 2007, shall not be filed earlier than July 1, 2006, and the claims for each subsequent taxable year may be filed no earlier than July 1 of each of the two (2) succeeding years.

E. For purposes of the limitation on the credit amount that may be claimed by a qualified business enterprise, an extension of time for filing of an income tax return shall not extend the time period for purposes of claiming the credit authorized by this section.

F. If the amount of the credit allowable is in excess of the tax liability, the amount of the credit not used shall be refunded to the taxpayer subject to the total limit of One Hundred Fifty Thousand Dollars (\$150,000.00) each year for the fiscal year ending June 30, 2007, the fiscal year ending June 30, 2008, and the fiscal year ending June 30, 2009.

G. No credit for any fiscal year as otherwise authorized by this section shall be based upon any qualified expenditure used to compute a credit amount for any preceding taxable year.

H. The credit authorized by the provisions of this section shall not be transferable.

I. The Tax Commission may prescribe forms for purposes of claiming the credit authorized by this section and for verifying eligibility for the credit.

Added by Laws 2005, c. 458, § 2, eff. July 1, 2005.

§68-2357.203. Repealed by Laws 2013, c. 79, § 1, eff. Nov. 1, 2013.

§68-2357.204. Costs associated with qualified refinery property – Election and allocation against capital account – Definitions.

A. A taxpayer may elect to treat one hundred percent (100%) of the cost of a qualified refinery property as an expense that is not chargeable to a capital account. Any cost so treated shall be allowed as a deduction for the year in which the qualified refinery property expense is incurred.

B. 1. An election under this section for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. The election shall be made in a manner as the Oklahoma Tax Commission may by rule prescribe.

2. An election made pursuant to this section shall not be revoked except with the consent of the Tax Commission.

C. 1. As used in this section, the term “qualified refinery property” means any portion of a qualified refinery:

- a. the original use of which commences with the taxpayer,
- b. which is placed in service by the taxpayer after the effective date of this act and before January 1, 2012,

- c. which meets the requirements of subsection E of this section, other than a qualified refinery which is separate from any existing refinery,
 - d. which meets all applicable environmental laws in effect on the date the portion was placed in service,
 - e. for which no written binding contract for the construction of was in effect on or before June 14, 2005, and
 - f. (1) the construction of which is subject to a written binding construction contract entered into before January 1, 2008,
 - (2) which is placed in service before January 1, 2008, or
 - (3) in the case of self-constructed property, the construction of which began after June 14, 2005, and before January 1, 2008.
2. For purposes of subparagraph a of paragraph 1 of this subsection, if property is:
- a. originally placed in service after the effective date of this act by a person, and
 - b. sold and leased back to the person within three (3) months after the date the property was originally placed in service,

the property shall be treated as originally placed in service not earlier than the date on which the property is used under the leaseback provision referred to in subparagraph b of paragraph 1 of this subsection.

3. A waiver under the federal Clean Air Act shall not be taken into account in determining whether the requirements of subparagraph d of paragraph 1 of this subsection are met.

D. For purposes of this section, the term “qualified refinery” means any refinery located in the State of Oklahoma that is designed to serve the primary purpose of processing liquid fuel from crude oil or qualified fuels.

E. The requirements of this section shall be met if the portion of the qualified refinery:

- 1. Enables the existing qualified refinery to increase total volume output, determined without regard to asphalt or lube oil, by five percent (5%) or more on an average daily basis; or
- 2. Enables the existing qualified refinery to process qualified fuels at a rate that is equal to or greater than twenty-five percent (25%) of the total throughput of such qualified refinery on an average daily basis.

F. No deduction shall be allowed under this section for any qualified refinery property the primary purpose of which is for use as a topping plant, asphalt plant, lube oil facility, or crude or product terminal.

G. 1. The taxpayer may elect to allocate all or a portion of the deduction allowable under subsection A of this section to qualified persons. The allocation shall be equal to the ratable share of the total amount allocated for each qualified person, determined on the basis of the ownership interest the person has in the taxpayer. The taxable income of the taxpayer shall not be reduced under Section 10 of this act by reason of any amount to which this subsection applies.

2. An election under paragraph 1 of this subsection for any taxable year shall be made on a timely filed return for that year. The election, once made, shall be irrevocable for the taxable year.

3. If any portion of the deduction available under subsection A of this section is allocated to an owner under paragraph 1 of this subsection, the cooperative shall provide the owner receiving the allocation written notice of the amount of the allocation. Notice shall be provided before the date on which the return described in paragraph 2 of this subsection is due.

H. No deduction shall be allowed under subsection A of this section to any taxpayer for any taxable year unless the taxpayer files with the Tax Commission a report containing information with respect to the operation of the refineries as shall be required by the Tax Commission.

I. The provisions of this section shall apply to qualified refinery properties placed in service after the effective date of this act.

Added by Laws 2006, c. 261, § 9, eff. July 1, 2006.

§68-2357.205. Cost of sulfur regulation compliance – Election and allocation.

A. A refiner who is:

1. A small business refiner; or

2. One or more persons directly holding an ownership interest in the refiner,

may elect to allocate all or a portion of the cost of complying with sulfur regulations issued by the Environmental Protection Agency as a deduction allowable to such persons. The allocation for each person shall be equal to the ratable share of the total amount allocated, determined on the basis of the ownership interest of the person. The taxable income of the refiner shall not be reduced by reason of any amount allowed pursuant to this section.

B. An election made pursuant to subsection A of this section for any taxable year shall be made on a timely filed return for such year. The election, once made, shall be irrevocable for the taxable year.

C. If any portion of the deduction available under subsection A of this section is allocated to an owner, the cooperative shall provide the owner receiving the allocation written notice of the amount of the allocation. Notice shall be provided before the date on which the return described in subsection B of this section is due.

D. The provisions of this section shall apply to refinery properties placed in service after the effective date of this act.

Added by Laws 2006, c. 261, § 10, eff. July 1, 2006.

§68-2357.206. Short title - Tax credit - Definitions.

A. This act shall be known and may be cited as the “Oklahoma Equal Opportunity Education Scholarship Act”.

B. 1. Except as provided in subsection E of this section, after the effective date of this act, there shall be allowed a credit for any taxpayer who makes a contribution to an eligible scholarship-granting organization. The credit shall be equal to fifty percent (50%) of the total amount of contributions made during a taxable year, not to exceed One Thousand Dollars (\$1,000.00) for single individuals, Two Thousand Dollars (\$2,000.00) for married individuals filing jointly, or One Hundred Thousand Dollars (\$100,000.00) for any taxpayer which is a legal business entity including limited and general partnerships, corporations, and limited liability companies; provided, if total credits claimed pursuant to this paragraph exceed the caps established pursuant to paragraph 2 of this subsection, the credit shall be equal to the taxpayer’s proportionate share of the cap for the taxable year, as determined pursuant to subsection G of this section.

2. a. The total credits authorized by paragraph 1 of this subsection for all single individuals and married individuals filing jointly shall not exceed One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) annually.

- b. The total credits authorized by paragraph 1 of this subsection for all other taxpayers not subject to subparagraph a of this paragraph shall not exceed One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00) annually.
- c. Each cap on total credits as provided for in this paragraph shall be allocated by the Oklahoma Tax Commission as provided in subsection G of this section.

C. 1. Except as provided in subsection E of this section, after the effective date of this act, there shall be allowed a credit for any taxpayer who makes a contribution to an eligible educational improvement grant organization. The credit shall be equal to fifty percent (50%) of the total amount of contributions made during a taxable year, not to exceed One Thousand Dollars (\$1,000.00) for single individuals, Two Thousand Dollars (\$2,000.00) for married individuals filing jointly, or One Hundred Thousand Dollars (\$100,000.00) for any taxpayer which is a legal business entity including limited and general partnerships, corporations, and limited liability companies; provided, if total credits claimed pursuant to this paragraph exceed the cap established pursuant to paragraph 3 of this subsection, the credit shall be equal to the taxpayer's proportionate share of the cap for the taxable year, as determined pursuant to subsection G of this section.

2. For any taxpayer who makes a contribution to an eligible educational improvement grant organization and makes a written commitment to contribute the same amount for two (2) additional consecutive years the credit shall be equal to seventy-five percent (75%) of the total amount of the contribution established in paragraph 1 of this subsection, not to exceed the amounts established in paragraph 1 of this subsection for the taxable year in which the credit provided in this subsection is claimed; provided, if total credits claimed pursuant to this paragraph exceed the cap established pursuant to paragraph 3 of this subsection, the credit shall be equal to the taxpayer's proportionate share of the cap for the taxable year, as determined pursuant to subsection G of this section. The taxpayer shall provide evidence of the written commitment to the Oklahoma Tax Commission at the time of filing the refund claim.

- 3. a. The total credits authorized by paragraph 1 of this subsection for all single individuals, married individuals filing jointly and for all other taxpayers shall not exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) annually.
- b. The cap on total credits as provided for in this paragraph shall be allocated by the Oklahoma Tax Commission as provided in subsection G of this section.

D. For credits claimed for eligible contributions made during tax year 2014 and thereafter, a credit shall not be allowed by the Oklahoma Tax Commission for contributions made to a scholarship-granting organization or an educational improvement grant organization if that organization's percentage of funds actually awarded is less than ninety percent (90%). For purposes of this section, the "percentage of funds actually awarded" shall be determined by dividing the total amount of funds actually awarded as educational scholarships or educational improvement grants over the most recent twenty-four (24) months by the total amount available to award as educational scholarships or educational improvement grants over the most recent twenty-four (24) months.

E. Any tax credits which are earned by a taxpayer pursuant to this section during the time period beginning on the effective date of this act through December 31, 2012, may not be

claimed for any period prior to the taxable year beginning January 1, 2013. No credits which accrue during the time period beginning on the effective date of this act through December 31, 2012, may be used to file an amended tax return for any taxable year prior to the taxable year beginning January 1, 2013.

F. As used in this section:

1. "Eligible student" means a child of school age who is lawfully present in the United States and who is a member of a household in which the total annual income during the preceding tax year does not exceed an amount equal to three hundred percent (300%) of the income standard used to qualify for a free or reduced school lunch or who, during the immediately preceding school year, attended or, by virtue of the location of such student's place of residence, was eligible to attend a public school in this state which has been identified for school improvement as determined by the State Board of Education pursuant to the requirements of the No Child Left Behind Act of 2001, P.L. No. 107-110. Once a student has received an educational scholarship, as defined in paragraph 3 of this subsection, the student and any siblings who are members of the same household shall remain eligible until they graduate from high school or reach twenty-one (21) years of age, whichever occurs first;

2. "Eligible special needs student" means a child of school age who has attended public school in our state with an individualized education program pursuant to the Individuals With Disabilities Education Act, 20 U.S.C.A., Section 1400 et seq.;

3. "Educational scholarships" means:

- a. scholarships to an eligible student of up to Five Thousand Dollars (\$5,000.00) or eighty percent (80%) of the average per-pupil expenditure in the school district where the recipient student resides, whichever is greater, to cover all or part of the tuition, fees and transportation costs of a qualified school which is accredited by the State Board of Education or an accrediting association approved by the Board pursuant to Section 3-104 of Title 70 of the Oklahoma Statutes, or
- b. scholarships to an eligible special needs student of up to Twenty-five Thousand Dollars (\$25,000.00) to cover all or part of the tuition, fees and transportation costs of a qualified school for eligible special needs students which is accredited by the State Board of Education or an accrediting association approved by the Board pursuant to Section 3-104 of Title 70 of the Oklahoma Statutes;

4. "Low-income eligible student" means an eligible student or eligible special needs student who qualifies for a free or reduced-price lunch;

5. "Qualified school" means an elementary or secondary private school in this state, including schools which provide prekindergarten educational programs for four-year-olds, which:

- a. is accredited by the State Board of Education or an accrediting association approved by the Board pursuant to Section 3-104 of Title 70 of the Oklahoma Statutes,
- b. is in compliance with all applicable health and safety laws and codes,
- c. has a stated policy against discrimination in admissions on the basis of race, color, national origin or disability, and
- d. ensures academic accountability to parents and guardians of students through regular progress reports;

6. “Qualified school for eligible special needs students” means an elementary or secondary private school in a county in this state;

7. “Scholarship-granting organization” means an organization which:

- a. is a nonprofit entity exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
- b. distributes periodic scholarship payments as checks made out to an eligible student’s or eligible special needs student's parent or guardian and mailed to the qualified school where the student is enrolled,
- c. spends no more than ten percent (10%) of its annual revenue on expenditures other than educational scholarships as defined in paragraph 3 of this subsection,
- d. spends each year a portion of its expenditures on educational scholarships for low-income eligible students, as defined in paragraph 4 of this subsection, in an amount equal to or greater than the percentage of low-income eligible students in the state,
- e. ensures that scholarships are portable during the school year and can be used at any qualified school that accepts the eligible student or at any qualified school for special needs students that accepts the eligible special needs student,
- f. registers with the Oklahoma Tax Commission as a scholarship-granting organization, and
- g. has policies in place to:
 - (1) carry out criminal background checks on all employees and board members to ensure that no individual is involved with the organization who might reasonably pose a risk to the appropriate use of contributed funds, and
 - (2) maintain full and accurate records with respect to the receipt of contributions and expenditures of those contributions and supply such records and any other documentation required by the Tax Commission to demonstrate financial accountability;

8. “Annual revenue” means the total amount or value of contributions received by an organization from taxpayers awarded credits during the organization’s fiscal year and all amounts earned from interest or investments;

9. “Public school” means public schools as defined in Section 1-106 of Title 70 of the Oklahoma Statutes;

10. “Eligible school” means any public school that is not located within a ten-mile radius of a qualified school in this state, or any public school that is located within a ten-mile radius of a qualified school in this state but offers grade-level instruction different from the qualified school or any public school located within a public school district with fewer than four thousand five hundred (4,500) students;

11. “Early childhood education program” means a program provided to children who are at least four (4) years of age but not more than five (5) years of age on or before September 1;

12. “Innovative educational program” means an advanced academic or academic improvement program that is not part of the regular coursework of a public school but that enhances the curriculum or academic program of the school or provides early childhood education programs to students;

13. “Educational improvement grant” means a grant to an eligible public school to implement an innovative educational program for students, including the ability for multiple public schools to make an application and be awarded a grant to jointly provide an innovative educational program; and

14. “Educational improvement grant organization” means an organization which:

- a. is a nonprofit entity exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and
- b. contributes at least ninety percent (90%) of its annual receipts as grants to eligible schools for innovative educational programs. For purposes of this subparagraph, an educational improvement grant organization contributes its annual cash receipts when it expends or otherwise irrevocably encumbers those funds for expenditure during the then current fiscal year of the organization or during the next succeeding fiscal year of the organization.

G. Total credits authorized by this section shall be allocated as follows:

1. By January 10 of the year immediately following each calendar year, a scholarship-granting organization or an educational improvement grant organization which accepts contributions pursuant to this section shall provide electronically to the Tax Commission information on each contribution accepted during such taxable year. At least once each taxable year, the scholarship-granting organization or the educational improvement grant organization shall notify each contributor that Oklahoma law provides for a total, statewide cap on the amount of income tax credits allowed annually;

2.
 - a. If the Tax Commission determines the total combined credits claimed for contributions made to scholarship-granting organizations during the most recently completed calendar year by all single individual taxpayers and married individuals filing jointly are in excess of One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00), plus any additional amount allocated pursuant to subsection H of this section, the Tax Commission shall determine the percentage of the contribution which establishes the proportionate share of the credit which may be claimed by any taxpayer so that the maximum credits authorized by subparagraph a of paragraph 2 of subsection B of this section are not exceeded.
 - b. If the Tax Commission determines the total combined credits claimed for contributions made to scholarship-granting organizations during the most recently completed calendar year by all taxpayers not subject to subparagraph a of this paragraph are in excess of One Million Seven Hundred Fifty Thousand Dollars (\$1,750,000.00), plus any additional amount allocated pursuant to subsection H of this section, the Tax Commission shall determine the percentage of the contribution which establishes the proportionate share of the credit which may be claimed by any taxpayer so that the maximum credits authorized by subparagraph b of paragraph 2 of subsection B of this section are not exceeded.
 - c. If the Tax Commission determines the total combined credits claimed for contributions made to educational improvement grant organizations during the most recently completed calendar year by all single individual taxpayers, married individuals filing jointly and all other taxpayers are in

excess of One Million Five Hundred Thousand Dollars (\$1,500,000.00), plus any additional amount allocated pursuant to subsection H of this section, the Tax Commission shall determine the percentage of the contribution which establishes the proportionate share of the credit which may be claimed by any taxpayer so that the maximum credits authorized by subparagraph a of paragraph 3 of subsection C of this section are not exceeded; and

3. The Tax Commission shall publish the percentage of the contribution which may be claimed as a credit by contributors for the most recently completed calendar year on the Tax Commission website no later than February 15 of each calendar year for contributions made the previous year. Each scholarship-granting organization or educational improvement grant organization shall notify contributors of that amount annually.

H. The provisions of this subsection shall be applicable with respect to any calendar year for which any one of the tax credit pools is fully utilized and for which one or both of the remaining tax credit pool amounts are not fully utilized.

1. If for any calendar year there is any amount of available credit remaining pursuant to the provisions of paragraph 2 of subsection G of this section, and only one of the other tax credit pools has been fully utilized, the remaining amount from the tax credit pool which was not fully utilized shall be allocated to and added to the total tax credit pool amount for the other tax credit.

2. If for any calendar year there is any amount of available credit remaining pursuant to the provisions of paragraph 2 of subsection G of this section, and the other two tax credit pools have both been fully utilized, the remaining amount from the tax credit pool which was not fully utilized shall be divided by the whole number two (2) and the resulting amount shall be allocated to and added to the amount of available tax credits for each of the other tax credit pools.

I. The credit authorized by this section shall not be used to reduce the tax liability of the taxpayer to less than zero (0).

J. Any credits allowed but not used in any tax year may be carried over, in order, to each of the three (3) years following the year of qualification.

K. 1. In order to qualify under this section, an educational improvement grant organization shall submit an application with information to the Oklahoma Tax Commission on a form prescribed by the Tax Commission that:

- a. enables the Tax Commission to confirm that the organization is a nonprofit entity exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and
- b. describes the proposed innovative educational program or programs supported by the organization.

2. The Tax Commission shall review and approve or disapprove the application, in consultation with the State Department of Education.

3. In order to maintain eligibility under this section, an educational improvement grant organization shall annually report the following information to the Tax Commission by September 1 of each year:

- a. the name of the innovative educational program or programs and the total amount of the grant or grants made to those programs during the immediately preceding school year,

- b. a description of how each grant was utilized during the immediately preceding school year and a description of any demonstrated or expected innovative educational improvements,
- c. the names of the public school and school districts where innovative educational programs that received grants during the immediately preceding school year were implemented,
- d. where the organization collects information on a county-by-county basis, and
- e. the total number and total amount of grants made during the immediately preceding school year for innovative educational programs at public school by each county in which the organization made grants.

4. The information required under paragraph 3 of this subsection shall be submitted on a form provided by the Tax Commission. No later than May 1 of each year, the Tax Commission shall annually distribute sample forms together with the forms on which the reports are required to be made to each approved organization.

5. The Tax Commission shall not require any other information be provided by an organization, except as expressly authorized in this section.

L. In consultation with the State Department of Education, the Tax Commission shall promulgate rules necessary to implement this act. The rules shall include procedures for the registration of a scholarship-granting organization or an educational improvement grant organization for purposes of determining if the organization meets the requirements of this act, for the revocation of the registration of an organization, if applicable, and for notice as required in subsection G of this section.

Added by Laws 2011, c. 243, § 1.

§68-2357.301. Definitions.

As used in Sections 1 through 4 of this act:

1. “Aerospace sector” means a private or public organization engaged in the manufacture of aerospace or defense hardware or software, aerospace maintenance, aerospace repair and overhaul, supply of parts to the aerospace industry, provision of services and support relating to the aerospace industry, research and development of aerospace technology and systems, and the education and training of aerospace personnel;

2. “Compensation” means payments in the form of contract labor for which the payor is required to provide a Form 1099 to the person paid, wages subject to withholding tax paid to a part-time employee or full-time employee, or salary or other remuneration. Compensation shall not include employer-provided retirement, medical or health-care benefits, reimbursement for travel, meals, lodging or any other expense;

3. “Institution” means an institution within The Oklahoma State System of Higher Education or any other public or private college or university that is accredited by a national accrediting body;

4. “Qualified employer” means a sole proprietor, general partnership, limited partnership, limited liability company, corporation, other legally recognized business entity, or public entity whose principal business activity involves the aerospace sector;

5. “Qualified employee” means any person employed by or contracting with a qualified employer on or after January 1, 2009, who has been awarded an undergraduate or graduate

degree from a qualified program by an institution, and who was not employed in the aerospace sector in this state immediately preceding employment or contracting with a qualified employer;

6. "Qualified program" means a program that has been accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology (ABET) and that awards an undergraduate or graduate degree; and

7. "Tuition" means the average annual amount paid by a qualified employee for enrollment and instruction in a qualified program. Tuition shall not include the cost of books, fees or room and board.

Added by Laws 2008, c. 417, § 1, eff. Jan. 1, 2009.

§68-2357.302. Credit for employee tuition reimbursement.

A. Except as provided in subsection F of this section, for taxable years beginning after December 31, 2008, and ending before January 1, 2015, a qualified employer shall be allowed a credit against the tax imposed pursuant to Section 2355 of this title for tuition reimbursed to a qualified employee.

B. The credit authorized by subsection A of this section may be claimed only if the qualified employee has been awarded an undergraduate or graduate degree within one (1) year of commencing employment with the qualified employer.

C. The credit authorized by subsection A of this section shall be in the amount of fifty percent (50%) of the tuition reimbursed to a qualified employee for the first through fourth years of employment. In no event shall this credit exceed fifty percent (50%) of the average annual amount paid by a qualified employee for enrollment and instruction in a qualified program at a public institution in Oklahoma.

D. The credit authorized by subsection A of this section shall not be used to reduce the tax liability of the qualified employer to less than zero (0).

E. No credit authorized by this section shall be claimed after the fourth year of employment.

F. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2011. Beginning July 1, 2011, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2011, according to the provisions of this section.

Added by Laws 2008, c. 417, § 2, eff. Jan. 1, 2009. Amended by Laws 2010, c. 327, § 26, eff. July 1, 2010; Laws 2011, c. 5, § 1.

§68-2357.303. Credit for compensation paid to employees.

A. Except as provided in subsection F of this section, for taxable years beginning after December 31, 2008, and ending before January 1, 2015, a qualified employer shall be allowed a credit against the tax imposed pursuant to Section 2355 of this title for compensation paid to a qualified employee.

B. The credit authorized by subsection A of this section shall be in the amount of:

1. Ten percent (10%) of the compensation paid for the first through fifth years of employment in the aerospace sector if the qualified employee graduated from an institution located in this state; or

2. Five percent (5%) of the compensation paid for the first through fifth years of employment in the aerospace sector if the qualified employee graduated from an institution located outside this state.

C. The credit authorized by this section shall not exceed Twelve Thousand Five Hundred Dollars (\$12,500.00) for each qualified employee annually.

D. The credit authorized by this section shall not be used to reduce the tax liability of the qualified employer to less than zero (0).

E. No credit authorized pursuant to this section shall be claimed after the fifth year of employment.

F. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2011. Beginning July 1, 2011, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2011, according to the provisions of this section.

Added by Laws 2008, c. 417, § 3, eff. Jan. 1, 2009. Amended by Laws 2010, c. 327, § 27, eff. July 1, 2010; Laws 2011, c. 5, § 2.

§68-2357.304. Credit for employees.

A. Except as provided in subsection D of this section, for taxable years beginning after December 31, 2008, and ending before January 1, 2015, a qualified employee shall be allowed a credit against the tax imposed pursuant to Section 2355 of this title of up to Five Thousand Dollars (\$5,000.00) per year for a period of time not to exceed five (5) years.

B. The credit authorized by this section shall not be used to reduce the tax liability of the taxpayer to less than zero (0).

C. Any credit claimed, but not used, may be carried over, in order, to each of the five (5) subsequent taxable years.

D. No credit otherwise authorized by the provisions of this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010, for which the credit would otherwise be allowable. The provisions of this subsection shall cease to be operative on July 1, 2011. Beginning July 1, 2011, the credit authorized by this section may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2011, according to the provisions of this section.

Added by Laws 2008, c. 417, § 4, eff. Jan. 1, 2009. Amended by Laws 2010, c. 327, § 28, eff. July 1, 2010; Laws 2011, c. 5, § 3.

§68-2357.401. Electronic fund transfer tax credit.

A. Except as otherwise provided by subsections B and C of this section, for taxable years beginning January 1, 2009, there shall be allowed a credit against the tax imposed pursuant to Section 2355 of Title 68 of the Oklahoma Statutes in the amount of all electronic funds transfers fees paid by an individual or entity pursuant to Section 11 of this act.

B. For any fees paid by a person or entity for the taxable year beginning January 1, 2009, the credit otherwise authorized by this section shall not be claimed for an individual prior to January 1, 2011. Subject to the requirements of this subsection, an individual taxpayer shall be able to claim the credit authorized by this section for all fees paid during the tax year ending

December 31, 2009, and the tax year ending December 31, 2010, on the income tax return filed for the tax year ending December 31, 2010.

C. For any fees paid by an entity other than a natural person for the taxable year beginning January 1, 2009, the credit otherwise authorized by this section shall not be claimed on an income tax return prior to January 1, 2011. Subject to the requirements of this subsection, an entity other than a natural person shall be able to claim the credit authorized by this section for all fees paid during a tax year ending at any time during calendar year 2009 and for all fees paid during calendar year 2010 on the income tax return filed for the tax year ending not later than December 31, 2010.

D. The credit authorized by this section shall not be used to reduce the income tax liability of the taxpayer to less than zero (0).

E. To the extent not used in any taxable year, the credit authorized by this section may be carried over, in order, to each of the five (5) succeeding taxable years.
Added by Laws 2009, c. 442, § 16, eff. July 1, 2009.

§68-2357.402. Repealed by Laws 2013, c. 363, § 17, eff. Jan. 1, 2014.

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§68-2358. Adjustments to arrive at Oklahoma taxable income and Oklahoma adjusted gross income.

For all tax years beginning after December 31, 1981, taxable income and adjusted gross income shall be adjusted to arrive at Oklahoma taxable income and Oklahoma adjusted gross income as required by this section.

A. The taxable income of any taxpayer shall be adjusted to arrive at Oklahoma taxable income for corporations and Oklahoma adjusted gross income for individuals, as follows:

1. There shall be added interest income on obligations of any state or political subdivision thereto which is not otherwise exempted pursuant to other laws of this state, to the extent that such interest is not included in taxable income and adjusted gross income.

2. There shall be deducted amounts included in such income that the state is prohibited from taxing because of the provisions of the Federal Constitution, the State Constitution, federal laws or laws of Oklahoma.

3. The amount of any federal net operating loss deduction shall be adjusted as follows:

- a. For carryovers and carrybacks to taxable years beginning before January 1, 1981, the amount of any net operating loss deduction allowed to a taxpayer for federal income tax purposes shall be reduced to an amount which is the same portion thereof as the loss from sources within this state, as determined pursuant to this section and Section 2362 of this title, for the taxable year in which such loss is sustained is of the total loss for such year;
- b. For carryovers and carrybacks to taxable years beginning after December 31, 1980, the amount of any net operating loss deduction allowed for the taxable year shall be an amount equal to the aggregate of the Oklahoma net operating loss carryovers and carrybacks to such year. Oklahoma net operating losses shall be separately determined by reference to Section 172 of the Internal Revenue Code, 26 U.S.C., Section 172, as modified by the

Oklahoma Income Tax Act, Section 2351 et seq. of this title, and shall be allowed without regard to the existence of a federal net operating loss. For tax years beginning after December 31, 2000, and ending before January 1, 2008, the years to which such losses may be carried shall be determined solely by reference to Section 172 of the Internal Revenue Code, 26 U.S.C., Section 172, with the exception that the terms “net operating loss” and “taxable income” shall be replaced with “Oklahoma net operating loss” and “Oklahoma taxable income”. For tax years beginning after December 31, 2007, and ending before January 1, 2009, years to which such losses may be carried back shall be limited to two (2) years. For tax years beginning after December 31, 2008, the years to which such losses may be carried back shall be determined solely by reference to Section 172 of the Internal Revenue Code, 26 U.S.C., Section 172, with the exception that the terms “net operating loss” and “taxable income” shall be replaced with “Oklahoma net operating loss” and “Oklahoma taxable income”.

4. Items of the following nature shall be allocated as indicated. Allowable deductions attributable to items separately allocable in subparagraphs a, b and c of this paragraph, whether or not such items of income were actually received, shall be allocated on the same basis as those items:

- a. Income from real and tangible personal property, such as rents, oil and mining production or royalties, and gains or losses from sales of such property, shall be allocated in accordance with the situs of such property;
- b. Income from intangible personal property, such as interest, dividends, patent or copyright royalties, and gains or losses from sales of such property, shall be allocated in accordance with the domiciliary situs of the taxpayer, except that:
 - (1) where such property has acquired a nonunitary business or commercial situs apart from the domicile of the taxpayer such income shall be allocated in accordance with such business or commercial situs; interest income from investments held to generate working capital for a unitary business enterprise shall be included in apportionable income; a resident trust or resident estate shall be treated as having a separate commercial or business situs insofar as undistributed income is concerned, but shall not be treated as having a separate commercial or business situs insofar as distributed income is concerned,
 - (2) for taxable years beginning after December 31, 2003, capital or ordinary gains or losses from the sale of an ownership interest in a publicly traded partnership, as defined by Section 7704(b) of the Internal Revenue Code of 1986, as amended, shall be allocated to this state in the ratio of the original cost of such partnership's tangible property in this state to the original cost of such partnership's tangible property everywhere, as determined at the time of the sale; if more than fifty percent (50%) of the value of the partnership's assets consists of intangible assets, capital or ordinary gains or losses from the sale of an ownership interest in the

partnership shall be allocated to this state in accordance with the sales factor of the partnership for its first full tax period immediately preceding its tax period during which the ownership interest in the partnership was sold; the provisions of this division shall only apply if the capital or ordinary gains or losses from the sale of an ownership interest in a partnership do not constitute qualifying gain receiving capital treatment as defined in subparagraph a of paragraph 2 of subsection F of this section,

- (3) income from such property which is required to be allocated pursuant to the provisions of paragraph 5 of this subsection shall be allocated as herein provided;
- c. Net income or loss from a business activity which is not a part of business carried on within or without the state of a unitary character shall be separately allocated to the state in which such activity is conducted;
 - d. In the case of a manufacturing or processing enterprise the business of which in Oklahoma consists solely of marketing its products by:
 - (1) sales having a situs without this state, shipped directly to a point from without the state to a purchaser within the state, commonly known as interstate sales,
 - (2) sales of the product stored in public warehouses within the state pursuant to "in transit" tariffs, as prescribed and allowed by the Interstate Commerce Commission, to a purchaser within the state,
 - (3) sales of the product stored in public warehouses within the state where the shipment to such warehouses is not covered by "in transit" tariffs, as prescribed and allowed by the Interstate Commerce Commission, to a purchaser within or without the state,the Oklahoma net income shall, at the option of the taxpayer, be that portion of the total net income of the taxpayer for federal income tax purposes derived from the manufacture and/or processing and sales everywhere as determined by the ratio of the sales defined in this section made to the purchaser within the state to the total sales everywhere. The term "public warehouse" as used in this subparagraph means a licensed public warehouse, the principal business of which is warehousing merchandise for the public;
 - e. In the case of insurance companies, Oklahoma taxable income shall be taxable income of the taxpayer for federal tax purposes, as adjusted for the adjustments provided pursuant to the provisions of paragraphs 1 and 2 of this subsection, apportioned as follows:
 - (1) except as otherwise provided by division (2) of this subparagraph, taxable income of an insurance company for a taxable year shall be apportioned to this state by multiplying such income by a fraction, the numerator of which is the direct premiums written for insurance on property or risks in this state, and the denominator of which is the direct premiums written for insurance on property or risks everywhere. For purposes of this subsection, the term "direct premiums written" means the total amount of direct premiums

written, assessments and annuity considerations as reported for the taxable year on the annual statement filed by the company with the Insurance Commissioner in the form approved by the National Association of Insurance Commissioners, or such other form as may be prescribed in lieu thereof,

- (2) if the principal source of premiums written by an insurance company consists of premiums for reinsurance accepted by it, the taxable income of such company shall be apportioned to this state by multiplying such income by a fraction, the numerator of which is the sum of (a) direct premiums written for insurance on property or risks in this state, plus (b) premiums written for reinsurance accepted in respect of property or risks in this state, and the denominator of which is the sum of (c) direct premiums written for insurance on property or risks everywhere, plus (d) premiums written for reinsurance accepted in respect of property or risks everywhere. For purposes of this paragraph, premiums written for reinsurance accepted in respect of property or risks in this state, whether or not otherwise determinable, may at the election of the company be determined on the basis of the proportion which premiums written for insurance accepted from companies commercially domiciled in Oklahoma bears to premiums written for reinsurance accepted from all sources, or alternatively in the proportion which the sum of the direct premiums written for insurance on property or risks in this state by each ceding company from which reinsurance is accepted bears to the sum of the total direct premiums written by each such ceding company for the taxable year.

5. The net income or loss remaining after the separate allocation in paragraph 4 of this subsection, being that which is derived from a unitary business enterprise, shall be apportioned to this state on the basis of the arithmetical average of three factors consisting of property, payroll and sales or gross revenue enumerated as subparagraphs a, b and c of this paragraph. Net income or loss as used in this paragraph includes that derived from patent or copyright royalties, purchase discounts, and interest on accounts receivable relating to or arising from a business activity, the income from which is apportioned pursuant to this subsection, including the sale or other disposition of such property and any other property used in the unitary enterprise. Deductions used in computing such net income or loss shall not include taxes based on or measured by income. Provided, for corporations whose property for purposes of the tax imposed by Section 2355 of this title has an initial investment cost equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00) and such investment is made on or after July 1, 1997, or for corporations which expand their property or facilities in this state and such expansion has an investment cost equaling or exceeding Two Hundred Million Dollars (\$200,000,000.00) over a period not to exceed three (3) years, and such expansion is commenced on or after January 1, 2000, the three factors shall be apportioned with property and payroll, each comprising twenty-five percent (25%) of the apportionment factor and sales comprising fifty percent (50%) of the apportionment factor. The apportionment factors shall be computed as follows:

- a. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented

and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property everywhere owned or rented and used during the tax period.

- (1) Property, the income from which is separately allocated in paragraph 4 of this subsection, shall not be included in determining this fraction. The numerator of the fraction shall include a portion of the investment in transportation and other equipment having no fixed situs, such as rolling stock, buses, trucks and trailers, including machinery and equipment carried thereon, airplanes, salespersons' automobiles and other similar equipment, in the proportion that miles traveled in Oklahoma by such equipment bears to total miles traveled,
 - (2) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer, less any annual rental rate received by the taxpayer from subrentals,
 - (3) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the Oklahoma Tax Commission may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property;
- b. The payroll factor is a fraction, the numerator of which is the total compensation for services rendered in the state during the tax period, and the denominator of which is the total compensation for services rendered everywhere during the tax period. "Compensation", as used in this subsection means those paid-for services to the extent related to the unitary business but does not include officers' salaries, wages and other compensation.
- (1) In the case of a transportation enterprise, the numerator of the fraction shall include a portion of such expenditure in connection with employees operating equipment over a fixed route, such as railroad employees, airline pilots, or bus drivers, in this state only a part of the time, in the proportion that mileage traveled in Oklahoma bears to total mileage traveled by such employees,
 - (2) In any case the numerator of the fraction shall include a portion of such expenditures in connection with itinerant employees, such as traveling salespersons, in this state only a part of the time, in the proportion that time spent in Oklahoma bears to total time spent in furtherance of the enterprise by such employees;
- c. The sales factor is a fraction, the numerator of which is the total sales or gross revenue of the taxpayer in this state during the tax period, and the denominator of which is the total sales or gross revenue of the taxpayer everywhere during the tax period. "Sales", as used in this subsection does not include sales or gross revenue which are separately allocated in paragraph 4 of this subsection.

- (1) Sales of tangible personal property have a situs in this state if the property is delivered or shipped to a purchaser other than the United States government, within this state regardless of the FOB point or other conditions of the sale; or the property is shipped from an office, store, warehouse, factory or other place of storage in this state and (a) the purchaser is the United States government or (b) the taxpayer is not doing business in the state of the destination of the shipment.
- (2) In the case of a railroad or interurban railway enterprise, the numerator of the fraction shall not be less than the allocation of revenues to this state as shown in its annual report to the Corporation Commission.
- (3) In the case of an airline, truck or bus enterprise or freight car, tank car, refrigerator car or other railroad equipment enterprise, the numerator of the fraction shall include a portion of revenue from interstate transportation in the proportion that interstate mileage traveled in Oklahoma bears to total interstate mileage traveled.
- (4) In the case of an oil, gasoline or gas pipeline enterprise, the numerator of the fraction shall be either the total of traffic units of the enterprise within Oklahoma or the revenue allocated to Oklahoma based upon miles moved, at the option of the taxpayer, and the denominator of which shall be the total of traffic units of the enterprise or the revenue of the enterprise everywhere as appropriate to the numerator. A "traffic unit" is hereby defined as the transportation for a distance of one (1) mile of one (1) barrel of oil, one (1) gallon of gasoline or one thousand (1,000) cubic feet of natural or casinghead gas, as the case may be.
- (5) In the case of a telephone or telegraph or other communication enterprise, the numerator of the fraction shall include that portion of the interstate revenue as is allocated pursuant to the accounting procedures prescribed by the Federal Communications Commission; provided that in respect to each corporation or business entity required by the Federal Communications Commission to keep its books and records in accordance with a uniform system of accounts prescribed by such Commission, the intrastate net income shall be determined separately in the manner provided by such uniform system of accounts and only the interstate income shall be subject to allocation pursuant to the provisions of this subsection. Provided further, that the gross revenue factors shall be those as are determined pursuant to the accounting procedures prescribed by the Federal Communications Commission.

In any case where the apportionment of the three factors prescribed in this paragraph attributes to Oklahoma a portion of net income of the enterprise out of all appropriate proportion to the property owned and/or business transacted within this state, because of the fact that one or more of the factors so prescribed are not employed to any appreciable extent in furtherance of the enterprise; or because one or more factors not so prescribed are employed to a considerable

extent in furtherance of the enterprise; or because of other reasons, the Tax Commission is empowered to permit, after a showing by taxpayer that an excessive portion of net income has been attributed to Oklahoma, or require, when in its judgment an insufficient portion of net income has been attributed to Oklahoma, the elimination, substitution, or use of additional factors, or reduction or increase in the weight of such prescribed factors. Provided, however, that any such variance from such prescribed factors which has the effect of increasing the portion of net income attributable to Oklahoma must not be inherently arbitrary, and application of the recomputed final apportionment to the net income of the enterprise must attribute to Oklahoma only a reasonable portion thereof.

6. For calendar years 1997 and 1998, the owner of a new or expanded agricultural commodity processing facility in this state may exclude from Oklahoma taxable income, or in the case of an individual, the Oklahoma adjusted gross income, fifteen percent (15%) of the investment by the owner in the new or expanded agricultural commodity processing facility. For calendar year 1999, and all subsequent years, the percentage, not to exceed fifteen percent (15%), available to the owner of a new or expanded agricultural commodity processing facility in this state claiming the exemption shall be adjusted annually so that the total estimated reduction in tax liability does not exceed One Million Dollars (\$1,000,000.00) annually. The Tax Commission shall promulgate rules for determining the percentage of the investment which each eligible taxpayer may exclude. The exclusion provided by this paragraph shall be taken in the taxable year when the investment is made. In the event the total reduction in tax liability authorized by this paragraph exceeds One Million Dollars (\$1,000,000.00) in any calendar year, the Tax Commission shall permit any excess over One Million Dollars (\$1,000,000.00) and shall factor such excess into the percentage for subsequent years. Any amount of the exemption permitted to be excluded pursuant to the provisions of this paragraph but not used in any year may be carried forward as an exemption from income pursuant to the provisions of this paragraph for a period not exceeding six (6) years following the year in which the investment was originally made.

For purposes of this paragraph:

- a. "Agricultural commodity processing facility" means building, structures, fixtures and improvements used or operated primarily for the processing or production of marketable products from agricultural commodities. The term shall also mean a dairy operation that requires a depreciable investment of at least Two Hundred Fifty Thousand Dollars (\$250,000.00) and which produces milk from dairy cows. The term does not include a facility that provides only, and nothing more than, storage, cleaning, drying or transportation of agricultural commodities, and
- b. "Facility" means each part of the facility which is used in a process primarily for:
 - (1) the processing of agricultural commodities, including receiving or storing agricultural commodities, or the production of milk at a dairy operation,
 - (2) transporting the agricultural commodities or product before, during or after the processing, or
 - (3) packaging or otherwise preparing the product for sale or shipment.

7. Despite any provision to the contrary in paragraph 3 of this subsection, for taxable years beginning after December 31, 1999, in the case of a taxpayer which has a farming loss, such

farming loss shall be considered a net operating loss carryback in accordance with and to the extent of the Internal Revenue Code, 26 U.S.C., Section 172(b)(G). However, the amount of the net operating loss carryback shall not exceed the lesser of:

- a. Sixty Thousand Dollars (\$60,000.00), or
- b. the loss properly shown on Schedule F of the Internal Revenue Service Form 1040 reduced by one-half (1/2) of the income from all other sources other than reflected on Schedule F.

8. In taxable years beginning after December 31, 1995, all qualified wages equal to the federal income tax credit set forth in 26 U.S.C.A., Section 45A, shall be deducted from taxable income. The deduction allowed pursuant to this paragraph shall only be permitted for the tax years in which the federal tax credit pursuant to 26 U.S.C.A., Section 45A, is allowed. For purposes of this paragraph, "qualified wages" means those wages used to calculate the federal credit pursuant to 26 U.S.C.A., Section 45A.

9. In taxable years beginning after December 31, 2005, an employer that is eligible for and utilizes the Safety Pays OSHA Consultation Service provided by the Oklahoma Department of Labor shall receive an exemption from taxable income in the amount of One Thousand Dollars (\$1,000.00) for the tax year that the service is utilized.

10. For taxable years beginning on or after January 1, 2010, there shall be added to Oklahoma taxable income an amount equal to the amount of deferred income not included in such taxable income pursuant to Section 108(i)(1) of the Internal Revenue Code of 1986 as amended by Section 1231 of the American Recovery and Reinvestment Act of 2009 (P.L. No. 111-5). There shall be subtracted from Oklahoma taxable income an amount equal to the amount of deferred income included in such taxable income pursuant to Section 108(i)(1) of the Internal Revenue Code of 1986, as amended by Section 1231 of the American Recovery and Reinvestment Act of 2009 (P.L. No. 111-5).

B. 1. The taxable income of any corporation shall be further adjusted to arrive at Oklahoma taxable income, except those corporations electing treatment as provided in subchapter S of the Internal Revenue Code, 26 U.S.C., Section 1361 et seq., and Section 2365 of this title, deductions pursuant to the provisions of the Accelerated Cost Recovery System as defined and allowed in the Economic Recovery Tax Act of 1981, Public Law 97-34, 26 U.S.C., Section 168, for depreciation of assets placed into service after December 31, 1981, shall not be allowed in calculating Oklahoma taxable income. Such corporations shall be allowed a deduction for depreciation of assets placed into service after December 31, 1981, in accordance with provisions of the Internal Revenue Code, 26 U.S.C., Section 1 et seq., in effect immediately prior to the enactment of the Accelerated Cost Recovery System. The Oklahoma tax basis for all such assets placed into service after December 31, 1981, calculated in this section shall be retained and utilized for all Oklahoma income tax purposes through the final disposition of such assets.

Notwithstanding any other provisions of the Oklahoma Income Tax Act, Section 2351 et seq. of this title, or of the Internal Revenue Code to the contrary, this subsection shall control calculation of depreciation of assets placed into service after December 31, 1981, and before January 1, 1983.

For assets placed in service and held by a corporation in which accelerated cost recovery system was previously disallowed, an adjustment to taxable income is required in the first taxable year beginning after December 31, 1982, to reconcile the basis of such assets to the basis allowed in the Internal Revenue Code. The purpose of this adjustment is to equalize the basis

and allowance for depreciation accounts between that reported to the Internal Revenue Service and that reported to Oklahoma.

2. For tax years beginning on or after January 1, 2009, and ending on or before December 31, 2009, there shall be added to Oklahoma taxable income any amount in excess of One Hundred Seventy-five Thousand Dollars (\$175,000.00) which has been deducted as a small business expense under Internal Revenue Code, Section 179 as provided in the American Recovery and Reinvestment Act of 2009.

C. 1. For taxable years beginning after December 31, 1987, the taxable income of any corporation shall be further adjusted to arrive at Oklahoma taxable income for transfers of technology to qualified small businesses located in Oklahoma. Such transferor corporation shall be allowed an exemption from taxable income of an amount equal to the amount of royalty payment received as a result of such transfer; provided, however, such amount shall not exceed ten percent (10%) of the amount of gross proceeds received by such transferor corporation as a result of the technology transfer. Such exemption shall be allowed for a period not to exceed ten (10) years from the date of receipt of the first royalty payment accruing from such transfer. No exemption may be claimed for transfers of technology to qualified small businesses made prior to January 1, 1988.

2. For purposes of this subsection:

a. "Qualified small business" means an entity, whether organized as a corporation, partnership, or proprietorship, organized for profit with its principal place of business located within this state and which meets the following criteria:

- (1) Capitalization of not more than Two Hundred Fifty Thousand Dollars (\$250,000.00),
- (2) Having at least fifty percent (50%) of its employees and assets located in Oklahoma at the time of the transfer, and
- (3) Not a subsidiary or affiliate of the transferor corporation;

b. "Technology" means a proprietary process, formula, pattern, device or compilation of scientific or technical information which is not in the public domain;

c. "Transferor corporation" means a corporation which is the exclusive and undisputed owner of the technology at the time the transfer is made; and

d. "Gross proceeds" means the total amount of consideration for the transfer of technology, whether the consideration is in money or otherwise.

D. 1. For taxable years beginning after December 31, 2005, the taxable income of any corporation, estate or trust, shall be further adjusted for qualifying gains receiving capital treatment. Such corporations, estates or trusts shall be allowed a deduction from Oklahoma taxable income for the amount of qualifying gains receiving capital treatment earned by the corporation, estate or trust during the taxable year and included in the federal taxable income of such corporation, estate or trust.

2. As used in this subsection:

a. "qualifying gains receiving capital treatment" means the amount of net capital gains, as defined in Section 1222(11) of the Internal Revenue Code, included in the federal income tax return of the corporation, estate or trust that result from:

- (1) the sale of real property or tangible personal property located within Oklahoma that has been directly or indirectly owned by the corporation, estate or trust for a holding period of at least five (5) years prior to the date of the transaction from which such net capital gains arise,
 - (2) the sale of stock or on the sale of an ownership interest in an Oklahoma company, limited liability company, or partnership where such stock or ownership interest has been directly or indirectly owned by the corporation, estate or trust for a holding period of at least three (3) years prior to the date of the transaction from which the net capital gains arise, or
 - (3) the sale of real property, tangible personal property or intangible personal property located within Oklahoma as part of the sale of all or substantially all of the assets of an Oklahoma company, limited liability company, or partnership where such property has been directly or indirectly owned by such entity owned by the owners of such entity, and used in or derived from such entity for a period of at least three (3) years prior to the date of the transaction from which the net capital gains arise,
- b. “holding period” means an uninterrupted period of time. The holding period shall include any additional period when the property was held by another individual or entity, if such additional period is included in the taxpayer's holding period for the asset pursuant to the Internal Revenue Code,
 - c. “Oklahoma company”, “limited liability company”, or “partnership” means an entity whose primary headquarters have been located in Oklahoma for at least three (3) uninterrupted years prior to the date of the transaction from which the net capital gains arise,
 - d. “direct” means the taxpayer directly owns the asset, and
 - e. “indirect” means the taxpayer owns an interest in a pass-through entity (or chain of pass-through entities) that sells the asset that gives rise to the qualifying gains receiving capital treatment.
 - (1) With respect to sales of real property or tangible personal property located within Oklahoma, the deduction described in this subsection shall not apply unless the pass-through entity that makes the sale has held the property for not less than five (5) uninterrupted years prior to the date of the transaction that created the capital gain, and each pass-through entity included in the chain of ownership has been a member, partner, or shareholder of the pass-through entity in the tier immediately below it for an uninterrupted period of not less than five (5) years.
 - (2) With respect to sales of stock or ownership interest in or sales of all or substantially all of the assets of an Oklahoma company, limited liability company, or partnership, the deduction described in this subsection shall not apply unless the pass-through entity that makes the sale has held the stock or ownership interest or the assets for not

less than three (3) uninterrupted years prior to the date of the transaction that created the capital gain, and each pass-through entity included in the chain of ownership has been a member, partner or shareholder of the pass-through entity in the tier immediately below it for an uninterrupted period of not less than three (3) years.

[key]

E. *The Oklahoma adjusted gross income of any individual taxpayer shall be further adjusted as follows to arrive at Oklahoma taxable income:*

1. a. In the case of individuals, there shall be added or deducted, as the case may be, the difference necessary to allow personal exemptions of One Thousand Dollars (\$1,000.00) in lieu of the personal exemptions allowed by the Internal Revenue Code.
 - b. There shall be allowed an additional exemption of One Thousand Dollars (\$1,000.00) for each taxpayer or spouse who is blind at the close of the tax year. For purposes of this subparagraph, an individual is blind only if the central visual acuity of the individual does not exceed 20/200 in the better eye with correcting lenses, or if the visual acuity of the individual is greater than 20/200, but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty (20) degrees.
 - c. There shall be allowed an additional exemption of One Thousand Dollars (\$1,000.00) for each taxpayer or spouse who is sixty-five (65) years of age or older at the close of the tax year based upon the filing status and federal adjusted gross income of the taxpayer. Taxpayers with the following filing status may claim this exemption if the federal adjusted gross income does not exceed:
 - (1) Twenty-five Thousand Dollars (\$25,000.00) if married and filing jointly;
 - (2) Twelve Thousand Five Hundred Dollars (\$12,500.00) if married and filing separately;
 - (3) Fifteen Thousand Dollars (\$15,000.00) if single; and
 - (4) Nineteen Thousand Dollars (\$19,000.00) if a qualifying head of household.Provided, for taxable years beginning after December 31, 1999, amounts included in the calculation of federal adjusted gross income pursuant to the conversion of a traditional individual retirement account to a Roth individual retirement account shall be excluded from federal adjusted gross income for purposes of the income thresholds provided in this subparagraph.
2. a. For taxable years beginning on or before December 31, 2005, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction in lieu of the standard deduction

- allowed by the Internal Revenue Code, in an amount equal to the larger of fifteen percent (15%) of the Oklahoma adjusted gross income or One Thousand Dollars (\$1,000.00), but not to exceed Two Thousand Dollars (\$2,000.00), except that in the case of a married individual filing a separate return such deduction shall be the larger of fifteen percent (15%) of such Oklahoma adjusted gross income or Five Hundred Dollars (\$500.00), but not to exceed the maximum amount of One Thousand Dollars (\$1,000.00).
- b. For taxable years beginning on or after January 1, 2006, and before January 1, 2007, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction in lieu of the standard deduction allowed by the Internal Revenue Code, in an amount equal to:
 - (1) Three Thousand Dollars (\$3,000.00), if the filing status is married filing joint, head of household or qualifying widow; or
 - (2) Two Thousand Dollars (\$2,000.00), if the filing status is single or married filing separate.
 - c. For the taxable year beginning on January 1, 2007, and ending December 31, 2007, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction in lieu of the standard deduction allowed by the Internal Revenue Code, in an amount equal to:
 - (1) Five Thousand Five Hundred Dollars (\$5,500.00), if the filing status is married filing joint or qualifying widow; or
 - (2) Four Thousand One Hundred Twenty-five Dollars (\$4,125.00) for a head of household; or
 - (3) Two Thousand Seven Hundred Fifty Dollars (\$2,750.00), if the filing status is single or married filing separate.
 - d. For the taxable year beginning on January 1, 2008, and ending December 31, 2008, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction in lieu of the standard deduction allowed by the Internal Revenue Code, in an amount equal to:
 - (1) Six Thousand Five Hundred Dollars (\$6,500.00), if the filing status is married filing joint or qualifying widow, or
 - (2) Four Thousand Eight Hundred Seventy-five Dollars (\$4,875.00) for a head of household, or
 - (3) Three Thousand Two Hundred Fifty Dollars (\$3,250.00), if the filing status is single or married filing separate.
 - e. For the taxable year beginning on January 1, 2009, and ending December 31, 2009, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction in lieu of the

standard deduction allowed by the Internal Revenue Code, in an amount equal to:

- (1) Eight Thousand Five Hundred Dollars (\$8,500.00), if the filing status is married filing joint or qualifying widow, or
- (2) Six Thousand Three Hundred Seventy-five Dollars (\$6,375.00) for a head of household, or
- (3) Four Thousand Two Hundred Fifty Dollars (\$4,250.00), if the filing status is single or married filing separate.

Oklahoma adjusted gross income shall be increased by any amounts paid for motor vehicle excise taxes which were deducted as allowed by the Internal Revenue Code.

- f. For taxable years beginning on or after January 1, 2010, in the case of individuals who use the standard deduction in determining taxable income, there shall be added or deducted, as the case may be, the difference necessary to allow a standard deduction equal to the standard deduction allowed by the Internal Revenue Code of 1986, as amended, based upon the amount and filing status prescribed by such Code for purposes of filing federal individual income tax returns.

[key]

3. ***In the case of resident and part-year resident individuals having adjusted gross income from sources both within and without the state***, the itemized or standard deductions and personal exemptions shall be reduced to an amount which is the same portion of the total thereof as ***Oklahoma adjusted gross income is of adjusted gross income***. To the extent itemized deductions include allowable moving expense, proration of moving expense shall not be required or permitted but allowable moving expense shall be fully deductible for those taxpayers moving within or into Oklahoma and no part of moving expense shall be deductible for those taxpayers moving without or out of Oklahoma. All other itemized or standard deductions and personal exemptions shall be subject to proration as provided by law.

4. A resident individual with a physical disability constituting a substantial handicap to employment may deduct from Oklahoma adjusted gross income such expenditures to modify a motor vehicle, home or workplace as are necessary to compensate for his or her handicap. A veteran certified by the Department of Veterans Affairs of the federal government as having a service-connected disability shall be conclusively presumed to be an individual with a physical disability constituting a substantial handicap to employment. The Tax Commission shall promulgate rules containing a list of combinations of common disabilities and modifications which may be presumed to qualify for this deduction. The Tax Commission shall prescribe necessary requirements for verification.

5. a. Before July 1, 2010, the first One Thousand Five Hundred Dollars (\$1,500.00) received by any person from the United States as salary or compensation in any form, other than retirement benefits, as a member of any component of the Armed Forces of the United States shall be deducted from taxable income.
- b. On or after July 1, 2010, and ending before January 1, 2015, one hundred percent (100%) of the income received by any person from the United States as salary or compensation in any form, other than retirement benefits,

as a member of any component of the Armed Forces of the United States shall be deducted from taxable income.

- c. For the taxable year beginning on January 1, 2015, and every year thereafter, if the State Board of Equalization makes a determination pursuant to Section 2355.1D of this title that, for the purposes of this paragraph, revenue collections exceed revenue reductions, the one hundred percent (100%) deduction provided for in subparagraph b of this paragraph may be claimed.
- d. For the taxable year beginning on January 1, 2015, and every year thereafter, if the State Board of Equalization makes a determination pursuant to Section 2355.1D of this title that, for the purposes of this paragraph, revenue collections do not exceed revenue reductions, a deduction of the first One Thousand Five Hundred Dollars (\$1,500.00) received by any person from the United States as salary or compensation in any form, other than retirement benefits, as a member of any component of the Armed Forces of the United States shall be allowed.
- e. Whenever the filing of a timely income tax return by a member of the Armed Forces of the United States is made impracticable or impossible of accomplishment by reason of:
 - (1) absence from the United States, which term includes only the states and the District of Columbia;
 - (2) absence from the State of Oklahoma while on active duty; or
 - (3) confinement in a hospital within the United States for treatment of wounds, injuries or disease,

the time for filing a return and paying an income tax shall be and is hereby extended without incurring liability for interest or penalties, to the fifteenth day of the third month following the month in which:

- (a) Such individual shall return to the United States if the extension is granted pursuant to subparagraph a of this paragraph, return to the State of Oklahoma if the extension is granted pursuant to subparagraph b of this paragraph or be discharged from such hospital if the extension is granted pursuant to subparagraph c of this paragraph; or
- (b) An executor, administrator, or conservator of the estate of the taxpayer is appointed, whichever event occurs the earliest.

Provided, that the Tax Commission may, in its discretion, grant any member of the Armed Forces of the United States an extension of time for filing of income tax returns and payment of income tax without incurring liabilities for interest or penalties. Such extension may be granted only when in the judgment of the Tax Commission a good cause exists therefor and may be for a period in excess of six (6) months. A record of every such extension granted, and the reason therefor, shall be kept.

6. Before July 1, 2010, the salary or any other form of compensation, received from the United States by a member of any component of the Armed Forces of the United States, shall be deducted from taxable income during the time in which the person is detained by the enemy in a conflict, is a prisoner of war or is missing in action and not deceased; provided, after July 1,

2010, all such salary or compensation shall be subject to the deduction as provided pursuant to paragraph 5 of this subsection.

7.
 - a. An individual taxpayer, whether resident or nonresident, may deduct an amount equal to the federal income taxes paid by the taxpayer during the taxable year.
 - b. Federal taxes as described in subparagraph a of this paragraph shall be deductible by any individual taxpayer, whether resident or nonresident, only to the extent they relate to income subject to taxation pursuant to the provisions of the Oklahoma Income Tax Act. The maximum amount allowable in the preceding paragraph shall be prorated on the ratio of the Oklahoma adjusted gross income to federal adjusted gross income.
 - c. For the purpose of this paragraph, "federal income taxes paid" shall mean federal income taxes, surtaxes imposed on incomes or excess profits taxes, as though the taxpayer was on the accrual basis. In determining the amount of deduction for federal income taxes for tax year 2001, the amount of the deduction shall not be adjusted by the amount of any accelerated ten percent (10%) tax rate bracket credit or advanced refund of the credit received during the tax year provided pursuant to the federal Economic Growth and Tax Relief Reconciliation Act of 2001, P.L. No. 107-16, and the advanced refund of such credit shall not be subject to taxation.
 - d. The provisions of this paragraph shall apply to all taxable years ending after December 31, 1978, and beginning before January 1, 2006.

8. Retirement benefits not to exceed Five Thousand Five Hundred Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax years, which are received by an individual from the civil service of the United States, the Oklahoma Public Employees Retirement System, the Teachers' Retirement System of Oklahoma, the Oklahoma Law Enforcement Retirement System, the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the employee retirement systems created by counties pursuant to Section 951 et seq. of Title 19 of the Oklahoma Statutes, the Uniform Retirement System for Justices and Judges, the Oklahoma Wildlife Conservation Department Retirement Fund, the Oklahoma Employment Security Commission Retirement Plan, or the employee retirement systems created by municipalities pursuant to Section 48-101 et seq. of Title 11 of the Oklahoma Statutes shall be exempt from taxable income.

[key]

9. *In taxable years beginning after December 31, 1984, Social Security benefits received by an individual shall be exempt from taxable income, to the extent such benefits are included in the federal adjusted gross income pursuant to the provisions of Section 86 of the Internal Revenue Code, 26 U.S.C., Section 86.*

10. For taxable years beginning after December 31, 1994, lump-sum distributions from employer plans of deferred compensation, which are not qualified plans within the meaning of Section 401(a) of the Internal Revenue Code, 26 U.S.C., Section 401(a), and which are deposited in and accounted for within a separate bank account or brokerage account in a financial institution within this state, shall be excluded from taxable income in the same manner as a qualifying rollover contribution to an individual retirement account within the meaning of

Section 408 of the Internal Revenue Code, 26 U.S.C., Section 408. Amounts withdrawn from such bank or brokerage account, including any earnings thereon, shall be included in taxable income when withdrawn in the same manner as withdrawals from individual retirement accounts within the meaning of Section 408 of the Internal Revenue Code.

11. In taxable years beginning after December 31, 1995, contributions made to and interest received from a medical savings account established pursuant to Sections 2621 through 2623 of Title 63 of the Oklahoma Statutes shall be exempt from taxable income.

12. For taxable years beginning after December 31, 1996, the Oklahoma adjusted gross income of any individual taxpayer who is a swine or poultry producer may be further adjusted for the deduction for depreciation allowed for new construction or expansion costs which may be computed using the same depreciation method elected for federal income tax purposes except that the useful life shall be seven (7) years for purposes of this paragraph. If depreciation is allowed as a deduction in determining the adjusted gross income of an individual, any depreciation calculated and claimed pursuant to this section shall in no event be a duplication of any depreciation allowed or permitted on the federal income tax return of the individual.

13. a. In taxable years beginning after December 31, 2002, nonrecurring adoption expenses paid by a resident individual taxpayer in connection with:
- (1) the adoption of a minor, or
 - (2) a proposed adoption of a minor which did not result in a decreed adoption,

may be deducted from the Oklahoma adjusted gross income.

- b. The deductions for adoptions and proposed adoptions authorized by this paragraph shall not exceed Twenty Thousand Dollars (\$20,000.00) per calendar year.
- c. The Tax Commission shall promulgate rules to implement the provisions of this paragraph which shall contain a specific list of nonrecurring adoption expenses which may be presumed to qualify for the deduction. The Tax Commission shall prescribe necessary requirements for verification.
- d. "Nonrecurring adoption expenses" means adoption fees, court costs, medical expenses, attorney fees and expenses which are directly related to the legal process of adoption of a child including, but not limited to, costs relating to the adoption study, health and psychological examinations, transportation and reasonable costs of lodging and food for the child or adoptive parents which are incurred to complete the adoption process and are not reimbursed by other sources. The term "nonrecurring adoption expenses" shall not include attorney fees incurred for the purpose of litigating a contested adoption, from and after the point of the initiation of the contest, costs associated with physical remodeling, renovation and alteration of the adoptive parents' home or property, except for a special needs child as authorized by the court.
14. a. In taxable years beginning before January 1, 2005, retirement benefits not to exceed the amounts specified in this paragraph, which are received by an individual sixty-five (65) years of age or older and whose Oklahoma adjusted gross income is Twenty-five Thousand Dollars (\$25,000.00) or less if the filing status is single, head of household, or married filing separate, or Fifty Thousand Dollars (\$50,000.00) or less if the filing status

is married filing joint or qualifying widow, shall be exempt from taxable income. In taxable years beginning after December 31, 2004, retirement benefits not to exceed the amounts specified in this paragraph, which are received by an individual whose Oklahoma adjusted gross income is less than the qualifying amount specified in this paragraph, shall be exempt from taxable income.

- b. For purposes of this paragraph, the qualifying amount shall be as follows:
- (1) in taxable years beginning after December 31, 2004, and prior to January 1, 2007, the qualifying amount shall be Thirty-seven Thousand Five Hundred Dollars (\$37,500.00) or less if the filing status is single, head of household, or married filing separate, or Seventy-Five Thousand Dollars (\$75,000.00) or less if the filing status is married filing jointly or qualifying widow,
 - (2) in the taxable year beginning January 1, 2007, the qualifying amount shall be Fifty Thousand Dollars (\$50,000.00) or less if the filing status is single, head of household, or married filing separate, or One Hundred Thousand Dollars (\$100,000.00) or less if the filing status is married filing jointly or qualifying widow,
 - (3) in the taxable year beginning January 1, 2008, the qualifying amount shall be Sixty-two Thousand Five Hundred Dollars (\$62,500.00) or less if the filing status is single, head of household, or married filing separate, or One Hundred Twenty-five Thousand Dollars (\$125,000.00) or less if the filing status is married filing jointly or qualifying widow,
 - (4) in the taxable year beginning January 1, 2009, the qualifying amount shall be One Hundred Thousand Dollars (\$100,000.00) or less if the filing status is single, head of household, or married filing separate, or Two Hundred Thousand Dollars (\$200,000.00) or less if the filing status is married filing jointly or qualifying widow, and
 - (5) in the taxable year beginning January 1, 2010, and subsequent taxable years, there shall be no limitation upon the qualifying amount.
- c. For purposes of this paragraph, “retirement benefits” means the total distributions or withdrawals from the following:
- (1) an employee pension benefit plan which satisfies the requirements of Section 401 of the Internal Revenue Code, 26 U.S.C., Section 401,
 - (2) an eligible deferred compensation plan that satisfies the requirements of Section 457 of the Internal Revenue Code, 26 U.S.C., Section 457,
 - (3) an individual retirement account, annuity or trust or simplified employee pension that satisfies the requirements of Section 408 of the Internal Revenue Code, 26 U.S.C., Section 408,
 - (4) an employee annuity subject to the provisions of Section 403(a) or (b) of the Internal Revenue Code, 26 U.S.C., Section 403(a) or (b),

- (5) United States Retirement Bonds which satisfy the requirements of Section 86 of the Internal Revenue Code, 26 U.S.C., Section 86, or
- (6) lump-sum distributions from a retirement plan which satisfies the requirements of Section 402(e) of the Internal Revenue Code, 26 U.S.C., Section 402(e).

d. The amount of the exemption provided by this paragraph shall be limited to Five Thousand Five Hundred Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand Dollars (\$10,000.00) for the tax year 2006 and for all subsequent tax years. Any individual who claims the exemption provided for in paragraph 8 of this subsection shall not be permitted to claim a combined total exemption pursuant to this paragraph and paragraph 8 of this subsection in an amount exceeding Five Thousand Five Hundred Dollars (\$5,500.00) for the 2004 tax year, Seven Thousand Five Hundred Dollars (\$7,500.00) for the 2005 tax year and Ten Thousand Dollars (\$10,000.00) for the 2006 tax year and all subsequent tax years.

15. In taxable years beginning after December 31, 1999, for an individual engaged in production agriculture who has filed a Schedule F form with the taxpayer's federal income tax return for such taxable year, there shall be excluded from taxable income any amount which was included as federal taxable income or federal adjusted gross income and which consists of the discharge of an obligation by a creditor of the taxpayer incurred to finance the production of agricultural products.

16. In taxable years beginning December 31, 2000, an amount equal to one hundred percent (100%) of the amount of any scholarship or stipend received from participation in the Oklahoma Police Corps Program, as established in Section 2-140.3 of Title 47 of the Oklahoma Statutes shall be exempt from taxable income.

- 17. a. In taxable years beginning after December 31, 2001, and before January 1, 2005, there shall be allowed a deduction in the amount of contributions to accounts established pursuant to the Oklahoma College Savings Plan Act. The deduction shall equal the amount of contributions to accounts, but in no event shall the deduction for each contributor exceed Two Thousand Five Hundred Dollars (\$2,500.00) each taxable year for each account.
- b. In taxable years beginning after December 31, 2004, each taxpayer shall be allowed a deduction for contributions to accounts established pursuant to the Oklahoma College Savings Plan Act. The maximum annual deduction shall equal the amount of contributions to all such accounts plus any contributions to such accounts by the taxpayer for prior taxable years after December 31, 2004, which were not deducted, but in no event shall the deduction for each tax year exceed Ten Thousand Dollars (\$10,000.00) for each individual taxpayer or Twenty Thousand Dollars (\$20,000.00) for taxpayers filing a joint return. Any amount of a contribution that is not deducted by the taxpayer in the year for which the contribution is made may be carried forward as a deduction from income for the succeeding five (5) years. For taxable years beginning after December 31, 2005, deductions may be taken for contributions and rollovers made during a taxable year and up to April 15 of the succeeding year, or the due date of a taxpayer's state

income tax return, excluding extensions, whichever is later. Provided, a deduction for the same contribution may not be taken for two (2) different taxable years.

- c. In taxable years beginning after December 31, 2006, deductions for contributions made pursuant to subparagraph b of this paragraph shall be limited as follows:
 - (1) for a taxpayer who qualified for the five-year carryforward election and who takes a rollover or nonqualified withdrawal during that period, the tax deduction otherwise available pursuant to subparagraph b of this paragraph shall be reduced by the amount which is equal to the rollover or nonqualified withdrawal, and
 - (2) for a taxpayer who elects to take a rollover or nonqualified withdrawal within the same tax year in which a contribution was made to the taxpayer's account, the tax deduction otherwise available pursuant to subparagraph b of this paragraph shall be reduced by the amount of the contribution which is equal to the rollover or nonqualified withdrawal.
- d. If a taxpayer elects to take a rollover on a contribution for which a deduction has been taken pursuant to subparagraph b of this paragraph within one year of the date of contribution, the amount of such rollover shall be included in the adjusted gross income of the taxpayer in the taxable year of the rollover.
- e. If a taxpayer makes a nonqualified withdrawal of contributions for which a deduction was taken pursuant to subparagraph b of this paragraph, such nonqualified withdrawal and any earnings thereon shall be included in the adjusted gross income of the taxpayer in the taxable year of the nonqualified withdrawal.
- f. As used in this paragraph:
 - (1) "non-qualified withdrawal" means a withdrawal from an Oklahoma College Savings Plan account other than one of the following:
 - (a) a qualified withdrawal,
 - (b) a withdrawal made as a result of the death or disability of the designated beneficiary of an account,
 - (c) a withdrawal that is made on the account of a scholarship or the allowance or payment described in Section 135(d)(1)(B) or (C) or by the Internal Revenue Code, received by the designated beneficiary to the extent the amount of the refund does not exceed the amount of the scholarship, allowance, or payment, or
 - (d) a rollover or change of designated beneficiary as permitted by subsection F of Section 3970.7 of Title 70 of Oklahoma Statutes, and
 - (2) "rollover" means the transfer of funds from the Oklahoma College Savings Plan to any other plan under Section 529 of the Internal Revenue Code.

18. For taxable years beginning after December 31, 2005, retirement benefits received by an individual from any component of the Armed Forces of the United States in an amount not to exceed the greater of seventy-five percent (75%) of such benefits or Ten Thousand Dollars (\$10,000.00) shall be exempt from taxable income but in no case less than the amount of the exemption provided by paragraph 14 of this subsection.

19. For taxable years beginning after December 31, 2006, retirement benefits received by federal civil service retirees, including survivor annuities, paid in lieu of Social Security benefits shall be exempt from taxable income to the extent such benefits are included in the federal adjusted gross income pursuant to the provisions of Section 86 of the Internal Revenue Code, 26 U.S.C., Section 86, according to the following schedule:

- a. in the taxable year beginning January 1, 2007, twenty percent (20%) of such benefits shall be exempt,
 - b. in the taxable year beginning January 1, 2008, forty percent (40%) of such benefits shall be exempt,
 - c. in the taxable year beginning January 1, 2009, sixty percent (60%) of such benefits shall be exempt,
 - d. in the taxable year beginning January 1, 2010, eighty percent (80%) of such benefits shall be exempt, and
 - e. in the taxable year beginning January 1, 2011, and subsequent taxable years, one hundred percent (100%) of such benefits shall be exempt.
20. a. For taxable years beginning after December 31, 2007, a resident individual may deduct up to Ten Thousand Dollars (\$10,000.00) from Oklahoma adjusted gross income if the individual, or the dependent of the individual, while living, donates one or more human organs of the individual to another human being for human organ transplantation. As used in this paragraph, "human organ" means all or part of a liver, pancreas, kidney, intestine, lung, or bone marrow. A deduction that is claimed under this paragraph may be claimed in the taxable year in which the human organ transplantation occurs.
- b. An individual may claim this deduction only once, and the deduction may be claimed only for unreimbursed expenses that are incurred by the individual and related to the organ donation of the individual.
 - c. The Oklahoma Tax Commission shall promulgate rules to implement the provisions of this paragraph which shall contain a specific list of expenses which may be presumed to qualify for the deduction. The Tax Commission shall prescribe necessary requirements for verification.

21. For taxable years beginning after December 31, 2009, there shall be exempt from taxable income any amount received by the beneficiary of the death benefit for an emergency medical technician or a registered emergency medical responder provided by Section 1-2505.1 of Title 63 of the Oklahoma Statutes.

22. For taxable years beginning after December 31, 2008, taxable income shall be increased by any unemployment compensation exempted under Section 85 (c) of the Internal Revenue Code, 26 U.S.C., Section 85(c)(2009).

23. For taxable years beginning after December 31, 2008, there shall be exempt from taxable income any payment in an amount less than Six Hundred Dollars (\$600.00) received by a person as an award for participation in a competitive livestock show event. For purposes of this

paragraph, the payment shall be treated as a scholarship amount paid by the entity sponsoring the event and the sponsoring entity shall cause the payment to be categorized as a scholarship in its books and records.

F. 1. For taxable years beginning after December 31, 2004, a deduction from the Oklahoma adjusted gross income of any individual taxpayer shall be allowed for qualifying gains receiving capital treatment that are included in the federal adjusted gross income of such individual taxpayer during the taxable year.

2. As used in this subsection:

- a. “qualifying gains receiving capital treatment” means the amount of net capital gains, as defined in Section 1222(11) of the Internal Revenue Code, included in an individual taxpayer's federal income tax return that result from:
 - (1) the sale of real property or tangible personal property located within Oklahoma that has been directly or indirectly owned by the individual taxpayer for a holding period of at least five (5) years prior to the date of the transaction from which such net capital gains arise,
 - (2) the sale of stock or the sale of a direct or indirect ownership interest in an Oklahoma company, limited liability company, or partnership where such stock or ownership interest has been directly or indirectly owned by the individual taxpayer for a holding period of at least two (2) years prior to the date of the transaction from which the net capital gains arise, or
 - (3) the sale of real property, tangible personal property or intangible personal property located within Oklahoma as part of the sale of all or substantially all of the assets of an Oklahoma company, limited liability company, or partnership or an Oklahoma proprietorship business enterprise where such property has been directly or indirectly owned by such entity or business enterprise or owned by the owners of such entity or business enterprise for a period of at least two (2) years prior to the date of the transaction from which the net capital gains arise,
- b. “holding period” means an uninterrupted period of time. The holding period shall include any additional period when the property was held by another individual or entity, if such additional period is included in the taxpayer's holding period for the asset pursuant to the Internal Revenue Code,
- c. “Oklahoma company,” “limited liability company,” or “partnership” means an entity whose primary headquarters have been located in Oklahoma for at least three (3) uninterrupted years prior to the date of the transaction from which the net capital gains arise,
- d. “direct” means the individual taxpayer directly owns the asset,
- e. “indirect” means the individual taxpayer owns an interest in a pass-through entity (or chain of pass-through entities) that sells the asset that gives rise to the qualifying gains receiving capital treatment.

- (1) With respect to sales of real property or tangible personal property located within Oklahoma, the deduction described in this subsection shall not apply unless the pass-through entity that makes the sale has held the property for not less than five (5) uninterrupted years prior to the date of the transaction that created the capital gain, and each pass-through entity included in the chain of ownership has been a member, partner, or shareholder of the pass-through entity in the tier immediately below it for an uninterrupted period of not less than five (5) years.
- (2) With respect to sales of stock or ownership interest in or sales of all or substantially all of the assets of an Oklahoma company, limited liability company, partnership or Oklahoma proprietorship business enterprise, the deduction described in this subsection shall not apply unless the pass-through entity that makes the sale has held the stock or ownership interest for not less than two (2) uninterrupted years prior to the date of the transaction that created the capital gain, and each pass-through entity included in the chain of ownership has been a member, partner or shareholder of the pass-through entity in the tier immediately below it for an uninterrupted period of not less than two (2) years. For purposes of this division, uninterrupted ownership prior to the effective date of this act shall be included in the determination of the required holding period prescribed by this division, and

f. "Oklahoma proprietorship business enterprise" means a business enterprise whose income and expenses have been reported on Schedule C or F of an individual taxpayer's federal income tax return, or any similar successor schedule published by the Internal Revenue Service and whose primary headquarters have been located in Oklahoma for at least three (3) uninterrupted years prior to the date of the transaction from which the net capital gains arise.

G. 1. For purposes of computing its Oklahoma taxable income under this section, the dividends-paid deduction otherwise allowed by federal law in computing net income of a real estate investment trust that is subject to federal income tax shall be added back in computing the tax imposed by this state under this title if the real estate investment trust is a captive real estate investment trust.

2. For purposes of computing its Oklahoma taxable income under this section, a taxpayer shall add back otherwise deductible rents and interest expenses paid to a captive real estate investment trust that is not subject to the provisions of paragraph 1 of this subsection. As used in this subsection:

- a. the term "real estate investment trust" or "REIT" means the meaning ascribed to such term in Section 856 of the Internal Revenue Code of 1986, as amended,
- b. the term "captive real estate investment trust" means a real estate investment trust, the shares or beneficial interests of which are not regularly traded on an established securities market and more than fifty percent (50%) of the voting power or value of the beneficial interests or shares of which

are owned or controlled, directly or indirectly, or constructively, by a single entity that is:

- (1) treated as an association taxable as a corporation under the Internal Revenue Code of 1986, as amended, and
- (2) not exempt from federal income tax pursuant to the provisions of Section 501(a) of the Internal Revenue Code of 1986, as amended.

The term shall not include a real estate investment trust that is intended to be regularly traded on an established securities market, and that satisfies the requirements of Section 856(a)(5) and (6) of the U.S. Internal Revenue Code by reason of Section 856(h)(2) of the Internal Revenue Code,

c. the term "association taxable as a corporation" shall not include the following entities:

- (1) any real estate investment trust as defined in paragraph a of this subsection other than a "captive real estate investment trust", or
- (2) any qualified real estate investment trust subsidiary under Section 856(i) of the Internal Revenue Code of 1986, as amended, other than a qualified REIT subsidiary of a "captive real estate investment trust", or
- (3) any Listed Australian Property Trust (meaning an Australian unit trust registered as a "Managed Investment Scheme" under the Australian Corporations Act in which the principal class of units is listed on a recognized stock exchange in Australia and is regularly traded on an established securities market), or an entity organized as a trust, provided that a Listed Australian Property Trust owns or controls, directly or indirectly, seventy-five percent (75%) or more of the voting power or value of the beneficial interests or shares of such trust, or
- (4) any Qualified Foreign Entity, meaning a corporation, trust, association or partnership organized outside the laws of the United States and which satisfies the following criteria:
 - (a) at least seventy-five percent (75%) of the entity's total asset value at the close of its taxable year is represented by real estate assets, as defined in Section 856(c)(5)(B) of the Internal Revenue Code of 1986, as amended, thereby including shares or certificates of beneficial interest in any real estate investment trust, cash and cash equivalents, and U.S. Government securities,
 - (b) the entity receives a dividend-paid deduction comparable to Section 561 of the Internal Revenue Code of 1986, as amended, or is exempt from entity level tax,
 - (c) the entity is required to distribute at least eighty-five percent (85%) of its taxable income, as computed in the jurisdiction in which it is organized, to the holders of its shares or certificates of beneficial interest on an annual basis,
 - (d) not more than ten percent (10%) of the voting power or value in such entity is held directly or indirectly or constructively

by a single entity or individual, or the shares or beneficial interests of such entity are regularly traded on an established securities market, and

- (e) the entity is organized in a country which has a tax treaty with the United States.

3. For purposes of this subsection, the constructive ownership rules of Section 318(a) of the Internal Revenue Code of 1986, as amended, as modified by Section 856(d)(5) of the Internal Revenue Code of 1986, as amended, shall apply in determining the ownership of stock, assets, or net profits of any person.

4. A real estate investment trust that does not become regularly traded on an established securities market within one (1) year of the date on which it first becomes a real estate investment trust shall be deemed not to have been regularly traded on an established securities market, retroactive to the date it first became a real estate investment trust, and shall file an amended return reflecting such retroactive designation for any tax year or part year occurring during its initial year of status as a real estate investment trust. For purposes of this subsection, a real estate investment trust becomes a real estate investment trust on the first day it has both met the requirements of Section 856 of the Internal Revenue Code and has elected to be treated as a real estate investment trust pursuant to Section 856(c)(1) of the Internal Revenue Code.

Added by Laws 1971, c. 137, § 8, emerg. eff. May 11, 1971. Amended by Laws 1971, c. 182, § 1, emerg. eff. May 28, 1971; Laws 1971, pp. 1042, 1043, H.J.R. No. 1026, §§ 2A9 to 17, 25, emerg. eff. June 22, 1971; Laws 1972, c. 252, § 2, emerg. eff. April 7, 1972; Laws 1975, c. 188, § 1, emerg. eff. May 23, 1975; Laws 1977, c. 32, § 1, emerg. eff. May 6, 1977; Laws 1978, c. 198, § 1, eff. July 1, 1978; Laws 1979, c. 195, § 4, emerg. eff. May 24, 1979; Laws 1980, c. 163, § 1; Laws 1980, c. 299, § 3; Laws 1980, c. 351, § 1, eff. Jan. 1, 1981; Laws 1982, c. 293, § 2, emerg. eff. May 24, 1982; Laws 1983, c. 275, § 10, emerg. eff. June 24, 1983; Laws 1985, c. 307, § 1, emerg. eff. July 24, 1985; Laws 1987, c. 113, § 24, operative Jan. 1, 1987; Laws 1987, c. 222, § 112, operative July 1, 1987; Laws 1988, c. 204, § 13, operative July 1, 1988; Laws 1989, c. 249, § 39, eff. Jan. 1, 1989; Laws 1991, 1st Ex. Sess., c. 2, § 12, emerg. eff. Jan. 18, 1991; Laws 1991, c. 66, § 1, emerg. eff. April 11, 1991; Laws 1991, c. 342, § 20, eff. Jan. 1, 1992; Laws 1992, c. 373, § 15, eff. July 1, 1992; Laws 1993, c. 275, § 25, eff. July 1, 1993; Laws 1993, c. 273, § 15, emerg. eff. May 27, 1993; Laws 1993, c. 308, § 1, emerg. eff. June 7, 1993; Laws 1995, c. 337, § 7, emerg. eff. June 9, 1995; Laws 1996, c. 3, § 15, emerg. eff. March 6, 1996; Laws 1996, c. 296, § 1, eff. Jan. 1, 1997; Laws 1997, c. 2, § 17, emerg. eff. Feb. 26, 1997; Laws 1997, c. 190, § 4, eff. July 1, 1997; Laws 1998, c. 208, § 1, eff. Jan. 1, 1999; Laws 1998, c. 385, § 9, eff. Nov. 1, 1998; Laws 1999, c. 1, § 23, emerg. eff. Feb. 24, 1999; Laws 1999, c. 338, § 1, eff. Jan. 1, 2000; Laws 2000, c. 73, § 2, emerg. eff. April 14, 2000; Laws 2000, c. 271, § 1, eff. Nov. 1, 2000; Laws 2001, c. 5, § 43, emerg. eff. March 21, 2001; Laws 2001, c. 167, § 12, emerg. eff. May 2, 2001; Laws 2001, c. 358, § 16, eff. July 1, 2001; Laws 2001, 1st Ex. Sess., c. 1, § 1, emerg. eff. Oct 8, 2001; Laws 2002, c. 372, § 1, eff. Jan. 1, 2003; Laws 2003, c. 3, § 70, emerg. eff. March 19, 2003; Laws 2004, c. 322, § 14, eff. Dec. 1, 2004 (State Question No. 713, Legislative Referendum No. 336, adopted at election held Nov. 2, 2004); Laws 2005, c. 381, § 12, eff. Jan. 1, 2006; Laws 2006, c. 16, § 65, emerg. eff. March 29, 2006; Laws 2006, 2nd Ex. Sess., c. 44, § 21, eff. Jan. 1, 2007; Laws 2007, c. 1, § 57, eff. July 1, 2007; Laws 2007, c. 118, § 1, eff. July 1, 2007; Laws 2007, c. 346, § 3, eff. Jan. 1, 2008; Laws 2008, c. 3, § 37, emerg. eff. Feb. 28, 2008; Laws 2008, c. 43, § 4, eff. July 1, 2008; Laws 2008, c. 395, § 3, eff. Jan. 1, 2008; Laws 2009, c. 174, § 1, eff. Jan. 1, 2010; Laws 2009, c. 436, § 1, eff. July 1, 2010;

Laws 2010, c. 2, § 66, eff. July 1, 2010; Laws 2010, c. 421, § 1; Laws 2013, c. 363, § 2, eff. Jan. 1, 2014.

NOTE: Laws 1975, c. 18, § 1 repealed by Laws 1977, c. 32, § 2, emerg. eff. May 6, 1977. Laws 1991, c. 232, § 1 repealed by Laws 1992, c. 373, § 22, eff. July 1, 1992. Laws 1995, c. 249, § 4 repealed by Laws 1996, c. 3, § 25, emerg. eff. March 6, 1996. Laws 1996, c. 216, § 1 and Laws 1996, c. 217, § 1 repealed by Laws 1997, c. 2, § 26, emerg. eff. Feb. 26, 1997. Laws 1998, c. 366, § 13 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999. Laws 2000, c. 212, § 1, Laws 2000, c. 214, § 3 and Laws 2000, c. 225, § 1 repealed by Laws 2001, c. 5, § 44, emerg. eff. March 21, 2001. Laws 2001, c. 316, § 1 and Laws 2001, c. 294, § 1 repealed by Laws 2001, 1st Ex.Sess., c. 1, § 3, emerg. eff. Oct. 8, 2001. Laws 2002, c. 144, § 1 repealed by Laws 2003, c. 3, § 71, emerg. eff. March 19, 2003. Laws 2005, c. 237, § 1 repealed by Laws 2006, c. 16, § 66, emerg. eff. March 29, 2006. Laws 2005, c. 354, § 1 repealed by Laws 2006, c. 16, § 67, emerg. eff. March 29, 2006. Laws 2005, c. 413, § 9 repealed by Laws 2006, c. 16, § 68, emerg. eff. March 29, 2006. Laws 2005, 1st Ex.Sess., c. 1, § 6 repealed by Laws 2006, c. 16, § 69, emerg. eff. March 29, 2006. Laws 2006, c. 178, § 1 repealed by Laws 2007, c. 1, § 58, eff. July 1, 2007. Laws 2006, c. 272, § 17 repealed by Laws 2007, c. 1, § 59, eff. July 1, 2007. Laws 2006, 2nd Ex.Sess., c. 42, § 5, repealed by Laws 2007, c. 1, § 60, eff. July 1, 2007. Laws 2007, c. 353, § 10 repealed by Laws 2008, c. 3, § 38, emerg. eff. Feb. 28, 2008. Laws 2009, c. 426, § 10 repealed by Laws 2010, c. 2, § 67, eff. July 1, 2010. Laws 2010, c. 94, § 4 repealed by Laws 2011, c. 1, § 31, emerg. eff. March 18, 2011.

§68-2358.1. Prisoners of war - Missing in action - Exceptions - Refunds.

The income of a member of the Armed Forces of the United States or a civilian who has been or is detained as a prisoner of war or listed as missing in action in a conflict with the enemy in the Southeast Asia and Vietnam war or conflict, and in any future war or conflict with an enemy of the United States, and the income of the spouse or dependent of such person shall be exempt from Oklahoma income tax for and during the time in which such person was or is detained as a prisoner of war or as confirmed missing in action, and for the remainder of such taxpayer's income tax year following the release of such prisoner of war or, if a person missing in action, until he is declared deceased by the Armed Forces.

In any case where an income tax has been paid upon the income, irrespective of the source of such income, of any such person who was or is a prisoner of war or missing in action, or upon the income of such person's spouse or dependent for any year during the time in which such person was or is a prisoner of war or missing in action, the tax monies shall be refunded to the person or persons having paid such tax. Such refund shall be made by the Oklahoma Tax Commission out of the Oklahoma Income Tax Adjustment Fund, and so much of such fund as is necessary for such purpose is hereby appropriated. The provisions of this act shall be liberally construed to accomplish its purpose and the statute of limitations in respect to refunds of income taxes shall not apply to taxpayers covered by this act.

Laws 1973, c. 128, § 1, emerg. eff. May 9, 1973.

§68-2358.1A. Death of member of armed forces in combat zone - Exemptions - refunds.

A. Any payment made by the United States Department of Defense as a result of the death of a member of the Armed Forces of the United States who has been killed in action in a United States Department of Defense designated combat zone shall be exempt from Oklahoma income tax during the taxable year in which the individual is declared deceased by the Armed Forces.

Any income earned by the spouse of a member of the Armed Forces of the United States who has been killed in action in a United States Department of Defense designated combat zone shall be exempt from Oklahoma income tax during the taxable year in which the individual is declared deceased by the Armed Forces.

B. In any case where income tax has been paid upon any income exempt pursuant to subsection A of this section, the tax monies shall be refunded to the person or personal representative of the person. The refund shall be made by the Oklahoma Tax Commission out of the Oklahoma Income Tax Adjustment Fund, and so much of such fund as is necessary for such purpose is hereby appropriated. The provisions of this section shall be liberally construed to accomplish its purpose and the statute of limitations with respect to refunds of income taxes shall not apply to taxpayers covered by this section.

Added by Laws 2009, c. 217, § 1, eff. Jan. 1, 2010.

§68-2358.2. Repealed by Laws 1996, c. 289, § 10, emerg. eff. July 1, 1996.

§68-2358.3. Repealed by Laws 2013, c. 363, § 18, eff. Jan. 1, 2014.

§68-2358.4. Adjustment for individuals engaged in farming business.

A. For taxable years beginning after December 31, 2000, at the election of an individual engaged in a farming business, the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for such taxable year shall be equal to the sum of:

1. A tax computed under such section on taxable income reduced by elected farm income; and

2. The increase in tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes which would result if taxable income for each of the three (3) prior taxable years were increased by an amount equal to one-third (1/3) of the elected farm income.

Any adjustment under this section for any taxable year shall be taken into account in applying this section for any subsequent taxable year.

B. As used in this section:

1. "Elected farm income" means so much of the taxable income for the taxable year which is attributable to any farming business, and which is specified in the election under subsection A of this section. For purposes of this paragraph, a gain from the sale or other disposition of property, other than land, regularly used by the taxpayer in such a farming business for a substantial period shall be treated as attributable to such a farming business;

2. "Individual" shall not mean or include any estate or trust; and

3. "Farming business" shall have the same meaning as the term is defined in the Internal Revenue Code, 26 U.S.C., Section 263A(e)(4).

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

Added by Laws 2000, c. 290, § 1, eff. Jan. 1, 2001.

§68-2358.5. Interest on certain governmental obligations exempt from income tax.

A. Interest on local governmental obligations issued after the effective date of this act for purposes other than to provide financing for projects for nonprofit corporations shall be exempt from Oklahoma income taxation. For these purposes, local governmental obligations shall include bonds or notes issued by, or on behalf of, or for the benefit of Oklahoma educational

institutions, cities, towns, or counties or by public trusts of which any of the foregoing is a beneficiary.

B. Interest on governmental obligations issued by the Oklahoma Department of Transportation after the effective date of this act for purposes of highway construction and maintenance shall be exempt from Oklahoma income taxation.
Added by Laws 2000, c. 351, § 12, eff. July 1, 2001. Amended by Laws 2002, c. 290, § 1, eff. July 1, 2002.

NOTE: Editorially renumbered from § 2358.4 of this title to avoid duplication in numbering.

§68-2358.5-1. Deduction for fostering children.

For taxable years beginning after December 31, 2013, there shall be allowed a deduction for a taxpayer who contracts with a child-placing agency, as defined in Section 402 of Title 10 of the Oklahoma Statutes, in the maximum amount of Two Thousand Five Hundred Dollars (\$2,500.00) for single persons or a deduction in the maximum amount of Five Thousand Dollars (\$5,000.00) for married persons filing a joint return for expenses incurred to provide care for a foster child.

Added by Laws 2013, c. 352, § 1, eff. Jan. 1, 2014.

§68-2358.5A. Obligations issued by state and certain state agencies exempt from taxation.

A. All bonds, notes, debentures, evidences of indebtedness, lease purchase agreements, certificates of participation, commercial paper, or other obligations issued by the State of Oklahoma, the Oklahoma Capitol Improvement Authority, the Oklahoma Municipal Power Authority, the Oklahoma Student Loan Authority, and the Oklahoma Transportation Authority, the income therefrom, including, without limitation, any profit made on the sale thereof, and the transfer thereof, including, without limitation, estate or inheritance taxes, shall at all times be free from taxation within this state.

B. The provisions of this section shall be supplemental to, and not limiting or restrictive of, any law involving the taxation of such obligations within the State of Oklahoma.

Added by Laws 2006, c. 327, § 6, eff. July 1, 2006.

§68-2358.6. Bonus depreciation received under federal law - Addition to federal taxable income - Subtraction in later years.

A. For income tax returns filed after September 10, 2001, by corporations and fiduciaries, federal taxable income shall be increased by eighty percent (80%) of any amount of bonus depreciation received under the federal Job Creation and Worker Assistance Act of 2002, under Section 168(k) or Section 1400L of the Internal Revenue Code of 1986, as amended, for assets placed in service after September 10, 2001, and before September 11, 2004.

B. For income tax returns filed after December 31, 2007, by corporations and fiduciaries, federal taxable income shall be increased by eighty percent (80%) of any amount of bonus depreciation received under the federal Economic Stimulus Act of 2008, or under the American Recovery and Reinvestment Act of 2009, under Section 168(k) or Section 1400L of the Internal Revenue Code of 1986, as amended, for assets placed in service after December 31, 2007, and before January 1, 2010.

C. For a corporation with a unitary business having activity both inside and outside the state, the increase shall be apportioned to Oklahoma in the same manner as income is apportioned to the state under Section 2358 and Section 2362 of this title.

D. The amount of bonus depreciation added to federal taxable income by this section shall be subtracted in a later taxable year as herein provided. Twenty-five percent (25%) of the total amount of bonus depreciation added back may be subtracted in the first taxable year following the year of the addition and twenty-five percent (25%) may be subtracted in each of the next three following taxable years.

E. A corporation or fiduciary filing a return for which federal taxable income is not increased as provided in subsection A of this section prior to October 1, 2002, shall file an amended return reflecting such increase not later than June 30, 2003. The Oklahoma Tax Commission shall not assess penalties or interest with respect to the failure to reflect such increase if a correct amended return is filed as required herein. A corporation or fiduciary filing a return for which federal taxable income is not increased as provided for in subsection B of this section prior to October 1, 2008, shall file an amended return reflecting such increase not later than June 30, 2009. The Tax Commission shall not assess penalties or interest with respect to the failure to reflect such increase if a correct amended return is filed as required herein. Added by Laws 2002, c. 503, § 3, emerg. eff. June 7, 2002. Amended by Laws 2008, c. 395, § 2, emerg. eff. June 3, 2008; Laws 2009, c. 426, § 11, emerg. eff. June 1, 2009.

§68-2358.7. Tax credit – Volunteer firefighter.

A. For taxable years beginning after December 31, 2004, there shall be allowed as a credit against the tax imposed pursuant to Section 2355 of this title an amount equal to:

1. Two Hundred Dollars (\$200.00) each year for which a volunteer firefighter provides proof of certification as required by subsection B of this section; and
2. Four Hundred Dollars (\$400.00) each year following the taxable years for which a taxpayer is eligible for the credit provided by paragraph 1 of this subsection for a volunteer firefighter providing proof of certification as required by subsection D of this section.

B. In order to claim the tax credit authorized by paragraph 1 of subsection A of this section, a volunteer firefighter shall be required to provide adequate documentation to the Oklahoma Tax Commission of at least twelve (12) credited hours toward the State Support or State Basic Firefighter or Firefighter I from an internationally recognized accrediting assembly or board, their equivalent, or other related fire or emergency medical services training approved by the Council on Firefighter Training and offered by Oklahoma State University Fire Service Training or Oklahoma Department of Career and Technology Education prior to or during the first taxable year for which a tax credit is claimed pursuant to paragraph 1 of subsection A of this section. For the purpose of this subsection, the local fire chief shall be the authority having jurisdiction and shall choose and approve all volunteer firefighter training in the applicable department.

C. For each year subsequent to the first year for which a volunteer firefighter may claim the tax credit authorized by paragraph 1 of subsection A of this section, in order to claim any further tax credits pursuant to paragraph 1 of subsection A of this section, the volunteer firefighter shall be required to provide documentation that the firefighter has completed an additional six (6) hours of State Support or State Basic Firefighter or Firefighter I from an internationally recognized accrediting assembly or board, their equivalent, or other related fire or emergency medical services training approved by the Council on Firefighter Training until such program or its equivalent is completed. For purposes of this subsection, equivalency shall be determined by the Oklahoma Council on Firefighter Training and Oklahoma State University Fire Service Training. For purposes of this subsection, Firefighter I or Firefighter II

certifications or their equivalents may be provided in lieu of the State Support or State Basic Firefighter completion.

D. After having completed the State Support or State Basic Firefighter program, in order to be eligible for the tax credit authorized by paragraph 2 of subsection A of this section, the volunteer firefighter shall:

1. Complete at least six (6) hours of continuing education each year until the volunteer firefighter completes Intermediate or Advanced Firefighter or Firefighter I from an internationally recognized accrediting assembly or board, their equivalent, or other related fire or emergency medical services training approved by the Council on Firefighter Training or its equivalent. For purposes of this paragraph, equivalency shall be determined by the Oklahoma Council on Firefighter Training and Oklahoma State University Fire Service Training;

2. After completion of Intermediate or Advanced Firefighter or Firefighter I from an internationally recognized accrediting assembly or board, their equivalent, or other related fire or emergency medical services training approved by the Council on Firefighter Training, the volunteer firefighter shall complete six (6) hours of training per year to claim the tax credit. For the purpose of this subsection, the local fire chief shall be the authority having jurisdiction and shall choose and approve all volunteer firefighter training in the applicable department;

3. Provide documentation from the fire chief of the applicable department that the firefighter has been provided and participated in all annual training as required by federal and state authorities; and

4. Provide documentation from the fire chief of the applicable department that the volunteer firefighter has met the requirements under the fire department's constitution and bylaws and is a member in good standing of the department together with a record of the total number of years of service in good standing with such department.

E. The Office of the State Fire Marshal and the Oklahoma Council on Firefighter Training shall prescribe a reporting form for use by volunteer fire departments and by volunteer firefighters in order to provide the certifications required by this section.

F. The Oklahoma Tax Commission may require copies of such reporting form provided by the Oklahoma Council on Firefighter Training regarding training history to verify eligibility for the tax credits provided by this section.

Added by Laws 2004, c. 515, § 3, eff. July 1, 2004. Amended by Laws 2012, c. 161, § 2, eff. Nov. 1, 2012.

§68-2358.100. Filing of amended income tax return for 2004 or 2005.

Notwithstanding any other provision of law to the contrary, any taxpayer who has filed an income tax return for the 2004 or 2005 income tax year or who requested an extension, whether or not the extension was granted, and whether or not the extension has expired prior to the effective date of this act, or will expire at any time prior to January 1, 2006, may file an amended return in order to recompute adjusted gross income or taxable income, as applicable, based upon the amendments as contained in Enrolled House Bill No. 1547 of the 1st Session of the 50th Oklahoma Legislature with respect to allocation of capital or ordinary gains from the sale of a publicly traded partnership as provided by division (2) of subparagraph b of paragraph 4 of subsection A of Section 2358 of Title 68 of the Oklahoma Statutes.

Added by Laws 2005, c. 458, § 3, eff. July 1, 2005.

[key]

§68-2359. Exempted organizations.

A. *A person or organization exempt from federal income taxation under the provisions of the Internal Revenue Code shall also be exempt from the tax imposed by Section 2351 et seq. of this title in each year in which such person or organization satisfies the requirements of the Internal Revenue Code for exemption from federal income taxation.* If the exemption applicable to any person or organization under the provisions of the Internal Revenue Code is limited or qualified in any manner, the exemption from taxes imposed by this article shall be limited or qualified in a similar manner.

B. *Notwithstanding the provisions of subsection A of this section, the unrelated business taxable income or other income subject to tax, as computed under the provisions of the Internal Revenue Code, of any person or organization exempt from the tax imposed by this act and subject to the tax imposed on such income by the Internal Revenue Code shall be subject to the tax which would have been imposed by this act but for the provisions of subsection A of this section.*

C. Insurance companies paying, during or for the taxable year, a tax to this state on gross premium income shall be exempt from the provisions of this article and the taxes levied thereby.

D. Royalty earned by an inventor from products developed and manufactured in this state shall be exempt from the tax imposed by Section 2355 of this title for a seven-year period, pursuant to the provisions of Section 5064.7 of Title 74 of the Oklahoma Statutes.

E. Sponsors and tenants of small business incubators shall be exempt for the tax imposed by Section 2355 of this title, pursuant to the provisions of Sections 5075 and 5078 of Title 74 of the Oklahoma Statutes.

Amended by Laws 1987, c. 121, § 10, eff. Nov. 1, 1987; Laws 1987, c. 228, § 11, eff. Jan. 1, 1988; Laws 1988, c. 313, § 1, emerg. eff. July 1, 1988.

[key]

§68-2360. Accounting periods and methods.

A. *The taxpayer's taxable year under this act shall be the same as his taxable year for federal income tax purposes.* If, on the effective date of this act, the taxpayer's taxable year for Oklahoma income tax purposes is different than his taxable year for federal income tax purposes, the taxpayer shall file a return for the short period ending on the day for which his current taxable year for federal income tax purposes ends. If such taxpayer's taxable year for federal income tax purposes ends after his taxable year for Oklahoma income tax purposes, then the taxpayer shall file a return for such regular Oklahoma taxable year and a return for the short period ending with the federal taxable year.

The Tax Commission shall prescribe and promulgate all necessary rules and regulations for annualizing income and/or deductions for short years necessitated by the transition, if any, to the federal taxable year.

B. *If a taxpayer's taxable year is changed for federal income tax purposes, his Oklahoma taxable year shall be similarly changed under the same rules applicable under the Internal Revenue Code.*

C. *The taxpayer's method of accounting under this act shall be the same as his method of accounting for federal income tax purposes.*

D. *If a taxpayer's method of accounting is changed for federal income tax purposes, such taxpayer's method for Oklahoma income tax purposes shall be similarly changed under the same rules applicable under the Internal Revenue Code.*

Added by Laws 1971, c. 137, § 10, emerg. eff. May 11, 1971.

§68-2361. Filings by married taxpayers - Joint returns - Relief from liability for deficiency.

Married taxpayers shall file joint or separate returns in accordance with the manner in which they file returns to the federal government, or in the event of an adjustment thereto by the federal government, as finally ascertained to be proper under the Internal Revenue Code; except that: where either is a resident and the other is a nonresident, they shall not be entitled to file joint Oklahoma income tax returns, ***but if a joint return was filed with the federal government, then the adjusted gross income as returned to the federal government, or in the event of an adjustment thereto by the federal government as finally ascertained under the Internal Revenue Code,*** shall be allocated between the husband and wife. The foregoing exception shall not apply if the nonresident is an active duty service member whose income is not subject to Oklahoma income tax by virtue of the Soldier's and Sailor's Civil Relief Act or if both have net income and they desire to file a joint Oklahoma return and elect to have their Oklahoma income determined and taxed on the basis of a joint Oklahoma return as if both were residents.

If a joint return has been made under this section for a tax year and taking into account all the facts and circumstances, the Tax Commission determines that it is inequitable to hold one of the spouses liable for the deficiency in tax for such tax year, then such spouse shall be relieved of liability for tax, including interest and penalties, for such tax year to the extent that such deficiency is determined to be the liability of the other spouse. For purposes of this section, the determination made by the Tax Commission shall be the same as the determination made by the Internal Revenue Service provided the tax year and circumstances surrounding the liability are the same. If there has been no determination made by the Internal Revenue Service, the Tax Commission shall apply the factors that would have been applied by the Internal Revenue Service had a determination been requested.

Added by Laws 1971, c. 137, § 11, emerg. eff. May 11, 1971. Amended by Laws 1994, c. 278, § 26, eff. Sept. 1, 1994; Laws 1995, c. 337, § 8, emerg. eff. June 9, 1995; Laws 2001, c. 244, § 1, emerg. eff. May 23, 2001.

§68-2362. Oklahoma taxable income of a part-year resident individual, nonresident individual, a nonresident trust and a nonresident estate.

A. For tax years beginning on or after January 1, 1994, the Oklahoma taxable income of a part-year resident individual, nonresident individual, a nonresident trust and a nonresident estate shall be calculated following the provisions of Section 2358 of this title as if all income were earned in Oklahoma.

B. Using Oklahoma income tax rates, part-year resident individuals, nonresident individuals, nonresident trusts and nonresident estates shall compute their tax liability on the amount computed in the preceding paragraph.

C. From the liability computed there shall be deducted all allowable credits to determine the amount of tax due.

D. Part-year resident individuals, nonresident individuals, nonresident trusts and nonresident estates shall divide adjusted gross income from Oklahoma sources by the adjusted gross income from all sources to arrive at the applicable percentage that Oklahoma adjusted gross income represents of all adjusted income received by the taxpayer in the income year.

E. Part-year resident individuals, nonresident individuals, nonresident trusts and nonresident estates shall multiply the amount of Oklahoma tax computed by the applicable percentage calculated in the preceding paragraph in order to determine the amount of income tax which must be paid to the State of Oklahoma. Nothing in this section shall be construed to allow for greater than one hundred percent (100%) of a taxpayer's income to be taxed.

F. For purposes of determining the adjusted gross income from Oklahoma, the following shall be includable:

1. The ownership of any interest in real or tangible personal property in this state;
2. A business, trade, profession or occupation carried on in this state or compensation for services performed in this state;
3. A business, trade, profession or occupation carried on or compensation for services performed partly within and partly without this state to the extent allocable and apportionable to Oklahoma as determined under Section 2358 of this title;
4. The distributive share of the Oklahoma part of partnership income, gains, losses or deductions;
5. The distributive share of the Oklahoma part of estate or trust income, gains, losses or deductions;
6. Income from intangible personal property, including annuities, dividends, interest and gains from the disposition of intangible personal property to the extent that such income is from property employed in a trade, business, profession or occupation carried on in Oklahoma. A part-year resident individual, nonresident individual, nonresident trust or nonresident estate, other than a dealer holding property primarily for sale to customers in the ordinary course of trade or business, shall not be deemed to carry on a business, trade, profession or occupation in Oklahoma solely by reason of the purchase and sale of property for its own account;
7. The distributive share of the Oklahoma taxable income or loss of a corporation defined in subchapter S of the Internal Revenue Code, 26 U.S.C., Section 1361 et seq.;
8. Income received from all sources of wagering, games of chance or any other winnings from sources within this state. Proceeds which are not money shall be taken into account at their fair market value; and
9. The distributive share of the Oklahoma part of limited liability company income, gains, losses or deductions.

Added by Laws 1971, c. 137, § 12, emerg. eff. May 11, 1971. Amended by Laws 1971, p. 1043, H.J.R. No. 1026, § 2A18, emerg. eff. June 22, 1971; Laws 1972, c. 252, § 3, emerg. eff. April 7, 1972; Laws 1989, c. 249, § 30, eff. Jan. 1, 1990; Laws 1990, c. 339, § 6, emerg. eff. May 31, 1990; Laws 1991, c. 342, § 21, eff. Jan. 1, 1992; Laws 1994, c. 278, § 27, eff. Sept. 1, 1994; Laws 2003, c. 472, § 20.

§68-2363. Partners and Partnerships.

The Oklahoma distributive share of partnership income, gains, losses or deductions of a partnership to be reported by the partners shall be the same portion of that reported for federal income tax purposes, as the Oklahoma income, gain, losses or deduction determined under Sections 2358 and/or 2362 of this title for said partnership, bears to the federal income, gains, losses or deductions.

Laws 1971, c. 137, § 13, emerg. eff. May 11, 1971.

§68-2364. Estates, trusts and beneficiaries.

A. The Oklahoma taxable income or loss of an estate, trust or any beneficiary of either shall be the same portion of that reported for federal income tax purposes as the Oklahoma income, gains, losses or deductions determined under applicable provisions of this act for said estate, trust and/or beneficiary bears to the federal income, gains, losses or deductions. Amounts allowable under the Oklahoma Estate Tax Law as deductions in computing the taxable estate of a decedent shall not be allowed as deductions in computing the taxable income of the estate or of any other person unless there is filed, as provided in Internal Revenue Code, Section 642, or any provisions comparable thereto, the statement required therein and if such waiver is filed then to the extent allowed as a deduction for income tax purposes, such amount shall not be allowed for estate tax purposes.

B. A beneficiary of a trust shall exclude from Oklahoma taxable income any excess distributions by trusts required to be included in the beneficiary's federal taxable income by reason of Sections 665 through 669 of the Internal Revenue Code, or any provisions comparable thereto.

Added by Laws 1971, c. 137, § 14. Amended by Laws 1971, p. 1043, H.J.R. No. 1026, § 2A26, emerg. eff. June 22, 1971.

§68-2365. Subchapter S corporations.

The provisions, applicable to the taxation of income of corporations and stockholders, electing treatment as provided in subchapter S of the Internal Revenue Code, shall apply to taxpayers as provided under this act. A corporation having an election in effect under subchapter S of the Internal Revenue Code shall not be subject to the Oklahoma income tax on corporations and for tax years beginning after December 31, 1996, shall not be subject to the tax imposed by subsection A of Section 2370 of this title, and the shareholders of such corporation shall include in their taxable incomes their proportionate part of the federal income of such corporation, subject to the modifications as set forth in Sections 2358, 2362 and 2370.2 of this title, in the same manner and to the same extent as provided by the Internal Revenue Code. However, if any of the shareholders of such corporation are nonresidents during any part of the taxable year of the corporation, such corporation shall be taxable for such year on that part of the income of the corporation, as determined pursuant to Sections 2358, 2362 and 2370.2 of this title, allocable to the shares of stock owned by such nonresident unless the corporation files with its return for such year an agreement executed by each nonresident stockholder stating that such nonresident will file an Oklahoma income tax return which will include in the adjusted gross income of such nonresident that portion of the Oklahoma taxable income of the corporation allocable to the interest of the nonresident in such corporation. For purposes of this section, the term "corporation" shall include state-chartered banks, state and federal savings associations and national banking associations that have total assets of Three Billion Dollars (\$3,000,000,000.00) or less and that are organized pursuant to the laws of this state, or the United States, or are located or doing business in this state.

Added by Laws 1971, c. 137, § 15, emerg. eff. May 11, 1971. Amended by Laws 2000, c. 5, § 1, emerg. eff. March 14, 2000; Laws 2001, c. 319, § 1, eff. July 1, 2001.

§68-2366. Allocation of income and deductions.

The Tax Commission may allocate gross income, gains, losses, deductions, credits or allowances between two or more organizations, trades or businesses (whether or not incorporated, or organized in the United States or affiliated) owned or controlled directly or

indirectly by the same interests, if the Tax Commission reasonably determines such allocation is necessary to prevent evasion of taxes or to clearly reflect income of the organizations, trades or businesses. Each such organization shall be deemed to be transacting business in Oklahoma and subject to all the provisions of this act. This section shall apply only with respect to related organizations, trades or businesses which in the aggregate derive income both within and outside the State of Oklahoma and then only with respect to such income, deductions, credits or allowances related thereto.

Added by Laws 1971, c. 137, § 16, emerg. eff. May 11, 1971.

§68-2367. Consolidated returns.

The provisions of the Internal Revenue Code, 26 U.S.C., Section 1 et seq., applicable to consolidated corporate income tax returns, shall not apply to taxpayers under this act, except that:

1. If two or more corporations file federal income tax returns on a consolidated basis, and if all of such corporations derive all of their income from sources within Oklahoma, then such corporations shall be required to file consolidated returns for purposes of determining their Oklahoma income tax liability.

2. If two or more corporations file federal income tax returns on a consolidated basis, and if one or more of such corporations derive a portion of their income from sources outside the State of Oklahoma, then such corporations shall not be required to file consolidated returns for purposes of determining their Oklahoma income tax liability except as hereinafter provided in subsection 3 of this section.

3. The Oklahoma Tax Commission shall permit an affiliated group of corporations described in subsection 2 of this section to elect to file a consolidated return for Oklahoma income tax purposes provided such group files an appropriate election in accordance with regulations to be promulgated by the Tax Commission. If an affiliated group of corporations elects to file a consolidated Oklahoma income tax return under the provisions of this section, such election shall be binding and the affiliated group of corporations shall be required to file a consolidated Oklahoma income tax return for future tax years unless the Oklahoma Tax Commission releases the affiliated group of corporations from such election. If an affiliated group of corporations elects to file a consolidated Oklahoma income tax return under the provisions of this subsection, the group's consolidated income, loss or deductions shall be determined on a component member by component member basis in accordance with the provisions of Sections 2358 and 2362 of this title.

Laws 1971, c. 137, § 17; Laws 1971, p. 1043, H.J.R. No. 1026, § 2A19, emerg. eff. June 22, 1971; Laws 1993, c. 273, § 5, eff. Sept. 1, 1993.

[key]

§68-2368. Persons required to make returns - Income of estates and trusts - Income of partnerships - Returns by corporations - Time for returns - Verification of returns - Form of returns.

A. The following individuals shall each make a return stating specifically the taxable income and, where necessary, the adjusted gross income and the adjustments provided in Section 2351 et seq. of this title to arrive at Oklahoma taxable income and, where necessary, Oklahoma adjusted gross income:

1. *Every resident individual having a gross income, or gross receipts, for the taxable year in an amount sufficient to require the filing of a federal income tax return, if single, or if married and not living with husband or wife; and*

2. Every resident individual having a gross income, or gross receipts, for the taxable year in an amount sufficient to require the filing of a federal income tax return, if married and living with husband or wife.

Provided however, every resident individual who does not meet the requirements sufficient to file a federal return, but has Oklahoma withholding, may file a claim for refund for all Oklahoma income taxes withheld and shall not be subject to the provisions of Section 2358 of this title; and

3. Every nonresident individual having Oklahoma gross income for the taxable year of One Thousand Dollars (\$1,000.00) or more.

B. If a husband and wife, living together, have an aggregate gross income or gross receipts, for such year, in an amount sufficient to require the filing of a federal income tax return:

1. Each shall make a return; or

2. The income of each shall be included in a single joint return, in which case the tax shall be computed on the aggregate net income.

C. If an individual is unable to make his or her own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such individual.

D. Every partnership shall make a return for each taxable year, stating the taxable income and the adjustments to arrive at Oklahoma income. The Oklahoma return shall include a schedule showing the distribution to partners of the various items of income as per the federal return and the adjustments required by Section 2351 et seq. of this title for Oklahoma. The return shall be signed by one of the partners. If a partnership has elected pursuant to the provisions of Section 761 of the Internal Revenue Code, or any provision comparable thereto, not to file partnership income tax returns, that partnership shall not be required to file an Oklahoma partnership return. The Oklahoma Tax Commission shall promulgate rules for purposes of partnership returns when multiple partners would otherwise be required to file a nonresident return. The rules shall provide a specific number of partners in a partnership above which a composite return may be filed. The return shall be in such form as prescribed by the Tax Commission.

E. Every corporation shall make a return for each taxable year stating the taxable income and the adjustments provided in Section 2351 et seq. of this title to arrive at Oklahoma taxable income. In addition, corporations electing subchapter S treatment pursuant to the Internal Revenue Code and Section 2351 et seq. of this title, shall include a schedule showing the distribution to shareholders of the various items of income as per the federal return and the adjustments for Oklahoma. All corporation returns shall be signed by the president, vice president, or other principal officer and the corporate seal impressed. In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make a return for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

F. Every resident estate and trust shall make a return for each taxable year stating the taxable income and the adjustments to arrive at Oklahoma taxable income. Every nonresident

estate or trust having Oklahoma taxable income as provided in Section 2362 of this title, shall make a return for each taxable year stating the taxable income and the adjustments to arrive at Oklahoma taxable income. The Oklahoma return shall include a schedule showing the distribution to beneficiaries, if any, of the various items of income as per the federal return and the adjustments for Oklahoma. The fiduciary shall be responsible for making the return and the return shall be signed by the fiduciary, or by one fiduciary if there is more than one. The Tax Commission shall promulgate rules for purposes of estate and trust returns when multiple returns would otherwise be required of nonresident beneficiaries of estates or trusts. The return shall be in such form as prescribed by the Tax Commission.

G. 1. All returns, except corporate returns and individual returns filed electronically, made on the basis of the calendar year shall be made on or before the fifteenth day of April following the close of the taxable year. Provided, if the Internal Revenue Code provides for a later due date for returns of individuals, the Tax Commission shall accept returns filed by individuals by such date and such returns shall be considered as timely filed.

2. All individual returns filed electronically, made on the basis of the calendar year, shall be due on or before the twentieth day of April following the close of the taxable year.

3. Calendar year corporation returns shall be due on or before the fifteenth day of March following the close of the taxable year.

4. All returns, except corporation returns, made on the basis of a fiscal year shall be made on or before the fifteenth day of the fourth month following the close of the fiscal year.

5. Fiscal year corporation returns shall be made on or before the fifteenth day of the third month following the close of the fiscal year.

6. In the case of complete liquidation, or the dissolution, of a corporation the return of such corporation shall be made on or before the fifteenth day of the fourth month following the month in which the corporation is completely liquidated. A corporation which has terminated its business activities, satisfied or made provision for all of its liabilities or has distributed all of its assets, even though not formally dissolved under state law, is deemed to have completely liquidated for purposes of this subsection.

H. Returns by individuals, fiduciaries, partnerships, corporations or any other person or entity required, or that may hereafter be required to file a return, shall contain or be verified by a written declaration that such return is made under the penalties of perjury and the fact that any individual's name is signed to a filed return shall be prima facie evidence for all purposes that the return was actually signed by that individual. Provided, the Tax Commission shall promulgate rules to provide procedures for verification of signatures on returns which are filed electronically.

I. Every return required by Section 2351 et seq. of this title shall be in such form as the Tax Commission may, from time to time, prescribe. Each return shall be filed with the Tax Commission and forms shall be furnished by the Tax Commission on application therefor, but failure to secure or receive the form of a return prescribed shall not relieve any taxpayer from the obligation of making and filing any return herein required.

Added by Laws 1971, c. 137, § 18, emerg. eff. May 11, 1971. Amended by Laws 1971, H.J.R. No. 1026, p. 1043, § 2A20, emerg. eff. June 22, 1971; Laws 1972, c. 252, § 4, emerg. eff. April 7, 1972; Laws 1983, c. 13, § 5, emerg. eff. March 23, 1982; Laws 1983, c. 275, § 11, emerg. eff. June 24, 1983; Laws 1988, c. 204, § 14, operative July 1, 1988; Laws 1989, c. 249, § 32, eff. July 1, 1989; Laws 1993, c. 273, § 6, eff. Sept. 1, 1993; Laws 2002, c. 458, § 12, eff. July 1, 2002; Laws 2007, c. 155, § 12, eff. Nov. 1, 2007.

§68-2368.1. Check-off for donation to Oklahoma City National Memorial Foundation.

A. The Oklahoma Tax Commission shall include on each state individual income tax return form for tax years beginning after December 31, 2001, and each state corporate tax return form for tax years beginning after December 31, 2001, an opportunity for the taxpayer to donate from a tax refund for the benefit of the Oklahoma City National Memorial Foundation.

B. The monies generated from donations made pursuant to subsection A of this section shall be collected by the Oklahoma Tax Commission and placed to the credit of the Oklahoma City National Memorial Foundation to help defray the expense to construct and maintain the national memorial created to honor the victims of the bombing of the Alfred P. Murrah Federal Building in Oklahoma City.

Added by Laws 2000, c. 25, § 1, eff. Sept. 1, 2000. Amended by Laws 2001, c. 358, § 28, eff. July 1, 2001.

§68-2368.2. Minimum cumulative donations from check-offs – Removal of check-off from forms.

If, on September 1 of any year, the total contributions to any one of the funds created through donations or contributions from income tax refunds by checking the appropriate box on the income tax return forms do not equal Fifteen Thousand Dollars (\$15,000.00) or more for three (3) consecutive years, the explanations and spaces for designating contributions to the fund shall be removed from the income tax return forms for the following and all subsequent years.

All contributions to the removed fund after September 1 shall be refunded to the taxpayer.

Added by Laws 2000, c. 25, § 2, eff. Sept. 1, 2000.

§68-2368.3. Tax refund donation to Oklahoma School for the Deaf and Oklahoma School for the Blind - Revolving fund.

A. Each state individual income tax return form for tax years which begin after December 31, 2001, and each state corporate tax return form for tax years beginning after December 31, 2001, shall contain a provision to allow a donation from a tax refund for the benefit of the Oklahoma School for the Deaf and the Oklahoma School for the Blind, as follows:

Oklahoma School for the Deaf/Oklahoma School for the Blind. Check if you wish to donate from your tax refund: () \$2, () \$5, or () \$____.

B. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Oklahoma School for the Deaf/Oklahoma School for the Blind Revolving Fund created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund for the State Department of Rehabilitation Services to be designated the "Oklahoma School for the Deaf/Oklahoma School for the Blind Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies apportioned to the fund pursuant to the provisions of this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Department of Rehabilitation Services for the purpose of funding programs at the Oklahoma School for the Deaf and the Oklahoma School for the Blind. Such monies shall be equally divided between the two designated schools.

Expenditures from the fund shall be made upon warrants issued by the State Treasurer against

claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of this title. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

Added by Laws 2001, c. 251, § 1, eff. Nov. 1, 2001. Amended by Laws 2012, c. 304, § 549.

§68-2368.3a. Oklahoma Silver Haired Legislature – Excellence in State Government Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the Department of Human Services, to be designated the “Oklahoma Silver Haired Legislature – Excellence in State Government Revolving Fund”. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies transferred thereto by Section 2368.4 of this title.

B. All monies accruing to the credit of said fund are hereby appropriated and shall be budgeted and expended by the Department of Human Services for the purposes specified by Section 2368.4 of this title; provided no monies in the fund shall be expended for salaries or other administrative costs, or any programs or services not authorized by Section 2368.4 of this title.

C. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2002, c. 321, § 2, eff. Nov. 1, 2002. Amended by Laws 2012, c. 304, § 550.

§68-2368.4. Oklahoma Silver Haired Legislature and Silver Haired Legislature Alumni Association activities - Donation from tax refund.

A. The Oklahoma Tax Commission shall include on each state individual income tax return form for tax years beginning after December 31, 2002, and each state corporate tax return form for tax years beginning after December 31, 2002, an opportunity for the taxpayer to donate from a tax refund for the benefit of the Oklahoma Silver Haired Legislature and the Oklahoma Silver Haired Legislature Alumni Association activities.

B. The monies generated from donations made pursuant to subsection A of this section shall be used by the Department of Human Services for the following purposes:

1. a. To fund all reasonable expenses of:
 - (1) Oklahoma Silver Haired Legislators,
 - (2) Oklahoma Silver Haired Legislature training sessions,
 - (3) Silver Haired Legislature interim studies, and
 - (4) Silver Haired Legislature advocacy activities approved by the Oklahoma Silver Haired Legislature Alumni Association Executive Board, and
- b. Monies authorized by this paragraph may only be used for expenses incurred by Silver Haired Legislators and alternates and other members of

the Oklahoma Silver Haired Legislature Alumni Association as approved by the Oklahoma Silver Haired Legislature Alumni Association Executive Board for reasonable expenses incurred in activities described in this section; provided, no monies shall be expended for salaries; and

2. Monies generated in excess of Fifty Thousand Dollars (\$50,000.00) shall be used to fund those programs or services for senior citizens which are recommended to the Department for funding by the Oklahoma Silver Haired Legislature Alumni Association.

C. All monies generated pursuant to subsection A of this section shall be paid to the State Treasurer and placed to the credit of the Oklahoma Silver Haired Legislature - Excellence in State Government Revolving Fund.

Added by Laws 2002, c.321, § 1, eff. Nov. 1, 2002. Amended by Laws 2007, c. 57, § 1, eff. Nov. 1, 2007.

§68-2368.5. Support of common schools - Donation from tax refund.

A. Each state individual income tax return form for tax years which begin after December 31, 2003, and each state corporate tax return form for tax years beginning after December 31, 2003, shall contain a provision to allow a donation from a tax refund for the benefit of the common schools of this state, as follows:

Support of Oklahoma Common Schools. Check if you wish to donate from your tax refund: () \$2, () \$5, or () \$_____.

B. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Income Tax Checkoff Revolving Fund for the Support of Oklahoma Common Schools created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund for the State Department of Education to be designated the "Income Tax Checkoff Revolving Fund for the Support of Oklahoma Common Schools". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies apportioned to the fund pursuant to the provisions of this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Department of Education for the purpose of funding common education in this state. Such monies shall be apportioned as and in the manner that state aid is provided to the common schools of this state. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of this title. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

Added by Laws 2003, c. 104, § 1, eff. Nov. 1, 2003. Amended by Laws 2012, c. 304, § 551.

§68-2368.6. Support of road and highway maintenance - Donation from tax refund.

A. Each state individual income tax return form for tax years which begin after December 31, 2003, and each state corporate tax return form for tax years beginning after December 31, 2003, shall contain a provision to allow a donation from a tax refund for the benefit of maintenance of the roads and highways in this state, as follows:

Support of Oklahoma Road and Highway Maintenance. Check if you wish to donate from your tax refund: () \$2, () \$5, or () \$_____.

B. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Income Tax Checkoff Revolving Fund for the Support of Oklahoma Road and Highway Maintenance created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund for the Department of Transportation to be designated the "Income Tax Checkoff Revolving Fund for the Support of Oklahoma Road and Highway Maintenance". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies apportioned to the fund pursuant to the provisions of this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department of Transportation for the purpose of funding road and highway maintenance in this state. Such monies shall be apportioned as and in a manner specified by the Transportation Commission. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of this title. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

Added by Laws 2003, c. 104, § 2, eff. Nov. 1, 2003. Amended by Laws 2012, c. 304, § 552.

§68-2368.7. Support of Medicaid program - Donation from tax refund.

A. Each state individual income tax return form for tax years which begin after December 31, 2003, and each state corporate tax return form for tax years beginning after December 31, 2003, shall contain a provision to allow a donation from a tax refund for the benefit of the Medicaid program of this state, as follows:

Support of Oklahoma Medicaid Program. Check if you wish to donate from your tax refund: () \$2, () \$5, or () \$_____.

B. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Income Tax Checkoff Revolving Fund for the Support of the Oklahoma Medicaid Program created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund for the Oklahoma Health Care Authority to be designated the "Income Tax Checkoff Revolving Fund for the Support of the Oklahoma Medicaid Program". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies apportioned to the fund pursuant to the provisions of this section. All monies accruing to the credit of the fund are hereby appropriated

and may be budgeted and expended by the Oklahoma Health Care Authority for the purpose of funding the Medicaid program in this state. Such monies shall be apportioned as and in the manner specified by the Oklahoma Health Care Authority. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of this title. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

Added by Laws 2003, c. 104, § 3, eff. Nov. 1, 2003. Amended by Laws 2012, c. 304, § 553.

§68-2368.8. County fairs – Donation from tax refund.

A. The Oklahoma Tax Commission shall include on each state individual tax return form for tax years beginning after December 31, 2003, and each state corporate tax return form for tax years beginning after December 31, 2003, an opportunity for the taxpayer to donate from a tax refund for the benefit of Oklahoma county fairs.

B. The monies generated from donations made pursuant to subsection A of this section shall be collected by the Oklahoma Tax Commission and placed to the credit of the Oklahoma County Fair Enhancement Fund.

Added by Laws 2003, c. 123, § 1, eff. Nov. 1, 2003.

NOTE: Editorially renumbered from Title 68, § 2368.5 to avoid duplication in numbering.

§68-2368.9. Junior Livestock Auction Scholarship Revolving Fund – Donation from tax refund.

A. The Oklahoma Tax Commission shall include on each state individual tax return form for tax years beginning after December 31, 2003, and each state corporate tax return form for tax years beginning after December 31, 2003, an opportunity for the taxpayer to donate from a tax refund for the benefit of the State of Oklahoma Junior Livestock Auction Scholarship Revolving Fund.

B. The monies generated from donations made pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the State of Oklahoma Junior Livestock Auction Scholarship Revolving Fund created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund for the State Department of Agriculture, Food, and Forestry to be designated the “State of Oklahoma Junior Livestock Auction Scholarship Revolving Fund”. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies transferred thereto by subsection A of this section.

D. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the State Department of Agriculture, Food, and Forestry for the purpose of helping fund educational opportunities for students exhibiting at the two statewide Junior Livestock Auctions which serve the entire state and are held annually in Oklahoma City and Tulsa.

Added by Laws 2003, c. 123, § 2, eff. Nov. 1, 2003.

NOTE: Editorially renumbered from Title 68, § 2368.6 to avoid duplication in numbering.

§68-2368.10. Line for remittance of use tax on individual tax returns – Information in income tax form instructions.

A. In order to raise awareness of liabilities for use taxes levied in Section 1401 et seq. of Title 68 of the Oklahoma Statutes for purchases of tangible personal property made outside this state to be consumed within this state, and to increase compliance with such provisions of law, the Oklahoma Tax Commission is hereby directed to include a line for the remittance of use tax on individual income tax returns for tax years beginning on or after July 1, 2003.

B. The Tax Commission shall include the following information in the income tax form instructions:

1. An explanation of an individual's obligation to pay use tax on items purchased from mail order, Internet, or other sellers that do not collect state and local sales and use taxes on the items; and

2. A method to help an individual determine the amount of use tax the individual owes. The method may include a table that gives the average amounts of use tax payable by taxpayers in various income ranges.

C. The revenues derived pursuant to the provisions of this section shall be apportioned by the Tax Commission as follows:

1. Sixty-five percent (65%) shall be apportioned according to the provisions of Section 1403 of Title 68 of the Oklahoma Statutes; and

2. Thirty-five percent (35%) shall be apportioned to each municipality and county that levies a use tax, in the proportions which total municipal and county use tax revenue was apportioned by the Tax Commission in the preceding month.

D. No penalties or interest shall be applied with respect to any taxes remitted pursuant to the provisions of this section.

Added by Laws 2003, c. 376, § 4, eff. July 1, 2003.

NOTE: Editorially renumbered from Title 68, § 2368.8 to avoid duplication in numbering.

§68-2368.11. Retirement of Capitol dome debt - Donation from tax refund.

A. The Oklahoma Tax Commission shall include on each state individual income tax return form for tax years beginning after December 31, 2004, and each state corporate tax return form for tax years beginning after December 31, 2004, an opportunity for the taxpayer to donate from a tax refund for retiring the debt incurred in construction and completion of the dome on the Oklahoma State Capitol.

B. The monies generated from donations made pursuant to subsection A of this section shall be collected by the Tax Commission and placed to the credit of the Oklahoma Capitol Complex and Centennial Commemoration Commission Revolving Fund to help defray the expense to construct and complete the dome on the Oklahoma State Capitol.

Added by Laws 2004, c. 35, § 1, eff. July 1, 2004.

NOTE: Editorially renumbered from Title 68, § 2368.11 to avoid a duplication in numbering.

§68-2368.12. Donation from tax refund – Programs to recruit, train, and supervise volunteers as Court Appointed Special Advocates.

A. Each state individual income tax return form for tax years which begin after December 31, 2003, and each state corporate tax return form for tax years beginning after December 31, 2003, shall contain a provision to allow a donation from a tax refund for the benefit of programs to recruit, train, and supervise volunteers as Court Appointed Special Advocates, as follows:

Support of programs for volunteers to act as Court Appointed Special Advocates for abused or neglected children. Check if you wish to donate from your tax refund: () \$2, () \$5, or () \$_____.

B. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Income Tax Checkoff Revolving Fund for Court Appointed Special Advocates created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund for the Office of the Attorney General to be designated the "Income Tax Checkoff Revolving Fund for Court Appointed Special Advocates". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies apportioned to the fund pursuant to the provisions of this section. All monies accruing to the credit of the fund are hereby appropriated and shall be budgeted and expended by the Office of the Attorney General for the purpose of providing grants to the Oklahoma CASA Association for the purpose of providing support for Court Appointed Special Advocates for abused and neglected children. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of State Finance for approval and payment.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, the taxpayer may file a claim for refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of this title. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

E. All Court Appointed Special Advocate programs in the State of Oklahoma shall receive a portion of this money.

F. Pursuant to Section 2368.18 of this title, the income tax checkoff contained in this section is hereby reauthorized effective January 1, 2014.

Added by Laws 2004, c. 295, § 1, eff. Jan. 1, 2005. Amended by Laws 2012, c. 209, § 1, eff. Nov. 1, 2012.

NOTE: Editorially renumbered from § 2368.11 of this title to avoid duplication in numbering.

§68-2368.13. Oklahoma Pet Overpopulation Fund – Donation from tax refund.

A. The Oklahoma Tax Commission shall include on each state individual tax return form for tax years beginning after December 31, 2003, and each state corporate tax return form for tax years beginning after December 31, 2003, an opportunity for the taxpayer to donate from a tax refund for the benefit of the Oklahoma Pet Overpopulation Fund created in subsection C of this section.

B. The monies generated from donations made pursuant to subsection A of this section shall be collected by the Tax Commission and placed to the credit of the Oklahoma Pet Overpopulation Fund created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund to be designated the "Oklahoma Pet Overpopulation Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies transferred to the fund pursuant to subsection A of this section, all monies transferred to the fund through the purchase of Animal Friendly special license plates, and any monies received in the form of gifts, grants, reimbursements, or donations specifically designated for the fund.

D. All monies accruing to the credit of the Oklahoma Pet Overpopulation Fund are hereby appropriated and may be budgeted and expended by the Oklahoma Department of Agriculture, Food, and Forestry through the State Veterinarian for the purpose of implementing and maintaining pet sterilization efforts in the State of Oklahoma.

E. Expenditures from the Oklahoma Pet Overpopulation Fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2004, c. 504, § 17, eff. July 1, 2004. Amended by Laws 2012, c. 304, § 554.

NOTE: Editorially renumbered from § 2368.11 of this title to avoid duplication in numbering.

NOTE: An identical section was added by Laws 2004, c. 366, § 2 and repealed by Laws 2005, c. 1, § 113, emerg. eff. March 15, 2005.

§68-2368.14. Tax refund donation to Oklahoma National Guard Relief Program.

A. Each state individual income tax return form for tax years which begin after December 31, 2004, and each state corporate tax return form for tax years beginning after December 31, 2004, shall contain a provision to allow a donation from a tax refund for the benefit of providing financial relief to qualified members of the Oklahoma National Guard, as follows:

Support of the Oklahoma National Guard Relief Program. Check if you wish to donate from your tax refund: () \$2, () \$5, or () \$ ____.

B. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Income Tax Checkoff Revolving Fund for the Support of the Oklahoma National Guard Relief Program created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund for the Military Department of the State of Oklahoma to be designated the "Income Tax Checkoff Revolving Fund for the Support of the Oklahoma National Guard Relief Program". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies apportioned to the fund pursuant to the provisions of this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Military Department for the purpose of funding qualified National Guard members to assist with approved expenses. Such monies shall be apportioned as and in a manner specified by the Military Department. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of this title. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted

shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

E. Pursuant to Section 2368.18 of this title, the income tax checkoff contained in this section is hereby reauthorized effective January 1, 2014.

Added by Laws 2005, c. 238, § 2, eff. Nov. 1, 2005. Amended by Laws 2012, c. 209, § 2, eff. Nov. 1, 2012; Laws 2013, c. 15, § 84, emerg. eff. April 8, 2013.

NOTE: Laws 2012, c. 304, § 555 repealed by Laws 2013, c. 15, § 85, emerg. eff. April 8, 2013.

§68-2368.15. Oklahoma Leukemia and Lymphoma Revolving Fund – Donation from tax refund.

A. The Oklahoma Tax Commission shall include on each state individual tax return form for tax years beginning after December 31, 2006, and each state corporate tax return form for tax years beginning after December 31, 2006, an opportunity for the taxpayer to donate from a tax refund for the benefit of the Oklahoma Leukemia and Lymphoma Revolving Fund.

B. All monies generated from donations made pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Oklahoma Leukemia and Lymphoma Revolving Fund created in subsection D of this section.

C. The monies generated from donations made pursuant to subsection A of this section shall be used by the State Department of Health for the purpose supporting voluntary health agencies dedicated to curing leukemia, lymphoma, Hodgkin's disease, and myeloma, and to improving the quality of life of patients and their families.

D. 1. There is hereby created in the State Treasury a revolving fund for the State Department of Health to be designated the "Oklahoma Leukemia and Lymphoma Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the State Department of Health as designated by subsection C of this section.

2. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Department of Health for the purpose specified in subsection C of this section.

3. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 2006, c. 299, § 1, eff. Nov. 1, 2006. Amended by Laws 2012, c. 304, § 556.

§68-2368.16. Regional food bank - Donation from tax refund.

A. Each state individual income tax return form for tax years which begin after December 31, 2007, and each state corporate tax return form for tax years beginning after December 31, 2007, shall contain a provision to allow a donation from a tax refund for the benefit of any regional food bank in this state. For purposes of this section, "regional food bank" means a nonprofit charitable organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), which as a part of a food bank network, maintains a food distribution operation providing food to other nonprofit entities that offer groceries or meals to people in need of food assistance. The provision to allow donation shall read as follows:

Support of programs for regional food banks in this state. Check if you wish to donate from your tax refund: () \$2, () \$5, or () \$____.

B. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Income Tax Checkoff Revolving Fund for Oklahoma Regional Food Banks created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund for the Department of Human Services to be designated the "Income Tax Checkoff Revolving Fund for Oklahoma Regional Food Banks". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies apportioned to the fund pursuant to the provisions of this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Department of Human Services for the purpose of providing funding for all regional food banks in this state. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of this title. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

E. Pursuant to Section 2368.18 of this title, the income tax checkoff contained in this section is hereby reauthorized effective January 1, 2014.

Added by Laws 2007, c. 353, § 11, eff. Jan. 1, 2008. Amended by Laws 2012, c. 209, § 3, eff. Nov. 1, 2012; Laws 2013, c. 15, § 86, emerg. eff. April 8, 2013.

NOTE: Laws 2012, c. 304, § 557 repealed by Laws 2013, c. 15, § 87, emerg. eff. April 8, 2013.

§68-2368.17. Revenue and taxation – Y.M.C.A. Youth and Government program.

A. Each state individual income tax return form for tax years which begin after December 31, 2009, and each state corporate tax return form for tax years beginning after December 31, 2009, shall contain a provision to allow a donation from a tax refund for the benefit of the Oklahoma chapter of the Y.M.C.A. Youth and Government program.

B. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Oklahoma Youth and Government Revolving Fund created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund to be designated the "Oklahoma Youth and Government Revolving Fund" administered by the State Department of Education. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all the monies received by the State Department of Education pursuant to the provisions of subsection A of this section. All monies accruing to the credit of the fund are appropriated and may be budgeted and expended by the State Department of Education at the beginning of each fiscal year for the purpose of providing grants to the Oklahoma chapter of the Y.M.C.A. Youth and Government program for purposes of educating young people regarding government and the legislative process. Expenditures from the fund shall be made upon

warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for a refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of this title. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

Added by Laws 2009, c. 254, § 1, eff. Jan. 1, 2010. Amended by Laws 2011, c. 172, § 4, eff. Jan. 1, 2012; Laws 2012, c. 304, § 558.

§68-2368.18. Income tax checkoffs - Expiration.

All income tax checkoffs provided for in state statute shall expire four (4) years after enactment, unless reauthorized by the Legislature.

Added by Laws 2009, c. 254, § 2, eff. Jan 1, 2010.

§68-2368.19. Folds of Honor Scholarship Program – Donation from tax refund.

A. Each state individual income tax return form for tax years which begin after December 31, 2009, and each state corporate tax return form for tax years beginning after December 31, 2009, shall contain a provision to allow a donation from a tax refund for the purpose of providing academic and vocational training scholarships administered through the Folds of Honor Scholarship Program to dependents of military servicemen and servicewomen who were either killed or wounded in action due to military service in the war in Iraq or Afghanistan where such program is administered through Folds of Honor Incorporated, a nonprofit charitable organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3). The provision to allow donation shall read as follows:

Support of Folds of Honor Scholarship Program, a nonprofit charitable organization providing academic and vocational training scholarships to dependents of military servicemen and servicewomen who were either killed or wounded in action due to military service in the war in Iraq or Afghanistan. Check if you wish to donate from your tax refund: () \$2, () \$5, or () \$_____.

B. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Income Tax Checkoff Revolving Fund for the Support of the Folds of Honor Scholarship Program created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund for the Military Department of the State of Oklahoma to be designated the "Income Tax Checkoff Revolving Fund for the Support of the Folds of Honor Scholarship Program". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies apportioned to the fund pursuant to the provisions of this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Military Department for the purpose of providing grants for academic and vocational training scholarships administered through the Folds of Honor Scholarship Program. Such monies shall be apportioned as and in a manner specified by the Military Department. Expenditures from the fund shall be made upon

warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of this title. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

Added by Laws 2009, c. 217, § 2, eff. Jan. 1, 2010. Amended by Laws 2012, c. 304, § 559.

NOTE: Editorially renumbered from § 2368.17 of Title 68 to avoid a duplication in numbering.

§68-2368.20. Individual income and corporate tax return – Honor Flights.

A. Each state individual income tax return form for tax years which begin after December 31, 2010, and each state corporate tax return form for tax years beginning after December 31, 2010, shall contain a provision to allow a donation for the benefit of Oklahoma Honor Flights.

B. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Oklahoma Honor Flights Revolving Fund created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund to be designated the “Oklahoma Honor Flights Revolving Fund” and administered by the Oklahoma Department of Veterans Affairs. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all the monies received by the Oklahoma Department of Veterans Affairs pursuant to the provisions of subsection A of this section. All monies accruing to the credit of the fund are appropriated and may be budgeted and expended by the Oklahoma Department of Veterans Affairs at the beginning of each fiscal year for the purpose of providing grants to Oklahoma Honor Flights for purposes of transporting Oklahoma veterans to Washington, D.C., to visit those memorials dedicated to honor their service and sacrifices. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of this title. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

Added by Laws 2010, c. 298, § 1, eff. Jan. 1, 2011. Amended by Laws 2012, c. 304, § 560.

§68-2368.21. Individual income and corporate tax return – Multiple Sclerosis Society.

A. Each state individual income tax return form for tax years which begin after December 31, 2009, and each state corporate tax return form for tax years beginning after December 31,

2009, shall contain a provision to allow a donation from a tax refund for the benefit of the Multiple Sclerosis Society.

B. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Multiple Sclerosis Society Revolving Fund created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund to be designated the "Multiple Sclerosis Society Revolving Fund" and administered by the State Department of Health. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all the monies received by the State Department of Health pursuant to the provisions of subsection A of this section. All monies accruing to the credit of the fund are appropriated and may be budgeted and expended by the State Department of Health at the beginning of each fiscal year for the purpose of providing grants to the Multiple Sclerosis Society for purposes of mobilizing people and resources to drive research for a cure and to address the challenges of everyone affected by multiple sclerosis. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of this title. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

Added by Laws 2010, c. 307, § 1, eff. Nov. 1, 2010. Amended by Laws 2011, c. 172, § 5, eff. Jan. 1, 2012; Laws 2012, c. 304, § 561.

NOTE: Editorially renumbered from § 2368.20 of this title to avoid duplication in numbering.

§68-2368.22. Tax donation – Domestic violence and sexual assault services.

A. Each state individual income tax return form for tax years which begin after December 31, 2011, and each state corporate tax return form for tax years beginning after December 31, 2011, shall contain a provision to allow a donation from a tax refund for the benefit of domestic violence and sexual assault services in Oklahoma that have been certified by the Attorney General. As used in this section the term "services" shall include but not be limited to programs, shelters or a combination thereof.

B. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Domestic Violence and Sexual Assault Services Revolving Fund created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund to be designated the "Domestic Violence and Sexual Assault Services Revolving Fund" administered by the Attorney General. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all the monies received by the Attorney General pursuant to the provisions of subsection A of this section. All monies accruing to the credit of the fund are appropriated and may be budgeted and expended by the Attorney General at the beginning of each fiscal year for

the purpose of providing grants to domestic violence and sexual assault services providers for the purpose of providing domestic violence and sexual assault services in Oklahoma. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. The Attorney General shall provide notice of the Domestic Violence and Sexual Assault Services Revolving Fund on the website of the Attorney General.

E. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for a refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of this title. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

Added by Laws 2011, c. 172, § 1, eff. Jan. 1, 2012. Amended by Laws 2012, c. 304, § 562.

§68-2368.23. Tax donation – Volunteer fire departments.

A. Each state individual income tax return form for tax years which begin after December 31, 2011, and each state corporate tax return form for tax years beginning after December 31, 2011, shall contain a provision to allow a donation from a tax refund for the benefit of volunteer fire departments in Oklahoma.

B. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Volunteer Fire Department Revolving Fund created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund to be designated the “Volunteer Fire Department Revolving Fund” administered by the Office of the State Fire Marshal. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all the monies received by the Office of the State Fire Marshal pursuant to the provisions of subsection A of this section. All monies accruing to the credit of the fund are appropriated and may be budgeted and expended by the Office of the State Fire Marshal at the beginning of each fiscal year for the purpose of providing grants to volunteer fire departments in this state for the purpose of purchasing bunker gear, wildland gear and other protective clothing. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for a refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of this title. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

Added by Laws 2011, c. 172, § 2, eff. Jan. 1, 2012. Amended by Laws 2012, c. 304, § 563.

§68-2368.24. Tax donation - Oklahoma Lupus Revolving Fund.

A. Each state individual income tax return form for tax years which begin after December 31, 2011, and each state corporate tax return form for tax years beginning after December 31, 2011, shall contain a provision to allow a donation from a tax refund for the benefit of the Oklahoma Lupus Revolving Fund.

B. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Oklahoma Lupus Revolving Fund created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund to be designated the "Oklahoma Lupus Revolving Fund" and administered by the State Department of Health. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all the monies received by the State Department of Health pursuant to the provisions of subsection A of this section. All monies accruing to the credit of the fund are appropriated and may be budgeted and expended by the State Department of Health at the beginning of each fiscal year for the purpose of providing grants to the Oklahoma Medical Research Foundation for the purpose of funding research into treating and curing Lupus in this state. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for a refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of this title. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

Added by Laws 2011, c. 172, § 3, eff. Jan. 1, 2012. Amended by Laws 2012, c. 304, § 564.

§68-2368.25. Donation from tax refund - Oklahoma Sports Eye Safety Program Revolving Fund - Apportionment.

A. Each state individual income tax return form for tax years which begin after December 31, 2011, and each state corporate tax return form for tax years beginning after December 31, 2011, shall contain a provision to allow a donation from a tax refund for the benefit of the Oklahoma Sports Eye Safety Program Revolving Fund.

B. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Oklahoma Sports Eye Safety Program Revolving Fund created in Section 3 of this act.

C. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for a refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of Title 68 of the Oklahoma Statutes. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and

such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

Added by Laws 2011, c. 384, § 2, eff. Nov. 1, 2011.

§68-2368.26. Donation from tax refund - Historic Greenwood District Music Festival Revolving Fund.

A. Each state individual income tax return form for tax years which begin after December 31, 2011, and each state corporate tax return form for tax years beginning after December 31, 2011, shall contain a provision to allow a donation from a tax refund for the purpose of supporting music festivals held in the Historic Greenwood District.

B. Except as otherwise provided for in this section, all monies generated pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Historic Greenwood District Music Festival Revolving Fund created in subsection C of this section.

C. There is hereby created in the State Treasury a revolving fund to be designated the "Historic Greenwood District Music Festival Revolving Fund" and administered by the Oklahoma Historical Society. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all the monies received by the Oklahoma Historical Society pursuant to the provisions of subsection A of this section. All monies accruing to the credit of the fund are appropriated and may be budgeted and expended by the Oklahoma Historical Society at the beginning of each fiscal year for the purpose of promoting and supporting music festivals in the Historic Greenwood District. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of this title. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

Added by Laws 2011, c. 384, § 4, eff. Nov. 1, 2011. Amended by Laws 2012, c. 304, § 565.

§68-2369. Reports by persons making payments to taxpayers - Withholding production payments for failure to file state income tax return.

A. Except as otherwise provided for in this section, all persons, banks or corporations, in whatever capacity acting, and whether or not otherwise exempted from taxation under this act, including lessees, mortgagors of real or personal property, fiduciaries, employers and all officers or employees of the state or of any political subdivision thereof, having the control, receipt, custody, disposal or payment of interest, income from real property and tangible personal property including rents, oil or gas production payments, and mining production payments, salaries, wages, premiums, annuities, compensation, remunerations, emoluments or other fixed or determinable annual or other periodical gains, profits or income, amounting to Seven Hundred Fifty Dollars (\$750.00) or over, paid or payable during any year, to any taxpayer, shall make

complete reports thereof, under oath, to the Tax Commission, under such rules and regulations, in such form and manner and to such extent, as may be prescribed by it.

B. Such reports may be required, regardless of amounts, (1) in case of payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations, and (2) in the case of dividend payments by corporations subject to the tax levied by this act and (3) in the case of any broker transacting any business, as such, for any individual subject to the provisions of this act. The Tax Commission may require such corporations to state the name and address of each shareholder, the number of shares owned by him and, in the case of a broker, it may require submission of the names of the customer for whom such broker transacted any business, with such details as to profits, losses or other information as the Tax Commission may require as to each such customer. Any reports required under this subsection shall likewise be rendered under oath, and in accordance with rules and regulations prescribed and adopted by the Tax Commission.

C. Complete reports shall be required, regardless of amounts and not limited to payments exceeding Seven Hundred Fifty Dollars (\$750.00), for all oil, gas, or mining production payments, paid or payable during any year, to any person, as defined in Section 202 of of this title. The Tax Commission may require any person or corporation making such production payments to report the total production payments made to any person during any calendar year, in addition to any other information necessary to calculate Oklahoma income tax upon such production payments. The Tax Commission may require such reports from any person or corporation making production payments for any time period prior to the effective date of this act based on payment records that such person or corporation is required to maintain by state or federal law. For purposes of this section, the term "production payment" means payments of proceeds generated from mineral interests in this state, including but not limited to, a lease bonus, delay rental, royalty and working interest payment, and overriding royalty interest payment.

D. 1. The Tax Commission, or its duly authorized agent, is authorized and empowered to issue orders to withhold all production payments to any person upon a determination that the person has failed to file a state income tax return as required by law reporting production payment income or has failed to pay state income tax. The order to withhold production payments shall be directed to the person or corporation making production payments and shall apply to all production payments that the person named within such order is entitled to until the return is filed and the income tax, penalty and interest are paid. Release of the order to withhold shall be mailed by the Tax Commission to the person or corporation withholding production payments upon the filing of the return and payment of the tax, penalty and interest by the person named within such order or upon payment of the tax, penalty and interest by the person or corporation withholding the production payment.

2. Upon receipt of the Tax Commission order to withhold production payments, the person or corporation making production payments, within thirty (30) days of receiving such order, shall:

- a. withhold payments for all production of the person named within such order until such order is released by the Tax Commission,
- b. hold in suspense all production payments subject to such order to withhold, and
- c. in the case of established delinquent income tax, upon receiving such order from the Tax Commission of such established delinquency, pay the tax, penalty and

interest out of the withheld production payments and receipt such tax payment to the taxpayer in lieu of cash in settlement for such production.

The order to withhold shall apply to production payments in any case where a successor person or corporation is required to make production payments and to production payments of subsequent production of minerals in this state. Any person or corporation that withholds production payments or pays same to the Tax Commission pursuant to such order is hereby relieved of all liability for such acts.

3. The Tax Commission shall mail notice to each delinquent taxpayer at the last-known address reported by the person or corporation making production payments at least twenty (20) days prior to issuance of an order to withhold production payments. The notice shall contain a statement that the taxpayer has failed to file an income tax return as required by law or has failed to pay delinquent income tax. An order to withhold production payments may be issued by the Tax Commission, or its duly authorized agent, for collection of any delinquent income tax, penalty and interest owed by the taxpayer entitled to production payments.

4. Any person or corporation making production payments who refuses or fails to file the reports required by this section, in the manner and at the time prescribed by the Tax Commission, shall be subject to a penalty in the amount of One Hundred Dollars (\$100.00) for each day such report is delinquent. Any person or corporation making production payments who refuses to withhold payments shall be subject to a penalty in the amount of One Hundred Dollars (\$100.00) for each payment made which was ordered to be withheld. All penalties assessed pursuant to this subsection shall be collected and apportioned in the same manner as the state income tax.

Amended by Laws 1986, c. 218, § 22, emerg. eff. June 9, 1986.

§68-2370. In lieu taxes for state, national banking associations and credit unions.

A. For taxable years beginning after December 31, 1989, for the privilege of doing business within this state, every state banking association, national banking association and credit union organized under the laws of this state, located or doing business within the limits of the State of Oklahoma shall annually pay to this state a privilege tax at the rate of six percent (6%) of the amount of the taxable income as provided in this section.

B. 1. The privilege tax levied by this section shall be in addition to the Business Activity Tax levied in Section 1218 of this title and the franchise tax levied in Article 12 of this title and in lieu of the tax levied by Section 2355 of this title and in lieu of all taxes levied by the State of Oklahoma, or any subdivision thereof, upon the shares of stock or personal property of any banking association or credit union subject to taxation under this section.

2. Nothing in this section shall be construed to exempt the real property of any banking associations or credit unions from taxation to the same extent, according to its value, as other real property is taxed. Nothing herein shall be construed to exempt an association from payment of any fee or tax authorized or levied pursuant to the banking laws.

3. Personal property which is subject to a lease agreement between a bank or credit union, as lessor, and a nonbanking business entity or individual, as lessee, is not exempt from personal property ad valorem taxation. Provided further, that it shall be the duty of the lessee of such personal property to return sworn lists or schedules of their taxable property within each county to the county assessor of such county as provided in Sections 2433 and 2434 of this title.

C. Any tax levied under this section shall accrue on the last day of the taxable year and be payable as provided in Section 2375 of this title. The accrual of such tax for the first taxable

year to which this act applies, shall apply notwithstanding the prior accrual of a tax in the same taxable year based upon the net income of the next preceding taxable year; provided, however, any additional deduction enuring to the benefit of the taxpayer shall be deducted in accordance with the optional transitional deduction procedures in Section 2354 of this title.

D. The basis of the tax shall be United States taxable income as defined in paragraph 10 of Section 2353 of this title and any adjustments thereto under the provisions of Section 2358 of this title with the following adjustments:

1. There shall be deducted all interest income on obligations of the United States government and agencies thereof not otherwise exempted and all interest income on obligations of the State of Oklahoma or political subdivisions thereof, including public trust authorities, not otherwise exempted under the laws of this state; and

2. Expense deductions claimed in arriving at taxable income under paragraph 10 of Section 2353 of this title shall be reduced by an amount equal to fifty percent (50%) of excluded interest income on obligations of the United States government or agencies thereof and obligations of the State of Oklahoma or political subdivisions thereof.

E. 1. Except as otherwise provided in paragraph 2 of this subsection, there shall be allowed a credit against the tax levied in subsection A of this section in an amount equal to the amount of taxable income received by a participating financial institution as defined in Section 90.2 of Title 62 of the Oklahoma Statutes pursuant to a loan made under the Rural Economic Development Loan Act. Such credit shall be limited each year to five percent (5%) of the amount of annual payroll certified by the Oklahoma Rural Economic Development Loan Program Review Board pursuant to the provisions of paragraph 3 of subsection B of Section 90.4 of Title 62 of the Oklahoma Statutes with respect to the loan made by the participating financial institution and may be claimed for any number of years necessary until the amount of total credits claimed is equal to the total amount of taxable income received by the participating financial institution pursuant to the loan. Any credit allowed but not used in a taxable year may be carried forward for a period not to exceed five (5) taxable years. In no event shall a credit allowed pursuant to the provisions of this subsection be transferable or refundable.

2. No credit otherwise authorized by the provisions of this subsection may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2010 for which the credit would otherwise be allowable. The provisions of this paragraph shall cease to be operative on July 1, 2012. Beginning July 1, 2012, the credit authorized by this subsection may be claimed for any event, transaction, investment, expenditure or other act occurring on or after July 1, 2012, according to the provisions of this subsection.

Added by Laws 1971, c. 137, § 20, emerg. eff. May 11, 1971. Amended by Laws 1971, H.J.R. No. 1026, p. 1043, § 2A22, emerg. eff. June 22, 1971; Laws 1983, c. 167, § 2, emerg. eff. June 6, 1983; Laws 1983, c. 300, § 1, emerg. eff. June 24, 1983; Laws 1986, c. 109, § 1, emerg. eff. April 9, 1986; Laws 1989, 1st Ex.Sess., c. 2, § 100, operative Jan. 1, 1990; Laws 1991, c. 128, § 13, emerg. eff. April 29, 1991; Laws 2002, c. 486, § 10, eff. Jan. 1, 2003; Laws 2010, c. 327, § 29, eff. July 1, 2010; Laws 2011, c. 1, § 32, emerg. eff. March 18, 2011.

NOTE: Laws 2010, S.J.R. No. 61, § 19 repealed by Laws 2011, c. 1, § 33, emerg. eff. March 18, 2011.

§68-2370.1. Credit against tax imposed by Section 2370.

A. There shall be allowed a credit against the tax imposed by Section 2370 of Title 68 of the Oklahoma Statutes for any state banking association, national banking association and credit

union organized under the laws of this state for the amount of the guaranty fee paid by the banking association or credit union to the United States Small Business Administration pursuant to the “7(a)” loan guaranty program.

B. The credit authorized by this section may be claimed for guaranty fees paid on or after January 1, 2000.

C. No credit may be claimed pursuant to this section if, pursuant to the agreement between the banking association or credit union and the entity to which proceeds are made available, the banking association or credit union adds the amount of the SBA 7(a) loan guaranty fee to the amount financed by the borrower or in any other way recovers the guaranty fee amount from the borrower.

D. The credit authorized by this section may be claimed and if not fully used in the initial year for which the credit is claimed may be carried over, in order, to each of the five (5) succeeding taxable years. The credit authorized by this section may not be used to reduce the tax liability of the credit claimant below zero (0).

E. The Oklahoma Tax Commission shall prepare a report regarding the amount of tax credits claimed as authorized by this section. The report shall be submitted to the Speaker of the House of Representatives and to the President Pro Tempore of the Senate not later than March 31 of each year.

Added by Laws 1999, c. 242, § 1, eff. Jan. 1, 2000.

§68-2370.2. Subchapter S elections.

A state banking association or national banking association having an election in effect under subchapter S of the Internal Revenue Code for any tax year beginning after December 31, 1996, in reporting items of income, loss, deductions and credits proportionately to its shareholders for inclusion in their taxable incomes, shall use as a basis items of income, loss, deductions and credits of such banking association as shown on its federal income tax return, subject to modifications as set forth in Sections 2358 and 2362 of this title.

Added by Laws 2000, c. 5, § 2, emerg. eff. March 14, 2000. Amended by Laws 2001, c. 319, § 2, eff. July 1, 2001.

§68-2370.3. Repealed by Laws 2013, c. 363, § 19, eff. Jan. 1, 2014.

§68-2372. Returns by banking institutions.

Every national banking association or state bank, subject to taxation under this act, shall make its return to the Tax Commission at the same time and in the same manner required of other corporations, as specified herein, and except to the manner of computing the net income subject to the tax levied by this act, each shall be subject to all other provisions of this act applicable to such other corporations.

Added by Laws 1971, c. 137, § 22, emerg. eff. May 11, 1971.

§68-2373. Payment of refunds - Extension of time.

If, upon any revision or adjustment, including overpayment or illegal payment on account of income derived from tax-exempt Indian land, any refund is found to be due any taxpayer, it shall be paid out of the “Income Tax Withholding Refund Account”, created by Section 2385.16 of this title, in the same manner as refunds are paid pursuant to such section. The information filed, reflecting the revision or adjustment, shall constitute the claim for refund.

Except as provided in subsection H of Section 2375 of this title, the amount of the refund shall not exceed the portion of the tax paid during the three (3) years immediately preceding the filing of the claim, or, if no claim was filed, then during the three (3) years immediately preceding the allowance of the refund. However, this three-year limitation shall not apply to the amount of refunds payable upon claims filed by members of federally recognized Indian tribes or the United States on behalf of its Indian wards or former Indian wards, to recover taxes illegally collected from tax-exempt lands. In the case of any refund to a member of a federally recognized Indian tribe or to the United States on behalf of its Indian wards or former Indian wards, to recover taxes illegally collected on bonus payments from oil and gas leases located on tax-exempt Indian lands pursuant to this section, the Tax Commission shall pay interest on all refunds issued after January 1, 1996, at the rate of six percent (6%) per annum from the date of payment by the taxpayer to the date of the refund.

In cases where the Tax Commission and the taxpayer have signed a consent, as provided by law, extending the period during which the tax may be assessed, the period during which the taxpayer may file a claim for refund or during which an allowance for a refund may be made shall be automatically extended to the final date fixed by such consent plus thirty (30) days.

The Oklahoma Tax Commission may authorize the use of direct deposit in lieu of refund checks for electronically filed income tax returns.

Added by Laws 1971, c. 137, § 23, emerg. eff. May 11, 1971. Amended by Laws 1971, p. 1043, H.J.R. No. 1026, § 2A24, emerg. eff. June 22, 1971; Laws 1979, c. 47, § 73, emerg. eff. April 9, 1979; Laws 1979, c. 264, § 10, emerg. eff. June 5, 1979; Laws 1985, c. 15, § 2, emerg. eff. April 11, 1985; Laws 1991, c. 342, § 22, emerg. eff. June 15, 1991; Laws 1993, c. 146, § 25; Laws 1996, c. 289, § 9, eff. July 1, 1996; Laws 1997, c. 294, § 23, eff. July 1, 1997.

§68-2374. Interest.

In the case of any refund to a taxpayer as provided in Section 226 of the Uniform Tax Procedure Code for taxes collected pursuant to this act, the Tax Commission shall pay interest thereon at the rate of six percent (6%) per annum from the date of payment by the taxpayer to the date of such refund. To the extent inconsistent herewith, Section 226 of the Uniform Tax Procedure Code is hereby superseded.

Amended by Laws 1983, c. 13, § 7, emerg. eff. March 23, 1983. x

§68-2375. Payment of tax - Delinquency - Penalties and interest - Assessment or refund during IRS extension.

A. At the time of transmitting the return required hereunder to the Oklahoma Tax Commission, the taxpayer shall remit therewith to the Tax Commission the amount of tax due under the applicable provisions of Section 2351 et seq. of this title. Failure to pay such tax on or before the date the return is due shall cause the tax to become delinquent. If the return is filed electronically, the amount of the tax due pursuant to the provisions of this article shall be due on or before the twentieth day of April following the close of the taxable year regardless of when the return is electronically filed. The tax shall be deemed delinquent if unpaid after the twentieth day of April if the return is electronically filed. Provided, if the Internal Revenue Code provides for a later due date for returns of individuals, the Tax Commission shall accept payments made with returns filed by individuals by such date and such payments shall be considered as timely paid.

B. If any tax due under Section 2351 et seq. of this title, except a deficiency determined under Section 221 of this title, is not paid on or before the date such tax becomes delinquent, a penalty of five percent (5%) of the total amount of the tax due shall be added thereto, collected and paid. However, the Tax Commission shall not collect the penalty assessed if the taxpayer remits the tax within thirty (30) days of the mailing of a proposed assessment or voluntarily pays the tax upon the filing of an amended return.

C. If any part of deficiency, arbitrary or jeopardy assessment made by the Tax Commission is based upon or occasioned by the refusal of any taxpayer to file with the Tax Commission any return as required by Section 2351 et seq. of this title, within ten (10) days after a written demand for such report or return has been served upon any taxpayer by the Tax Commission by registered letter with a return receipt attached, the Tax Commission may assess and collect, as a penalty, twenty-five percent (25%) of the amount of the assessment. In the exercise of the authority granted by subsection C of Section 223 and Section 224 of this title, the Tax Commission shall assess the tax as an estimated tax on the basis of its own determination of the Oklahoma taxable income of the taxpayer, to be adjusted if and when Oklahoma taxable income is ascertained under the provisions of Section 2351 et seq. of this title.

D. If any part of any deficiency was due to negligence or intentional disregard, without the intent to defraud, then ten percent (10%) of the total amount of the deficiency, in addition to such deficiency, including interest as authorized by law, shall be added, collected and paid.

E. If any part of any deficiency was due to fraud with intent to evade tax, then fifty percent (50%) of the total amount of the deficiency, in addition to such deficiency, including interest as herein provided, shall be added, collected and paid.

F. The provisions in this section for penalties shall supersede all other provisions for penalties on income taxes. The provisions in this section for penalties shall supersede the provisions in the Uniform Tax Procedure Code, Section 201 et seq. of this title, only to the extent of conflict between such provisions and the penalty provisions in this section.

G. All taxes, penalties and interest levied under Section 2351 et seq. of this title must be paid to the Tax Commission at Oklahoma City, in the form or remittance required by and payable to it.

H. 1. The period of time prescribed in Section 223 of this title, in which the procedures for the assessment of income tax may be commenced by the Tax Commission, shall be tolled and extended until the amount of taxable income for any year of a taxpayer under the Internal Revenue Code has been finally determined under applicable federal law and for the additional period of time hereinafter provided in this subsection.

2. If, in such final determination, the amount of taxable income for any year of a taxpayer under the Internal Revenue Code is changed or corrected from the amounts included in the federal return of the taxpayer for such year and such change or correction affects the Oklahoma taxable income of the taxpayer for such year, the taxpayer, within one (1) year after such final determination of the corrected taxable income, shall file an amended return under Section 2351 et seq. of this title reporting the corrected Oklahoma taxable income, and the Tax Commission shall make assessment or refund within two (2) years from the date the return required by this paragraph is filed and not thereafter, unless a waiver is agreed to and signed by the Tax Commission and the taxpayer.

3. In the event of failure by a taxpayer to comply with the provisions of paragraph 2 of this subsection, the statute of limitations shall be tolled for a period of time equal to the time

between the date the amended return under this subsection is required until such return is actually furnished.

4. In administering the provisions of this subsection, the Tax Commission shall have the authority to audit each and every item of income, deduction, credit or any other matter related to the return where such items or matters relate to allocation or apportionment between the State of Oklahoma and some other state or the federal government even if such items or matters were not affected by revisions made in such final determination. Where such items or matters do not relate to allocation or apportionment between the State of Oklahoma and some other state or the federal government, the Tax Commission shall be bound by the revisions made in such final determination.

5. The provisions of this subsection shall be effective on September 1, 1993, and except in the case of tax years which are the subject of closing, settlement or resolution agreements entered into by taxpayers and the Tax Commission, keep open all tax years beginning after June 30, 1988, and all tax years beginning on or before June 30, 1988, for which extensions of the statute of limitations have been executed by the taxpayer, but only to the extent such extensions remain open on the date of enactment hereof.

Added by Laws 1971, c. 137, § 25, emerg. eff. May 11, 1971. Amended by Laws 1986, c. 218, § 23, emerg. eff. June 9, 1986; Laws 1989, c. 249, § 33, eff. Jan. 1, 1990; Laws 1992, c. 172, § 2, emerg. eff. May 5, 1992; Laws 1993, c. 273, § 7, emerg. eff. May 27, 1993; Laws 1994, c. 278, § 28, eff. Sept. 1, 1994; Laws 1997, c. 294, § 24, eff. July 1, 1997; Laws 1998, c. 385, § 10, eff. Nov. 1, 1998; Laws 2002, c. 458, § 13, eff. July 1, 2002; Laws 2007, c. 155, § 13, eff. Nov. 1, 2007.

§68-2376. False return - Failure to return - Prosecution - Penalty.

A. Any person, natural or corporate, or any officer or agent of any corporation who, with the intent to defraud the state or evade the payment of any income tax, shall fail to file a state income tax return when such person is required to do so by the statutes of Oklahoma, and within the time in which such returns are required to be filed, or within a time extension if obtained from the Tax Commission shall be guilty, upon conviction, of a felony and shall be punished as provided for in Section 240.1 of this title.

B. Any person, natural or corporate, or any officer or agent of any corporation who, with the intent to defraud the state, or evade the payment of any income tax, files a state income tax return which is false in any material items or particular, shall be guilty, upon conviction, of a felony and shall be punished as provided for in subsection A of Section 241 of this title.

C. Nothing in this section shall be construed to prevent the state or any agency thereof from collecting any fees or penalties as provided by law. Any corporate violator may be so fined.

D. Offenses defined in this section shall be reported to the appropriate district attorney of this state by the Oklahoma Tax Commission as soon as said offenses are discovered by the Commission or its agents or employees. Any other provision of law to the contrary notwithstanding, the Commission shall make available to the appropriate district attorney, or to the authorized agent of said district attorney, its records and files pertinent to such prosecutions, and such records and files shall be fully admissible for the purpose of such prosecutions.

Added by Laws 1971, c. 137, § 26, emerg. eff. May 11, 1971. Amended by Laws 1986, c. 218, § 24, emerg. eff. June 9, 1986; Laws 1997, c. 133, § 564, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 564 from July 1, 1998, to July 1, 1999.

§68-2377. Prosecutions for failure to file income tax return or for filing false return.

Offenses defined by Title 68, O.S. 1961, Section 919, shall be reported to the appropriate county or district attorney of this State by the Oklahoma Tax Commission as soon as said offenses are discovered by the Commission or its agents or employees. Any other provision of law to the contrary notwithstanding, the Commission shall make available to the appropriate county or district attorney, or to the authorized agent of said county or district attorney, its records and files pertinent to such prosecutions, and such records and files shall be fully admissible for the purpose of such prosecutions.

Laws 1967, c. 334, § 7, emerg. eff. May 18, 1967.

§68-2378. Other taxes not in lieu of income tax.

All taxes, required to be paid under any other law of this state in which law it is stated either, that such taxes are to be in lieu of other taxes, or that the property on which the tax is levied shall be subject to no other form of tax than therein provided, are hereby declared to be in lieu of general ad valorem property taxes, and shall not be construed to be in lieu of the net income tax hereby levied.

Added by Laws 1971, c. 137, § 27, emerg. eff. May 11, 1971.

§68-2379. Taxes levied by prior laws.

This act shall not release, extinguish or otherwise affect the liability of any person or property for taxes that shall have accrued, or become payable or owing, under any law repealed by this act, and which shall have not been paid when this act becomes effective. All such taxes shall remain payable and be subject to the laws levying same to the same extent as if this act had not been enacted, and when collected shall be apportioned or distributed as provided by such laws. All remedies for the collection of unpaid taxes, existing or available when this act becomes effective, shall be available for the collection of taxes due under such prior laws or due under this act, and this act shall not affect any proceeding or action commenced before the effective date hereof, or any proceeding or action pending when this act becomes effective.

Added by Laws 1971, c. 137, § 28, emerg. eff. May 11, 1971.

§68-2381. Applicability of act to taxable years.

The provisions of this act shall apply to all taxpayers whose taxable year begins on and after January 1, 1971; provided, however, that in respect to any taxpayer whose taxable year begins in 1970 and ends in 1971, such taxpayer may, at his option, determine his tax under this act or compute his tax liability for such fiscal year ending in 1971, by using the sum of the computations of 1, and 2, as follows:

1. The tax computed under the provisions of the law applicable to the calendar year 1970, multiplied by the ratio of the number of months of the year in 1970, to the total number of months of the taxable year.

2. The tax computed under the provisions of this law applicable to the calendar year 1971, multiplied by the ratio of the number of months of the year in 1971, to the total number of months of the taxable year.

Added by Laws 1971, c. 137, § 30, emerg. eff. May 11, 1971.

§68-2382. Invalidity clause.

If any of the provisions of this act shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity or constitutionality of any of the other provisions of this act.

Added by Laws 1971, c. 137, § 31, emerg. eff. May 11, 1971.

§68-2385. Specified tax return preparers – Electronic filing.

Any specified tax return preparer shall file all individual income tax returns prepared by such preparer by electronic means. The term “specified tax return preparer” shall have the same meaning as provided in Section 6011 of the Internal Revenue Code of 1986, as amended. The preparation of a substantial part of a return or claim for refund is treated as if it were the preparation of the entire return or claim for refund. This section shall apply to all returns filed after December 31, 2010.

Added by Laws 2003, c. 472, § 21. Amended by Laws 2010, c. 419, § 4, eff. Nov. 1, 2010.

§68-2385.1. Definitions.

When used in the remaining sections of this article, the following terms shall, unless the context otherwise requires, have the following meanings:

- (a) The term “Tax Commission” shall mean the Oklahoma Tax Commission;
- (b) The term “employer” shall mean any person (including any individual, fiduciary, estate, trust, partnership, limited liability company or corporation) transacting business in or deriving any income from sources within the State of Oklahoma for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that if the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term “employer” shall mean the person having control of the payment of such wages. As used in the preceding sentence, the term “employer” includes any limited liability company, corporation, individual, estate, trust, or organization which is exempt from taxation under this article. The term “employer” shall not include those nonresident employers who have no office, warehouse, or place of business in Oklahoma and whose transactions are limited to the solicitation of orders for merchandise, which orders are filled from a point without the state and delivered directly from said point to the purchaser in Oklahoma;
- (c) The term “employee” shall mean any “resident individual,” as defined by Section 2353 of this title, performing services for an employer, either within or without, or both within and without, the State of Oklahoma, and every other individual performing services within the State of Oklahoma, the performance of which services constitutes, establishes, and determines the relationship between the parties as that of employer and employee. As used in the preceding sentence, the term “employee” includes an officer of a corporation and an officer, employee, or elected official of the United States, a state, territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing;
- (d) The term “taxpayer” is as defined by Section 2353 of this title, other than estates;
- (e) The term “wages” shall have the same meaning as used in the Internal Revenue Code, 26 U.S.C., Section 1 et seq., except as otherwise provided in this section and article. “Wages” shall not include remuneration paid:

- (1) for services paid to an employee in connection with farming activities where the amount paid is Nine Hundred Dollars (\$900.00) or less monthly; or
- (2) for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority; or
- (3) for service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is Two Hundred Dollars (\$200.00) or more; or
- (4) for services performed in the state by a person who is not a "resident individual," whose income in any calendar quarter is not more than Three Hundred Dollars (\$300.00); or
- (5) for services performed by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; and

(f) The term "winnings subject to withholding" shall have the same meaning as used in the Internal Revenue Code, 26 U.S.C., Section 1 et seq., and shall apply to transactions in this state. Added by Laws 1965, c. 530, § 2, emerg. eff. July 24, 1965. Renumbered from § 2330 by Laws 1971, c. 137, § 32, emerg. eff. May 11, 1971. Amended by Laws 1977, c. 104, § 1, emerg. eff. May 30, 1977; Laws 1990, c. 339, § 7, emerg. eff. May 31, 1990; Laws 1991, c. 342, § 23, eff. Jan. 1, 1992; Laws 1993, c. 366, § 46, eff. Sept. 1, 1993; Laws 1994, c. 278, § 29, eff. Sept. 1, 1994.

§68-2385.2. Amount to be withheld.

A. Every employer making payment of wages shall deduct and withhold from the wages paid each employee a tax in an amount determined in accordance with a table fixing graduated rates of tax to be withheld, which table shall be devised by the Oklahoma Tax Commission and fix the rate of such tax to be withheld from each employee as a percentage of the amount of federal income tax withheld under the Internal Revenue Code, and/or a percentage of the amount of salary paid to the employee, giving consideration to the approximate amount of the state tax liability of any such employee, if such employee-taxpayer were to elect to use the standard deduction. Such table shall be published by the Oklahoma Tax Commission and furnished to all employers filing income withholding tax returns as required by law.

B. Whenever the amount to be withheld from the wages of an employee is calculated to total less than twenty-five cents (\$0.25) in any quarterly period of a year, the provisions of subsection A of this section shall not apply.

C. Every person, including the government of the United States, a state or a political subdivision thereof or any instrumentalities of the foregoing, making any payment of winnings which are subject to withholding shall deduct and withhold from such payment a tax in an amount equal to four percent (4%) of such payment.

Added by Laws 1965, c. 530, § 2, emerg. eff. July 24, 1965. Renumbered from § 2331 by Laws 1971, c. 137, § 32, emerg. eff. May 11, 1971. Amended by Laws 1971, p. 1041, H.J.R. No. 1026, § 1, emerg. eff. June 22, 1971; Laws 1990, c. 339, § 8, emerg. eff. May 31, 1990; Laws 1994, c. 278, § 30, eff. Sept. 1, 1994.

§68-2385.3. Payment of taxes to Tax Commission - Statement to employee - Failure to withhold or pay over.

A. Every employer required to deduct and withhold taxes under Section 2385.2 of this title shall pay over the amount so withheld as taxes to the Oklahoma Tax Commission pursuant to the schedule outlined in paragraphs 1 through 3 of this subsection, and shall file a quarterly return in such form as the Tax Commission shall prescribe on or before the twentieth day of the month following the close of each calendar quarter:

1. Every employer required to remit federal withholding under the Federal Semiweekly Deposit Schedule shall pay over the amount so withheld under subsection A of this section on the same dates as required under the Federal Semiweekly Deposit Schedule for federal withholding taxes;

2. Every employer owing an average of Five Hundred Dollars (\$500.00) or more per quarter in taxes in the previous fiscal year who is not subject to the provisions of paragraph 1 of this subsection shall pay over the amount so withheld on or before the twentieth day of each succeeding month; and

3. Every employer owing an average of less than Five Hundred Dollars (\$500.00) per quarter in taxes in the previous fiscal year shall pay over the amount so withheld on or before the twentieth day of the month following the close of each succeeding quarterly period.

B. Every employer subject to the provisions of paragraph 1 of subsection A of this section shall file returns pursuant to the Tax Commission's electronic data interchange program.

C. Every employer required under Section 2385.2 of this title to deduct and withhold a tax from the wages paid an employee shall, as to the total wages paid to each employee during the calendar year, furnish to such employee, on or before January 31 of the succeeding year, a written statement showing the name of the employer, the name of the employee and the employee's social security account number, if any, the total amount of wages subject to taxation, and the total amount deducted and withheld as tax and such other information as the Tax Commission may require. If an employee's employment is terminated before the close of a calendar year, the written statement must be furnished within thirty (30) days of the date of which the last payment of wages is made.

D. If the Tax Commission, in any case, has justifiable reason to believe that the collection of the tax provided for in Section 2385.2 of this title is in jeopardy, the Tax Commission may require the employer to file a return and pay the tax at any time.

E. Every employer who fails to withhold or pay to the Tax Commission any sums herein required to be withheld or paid shall be personally and individually liable therefor to the State of Oklahoma. The term "employer" as used in this subsection and in Section 2385.6 of this title includes an officer or employee of a corporation, manager or member of a limited liability company or a member or employee of a partnership, who as an officer or employee of a corporation, or manager or member of a limited liability company or member or employee of a partnership is under a duty to act for a corporation, limited liability company or partnership to withhold and remit withholding taxes in accordance with this section and Section 2385.2 of this title. Any sum or sums withheld in accordance with the provisions of Section 2385.2 of this title shall be deemed to be held in trust for the State of Oklahoma, and, as trustee, the employer shall have a fiduciary duty to the State of Oklahoma in regard to such sums and shall be subject to the trust laws of this state.

F. If any employer fails to withhold the tax required to be withheld by Section 2385.2 of this title and thereafter the income tax is paid by the employee, the tax so required to be withheld shall not be collected from the employer but such employer shall not be relieved from the liability for penalties or interest otherwise applicable because of such failure to withhold the tax.

G. Every person making payments of winnings subject to withholding shall, for each monthly period, on or before the twentieth day of the month following the payment of such winnings pay over to the Tax Commission the amounts so withheld, and shall file a return, in a form as prescribed by the Tax Commission.

H. Every person making payments of winnings subject to withholding shall furnish to each recipient on or before January 31 of the succeeding year a written statement in a form as prescribed by the Tax Commission. Every person making such reports shall also furnish a copy of such report to the Tax Commission in a manner and at a time as shall be prescribed by the Tax Commission.

Added by Laws 1965, c. 530, § 2, emerg. eff. July 24, 1965. Amended by Laws 1968, c. 200, § 1. Renumbered from § 2332 of this title by Laws 1971, c. 137, § 32, emerg. eff. May 11, 1971. Amended by Laws 1983, c. 13, § 6, emerg. eff. March 23, 1983; Laws 1986, c. 218, § 25, emerg. eff. June 9, 1986; Laws 1990, c. 339, § 9, emerg. eff. May 31, 1990; Laws 1991, c. 342, § 24, emerg. eff. June 15, 1991; Laws 1993, c. 366, § 47, eff. Sept. 1, 1993; Laws 1998, c. 427, § 5, eff. Jan. 1, 1999; Laws 1998, 1st Ex. Sess., c. 1, § 12, eff. Jan. 1, 1999; Laws 1999, c. 320, § 30, operative July 1, 1999; Laws 2002, c. 460, § 40, eff. Nov. 1, 2002; Laws 2003, c. 472, § 22; Laws 2005, c. 479, § 20, eff. July 1, 2006; Laws 2009, c. 426, § 12, eff. Nov. 1, 2009; Laws 2012, c. 357, § 8, eff. July 1, 2012.

§68-2385.4. Overpayments.

When an employer believes that he has made an overpayment of the tax required to be paid under Section 2385.3, he may file an application with the Tax Commission on a form approved by it either to have the amount of such overpayment refunded to him or to have the sum credited against the payment which he is required to make for a subsequent period, but such refund or credit shall be made or allowed to the employer only to the extent that the amount of such overpayment was not withheld under Section 2385.2 by the employer. Any employer aggrieved by the refusal of the Tax Commission to refund in accordance with an application duly filed by him may pursue the remedies provided in Article 2 of this Code, the Uniform Tax Procedure Law.

Added by Laws 1965, c. 530, § 2. Amended by Laws 1968, c. 200, § 2. Renumbered from Title 68, § 2333 by Laws 1971, c. 137, § 32, emerg. eff. May 11, 1971.

§68-2385.5. Credit as taxes paid.

The amount deducted and withheld as tax under Section 2385.2 of this title during any calendar year shall be allowed as a credit to the recipient of the income as income taxes paid. Laws 1965, c. 530, § 2. Amended by Laws 1990, c. 339, § 10, emerg. eff. May 31, 1990.

§68-2385.6. Penalty for failure to pay over or file return - Failure to furnish statement to employee.

A. If an employer fails to file a return or to pay to the Oklahoma Tax Commission the withholding tax within the time prescribed by this article, there shall be imposed on him a penalty equal to ten percent (10%) of the amount of tax, or ten percent (10%) of the amount of the underpayment of tax, if such failure is not corrected within fifteen (15) days after the tax becomes delinquent. There shall also be imposed on such employer interest at the rate of one and one-quarter percent (1 1/4%) per month during the period such underpayment exists. For the purposes of this paragraph, "underpayment" shall mean the excess of the amount of the tax

required to be paid over the amount thereof actually paid on or before the date prescribed therefor. Such penalty and interest shall be added to and become a part of the tax assessed. However, the Tax Commission shall not collect the penalty assessed if the taxpayer remits the tax within sixty (60) days of the mailing of a proposed assessment or voluntarily pays the tax upon the filing of an amended return.

B. Any employer who is required under the provisions of Section 2385.3 of this title to furnish a statement to an employee, but who willfully fails to furnish such employee the statement required by said section, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not exceeding One Hundred Dollars (\$100.00), or by imprisonment for not more than six (6) months in the county jail, or by both such fine and imprisonment for each such offense.

C. The provisions of subsections A and B of this section shall also apply to every person making payments of winnings subject to withholding.

Added by Laws 1965, c. 530, § 2, emerg. eff. July 24, 1965. Renumbered from Title 68, § 2335 by Laws 1971, c. 137, § 32, emerg. eff. May 11, 1971. Amended by Laws 1986, c. 218, § 26, emerg. eff. June 9, 1986; Laws 1988, c. 87, § 3, operative July 1, 1988; Laws 1990, c. 339, § 11, emerg. eff. May 31, 1990; Laws 1998, c. 385, § 11, eff. Nov. 1, 1998; Laws 2005, c. 479, § 21, eff. July 1, 2005; Laws 2012, c. 357, § 9, eff. July 1, 2012.

§68-2385.7. Declaration of estimated tax.

A. Except as provided in subsection B of this section, every taxpayer, as defined by Section 2353 of this title, shall make estimated tax payments for the taxable year if:

1. In the case of a single individual taxpayer, the tax liability of the taxpayer can reasonably be expected to be Five Hundred Dollars (\$500.00) or more in excess of taxes to be withheld from wages;

2. In the case of married individuals, the combined tax liability of the married individuals can reasonably be expected to be Five Hundred Dollars (\$500.00) or more in excess of taxes to be withheld from wages; or

3. In the case of a corporation or trust, the tax of the corporation or trust for the taxable year can reasonably be expected to be Five Hundred Dollars (\$500.00) or more.

B. Subsection A of this section shall not apply to:

1. Estates; and

2. Any individual whose gross income from farming for the taxable year is at least sixty-six and two-thirds percent (66 2/3%) of the total estimated gross income from all sources for the taxable year. However, if an individual whose gross income from farming qualifies pursuant to the provisions of this paragraph for the previous taxable year, the individual shall not be required to qualify for the current taxable year. In no event shall the qualification for the previous taxable year be carried forward for more than one (1) year.

Added by Laws 1965, c. 530, § 2, emerg. eff. July 24, 1965. Renumbered from § 2336 of this title by Laws 1971, c. 137, § 32, emerg. eff. May 11, 1971. Amended by Laws 1989, c. 249, § 34, eff. Jan. 1, 1990; Laws 1997, c. 294, § 25, eff. July 1, 1997; Laws 2000, c. 314, § 21, eff. July 1, 2000.

§68-2385.8. Repealed by Laws 2000, c. 314, § 31, eff. July 1, 2000.

§68-2385.9. Payment of estimated tax.

A. The required annual payment of estimated tax shall be paid in four equal installments as follows:

1. In the case of a taxpayer on a calendar year basis, the first installment shall be paid on April 15 of the taxable year, the second and third on June 15 and September 15, respectively, of the taxable year and the fourth on January 15 of the succeeding taxable year. However, if taxpayer files return and pays tax due on or before January 31, the payment of the installment due January 15 is waived; and

2. In the application of this section to the case of a taxable year beginning on any date other than January 1, there shall be substituted, for the months specified in this section, the months which correspond thereto.

B. As used in this section, the "required annual payment" shall mean the lesser of:

1. Seventy percent (70%) of the tax shown on the return for the taxable year; or

2. One hundred percent (100%) of the tax shown on the return for the preceding taxable year of twelve (12) months.

C. For purposes of determining the amount of tax due on any of the respective dates, taxpayers may compute the tax by placing taxable income on an annualized basis as prescribed by rules promulgated by the Tax Commission, which shall be in accordance with the annualization provisions of the Internal Revenue Code. For corporate taxpayers, the annualization provisions found in Section 6655(e)(2)(c) and 6655(e)(3) of the Internal Revenue Code may not be used. The provisions allowed in this section for computing estimated taxes on an annualized basis shall only be permitted for a taxable year of twelve (12) months.

Added by Laws 1965, c. 530, § 2, emerg. eff. July 24, 1965. Renumbered from § 2338 of this title by Laws 1971, c. 137, § 32, emerg. eff. May 11, 1971. Amended by Laws 1989, c. 249, § 35, eff. Jan. 1, 1990; Laws 1997, c. 294, § 26, eff. July 1, 1997; Laws 2000, c. 314, § 22, eff. July 1, 2000.

§68-2385.10. Refunds - Filing of return as constituting claim.

In the event that the completed return of the taxpayer discloses a refund to be due by reason of the credits for withholding and/or estimated taxes previously paid, the filing of such tax return shall constitute a claim for refund of the excess.

Added by Laws 1965, c. 530, § 2, emerg. eff. July 24, 1965. Renumbered from Title 68, § 2339 by Laws 1971, c. 137, § 32, emerg. eff. May 11, 1971.

§68-2385.11. Extensions of time for filing declarations and payment of tax.

The Tax Commission may allow reasonable extensions of time for the filing of declarations of estimated tax and the payment of said tax. No extensions shall be granted for more than two (2) months, except in the case of taxpayers who are outside the continental limits of the United States in which case, at the discretion of the Tax Commission, a longer period may be granted.

Added by Laws 1965, c. 530, § 2, emerg. eff. July 24, 1965. Renumbered from Title 68, § 2340 by Laws 1971, c. 137, § 32, emerg. eff. May 11, 1971.

§68-2385.12. Repealed by Laws 2000, c. 314, § 31, eff. July 1, 2000.

§68-2385.13. Amount of estimate - Penalty for underestimating.

A. In the case of any underpayment of the estimated tax payment required in Section 2385.9 of this title, there shall be added to the amount of the underpayment interest thereon at an annual rate of twenty percent (20%) for the period of the underpayment.

B. As used in subsection A of this section, the amount of the underpayment shall be the excess of the required installment over the amount paid on or before the due date of the installment. The period of underpayment shall run from the due date of the required installment to the earlier of the fifteenth day of the fourth month, or for corporations, the fifteenth day of the third month, following the close of the taxable year or the date on which the required installment is paid.

C. No addition to tax shall be imposed under subsection A of this section if the tax shown on the return for the taxable year is less than One Thousand Dollars (\$1,000.00) or if the taxpayer was an Oklahoma resident throughout the preceding taxable year of twelve (12) months and did not have any liability for tax for the preceding taxable year.

Added by Laws 1965, c. 530, § 2, emerg. eff. July 24, 1965. Renumbered from § 2342 of this title by Laws 1971, c. 137, § 32, emerg. eff. May 11, 1971. Amended by Laws 1971, p. 1041, H.J.R. No. 1026, § 4, emerg. eff. June 22, 1971; Laws 1972, c. 252, § 5, emerg. eff. April 7, 1972; Laws 1986, c. 218, § 27, emerg. eff. June 9, 1986; Laws 1988, c. 87, § 4, operative July 1, 1988; Laws 1996, c. 42, § 1, eff. July 1, 1996; Laws 2000, c. 314, § 23, eff. July 1, 2000.

§68-2385.14. Taxes as payment on account.

All taxes deducted and withheld by an employer pursuant to Section 2385.2 and all taxes paid to the Tax Commission by taxpayers hereunder shall be deemed and credited as payments on account of the tax levied on income for the taxable year.

Added by Laws 1965, c. 530, § 2, emerg. eff. July 24, 1965. Renumbered from Title 68, § 2343 by Laws 1971, c. 137, § 32, emerg. eff. May 11, 1971.

§68-2385.15. Administration.

The administration of the provisions of Sections 2385.1 through 2385.19, inclusive, is vested in the Tax Commission. All forms necessary and proper for the enforcement of such provisions shall be prescribed and furnished by the Tax Commission, and the Tax Commission may promulgate rules and regulations to enforce such provisions, if not inconsistent with such provisions, as may be reasonably necessary to make practical the administration thereof, including the use of a bracket or tables closely approximating the amount required to be withheld under the provisions of Section 2385.2. In cases where employers have difficulty in determining the exact amount of wages earned by employees in this State, the Tax Commission may enter into an agreement with such employers as may be deemed most practical.

Added by Laws 1965, c. 530, § 2, emerg. eff. July 24, 1965. Renumbered from Title 68, § 2344 by Laws 1971, c. 137, § 32, emerg. eff. May 11, 1971.

§68-2385.16. Deposit of payments - Refunds - Method of refunds.

A. All payments received by the Oklahoma Tax Commission transmitted by employers for taxes withheld from employees and all payments received by the Tax Commission from taxpayers as herein provided shall be deposited with the State Treasurer in the Tax Commission's Official Depository Clearing Account and be designated Income Tax Withholding Funds. These funds shall be under the exclusive control of the Tax Commission. The Tax Commission is empowered and directed each month to transfer the amount thereof which the

Tax Commission estimates to be necessary to make tax refunds to a separate account designated as the Income Tax Withholding Refund Account, and to make apportionments from such funds remaining in said Official Depository Clearing Account, of the amount it considers available for distribution as income taxes collected. The Tax Commission shall maintain a balance in the refund account sufficient to cover anticipated tax refunds.

All warrants drawn against such refund account as provided in the preceding subsection which are not presented for payment within ninety (90) days of issuance thereof shall be void.

Persons entitled to refunds of monies represented by warrants which are not presented for payment within ninety (90) days from the date of issuance thereof may file claims for refund at any time within three (3) years from the due date of the return. Such claims shall be filed and paid under the provisions of Section 2373 of this Code, and if allowed shall be paid under the provisions of such section. An income tax refund warrant which was not presented for payment within ninety (90) days from the date of issuance or reissued for a like amount up to three (3) years from the date of issuance of the original warrant shall be subject to reporting and remittance to the Oklahoma State Treasurer pursuant to the Uniform Unclaimed Property Act.

B. Neither the Tax Commission nor any member or employee thereof shall be held personally liable for making any refund by reason of a fraudulent withholding certificate being used as a basis for such refund.

C. The Oklahoma Tax Commission may use a direct deposit system and card-based disbursement system in lieu of checks or warrants for the purposes of issuing refunds for overpayment of individual income taxes. Notwithstanding the provisions of Section 205 of this title, the Tax Commission may enter into a contract with, and release taxpayer information to, entities deemed to be qualified by the Tax Commission to implement the card-based disbursement system. The Tax Commission shall not release to any entity contracted with pursuant to this section the full social security number of taxpayers opting to receive a refund through the card-based disbursement system.

Added by Laws 1965, c. 530, § 2, emerg. eff. July 24, 1965. Renumbered from Title 68, § 2345 by Laws 1971, c. 137, § 32, emerg. eff. May 11, 1971. Amended by Laws 1985, c. 15, § 3, emerg. eff. April 11, 1985; Laws 1988, c. 204, § 15, operative July 1, 1988; Laws 1992, c. 28, § 1, emerg. eff. April 2, 1992; Laws 2004, c. 535, § 14, eff. Nov. 1, 2004; Laws 2011, c. 364, § 4.

§68-2385.17. Refund - Credit against estimated income tax - Necessity for withholding certificate - Effect of refund.

Any amount withheld or paid by estimate in excess of the amount due shown by a return filed by any employee shall be refunded to said employee. The Tax Commission shall prescribe regulations providing for the crediting against the estimated income tax for any taxable year of the amount determined by the taxpayer or Tax Commission to be an overpayment of the income tax for a preceding taxable year. In order to obtain a credit against the tax due or a refund, said employee shall attach to his return a legible copy of the withholding certificate required to be furnished to said employee by his employer, as provided for by Section 2385.3 of this title. The Tax Commission may delay making any refund until such time as the claim may be verified by audit, or if the employee is delinquent in the filing of prior returns. The making of any refund shall not be a conclusive finding of the tax due by any individual but shall be made subject to the future audit of his return and the determination of his liability.

Amended by Laws 1983, c. 275, § 12, emerg. eff. June 24, 1983; Laws 1986, c. 218, § 28, emerg. eff. June 9, 1986.

§68-2385.18. Procedures and remedies.

In administering the withholding tax required by the foregoing provisions, except when specific provisions require otherwise, the Tax Commission shall follow other provisions of this Article, insofar as the same can be followed and applied, and it is specifically provided that in all other instances the procedures and remedies contained in Article 2 of this Code, in connection with the making of assessments and the enforcement and collection thereof, the penalties and interest to be applied, all lien and tax warrant provisions, all incidental remedies including proceedings for an injunction, and any and all other provisions contained in Article 2 which may be applied or used to enforce the provisions hereof, shall be available and applicable to the same extent as if same were made a part hereof.

Added by Laws 1965, c. 530, § 2, emerg. eff. July 24, 1965. Renumbered from Title 68, § 2347 by Laws 1971, c. 137, § 32, emerg. eff. May 11, 1971.

§68-2385.19. Agreement with Treasury Secretary of United States.

The Tax Commission is hereby authorized and directed to make an agreement with the Secretary of the Treasury of the United States with respect to withholding of income tax as provided by this Article, pursuant to an Act of Congress, 66 Stat. 765, Ch. 940; Pub. L. 587; 5 USCA Sections 84b, 84c, July 17, 1952, and Executive Order No. 10407, 17 F.R. 10132, November 7, 1952.

Added by Laws 1965, c. 530, § 2, emerg. eff. July 24, 1965. Renumbered from Title 68, § 2348 by Laws 1971, c. 137, § 32, emerg. eff. May 11, 1971.

§68-2385.20. Lists of persons filing tax returns.

Notwithstanding the provisions of a section of the Uniform Tax Procedure Act, as same now exists or as same may hereafter be amended, making the records and files of the Oklahoma Tax Commission relating to all state tax laws privileged and confidential, the Oklahoma Tax Commission shall as soon as practicable in each year cause to be prepared and made available to the public inspection in the offices of the Oklahoma Tax Commission in Oklahoma City, Oklahoma, in such manner as it may determine, lists containing the name and post-office address of each person, whether individual, corporate or otherwise, making and filing an income tax return with the Oklahoma Tax Commission.

It is specifically provided that no liability whatsoever, civil or criminal, shall attach to any member of the Oklahoma Tax Commission or any employee thereof, for any error or omission of any name or address, in the preparation and publication of said list.

It is further provided that the provisions of this Act shall be strictly interpreted and shall not be construed as permitting the disclosure of any other information contained in the records and files of the Tax Commission relating to income tax or to any other taxes.

Added by Laws 1965, c. 530, § 2, emerg. eff. July 24, 1965. Renumbered from Title 68, § 2349 by Laws 1971, c. 137, § 32, emerg. eff. May 11, 1971.

§68-2385.23. Employer's surety bond.

A. The Oklahoma Tax Commission may require every employer who is delinquent or becomes delinquent in the withholding and remitting of taxes as required by the provisions of Sections 2385.1 through 2385.22 of Title 68 of the Oklahoma Statutes to furnish to the Tax Commission a bond from a surety company chartered or authorized to do business in this state,

cash bond, certificates of deposits, certificates of savings or U.S. Treasury bonds, or an assignment of negotiable stocks or bonds, as the Tax Commission may deem necessary to secure the withholding and remitting of taxes levied pursuant to the Oklahoma Income Tax Act.

B. Any surety bond furnished pursuant to this section shall be a continuing instrument and shall constitute a new and separate obligation in the sum stated therein for each calendar year or a portion thereof while such bond is in force. Such bond shall remain in effect until the surety or sureties are released and discharged by the Tax Commission.

C. The Tax Commission shall fix the amount of such bond or other security required in each case after considering the estimated tax liability of such employer. Such bond shall not be greater than an amount equal to three times the amount of the average quarterly tax liability of such employer. Any bond or security shall be such as will protect this state against failure of an employer to withhold and remit the taxes levied pursuant to the Oklahoma Income Tax Act. Added by Laws 1986, c. 218, § 29, emerg. eff. June 9, 1986.

§68-2385.24. State, county and municipal retirement systems - Withholding.

Beginning July 1, 1989, all state and county retirement systems whose benefits were exempt from state income taxation prior to January 1, 1989, and all municipal retirement systems whose benefits were subject to state income taxation prior to January 1, 1989, shall begin to withhold monies, as required by Sections 2385.1 et seq. of this title, for state income tax purposes from the benefits paid to each member of the retirement systems, unless the member requests the retirement system not to withhold monies for state income tax purposes.

§68-2385.25. Definitions.

As used in this section through Section 2385.28 of this title:

1. "Oil" and "gas" shall be defined as such terms are defined in Section 1001.2 of this title;
2. "Remitter" means any person who distributes revenue to royalty interest owners; and
3. "Royalty interest owner" means any person who retains a non-working interest in oil or gas production.

Added by Laws 2000, c. 315, § 6, eff. Oct. 1, 2000. Amended by Laws 2001, c. 402, § 3, eff. July 1, 2001.

§68-2385.26. Royalty interest owner - Withholding and deducting - Exceptions.

A. Each remitter, except as otherwise provided in subsection B of this section, shall deduct and withhold from each payment being made to any royalty interest owner in respect to production of oil and gas in this state, but not including that to which the remitter is entitled, an amount equal to five percent (5%) of the gross amount which would have otherwise been payable to the person entitled to the payment.

B. The obligation to deduct and withhold from payments as provided in subsection A of this section does not apply to those payments which are made to:

1. Current or permanent residents of Oklahoma;
2. The United States, this state or any state or federal agency or political subdivision;
3. Any charitable institution; or
4. Any federally recognized Indian tribe.

The obligation to deduct and withhold from payments as provided in subsection A of this section does not apply if the remitter and the royalty interest owner are the same person.

C. Any royalty interest owner from whom an amount is withheld pursuant to the provisions of subsection A of this section, or if the royalty interest owner is not liable to the State of Oklahoma for income taxes, any person to whom a royalty interest owner subsequently distributes royalty payments with respect to which an amount is withheld pursuant to the provisions of subsection A of this section, and who files an income tax return with this state is entitled to a credit against the tax as shown on the return for the amount withheld by the remitter under subsection A of this section. If the amount withheld is greater than the tax due on the return, the person filing the return shall be entitled to a refund in the amount of the overpayment. Added by Laws 2000, c. 315, § 7, eff. Oct. 1, 2000. Amended by Laws 2001, c. 402, § 4, eff. July 1, 2001; Laws 2006, c. 327, § 7, eff. July 1, 2006.

§68-2385.27. Payments - Due dates - Returns

A. Any remitter required to deduct and withhold any amount under Section 7 of this act shall pay to the Oklahoma Tax Commission the amounts required to be deducted and withheld as follows:

1. For payments made to royalty interest owners during the months of January, February and March, the withholding amounts shall be due on or before April 30;
2. For payments made to royalty interest owners during the months of April, May and June, the withholding amounts shall be due on or before July 30;
3. For payments made to royalty interest owners during the months of July, August and September, the withholding amounts shall be due on or before October 30; and
4. For payments made to royalty interest owners during the months of October, November and December, the withholding amounts shall be due on or before January 30 of the succeeding calendar year.

B. The remitter shall file a return with each payment to the Tax Commission. The return, in a form prescribed by the Tax Commission, shall show the amount of total royalty payments made subject to withholding under Section 7 of this act and the amount of the payment withheld.

C. Every remitter required under Section 7 of this act to deduct and withhold an amount from payments made during a calendar year shall furnish by January 31 of the succeeding year to the person to whom such payment was made and to the Tax Commission a written statement showing the name of the remitter, the name of the recipient of the royalty payment, the recipient's social security number or federal identification number, the amount of royalty payments made, the amounts withheld, and any such other information as the Tax Commission may require.

D. If the Tax Commission, in any case, has justifiable reason to believe that the collection of the amount provided for in Section 7 of this act is in jeopardy, the Tax Commission may require a remitter to file a return and pay the withheld amounts at any time.

E. All amounts received by the Tax Commission pursuant to the provisions of Sections 6 through 9 of this act shall be deposited as provided in Section 2385.16 of Title 68 of the Oklahoma Statutes. Except as otherwise provided in Sections 6 through 9 of this act, such amounts shall be treated as other amounts withheld under the provisions of Section 2385.1 of Title 68 of the Oklahoma Statutes.

Added by Laws 2000, c. 315, § 8, eff. Oct. 1, 2000.

§68-2385.28. Remitters - Fiduciary duty - Penalties.

A. Any amounts withheld in accordance with the provisions of Section 2385.26 of this title shall be deemed to be held in trust for the State of Oklahoma, and, as trustee, the remitter shall have a fiduciary duty to the State of Oklahoma in regard to such amounts and shall be subject to the trust laws of this state. Any remitter who fails to pay to the Tax Commission any amounts required to be withheld by such remitter, after such amounts have been withheld from oil or gas royalty payments, and appropriates the amount held in trust to the remitter's own use, or to the use of any person not entitled thereto, without authority of law, shall be guilty of embezzlement.

B. If any remitter fails to withhold the amounts required to be withheld by Section 2385.26 of this title and thereafter income tax is paid by the recipient of the oil or gas production payment with respect to such payment, the amount so required to be withheld shall not be collected from the remitter but such remitter shall not be relieved from the liability for penalties or interest otherwise applicable because of such failure to withhold such amount.

C. If a remitter fails to file a return or to pay to the Tax Commission the amounts withheld within the time prescribed by Sections 2385.25 through 2385.28 of this title, there shall be imposed on the remitter a penalty equal to ten percent (10%) of the amount required to be withheld, or ten percent (10%) of the amount of the underpayment of the amount required to be withheld, if such failure is not corrected within fifteen (15) days after the tax becomes delinquent. There shall also be imposed on such remitter interest at the rate of one and one-quarter percent (1 1/4%) per month during the period such underpayment exists. For the purposes of this subsection, "underpayment" shall mean the excess of the amount required to be paid over the amount thereof actually paid on or before the date prescribed therefor. Such penalty and interest shall be added to and become a part of the amount assessed. However, the Tax Commission shall not collect the penalty assessed if the remitter remits the amount required to be withheld within thirty (30) days of the mailing of a proposed assessment or voluntarily pays such amount upon the filing of an amended return.

D. Any remitter who is required under the provisions of subsection C of Section 2385.27 of this title to furnish a statement to a recipient of oil or gas royalty payment, but who willfully fails to furnish such recipient the statement, shall be punished by an administrative fine not exceeding One Thousand Dollars (\$1,000.00).

Added by Laws 2000, c. 315, § 9, eff. Oct. 1, 2000. Amended by Laws 2012, c. 357, § 10, eff. July 1, 2012.

§68-2385.29. Pass-through entities – Definitions.

As used in Sections 23 through 25 of this act:

1. "Member" means any person who is a shareholder of an S Corporation, a partner in a general partnership, a limited partnership, or limited liability partnership, a member of a limited liability company, or a beneficiary of a trust;

2. "Nonresident" means an individual who is not a resident of or domiciled in this state, a business entity that does not have its commercial domicile in this state, or a trust not organized in this state; and

3. "Pass-through entity" means a corporation that for the applicable tax years is treated as an S Corporation under the Internal Revenue Code, general partnership, limited partnership, limited liability partnership, trust, or limited liability company that for the applicable tax year is not taxed as a corporation for federal income tax purposes.

Added by Laws 2003, c. 472, § 23.

§68-2385.30. Withholding by pass-through entities – Returns – Quarterly estimated payments – Written statement of taxable income upon which withholding was based and tax withheld.

A. A pass-through entity shall withhold income tax at the rate of five percent (5%) from a nonresident member's share of the Oklahoma share of income of the entity distributed to each nonresident member and pay the withheld amount on or before the due date of the pass-through entity's income tax return, including extensions.

The pass-through entity shall file a return with each payment to the Oklahoma Tax Commission. The return, in a form prescribed by the Tax Commission, shall show the amount of the Oklahoma taxable income upon which withholding was based and the amount withheld.

B. A pass-through entity may make quarterly estimated payments for the taxable year and a pass-through entity shall be required to make quarterly estimated payments for the taxable year if the amount that must be withheld from all nonresident members for the taxable year can reasonably be expected to exceed Five Hundred Dollars (\$500.00). The estimated tax payments shall be paid in equal quarterly installments on or before the last day of the month succeeding the calendar quarter. The total of quarterly estimated payments required to be paid by a pass-through entity for the taxable year shall be the lesser of:

1. Seventy percent (70%) of the withholding tax that must be withheld from all its nonresident members for the taxable year; or
2. One hundred percent (100%) of the withholding tax that had to be withheld from all of its nonresident members for the preceding taxable year.

The provisions of this subsection shall not relieve a pass-through entity from the requirement of remitting amounts to the Tax Commission that were actually withheld from distributions.

C. The amount of income tax withheld shall be allowed as a credit to the recipient of the income as income taxes paid.

D. A pass-through entity shall not be required to withhold income tax from an entity exempt pursuant to subsection C of Section 2359 of this title or Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3).

E. Every pass-through entity required pursuant to this section to withhold income tax shall furnish to its nonresident member and to the Tax Commission annually, but not later than the due date of the pass-through entity's income tax return for the taxable year including extensions, a written statement of the amount of taxable income upon which withholding was based and of the tax withheld on behalf of the nonresident member on forms prescribed by the Tax Commission. The written statement shall show the name of member, the applicable social security number or federal identification number, the amount of the nonresident member's share of Oklahoma taxable income upon which withholding was based, the amounts withheld, and any such information as may be required by the Tax Commission.

F. If the Tax Commission, in any case, has justifiable reason to believe that the collection of the amount required in subsection A of this section is in jeopardy, the Tax Commission may require a pass-through entity to file a return and pay the withheld amounts at any time.

G. All amounts received by the Tax Commission pursuant to the provisions of Sections 2385.29 through 2385.31 of this title shall be deposited as provided by Section 2385.16 of this title.

H. Notwithstanding the provisions of subsection A of this section, a pass-through entity is not required to withhold tax for a nonresident member if:

1. The Tax Commission has determined, by rule, that the income of the nonresident member is not subject to withholding;

2. The nonresident member files an affidavit with the Tax Commission, in the form and manner prescribed by the Tax Commission, whereby such nonresident member agrees to be subject to the personal jurisdiction of the Tax Commission in the courts of this state for the purpose of determining and collecting any Oklahoma taxes, including estimated tax payments, together with any related interest and penalties. The Tax Commission may revoke an exemption granted by this subsection at any time it determines that the nonresident member is not abiding by the terms of the affidavit; or

3. The entity is a publicly traded partnership, as defined by Section 7704(b) of the Internal Revenue Code, which is treated as a partnership for the purposes of the Internal Revenue Code, and which has agreed to file an annual information return reporting the name, address, taxpayer identification number and other information requested by the Tax Commission of each unitholder with an income in the state in excess of Five Hundred Dollars (\$500.00).

Added by Laws 2003, c. 472, § 24. Amended by Laws 2004, c. 356, § 1, eff. July 1, 2004; Laws 2004, c. 518, § 4, eff. July 1, 2004.

§68-2385.31. Amounts withheld by pass-through entities – Fiduciary duty to state – Failure to withhold, file return, pay required amounts, or furnish statement – Liability for penalties and interest – Fine.

A. Any amounts withheld in accordance with the provisions of Section 2385.30 of this title shall be deemed to be held in trust for the State of Oklahoma, and, as trustee, the pass-through entity shall have a fiduciary duty to the State of Oklahoma in regard to such amounts and shall be subject to the trust laws of this state. Any pass-through entity who fails to pay to the Tax Commission any amounts required to be withheld by such pass-through entity, after such amounts have been withheld from distributions to nonresident members, and appropriates the amount held in trust to the pass-through entity's own use, or to the use of any person not entitled thereto, without authority of law, shall be guilty of embezzlement.

B. If any pass-through entity fails to withhold or pay required estimated payments of the amounts required to be withheld by Section 2385.30 of this title and thereafter income tax is paid by the nonresident member with respect to such payment, the amount so required to be withheld shall not be collected from the pass-through entity, but such pass-through entity shall not be relieved from the liability for penalties or interest otherwise applicable because of such failure to withhold or pay such amount.

C. If a pass-through entity fails to file a return or to pay to the Tax Commission the amounts withheld or any estimated payment required within the time prescribed by Section 2385.30 of this title, there shall be imposed on the pass-through entity a penalty equal to ten percent (10%) of the amount required to be withheld or paid, or ten percent (10%) of the amount of the underpayment of the amount required to be withheld or paid, if such failure is not corrected within fifteen (15) days after the tax becomes delinquent. There shall also be imposed on such pass-through entity interest at the rate of one and one-fourth percent (1 1/4%) per month during the period such underpayment exists. For the purposes of this subsection, “underpayment” shall mean the excess of the amount required to be paid over the amount thereof actually paid on or before the date prescribed therefor. Such penalty and interest shall be added to and become a part of the amount assessed. However, the Tax Commission shall not collect the penalty assessed if the pass-through entity remits the amount required to be withheld within

thirty (30) days of the mailing of a proposed assessment or voluntarily pays such amount upon the filing of an amended return.

D. Any pass-through entity who is required under the provisions of subsection E of Section 2385.30 of this title to furnish a statement to a nonresident member, but who willfully fails to furnish such recipient the statement, shall be punished by an administrative fine not exceeding One Thousand Dollars (\$1,000.00).

Added by Laws 2003, c. 472, § 25. Amended by Laws 2004, c. 518, § 5, eff. July 1, 2004; Laws 2012, c. 357, § 11, eff. July 1, 2012.

§68-2385.32. Failure of individual independent contractors to provide verification of employment authorization - Withholding at top marginal rate.

A. If an individual independent contractor, contracting for the physical performance of services in this state, fails to provide to the contracting entity documentation to verify the independent contractor's employment authorization, pursuant to the prohibition against the use of unauthorized alien labor through contract set forth in 8 U.S.C., Section 1324a(a)(4), the contracting entity shall be required to withhold state income tax at the top marginal income tax rate as provided in Section 2355 of Title 68 of the Oklahoma Statutes as applied to compensation paid to such individual for the performance of such services within this state which exceeds the minimum amount of compensation the contracting entity is required to report as income on United States Internal Revenue Service Form 1099.

B. Any contracting entity who fails to comply with the withholding requirements of this subsection shall be liable for the taxes required to have been withheld unless such contracting entity is exempt from federal withholding with respect to such individual pursuant to a properly filed Internal Revenue Service Form 8233 or its equivalent.

C. Nothing in this section is intended to create, or should be construed as creating, an employer-employee relationship between a contracting entity and an individual independent contractor.

Added by Laws 2007, c. 112, § 9, eff. Nov. 1, 2007.

§68-2386. Printing - Printing-related activities - Distribution of printed materials - Exemptions.

The following activities, either singularly or in the aggregate, with respect to any person that is not otherwise subject to income taxation in the State of Oklahoma, that has contracted with a commercial printer in this state for any printing, including but not limited to printing-related activities and distribution of printed materials, to be performed in Oklahoma, shall not subject that person to the income tax laws of this state:

1. The ownership by that person of tangible or intangible property located at the Oklahoma premises of the commercial printer for use by the printer in performing its services for the owner;

2. The periodic presence of employees of that person at the Oklahoma premises of the commercial printer which is directly related to the services provided by that commercial printer;
or

3. The printing, including printing-related activities and distribution of printed materials, performed by the commercial printer in Oklahoma for or on behalf of that person.

Added by Laws 2001, c. 15, § 3, emerg. eff. April 2, 2001.

§68-2401. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2402. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2403. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2404. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2404.1. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2404.2. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2404.3. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2404.4. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2404.5. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2405. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2405.1. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2405.2. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2406. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2407. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2407.1. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2408. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2409.1. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2410. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2411. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2412. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2413. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2414. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2415. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2416. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2417. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2418. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2419. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2420. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2421. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2422. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2423. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2424. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2425. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2426. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2427. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2427.1. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2427.2. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2428. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2429. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2430. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2431. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2432. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2433. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2434. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2435. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2436. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2437. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2439. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2440. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2441. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2442. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2443. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2444. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2445. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2446. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2447. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2448. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2449. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2450. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2451. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2452. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2453. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2454. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2455. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2456. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2457. Repealed by Laws 1989, c. 321, § 28.

NOTE: Prior to repeal, this section as amended by Laws 1988, c. 162, § 146 was renumbered as § 3005 of this title by Laws 1988, c. 162, § 164, eff. Jan. 1, 1992.

§68-2458. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2459. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992. Repealed by Laws 1989, c. 321, § 28. Repealed by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2460. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2461. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2462. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2462.1. Repealed by Laws 1988, c. 162, § 167, eff. January 1, 1992 and by Laws 1991, c. 249, § 6, eff. Jan. 1, 1992.

§68-2463. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2463.1. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2464. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2465. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2466. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2467. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2468. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2469. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2470. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2471. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2472. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2473. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2474. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2475. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2476. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2477. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2478. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2479. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2479.1. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2480. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2481. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2481.1. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2481.2. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2481.3. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2481.4. Payment of revaluation costs - Apportionment of costs - Appropriation of amount - Statement to jurisdictions receiving revenue - Billing statement.

A. The cost of the comprehensive program of revaluation shall be paid by appropriate warrants from those who receive the revenues of the mill rates levied on the property of the county in the following manner: The county assessor shall prepare a special budget for such comprehensive program of revaluation and file the same with the county excise board or county budget board.

B. That board shall apportion such cost among the various recipients of revenues from the mill rates levied, including the county, all cities and towns, all school districts excluding any sinking funds of such recipients, in the ratio which each recipient's total tax proceeds collected from its mill rates levied for the preceding year bears to the total tax proceeds of all recipients, excluding sinking funds, from all their mill rates levied for the preceding year.

C. Such amounts shall be included in or added to the budgets of each such recipient and the mill rates to be established by the board for each such recipient for the current year shall include and be based upon such amounts. Then the board and each such recipient shall appropriate the said amounts to the county assessor for expenditure for the comprehensive program of revaluation.

D. The county assessor shall render a statement to each of the jurisdictions within the county which receive revenue from an ad valorem mill rate excluding sinking funds. Such statement shall include the following information:

1. The current fiscal year in which the charge has been incorporated in the jurisdiction's budget;

2. All jurisdictions receiving statements from the county assessor, the mill rate for each in the previous year, and the proportion of each to the combined mill rates of each jurisdiction within the county for the previous year; the proportions specified in this paragraph should sum to one hundred percent (100%); and

3. The charge for the entity receiving the statement as well as the charge for each jurisdiction of the county based upon the proportions specified in paragraph 2 of this subsection;

the total of all current year charges for all county jurisdictions should sum to the total county assessor's budget for the comprehensive program of revaluation for the current fiscal year.

E. In any county wherein any jurisdiction's budget and mill rates are not subject to review and approval by the county excise board, the county assessor shall nevertheless include any such jurisdiction in the calculations required under subsection A of this section. The county assessor shall also render a billing statement to any such jurisdiction showing the charge for the current fiscal year due from the jurisdiction. Such billing statement shall also show all the information specified in paragraphs 2 and 3 of subsection D of this section. Such billing statement shall clearly indicate that the charge payable by the jurisdiction is due and payable by December 31 of the current fiscal year.

Amended by Laws 1988, c. 90, § 9, operative July 1, 1988; Laws 1988, c. 162, § 153, eff. July 1, 1989; Laws 1989, c. 321, § 5, operative July 1, 1989; Amended by Laws 1991, c. 124, § 34, eff. July 1, 1991. (Repeal of this section by Laws 1991, c. 249, § 5, is effective July 1, 1992).

§68-2481.5. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2481.6. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2481.8. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2481.9. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2481.10. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2481.11. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-2481.12. Repealed by Laws 1988, c. 162, § 167, eff. January 1, 1992 and by Laws 1991, c. 249, § 6, eff. Jan. 1, 1992.

§68-2482. Renumbered as § 3001 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-2483. Renumbered as § 3002 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-2484. Renumbered as § 3003 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-2486. Renumbered as § 3006 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-2487. Renumbered as § 3007 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-2488. Renumbered as § 3008 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-2489. Renumbered as § 3009 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-2490. Renumbered as § 3010 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-2491. Renumbered as § 3011 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-2492. Renumbered as § 3012 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-2493. Renumbered as § 3013 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-2494. Renumbered as § 3014 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-2495. Renumbered as § 3015 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-2496. Renumbered as § 3016 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-2497. Renumbered as § 3017 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-2498. Renumbered as § 3018 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-2499. Renumbered as § 3019 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-2601. Power to levy and assess tax - Tax in lieu of other taxes.

The power is hereby vested in the governing body of any city or town in the State of Oklahoma to levy and assess, by ordinance, an annual tax upon the gross receipts from residential and commercial sales of power, light, heat, gas, electricity or water in said city or town in an amount not exceeding two percent (2%) of the gross receipts from residential and

commercial sales, which tax shall be in lieu of any other franchise, license, occupation or excise tax, levied by such city or town.

Laws 1935, p. 131, § 1; Laws 1965, c. 215, § 1.

§68-2602. Application of tax.

The tax authorized to be levied under Section 1, of this act, shall, when levied, apply to all persons, firms, associations or corporations engaged in the business of furnishing power, light, heat, gas, electricity or water in any city or town, except it shall not apply to any person, firm, association or corporation operating under a valid franchise from said city or town.

Laws 1935, p. 131, § 2; Laws 1965, c. 215, § 1.

§68-2603. Tax levied for one year - Payable quarterly - Disposition.

The tax authorized to be levied under Section 2601 of this title, shall be levied for a term of not less than one (1) year; shall be payable monthly.

Laws 1935, p. 132, § 3; Laws 1965, c. 215, § 1; Laws 1991, c. 124, § 33, eff. July 1, 1991.

§68-2604. Failure or refusal to pay tax - Penalties.

Any person, firm or corporation failing or refusing to pay such tax, when levied, shall be regarded as a trespasser and may be ousted from such city or town, and in addition thereto, an action may be maintained against such person, firm or corporation for the amount of the tax, and all expenses of collecting same, including reasonable attorney fees.

Added by Laws 1935, p. 132, § 4. Amended by Laws 1965, c. 215, § 1.

§68-2605. Lien for tax.

The tax so imposed shall constitute a first and prior lien on all of the assets, located within said city or town, of any person, firm or corporation engaged in the business of selling power, light, heat, gas, electricity or water.

Added by Laws 1935, p. 132, § 5. Amended by Laws 1965, c. 215, § 1.

§68-2701. Authorization to tax for purposes of municipal government - Exceptions and limitations.

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

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

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

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

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

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

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

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

B. A sales tax authorized in subsection A of this section may be levied for limited purposes specified in the ordinance levying the tax. Such ordinance shall be submitted to the voters for approval as provided in Section 2705 of this title. Any sales tax levied or any change in the rate of a sales tax levied pursuant to the provisions of this section shall become effective on the first day of the calendar quarter following approval by the voters of the city or town unless another effective date, which shall also be on the first day of a calendar quarter, is specified in the ordinance levying the sales tax or changing the rate of sales tax. Such ordinance shall describe with specificity the projects or expenditures for which the limited-purpose tax levy would be made. The municipal governing body shall create a limited-purpose fund and deposit therein any revenue generated by any tax levied pursuant to this subsection. Money in the fund shall be accumulated from year to year. The fund shall be placed in an insured interest-bearing account and the interest which accrues on the fund shall be retained in the fund. The fund shall be nonfiscal and shall not be considered in computing any levy when the municipality makes its estimate to the excise board for needed appropriations. Money in the limited-purpose tax fund shall be expended only as accumulated and only for the purposes specifically described in the taxing ordinance as approved by the voters.

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

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

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

F. The sale of an article of clothing or footwear designed to be worn on or about the human body shall be exempt from the sales tax imposed by any incorporated city or town, in accordance with and to the extent set forth in Section 3 of this act.

Added by Laws 1965, c. 430, § 1, emerg. eff. July 8, 1965. Amended by Laws 1987, c. 213, § 3, operative July 1, 1987; Laws 1995, c. 70, § 1, eff. July 1, 1995; Laws 1998, c. 301, § 14, eff. Nov. 1, 1998; Laws 2003, c. 413, § 30, eff. Nov. 1, 2003; Laws 2007, c. 136, § 6, eff. July 1, 2007.

§68-2702. Contractual agreements to collect taxes and enforce and assess penalties by Tax Commission - Tax Commission Compliance Fund.

A. The governing body of any incorporated city or town and the Oklahoma Tax Commission shall enter into contractual agreements whereby the Tax Commission shall have authority to assess, to collect and to enforce any taxes or, penalties or interest thereon, levied by such incorporated city or town, and remit the same to such municipality. Said assessment, collection, and enforcement authority shall apply to any taxes, penalty or interest liability existing at the time of contracting. Upon contracting, the Tax Commission shall have all the powers of enforcement in regard to such taxes, penalties and interest as are granted to or vested in the contracting municipality. Such agreement shall provide for the assessment, collection, enforcement, and prosecution of such municipal tax, penalties and interest, in the same manner as and in accordance with the administration, collection, enforcement, and prosecution by the Tax Commission of any similar state tax except as provided by agreement. Such agreement shall authorize the Tax Commission to retain an amount not to exceed one and three-fourths percent (1 3/4%) as a retention fee of municipal tax collected for services rendered in connection with such collections; provided, if a municipality files an action resulting in collection of delinquent state and municipal taxes, the Tax Commission shall remit one-half (1/2) of the retention fee applied to the amount of such taxes to the municipality to be apportioned as are other sales tax revenue. All funds retained by the Tax Commission for the collection services to municipalities shall be deposited in the Oklahoma Tax Commission Revolving Fund in the State Treasury. The municipality shall agree to refrain from any assessment, collection, or enforcement of the municipal tax except as specified in an agreement made pursuant to subsections A, C, D and E of this section.

B. The Tax Commission shall place all sales taxes, including penalties and interest, collected on behalf of a municipality pursuant to the provisions of this section and all use taxes, including penalties and interest, collected on behalf of a municipality pursuant to the provisions of Section 1411 of this title in the Sales Tax Remitting Account as provided in Section 1373 of this title.

C. Notwithstanding the provisions of subsection E of this section, the Tax Commission and the governing body of any incorporated city or town may enter into contractual agreements whereby the municipality would be authorized to implement or augment the enforcement, collection and prosecution of the municipal tax in those contracting municipalities and to provide for the satisfaction of refunds or credits to taxpayers. Such agreements shall and are hereby authorized to provide that the municipality and the Tax Commission may exchange necessary information to effectively carry out the terms of such agreements. The municipality, its officers and employees shall preserve the confidentiality of such information in the same manner and be subject to the same penalties as provided by Section 205 of this title, provided that the municipal

prosecutor and other municipal enforcement personnel may receive all information necessary to implement or augment the enforcement and prosecution of municipal sales tax ordinances.

D. Provided further that, upon the request of any incorporated city or town, the Tax Commission shall enter into contractual agreements with such municipality whereby the municipality would be authorized to implement or augment the enforcement, either directly or through contract with private auditors or audit firms, of the municipal tax. Any person performing an audit shall first be approved by the Tax Commission and, once approved, shall be appointed as an agent of the Tax Commission for purposes of the audit. Contracts with a private auditor or audit firm shall not be subject to the limitations of Section 262 of this title and shall and are hereby authorized to provide that the municipality, private auditors or audit firms and the Tax Commission may exchange necessary information to effectively carry out the terms of such agreements. The municipality, its officers and employees and private auditors or audit firms may receive all information necessary to perform audits and shall preserve the confidentiality of such information in the same manner and be subject to the same penalties as provided by Section 205 of this title. Municipalities conducting audits directly or by contracting for private auditors or audit firms pursuant to this subsection shall furnish to the Tax Commission the audit results and all relevant supporting documentation. Further, such municipalities shall provide for the payment of private auditors or audit firms by deduction from the tax assessment resulting from the audit conducted by said private auditors or audit firms unless a municipality contracts with the auditor or audit firm for another method of payment. Any municipal sales tax funds recovered as a result of the services provided under this subsection will not be included in calculating the retention fee retained by the Tax Commission pursuant to subsection A of this section. The contracts authorized by subsection A of this section shall provide that the Tax Commission shall not have any obligations thereunder to any municipality that does not participate in an audit conducted under this subsection.

E. 1. Pursuant to the provisions of this subsection, upon the request of any municipality, the Tax Commission shall enter into a contractual agreement with the municipality whereby the municipality would be authorized to engage in compliance activities, either directly or through contract with private persons or entities, to augment the collection of the municipal tax by the Tax Commission. The sole responsibility for the administration of any and all such compliance activities shall remain with the Tax Commission to ensure that sellers and purchasers shall only be required to register, file returns, and remit state and local taxes to one single authority, and that no enforcement activities are duplicated.

2. Any contractual agreement entered into pursuant to paragraph 1 of this subsection and any person or entity who will be performing compliance activities shall first be approved by the Tax Commission in its sole discretion. Once approved, the private person or entity shall be appointed as an agent of the Tax Commission for purposes of such compliance activities. Any agreements entered into pursuant to paragraph 1 of this subsection shall provide that the municipality, private persons or entities appointed as an agent and the Tax Commission may exchange necessary information to effectively carry out the terms of the agreements. The municipality, its officers and employees and any private person or entity appointed as an agent of the Tax Commission may receive all information necessary for compliance activities and shall preserve the confidentiality of the information in the same manner and be subject to the same penalties as provided by Section 205 of this title. Municipalities conducting compliance activities directly or by contracting with private persons or entities pursuant to this subsection shall furnish to the Tax Commission the compliance results and all relevant supporting

documentation and the Tax Commission shall take such information and issue proposed assessments or conduct other such administrative action as is necessary.

3. There is hereby created in the State Treasury a revolving fund for the Oklahoma Tax Commission to be known as the "Tax Commission Compliance Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and notwithstanding any other provisions of law, shall consist of the first three-fourths of one percent (3/4 of 1%) of enhanced collections of state sales and use taxes collected pursuant to an agreement entered into pursuant to paragraph 1 of this subsection. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Tax Commission for the purpose of reimbursing a municipality for enhanced collections of state sales taxes pursuant to an agreement entered into pursuant to paragraph 1 of this subsection. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

4. The Director of the Office of Management and Enterprise Services shall form an Implementation Working Group composed of representatives of municipalities and of the Tax Commission and shall adopt a plan to implement this subsection by September 30, 2011. The plan shall ensure that the Tax Commission shall maintain a central point of collection and centralized administration and enforcement and further shall be consistent with all applicable state laws.

F. Any sum or sums collected or required to be collected pursuant to a municipal sales tax levy shall be deemed to be held in trust for the municipality, and, as trustee, the collecting vendor shall have a fiduciary duty to the municipality in regards to such sums and shall be subject to the trust laws of this state.

Added by Laws 1965, c. 430, § 2, emerg. eff. July 8, 1965. Amended by Laws 1979, c. 139, § 1, emerg. eff. May 3, 1979; Laws 1981, c. 351, § 2, eff. Jan. 1, 1982; Laws 1984, c. 1, § 70, emerg. eff. Jan. 30, 1984; Laws 1984, c. 102, § 3, emerg. eff. April 5, 1984; Laws 1985, c. 95, § 2, eff. Jan. 1, 1986; Laws 1986, c. 218, § 30, emerg. eff. June 9, 1986; Laws 1989, c. 168, § 2, eff. Nov. 1, 1989; Laws 1990, c. 60, § 3, emerg. eff. April 16, 1990; Laws 1991, c. 293, § 6, emerg. eff. May 30, 1991; Laws 1993, c. 28, § 3, emerg. eff. Mar. 30, 1993; Laws 2002, c. 460, § 41, eff. Nov. 1, 2002; Laws 2010, c. 412, § 16, eff. July 1, 2010; Laws 2011, c. 378, § 1, eff. Sept. 1, 2011; Laws 2012, c. 304, § 566.

§68-2702.1. Collection of municipally imposed lodging tax.

A. The Oklahoma Tax Commission may enter into agreement with any municipality for the collection of a municipally imposed lodging tax.

B. Any municipality that enters into agreement with the Oklahoma Tax Commission for collection of municipal lodging taxes shall adopt a resolution expressing the intent of the municipality to allow the Oklahoma Tax Commission to serve as the collecting agent for the tax.

C. The Oklahoma Tax Commission shall collect any and all municipal lodging taxes for each municipality adopting a resolution described in subsection B of this section.

D. The Oklahoma Tax Commission may require the municipality imposing a lodging tax levy to provide for the following:

1. Specific description of the entities and transactions subject to the levy;
2. Specific description of the entities and transactions exempt from the levy;
3. Specific definitions of the terms "hotel", "motel" or other facility the occupancy of which would be subject to the lodging tax levy;

4. A due date for reporting and remittance of the tax which shall be the twentieth day of the month following the month during which the charge for occupancy of a hotel, motel or other facility is incurred by the occupant;

5. A date certain for determination of delinquency and any applicable penalty amounts;

6. Any applicable discount provided to the tax remitter; and

7. Such other provisions as the Oklahoma Tax Commission may require.

E. Any municipality that has previously entered into agreement with the Oklahoma Tax Commission for collection of municipal lodging taxes may adopt a resolution expressing the intent of the municipality to discontinue allowing the Oklahoma Tax Commission to serve as the collecting agent for the tax.

Added by Laws 2013, c. 395, § 1.

§68-2703. Enforcement and collection.

Any incorporated city or town may provide ordinance for the enforcement and collection of taxes assessed and levied by such municipality, including penal provisions and civil actions, to enforce payment brought in a court of competent jurisdiction.

Laws 1965, c. 430, § 3.

§68-2704. Liens and priorities.

All taxes, interest and penalties imposed by any incorporated city, town or the Oklahoma Tax Commission under authority of this act, or other authorized municipal taxes, are hereby declared to constitute a lien in favor of such municipality upon all franchises, property and rights to property, whether real or personal, then belonging to or thereafter acquired by the person owing the tax, whether such property is employed by such person in the conduct of business, or is in the hands of an assignee, trustee, or receiver for the benefit of creditors, from the date said taxes are due and payable under the provisions of the municipal tax ordinances levying such taxes. Said lien shall be co equal with all tax liens created by state statutes, except where the Legislature by statute declares certain and specific municipal tax liens to be a first or prior lien. The liens herein created shall otherwise be prior, superior and paramount to all other liens, claims or encumbrances on the property of the person, firm or corporation owing the tax. Such liens, however, shall be inferior to those of any bona fide mortgagee, pledgee, judgment creditor, or purchaser, who has filed or recorded said mortgages or conveyances in the office of the county clerk of the county in which the property is located, and whose rights shall have attached prior to the date of the entry of the notice of the lien of the claiming incorporated city or town upon the district court judgment docket in the office of the court clerk, in the county in which the property is located. Such taxes, penalties and interest owing the incorporated city or town shall at all times, constitute a prior, superior and paramount claim as against the claims of unsecured creditors. The said lien of the incorporated city or town shall continue until the amount of the tax and penalty due and owing, and interest subsequently accruing thereon, is paid. In any action affecting the title to real estate or the ownership or right to possession of personal property, the incorporated city or town asserting a lien on such property may be made a party defendant, for the purpose of determining its lien upon the property involved therein only in cases where notice of the lien of the municipality has been entered upon the district court judgment docket; and in such action service of summons upon such municipality, by serving the mayor or clerk of such incorporated city or the president or clerk of the board of trustees of any incorporated town, shall be sufficient service and binding upon such municipality.

Laws 1965, c. 430, § 4; Laws 1979, c. 139, § 2, emerg. eff. May 3, 1979.

§68-2705. Approval of taxing ordinance by voters.

A. Any taxes which may be levied by an incorporated city or town as authorized by the provisions of Section 2701 et seq. of this title shall not become valid until the ordinance setting the rate of such tax shall have been approved by a majority vote of the registered voters of such incorporated city or town voting on such question at a general or special municipal election.

B. In the case of a levy submitted for voter approval pursuant to Section 13 of this act, taxes levied by an incorporated city or town shall not become valid until the ordinance setting the rate of the levy shall have been approved by a majority vote of the registered voters of each such incorporated city or town voting on such question at a special municipal election. Elections conducted pursuant to questions submitted pursuant to Section 13 of this act shall be conducted on the same date or in a sequence that provides that the last vote required for approval by all participating counties or municipalities occurs not later than thirty (30) days after the date upon which the first vote occurs.

C. No ordinance shall be resubmitted for ratification within six (6) months following its defeat by the electors.

Added by Laws 1965, c. 430, § 5, emerg. eff. July 8, 1965. Amended by Laws 1967, c. 174, § 1, emerg. eff. May 1, 1967; Laws 1985, c. 179, § 94, operative July 1, 1985; Laws 2009, c. 309, § 16, eff. July 1, 2009.

§68-2706. Provisions as cumulative.

The provisions of this act shall be cumulative to any existing authority of incorporated cities and towns to raise revenue, and shall not repeal any existing law on the subject excepting those sections enumerated herein.

Added by Laws 1965, c. 430, § 6.

§68-2801. Short title.

Articles 28, 29, 30 and 31 of Title 68 of the Oklahoma Statutes shall be known and may be cited as the Ad Valorem Tax Code.

Added by Laws 1988, c. 162, § 1, eff. Jan. 1, 1992.

§68-2802. Definitions.

As used in Section 2801 et seq. of this title:

1. "Accepted standards for mass appraisal practice" means those standards for the collection and analysis of information about taxable properties within a taxing jurisdiction permitting the accurate estimate of fair cash value for similar properties in the jurisdiction either without direct observation of such similar properties or without direct sales price information for such similar properties using a reliable statistical or other method to estimate the values of such properties;

2. "Additional homestead exemption" means the exemption provided by Section 2890 of this title;

3. "Assessor" means the county assessor and, unless the context clearly requires otherwise, deputy assessors and persons employed by the county assessor in performance of duties imposed by law;

4. "Assess and value" means to establish the actual and taxable fair cash value of taxable real and personal property pursuant to requirements of law;
5. "Assessed valuation" or "assessed value" means the taxable value of real or personal property either of individual items of personal property or parcels of real property or the aggregate total of such individual taxable items or parcels within a jurisdiction;
6. "Assessment ratio" means the relationship between assessed value and taxable fair cash value for a county or for use categories within a county expressed as a percentage determined in the annual equalization ratio study;
7. "Assessment roll" means a computerized or noncomputerized record required by law to be kept by the county assessor and containing information about property within a taxing jurisdiction;
8. "Assessment year" means the year beginning January 1 of each calendar year and ending on December 31 preceding the following January 1 assessment date;
9. "Circuit breaker" means the form of property tax relief provided by Sections 2904 through 2911 of this title;
10. "Class of subjects" means a category of property specifically designated pursuant to provisions of the Oklahoma Constitution for purposes of ad valorem taxation;
11. "Code" means the Ad Valorem Tax Code, Section 2801 et seq. of this title;
12. "Coefficient of dispersion" means a statistical measure of assessment uniformity for a category of property or for all property within a taxing jurisdiction;
13. "Confidence level" means a statistical procedure for determining the degree of reliability for use in reporting the assessment ratio for a taxing jurisdiction;
14. "Cost approach" means a method used to establish the fair cash value of property involving an estimate of current construction cost of improvements, subtracting accrued depreciation and adding the value of land;
15. "County board of equalization" means the board which, upon hearing competent evidence, has the authority to correct and adjust the assessment rolls in its respective county to conform to fair cash value and such other responsibilities as prescribed in Section 2801 et seq. of this title;
16. "Equalization" means the process for making adjustments to taxable property values within a county by analyzing the relationships between assessed values and fair cash values in one or more use categories within the county or between counties by analyzing the relationship between assessed value and fair cash value in each county;
17. "Equalization ratio study" means the analysis of the relationships between assessed values and fair cash values in the manner provided by law;
18. "Actual fair cash value" means the value or price at which a willing buyer would purchase property and a willing seller would sell property if both parties are knowledgeable about the property and its uses and if neither party is under any undue pressure to buy or sell and for real property shall mean the value for the highest and best use for which such property was actually used, or was previously classified for use, during the calendar year next preceding the applicable January 1 assessment date;
19. "Homestead exemption" means the reduction in the taxable value of a homestead as authorized by law;
20. "Income and expense approach" means a method to estimate fair cash value of a property by determining the present value of the projected income stream;

21. "List and assess" means the process by which taxable property is discovered, its description recorded for purposes of ad valorem taxation and its actual fair cash value and taxable fair cash value are established;

22. "Mill" or "millage" means the rate of tax imposed upon taxable value. One (1) mill equals One Dollar (\$1.00) of tax for each One Thousand Dollars (\$1,000.00) of taxable value;

23. "Multiple regression analysis" means a statistical technique for estimating unknown data on the basis of known and available data;

24. "Parcel" means a contiguous area of land described in a single description by a deed or other instrument or as one of a number of lots on a plat or plan, separately owned and capable of being separately conveyed;

25. "Sales comparison approach" means the collection, verification, and screening of sales data, stratification of sales information for purposes of comparison and use of such information to establish the fair cash value of taxable property;

26. "State Board of Equalization" means the Board responsible for valuation of railroad, airline and public service corporation property and the adjustment and equalization of all property values both centrally and locally assessed;

27. "Taxable value" means the percentage of fair cash value, less applicable exemptions, upon which an ad valorem tax rate is levied pursuant to the provisions of Section 8 of Article X of the Oklahoma Constitution;

28. "Taxable fair cash value" means the actual fair cash value of locally assessed real property as capped by Section 8B of Article X of the Oklahoma Constitution;

29. "Use category" means a subcategory of real property, that is either agricultural use, residential use or commercial/industrial use but does not and shall not constitute a class of subjects within the meaning of the Oklahoma Constitution for purposes of ad valorem taxation;

30. "Use value" means the basis for establishing fair cash value of real property pursuant to the requirement of Section 8 of Article X of the Oklahoma Constitution; and

31. "Visual inspection program" means the program required in order to gather data about real property from physical examination of the property and improvements in order to establish the fair cash values of properties so inspected at least once each four (4) years and the fair cash values of similar properties on an annual basis.

Added by Laws 1988, c. 162, § 2, eff. Jan. 1, 1992. Amended by Laws 1997, c. 304, § 2, emerg. eff. May 29, 1997; Laws 2005, c. 116, § 3, eff. Nov. 1, 2005.

§68-2802.1. Implementation of Oklahoma Constitution Article X, Section 8B - Definitions - Promulgation of rules.

A. For purposes of implementing Section 8B of Article X of the Oklahoma Constitution:

1. "Any person" means any person or entity, whether real or artificial, other than the present owner;

2. "Any year when title to the property is transferred, changed, or conveyed to another person or when improvements have been made to the property" means the year next preceding the January 1 assessment date;

3. "Improvement" means a valuable addition made to property amounting to more than normal repairs, replacement, maintenance or upkeep; and

4. "Transfers, change or conveyance of title" means all types of transfers, changes or conveyances of any interest, whether legal or equitable. However, "transfers, change or conveyance of title" shall not include the following:

- a. deeds recorded prior to January 1, 1996,
- b. deeds which secure a debt or other obligation,
- c. deeds which, without additional consideration, confirm, correct, modify or supplement a deed previously recorded,
- d. deeds between husband and wife, or parent and child, or any persons related within the second degree of consanguinity, without actual consideration therefor, or deeds between any person and an express revocable trust created by such person or such person's spouse,
- e. deeds of release of property which is security for a debt or other obligation,
- f. deeds of partition, unless, for consideration, some of the parties take shares greater in value than their undivided interests,
- g. deeds made pursuant to mergers of partnerships, limited liability companies or corporations, or deeds pursuant to which property is transferred from a person to a partnership, limited liability company or corporation of which the transferor or the transferor's spouse, parent, child, or other person related within the second degree of consanguinity to the transferor, or trust for primary benefit of such persons, are the only owners of the partnership, limited liability company or corporation,
- h. deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock, or
- i. any deed executed pursuant to a foreclosure proceeding in which the grantee is the holder of a mortgage on the property being foreclosed, or any deed executed pursuant to a power of sale in which the grantee is the party exercising such power of sale or any deed executed in favor of the holder of a mortgage on the property in consideration for the release of the borrower from liability on the indebtedness secured by such mortgage except as to cash consideration paid.

B. This section shall be applied effective from the date of the passage of Section 8B of Article X of the Oklahoma Constitution.

C. The Oklahoma Tax Commission shall promulgate rules necessary to implement Section 8B of Article X of the Oklahoma Constitution and this section.

Added by Laws 1997, c. 304, § 3, emerg. eff. May 29, 1997. Amended by Laws 2002, c. 476, § 3, emerg. eff. June 6, 2002.

§68-2802.2. Date of delivery or payment.

A. For any return, claim, statement, or other document required to be filed with a county assessor in this state or any payment required to be made to a county assessor in this state within a prescribed period or on or before a prescribed date under authority of the Ad Valorem Tax Code, the date of the postmark stamped on the cover in which the return, claim, statement, or other document or payment is mailed shall be deemed to be the date of delivery or the date of payment, as the case may be.

B. The provisions of this section shall apply only if:

1. The postmark date falls within the prescribed period or on or before the prescribed date for filing, including any extension, of the return, claim, statement, or other document or for making payment, including any extension granted for making such payment; and

2. The return, claim, statement, or other document or payment was, within the prescribed period or on or before the prescribed date for filing, deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the county assessor with which the return, claim, statement, or other document is required to be filed, or to which the payment is required to be made.

C. For purposes of this section, if any return, claim, statement, or other document or payment is sent by United States registered mail, the registration shall be prima facie evidence that the return, claim, statement, or other document or payment was delivered to the county assessor to which addressed, and the date of registration shall be deemed the postmark date.

D. The provisions of this section shall not apply with respect to returns, claims, statements or other documents or payments which are required under any provision of the Ad Valorem Tax Code to be delivered by any method other than by mailing.

E. For the purposes of this section, if the prescribed period ends on or the prescribed date is a legal holiday as defined by Section 82.1 of Title 25 of the Oklahoma Statutes or any other day when the office of the county assessor does not remain open for public business until the regularly scheduled closing time, then the prescribed period or prescribed date shall be extended until the end of the next day upon which the office of the county assessor is open for public business until the regularly scheduled closing time.

Added by Laws 2011, c. 357, § 1, eff. Nov. 1, 2011.

§68-2803. Classification of property - Valuation of classes - Uniformity of treatment.

A. The Legislature, pursuant to authority of Article X, Section 22 of the Oklahoma Constitution, hereby classifies the following types of property for purposes of ad valorem taxation:

1. Real property;
2. Personal property, except as provided in paragraph 3 of this subsection;
3. Personal property which is household goods of the head of families and livestock employed in support of the family in those counties which have exempted such property pursuant to subsection (b) of Section 6 of Article X of the Oklahoma Constitution;
4. Public service corporation property; and
5. Railroad and air carrier property.

B. Valuation of each class of subjects shall be made by a method appropriate for each class or any subclass thereof, as established by the Ad Valorem Division of the Oklahoma Tax Commission.

C. Classification as provided by this section shall require uniform treatment of each item within a class or any subclass as provided in Article X, Section 5 of the Oklahoma Constitution. Added by Laws 1988, c. 162, § 3, eff. Jan. 1, 1992. Amended by Laws 1989, c. 321, § 7, operative Jan. 1, 1992; Laws 1994, c. 326, § 1, eff. July 1, 1994; Laws 1995, c. 57, § 1, eff. July 1, 1995.

§68-2804. Property subject to tax.

All property in this state, whether real or personal, except that which is specifically exempt by law, and except that which is relieved of ad valorem taxation by reason of the payment of an in lieu tax, shall be subject to ad valorem taxation.

Added by Laws 1988, c. 162, § 4, eff. Jan. 1, 1992.

§68-2805. Fees or taxes to be levied in lieu of ad valorem tax.

The following fees or taxes levied by the provisions of the Oklahoma Statutes shall be in lieu of ad valorem tax, whether in lieu of real property tax, personal property tax, or both as provided by law:

1. The registration fees and taxes imposed upon aircraft by Section 251 et seq. of Title 3 of the Oklahoma Statutes;
2. Registration fees for motor vehicles as provided in Section 1103 of Title 47 of the Oklahoma Statutes, except as otherwise specifically provided;
3. The fee imposed upon transfers of used vehicles in lieu of the ad valorem tax upon inventories of used motor vehicles by Section 1137.1 of Title 47 of the Oklahoma Statutes;
4. The registration and license fees imposed upon vessels and motors pursuant to the Oklahoma Vessel and Motor Registration Act, Section 4001 et seq. of Title 63 of the Oklahoma Statutes;
5. The taxes levied upon the gross production of substances pursuant to Section 1001 of this title;
6. The taxes levied upon the gross production of substances pursuant to Section 1020 of this title;
7. The tax imposed upon gross receipts pursuant to Section 1803 of this title;
8. The tax imposed upon certain textile products pursuant to Section 2001 of this title;
9. The tax imposed upon certain freight cars pursuant to Section 2202 of this title;
10. The tax imposed on certain parts of the inventories, both new and used items, owned and/or possessed for sale by retailers of farm tractors and other equipment pursuant to Sections 1 through 4 of this act;
11. The tax imposed upon inventories of new vehicles and certain vessels pursuant to Section 5301 of this title; and
12. Such other fees or taxes as may be expressly provided by law to be in lieu of ad valorem taxation.

Added by Laws 1988, c. 162, § 5, eff. Jan. 1, 1992. Amended by Laws 1989, c. 346, § 73, eff. Jan. 1, 1992; Laws 1991, 1st Ex. Sess., c. 2, § 13, eff. Jan. 1, 1992; Laws 1991, c. 149, § 5, eff. Jan. 1, 1992.

§68-2806. Real property defined.

A. Real property, for the purpose of ad valorem taxation, shall be construed to mean the land itself, and all rights and privileges thereto belonging or in any wise appertaining, such as permanent irrigation, or any other right or privilege that adds value to real property, and all mines, minerals, quarries and trees on or under the same, and all buildings, structures and improvements or other fixtures, including but not limited to improvements such as barns, bins or cattle pens, or other improvements or fixtures of whatsoever kind thereon, exclusive of such machinery and fixtures on the same as are, for the purpose of ad valorem taxation, defined as personal property.

B. Notwithstanding the provisions of Section 2807 of this title, real property shall also consist of any improvements affixed to land owned by the United States, any branch of the Armed Forces of the United States, or any agency or quasi-agency of the United States if such improvements are used for:

1. National defense purposes; or

2. Housing of military personnel and their families as contemplated by the Military Housing Privatization Initiative of 1996, 10 U.S.C., Sections 2871 through 2885, as amended.

Improvements used for housing of military personnel and their families shall, in addition to the actual housing units, include, but not be limited to, facilities related to such housing units, such as housing maintenance facilities, housing rental and management offices, parks and community centers. Such improvements shall, for purposes of ad valorem taxation, be construed to be owned by the United States or the applicable branch of the Armed Forces of the United States. For purposes of this subsection, "national defense purposes" shall include, without limitation, the furtherance of an existing mission or modification or enhancement of the mission of the military installation and any activity that is in furtherance of the defense of the United States and its interests.

Added by Laws 1988, c. 162, § 6, eff. Jan. 1, 1992. Amended by Laws 2006, c. 194, § 2, eff. Nov. 1, 2006.

§68-2807. Personal property defined.

Personal property, for the purpose of ad valorem taxation, shall be construed to include:

1. All goods, chattels and effects;
2. Except as provided in subsection B of Section 2806 of this title:
 - a. all improvements made by others upon lands, the fee of which is vested in the United States or this state,
 - b. all improvements, including elevators and other structures, upon lands, the title to which is vested in any railway company or other corporation whose property is not subject to the same mode and rule of taxation as other property, and
 - c. all improvements on leased lands that do not become a part of the realty;
3. The dormant, and other stock of nurserymen, including all trees, shrubs and plants that have been dug and placed in bins or storage, and are ready for sale. The trees, shrubs or plants of a nurseryman shall be "growing crops" within the meaning of Section 6 of Article X of the Oklahoma Constitution and exempt from ad valorem taxation, if such trees, shrubs or plants are grown upon the premises of the nurseryman, removed from the earth on such premises prior to any preparation for resale, and if such trees, shrubs or plants are held for resale in a manner that will permit the continued growth or development of the tree, shrub or plant;
4. All horses, cattle, mules, asses, sheep, swine, goats and other livestock including poultry, and commercially raised livestock including but not limited to animals of the families bovidae, cervidae and antilocapridae or birds of the ratite group. Such livestock or poultry having a speculative value, by reason of the fact that the same is subject to registration in some recognized association, shall be assessed on the market value as though the same had no speculative value;
5. All household furniture, including gold and silver plate, musical instruments, watches and jewelry;
6. Personal, private or professional libraries;
7. All wagons, vehicles or carriages and all farm tractors, implements or machinery appertaining to agricultural labor; and all types of motors, feed grinders, pumps for irrigation and other irrigation equipment;
8. All machinery and materials used by manufacturers, and all manufactured articles, including all machinery and equipment of cotton gins, cottonseed oil mills, newspaper and

printing plants, refineries, gasoline plants, flour and grain mills and elevators, bakeries, ice plants, laundries, automobile assembly plants, repair shops, breweries, radio broadcasting stations, tractors, graders, road machinery and equipment, and all other similar or related plants or industries;

9. All goods and capital employed in merchandising;

10. All abstractors' books and the records contained therein; and equipment and all other personal property and records and files of mercantile credit reporting organizations;

11. All agricultural implements or machinery, goods, wares, merchandise, or other chattels, in this state, in possession of, or under the control of, or held for sale by, any warehouseman, agent, factor or representative in any capacity of any manufacturer, or any dealer or agent of any such manufacturer;

12. a. All tanks and containers used to store or hold crude oil or any of its products or byproducts and all tanks and containers used to store or hold gasoline, water, or other liquids or gases,

b. All oil, gas, water or other pipelines,

c. All telegraph and telephone lines,

d. All railroad tracks,

e. All oil and petroleum products in storage; and

13. All other property, having an actual, constructive or taxable situs in this state, and not included within the definition of real property.

Added by Laws 1988, c. 162, § 7, eff. Jan. 1, 1992. Amended by Laws 1989, c. 24, § 2, eff. Jan. 1, 1992; Laws 1995, c. 19, § 1, eff. July 1, 1995; Laws 2006, c. 194, § 3, eff. Nov. 1, 2006.

§68-2807.1. Livestock employed in support of family - Defined.

A. For purposes of the exemption authorized pursuant to subsection (b) of Section 6 of Article X of the Oklahoma Constitution, "livestock employed in support of the family" means all horses, cattle, mules, asses, sheep, swine, goats, poultry and any other livestock.

B. For purposes of the exemption authorized pursuant to subsection (b) of Section 6 of Article X of the Oklahoma Constitution, and for purposes of this section, livestock owned by a general partnership, limited partnership, corporation, limited liability company, estate, trust or other lawfully recognized entity the primary purpose of which is to confer the economic benefits derived from the ownership of the livestock on two or more members of the same family and not any persons who are not members of the same family, whether such members are related by consanguinity or affinity, shall be deemed to be livestock employed in support of the family. For purposes of this subsection, an adopted child shall be treated as being related by consanguinity to the person or persons who become the adoptive parent or parents of such child.

C. For purposes of the exempt treatment provided by subsection B of this section, a surviving spouse having no other family members by consanguinity or affinity after the death of his or her spouse shall continue to be eligible for the exempt treatment of livestock used for his or her support according to the requirements of subsection B of this section.

Added by Laws 1994, c. 51, § 1, eff. Sept. 1, 1994. Amended by Laws 2012, c. 193, § 1, eff. Jan. 1, 2013.

§68-2808. Definitions - Certain property to be assessed by State Board of Equalization.

A. As used in the Ad Valorem Tax Code:

1. "Public service corporation" means all transportation companies, transmission companies, all gas, electric, light, heat and power companies and all waterworks and water power companies, and all persons authorized to exercise the right of eminent domain or to use or occupy any right-of-way, street, alley, or public highway, along, over or under the same in a manner not permitted to the general public;

2. "Transportation company" means any company, corporation, trustee, receiver, or any other person owning, leasing or operating for hire, a street railway, canal, steamboat line, and also any sleeping car company, parlor car company and express company, and any other company, trustee, or person in any way engaged in such business as a common carrier. As used in the Ad Valorem Tax Code, the term "transportation company" shall not include any railroad or any air carrier. However, all railroad and air carrier property shall continue to be valued and assessed by the State Board of Equalization for purposes of ad valorem taxation;

3. "Transmission company" means any company, corporation, trustee, receiver, or other person owning, leasing or operating for hire any telegraph or telephone line or radio broadcasting system;

4. "Person" means individuals, partnerships, associations, and corporations in the singular as well as plural number;

5. "Video services provider" means a subclass of public service corporations consisting of any public service corporation offering video programming services; and

6. "Video programming" shall have the same meaning as set forth in 47 U.S.C., Section 522(20).

B. As used in the Ad Valorem Tax Code, "transmission company" and "public service corporation" shall not be construed to include cable television companies.

C. Any real or personal property used by any company, corporation, trustee, receiver, or other person owning, leasing, or operating for hire any pipeline or oil or gas gathering system which was assessed by the State Board of Equalization after January 1, 1997, shall continue to be assessed by the State Board of Equalization through ad valorem tax year 1998.

Added by Laws 1988, c. 162, § 8, eff. Jan. 1, 1992. Amended by Laws 1988, c. 258, § 5, emerg. eff. June 27, 1988; Laws 1995, c. 57, § 2, eff. July 1, 1995; Laws 1997, c. 337, § 1, eff. July 1, 1997; Laws 2009, c. 119, § 1, eff. Jan. 1, 2010.

§68-2809. Farm tractors - Subject of tax - Definition - Designation.

A. Each farm tractor in the state shall be subject to ad valorem taxation and shall be returned and assessed as other personal property.

B. The term farm tractor as used in this section and in the Ad Valorem Tax Code is hereby defined to be any motor vehicle of tractor type designed and used primarily as a farm implement for drawing plows, listers, mowing machines, harvesters, and other implements of husbandry on a farm, or any motor vehicle of tractor type used for the purpose of hauling farm products, by the producer thereof, from farm to farm, or from farm to market.

C. No tractor shall be designated a farm tractor unless it is used in whole or in part by the owner thereof upon, or in connection with, a farm owned, leased or operated by such tractor owner.

Added by Laws 1988, c. 162, § 9, eff. Jan. 1, 1992.

§68-2810. Repealed by Laws 1997, c. 294, § 30, eff. July 1, 1997.

§68-2811. Manufactured homes not registered or assessed for ad valorem taxation - Listing and assessment - Proof of registration and payment of taxes - Exemptions.

A. Upon locating a manufactured home which is not registered as required pursuant to the provisions of Title 47 of the Oklahoma Statutes or is not listed and assessed for ad valorem taxation pursuant to the provisions of the Ad Valorem Tax Code, the county assessor of the county in which the manufactured home is located shall list and assess the manufactured home, and place the home on the tax rolls as required by law. The county assessor shall cause such manufactured home to be entered on the assessment rolls and tax rolls for the year or years not to exceed three (3) years omitted pursuant to the provisions of Section 2844 of this title whether or not such manufactured home had situs in such county on January 1 of the year in which the manufactured home was located. No manufactured home shall be entered upon the assessment roll of any county for an assessment year in which the manufactured home was previously assessed for ad valorem taxation in such county or any other county of this state. The county assessor may use the following method to determine the fair cash value of such a manufactured home:

1. If a bill of sale is provided to the county assessor, the actual consideration reflected thereon may be used as the fair cash value; or

2. If a bill of sale is not provided to the county assessor, the total delivered price may be used as the fair cash value, depreciated at a rate of ten percent (10%) per year for the first three (3) years of age of such manufactured home and at a rate of three percent (3%) per year for each year thereafter until accumulated depreciation shall equal eighty percent (80%), after which the depreciated fair cash value shall remain at such level.

B. The county assessor of the county in which a manufactured home is located shall require satisfactory proof of registration, payment of ad valorem taxes and excise taxes on a manufactured home. An ad valorem tax receipt for a manufactured home presented as evidence of payment of ad valorem taxes for such home shall be conclusive as to proper payment of ad valorem taxes upon such home for all assessment years preceding the year of the receipt by the county issuing such receipt.

C. Any person owning a manufactured home and refusing to show satisfactory proof of registration of such manufactured home pursuant to the provisions of this section or payment of ad valorem taxes pursuant to the provisions of the Ad Valorem Tax Code upon demand by the county assessor of the county in which the manufactured home is located, upon conviction, shall be guilty of a misdemeanor.

D. A used manufactured home held for resale, on a sales lot, by a licensed manufactured housing dealer on January 1, shall be exempt from ad valorem taxation and the dealer shall be required to obtain a current certificate of title and registration decal for the manufactured home. A purchaser of a used manufactured home held for resale for which a certificate of title and registration decal has been obtained shall provide to the county assessor of the county in which the home is to be located the information specified in subsection G of Section 2813 of this title. The manufactured home shall not be subject to ad valorem taxation until the first January 1 date following the date of purchase.

Added by Laws 1988, c. 162, § 11, eff. Jan. 1, 1992. Amended by Laws 1997, c. 192, § 5, eff. Jan. 1, 1998; Laws 1998, c. 403, § 4, emerg. eff. June 10, 1998.

§68-2812. Manufactured homes - Locus of listing and assessment - Transmission of information.

A. Subject to the provisions of subsection B of Section 2813 of this title, a manufactured home which is located on land owned by the owner of the manufactured home shall be listed and assessed in the county in which it is located for ad valorem taxation as is real property pursuant to the provisions of the Ad Valorem Tax Code. The person owning and residing in such manufactured home may apply for homestead exemption. The county assessor shall approve the application of such person if all requirements of law for such exemption have been met.

B. A manufactured home which is located on land not owned by the owner of the manufactured home shall be listed and assessed in the county in which it is located for ad valorem taxation as is personal property pursuant to the provisions of the Ad Valorem Tax Code.

C. Each year that a manufactured home is subject to ad valorem taxes as provided by law, the county assessor and the county treasurer shall transmit the information relating to ad valorem tax payment to the Oklahoma Tax Commission which shall identify the manufactured home and record the payment in the computer system provided for by Section 1113 of Title 47 of the Oklahoma Statutes. The county assessor and treasurer of each county shall provide such information as may be required in order to implement the provisions of this section.

Added by Laws 1988, c. 162, § 12, eff. Jan. 1, 1992. Amended by Laws 1997, c. 192, § 6, eff. Jan. 1, 1998.

§68-2813. Manufactured homes - Listing, assessment and payment of tax.

A. On the first day of January of each year, the county assessor of the county in which a manufactured home is located shall list, assess and tax such manufactured home as required by the provisions of Section 2812 of this title and the Ad Valorem Tax Code.

B. In addition to the other requirements prescribed by law for the listing and assessing of real property pursuant to the provisions of the Ad Valorem Tax Code, when listing the value of real property on which a manufactured home is located and owned by the person owning the manufactured home and when listing the value of the improvements thereon, the county assessor shall separately describe and identify the value of the manufactured home apart from other real property and the value of the other improvements thereon. The value of the real property, the manufactured home, and the other improvements shall be shown separately.

C. Except as authorized by subsection E of this section, when a manufactured home is moved, or whenever title to a manufactured home is transferred, any county treasurer shall collect all ad valorem taxes due for the current calendar year and all delinquent taxes due and owing prior to the change of title or location and shall issue a receipt of taxes paid, which shall be a Form 936, and a tax payment decal. These transactions may be handled by mail or facsimile transmission at the option of the taxpayer, except for tax payments which shall be handled either by mail or in person.

D. After issuance of a receipt of taxes paid and a decal pursuant to the provisions of subsection C of this section and after notification by the county treasurer of such payment, the county assessor of the county in which the manufactured home is located shall furnish to the county assessor of the county where the manufactured home is to be located, the following information:

1. The name of the owner of the manufactured home;
2. The serial number or identification number of the manufactured home;
3. The registration number given to the manufactured home by the Oklahoma Tax Commission;
4. The address or legal description where the manufactured home is to be located;

5. The actual retail selling price of the manufactured home, excluding Oklahoma state taxes; and

6. Any other information necessary to enable the county assessor to list and assess the proper ad valorem taxes for the manufactured home for the following year.

E. 1. When lawfully repossessing a manufactured home which has been listed and assessed as real property pursuant to the provisions of subsection A of Section 2812 of this title, a holder of a perfected security interest in the home is authorized to pay the ad valorem taxes for the full current year and any registration fees or ad valorem taxes which may be due for any prior year on the manufactured home based on the assessed value of the home pursuant to the provisions of subsection B of this section apart from other real property and the other improvements thereon. When lawfully repossessing a manufactured home which has been listed and assessed as personal property pursuant to the provisions of subsection B of Section 2812 of this title, a holder of a perfected security interest in the home is authorized to pay the ad valorem taxes for the full current year and any registration fees or ad valorem taxes which may be due for any prior years. The county treasurer shall issue a receipt of taxes paid to said holder and a decal showing the payment of such taxes. Such receipt shall be issued notwithstanding the existence of a tax sale certificate issued as a result of a tax sale to a purchaser of property upon which a manufactured home is located and for which the holder of a perfected security interest makes payment as authorized by this subsection. Such receipt shall be issued if the procedures prescribed by Section 3106 of this title are followed. If a tax sale certificate has been issued as required by law and the notice of sale contained the statement concerning the right of a secured party to repossess the manufactured home, the amount of taxes paid by the holder of the security interest shall be refunded to the holder of the tax sale certificate. The receipt shall be evidence of payment of the ad valorem taxes for purposes of obtaining a permit. The Department shall issue a permit immediately to the holder of a perfected security interest or licensed representative thereof, if the holder or representative is bonded by the state, to move the manufactured home to a secure location with a repossession affidavit. However, all excise taxes and ad valorem taxes due on such a manufactured home shall be required to be paid within thirty (30) days of the issuance of the permit. A certificate of title for a manufactured home shall not be issued pursuant to a repossession prior to the furnishing of proof satisfactory to the Oklahoma Tax Commission or motor license agent that all ad valorem taxes due have been paid. If the home is subject to registration pursuant to the provisions of the Oklahoma Vehicle License and Registration Act, the holder of a perfected security interest in a manufactured home may repossess the manufactured home and transport the manufactured home within the state for the purpose of securing the property after registering the manufactured home pursuant to the provisions of Section 1113 or 1117 of Title 47 of the Oklahoma Statutes.

2. The county assessor shall issue a special waiver and a commercial move affidavit for the second through the sixth day of the first month of the following year to allow a manufactured home which is used for commercial purposes to be moved during the first five (5) days in January without a Form 936 or a tax decal. All registration fees, excise taxes or ad valorem taxes due on the manufactured home shall be required to be paid within thirty (30) days of the issuance of the special waiver and commercial move affidavit. A business entity applying for a special waiver and a commercial move affidavit pursuant to this paragraph shall provide the county assessor with the information required by subsection B of Section 14-103D of Title 47 of the Oklahoma Statutes. No individual county assessor shall issue any business entity more than ten special waivers and commercial move affidavits in a calendar year. As used in this paragraph,

“manufactured home used for commercial purposes” means a manufactured home owned by any lawfully recognized business entity the primary purpose of which is to provide temporary housing for the employees or contractors of such business entity.

F. 1. The decal shall be affixed to the manufactured home license plate as evidence of the ad valorem tax paid and shall remain on the license plate, which shall be affixed to the exterior of the manufactured home, while the manufactured home is in transit.

2. It shall be a misdemeanor for any person to transport or cause to be transported a manufactured home without the decal affixed as required by this section or without a special waiver and affidavit as provided in subsection E of this section.

3. The decal issued pursuant to subsection C of this section shall be of such size, color, design and numbering as the Tax Commission may direct. The tax payment decals shall be made with reflectionized material so as to provide effective and dependable brighteners during the service period for which the tax payment decal is issued. The Tax Commission shall issue such tax payment decals to the various county treasurers of the state in order for a manufactured home owner or repossessor to move the manufactured home.

Added by Laws 1988, c. 162, § 13, eff. Jan. 1, 1992. Amended by Laws 1991, c. 249, § 7, eff. Jan. 1, 1992; Laws 1997, c. 117, § 1, eff. Nov. 1, 1997; Laws 1997, c. 192, § 7, eff. Jan. 1, 1998; Laws 1998, c. 403, § 5, emerg. eff. June 10, 1998; Laws 2002, c. 417, § 5, eff. July 1, 2002; Laws 2012, c. 269, § 2, eff. Jan. 1, 2013.

§68-2814. Office of county assessor - Creation - Filling.

There is hereby created the office of county assessor in and for each county of this state, which office shall be filled in the same manner as provided by Section 131 of Title 19 of the Oklahoma Statutes.

Added by Laws 1988, c. 162, § 14, eff. Jan. 1, 1992.

§68-2815. County assessor - Oath.

The county assessor shall take an oath that he will assess all property as provided by law, and he shall maintain his office at the county seat, which office shall be provided, furnished and maintained as required by law.

Added by Laws 1988, c. 162, § 15, eff. Jan. 1, 1992.

§68-2815.1. Removal of elected officials from office – Exhaustion of remedies.

All elected county officers may not be subject to any legal or disciplinary action for causes related to job performance and the assessment of a specific parcel of property unless the owner of the specific parcel of property has already exhausted the remedies provided in Sections 2876, 2877 and 2880.1 of Title 68 of the Oklahoma Statutes.

Added by Laws 2000, c. 60, § 1, eff. Nov. 1, 2000.

§68-2815.2. Current boundary descriptions – Maintenance and use by county assessor.

The county assessor shall maintain and use the current boundary descriptions of each and every school district or part of a district in the county furnished by the State Department of Education pursuant to Section 4-104 of Title 70 of the Oklahoma Statutes.

Added by Laws 2001, c. 239, § 1, eff. Nov. 1, 2001.

§68-2816. Officers and personnel - Educational accreditation.

A. The Director of the Ad Valorem Division of the Oklahoma Tax Commission, the first deputy within such division, all field analysts or equalization and assessment analysts within such division, each elected county assessor assuming office on or after January 1, 1991, all first deputies within such assessors' offices and all personnel involved in the actual appraisal of real property shall be required to achieve educational accreditation as prescribed by this section. Such accreditation shall be achieved within the time prescribed. Failure to achieve such accreditation shall result in forfeiture of office or termination of employment. A vacancy in a public office created for failure to achieve such accreditation shall be filled in the manner provided by law.

B. Accreditation for persons designated in subsection A of this section shall consist of initial accreditation and advanced accreditation as follows:

1. Within one (1) year from the date an assessor is elected to office, the assessor shall be required to successfully complete initial accreditation. If the assessor does not successfully complete testing or some part of the requirement, initial accreditation shall be completed within eighteen (18) months from the date of the assessor's election to office. Initial accreditation shall consist of successful completion of two (2) academic units. The first academic unit shall consist of basic ad valorem taxation law, legal responsibilities of the assessor's office, the role of the county assessor, valuation requirements and assessment administration. The second academic unit shall consist of basic appraisal and assessment processes.

2. Within one (1) year from the completion date of initial accreditation, the assessor shall be required to successfully complete advanced accreditation. If the assessor does not successfully complete advanced accreditation testing or some part of the requirement, advanced accreditation shall be completed by July 1, 1995, for persons holding office on May 27, 1993, or for persons assuming office after May 27, 1993, within eighteen (18) months from the date initial accreditation is completed. Advanced accreditation shall consist of successful completion of four (4) academic units. Each unit shall consist of one of the following topics:

- a. appraisal procedures,
- b. valuation of personal property,
- c. valuation of agricultural property, and
- d. mass appraisal procedures.

3. A county assessor's deputy not previously accredited pursuant to paragraphs 1 and 2 of this subsection shall be subject to the same requirements as the county assessor. Failure to complete the accreditations within the times prescribed shall result in dismissal of the deputy.

4. For any person required to achieve accreditation pursuant to this section and for whom the period of time to complete the accreditation is not otherwise prescribed, the accreditation shall be completed within eighteen (18) months of January 1, 1991 or within eighteen (18) months of the beginning date of employment if such person is initially employed after January 1, 1991.

C. Each county assessor who has successfully completed advanced accreditation shall thereafter be required to complete a continuing education requirement of thirty (30) hours every three (3) years. Failure to complete the continuing education requirement shall result in forfeiture of any travel reimbursement until the requirement is completed. Continuing education shall consist of successful completion of academic units on changes in Oklahoma Statutes affecting ad valorem taxation, real estate or appraisal, valuation and appraisal methods, mass appraisal methods or other topics appropriate to the improvement of county assessor's offices. A

deputy who has completed advanced accreditation as required by this section shall be subject to the continuing education requirement.

D. The Oklahoma State University Center for Local Government Technology, in cooperation with the Oklahoma Tax Commission and the County Assessors' Association, shall develop educational requirements, curriculum materials, appropriate study resources and examinations for an education program for accreditation purposes established in this section. The Center for Local Government Technology shall provide necessary classes, seminars and materials in support of the accreditation requirements. Nothing in this section shall be construed to prohibit use of the International Association of Assessing Officers' course work, where applicable, or any of its professional designations, as a substitute for or supplement to the accreditation program requirements.

E. For purposes of the administration of the accreditation requirements, the Oklahoma State University Center for Local Government Technology shall be responsible for keeping an official record as to the accreditation of individual county assessors and deputies and others who are required to achieve accreditation. Such record shall be the sole responsibility of Oklahoma State University and shall be defined as an open record under Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes. The Oklahoma State University Center for Local Government Technology shall be responsible for forwarding only the pass/fail results of individual testing to the Tax Commission. The Tax Commission shall issue the accreditations to all persons who have so qualified. All expenses incurred in the performance of the duties imposed upon the Oklahoma State University Center for Local Government Technology shall be paid out of funds appropriated or otherwise made available to the Tax Commission or the university may charge a reasonable fee to defray the cost of sponsoring the educational accreditation academic units required by this section.

F. The Oklahoma State University Center for Local Government Technology, in cooperation with the Tax Commission, the County Assessors' Association and the County Treasurers' Association shall provide computer software programs, support of software and hardware including installation, maintenance, data management and training, to counties currently using the services previously provided by the State Auditor and Inspector. All expenses incurred in the performance of the duties imposed upon the Oklahoma State University Center for Local Government Technology shall be paid out of funds appropriated or otherwise made available to the Tax Commission, or the University may charge a reasonable fee to defray the cost of sponsoring the County Computer Assistance Program support services required by this section.

Added by Laws 1988, c. 162, § 16, eff. Jan. 1, 1991. Amended by Laws 1993, c. 273, § 8, emerg. eff. May 27, 1993; Laws 1996, c. 114, § 1, eff. Nov. 1, 1996; Laws 2007, c. 346, § 4, eff. Jan. 1, 2008; Laws 2009, c. 170, § 1, eff. July 1, 2009.

§68-2817. See the following versions:

OS 68-2817v1 (HB 1265, Laws 2013, c. 158, § 1).

OS 68-2817v2 (SB 166, Laws 2013, c. 401, § 3).

§68-2817.1. Implementation of Oklahoma Constitution Article X, Section 8B - Increasing taxable fair cash value of locally assessed real property.

A. For purposes of implementing Section 8B of Article X of the Oklahoma Constitution, the taxable fair cash value of locally assessed real property shall not be automatically increased

five percent (5%) each year, the five-percent limitation on the increase in the taxable fair cash value shall not be cumulative, and the five-percent limitation shall not be considered as a twenty-percent increase every four (4) years.

B. For purposes of implementing Section 8B of Article X of the Oklahoma Constitution, improvements made to locally assessed real property shall be assessed in accordance with law by the county assessor based on the fair cash value of the improvement. The assessed value of the improvement shall then be added to the existing assessed value of the property, except as otherwise provided in the Oklahoma Housing Reinvestment Program Act. The existing property shall continue to be subject to the five-percent limitation on the increase in valuation as set forth in Section 8B of Article X of the Oklahoma Constitution. Except when title to the property is transferred, changed, or conveyed to another person as defined in Section 2802.1 of this title, and in accordance with Legislative intent as set forth in subsection A of this section, under no circumstances shall the taxable fair cash value of the existing property increase by more than five percent (5%) in any taxable year.

Added by Laws 1997, c. 304, § 4, emerg. eff. May 29, 1997. Amended by Laws 2002, c. 344, § 8, eff. Jan. 1, 2003; Laws 2005, c. 116, § 4, eff. Nov. 1, 2005.

§68-2817.2. Buffer strips – Uniform certified document – Duties of Conservation Commission.

A. For purposes of this section, the term “buffer strip” shall include any of the following approved Natural Resources Conservation Service (NRCS) practices which meet the standards and specifications of the NRCS:

1. Alley cropping;
2. Filter strip;
3. Field border;
4. Contour buffer strips;
5. Grassed waterway;
6. Riparian forest buffer; or
7. Riparian herbaceous cover.

B. In order to qualify under this section, the landowner must be participating in an Oklahoma Conservation Commission state cost-share program or be participating in federal conservation cost share programs through the United States Department of Agriculture. Eligibility for land to be considered under this section shall be based on the Natural Resources Conservation Service Buffer Strip Standards and Specifications and eligibility for state buffer programs shall be based on the requirements of the local conservation district.

C. For purposes of valuation and assessment as provided in Section 2817 of Title 68 of the Oklahoma Statutes, a buffer strip shall be valued as a separate parcel of property.

D. 1. The conservation district in which the land is located shall assist the taxpayer in completing a uniform certified document as prescribed by the Oklahoma Tax Commission in cooperation with the Conservation Commission that certifies:

- a. the property meets the requirements established under this section for buffer strips, and
- b. the acreage or square footage of property which qualifies for assessment as a buffer strip.

2. The document shall be filed by the applicant with the county assessor of the county in which the land is located by March 15. Approved applications shall be filed by the county assessor with the Tax Commission.

E. Nothing in this section shall be construed to require any taxpayer to have buffer strips.

F. The Oklahoma Conservation Commission, in consultation with the Natural Resources Conservation Service, shall provide a report concerning the implementation of this program to the Oklahoma Legislature by March 1, 2002.

G. The Oklahoma Conservation Commission shall be responsible for the administration of any state programs for assessing, monitoring, studying and restoring buffer strips. Such administration shall include, but not be limited to, the receipt and expenditure of funds from federal, state and private sources for buffer strips.

Added by Laws 2000, c. 255, § 2, eff. Jan. 1, 2001. Amended by Laws 2005, c. 451, § 2, eff. Jan. 1, 2006.

§68-2817.3. Exclusion of property used for desulphurization of gasoline or diesel fuel.

A. As used in subsection E of Section 2817 of this title, “facility, device or method for the desulphurization of gasoline or diesel fuel” means any structure, building, installation, excavation, machinery, equipment or device and any attachment or addition to or reconstruction, replacement or improvement of that property, that is used, constructed, acquired or installed on or after January 1, 2003, wholly or partly to meet or exceed rules adopted by the Oklahoma Environmental Quality Board, or by the United States Environmental Protection Agency with respect to any program which has been delegated to the Department of Environmental Quality for the prevention, monitoring, control or reduction of the amount of sulfur in gasoline or diesel fuel. This definition shall not apply to a motor vehicle.

B. In applying for an exclusion of property under the provisions of subsection E of Section 2817 of this title, a person seeking the exclusion shall present in a request to the Executive Director of the Department of Environmental Quality information detailing:

1. The anticipated environmental benefits from the installation of the facility, device or method for the desulphurization of gasoline or diesel fuel;
2. The estimated cost of the facility, device or method; and
3. The purpose of the installation of such facility, device or method and the proportion of the installation that is such a facility, device or method.

C. Following submission of the information required by subsection B of this section, the Executive Director of the Department of Environmental Quality shall determine if the facility, device or method is used wholly as a facility, device or method for the desulphurization of gasoline or diesel fuel. As soon as practicable, the Executive Director shall send notice by regular mail to the Director of the Ad Valorem Division of the Oklahoma Tax Commission that the person has applied for a determination under this section. If the Executive Director determines that the facility, device or method is used wholly for the desulphurization of gasoline or diesel fuel, the Executive Director shall issue a letter to the person stating that determination and the proportion of the installation that is a facility, device or method for the desulphurization of gasoline or diesel fuel.

D. The Department of Environmental Quality may charge a person seeking a determination under the provisions of this section an additional fee not to exceed its administrative costs for processing the information, making the determination and issuing the letter required by this section. The Environmental Quality Board may adopt rules to implement this section.

E. A person seeking an exclusion under this section shall provide to the county assessor or the Director of the Ad Valorem Division of the Oklahoma Tax Commission a copy of the letter

issued by the Executive Director of the Department of Environmental Quality under subsection C of this section. The county assessor or the Director of the Ad Valorem Division of the Tax Commission shall accept the copy of the letter from the Executive Director as conclusive evidence that the facility, device or method is used wholly for the desulphurization of gasoline or diesel fuel. The county assessor or the Director of the Ad Valorem Division of the Tax Commission shall further determine if the property for which the exclusion is sought is qualified as provided in subsection E of Section 2817 of this title.

F. The exclusion provided by this section, once allowed, need not be applied for subsequent years, and the exclusion applies to the property until it changes ownership or the qualification of the property for the exclusion changes. However, the county assessor or the Director of the Ad Valorem Division of the Tax Commission may require a person allowed an exclusion in a prior year to file a new application to confirm the current qualification for the exclusion by delivering a written notice that a new application is required, accompanied by an appropriate application form, to the person previously allowed the exclusion.

Added by Laws 2002, c. 345, § 2, eff. Jan. 1, 2003. Amended by Laws 2003, c. 431, § 3, eff. Jan. 1, 2004.

§68-2817v1. Valuation and assessment of property - Fair cash value - Use value.

A. All taxable personal property, except intangible personal property, personal property exempt from ad valorem taxation, or household personal property, shall be listed and assessed each year at its fair cash value, estimated at the price it would bring at a fair voluntary sale, as of January 1.

The fair cash value of household personal property shall be valued at ten percent (10%) of the appraised value of the improvement to the residential real property within which such personal property is located as of January 1 each year. The assessment of household personal property as provided by this section may be altered by the taxpayer listing such property at its actual fair cash value. For purposes of establishing the value of household personal property, pursuant to the requirement of Section 8 of Article X of the Oklahoma Constitution, the percentage of value prescribed by this section for the household personal property shall be presumed to constitute the fair cash value of the personal property.

All unmanufactured farm products shall be assessed and valued as of the preceding May 31. Every person, firm, company, association, or corporation, in making the assessment, shall assess all unmanufactured farm products owned by the person, firm, company, association or corporation on the preceding May 31, at its fair cash value on that date instead of January 1.

Stocks of goods, wares and merchandise shall be assessed at the value of the average amount on hand during the preceding year, or the average amount on hand during the part of the preceding year the stock of goods, wares or merchandise was at its January 1 location.

B. All taxable real property shall be assessed annually as of January 1, at its fair cash value, estimated at the price it would bring at a fair voluntary sale for:

1. The highest and best use for which the property was actually used during the preceding calendar year; or

2. The highest and best use for which the property was last classified for use if not actually used during the preceding calendar year.

When improvements upon residential real property are divided by a taxing jurisdiction line, those improvements shall be valued and assessed in the taxing jurisdiction in which the physical majority of those improvements are located.

The Ad Valorem Division of the Oklahoma Tax Commission shall be responsible for the promulgation of rules which shall be followed by each county assessor of the state, for the purposes of providing for the equitable use valuation of locally assessed real property in this state. Agricultural land and nonresidential improvements necessary or convenient for agricultural purposes shall be assessed for ad valorem taxation based upon the highest and best use for which the property was actually used, or was previously classified for use, during the calendar year next preceding January 1 on which the assessment is made.

C. The use value of agricultural land shall be based on the income capitalization approach using cash rent. The rental income shall be calculated using the direct capitalization method based upon factors including, but not limited to:

1. Soil types, as depicted on soil maps published by the Natural Resources Conservation Service of the United States Department of Agriculture;

2. Soil productivity indices approved by the Ad Valorem Division of the Tax Commission;

3. The specific agricultural purpose of the soil based on use categories approved by the Ad Valorem Division of the Tax Commission; and

4. A capitalization rate to be determined annually by the Ad Valorem Division of the Tax Commission based on the sum of the average first mortgage interest rate charged by the Federal Land Bank for the immediately preceding five (5) years, weighted with the prevailing rate or rates for additional loans or equity, and the effective tax rate.

The final use value will be calculated using the soil productivity indices and the agricultural use classification as defined by rules promulgated by the State Board of Equalization. This subsection shall not be construed in a manner which is inconsistent with the duties, powers and authority of the Board as to valuation of the counties as fixed and defined by Section 21 of Article X of the Oklahoma Constitution.

However, in calculating the use value of buffer strips as defined in Section 2817.2 of this title, exclusive consideration shall be based only on income from production agriculture from such buffer strips, not including federal or state subsidies, when valued as required by subsection C of Section 2817.2 of this title.

D. The use value of nonresidential improvements on agricultural land shall be based on the cost approach to value estimation using currently updated cost manuals published by the Marshall and Swift Company or similar cost manuals approved by the Ad Valorem Division of the Tax Commission. The use value estimates for the nonresidential improvements shall take obsolescence and depreciation into consideration in addition to necessary adjustments for local variations in the cost of labor and materials. This section shall not be construed in a manner which is inconsistent with the duties, powers and authority of the Board as to equalization of valuation of the counties as determined and defined by Section 21 of Article X of the Oklahoma Constitution.

The use value of facilities used for poultry production shall be determined according to the following procedures:

1. The Ad Valorem Division of the Tax Commission is hereby directed to develop a standard system of valuation of both real and personal property of such facilities, which shall be used by all county assessors in this state, under which valuation based on the following shall be presumed to be the fair cash value of the property:

- a. for real property, a ten-year depreciation schedule, at the end of which the residual value is twenty percent (20%) of the value of the facility during its first year of operation, and
- b. for personal property, a five-year depreciation schedule, at the end of which the residual value is zero;

2. Such facilities shall be valued only in comparison to other facilities used exclusively for poultry production. Such a facility which is no longer used for poultry production shall be deemed to have no productive use;

3. During the first year such a facility is placed on the tax rolls, its fair cash value shall be presumed to be the lesser of the actual purchase price or the actual documented cost of construction; and

4. For the purpose of determining the valuation of nonresidential improvements used for poultry production, the provisions of this subsection shall be applicable and such improvements shall not be considered to be commercial property.

E. The value of investment in property used exclusively by an oil refinery that is used wholly as a facility, device or method for the desulphurization of gasoline or diesel fuel as defined in Section 2817.3 of this title shall not be included in the capitalization used in the determination of fair market value of such oil refinery if such property would qualify as exempt property pursuant to Section 2902 of this title, whether or not an application for such exemption is made by an otherwise qualifying manufacturing concern owning the property described by Section 2817.3 of this title.

F. The use value of a lot in any platted addition or a subdivision in a city, town or county zoned for residential, commercial, industrial or other use shall be deemed to be the fair cash value of the underlying tract of land platted, divided by the number of lots contained in the platted addition or subdivision until the lot shall have been conveyed to a bona fide purchaser or the lot with building or buildings located thereon shall have been occupied other than as a sales office by the owner thereof, or shall have been leased, whichever event shall first occur. One who purchases a lot for the purposes of constructing and selling a building on such lot shall not be deemed to be a bona fide purchaser for purposes of this section. However, if the lot is held for a period longer than two (2) years before construction, then the assessor may consider the lot to have been conveyed to a bona fide purchaser. The cost of any land or improvements to any real property required to be dedicated to public use, including, but not limited to, streets, curbs, gutters, sidewalks, storm or sanitary sewers, utilities, detention or retention ponds, easements, parks or reserves shall not be utilized by the county assessor in the valuation of any real property for assessment purposes.

G. The transfer of real property without a change in its use classification shall not require a reassessment thereof based exclusively upon the sale value of the property. However, if the county assessor determines:

1. That by reason of the transfer of a property there is a change in the actual use or classification of the property; or
 2. That by reason of the amount of the sales consideration it is obvious that the use classification prior to the transfer of the property is not commensurate with and would not justify the amount of the sales consideration of the property;
- then the assessor shall, in either event, reassess the property for the new use classification for which the property is being used, or, the highest and best use classification for which the property may, by reason of the transfer, be classified for use.

H. When the term “fair cash value” or the language “fair cash value, estimated at the price it would bring at a fair voluntary sale” is used in the Ad Valorem Tax Code, in connection with and in relation to the assessment of real property, it is defined to mean and shall be given the meaning ascribed and assigned to it in this section and when the term or language is used in the Code in connection with the assessment of personal property it shall be given its ordinary or literal meaning.

I. Where any real property is zoned for a use by a proper zoning authority, and the use of the property has not been changed, the use and not zoning shall determine assessment. Any reassessment required shall be effective January 1 following the change in use. Taxable real property need not be listed annually with the county assessor.

J. If any real property shall become taxable after January 1 of any year, the county assessor shall assess the same and place it upon the tax rolls for the next ensuing year. When any building is constructed upon land after January 1 of any year, the value of the building shall be added by the county assessor to the assessed valuation of the land upon which the building is constructed at the fair cash value thereof for the next ensuing year. However, after the building has been completed it shall be deemed to have a value for assessment purposes of the fair cash value of the materials used in such building only, until the building and the land on which the building is located shall have been conveyed to a bona fide purchaser or shall have been occupied or used for any purpose other than as a sales office by the owner thereof, or shall have been leased, whichever event shall first occur. The county assessor shall continue to assess the building based upon the fair market value of the materials used therein until the building and land upon which the building is located shall have been conveyed to a bona fide purchaser or is occupied or used for any purpose other than as a sales office by the owner thereof, or is leased, whichever event shall first occur.

K. In case improvements on land or personal property located therein or thereon are destroyed by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause, or the value of land is impaired, damaged or destroyed by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause, during any year, the county assessor shall determine the amount of damage and shall reassess the property for that year at the fair cash value of the property, as defined herein, taking into account the damage occasioned by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause and shall present the reassessment to the board of tax roll corrections for its consideration.

L. All taxable personal property used in the exploration of oil, natural gas, or other minerals, including drilling equipment and rigs, shall be assessed annually at the value set forth in the first Hadco International monthly bulletin published for the tax year, using the appropriate depth rating assigned to the drawworks by its manufacturer and the actual condition of the rig. Added by Laws 1988, c. 162, § 17, eff. Jan. 1, 1992. Amended by Laws 1989, c. 321, § 8, operative Jan. 1, 1991; Laws 1996, c. 189, § 1, eff. Nov. 1, 1996; Laws 1997, c. 318, § 1, eff. Nov. 1, 1997; Laws 1998, c. 405, § 4, eff. Nov. 1, 1998; Laws 1999, c. 1, § 24, emerg. eff. Feb. 24, 1999; Laws 2000, c. 255, § 1, eff. Jan. 1, 2001; Laws 2001, c. 358, § 17, eff. July 1, 2001; Laws 2002, c. 345, § 1, eff. Jan. 1, 2003; Laws 2003, c. 431, § 2, eff. Jan. 1, 2004; Laws 2005, c. 381, § 13, eff. Jan. 1, 2006; Laws 2006, c. 16, § 70, emerg. eff. March 29, 2006; Laws 2007, c. 250, § 1, eff. Jan. 1, 2008; Laws 2008, c. 3, § 39, emerg. eff. Feb. 28, 2008; Laws 2008, c. 140, § 1, emerg. eff. May 9, 2008; Laws 2013, c. 158, § 1, eff. Nov. 1, 2013.

NOTE: Laws 1998, c. 403, § 6 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999. Laws 2005, c. 451, § 1 repealed by Laws 2006, c. 16, § 71, emerg. eff. March 29, 2006. Laws 2007, c. 329, § 1 repealed by Laws 2008, c. 3, § 40, emerg. eff. Feb. 28, 2008.

§68-2817v2. Valuation and assessment of property - Fair cash value - Use value.

A. All taxable personal property, except intangible personal property, personal property exempt from ad valorem taxation, or household personal property, shall be listed and assessed each year at its fair cash value, estimated at the price it would bring at a fair voluntary sale, as of January 1.

The fair cash value of household personal property shall be valued at ten percent (10%) of the appraised value of the improvement to the residential real property within which such personal property is located as of January 1 each year. The assessment of household personal property as provided by this section may be altered by the taxpayer listing such property at its actual fair cash value. For purposes of establishing the value of household personal property, pursuant to the requirement of Section 8 of Article X of the Oklahoma Constitution, the percentage of value prescribed by this section for the household personal property shall be presumed to constitute the fair cash value of the personal property.

All unmanufactured farm products shall be assessed and valued as of the preceding May 31. Every person, firm, company, association, or corporation, in making the assessment, shall assess all unmanufactured farm products owned by the person, firm, company, association or corporation on the preceding May 31, at its fair cash value on that date instead of January 1.

Stocks of goods, wares and merchandise shall be assessed at the value of the average amount on hand during the preceding year, or the average amount on hand during the part of the preceding year the stock of goods, wares or merchandise was at its January 1 location.

B. All taxable real property shall be assessed annually as of January 1, at its fair cash value, estimated at the price it would bring at a fair voluntary sale for:

1. The highest and best use for which the property was actually used during the preceding calendar year; or
2. The highest and best use for which the property was last classified for use if not actually used during the preceding calendar year.

When improvements upon residential real property are divided by a taxing jurisdiction line, those improvements shall be valued and assessed in the taxing jurisdiction in which the physical majority of those improvements are located.

The Ad Valorem Division of the Oklahoma Tax Commission shall be responsible for the promulgation of rules which shall be followed by each county assessor of the state, for the purposes of providing for the equitable use valuation of locally assessed real property in this state. Agricultural land and nonresidential improvements necessary or convenient for agricultural purposes shall be assessed for ad valorem taxation based upon the highest and best use for which the property was actually used, or was previously classified for use, during the calendar year next preceding January 1 on which the assessment is made.

C. The use value of agricultural land shall be based on the income capitalization approach using cash rent. The rental income shall be calculated using the direct capitalization method based upon factors including, but not limited to:

1. Soil types, as depicted on soil maps published by the Natural Resources Conservation Service of the United States Department of Agriculture;

2. Soil productivity indices approved by the Ad Valorem Division of the Tax Commission;

3. The specific agricultural purpose of the soil based on use categories approved by the Ad Valorem Division of the Tax Commission; and

4. A capitalization rate to be determined annually by the Ad Valorem Division of the Tax Commission based on the sum of the average first mortgage interest rate charged by the Federal Land Bank for the immediately preceding five (5) years, weighted with the prevailing rate or rates for additional loans or equity, and the effective tax rate.

The final use value will be calculated using the soil productivity indices and the agricultural use classification as defined by rules promulgated by the State Board of Equalization. This subsection shall not be construed in a manner which is inconsistent with the duties, powers and authority of the Board as to valuation of the counties as fixed and defined by Section 21 of Article X of the Oklahoma Constitution.

However, in calculating the use value of buffer strips as defined in Section 2817.2 of this title, exclusive consideration shall be based only on income from production agriculture from such buffer strips, not including federal or state subsidies, when valued as required by subsection C of Section 2817.2 of this title.

D. The use value of nonresidential improvements on agricultural land shall be based on the cost approach to value estimation using currently updated cost manuals published by the Marshall and Swift Company or similar cost manuals approved by the Ad Valorem Division of the Tax Commission. The use value estimates for the nonresidential improvements shall take obsolescence and depreciation into consideration in addition to necessary adjustments for local variations in the cost of labor and materials. This section shall not be construed in a manner which is inconsistent with the duties, powers and authority of the Board as to equalization of valuation of the counties as determined and defined by Section 21 of Article X of the Oklahoma Constitution.

The use value of facilities used for poultry production shall be determined according to the following procedures:

1. The Ad Valorem Division of the Tax Commission is hereby directed to develop a standard system of valuation of both real and personal property of such facilities, which shall be used by all county assessors in this state, under which valuation based on the following shall be presumed to be the fair cash value of the property:

- a. for real property, a ten-year depreciation schedule, at the end of which the residual value is twenty percent (20%) of the value of the facility during its first year of operation, and
- b. for personal property, a five-year depreciation schedule, at the end of which the residual value is zero;

2. Such facilities shall be valued only in comparison to other facilities used exclusively for poultry production. Such a facility which is no longer used for poultry production shall be deemed to have no productive use;

3. During the first year such a facility is placed on the tax rolls, its fair cash value shall be presumed to be the lesser of the actual purchase price or the actual documented cost of construction; and

4. For the purpose of determining the valuation of nonresidential improvements used for poultry production, the provisions of this subsection shall be applicable and such improvements shall not be considered to be commercial property.

E. The value of investment in property used exclusively by an oil refinery that is used wholly as a facility, device or method for the desulphurization of gasoline or diesel fuel as defined in Section 2817.3 of this title shall not be included in the capitalization used in the determination of fair market value of such oil refinery if such property would qualify as exempt property pursuant to Section 2902 of this title, whether or not an application for such exemption is made by an otherwise qualifying manufacturing concern owning the property described by Section 2817.3 of this title.

F. The use value of a lot in any platted addition or a subdivision in a city, town or county zoned for residential, commercial, industrial or other use shall be deemed to be the fair cash value of the underlying tract of land platted, divided by the number of lots contained in the platted addition or subdivision until the lot shall have been conveyed to a bona fide purchaser or the lot with building or buildings located thereon shall have been occupied other than as a sales office by the owner thereof, or shall have been leased, whichever event shall first occur. One who purchases a lot for the purposes of constructing and selling a building on such lot shall not be deemed to be a bona fide purchaser for purposes of this section. However, if the lot is held for a period longer than two (2) years before construction, then the assessor may consider the lot to have been conveyed to a bona fide purchaser. The cost of any land or improvements to any real property required to be dedicated to public use, including, but not limited to, streets, curbs, gutters, sidewalks, storm or sanitary sewers, utilities, detention or retention ponds, easements, parks or reserves shall not be utilized by the county assessor in the valuation of any real property for assessment purposes.

G. The transfer of real property without a change in its use classification shall not require a reassessment thereof based exclusively upon the sale value of the property. However, if the county assessor determines:

1. That by reason of the transfer of a property there is a change in the actual use or classification of the property; or
2. That by reason of the amount of the sales consideration it is obvious that the use classification prior to the transfer of the property is not commensurate with and would not justify the amount of the sales consideration of the property;

then the assessor shall, in either event, reassess the property for the new use classification for which the property is being used, or, the highest and best use classification for which the property may, by reason of the transfer, be classified for use.

H. When the term "fair cash value" or the language "fair cash value, estimated at the price it would bring at a fair voluntary sale" is used in the Ad Valorem Tax Code, in connection with and in relation to the assessment of real property, it is defined to mean and shall be given the meaning ascribed and assigned to it in this section and when the term or language is used in the Code in connection with the assessment of personal property it shall be given its ordinary or literal meaning.

I. Where any real property is zoned for a use by a proper zoning authority, and the use of the property has not been changed, the use and not zoning shall determine assessment. Any reassessment required shall be effective January 1 following the change in use. Taxable real property need not be listed annually with the county assessor.

J. If any real property shall become taxable after January 1 of any year, the county assessor shall assess the same and place it upon the tax rolls for the next ensuing year. When any building is constructed upon land after January 1 of any year, the value of the building shall be added by the county assessor to the assessed valuation of the land upon which the building is

constructed at the fair cash value thereof for the next ensuing year. However, after the building has been completed it shall be deemed to have a value for assessment purposes of the fair cash value of the materials used in such building only, until the building and the land on which the building is located shall have been conveyed to a bona fide purchaser or shall have been occupied or used for any purpose other than as a sales office by the owner thereof, or shall have been leased, whichever event shall first occur. The county assessor shall continue to assess the building based upon the fair market value of the materials used therein until the building and land upon which the building is located shall have been conveyed to a bona fide purchaser or is occupied or used for any purpose other than as a sales office by the owner thereof, or is leased, whichever event shall first occur.

K. In case improvements on land or personal property located therein or thereon are destroyed by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause, or the value of land is impaired, damaged or destroyed by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause, after January 1 and before the adjournment of the county board of equalization during any year, the county board of equalization, in cooperation with the county assessor, shall determine the amount of damage, and shall make an order directing the assessment of the property for that year at the fair cash value of the property, as defined herein, taking into account the damage occasioned by fire, lightning, storm, winds, floodwaters, overflow of streams or other cause.

L. All taxable personal property used in the exploration of oil, natural gas, or other minerals, including drilling equipment and rigs, shall be assessed annually at the value set forth in the first Hadco International monthly bulletin published for the tax year, using the appropriate depth rating assigned to the drawworks by its manufacturer and the actual condition of the rig.

M. The value of taxable tangible personal property used in commercial disposal systems of waste materials from the production of oil and gas shall not include any contract rights or leases for the use of such systems nor any value associated with the wellbore or non-recoverable down-hole material, including casing.

Added by Laws 1988, c. 162, § 17, eff. Jan. 1, 1992. Amended by Laws 1989, c. 321, § 8, operative Jan. 1, 1991; Laws 1996, c. 189, § 1, eff. Nov. 1, 1996; Laws 1997, c. 318, § 1, eff. Nov. 1, 1997; Laws 1998, c. 405, § 4, eff. Nov. 1, 1998; Laws 1999, c. 1, § 24, emerg. eff. Feb. 24, 1999; Laws 2000, c. 255, § 1, eff. Jan. 1, 2001; Laws 2001, c. 358, § 17, eff. July 1, 2001; Laws 2002, c. 345, § 1, eff. Jan. 1, 2003; Laws 2003, c. 431, § 2, eff. Jan. 1, 2004; Laws 2005, c. 381, § 13, eff. Jan. 1, 2006; Laws 2006, c. 16, § 70, emerg. eff. March 29, 2006; Laws 2007, c. 250, § 1, eff. Jan. 1, 2008; Laws 2008, c. 3, § 39, emerg. eff. Feb. 28, 2008; Laws 2008, c. 140, § 1, emerg. eff. May 9, 2008; Laws 2013, c. 401, § 3, eff. Nov. 1, 2013.

NOTE: Laws 1998, c. 403, § 6 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999. Laws 2005, c. 451, § 1 repealed by Laws 2006, c. 16, § 71, emerg. eff. March 29, 2006. Laws 2007, c. 329, § 1 repealed by Laws 2008, c. 3, § 40, emerg. eff. Feb. 28, 2008.

§68-2818. Taxpayer's return not conclusive of value - Raising or lowering returned value - Separate valuation by county assessor - Inspection and examination of premises.

A. The return of the taxpayer shall not be conclusive as to the value or amount of any property. The county assessor shall have the authority and it shall be his duty to raise or lower the returned value:

1. Of any personal property, to conform to the fair cash value thereof, estimated at the price it would bring at a fair voluntary sale; or

2. Of any real property so that the assessment thereof shall be made in accordance with the provisions of Section 2817 of this title and with all provisions of the Ad Valorem Tax Code applicable to the valuation of real property.

B. The county assessor shall assess and value all property, both real and personal, which is subject to assessment by him, and shall place a separate value on the land and improvements in assessing real estate; and he shall do all things necessary, including the viewing and inspecting of property, to enable him to assess and value all taxable property, determine the accuracy of assessment lists filed with him, discover and assess omitted property, and determine the taxable status of any property which is claimed to be exempt from ad valorem taxation for any reason.

C. In the performance of his duties, the county assessor, or his duly appointed and authorized deputy, shall have the power and authority to:

1. Go upon any premises and enter any business building or structure and view the same and the property therein, and to view, inspect or appraise any property located within his county, however, the county assessor shall not have the power or authority to enter the private dwelling of a taxpayer except as provided for in subsection D of this section; and

2. Examine any person under oath in regard to the amount or value of his property.

D. In the event of a dispute concerning the valuation of household personal property, a taxpayer may request the county assessor to perform a visual inspection of such property.

E. Prior to entering the business or commercial premises of any taxpayer for purposes of discovering personal property, the county assessor or deputy shall request permission to enter the business or commercial premises and shall state the reason for the inspection. If access to the business or commercial premises is denied, the county assessor or deputy shall be required to obtain a search warrant in order to conduct an inspection of the interior of the business or commercial premises. A search warrant may be obtained upon a showing of probable cause that personal property located within particularly described business or commercial premises is subject to ad valorem taxation, but not listed or assessed for ad valorem taxation as required by law.

Added by Laws 1988, c. 162, § 18, eff. Jan. 1, 1992. Amended by Laws 1989, c. 152, § 5, eff. Jan. 1, 1992.

§68-2819. Determination of taxable value.

Taxable values of real and personal property shall be established in accordance with the requirements of Sections 8, 8B and 8C of Article X of the Oklahoma Constitution. The county assessor shall determine the taxable value of all taxable property that the assessor is required by law to assess and value and shall determine such taxable value in accordance with the requirements of Sections 8, 8B and 8C of Article X of the Oklahoma Constitution.

Added by Laws 1988, c. 162, § 19, eff. Jan. 1, 1992. Amended by Laws 1997, c. 304, § 5, emerg. eff. May 29, 1997.

§68-2820. Visual inspection of taxable property.

A. Each county assessor shall conduct a comprehensive program for the individual visual inspection of all taxable property within his respective county. Each assessor shall thereafter maintain an active and systematic program of visual inspection on a continuous basis and shall establish an inspection schedule which will result in the individual visual inspection of all taxable property within the county at least once each four (4) years.

B. The first cycle of visual inspections for property shall begin upon January 1, 1991, as prescribed by Section 2481.1 of Title 68 of the Oklahoma Statutes, and shall end upon December 31, 1994. Thereafter, each succeeding four-year cycle for visual inspections shall begin upon January 1 of the year following the fourth year of the preceding cycle and shall end upon December 31 of the applicable four-year cycle. The county assessor shall utilize the standard parcel identification system required by law to assign each parcel of real property a unique identification code or number. The code or number shall be used to ensure that the inspection sequence for real property results in a visual inspection of each parcel at least once each four (4) years. Each successor of the county assessor shall use the same cycle as used by the assessor's predecessor in office for visual inspections of property.

C. Prior to the beginning of the first visual inspection cycle and each subsequent visual inspection cycle, the county assessor shall develop a plan that details the number of real property parcels to be inspected in each year of the cycle by use category, geographic area or other basis, the resources and budget proposed to complete the inspections and the valuation methodology to be used in determining the fair cash value of the real property and improvements thereon. The plan shall be adequate to ensure the visual inspection of all parcels of real property within the county at least once each four (4) years. The plan shall also be adequate to ensure that the information collected from the visual inspection of real property each year is sufficient to establish a representative sample from each use category in order to conduct the proper valuation of all taxable property within each use category by means of an accepted standard for mass appraisal practice. The county assessor shall submit the proposed plan to the Oklahoma Tax Commission by the first working day in October preceding the beginning of the four-year cycle. The Oklahoma Tax Commission shall either approve the plan if the plan and resources are adequate to complete the cycle and if the plan will result in a representative sample from each use category in order to value all taxable property each year or shall correct and modify the plan in order to establish a program for visual inspection that will be completed by the end of the cycle and that will provide a representative sample from each use category in order to value all taxable property each year. An approved plan shall be made for each county as of the beginning date of each cycle and a copy of such plan shall be filed with the Oklahoma Tax Commission.

D. Each year the county assessor shall submit a progress report to the Oklahoma Tax Commission indicating the number of real property parcels inspected by use category, geographic area or other basis, the resources and budget expended in the last completed fiscal year and the valuation methodology used to determine fair cash values of the real property and improvements. The Oklahoma Tax Commission shall correct and modify any visual inspection plan during the four-year cycle if progress reports indicate that inspection of real property parcels will not be completed or will be performed in violation of legal requirements for such inspections. The county assessor shall be required to complete the four-year cycle in accordance with such plan as corrected and modified.

E. Each county assessor shall prepare and submit to the Oklahoma Tax Commission a detailed report of the progress made in the visual inspection program in his county to the date of the report and it shall be made a matter of public record. Such report shall be submitted upon forms supplied by the Oklahoma Tax Commission and shall consist of such information as the Oklahoma Tax Commission requires. The progress report shall be submitted not later than October 15 each year or the first working day thereafter. Based in part on all such county progress reports, the Oklahoma Tax Commission shall prepare its own report from all sources and transmit a copy of its own report to the Legislature and the State Board of Equalization.

Added by Laws 1988, c. 162, § 20, eff. Jan. 1, 1991. Amended by Laws 2001, c. 358, § 18, eff. July 1, 2001.

§68-2821. Physical inspection of real property - Type of information to be gathered - Recording - Cadastral maps and parcel identification system to be required and maintained - Comprehensive sales file - Office equipment.

A. Each county assessor shall cause real property to be physically inspected as part of the visual inspection cycle and shall require such examination as will provide adequate data from which to make accurate valuations.

B. The information gathered from the physical inspection shall be relevant to the type of property involved, its use category, the valuation methodology to be used for the property, whether the methodology consists of the cost approach, an income and expense approach or sales comparison approach, and shall be complete enough in order to establish the fair cash value of the property in accordance with accepted standards for mass appraisal practice.

C. Information gathered during the physical inspection shall be recorded using a standard method as prescribed by the Oklahoma Tax Commission in computerized or noncomputerized form. The information may include property ownership, location, size, use, use category, a physical description of the land and improvements or such other information as may be required.

D. In order to conduct the visual inspections of real property during the four-year cycle, each county assessor shall acquire and maintain cadastral maps and a parcel identification system. The standards for the cadastral maps and the parcel identification system shall be uniform for each county of the state and shall be in such form as developed by the Ad Valorem Task Force.

E. The county assessor shall maintain a comprehensive sales file for each parcel of real property within the county containing relevant property characteristics, sales price information, adjustments to sales price for purposes of cash equivalency, transaction terms and such other information as may be required in order to establish the fair cash value of taxable real property.

Each county assessor shall ensure that the office is equipped with adequate drafting facilities, tools, equipment and supplies in order to produce or update maps, sketches or drawings necessary to support the proper administration of the ad valorem tax and such other tools or equipment as may be required to perform duties imposed by law for the discovery and valuation of taxable property.

Added by Laws 1988, c. 162, § 21, eff. Jan. 1, 1992. Amended by Laws 1989, c. 321, § 9, operative Jan. 1, 1992; Laws 1991, c. 338, § 1, eff. Jan. 1, 1992.

§68-2822. Adequate provisions to effectuate visual inspection program to be included in assessors' budgets.

A. Each county assessor in budgets submitted to the county excise board or county budget board shall make adequate provision to effect countywide visual inspections of real property during the four-year cycle.

B. Each jurisdiction within a county which receives revenue from an ad valorem mill rate shall receive a copy of the budget for the countywide visual inspection program for that county. The county excise board or county budget board shall notify all such jurisdictions of any meetings at which discussion or action on the budget for the comprehensive program of visual inspections is or may be on the agenda. Such jurisdictions shall have the opportunity to appear before the county excise board or the county budget board, prior to approval of such budgets, to

provide testimony, comments, information and documentation concerning the budgets submitted by the county assessor pursuant to subsection A of this section.

C. The several county excise and budget boards, in passing upon budgets submitted by the several assessors, shall authorize and levy amounts which will suffice to carry out the countywide visual inspection program as approved by the Oklahoma Tax Commission under Section 2820 of this title. Such amounts shall be separate from other funds allocated to the office of county assessor and shall be used exclusively to carry out the countywide visual inspection program. The allocation of such amounts shall not serve to decrease other funds allocated to the office of county assessor by the county excise board or the county budget board. Any disputes as to the amount authorized to carry out the countywide visual inspection program shall be resolved by the county excise board; provided, the Oklahoma Tax Commission shall take such action as may be necessary to ensure that such amounts are used exclusively to carry out the countywide visual inspection program and that the allocation of such amounts does not serve to decrease other funds allocated to the office of county assessor.

Added by Laws 1988, c. 162, § 22, eff. Jan. 1, 1992. Amended by Laws 1992, c. 366, § 1, emerg. eff. June 9, 1992; Laws 1993, c. 273, § 9, emerg. eff. May 27, 1993; Laws 1994, c. 326, § 2, eff. July 1, 1994.

§68-2823. Cost of comprehensive visual inspection program.

A. For each fiscal year, the cost of the comprehensive program of visual inspections for real property and the cost of physical inspections of personal property shall be paid by appropriate warrants from those who receive the revenues of the mill rates levied on the property of the county as prescribed by this section. School districts are hereby authorized to pay such costs from revenues accruing to their building funds. The county assessor shall prepare a budget for the comprehensive program of visual inspections for real property and the cost of physical inspections of personal property and file such budget with the county excise board or county budget board.

B. The county excise board or county budget board shall apportion such cost among the various recipients of revenues from the mill rates levied, including the county, all cities and towns, all school districts, all sinking funds of such recipients, and all jurisdictions specified in subsection D of this section, in the ratio which each recipient's total tax collection authorized from its mill rates levied for the preceding year bears to the total tax collection authorized of all recipients from all their mill rates levied for the preceding year. The cost shall include only those expenses directly attributable to the visual inspection program and those expenses directly attributable to physical inspections of personal property and shall not include any expenses of the office of the county assessor which, in the judgment of the county excise board or county budget board, are expenses of county assessor's office which would exist in the absence of such program or in the absence of physical inspection of personal property. Expenses that are attributable both to the visual inspection program and physical inspection of personal property, and which would exist in the absence of such program or inspection, including but not limited to salaries, employee benefits, office supplies and equipment, may be prorated; provided, no portion of the salary of the county assessor shall be included in such costs.

C. Upon receipt of the billing statement provided for in subsections D and E of this section by each such recipient, the mill rates to be established by the board for each such recipient for the current year shall include and be based upon such amounts and shall constitute an appropriation of such amounts to the county assessor for expenditure for the expenses of

administering the visual inspection program each year. In the case of a sinking fund of a recipient, if, after approving its budget, the governing body of a recipient notifies the board in writing that there are no funds appropriated to pay the amount of the billing statement for such sinking fund, such notice shall constitute conclusive evidence of a financial obligation of the recipient as it relates to such sinking fund. The board may seek a judgment for the amount of such obligation and court costs in the district court of the county in which the board is located.

D. The county assessor shall render a statement to each of the jurisdictions within the county which receive revenue from an ad valorem mill rate. Such statement shall include the following information:

1. The current fiscal year in which the charge has been incorporated in the jurisdiction's budget;

2. All jurisdictions receiving statements from the county assessor, the mill rate for each in the previous year, and the proportion of each to the combined mill rates of all jurisdictions within the county for the previous year. The proportions specified in this paragraph should equal a total of one hundred percent (100%);

3. The charge for the entity receiving the statement as well as the charge for each jurisdiction of the county based upon the proportions specified in paragraph 2 of this subsection. The total of all current year charges for all county jurisdictions should equal the total visual inspection program budget for the current fiscal year;

4. The amount of the total budget for the office of the county assessor and the percentage that visual inspection program expenses are of such total budget; and

5. A copy of the County Budget Visual Inspection Account and a brief description of the areas to be visually inspected for the current fiscal year, consistent with the plan on file with the Oklahoma Tax Commission pursuant to Section 2820 of this title.

E. In any county wherein any jurisdiction's budget and mill rates are not subject to review and approval by the county excise board, the county assessor shall nevertheless include any such jurisdiction in the calculations required under subsection A of this section. The county assessor shall also render a billing statement to any such jurisdiction showing the charge for the current fiscal year due from the jurisdiction. Such billing statement shall also show all the information specified in subsection D of this section. Such billing statement shall clearly indicate that the charge payable by the jurisdiction is due and payable by December 31 of the current fiscal year. Added by Laws 1988, c. 162, § 23, eff. July 1, 1992. Amended by Laws 1991, c. 249, § 8, eff. July 1, 1992; Laws 1992, c. 208, § 2; Laws 1994, c. 326, § 3, eff. July 1, 1994; Laws 2001, c. 358, § 19, eff. July 1, 2001; Laws 2002, c. 476, § 4, emerg. eff. June 6, 2002.

§68-2824. Special assistance in valuation of certain property.

Any county assessor may request special assistance from the Oklahoma Tax Commission in the valuation of property which requires specialized knowledge not otherwise available to the assessor's staff. Upon approval of such request, the Oklahoma Tax Commission may assist the assessor in the valuation of such property in such manner as the Oklahoma Tax Commission, in its discretion, considers proper and adequate.

Added by Laws 1988, c. 162, § 24, eff. Jan. 1, 1992.

§68-2825. Valuation guidance and assistance.

The Oklahoma Tax Commission shall make and publish such rules, regulations and guides which it determines are needed for the general guidance and assistance of county assessors.

Each assessor is hereby directed and required to value property in accordance with the standards established by law.

Added by Laws 1988, c. 162, § 25, eff. Jan. 1, 1992.

§68-2826. Appraisers - Valuations - Reassessment.

Appraisers whose services may be obtained by appointment by the assessor or who may be assigned by the Oklahoma Tax Commission, upon request of the county assessor, to assist any county assessor shall act in an advisory capacity only. Valuations made by such appraisers shall not be binding upon the assessor. All valuations made pursuant to the Ad Valorem Tax Code shall be made and entered by the assessor pursuant to law. County assessors may provide photocopies of taxpayer rendition forms and photocopies of any other documents filed by the taxpayer which are directly related to and necessary for appraisers to assist in this capacity. The original documents filed by the taxpayer must be maintained by the county assessors. Upon the expiration of the period for reassessment, provided in Section 2846 of this title, all copies of taxpayer documents and the related work papers of the appraisers must be destroyed or returned to the county assessors by February 1 of the following year. In addition, all photocopies of taxpayer documentation and appraiser work papers must be returned to the county assessor within ten (10) calendar days of the termination of the contract with the appraisers to provide the services described in this section.

Added by Laws 1988, c. 162, § 26, eff. Jan. 1, 1992. Amended by Laws 2012, c. 164, § 1, eff. Nov. 1, 2012.

§68-2827. Book, records and materials to be maintained by county assessor.

Each county assessor shall keep such books and records as are required by the rules and regulations of the Oklahoma Tax Commission including, but not limited to, publications provided by the Oklahoma Tax Commission to assist the assessor and appraisal staff in the valuation of taxable property as required by law.

Added by Laws 1988, c. 162, § 27, eff. Jan. 1, 1992.

§68-2828. Visual inspection program - Annual progress report to Legislature.

The Oklahoma Tax Commission, prior to the convening of each regular session of the Legislature, shall submit a comprehensive report showing the extent or progress of the real property visual inspection program in each county based upon data from all sources available to the Oklahoma Tax Commission. Such report shall also include any comments and recommendations the Oklahoma Tax Commission may have in regard to the program.

Added by Laws 1988, c. 162, § 28, eff. Jan. 1, 1992.

§68-2829. Valuation of property pursuant to accepted mass appraisal methodology.

A. Each county assessor, in order to comply with the provisions of Section 17 of this act requiring the annual valuation of all taxable real and personal property within the county, shall establish the fair cash value of such taxable property using an accepted mass appraisal methodology.

B. For purposes of this section “accepted mass appraisal methodology” shall mean the process for making estimates of fair cash value for a property about which no direct or timely information is available concerning economic value by using known information about the property characteristics, location, use, size, sales price and other information of similar

properties. Such mass appraisal methodology may include multiple regression analysis or other statistical techniques for mass appraisal. If information of similar properties is not available in the taxing jurisdiction, the county assessor may use other applicable regional or national information to annually determine the fair cash value of a property estimated at the price it would bring at a fair voluntary sale as provided in Section 17 of this act.

C. Each county assessor shall utilize the information gathered from the visual inspection of real property conducted during each year of the four-year cycle for such inspections and shall conduct such statistical calculations using the data so acquired together with sales price or other information available as may be required to make accurate estimates of fair cash values for all taxable real or personal property within the county each year. The results of such calculations shall be recorded on the assessment roll of the county on an annual basis in order to reflect any increase or decrease in the fair cash value of any property in any year.

D. The statistical analysis required by this section shall be performed within each county using such computer facilities as may be available, but shall be conducted in accordance with procedures established for the uniform mass appraisal program established by the Oklahoma Tax Commission.

Added by Laws 1988, c. 162, § 29, eff. Jan. 1, 1992.

§68-2829.1. County Assessor Fee Revolving Fund.

There is hereby created in the office of the county treasurer a revolving fund for the office of the county assessor, to be designated the "County Assessor Fee Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all fees collected by the assessor and all monies accruing to the fund. Monies deposited to the fund shall be expended by the county assessor and shall not be transferred to any other account for a purpose other than:

1. For maintenance, replacement and upgrade of computer hardware and software associated with county assessor databases and geographic information systems; and
2. To provide products and services generated from the database and geographic information system to both public and private parties.

The intent of this section is to increase the net funding level available to the county assessor to maintain electronic databases and geographic information systems as required pursuant to Section 2829 of this title.

Added by Laws 1994, c. 200, § 3.

§68-2830. Monitoring valuations - Noncompliance guidelines and procedure.

A. The Oklahoma Tax Commission shall monitor the progress of valuation in each county as it occurs each year. Such monitoring may be conducted by periodic audits of assessments through visits to the county or through an analysis of assessment activity by means of a computer-assisted monitoring program.

B. The Oklahoma Tax Commission shall establish guidelines for determining the extent of noncompliance with the applicable law or administrative rules governing valuation of taxable property. Such guidelines shall establish three categories of noncompliance. The categories shall be respectively denominated as Category 1, Category 2 and Category 3. Each category shall represent progressive degrees of noncompliance. Provided, if the Tax Commission finds that a county assessor is not annually valuing taxable real and personal property within the county as required by Sections 2817 and 2829 of this title, the Tax Commission shall certify that

the county is not in compliance with such statutes and shall be required to take action as prescribed by this section for the appropriate category of noncompliance according to the guidelines established pursuant to the provisions of this subsection. The Oklahoma Tax Commission shall be authorized to take action as prescribed by this section for each category of noncompliance as follows:

Category 1: The Oklahoma Tax Commission shall notify the county assessor of the nature of the noncompliance and shall indicate the action required to correct such noncompliance.

Category 2: The Oklahoma Tax Commission shall order the action to be taken in order to bring the county into compliance. The Oklahoma Tax Commission is authorized to do any or all of the following:

1. Impose a schedule of required actions by county officials to bring the county into compliance;
2. Establish deadlines for bringing the county into compliance; or
3. Impose changes in procedures in the assessor's office, if necessary, to facilitate continued compliance.

Category 3: The Oklahoma Tax Commission shall notify the board of county commissioners and the county assessor of the affected county that the county is in violation of law or regulations relating to the valuation function for the administration of the ad valorem tax. The Oklahoma Tax Commission shall conduct a conference, within thirty (30) days after such notice, in that county with the board of county commissioners, the county assessor and the county board of equalization, to formally notify the county of the extent of noncompliance and the measures necessary to correct it. The Oklahoma Tax Commission is authorized to do any or all of the following:

1. Impose a schedule of required actions by county officials to bring the county into compliance;
2. Establish deadlines for bringing the county into compliance;
3. Impose changes in procedures in the assessor's office, if necessary, to facilitate continued compliance;
4. Place the county valuation function under the temporary supervision of a qualified Oklahoma Tax Commission employee;
5. Require additional training for the assessor, deputies or members of the equalization board; or
6. Provide written or oral reports to the board of county commissioners and the county board of equalization of the progress in regaining compliance status for the county. Such reports shall be public records.

The Oklahoma Tax Commission shall periodically conduct a review of the extent of noncompliance in each county determined to be in Category 3 noncompliance. When the Oklahoma Tax Commission determines that such a county is in substantial compliance with the applicable law or administrative regulations governing valuation of taxable property, the Commission shall so certify.

C. The Oklahoma Tax Commission may request the Court of Tax Review to order a county determined to be in Category 3 noncompliance to reimburse the Oklahoma Tax Commission from the county assessor's budget as established in Section 2823 of this title for all costs incurred as a result of the assumption of the valuation function by the Commission. The salary of the county assessor shall not be paid during the time that a qualified employee of the Oklahoma Tax Commission is supervising the valuation function in the county, but shall be

restored as of the date the Commission certifies to the board of county commissioners that noncompliance has been corrected.

D. The county assessor shall have the right to appeal an order issued by the Oklahoma Tax Commission to correct Category 2 noncompliance or to appeal a decision finding Category 3 noncompliance in the manner provided by Section 2883 of this title.

Added by Laws 1988, c. 162, § 30, eff. Jan. 1, 1992. Amended by Laws 1989, c. 321, § 10, operative Jan. 1, 1992; Laws 1996, c. 323, § 1, eff. July 1, 1996.

§68-2831. Place of listing and assessment.

A. All property, both real and personal, having an actual, constructive or taxable situs in this state, shall, except as hereinafter provided, be listed and assessed and taxable in the county, school districts, and municipal subdivision thereof, where actually located on the first day of January of each year. In all cases oil field equipment, drilling equipment, construction equipment, road machinery, and equipment used by construction, road building, or drilling contractors or companies or individuals engaged in such businesses, shall be taxable in the county, school districts, and municipal subdivision thereof, where actually located on the first day of January of each year, but if same is not assessed in said county it shall be subject to assessment and taxation in the county of the owner's domicile. Goods, wares, merchandise and property becoming a part of the finished product of drilling equipment, for use outside the continental United States shall not be subject to any other taxes.

B. When any personal property is brought into or located in this state or removed from one county to another within this state between January 1 and September 1, and shall acquire an actual situs therein before the first of September, such property shall be listed and assessed and taxable where situated after such removal or change in location, unless such property has already been assessed in some other state or county for the current year, or the property was originally produced in this state subsequent to January 1, but if same is not assessed in said county it shall be subject to assessment and taxation in the county of the owner's domicile.

C. When cattle or other livestock are pastured or kept on a tract of land situated partially within each of two or more counties or other taxing districts, so that they may roam or be driven from one county or taxing district to another and are not kept in any one county or taxing district, the number to be listed and assessed in each county or taxing district shall be determined by ascertaining the acreage proportion of the entire tract which is located in each county or taxing district and applying the same proportion to the total number of cattle or other livestock. When cattle or other livestock are likewise pastured or kept on a tract of land situated partially in the State of Oklahoma and partially in some other state, the number having a taxable situs in Oklahoma shall be determined in like manner.

D. In any case where other personal property, by reason of its nature or use, does not stay in one place long enough to acquire a definite taxable situs, such property shall be listed and assessed at the domicile of the owner, if the owner is domiciled in this state, and otherwise in the county, school districts, and municipal subdivision thereof, where the owner has his principal business in this state.

E. Tangible personal property moving through the state from a point outside the state, in transit to a final destination outside the state, shall for purposes of taxation, acquire no situs in the state. The owner shall, if required, in order to obtain a determination that any property has not acquired a situs in the state, submit to the appropriate assessing officer documentary proof of the in-transit character and the final destination of the property.

Added by Laws 1988, c. 162, § 31, eff. Jan. 1, 1992.

§68-2832. Persons required to list property.

A. Property subject to ad valorem taxation shall, unless otherwise provided, be listed for taxation by the owner thereof or his duly authorized agent.

B. Property belonging to or controlled by the following shall be listed by the following persons or their duly authorized agents:

1. A corporation or joint stock association, by an officer;
2. A partnership, by a partner;
3. A minor child or insane person, by the guardian or the person having such property in charge;
4. A person for whose benefit it is held in trust, by the trustee;
5. The estate of a deceased person, by the executor or administrator;
6. A body politic or corporate, by the proper agent or officer thereof;
7. Manufacturers and others in the hands of an agent, by such agent in the name of the principal;
8. Persons, companies, or corporations whose assets are in the hands of receivers, by such receiver; and
9. Merchandise consigned or floor-planned to a dealer by a manufacturer or jobber, by the dealer.

C. A person required to list property in behalf of another shall list it separately from his own, naming the person to whom it belongs. The undivided property of a person deceased, belonging to his heirs, may be listed as belonging to such heirs without enumerating them.

Added by Laws 1988, c. 162, § 32, eff. Jan. 1, 1992.

§68-2833. Jointly owned property - Listing, assessment and taxation - Taxes as lien.

A. If any real estate in this state is jointly owned by two or more persons, or by tenants in common, and the interest of one or more of such joint owners or tenants in common is subject to taxation, and that of the others is not, then it shall be the duty of the joint owners or tenants in common whose interests are subject to taxation to list such undivided interests for taxation at the time and in the same manner as other taxable property is listed.

B. In any other case where the owner of an undivided interest in real estate desires to have his interest separately assessed, he shall list such undivided interest with the county assessor and advise the county assessor of the name and amounts owned by other owners of undivided interests in such real estate.

C. In either instance, it shall be the duty of the county assessor to assess such undivided interest or interests for taxation as other property. Such assessment shall be equalized, and taxes levied and extended against the same, as other taxable property.

D. Such taxes shall be a lien on such interest and if same be not paid and become delinquent, it shall be the duty of the county treasurer to advertise and sell such interests as in the case of other real property for delinquent taxes, and the purchasers at such sale shall be entitled to certificate of purchase, and to a deed if not redeemed, and all other rights and remedies as in cases of the sale of other real estate for taxes. If any such interests in real estate have been omitted or escaped taxation for any year or years for which same was liable, it shall be the duty of all officers to discover and assess the same for such omitted year or years the same as other

property which has been omitted or escaped taxation, and such taxes shall be a lien and collected in the same manner and to the same extent as other taxes on omitted property.

Added by Laws 1988, c. 162, § 33, eff. Jan. 1, 1992.

§68-2834. Subdivided land or lot - Surveying and platting.

A. Whenever a legal subdivision of land, or any lot or subdivision, is owned by two or more persons in severalty and the description of one or more parts or parcels thereof cannot, in the judgment of the county assessor, be made sufficiently certain and accurate for the purpose of assessment and taxation, without noting the metes and bounds of the same, he shall make his report thereof to the board of county commissioners of his county, setting forth the description of the legal subdivision, with his request that the same be surveyed and platted in conformity with this section.

B. When so requested the board of county commissioners shall cause a survey and plat to be made of such tract of land by a competent person selected by the board of county commissioners, which plat shall describe said tract and any other subdivisions of the smallest legal subdivision of which the same is a part, conforming as nearly as possible to the present location of the separate lots, parcels, subdivisions, highways and easements as shown by the records of the county clerk and county assessor, numbering them by progressive numbers, setting forth the courses and distances, the number of acres, and such other memoranda as is necessary; and description of such lots and subdivisions according to number and designation thereon as shown by said plat shall be deemed a sufficient description for all purposes, inclusive of transfer, by reference thereto.

C. Said plat shall be certified to by the person making the survey as correct and when so certified shall be submitted to the board of county commissioners for approval; and when endorsed with the approval of the board it shall be signed and acknowledged by the chairman thereof and filed for record with the county clerk and shall be known as commissioners' plat of the tract or subdivision therein designated, and when so executed and filed shall have the same effect as if executed, acknowledged, and filed by the owners thereof.

D. Whenever each of the legal subdivisions comprising an entire quarter section of land is so owned by two or more persons in severalty, said entire quarter section may be ordered surveyed and platted in one plat as provided by the preceding provisions of this section.

E. The costs and expenses of such plat, survey and record shall be ordered paid by the board of county commissioners out of the county general fund.

Added by Laws 1988, c. 162, § 34, eff. Jan. 1, 1992.

§68-2835. Forms for listing and assessment of property.

A. On or before January 1 of each year, the Oklahoma Tax Commission shall prescribe for the use of all county assessors, suitable blank forms for the listing and assessment of all property, both real and personal. Such forms shall contain such information and instructions as may be necessary in order to obtain a full and complete list of all taxable property and such forms shall be used uniformly throughout the state. Any change in these forms must have the approval of the Tax Commission.

B. It shall be the duty of the county assessor to furnish such forms to any taxpayer upon request, and all personal property shall be listed on such forms in the manner provided therein. Such lists shall be signed and sworn to and filed with the county assessor not later than March 15 of each year; and such lists may show the description of real property, which may be by

subdivision of quarter sections, or less if any such subdivision is owned in less quantity, describing such less quantity by United States Land Survey nomenclature if that can be done, otherwise by metes and bounds, according to ownership.

C. Real estate need not be listed by the taxpayer, but may be listed if the taxpayer so desires, in which case the list shall show the taxpayer's estimate of the value of each tract of land and shall separately show the value of the buildings and improvements thereon.

D. All such sworn lists of property shall contain such other information concerning both real and personal property as may be required by such forms so prescribed.

E. All such sworn lists of property, and any other documents produced by a taxpayer to the assessor or the board of equalization during the informal and formal hearing process, shall be protected as confidential and shall not be available for inspection under the Open Records Act. Added by Laws 1988, c. 162, § 35, eff. Jan. 1, 1992. Amended by Laws 2000, c. 314, § 25, eff. July 1, 2000; Laws 2006, c. 272, § 18.

§68-2836. County assessor to take lists - Meeting taxpayers - Taxpayer failing to meet assessor - Receiving lists at assessor's office - Penalty for failure to list.

A. The county assessor of each county in the state shall, on the first day of January of each year, or as soon thereafter as may be practicable, proceed to take a list of taxable property in the county. In order to take lists of personal property and receive homestead exemption applications, the county assessor, or the assessor's deputy, shall meet the taxpayers at various places throughout the county. The county assessor may exercise discretion as to where to meet the taxpayers and how long to stay at each place, provided the assessor goes to each city and incorporated town in counties that have not abolished household personal property tax. At least ten (10) days prior to the date the county assessor will meet the taxpayers to list their property, the county assessor shall give notice by publication in at least one newspaper of general circulation in the county, stating the date and hours of the day of each visit to each city, town or other place; and such notice may be published in the manner of commercial advertising, rather than legal notices, and the county may pay up to rates prevalent in the area for commercial advertising.

B. If any taxpayer shall fail to meet the county assessor and list the taxpayer's property on the date advertised, such taxpayer may render a written list of all the taxpayer's personal property and make written application for homestead exemption, and shall subscribe and swear to the oath required by each taxpayer as to its correctness. Such written lists or applications shall not constitute a valid return or application unless made on the forms prescribed by the Oklahoma Tax Commission and in the manner required by law.

C. After the county assessor shall have visited each city, town, or other place, the county assessor shall be in the county assessor's office at the county seat from March 1 to March 15, inclusive, for the purpose of receiving lists from those who have not listed their property for the current year, and all who fail to list all or any part of their personal property for the current year, on or before March 15, shall be delinquent. If any personal property is not listed by the person whose duty it is to list such property on or before March 15 of any year, when such property is assessed there shall be added to the assessed valuation of such property as a mandatory penalty, amounts as follows:

1. If listed or assessed after March 15, but on or before April 15, ten percent (10%) of the assessed value; and
2. If listed or assessed after April 15, twenty percent (20%) of the assessed value.

D. If the county assessor fails, neglects, or refuses to add the valuation penalty as provided by this section, the county assessor shall be liable on the county assessor's official bond for the amount of the penalties.

Added by Laws 1988, c. 162, § 36, eff. Jan. 1, 1992. Amended by Laws 2012, c. 276, § 1, eff. Nov. 1, 2012.

§68-2837. Corporations - Assessment.

All corporations organized, existing or doing business in this state, other than railroads, air carriers and public service corporations assessed by the State Board of Equalization, and other than national banks, state banks, trust companies, and building and loan associations, shall be assessed upon the value of their real property and personal property as listed separately by such corporation and less the value of any property which may be relieved of ad valorem taxation by the payment of an in lieu tax.

Added by Laws 1988, c. 162, § 37, eff. Jan. 1, 1992. Amended by Laws 1995, c. 57, § 3, eff. July 1, 1995.

§68-2838. Corporations - Lists or schedules of property - Tax liability of property - Statement of capital stock, capital, indebtedness and other financial information.

A. All corporations organized, existing or doing business in this state, other than railroads, air carriers and public service corporations assessed by the State Board of Equalization, and other than national banks, state banks and trust companies, and building and loan associations, shall, on or before March 15th of each year, return sworn lists or schedules of their taxable property within each county, to the county assessor of such county, and such property shall be listed with reference to amount, kind and value, on the first day of January of the year in which it is listed; and said property shall be subject to taxation for county, municipal, public school and other purposes to the same extent as the real and personal property of private persons, in the taxing districts in which such property is located. Any real estate owned by such corporation shall be assessed annually at the same time and in the same manner as real estate belonging to private persons. In making such sworn lists, all corporations shall itemize their property in the same manner and to the same extent as required by railroads, air carriers and public service corporations.

B. It shall be the duty of each corporation to make, under oath, and deliver to the county assessor of the county where its principal business is transacted, a statement on forms prescribed by the Oklahoma Tax Commission, of its authorized capital stock and the amount of capital paid thereon, the amount of its outstanding bonded and other indebtedness, the total amount of its invested capital within and without Oklahoma, and such other financial information as may be deemed necessary to enable the county assessor to determine the value of real or personal property owned by any such corporation; and each corporation shall also deliver to the county assessor of the county where its principal business is located, a copy of all lists or schedules of property filed in every other county in this state.

Added by Laws 1988, c. 162, § 38, eff. Jan. 1, 1992. Amended by Laws 1995, c. 57, § 4, eff. July 1, 1995.

§68-2839. Statements of capital invested and other necessary information - Neglect, failure or refusal to furnish information.

A. It shall be the duty of each taxpayer, upon written request of the county assessor or the county board of equalization of any county, to furnish, under oath, a written statement showing the amount of capital invested in any plant, equipment, stock of merchandise or material, or any other species of property located in such county, and any other information which may reasonably be deemed necessary to enable the county officials to assess the property of such taxpayer at the fair cash value of such property. In any case where such written statement is requested, the taxpayer shall have ten (10) days from receipt of the written request within which to prepare and furnish such statement under oath.

B. Should any taxpayer neglect, fail or refuse to make a proper itemization of his property in any county, or neglect, fail or refuse to furnish any other information required by this section, or Section 38 of this act, it shall be the duty of the county assessor or the county board of equalization to ascertain, from the best information obtainable, the value of the property of such taxpayer, and as a penalty shall add ten percent (10%) of the value thereof so ascertained. The penalty shall not be applied until the taxpayer shall have had ten (10) days' notice of the intention to apply the penalty and an opportunity to be heard.

Added by Laws 1988, c. 162, § 39, eff. Jan. 1, 1992.

§68-2840. County assessor to prepare, build and maintain certain permanent records.

A. Each county assessor shall prepare, build and maintain permanent records containing the following information:

1. The classification, grade and value of each tract of land located outside cities and towns and platted subdivisions and additions and the improvements thereon;

2. The description and value of all lots and tracts and the improvements thereon, and a list of lands that have been annexed to any city or town, commencing with the lowest numbered section and the different subdivisions and fractional parts thereof in the lowest numbered townships in the lowest numbered range in the county, and ending with the highest numbered section, township and range and the improvements thereon; and

3. The information required herein to be shown on such permanent records shall be shown as to tax exempt as well as taxable property, and shall be in such forms as may be acceptable to the Oklahoma Tax Commission. It shall not be necessary to place upon such records any grade or value on land and improvements owned by the United States of America, the State of Oklahoma or any subdivision thereof, or any land and improvements exempt from ad valorem taxation by reason of the same being used exclusively and directly for religious, charitable, or educational purposes, such as churches, schools, colleges, universities, cemeteries, and all lands owned by railroads, air carriers, and public service corporations that are assessed by the State Board of Equalization. Exempt Indian land and other exempt property shall be valued and the value placed upon such records.

B. When the valuation of the real estate of each county has been completed, as required by this section, it shall be the mandatory duty of the county assessor and each of his successors in office, to continuously maintain, revise and correct the records relating thereto, and to continuously adjust and correct assessed valuations in conformity therewith. Such maintenance, revision and correction shall be made each year based upon the results of the calculations required by law to be performed each year in order to determine the fair cash value of all property within the county.

C. Each county assessor shall request in his budget request each year sufficient funds to carry out the provisions of this section. It shall be the mandatory duty of the several boards of

county commissioners, the several county excise boards, and the several county budget boards each year to make sufficient appropriations to enable the county assessor to perform the duties required of him by this section. If any board of county commissioners, county excise board, or county budget board fails, neglects or refuses, upon written request of the county assessor, to provide adequate appropriations for supplies, deputy hire or traveling expenses for the performance of the duties imposed upon the county assessor by this section, such appropriations may be obtained by mandamus action instituted in district court by the county assessor or any other county officer, or any taxpayer of the county.

D. The classification and valuation provided for by this section shall be done under the supervisory assistance of the Oklahoma Tax Commission. The forms used in such classification and valuation of property shall be prescribed by the Oklahoma Tax Commission. Where the classification and valuation has already been completed, it shall not be necessary for the county assessor to again make such classification and valuation, except it shall be the duty of such county assessor to continuously maintain, revise and correct the same as required by this section. Added by Laws 1988, c. 162, § 40, eff. Jan. 1, 1992. Amended by Laws 1995, c. 57, § 5, eff. July 1, 1995.

§68-2841. Land list.

Each county assessor in the state shall prepare and keep a book to be known as a “land list”, which shall contain:

1. The name of the owner and a description, sufficient for identification of all real estate in the county, with the number of acres and value of the land and the value of the improvements;
2. The number of the lot or lots;
3. The name of the city or town;
4. The value of the city or town lots; and
5. The value of the improvements.

Provided, in those counties in this state which have approved an exemption of household goods of the heads of families and livestock employed in support of the family from ad valorem taxation pursuant to the provisions of subsection (b) of Section 6 of Article X of the Oklahoma Constitution, the county assessor may, in preparation of the land list, combine the value of land and improvements thereon. The county assessor shall correct the land list each year before commencing the assessment by noting thereon all transfers of record as shown by the office of county clerk, and shall note thereon such transfers as may be brought to the attention of the assessor while assessing, and also note thereon what real estate is not subject to taxation and the reason therefor. The land list shall be in such form as may be acceptable to the Oklahoma Tax Commission.

Added by Laws 1988, c. 162, § 41, eff. Jan. 1, 1992. Amended by Laws 1998, c. 405, § 5, eff. Nov. 1, 1998.

§68-2842. Assessment roll - Form - Content - Adjustments - Annual report.

A. Each county assessor in the state shall annually prepare an assessment roll, which shall be in such form as may be prescribed by the Oklahoma Tax Commission and shall contain the following:

1. A list of all lands in the county in numerical order beginning with the lowest numbered section, in the lowest numbered township in the lowest numbered range in the county, and ending in the highest numbered section, township and range, with the number of acres in each

tract, and the numbers of the school districts in which such lands are located, and the name and address of the owner in each instance excepting unplatted lands located inside a city or town;

2. A list of town lots in each town or city in like numerical order and the unplatted lands located inside each city and town, in numerical order beginning with the lowest numbered section in the lowest numbered township and range with the number of acres in each tract, and the number of the school district in which such lots or tracts are located, and the name and address of the owner in each instance;

3. A list in alphabetical order of all persons and bodies corporate in whose names any personal property has been assessed, the address of each such taxpayer, the number of the school district in which such property is taxable, with a sufficient number of columns opposite each name to enter the value, and where practicable the number of the several classes of property assessed to each property owner;

4. The value fixed by the county assessor of all property; and additional columns to show the equalized value as fixed by the State Board of Equalization. In listing real estate the value of land and improvements shall be shown separately in each instance; provided, in those counties in this state which have approved an exemption of household goods of the heads of families and livestock employed in support of the family from ad valorem taxation pursuant to the provisions of subsection (b) of Section 6 of Article X of the Oklahoma Constitution, the county assessor may, in preparation of the assessment roll, combine the value of land and improvements thereon; and

5. Such other information as may be required by the Tax Commission. Each property in which there is a homestead interest shall be entered on a separate line, and the assessment roll shall show the total assessed valuation of each homestead, the amount of exemption allowed, and the assessed valuation less the exemption.

B. The assessment roll shall be available electronically to the county board of equalization while the board is in session, in order that the board may correct and adjust the taxable value of the property of the county. If there should be any lawful adjustments necessary, the board shall inform the county assessor in writing on a form prescribed by the Oklahoma Tax Commission.

C. Prior to November 1 each year, the county assessor shall submit on a form prepared by the Tax Commission a report to the Tax Commission which states the net assessed valuation and millage levy of each political subdivision or taxing authority of the state that is authorized to levy a property tax regardless of whether such property tax is actually levied.

Added by Laws 1988, c. 162, § 42, eff. Jan. 1, 1992. Amended by Laws 1989, c. 321, § 11, operative Jan. 1, 1992; Laws 1998, c. 405, § 6, eff. Nov. 1, 1998; Laws 2005, c. 116, § 5, eff. Nov. 1, 2005.

§68-2843. Unlisted personal property - Discovery and assessment.

A. If any personal property is not listed with the county assessor on or before March 15th of any year, the county assessor shall proceed, as soon as the omission is discovered, to ascertain and estimate from the best information obtainable, the amount and value of such property, and shall list and assess the same in the name of the owner thereof if such owner be known. If the owner is unknown the property may be listed and assessed in the name of the person in charge of such property as agent, or it may be listed and assessed to "unknown owner"; and the failure of the county assessor to ascertain the true owner shall not invalidate the assessment.

B. If any person, firm, association or corporation has any property belonging to others under his control or charge or in his possession, as warehouseman, factor, bailee, agent,

employee or otherwise, he shall, upon written request of the county assessor or county board of equalization, make report, under oath, of the amount and ownership of such property, and upon refusal, neglect or failure to make such report, such person, firm, association or corporation shall be personally liable for the taxes on such property.

C. No assessment of personal property not listed with the county assessor shall become final until ten (10) days after the county assessor has mailed to the last-known address of the person, firm, association, corporation or company he believes to be the owner, or to the person in charge of such property, a copy of the assessment sheet upon which such property is listed, and which assessment sheet shall show a reasonable itemization and description of the property assessed and the value thereof, and shall show that the list and assessment was made by the county assessor.

Added by Laws 1988, c. 162, § 43, eff. Jan. 1, 1992.

§68-2844. Omitted property - Entry on assessment rolls and tax rolls - Assessments - Arrearages - Taxing during current year.

A. If any real, personal, railroad, air carrier or public service corporation property is omitted in the assessment of any prior year or years, and the property thereby escapes just and proper taxation, at any time and as soon as such omission is discovered, the county assessor or the county board of equalization, or the State Board of Equalization in the case of public service corporation property or railroad and air carrier property, whose duty it is to assess the class of property which has been omitted, shall at any time cause such property to be entered on the assessment rolls and tax rolls for the year or years omitted, not to exceed the last fifteen (15) years as to real property and the last three (3) years as to personal property, and shall, after reasonable notice to the parties affected, in order that they be heard, assess such omitted property for said periods and cause to be extended against the same on the tax rolls for the current year all arrearage of taxes properly accruing against it, including therein interest thereon at the rate of twelve percent (12%) per annum from the time such tax should have become delinquent.

B. If any tax on property subject to taxation is prevented from being collected for any year or years by reason of any erroneous proceedings, or failure to give notice, or otherwise, the amount of such tax which such property should have paid or should have been paid thereon shall be added to the tax on such property for the current year, and if for want of sufficient time or for any cause such assessment cannot be entered, and the tax thereon extended on the tax rolls for the current year, the same shall be done the following year.

Added by Laws 1988, c. 162, § 44, eff. Jan. 1, 1992. Amended by Laws 1995, c. 57, § 6, eff. July 1, 1995; Laws 2005, c. 116, § 6, eff. Nov. 1, 2005; Laws 2006, c. 272, § 19, eff. Nov. 1, 2006.

§68-2845. Assessment of unassessed real estate.

When any real estate has failed to be assessed for ad valorem taxes for any prior year or years, the same shall be assessed for ad valorem taxes for said prior year or years by the county assessor, and the taxes thereupon may be paid without the payment of any penalty or interest accruing prior to the date of assessment, provided that all taxes are paid within thirty (30) days after the date of such assessment and the sending of written notice thereof. If not so paid within said thirty (30) days, it shall be the duty of the county treasurer to collect the same in the manner provided by law, together with penalty at the lawful rate calculated from the date the same would

have been delinquent had it been timely assessed, but in no event to an extent greater than one hundred percent (100%) of the principal amount thereof and not to exceed fifteen (15) years. Added by Laws 1988, c. 162, § 45, eff. Jan. 1, 1992.

§68-2846. Undervalued and underassessed property - Reassessment.

A. Whenever real or personal property has in any year, through false representations or concealments willfully and fraudulently made by the owner or agent in listing the same for assessment, been grossly undervalued and has escaped for that year just and proper taxation, the county assessor or the State Board of Equalization, whose duty it is to assess such class of property shall, at any time within two (2) years from the date of such original undervaluation, cause such property to be entered on the assessment roll and tax books for the year or years so undervalued.

B. After reasonable notice to the party affected, in order that he may be heard, the county assessor or State Board of Equalization shall reassess such undervalued property and cause same to be extended against such property on the tax list or rolls for the current year, with all arrearage of taxes thus properly accruing against it, including interest thereon at the rate of six percent (6%) per annum from the time such tax should have become delinquent. C. As to such property so grossly undervalued in assessment no contract shall be made with anyone by either the State Board of Equalization, or the board of county commissioners, to pay anyone a commission or in any way causing same to be reassessed; but it shall be the duty of the State Board of Equalization, with the assistance of the Attorney General and the county assessor, with the assistance of the district attorney, to make and cause such reassessment to be made.

Added by Laws 1988, c. 162, § 46, eff. Jan. 1, 1992.

§68-2847. Property of railroads, air carriers and public service corporations - Valuation and assessment.

A. The property of all railroads, air carriers and public service corporations shall be assessed annually by the State Board of Equalization at its fair cash value estimated at the price it would bring at a fair voluntary sale.

B. Taxable values of real and personal property of all railroads, air carriers and public service corporations shall be established in accordance with the requirements of Section 8 of Article X of the Oklahoma Constitution. The State Board of Equalization shall determine the taxable value of all taxable property that the Board is required by law to assess and value, and shall determine such taxable value in accordance with the requirements of Section 8 of Article X of the Oklahoma Constitution.

C. The State Board of Equalization shall assess the property of that subclass of public service corporations known as video services providers, as defined in Section 2808 of this title, as provided:

1. Every video services provider shall file with the State Board of Equalization a certification regarding total gross receipts for the immediate preceding calendar year by April 15 and shall specify the total gross receipts derived from video programming services;

2. The State Board of Equalization shall determine the percentage of gross receipts the video services provider has derived from video programming in the immediately preceding calendar year; and

3. The percentage determined pursuant to paragraph 2 of this subsection shall be applied to the taxable fair cash value allocated to Oklahoma, and the resulting fair cash value attributable

to video programming services shall be assessed using the statewide average of the assessment ratios applied to the assets of cable television companies in that tax year. Unless the taxpayer or the State Board of Equalization demonstrates otherwise, the statewide average assessment ratio applied to the personal property of a cable television company shall be assumed to be twelve percent (12%).

D. The percentage of fair cash value for real and personal property of railroads, air carriers and public service corporations required by the Oklahoma Constitution to be taxable shall be the percentage at which it was assessed on January 1, 1996, in accordance with the provisions of paragraph 3 of subsection A of Section 8 of Article X of the Oklahoma Constitution, and, subject to the requirements of federal law, shall be uniformly applied to calculate the taxable values of public service corporation property within the state for the applicable assessment year. Added by Laws 1988, c. 162, § 47, eff. Jan. 1, 1992. Amended by Laws 1995, c. 57, § 7, eff. July 1, 1995; Laws 1997, c. 304, § 6, emerg. eff. May 29, 1997; Laws 2009, c. 119, § 2, eff. Jan. 1, 2010.

§68-2848. Railroads, air carriers and public service corporations - Sworn lists or schedules.

A. Every railroad, air carrier and public service corporation organized, existing, or doing business in this state, shall, on or before April 15 of each year, return sworn lists or schedules of its taxable property to the Oklahoma Tax Commission as provided by law, or as may be required by the Commission; and such property shall be listed with reference to the amount, kind, and value as of the first day of January of the year in which it is listed; and said property shall be subject to taxation for county, municipal, public school and other purposes to the same extent as the real and personal property of individuals.

B. The Oklahoma Tax Commission may request certain financial data be included on any statement or schedule including, but not limited to:

1. The amount of capital stock authorized, and the number of shares into which such capital stock is divided;
2. The amount of capital stock paid up;
3. The market value of such stock, or if no market value, then the actual value of the shares of stock; and
4. The total amount of bonded indebtedness.

Added by Laws 1988, c. 162, § 48, eff. Jan. 1, 1992. Amended by Laws 1988, c. 258, § 6, emerg. eff. June 27, 1988; Laws 1995, c. 57, § 8, eff. July 1, 1995.

§68-2849. Repealed by Laws 1988, c. 258, § 7, emerg. eff. June 27, 1988.

§68-2850. Transmission companies - Sworn lists or schedules.

Every transmission company doing business in this state shall return sworn lists or schedules of its taxable property to the Oklahoma Tax Commission, and such lists or schedules shall show the total length of line in each county, school district or other subdivision of the state, total number of wires to each line and total number of poles per mile, the total number of instruments in each municipal subdivision, the total amount of office furniture and the total amount of tools, and material, the total amount of other property, and the location thereof. Added by Laws 1988, c. 162, § 50, eff. Jan. 1, 1992.

§68-2851. Pipeline companies - Sworn statement or schedule.

Each pipeline company doing business in this state shall return to the Oklahoma Tax Commission a sworn statement or schedule as follows:

1. The right-of-way and main line, giving the entire length of main line in this and other states, showing the size of pipe and showing the proportion in each city, school district, and county, and the total in this state;
2. The total length of each lateral or branch line and the size of the pipe, together with the name of each city, school district, and county in which such lateral and branch lines are located;
3. A complete list giving location as to city, school district or county of all pumping stations, storage depots, machine shops, or other buildings together with all machinery, tools, tanks and material;
4. A statement or schedule showing the amount of its authorized capital stock and the number of shares into which the same is divided; the amount of capital stock paid up; the market value of such stock, or if it has no market value, then the actual value thereof, and the total amount of outstanding bonded indebtedness; and
5. A correct detailed statement of all other personal property, including oil in storage, and giving the location thereof.

Added by Laws 1988, c. 162, § 51, eff. Jan. 1, 1992.

§68-2851.2. Task Force on Valuation of Gas Gathering System Assets.

A. There is hereby created the "Task Force on Valuation of Gas Gathering System Assets".

B. The Task Force shall consist of six (6) members to be appointed as follows:

1. Three members shall be appointed by the Speaker of the Oklahoma House of Representatives from the membership of the House; and
2. Three members shall be appointed by the President Pro Tempore of the Oklahoma State Senate from the membership of the Senate.

C. The Speaker of the Oklahoma House of Representatives shall designate one of the Speaker's appointees as a cochair. The President Pro Tempore of the Oklahoma State Senate shall designate one of the Pro Tempore's appointees as a cochair. The Task Force shall conduct an organizational meeting not later than August 31, 2002.

D. The Task Force shall conduct a study of the valuation of gas gathering system assets for purposes of ad valorem taxation. The study shall include:

1. The valuation methods currently used for gas gathering systems;
2. The methods used to determine whether gas gathering system assets are subject to the jurisdiction of a county assessor or the State Board of Equalization for purposes of valuation and assessment;
3. Existing opinions of the courts of the State of Oklahoma governing the valuation and assessment of gas gathering system assets or such other materials, cases, opinions or determinations that may be relevant to the study; and
4. Other matters as may be pertinent to the study and recommendations of the Task Force as the Task Force deems relevant.

E. The Task Force shall not be subject to the Oklahoma Open Meeting Act or to the Oklahoma Open Records Act.

F. The Task Force shall be authorized to meet at such times as may be required in order to fulfill the duties imposed upon the Task Force by law. Members of the Task Force shall be

reimbursed for their necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes.

G. Staff assistance for the Task Force shall be provided by the Oklahoma House of Representatives and the Oklahoma State Senate.

H. The Task Force shall complete its study not later than December 31, 2007.
Added by Laws 2002, c. 265, § 1, emerg. eff. May 17, 2002. Amended by Laws 2003, c. 462, § 3, eff. July 1, 2003; Laws 2006, c. 272, § 20.

§68-2851.3. Valuation methodology of gas gathering system assets – Local or central assessment – Changes.

A. Effective January 1, 2003, there shall be no changes in the valuation methodology of gas gathering system assets.

B. Effective January 1, 2003, there shall be no changes in the determination of whether gas gathering system assets are locally assessed or centrally assessed and the treatment of such assets for the January 1, 2002, assessment year shall be maintained and preserved.

Added by Laws 2002, c. 265, § 2, emerg. eff. May 17, 2002.

§68-2852. Gas, light, heat and power companies - Sworn statement.

All gas, light, heat and power companies shall annually return to the Oklahoma Tax Commission a sworn statement showing the size and total length of pipe owned by such company and the location thereof, giving the county, city and school district; a statement of franchises held by such company from any municipal corporation in this state, the length of time the same are to run, and the conditions under which they were granted; and a statement of all buildings and other permanent improvements, pumping stations, tools, material and other personal property, and the location thereof.

Added by Laws 1988, c. 162, § 52, eff. Jan. 1, 1992.

§68-2853. Electric light and power companies - Statement under oath.

Electric light and power companies doing business in this state shall return to the Oklahoma Tax Commission a statement under oath, showing size, capacity, location and value of each powerhouse or power plant owned by such company, the total amount of poles, wire and other equipment for the transportation or transmission of light, heat and power; the total amount of its authorized capital stock and the amount actually paid up thereon, the total amount of its outstanding bonded indebtedness; all contracts between such corporation and any municipal corporations of this state, and the amount of revenue derived therefrom; any franchises owned or held by such company, and granted by any municipal corporation of this state; and cash on hand and the location thereof.

Added by Laws 1988, c. 162, § 53, eff. Jan. 1, 1992.

§68-2854. Waterworks and power companies - Sworn return.

Each waterworks and power company doing business in this state, shall file with the Oklahoma Tax Commission a sworn return, giving size, capacity, location and value of its pumping stations, and all other permanent improvements used in connection therewith, the total length and size of pipe and other means used for conducting and conveying water; total number of hydrants and the rental thereof; the total amount of its authorized capital stock and the amount

actually paid thereon; total amount of its outstanding indebtedness; total amount of tools, material and other personal property, including cash on hand, and the location thereof. Added by Laws 1988, c. 162, § 54, eff. Jan. 1, 1992.

§68-2855. Sleeping-car and parlor-car companies - Statement under oath - Valuation and assessment.

Every sleeping-car company and parlor-car company engaged in business in this state shall file with the Oklahoma Tax Commission a statement under oath, showing the aggregate number of miles made by cars operated by such company over the several lines of railroad in this state during the fiscal year next preceding the date of such statement; the total number of cars owned by such company and the total value thereof and the average number of miles traveled by cars of the particular class covered by the statement in the ordinary course of business during the fiscal year, and it shall be the duty of the State Board of Equalization to ascertain the number of cars required to make the total mileage of cars of such corporation within the period of one (1) year. Said Board shall ascertain and fix a valuation upon each particular class of said cars, and the number so ascertained to be required to make the total mileage of the cars of each such corporation, within the period of one (1) year, shall be assessed to the respective corporations, and such assessment shall be included in the record of the proceedings of the Board and shall be certified by the State Auditor and Inspector to the county clerks of the several counties of the state wherein such cars are operated in the same manner as property of the other railroads, air carriers and public service corporations is certified and returned.

Added by Laws 1988, c. 162, § 55, eff. Jan. 1, 1992. Amended by Laws 1995, c. 57, § 9, eff. July 1, 1995.

§68-2856. Express companies - Statement under oath - Assessment.

A. Every express company doing business in this state shall file with the Oklahoma Tax Commission a statement under oath, which shall include a duplicate of the report made by said company to the Interstate Commerce Commission of its assets, income, disbursements and business for the year ending on the thirty-first day of December of the preceding year.

B. Each statement shall also contain the following items, or such of them as may not be covered by the information contained in the report to the Interstate Commerce Commission, and which said item shall be reported as the same existed on the thirty-first day of December of the preceding year:

1. The total net assets of the company, as the same are carried upon the books of the company;
2. The total net assets of the company invested in or pertaining to business other than the express business, as such assets are carried upon the books of the company;
3. The total net assets of the company pertaining to or invested in its express business, as the same are carried upon the books of the company;
4. The amount of the capital stock of the company and the number of shares into which the same is divided, or if the company has no capital stock, then the number of shares or interests into which it is divided, together with the value placed upon each share, or interest, for bookkeeping purposes;
5. The market value of the share of the capital stock, or of the shares or interest of the company, which market price shall be determined by the average price at which such shares of the capital stock or shares or interest of the company shall have been sold during the year upon

the New York Stock Exchange, or if such shares or interest of the company are not listed upon the New York Stock Exchange, then the average price at which the same have been sold during the year upon all other stock exchanges;

6. The total mileage, other than ocean mileage, over which the company conducts an express business; and

7. The mileage over which the company conducts an express business in this state, the mileage in each county of the state, and the mileage in each taxing district of each county of the state.

C. In assessing any express company, the State Board of Equalization may determine the value of all property of such company pertaining to or employed in its express business, and allocate to Oklahoma its proportion of the total value upon any just and reasonable basis. The total assessment for the state shall then be allocated to the various counties, and municipal subdivisions thereof, in the proportion which the mileage of the express company in such counties and subdivisions bears to the total mileage of such company in this state. Where an express company has an office or other taxable property in a county or other taxing district in which it has no operated mileage, such property shall be listed and assessed in the county and taxing district where located on January 1.

Added by Laws 1988, c. 162, § 56, eff. Jan. 1, 1992.

§68-2857. Railroad, air carrier or public service corporation - Failure or refusal to make statements or schedules - Ascertainment of value - Penalty.

A. Should any railroad, air carrier or public service corporation doing business in this state fail or refuse to file the statements or schedules with the Oklahoma Tax Commission within the time and manner required by law, it shall be the duty of the State Board of Equalization to ascertain from the best information obtainable the value of the property of such company. The Tax Commission may grant an extension without penalty, upon written request of the taxpayer and for a good cause, of not to exceed fifteen (15) days for the filing of the returns as required by the Ad Valorem Tax Code.

B. There shall be assessed by the State Board of Equalization an administrative penalty for every day which a railroad, air carrier or public service corporation doing business in this state fails or refuses to file the statements or schedules with the Tax Commission within the time and manner required by law in the lesser of the amount of Two Hundred Dollars (\$200.00) per day for each county in which such entity has property subject to ad valorem tax or one percent (1%) of the assessed value. The State Board of Equalization shall be responsible for collecting this penalty and shall remit fifty percent (50%) of such penalty to the county general fund of the counties in which such entity has property subject to ad valorem tax. Fifty percent (50%) of such penalty shall be deposited in the General Revenue Fund.

Added by Laws 1988, c. 162, § 57, eff. Jan. 1, 1992. Amended by Laws 1995, c. 57, § 10, eff. July 1, 1995; Laws 1998, c. 405, § 7, eff. Jan. 1, 1999; Laws 2000, c. 314, § 26, eff. July 1, 2000.

§68-2858. Railroad, air carrier and public service corporation - Findings as to assessment - Powers, duties and authority of Tax Commission relating to assessment - Discovery and inspection of personal property.

A. The Oklahoma Tax Commission shall make its findings as to the assessment of all railroad, air carrier and public service corporation property; and such findings shall, on or before the third Monday of June of each year, be presented to the State Board of Equalization as

recommendations for its final action under Section 21 of Article X of the Oklahoma Constitution. A copy of the Oklahoma Tax Commission's letter of transmittal of its findings shall, at such time, be furnished each member of said Board.

B. All duties, powers and authority of all officers and agencies of the state, relating to the assessment of railroad, air carrier and public service corporation property, which have been conferred upon them and vested in them, by law, are hereby transferred to, conferred upon and vested in, the Oklahoma Tax Commission; excepting only the duties, powers and authority of the State Board of Equalization, as fixed and defined by Section 21 of Article X of the Oklahoma Constitution.

C. In the performance of its duties, as prescribed by this section, the Oklahoma Tax Commission, or any duly authorized representative thereof, shall have the power to administer oaths, to conduct hearings and to compel the attendance of witnesses and the production of the books, records and papers of any person, firm, association, or corporation, and to enter any business or commercial premises and inspect the property of the taxpayer.

D. Prior to entering the business or commercial premises of any taxpayer for purposes of discovering personal property, the Oklahoma Tax Commission shall request permission to enter the business or commercial premises and shall state the reason for the inspection. If access to the business or commercial premises is denied, the Oklahoma Tax Commission shall be required to obtain a search warrant in order to conduct an inspection of the interior of the business or commercial premises. A search warrant may be obtained upon a showing of probable cause that personal property located within particularly described business or commercial premises is subject to ad valorem taxation, but not listed or assessed for ad valorem taxation as required by law.

Added by Laws 1988, c. 162, § 58, eff. Jan. 1, 1992. Amended by Laws 1989, c. 152, § 6, eff. Jan. 1, 1992; Laws 1995, c. 57, § 11, eff. July 1, 1995.

§68-2859. Railroads, air carriers and public service corporations - Returns not conclusive as to value or amount of property - Duties, power and authority of State Board of Equalization.

A. The returns of railroads, air carriers and public service corporations shall not be conclusive as to the value or amount of any property. The State Board of Equalization shall have the authority and it shall be its duty to raise or lower the returned value:

1. Of any personal property, to conform to the fair cash value thereof, estimated at the price it would bring at a fair voluntary sale; or

2. Of any real property at not to exceed its fair cash value for the highest and best use for which such property is actually used or classified for use.

B. It shall be the duty of the State Board of Equalization, with the assistance of the Oklahoma Tax Commission, to do all things necessary to enable it to assess and value all taxable property of railroads, air carriers and public service corporations, discover omitted property, and determine the taxable status of any property which is claimed to be exempt from ad valorem taxation for any reason.

C. In the performance of its duties, as prescribed by this section, the State Board of Equalization, or any duly authorized representative thereof, shall have the power to administer oaths, to conduct hearings, and to compel the attendance of witnesses and the production of the books, records and papers of any person, firm, association, or corporation; and to enter any business or commercial premises and inspect the property of the taxpayer.

D. Prior to entering the business or commercial premises of any taxpayer for purposes of discovering personal property, the State Board of Equalization shall request permission to enter the business or commercial premises and shall state the reason for the inspection. If access to the business or commercial premises is denied, the State Board of Equalization shall be required to obtain a search warrant in order to conduct an inspection of the interior of the business or commercial premises. A search warrant may be obtained upon a showing of probable cause that personal property located within particularly described business or commercial premises is subject to ad valorem taxation, but not listed or assessed for ad valorem taxation as required by law.

Added by Laws 1988, c. 162, § 59, eff. Jan. 1, 1992. Amended by Laws 1989, c. 152, § 7, eff. Jan. 1, 1992; Laws 1995, c. 57, § 12, eff. July 1, 1995.

§68-2860. Railroads, air carriers and public service corporations - Certification of assessed valuations.

A. The State Board of Equalization, after having assessed all property of railroads, air carriers and public service corporations in this state according to the provisions of the Ad Valorem Tax Code, shall cause the assessed valuations to be certified by the State Auditor and Inspector to the county assessors of each county in which any portion of the property of any such railroad, air carrier or public service corporation may be located. Such certificates of assessment shall show the various portions of the property of such corporations located and taxable in each county, and in every city, town, school district or other municipal subdivision thereof, and shall include a full statement of all property of such corporations located in each of the said several subdivisions, together with the assessed value thereof. Said valuations shall be certified by the State Auditor and Inspector to the assessors of the several counties wherein such property is located on or before July 31 of each year.

B. The county assessor shall enter on his assessment roll in its appropriate place the assessed valuation of each railroad, air carrier and public service corporation, and at the proper time, place such assessment on the proper tax roll of his county, subject to the levies as provided by law.

Added by Laws 1988, c. 162, § 60, eff. Jan. 1, 1992. Amended by Laws 1995, c. 57, § 13, eff. July 1, 1995; Laws 2001, c. 358, § 20, eff. July 1, 2001.

§68-2861. County boards of equalization - Creation - Membership - Appointment - Term - Qualifications - Secretary and clerk - Conflicts and disputes - Unlawful acts - Penalty.

A. A county board of equalization is hereby created for each county in the state. Said board shall consist of three (3) members.

B. Members of the county board of equalization shall be appointed as follows:

1. One member shall be appointed by the Oklahoma Tax Commission;
2. One member shall be appointed by the board of county commissioners; and
3. One member shall be appointed by the district judge or a majority of the district judges in all judicial districts where more than one district judge is elected.

C. The tenure of office of each county board of equalization member shall be coterminous with that of the first county commissioner district and the third county commissioner district.

D. The qualifications of the members of the county board of equalization shall be as follows:

1. The member must be a qualified elector and resident of the county;

2. The member may not hold an elected office of the state, county, school district or municipal subdivision;

3. The member may not file for any elected office of the state, county, school district or municipal subdivision without first resigning from the county board of equalization; and

4. Not more than one member shall live in any one county commissioner's district; provided, any member serving on the effective date of this act may continue to serve until completion of the member's tenure of office pursuant to the provisions of subsection C of this section notwithstanding the provisions of this paragraph.

E. The county clerk shall serve as secretary and clerk of said board without additional compensation.

F. If there is a conflict or dispute as to the membership, the eligibility of any appointee for membership, the priority of an appointment or appointments, one as opposed to another, or the right of any appointee to serve in any county commissioner's district, then, such conflict or dispute shall be resolved by a determination and order of the Oklahoma Tax Commission.

G. It shall be unlawful for any member of the county board of equalization to sell or contract to sell, or to lease or contract to lease, or to represent any person, firm, corporation or association in the sale or the lease of any machinery, supplies, equipment, material, or other goods, wares, or merchandise to any county or city or town of the county. It shall also be unlawful for any member of the county board of equalization to serve as employee, official, or attorney for any county or city, or town of the county, or for any such member to represent any taxpayer before the board in any manner, or to use the position as a board member to further the member's own interests. It shall also be unlawful for any taxpayer or interested party to employ any member of the county board of equalization in any matter coming before the board.

H. Any person violating any of the provisions of this section shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than Two Hundred Dollars (\$200.00) and not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the State Penitentiary for not less than six (6) months or more than two (2) years, or by both such fine and imprisonment.

I. Any action taken by a county excise board after August 24, 1989, and before May 30, 1990, are hereby declared to be official actions of a duly constituted county excise board. Added by Laws 1988, c. 162, § 61, eff. Jan. 1, 1992. Amended by Laws 1989, c. 321, § 12; Laws 1990, c. 322, § 1, emerg. eff. May 30, 1990; Laws 1995, c. 117, § 1, eff. July 1, 1995; Laws 1997, c. 133, § 565, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 410, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 565 from July 1, 1998, to July 1, 1999.

§68-2862. County board of equalization members - Oath - Training course - Compensation.

A. The members of the county board of equalization for each county in the state, before entering upon their duties, shall subscribe to the oath required of other county officers.

B. Each member of the county board of equalization shall be required to attend and successfully complete a course for purposes of instructing the members about the duties imposed on the board by law. The course shall be developed by the Oklahoma State University Center for Local Government Technology and shall include subjects similar to those prescribed by law for certification of county assessors and their deputies. Failure of a county board of equalization member to successfully complete such course within eighteen (18) months of the date as of

which the member was appointed shall result in forfeiture of the office and the vacancy shall be filled in the manner provided by law.

C. The members of county boards of equalization in all counties having an assessed valuation of Two Billion Dollars (\$2,000,000,000.00) or more shall receive as compensation an amount not to exceed Seventy-five Dollars (\$75.00) per day. The members of county boards of equalization in all other counties may receive as compensation an amount not to exceed Fifty Dollars (\$50.00) per day, such amount to be established by the boards.

D. In addition to the amounts specified in subsection C of this section, members of county boards of equalization shall be reimbursed for each mile of travel to and from their residences to the place of meeting of the board for each session attended at the rate provided for other county officers. The members shall also be reimbursed for each mile of necessary travel in the performance of their official duties at the same rate.

E. The total number of days in each year for which the members of a county board of equalization may be paid shall be as follows:

1. In counties having an assessed valuation of Forty Million Dollars (\$40,000,000.00) or less, not to exceed forty (40) days;

2. In counties having an assessed valuation of more than Forty Million Dollars (\$40,000,000.00) and not more than Eighty Million Dollars (\$80,000,000.00), not to exceed forty-five (45) days; and

3. In counties having an assessed valuation of more than Eighty Million Dollars (\$80,000,000.00), not to exceed ninety (90) days.

Added by Laws 1988, c. 162, § 62, eff. Jan. 1, 1991. Amended by Laws 1997, c. 304, § 7, emerg. eff. May 29, 1997; Laws 1999, c. 134, § 3, emerg. eff. April 28, 1999; Laws 1999, c. 187, § 1, eff. Nov. 1, 1999; Laws 2000, c. 64, § 1, eff. July 1, 2000; Laws 2007, c. 172, § 1, eff. Nov. 1, 2007.

§68-2863. County board of equalization - Sessions - Purpose - Special sessions - Duties and authority - Hearing officers.

A. The county boards of equalization shall hold sessions commencing on April 1, or the first working day thereafter, and ending not later than May 31, for the purpose of correcting and adjusting the assessment rolls in their respective counties to conform to the fair cash value of the property assessed, as defined by law. However, in counties having an assessed valuation in excess of One Billion Dollars (\$1,000,000,000.00), sessions shall commence on the fourth Monday in January and end not later than May 31. If the number of appeals pending would in the estimation of the board make it impracticable for the county board of equalization to complete hearing and adjudication of such appeals on or before May 31, a special session may be called, for such time as is necessary to complete consideration of the appeals, subject to the approval of the county budget board, between June 1 and no later than July 31. Such approval of the county budget board must be requested no later than May 15. The county board of equalization may meet in special session between March 1 and March 31 for the purpose of considering appeals pending on or before the date of notice of such special session, if the number of appeals pending would in the estimation of the board make it impracticable for the county board of equalization to complete hearing and adjudication of such appeals on or before May 31. At any such special session called between March 1 and March 31, the board shall conduct no other business than the hearing or adjudication of such appeals pending pursuant to the provisions of Section 2801 et seq. of this title. Except for special sessions, the meetings of each

board shall be called by the chair or, in the event of the refusal or inability of the chair, by a majority membership of the board. The secretary of the board of equalization shall fix the dates of the extended special session hearings provided for in this section.

B. It shall be the duty of the boards and they shall have the authority to:

1. Raise or lower appraisals to conform to the fair cash value of the property, as defined by law in response to an appeal filed as prescribed by law;
2. Add omitted property;
3. Cancel assessments of property not taxable; and
4. Hear all grievances and appeals filed with the board secretary as outlined in Section 2877 of this title.

C. It shall be the duty of each county board of equalization to cooperate with and assist the county assessor in performing the duties imposed upon the assessor by the provisions of Section 2840 of this title, to the end that the records required by the provisions of such section shall be fully and accurately prepared and maintained and shall reflect the assessed valuations of the real property of the county. After such records have been prepared and the assessed valuations adjusted in accordance with the provisions of this section, the county board of equalization shall not raise or lower the assessed valuation of any parcel or tract of real estate without hearing competent evidence justifying such change or until at least one member of the board or a person designated by the board has made a personal inspection of such property and submitted a written report to the board. In no event shall any such change be made by the county board of equalization if such change would be inconsistent with the equalized value of other similar property in the county.

D. In counties with a net assessed valuation in excess of Five Hundred Million Dollars (\$500,000,000.00), the county board of equalization may, subject to the approval of the county budget board, appoint sufficient hearing officers to assist in the hearing of appeals filed before the county board of equalization. Such hearing officers shall be knowledgeable in the field of mass appraisal, real estate or related experience. Hearing officers shall receive the same compensation as county board of equalization members. The secretary of the county budget board shall appoint such personnel necessary to assist the hearing officers in the performance of their duties.

Such hearing officers shall review appeals assigned to them by the board of equalization, hold hearings, receive testimony from the taxpayer and county assessor and submit a written recommendation to the county board of equalization as to the fair market value of the protested property. Upon submission of the hearing officer's written recommendation, the county board of equalization shall take final action on the appeal by either adopting, amending or rejecting the final report. The county board of equalization may also re-hear the appeal itself, request additional testimony from the taxpayer or county assessor or request additional review by a hearing officer.

All proceedings before any hearing officer shall be subject to the provisions of the Oklahoma Open Records Act and the Oklahoma Open Meeting Act.

Added by Laws 1988, c. 162, § 63, eff. Jan. 1, 1992. Amended by Laws 1989, c. 321, § 13; Laws 1991, c. 158, § 1, emerg. eff. May 7, 1991; Laws 1997, c. 304, § 8, emerg. eff. May 29, 1997; Laws 2013, c. 158, § 2, eff. Nov. 1, 2013.

§68-2864. State Board of Equalization - Membership - Sessions - Officers - Quorum - Powers, duties and authority - Fees.

A. The Governor, State Auditor and Inspector, State Treasurer, Lieutenant Governor, Attorney General, Superintendent of Public Instruction and President of the Board of Agriculture shall constitute the State Board of Equalization, and the Board must hold a session at the Capitol of the state, commencing at 10:00 a.m. on December 1, or the first working day thereafter, of each year for the purpose of equalizing the taxable property values of the several counties for the next following assessment year. The State Auditor and Inspector shall notify all other members of the Board of the time and place of the annual session as herein required. The Governor shall serve as chair and the State Auditor and Inspector shall serve as secretary of the Board, and a vice-chair shall be elected from the other members. In case of the absence or failure of the chair and secretary, or either of them, to so act on the statutory meeting date, any four or more members thereof shall proceed on such date to conduct the Board's session and carry on its work as herein required. Any official action by the Board shall require approval by a majority of all members of the Board.

B. It shall be the duty of the Board to examine the various county assessments and to equalize, correct and adjust the same as between and within the counties by determining the ratio of the aggregate assessed value of the property or any class thereof, in any or all of them, to the fair cash value thereof as herein defined, and to order and direct the assessment rolls of any county in this state to be so corrected as to adjust and equalize the valuation of the real and personal property among the several counties during the next succeeding assessment year. The Board is hereby authorized to appoint a committee of its members or designate a third party to assist the Board in the resolution of any dispute between a county assessor and the Oklahoma Tax Commission. Any recommendation or proposed means of resolving the dispute developed by such committee or third party shall be submitted to the Board for final action.

C. In determining the assessment ratio for all air carrier property and all railroad property, the Board shall be subject to the provisions of paragraph 3 of subsection A of Section 8 of Article X of the Oklahoma Constitution.

D. In order to equalize, correct and adjust the various county assessments within the counties as required by this section, the Board shall analyze the relationship between the assessed value and the fair cash value for each use category of real property and separately analyze the relationship between the assessed value and the fair cash value for the agricultural use category, the residential use category and the commercial/industrial use category. The Board shall order any increase or decrease determined by the Board to be necessary for equalization of property values within the county, including, but not limited to, the authority to require an assessment ratio for a use category bearing a specific relationship to the percentage used to determine taxable value of real property in the county for the applicable assessment year pursuant to the provisions of Section 8 of Article X of the Oklahoma Constitution.

E. The Board shall equalize, correct and adjust the various county assessments as between the counties as required by this section by ordering any increase or decrease required as prescribed by this subsection. The Board shall order any increase or decrease required to comply with the assessment ratio in effect for the applicable assessment year pursuant to the provisions of Section 8 of Article X of the Oklahoma Constitution.

F. The Board shall set a fee or schedule of fees to be used by county assessors for the search, production and copying in electronic and/or digital format of property data, administration files, sketches and pictures for the real property maintained within the county assessors' computer systems for commercial purposes. Such fee or schedule of fees shall be uniform across the state to the extent possible with variances between the counties permitted to

allow for the ability of various counties to produce data based on available technology, personnel and budget resources. The fee or schedule of fees shall not apply or be charged to individual property owners obtaining information on the owner's property for the owner's use. After establishing the fee or schedule of fees each year at its December 1 meeting, the Board shall review the fee or schedule of fees and make adjustments necessary to ensure uniform application to the extent possible across all counties and to take into account technological changes that may occur over time. The Board may direct that a county assessor's compliance with the fee or schedule of fees be considered when the county assessment examination is performed pursuant to the requirements of this section. Fees collected pursuant to this subsection shall be deposited in the applicable county assessor revolving fund, as provided in Section 2829.1 of this title, and the expenditure of such funds shall be subject to the provisions of such section. The fee or schedule of fees applicable to a county assessor shall be posted within its principal office and with the county clerk. The Board shall only establish fees or a fee schedule wherein the custodian shall charge reasonable costs for the retrieval of an existing record, regardless of format. Reasonable costs shall not exceed the actual cost of duplication of the record. As used in this section, "actual cost of duplication" means the cost of materials and supplies used to duplicate or reproduce the record. Costs for labor may only be charged when the request requires the custodian to compile data, extract data or redact information in order to create a new document to comply with a public record request. Records not readily available at the time of request shall be provided by the custodian of records within a reasonable time after receipt of the request. A reasonable time shall be presumed to be three (3) working days or less. The period may be extended by the custodian if extenuating circumstances exist. The period of extension shall not exceed seven (7) working days, unless:

1. The period of extension is agreed to by both parties;
2. The request is voluminous; or
3. Fulfilling the request would impair the custodian's ability to discharge its duties.

The custodian shall notify the person requesting the records within seven (7) working days of the reason why the request cannot be fulfilled within the time period requested by the requestor and when the custodian will provide the records.

Added by Laws 1988, c. 162, § 64, eff. Jan. 1, 1992. Amended by Laws 1990, c. 212, § 2, eff. Jan. 1, 1992; Laws 1997, c. 304, § 9, emerg. eff. May 29, 1997; Laws 1998, c. 318, § 1, eff. Nov. 1, 1998; Laws 2011, c. 363, § 1, eff. Nov. 1, 2011.

§68-2865. Oklahoma Tax Commission - Adjustment and equalization of valuation of real and personal property - Findings - Powers, duties and authority.

A. The Oklahoma Tax Commission shall render its findings as to the adjustment and equalization of the valuation of real and personal property of the several counties of the state by reporting to the State Board of Equalization the ratio derived from comparing the assessed value of the real property of each county to the full or fair cash value of the real property of such county; and such findings shall, on or before December 1 of each calendar year, be presented to the State Board of Equalization as recommendations for its final action under Section 21 of Article X of the Oklahoma Constitution.

B. All duties, powers and authority relating to the adjustment and equalization of the valuation of real and personal property of the several counties of the state, shall be vested in the Oklahoma Tax Commission, excepting only the duties, powers and authority of the State Board of Equalization, as fixed and defined by Section 21 of Article X of the Oklahoma Constitution.

C. In the assessment of all property which it is their duty to assess for taxation, all county officers shall continue to perform all the duties required of them, and to exercise all the powers and authority vested in them, by law.

D. In the performance of its duties, as herein defined, the Oklahoma Tax Commission, or any duly authorized representative thereof, shall have the power to administer oaths, to conduct hearings, and to compel the attendance of witnesses and the production of the books, records and papers of any person, firm, association or corporation, or of any county; and to enter any business or commercial premises and inspect the property of the taxpayer.

E. Prior to entering the business or commercial premises of any taxpayer for purposes of discovering personal property, the Oklahoma Tax Commission shall request permission to enter the business or commercial premises and shall state the reason for the inspection. If access to the business or commercial premises is denied, the Oklahoma Tax Commission shall be required to obtain a search warrant in order to conduct an inspection of the interior of the business or commercial premises. A search warrant may be obtained upon a showing of probable cause that personal property located within particularly described business or commercial premises is subject to ad valorem taxation, but not listed or assessed for ad valorem taxation as required by law.

Added by Laws 1988, c. 162, § 65, eff. Jan. 1, 1992. Amended by Laws 1989, c. 152, § 8, eff. Jan. 1, 1992.

§68-2866. Oklahoma Tax Commission - Equalization ratio study.

A. For purposes of reporting to the State Board of Equalization the ratio derived from comparing the assessed value of the real property of each county to the full or fair cash value of such real property, the Oklahoma Tax Commission shall conduct and publish an equalization ratio study for each county annually in accordance with the requirements of this section.

B. The equalization ratio study shall be conducted in a manner that ensures:

1. the ratio of assessed value to the fair cash value of properties in a sample extracted from a county is expressed as a median of the ratios determined for all properties included in the sample;

2. sample data gathered for purposes of establishing the fair cash value of properties within the sample relates to the applicable assessment date of the study in a manner that produces reliable ratio study results;

3. sample sizes of sufficient numbers to produce an estimated ratio for a use category within a county or a ratio for an entire county at a ratio that accurately estimates the true, but unknown, assessment level;

4. appraisals selected for inclusion in the ratio study are representative of the use category or stratum of properties included in the sample;

5. sales files containing adequate information are developed and maintained for purposes of appraisals; and

6. uniformity of assessments within a use category or stratum for a county do not exceed a coefficient of dispersion value of twenty percent (20%).

C. The Oklahoma Tax Commission shall provide for a computer system that permits the equalization ratio study to be conducted pursuant to the requirements of this section. Such computer system shall be designed to permit monitoring and analysis of assessment performance in the several counties and to detect noncompliance with legal standards for valuation of taxable property in order to fulfill the duties imposed by Section 2830 of this title. The provisions of this

subsection shall not be construed to authorize the Oklahoma Tax Commission to install a mainframe computer capable of remote monitoring of or making inputs into computers in the offices of the various county assessors.

Added by Laws 1988, c. 162, § 66, eff. Jan. 1, 1992. Amended by Laws 1989, c. 321, § 14, operative Jan. 1, 1992.

§68-2867. Abstract of assessments.

A. As soon as practicable after the assessment rolls are corrected and adjusted by the county board of equalization through the first Monday in June, the county assessor shall make out an abstract thereof, containing the total amount of property listed under the various classifications appearing on the blank forms for the listing and assessment of property, and the total value of each class, and it shall be the mandatory duty of the county assessor under the penalties as outlined pursuant to Section 2943 of this title, to transmit this abstract to the Oklahoma Tax Commission not later than June 15 of each year or the first working day thereafter, unless delayed by court action or other causes beyond his control.

B. It is hereby specifically provided that where any county assessor fails to comply with the provisions of this section by the time herein required, the Oklahoma Tax Commission shall immediately notify the chairman of the board of county commissioners and the county clerk of such county and neither such county assessor nor any of his deputies or employees shall be paid any remuneration, compensation or salary for the month of June and each succeeding month thereafter until such abstract is transmitted to the Oklahoma Tax Commission. This penalty provision shall be cumulative to the penalty provisions and requirements of Section 2943 of this title.

C. It shall be the duty of the Oklahoma Tax Commission to furnish the necessary forms for such abstract, which forms shall be subject to approval by the State Auditor and Inspector.

D. Within ten (10) days after the county assessor of each county receives from the State Board of Equalization the certificates of assessment of all railroads, air carriers and public service corporations, and the equalized value of real and personal property of such county, it shall be the duty of the county assessor to prepare and file with the county excise board an abstract of the assessed valuations of the county and each municipal subdivision thereof as shown by his records through that date; and said abstract shall show separately the valuations of all personal property, real property, railroad and air carrier property and public service corporation property, in each municipality, and shall be properly totaled and balanced.

Added by Laws 1988, c. 162, § 67, eff. Jan. 1, 1992. Amended by Laws 1995, c. 57, § 14, eff. July 1, 1995.

§68-2868. Tax rolls - Preparation - Contents.

A. As soon as practicable, and not later than October 1, the county assessor shall prepare tax rolls containing all adjustments by either the equalization board or the excise board which have been completed and provided to the assessor, and containing:

1. A list or lists in alphabetical order of all the persons and bodies corporate in whose name any personal or public service property has been assessed, with the assessed valuation thereof distinguished by separate amounts if located in more than one school district and by the number of each school district, each in a separate column opposite the name, and the total amount of the tax as to each school district location extended in another column. In city and town districts, distinction shall be made as to urban and rural locations;

2. A list or lists of all taxable lands in the county or school districts of the county, not including city or town lots, nor unplatted tracts of land inside a city or town, in numerical order, commencing with the lowest numbered section and the different subdivisions and fractional parts thereof in the lowest numbered township in the lowest numbered range in the county, and ending with the highest numbered section, township and range, with the number of the school district located in and the name of the owner in each instance, the assessed valuation of each tract, and the total amount of taxes extended in separate columns opposite each tract in the same manner as provided in the alphabetical list or lists of names; except where homestead exemptions are involved, then by distinctive valuations and amounts of tax as hereinafter provided; and

3. A list of the city or town lots in each city or town and the unplatted tracts in each city or town in the county, commencing with the lowest numbered section in the lowest numbered township in the lowest numbered range in the county and the different subdivisions and fractional parts thereof and ending with the highest numbered section, township and range, and the number of acres in each tract with the name of the owner in each instance, and the valuation and total tax extended in separate columns in the same manner as hereinbefore provided in respect to personal property and lands, except homesteads which shall be distinguished as provided for lands. Each lot shall be separately listed, except as hereinafter provided, and the valuation and tax separately extended thereon. Where one building or one set of improvements is situated on two or more lots or parts of lots so as to preclude distinction as to the value of improvements as to each such lot or parts of lots, such lots or parts of lots shall be listed together with one valuation, and the tax extended in one amount. Unless the owner otherwise elects, vacant lots valued and equalized at Ten Dollars (\$10.00) or less per lot and belonging to the same owner may, if adjacent and lying within the same city or town block, be so listed with one valuation and the tax extended in one amount; and in either or any event where more than one lot or part of lot is listed under one valuation, the tax rolls shall disclose whether the same be vacant or improved. All additions to cities and towns shall be arranged in the tax rolls in alphabetical order immediately following the original townsite.

B. In applying the tax rate to determine the amount of tax due, the county assessor shall compute same to the nearest dollar, that is, any fraction of a dollar in the amount of fifty cents (\$0.50) or less shall be disregarded, and any fraction of a dollar in the amount of fifty-one cents (\$0.51) or more shall be shown as a full dollar. The total amount of the tax due and extended on the tax rolls, as required by this section, shall be determined and shown accordingly. Provided, however, in all cases where, under the tax rate, the tax is computed to be less than One Dollar (\$1.00), then the tax due shall be shown as One Dollar (\$1.00).

C. Each property, whether lands or lots, lawfully exempted from taxation in whole or in part by reason of a homestead interest, shall be distinguished upon the tax rolls by the word "homestead" or an appropriate symbol, and opposite each of such properties shall be entered in separate columns the total assessed valuation, the value of the exemption allowed and approved and the assessed valuation after the amount of exemption allowed has been deducted. In extending the tax the county assessor shall, as to each such property, consolidate all levies to which the homestead exemption is subject, compute the tax thereon and enter the same in one column in one amount, and all the levies to which the valuation in excess of the homestead exemption is subject, compute the tax thereon and enter the same in another column in one amount.

D. All real property which is exempt from taxation shall be listed in the tax rolls, with the name of the owner, in all respects as if the same were taxable but with the reason for the exemption noted thereon across the columns where otherwise the tax would have been entered.

E. The county treasurer shall transfer to the tax rolls for the current year, in a separate column, all delinquent taxes remaining unpaid for the previous years, distinguishing the same as to each lot and tract of land by the year and amount of tax, exclusive of penalty, as to all real properties; and when giving a statement of taxes on any property, said statement shall include all taxes due and shall designate the sum due for the current year, and the sum past due and delinquent. Said transfer to the current rolls of unpaid real property tax of previous years is hereby declared to be mandatory; and the county treasurer shall be allowed not to exceed fifteen (15) days after the delivery to him of said current rolls within which to make such transfer, before he shall be required to open the same for the reception and collection of taxes and to begin the thirty-day nonpenalty-taxpaying period before delinquency.

F. The tax rolls shall be made up as required by and in the form prescribed by the State Auditor and Inspector and shall contain such other information as may be required by the State Auditor and Inspector.

Added by Laws 1988, c. 162, § 68, eff. Jan. 1, 1992. Amended by Laws 1992, c. 360, § 2, eff. July 1, 1992.

§68-2869. Extension of tax levies on tax rolls - Delivery of tax rolls to county treasurer - Filing abstract of tax rolls - Correction of levy or tax rolls - Assessor's warrant - Receipt and acceptance of tax rolls - Collection of taxes.

A. It shall be the duty of the county assessor to proceed to extend the tax levies on his tax rolls immediately upon receipt of the certification of such levies from the county excise board, without regard to any protest that may be filed against any levy.

B. It shall further be the duty of the county assessor to deliver the tax rolls to the county treasurer when the same shall

have been completed, and at the same time to file a true and correct abstract of such tax rolls with the county clerk, which abstract shall be made on forms prescribed by and in the manner required by the State Auditor and Inspector. The county clerk shall charge the county treasurer with the amount contained in said abstract.

C. If there is any correction or change in the levy of any municipality, after such levy has been certified by the county excise board to the county assessor, regardless of whether such change is made by order of the county excise board or by a court of competent jurisdiction, it shall be the duty of the county assessor to deliver the tax rolls to the county treasurer, without regard to such change; and it shall be the duty of the county treasurer, with the assistance of the county assessor, to make the necessary corrections on the tax rolls after the same shall have been delivered to the county treasurer.

D. The county assessor shall, notwithstanding the filing of any protest against the levies or budgets or the pendency of any procedure with reference to the correctness of the assessment of any property or as to the legality of any levy, complete the tax rolls and abstract thereof, and deliver the same to the county treasurer and county clerk, respectively, on or before the first day of October of each year.

E. The county assessor shall attach to the tax rolls his warrant, under his own hand, requiring the county treasurer to collect the taxes in accordance with said tax rolls, and such warrant and tax rolls shall be full and sufficient authority for the collection by the county

treasurer of all taxes therein contained. No informality in the foregoing requirement shall render illegal any proceeding for the collection of taxes.

F. The county treasurer shall accept the tax rolls and give his receipt therefor; and upon the date fixed when taxes shall become due and payable to the county treasurer shall proceed to collect the taxes as provided by law.

Added by Laws 1988, c. 162, § 69, eff. Jan. 1, 1992.

§68-2870. Destruction or loss of tax lists, rolls or abstracts.

A. In case of the destruction or loss of tax lists, rolls or abstracts, or any portion thereof, of any county of this state, after the assessments have been adjusted by the county board of equalization according to law, and before the taxes have become delinquent according to law, it shall be the duty of the county assessor with the approval of the board of county commissioners of the county in which said loss or destruction shall occur, within ninety (90) days after such loss or destruction, to appoint special deputy assessors, whose duty it shall be to assist the county assessor in reassessing all taxable property of said county, or such portion thereof, the tax records of which have been lost or destroyed as aforesaid, in the manner and form provided by law. Before entering upon the duties of such appointment, such special deputy assessors shall qualify before the county assessor as provided by law for the qualification of deputy assessors, and such special deputy assessors shall receive the same compensation for their services, as other personnel in such assessor's office for each day actually employed. The original assessment, the record of which is lost, shall, in the new assessment, be followed and adopted as far as practicable.

B. The county assessor shall, within ten (10) days after the appointment of the special deputies, proceed to make out and deliver to the county board of equalization the assessment rolls of the county as provided by law. The county board of equalization shall meet within ten (10) days after the delivery of the assessment rolls to it, which assessment rolls and lists shall be received by said board and corrected so as to correspond, as nearly as may be, to the original rolls and lists lost or destroyed.

C. The county assessor shall, within thirty (30) days after the date of the meeting of the county board of equalization required by this section, make out and file with the treasurer of said county, an abstract of the special assessment herein provided. Such assessment, and the assessment lists, assessment rolls, tax rolls and abstracts, when so made and filed shall, in all respects, be of the same force and effect as if made at the regular assessment, and shall have the same effect and value as evidence, as the lists, assessment rolls, tax rolls, and abstracts lost or destroyed; and the rates of taxation shall in no case be changed or varied from those theretofore fixed for the year covered by such restored records. In such cases no penalty shall attach for nonpayment of taxes until at least ninety (90) days after the said abstract is filed with the county treasurer.

D. In all cases contemplated in, and covered by this section, the Oklahoma Tax Commission shall provide for the use of said county assessor and special deputy assessors, upon the requisition or request of the board of county commissioners of the county, all necessary notices, blank forms, lists and instructions and forward the same to the county assessor of said county.

E. In all cases where duplicates or copies of the assessment rolls and tax rolls for the year involved can be reproduced from the land list or other available records, if the said county assessor and the board of county commissioners shall determine that said reproduced roll is

correct, and upon the verification of the same by the persons who made such assessment, or other person competent to make such verification, such reproduced assessment roll shall be accepted in lieu of the special assessment herein required.

F. Upon the receipt by the county treasurer of the county assessor's abstract of the tax roll, all persons who have theretofore paid the whole or any part of the tax chargeable against them for the year involved may, within sixty (60) days, present their receipts to the county treasurer who shall credit them upon the proper record with the amount of taxes so paid.

G. For the purpose of performing the extraordinary duties provided by this section, the county assessor and county treasurer shall be empowered, with the consent and under the direction of the board of county commissioners, to employ such additional deputies as may be necessary to enable them to perform the duties required by this section within the period herein limited.

Added by Laws 1988, c. 162, § 70, eff. Jan. 1, 1992.

§68-2871. Correction or alteration of tax rolls - Board of tax rolls corrections created.

A. After delivery of the tax rolls to the county treasurer of any county, no correction or alteration as to any item contained therein as of such date of delivery shall ever be made, except by the county treasurer and on authority of a proper certificate authorized by law or pursuant to order or decree of court in determination of a tax appeal or other proper case.

B. A board of tax roll corrections is hereby created and shall consist of the chair of the board of county commissioners as chair or, in the chair's absence, the vice-chair of the board of county commissioners or their statutory designee, the chair of the county equalization board or, in the chair's absence, the vice-chair of the county equalization board as vice-chair, the county clerk as nonvoting member and secretary, and the county assessor, a majority of whom shall constitute a quorum. The board is hereby authorized to hear and determine allegations of error, mistake or difference as to any item or items so contained in the tax rolls, in any instances hereinafter enumerated, on application of any person or persons whose interest may in any manner be affected thereby, or by his or her agent or attorney, verified by affidavit and showing that the complainant was not at fault through failure to fulfill any duty enjoined upon him or her by law, or upon discovery by the county treasurer or assessor before the tax has been paid or attempted to be paid and disclosure by statement of fact in writing signed by the treasurer or assessor and verified by the assessor or treasurer as the case may be. Such right shall not be available to anyone attempting to acquire, or who has acquired, the lien of the county for such tax, whether by purchase, assignment, deed or otherwise. In counties with two county boards of equalization, the chair of each such board shall serve, in alternating years, as the vice-chair of the board of tax roll corrections. When a complaint is pending before the board of tax roll corrections, such taxes as may be owed by the protesting taxpayer shall not become due until thirty (30) days after the decision of the board of tax roll corrections. When a complaint is filed on a tax account which has been delinquent for more than one (1) year, and upon showing that the tax is delinquent, the complaint shall be dismissed, with prejudice.

C. If, upon such hearing, it appears that:

1. Any personal or real property has been assessed to any person, firm, or corporation not owning or claiming to own the same;
2. Property exempt from taxation has been assessed;
3. Exemption deductions allowed by law have not been taken into account;

4. The same property, whether real or personal, has been assessed more than once for the taxes of the same year;
5. Property, whether real or personal, has been assessed in the county for the taxes of a year to which the same was not subject;
6. Improvements to real estate or other property assessed have been destroyed by fire, or that the value of land has been impaired, damaged or destroyed by wildfires, floods or overflow of streams, and has made and entered an adjustment to assessments previously made and entered;
7. Lands or lots have in any manner been erroneously described;
8. Any valuation or valuations assessed and entered are at variance with the valuation finally equalized;
9. Any valuation or valuations returned for assessment and not increased by the county assessor have been entered on the assessment rolls for equalization at variance with the value returned, or in the event of increase by either the county assessor or the county board of equalization and no notice thereof was sent; provided, offer of proof of failure to receive notice may not be heard;
10. Any valuation assessed and entered included, in whole or in part, as of the date of assessment under the law relating thereto, any property that had no taxable situs in the county, did not exist or had been erroneously placed;
11. Any property subject to taxation as of January 1 of any year was thereafter acquired by conveyance of title, including tax title, by the county, or any city, town or school district therein;
12. An error resulted from inclusion in the total of levies computed against the valuation entered, a tax levy or levies certified and final for none or part of which such property was liable in fact and the same be self-evident on recomputation, and involve no question of law;
13. As to personal tax, if there has been an error in the name of the person assessed, or, as to real property, the record owner at the time of assessment desires that his or her name be entered in lieu of whatever other name may have been entered as "owner" upon the roll;
14. There has been any error in the tax extended against the valuation entered, whether by erroneous computation or otherwise;
15. There has been any error in transcribing from the county assessor's permanent survey record to the assessment rolls either as to area or value of lands or lots or as to improvements thereon;
16. The county treasurer has, of his or her own volition, restored to the tax rolls any tax or assessment where the entry upon the tax rolls shows the same theretofore to have been stricken or reduced by certificate issued by constituted authority, except where restored by specific court order or in conformity to general decree of the Supreme Court of Oklahoma invalidating in mass all such certificates of a class certain, and except if the owner of such property demand its restoration and make payment, in which instance the county treasurer shall require that the owner sign on the face of the owner's receipt a statement that the owner "paid voluntarily without demand, request or duress"; or
17. Any personal property assessment and personal tax charge has been entered upon the assessment and tax rolls except upon proper return of assessment by the taxpayer or increase thereof with due notice, or as a delinquent assessment made by the county assessor or deputies in detail either on view or reliable information; then, in the event any of the grounds stated in this subsection are present, it shall be the duty of the board of tax roll corrections to make and the secretary to enter its findings of fact and to correct such error, if such exists, by issuing its order, in words and figures, to accomplish such:

- a. if such error increases the amount of tax charged, the county clerk shall issue a certificate of error to the county assessor ordering the assessor to certify such correction or increase to the county treasurer for entry on the tax rolls, and
- b. if such error does not increase the amount of tax charged, the county clerk shall issue a certificate of error to the county treasurer if the tax be not paid, stating the amount or other effect of such order, and it shall be the duty of such county treasurer to make and enter such correction upon the tax rolls and, if there be a decrease to the amount of tax charged, to enter a credit, in lieu of cash, for the amount of decrease of tax shown in such certificate.

D. If, prior to such hearing by the board, as provided by this section, the tax has been paid, no certificate shall issue; but if less than one (1) year shall have elapsed after the payment of the tax and before the filing of such application for correction of error, and after such hearing the findings of fact disclose that less tax was due to have been paid than was paid, then the person who paid the tax, or such person's heirs, successors, or assigns, may execute a cash voucher claim setting forth facts and findings, verify it, and file it with the county clerk, who shall thereupon deliver such claim to the county treasurer for designation of the fund from which the claim must be paid and approval of the claim as to availability of funds by the county treasurer. If taxes have been paid under protest, the county treasurer must designate the refund to be paid from such protest fund. If taxes have been paid but not paid under protest and if there are funds available in current collections of the taxing unit which received the taxes paid, then the county treasurer must designate the refund to be paid from such current collections of such taxing unit. The county clerk shall thereupon issue a cash voucher against the appropriate fund of the county, directing the county treasurer to pay to such person the amount so found to be erroneous. The word "person" as used in this subsection shall comprehend the person, firm, or corporation who paid such tax and the heirs, assigns or successors, as the case may be. No such claim for refund shall be allowed and paid unless the same be filed within six (6) months after the effective date of the order of correction.

E. If there be any error in the taxes collected from any person, the overpayment or duplicate payment of any such taxes collected in error may be recovered by the taxpayer, and the county treasurer may make such payment from the resale property fund of the county if funds are not available as stated in subsection D of this section.

F. Beginning January 1, 1987, notwithstanding the one-year limitations period for filing a claim for refund as provided in subsection D of this section, if there be any error in taxes collected from any person on property constitutionally exempt under Section 6B of Article X of the Oklahoma Constitution, by the county treasurer in counties with a population in excess of five hundred thousand (500,000) persons, according to the latest Federal Decennial Census, to the extent that such county has been reimbursed from the Ad Valorem Reimbursement Fund provided by Section 193 of Title 62 of the Oklahoma Statutes, the overpayment or duplicate payment of any such taxes collected in error may be recovered by the taxpayer as provided by law.

G. Upon dismissal of a complaint or denial of relief to the taxpayer, the county clerk, as secretary of the board of tax roll corrections, shall prepare a letter order of dismissal or denial which shall be mailed to the taxpayer or person at the address found on the complaint.

H. Both the taxpayer and the county assessor shall have the right of appeal from any order of the board of tax roll corrections to the district court of the same county. In case of appeal the trial in the district court shall be de novo.

I. Notice of appeal shall be served upon the county clerk, as secretary of the board of tax roll corrections, and a copy served upon the county assessor. The appeal shall be filed in the district court within fifteen (15) days of the date of the mailing of the order of the board of tax roll corrections to the taxpayer.

Added by Laws 1988, c. 162, § 71, eff. Jan. 1, 1992. Amended by Laws 1995, c. 337, § 9, emerg. eff. June 9, 1995; Laws 1997, c. 155, § 1, eff. Nov. 1, 1997; Laws 1998, c. 396, § 2, emerg. eff. June 10, 1998; Laws 2007, c. 172, § 2, eff. Nov. 1, 2007; Laws 2008, c. 140, § 2, emerg. eff. May 9, 2008; Laws 2013, c. 158, § 3, eff. Nov. 1, 2013.

§68-2872. Compensation of chairman of county board of equalization for attendance of meetings of board of tax rolls corrections.

For attendance upon meetings of the board of tax roll corrections the chairman of the county equalization board shall be entitled to compensation at a rate identical to the compensation authorized by law for attendance by the chairman of the county board of equalization upon meetings of the county board of equalization; but his attendance upon meetings of the board of tax roll corrections shall not be counted against the maximum number of days for which he may be compensated for equalization board meetings.

Added by Laws 1988, c. 162, § 72, eff. Jan. 1, 1992.

§68-2873. Board of tax rolls corrections - Modification of valuation of property.

The board of tax roll corrections shall be authorized to modify a valuation of property in accordance with the standards prescribed by or for a purpose authorized by Section 71 of this act irrespective of whether or not the valuation so modified has been affected by an order of the State Board of Equalization for purposes of equalizing assessments within a county or between the several counties as authorized by law. Any modification by the board of tax roll corrections to a value that has been modified as a result of an order by the State Board of Equalization shall be reported to the Oklahoma Tax Commission. The Oklahoma Tax Commission shall determine the impact, if any, that the modification made by the board of tax roll corrections has upon equalization within the county or between the several counties and shall make recommendations to the State Board of Equalization for any action required.

Added by Laws 1988, c. 162, § 73, eff. Jan. 1, 1992.

§68-2874. Correction of clerical errors on tax rolls.

Whether upon discovery by the county treasurer or county assessor or any of their deputies, or upon complaint of the taxpayer, the agent or attorney or any person acting on behalf of the taxpayer, upon certificate of clerical error issued by the county assessor to the county treasurer, with a copy to the county clerk and a copy retained, the county treasurer shall be authorized to make correction upon the tax rolls of either of the following specifically enumerated errors of strictly clerical import not involving valuations assessed and equalized and not involving any exemption allowed whether of homestead, service in the armed forces, charitable, educational, religious, or other authorized exemptions, and which clerical error certificates shall issue only under the conditions stated as to each, as follows:

1. Error in the name of the person assessed, upon affidavit verifying the name of the true owner as of October 1 of the taxable year involved;
2. Error in the address of the person, firm or corporation assessed, when furnished by such person or a representative of the firm or corporation;
3. Error in the legal description of real property, when verified by the county clerk, certifying to the description on his land records as of January 1 of the taxable year involved;
4. Error in land-list entry, such as section or part thereof, township, range or of lot or block or of designation of urban addition, when verified by the county clerk to the land records or plats on file, as of January 1 of the taxable year involved;
5. Error in the school district designation as of the date when school district tax levies attached themselves to such property, when verified by the county assessor certifying to the date, if after January 1 of such taxable year, when the school district designation or location changed, or the school district designation prior to January 1 of such taxable year where no change of the boundaries of such district was thereafter ordered during such taxable year. If a school district boundary change occurs after April 15 of such taxable year, the opinion of the district attorney as to the applicable school district designation to such property for purpose of levy of such taxable year shall be attached to the certification;
6. If the error of school district designation caused the application of levies not applicable thereto, then also the "extension of tax", when verified by the county clerk with proof of computation attached;
7. Error commonly called duplicate assessment, but only in instances where the two entries as delivered to the county treasurer are verified by the county treasurer or deputy to be completely identical in every specific detail; and
8. Error in transcribing to the tax rolls from assessment rolls or assessment lists, conditioned on complete absence of all indication of erasures or other alteration of original entry when confirmed by endorsement to the certificate by the county clerk certifying to personal visual inspection and verifying absence of all indication of erasure or change in original entry. Added by Laws 1988, c. 162, § 74, eff. Jan. 1, 1992. Amended by Laws 1993, c. 239, § 19, eff. July 1, 1993; Laws 2013, c. 158, § 4, eff. Nov. 1, 2013.

§68-2875. Ad Valorem Division of Oklahoma Tax Commission - Creation - Director - Authority and duties.

A. There is hereby created within the Oklahoma Tax Commission the Ad Valorem Division which shall be administered by a Director. References to the Oklahoma Tax Commission in any provision of the Oklahoma Statutes in relation to ad valorem taxation shall be construed to mean the Ad Valorem Division of the Oklahoma Tax Commission unless the context clearly requires otherwise.

B. The Director of the Ad Valorem Division shall be a citizen of the United States, at least thirty (30) years of age, and shall have three (3) years of experience in ad valorem assessment administration including employment by a state governmental agency or entity responsible for annual valuation of taxable property pursuant to a computerized or computer-assisted mass appraisal system. The Director shall also possess an official professional appraiser designation from at least one of the following organizations: American Institute of Real Estate Appraisers, American Society of Appraisers, American Society of Farm Managers and Rural Appraisers, International Association of Assessing Officers, International Right-of-Way Association,

National Association of Independent Fee Appraisers, National Society of Real Estate Appraisers, and the Society of Real Estate Appraisers.

C. The Director of the Ad Valorem Division shall organize the Division in such manner as the Director deems advisable to discharge the duties and responsibilities of the Ad Valorem Division.

D. The Ad Valorem Division shall have the authority and it shall be its duty to:

1. Confer with and assist county assessors and county boards of equalization in the performance of their duties, to the end that all assessments of property be made relative, just and uniform and that real property and tangible personal property may be assessed at its fair cash value estimated at the price it would bring at a fair voluntary sale;

2. Prescribe forms with numbers ascribed thereto for the county assessors' use in assessment procedure, including property classification and appraisal forms;

3. Provide technical assistance to county assessors and county boards of equalization in the services of appraisal engineers;

4. Provide from year to year schedules of values of personal property to aid county assessors in the assessment of personal property;

5. Conduct training schools, institutes, conferences and meetings for the purpose of improving the qualifications of county assessors and their deputies as required by law;

6. Prepare and furnish from time to time to county assessors an assessors' manual. Such manual shall include, but not be limited to, valuation methodologies for property in a county for which no comparable property exists in order for a county assessor to establish a value for ad valorem tax purposes. The manual shall include information concerning valuation of hazardous waste disposal facilities and such other types of facilities as may be requested by the county assessor for which the assessor does not have adequate data to value such property;

7. Render such other assistance as may be conducive to the proper assessment of property for ad valorem taxation;

8. Adopt regulations establishing uniform procedures and standards for the appraisal of real property by county assessors;

9. Develop assessment manuals for the valuation of manufactured homes and periodic updates for such manuals for use by county assessors; and

10. Promptly notify county assessors, county treasurers and members of county excise and equalization boards of any changes to the laws relating to ad valorem taxation.

E. The county assessors shall not use any form not prescribed or approved by the Ad Valorem Division.

F. Each county assessor shall comply with the rules, regulations, and guides adopted by the Ad Valorem Division.

G. The Ad Valorem Division, upon request of any county assessor, shall furnish to the county assessor any information shown by its files and records as to any real and personal property, subject to taxation, including income and expense data as shown by income tax returns, to the end that no property shall escape taxation, and this information is to be furnished notwithstanding any statute that such files and records shall be confidential and privileged.

H. The Ad Valorem Division shall be authorized to obtain information relating to the ownership, location, taxable status or valuation for purposes of ad valorem taxation of real or personal property from any state agency, board, commission, department, authority or other division of state government if necessary to respond to a request by a county assessor as provided by subsection G of this section. Such information shall be confidential and privileged

and shall only be released to a county assessor in order to locate, discover and correctly value taxable property as required by law.

Added by Laws 1988, c. 162, § 75, eff. Jan. 1, 1992. Amended by Laws 1989, c. 63, § 2, eff. Jan. 1, 1992; Laws 1998, c. 405, § 8.

§68-2876. Increase in valuation - Notice - Complaints and hearings.

A. If the county assessor shall increase the valuation of any property above that returned by the taxpayer, or in the case of real property increase the valuation over the assessment from the preceding year, or pursuant to the requirements of law if the assessor has added property not listed by the taxpayer, the county assessor shall notify in writing the person in whose name any such property is listed, giving the amount of such valuation as increased or valuation of property so added.

B. The notice required by this section shall, for cases in which the valuation of real property has increased, include the fair cash value of the property as used in determining the assessment for the preceding and current year, the taxable value for the preceding and current year, if different than the fair cash value, and the assessment percentage for the preceding and current year.

C. The notice required by this section may be mailed or delivered to the last-known address of the person affected or to the person in charge of or in possession of the property and shall clearly be marked with the date upon which the notice was prepared. Any notice dated as required by this section shall be mailed or delivered within one (1) working day of such date. The notice shall describe the property with sufficient accuracy to notify the taxpayer as to the property included, together with the assessed value of the property. Duplicate copies of the notice, showing the date of issuance and mailing or delivery, shall be kept in the office of the county assessor. Such record shall be prima facie evidence as to the fact of notice having been given as required by this section.

D. The taxpayer shall have twenty (20) working days from the date the notice was mailed or in the event that notice was delivered from the date of delivery in which to file a written complaint with the county assessor specifying objections to action taken by the county assessor; provided, in the case of a scrivener's error or other admitted error on the part of the county assessor, the assessor may make corrections to a valuation at any time, notwithstanding the twenty-day period specified in this subsection. The complaint shall set out the pertinent facts in relation to the matter contained in the notice in ordinary and concise language and in such manner as to enable a person of common understanding to know what is intended. The complaint shall be made upon a form prescribed by the Oklahoma Tax Commission.

E. A taxpayer may file a complaint if the valuation of property has not increased or decreased from the previous year if the complaint is filed on or before the first Monday in May. Such complaint shall be made upon a form prescribed by the Oklahoma Tax Commission.

F. The county assessor shall schedule an informal hearing with the taxpayer to hear the protest as to the disputed valuation or addition of omitted property. The informal hearing may be held in person or may be held telephonically, if requested by the taxpayer. The assessor shall take final action upon the matter disputed within five (5) working days of the date of the informal hearing and shall mail or deliver notice of final action to the taxpayer. The notice of final action shall clearly be marked with the date upon which the notice was prepared. Such notice shall be mailed or delivered within one (1) working day of such date. Within ten (10) working days of the date the notice is mailed or delivered, the taxpayer may file an appeal with

the county board of equalization. For purposes of this section, “working days” shall mean Monday through Friday and shall exclude Saturday and Sunday and any legal holidays. The appeal shall be made upon a form prescribed by the Oklahoma Tax Commission. One copy of the form shall be mailed or delivered to the county assessor and one copy shall be mailed or delivered to the county board of equalization. On receipt of the notice of an appeal to the county board of equalization by the taxpayer, the county assessor shall provide the county board of equalization with all information submitted by the taxpayer, data supporting the disputed valuation and a written explanation of the results of the informal hearing.

Added by Laws 1988, c. 162, § 76, eff. Jan. 1, 1992. Amended by Laws 1989, c. 66, § 2, eff. Jan. 1, 1992; Laws 1989, c. 321, § 15, operative Jan. 1, 1992; Laws 2004, c. 518, § 6, eff. July 1, 2004; Laws 2006, c. 272, § 21.

§68-2877. Appeal from action by county assessor to county board of equalization - Hearing procedure - Record - Time and form of appeal – Failure to appear at hearing without advance notice – Assessment of costs.

A. Upon receipt of an appeal from action by the county assessor on the form prescribed by the Oklahoma Tax Commission, the secretary of the county board of equalization shall fix a date of hearing, at which time said board shall be authorized and empowered to take evidence pertinent to said appeal; and for that purpose, is authorized to compel the attendance of witnesses and the production of books, records, and papers by subpoena, and to confirm, correct, or adjust the valuation of real or personal property or to cancel an assessment of personal property added by the assessor not listed by the taxpayer if the personal property is not subject to taxation or if the taxpayer is not responsible for payment of ad valorem taxes upon such property. The secretary of the board shall fix the dates of the hearings provided for in this section in such a manner as to ensure that the board is able to hear all complaints within the time provided for by law. The county board of equalization shall be required to follow the procedures prescribed by the Ad Valorem Tax Code or administrative rules and regulations promulgated pursuant to such Code governing the valuation of real and personal property. The county board of equalization shall not modify a valuation of real or personal property as established by the county assessor unless such modification is explained in writing upon a form prescribed by the Oklahoma Tax Commission. Each decision of the county board of equalization shall be explained in writing upon a form prescribed by the Oklahoma Tax Commission. The county board of equalization shall make a record of each proceeding involving an appeal from action by the county assessor either in transcribed or tape recorded form.

B. In all cases where the county assessor has, without giving the notice required by law, increased the valuation of property as listed by the taxpayer, and the taxpayer has knowledge of such adjustment or addition, the taxpayer may at any time prior to the adjournment of the board, file an appeal in the form and manner provided for in Section 2876 of this title. Thereafter, the board shall fix a date of hearing, notify the taxpayer, and conduct the hearing as required by this section.

C. The taxpayer or agent may appear at the scheduled hearing either in person, by telephone or other electronic means, or by affidavit.

D. If the taxpayer or agent fails to appear before the county board of equalization at the scheduled hearing, unless advance notification is given for the reason of absence, the county shall be authorized to assess against the taxpayer the costs incurred by the county in preparation for the scheduled hearing. If such costs are assessed, payment of the costs shall be a prerequisite

to the filing of an appeal to the district court. A taxpayer that gives advance notification of their absence shall be given the opportunity to reschedule the hearing date.

E. 1. In order to increase taxpayer transparency, a member of the board of equalization shall not directly or indirectly communicate with the county assessor or any deputy assessor or designated agent on any matter relating to any pending appeal before the board of equalization prior to the actual hearing.

2. The provisions of paragraph 1 of this subsection shall not apply to a routine communication between the county assessor and the board of equalization that relates to the administration of an appraisal roll, including a communication made in connection with the certification, correction, or collection of an account that is not the subject of a pending appeal. Added by Laws 1988, c. 162, § 77, eff. Jan. 1, 1992. Amended by Laws 1989, c. 321, § 16, operative Jan. 1, 1992; Laws 2004, c. 518, § 7, eff. July 1, 2004; Laws 2012, c. 164, § 2, eff. Nov. 1, 2012.

§68-2878. Repealed by Laws 1989, c. 321, § 28.

§68-2879. Repealed by Laws 1989, c. 321, § 28.

§68-2880. Repealed by Laws 1989, c. 321, § 28.

§68-2880.1. Appeal of order of county equalization board to district court - Notice of appeal - Appeal to Supreme Court - Legal counsel for assessor - Costs - Presumption of correctness of valuation.

A. Both the taxpayer and the county assessor shall have the right of appeal from any order of the county board of equalization to the district court of the same county, and right of appeal of either may be either upon questions of law or fact including value, or upon both questions of law and fact. In case of appeal the trial in the district court shall be de novo. Provided, the county assessor shall not be permitted to appeal an order of the county board of equalization upon a question of the constitutionality of a law upon which the board based its order, but the county assessor is hereby authorized in such instance to request a declaratory judgment to be rendered by the district court.

B. Notice of appeal shall be filed with the county clerk as secretary of the county board of equalization, which appeal shall be filed in the district court within ten (10) days after the final adjournment of the board. It shall be the duty of the county clerk to preserve all complaints and to make a record of all orders of the board and both the complaint and orders shall be a part of the record in any case appealed to the district court from the county board of equalization.

C. Either the taxpayer or the county assessor may appeal from the district court to the Supreme Court, as provided for in the Code of Civil Procedure, but no matter shall be reviewed on such appeal which was not presented to the district court.

D. In such appeals to the district court and to the Supreme Court and in requests for declaratory judgment it shall be the duty of the district attorney to appear for and represent the county assessor. The General Counsel or an attorney for the Tax Commission may appear in such appeals or requests for declaratory judgment on behalf of the county assessor, either upon request of the district attorney for assistance, or upon request of the county assessor. It shall be the mandatory duty of the board of county commissioners and the county excise board to provide the necessary funds to enable the county assessor to pay the costs necessary to be incurred in

perfecting appeals and requests for declaratory judgment made by the county assessor to the courts.

E. In all appeals taken by the county assessor the presumption shall exist in favor of the correctness of the county assessor's valuation and the procedure followed by the county assessor. Added by Laws 1989, c. 321, § 17, operative Jan. 1, 1992. Amended by Laws 1998, c. 405, § 9.

§68-2881. Railroads, air carriers and public service corporations - Increase of evaluation of property - Notice - Complaints and hearings - Appeals to Court of Tax Review and Supreme Court.

A. The secretary of the State Board of Equalization shall notify all railroads, air carriers and public service corporations of the ad valorem tax assessments rendered by the State Board, including the valuation, assessment ratio and total amount of assessment. The notice, which shall clearly be marked with the date upon which it was prepared, shall be mailed within one (1) working day of such date. The taxpayer shall have twenty (20) calendar days from the date of the notice in which to file, with the Clerk of the Court of Tax Review, a written complaint on a form prescribed by the Tax Commission, specifying grievances with the pertinent facts in relation thereto in ordinary and concise language, without repetition, and in such manner as to enable a person of common understanding to know what is intended. The complaint shall include the amount of Oklahoma assessed valuation protested and the grounds for the protest. The taxpayer shall be required to send a copy of the complaint to the Tax Commission.

B. If the taxpayer fails to file a written complaint within the twenty-day period provided for in this section, then the assessed valuation stated in the notice, without further action of the State Board of Equalization, shall become final and absolute at the expiration of twenty (20) days from the date the notice is mailed to the taxpayer.

C. After the filing of a complaint provided for in subsection A of this section, the State Board of Equalization shall have thirty (30) days within which to file an answer. The Court of Tax Review shall set a date of hearing, conduct such hearing, render its decision, and notify in writing the taxpayer and the State Board of Equalization of its decision within sixty (60) days of the date of the scheduling conference. The Court of Tax Review shall be authorized and empowered to take evidence pertinent to the complaint, and for that purpose may compel the attendance of witnesses and the production of books, records and papers by subpoena, and to confirm, correct or adjust the valuation, as required by law.

D. The State Board of Equalization shall notify, in writing and by certified mail, the Attorney General and all affected school districts and other recipients of ad valorem tax revenue of the complaint provided for by this section within ten (10) days of the filing of the complaint.

E. The Attorney General may appear in all actions to enforce the valuation and assessment of property by the State Board of Equalization and the collection of ad valorem tax which is the subject of the complaint filed pursuant to this section.

F. Either the State Board of Equalization or the party filing a complaint pursuant to this section may appeal the decision of the Court of Tax Review by filing a notice of intent to appeal with the Clerk of the Court of Tax Review within thirty (30) calendar days of the date the final decision is sent to the parties. Appeal shall be brought in the Oklahoma Supreme Court in the same manner as provided for other appeals from the Court of Tax Review. The Supreme Court shall give precedence to such appeals and affirm the decision of the Court of Tax Review if supported by competent evidence. If the Oklahoma Supreme Court assigns the appeal to the

Court of Civil Appeals, the Oklahoma Court of Civil Appeals shall give precedence to the appeal and affirm the decision of the Court of Tax Review if supported by competent evidence.

G. In all instances where the notice of assessed valuation certified by the State Board of Equalization has been permitted to become final, such notice shall have the same force and be subject to the same law as a judgment not subject to further appeal.

Added by Laws 1988, c. 162, § 81, eff. Jan. 1, 1992. Amended by Laws 1992, c. 360, § 3, eff. July 1, 1992; Laws 1995, c. 158, § 1, emerg. eff. May 2, 1995; Laws 1995, c. 358, § 7, eff. July 1, 1995; Laws 1997, c. 337, § 2, eff. July 1, 1997; Laws 2001, c. 358, § 21, eff. July 1, 2001.

NOTE: Laws 1995, c. 57, § 15 repealed by Laws 1995, c. 358, § 12, emerg. eff. June 9, 1995.

§68-2882. Noncompliance with legal requirement for level and uniformity of assessments - Notice to correct assessment - Filing of complaint by county - Publication of notice of order to correct assessment - Answer - Hearing - Appeal.

A. In any case where the State Board of Equalization, in the equalization of property locally assessed, shall make its determination that the ratio of the assessed value of real property within the county to the fair cash value of said real property does not comply with the legal requirements for the level of assessment, or does not comply with the legal requirements for the uniformity of assessment then the State Board shall notify, by mail, the board of county commissioners of said county, and the county assessor, giving the ratio determined and the percentage valuation increase or decrease the county must achieve during the next assessment period or the action required for compliance with any applicable order for assessment uniformity.

B. The district attorney, acting under direction of the board of county commissioners and for the entire taxpaying public of the county shall have twenty (20) days from date of such notice to the board of county commissioners and the county assessor in which to file with the Clerk of the Court of Tax Review a written complaint specifying grievances and the pertinent facts in relation thereto in ordinary and concise language and without repetition, and in such manner as to enable a person of common understanding to know what is intended. The board of county commissioners shall cause a notice of the order for a valuation increase or decrease made by the State Board of Equalization to be published in at least one (1) newspaper of general circulation within the county at least one (1) time each week for two (2) consecutive weeks. Such notice by publication shall constitute sufficient notice to any taxpayer within such county of the possible increase or decrease in the valuation of property owned by the taxpayer located within such county. No individual valuation increase or decrease notice shall be required to be mailed or delivered to an affected taxpayer as a result of the implementation of an order for an increase or decrease in valuation issued by the State Board of Equalization.

C. After the filing of a complaint as provided for in subsection B of this section the State Board of Equalization shall have fifteen (15) days within which to file an answer. The Court of Tax Review shall set a date of hearing within sixty (60) days of the date of the notice which caused the filing of the complaint. The Court of Tax Review shall be authorized and empowered to take evidence pertinent to said complaint, and for that purpose, is authorized to compel the attendance of witnesses and the production of books, records and papers by subpoena, and to confirm, correct or adjust the order of the State Board of Equalization, as required by law.

D. At the time of hearing upon a complaint filed pursuant to this section, the State Board of Equalization shall bear the burden of proof of supporting its action which is the subject matter of the complaint.

E. Either the State Board of Equalization or the party filing a complaint pursuant to this section may appeal the decision of the Court of Tax Review by filing a notice of intent to appeal with the Clerk of the Court of Tax Review within ten (10) calendar days of the date the final decision is rendered. Appeal shall be made to the Oklahoma Supreme Court which shall affirm the decision of the Court of Tax Review if supported by competent evidence.
Added by Laws 1988, c. 162, § 82, eff. Jan. 1, 1992.

§68-2883. Appeal to Court of Tax Review of decision to correct Category 2 or Category 3 noncompliance in valuation procedure - Notice of intent to appeal - Answer - Hearing - Appeal to Supreme Court.

A. A county assessor may appeal the decision of the Oklahoma Tax Commission to correct Category 2 noncompliance or a decision ordering corrective action for Category 3 noncompliance as authorized by Section 30 of this act by filing a notice of intent to appeal with the Clerk of the Court of Tax Review within ten (10) calendar days of the date the final decision is rendered.

B. After the filing of a notice of intent to appeal as provided for in subsection A of this section the Oklahoma Tax Commission shall have fifteen (15) days within which to file an answer. The Court of Tax Review shall set a date of hearing within sixty (60) days of the date of the answer date. The Court of Tax Review shall be authorized and empowered to take evidence pertinent to said appeal, and for that purpose, is authorized to compel the attendance of witnesses and the production of books, records and papers by subpoena, and to confirm, correct or adjust the order of the Oklahoma Tax Commission, as required by law.

C. At the time of hearing upon a complaint filed pursuant to this section, the Oklahoma Tax Commission shall bear the burden of proof of supporting its action which is the subject matter of the appeal.

D. Either the county assessor or the Oklahoma Tax Commission may appeal the decision of the Court of Tax Review by filing a notice of intent to appeal with the Clerk of the Court of Tax Review within ten (10) calendar days of the date the final decision is rendered. Appeal shall be made to the Oklahoma Supreme Court which shall affirm the decision of the Court of Tax Review if supported by competent evidence.

Added by Laws 1988, c. 162, § 83, eff. Jan. 1, 1992.

§68-2884. Payment and appeal of protested taxes.

A. The full amount of the taxes assessed against the property of any taxpayer who has appealed from a decision affecting the value or taxable status of such property as provided by law shall be paid at the time and in the manner provided by law. If at the time such taxes or any part thereof become delinquent and any such appeal is pending, it shall abate and be dismissed upon a showing that the taxes have not been paid.

B. When such taxes are paid, or by December 31, whichever is earlier, the persons protesting the taxes shall give notice to the county treasurer that an appeal involving such taxes has been taken and is pending, and shall set forth the total amount of tax that has been paid under protest or required by law to be paid prior to April 1 that will be paid under protest. The notice shall be on a form prescribed by the Tax Commission. If taxes are paid in two equal installments and the amount paid under protest does not exceed fifty percent (50%) of the full amount of assessed taxes, all protested taxes shall be specified in the second installment payment. If such amount does exceed fifty percent (50%) of the full amount of assessed taxes, then the portion of

protested taxes that exceeds fifty percent (50%) of the full amount of assessed taxes shall be specified in the first installment payment and the entire second installment shall be specified to be paid under protest. The taxpayer shall attach to such notice a copy of the petition filed in the court or other appellate body in which the appeal was taken. For railroads, air carriers, and public service corporations, the amount of taxes protested shall not exceed the amount of tax calculated on the protested assessed valuation specified in the complaint filed pursuant to the provisions of subsection A of Section 2881 of this title.

C. It shall be the duty of the county treasurer to hold taxes paid under protest separate and apart from other taxes collected. Any portion of such taxes not paid under protest shall be apportioned as provided by law. Except as otherwise provided for in this subsection, the treasurer shall invest the protested taxes in the same manner as the treasurer invests surplus tax funds not paid under protest, but shall select an interest-bearing investment medium which will permit prompt refund or apportionment of the protested taxes upon final determination of the appeal. In cases where the amount of the protested ad valorem taxes by a taxpayer is in excess of Fifteen Thousand Dollars (\$15,000.00), the taxpayer may elect to choose the type of investment and where the investment of the protested funds will be deposited as long as the investment is of a type authorized for the county, the depository institution qualifies as a county depository, and the depository institution is located in the applicable county.

D. 1. Prior to January 31 of each year, the county treasurer shall determine the amount of ad valorem taxes paid under protest and those ad valorem taxes that will be paid under protest pursuant to subsection B of this section. The county treasurer shall then notify the State Auditor and Inspector of the total amount of paid protested ad valorem taxes and anticipated protested ad valorem taxes, the total amount of protested taxes and anticipated protested taxes by each individual taxpayer, and how such paid protested ad valorem taxes and anticipated protested ad valorem taxes would have been apportioned to each school district and technology center school district by fund had such amount of protested ad valorem taxes not been protested.

2. The State Auditor and Inspector shall compile all of the information submitted by the county treasurers in a format which shall set forth the total amount of paid and anticipated protested taxes for each school district and technology center school district by fund and a total for each school district and technology center school district by fund. This information shall then be submitted by the State Auditor and Inspector to the State Superintendent of Public Instruction, the Director of the Oklahoma Department of Career and Technology Education, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate. If any of the information submitted to the State Auditor and Inspector changes after being submitted, the county treasurer shall notify the State Auditor and Inspector and the State Auditor and Inspector shall submit revised information to the parties enumerated in this paragraph within thirty (30) days of such change.

3. Within ten (10) days of the release of the escrowed ad valorem taxes by the county treasurer, as required by subsection E of this section, the county treasurer shall submit a schedule showing the disposition of the released funds, separated by fund for each school district and technology center school, to the State Auditor and Inspector. The State Auditor and Inspector shall certify the apportionment schedule and transmit a copy to the State Superintendent of Public Instruction and the Director of the Oklahoma Department of Career and Technology Education.

4. The State Auditor and Inspector shall promulgate any necessary rules to implement the provisions of this subsection.

E. 1. In cases involving taxpayers other than railroads, air carriers, or public service corporations, if upon the final determination of any such appeal, the court shall find that the property was assessed at too great an amount, the board of equalization from whose order the appeal was taken shall certify the corrected valuation of the property of such taxpayers to the county assessor, in accordance with the decision of the court, and shall send a copy of such certificate to the county treasurer. Upon receipt of the corrected certificate of valuation, the county assessor shall compute and certify to the county treasurer the correct amount of taxes payable by the taxpayer. The difference between the amount paid and the correct amount payable, with accrued interest, shall be refunded by the treasurer to the taxpayer upon the taxpayer filing a proper verified claim therefor, and the remainder paid under protest, with accrued interest, shall be apportioned as provided by law.

2. If upon the final determination of any appeal, the court shall find that the property of the railroad, air carrier, or public service corporation was assessed at too great an amount, the State Board of Equalization from whose order the appeal was taken shall certify the corrected valuation of the property of the railroads, air carriers, and public service corporations to the State Auditor and Inspector in accordance with the decision of the court. Upon receipt of the corrected certificate of valuation, the State Auditor and Inspector shall certify to the county treasurer the correct valuation of the railroad, air carrier, or public service corporation and shall send a copy of the certificate to the county assessor, who shall make the correction as specified in Section 2871 of this title. The difference between the amount paid and the correct amount payable with accrued interest shall be refunded by the treasurer upon the taxpayer filing a proper verified claim, and the remainder paid under protest with accrued interest shall be apportioned according to law.

F. If an appeal is upon a question of valuation of the property, then the amount paid under protest by reason of the question of valuation being appealed shall be limited to the amount of taxes assessed against the property for the year in question less the amount of taxes which would be payable by the taxpayer for that year if the valuation of the property asserted by the taxpayer in the appeal were determined by the court to be correct.

G. If an appeal is upon a question of assessment of the property, then the amount paid under protest by reason of the question of assessment being appealed shall be limited to the amount of taxes assessed against the property for the year in question less the amount of taxes which would be payable by the taxpayer for that year if the assessment of the property asserted by the taxpayer in the appeal was determined by the court to be correct.

Added by Laws 1988, c. 162, § 84, eff. Jan. 1, 1992. Amended by Laws 1992, c. 360, § 4, eff. July 1, 1992; Laws 1995, c. 158, § 2, emerg. eff. May 2, 1995; Laws 1995, c. 325, § 2, eff. July 1, 1995; Laws 1997, c. 336, § 2, eff. July 1, 1997; Laws 1998, c. 405, § 10; Laws 2001, c. 33, § 63, eff. July 1, 2001; Laws 2008, c. 416, § 1, eff. July 1, 2008.

§68-2885. Exclusiveness of remedies - Precedence of appeals.

A. The proceedings before the county assessor, boards of equalization and appeals therefrom shall be the sole method by which assessments or equalizations shall be corrected or taxes abated. Equitable remedies shall be resorted to only where the aggrieved party has no taxable property within the tax district of which complaint is made.

B. Appeals taken from all boards of equalization shall have precedence in the court to which they are taken.

Added by Laws 1988, c. 162, § 85, eff. Jan. 1, 1992. Amended by Laws 1989, c. 321, § 18, operative Jan. 1, 1992.

§68-2886. Illegality for which no appeal provided - Payment - Notice of suit - Investment of protested taxes.

In all cases where the illegality of the tax is alleged to arise by reason of some action from which the laws provide no appeal, the aggrieved person shall pay the full amount of the taxes and give notice of any lawsuit by such person at the time and in the manner provided by Section 2884 of this title. It shall be the duty of the county treasurer to hold, invest and disburse such taxes only in the manner provided for by Section 2884 of this title.

Added by Laws 1988, c. 162, § 86, eff. Jan. 1, 1992. Amended by Laws 1991, c. 158, § 3, eff. Jan. 1, 1992; Laws 2000, c. 157, § 1, eff. July 1, 2000.

§68-2887. Exempt property.

The following property shall be exempt from ad valorem taxation:

1. All property of the United States, and such property as may be exempt by reason of treaty stipulations existing at statehood between the Indians and the United States government, or by reason of federal laws in effect at statehood, during the time such treaties or federal laws are in force and effect. In instances where a federal agency has obtained title to property through foreclosure, voluntary or involuntary liquidation or bankruptcy, which was previously subject to ad valorem taxation, the property may continue to be assessed for ad valorem taxes if such federal agency has agreed to pay such taxes;

2. All property of this state, and of the counties, school districts, and municipalities of this state, including property acquired for the use of such entities pursuant to the terms of a lease-purchase agreement which provides for the passage of title or the release of security interest, if applicable, upon payment of all rental payments and an additional nominal amount;

3. All property of any college or school, provided such property is devoted exclusively and directly to the appropriate objects of such college or school within this state and all property used exclusively for nonprofit schools and colleges;

4. The books, papers, furniture and scientific or other apparatus pertaining to any institution, college or society referred to in paragraph 3 of this section, and devoted exclusively and directly for the purpose above contemplated, and the like property of students in any such institution or college, while such property is used for the purpose of their education;

5. All fraternal orphan homes and other orphan homes;

6. All property used for free public libraries, free museums, public cemeteries, or free public schools;

7. All property used exclusively and directly for fraternal or religious purposes within this state.

For purposes of administering the exemption authorized by this section and in order to determine whether a single family residential property is used exclusively and directly for fraternal or religious purposes, the fair cash value of a single family residential property, for which an exemption is claimed as authorized by this subsection, in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) for the applicable assessment year shall not be exempt from taxation;

8. All property of any charitable institution organized or chartered under the laws of this state as a nonprofit or charitable institution, provided the net income from such property is used

exclusively within this state for charitable purposes and no part of such income inures to the benefit of any private stockholder, including property which is not leased or rented to any person other than a governmental body, a charitable institution or a member of the general public who is authorized to be a tenant in property owned by a charitable institution under Section 501(c)(3) of the Internal Revenue Code and which includes but is not limited to an institution that either:

- a. additionally satisfies the income standards set forth in Internal Revenue Service Revenue Procedure 96-32, which may be audited by the county assessor of the applicable county, in addition to other requirements of this subparagraph, as a condition of obtaining and maintaining the exemption, if:
 - (1) the property provides residential rental accommodations regardless of whether services or meals are provided, and
 - (2) the property:
 - (a) is occupied as of the applicable January 1 assessment date if the structure is a single-family dwelling, or
 - (b) has an average seventy-five percent (75%) occupancy rate, based upon the total number of units suitable for occupancy, during the calendar year preceding the applicable January 1 assessment date if the property contains multiple structures suitable for multi-family housing. The owner of any property subject to the occupancy requirements prescribed herein shall submit a report to the county assessor of the county in which the property is located no later than December 15 each year regarding the occupancy rate for the preceding eleven (11) months. If the report indicates that the average occupancy rate was less than seventy-five percent (75%), the county assessor shall determine the taxable value of the property for the succeeding assessment year and the property shall not be exempt for any subsequent assessment year unless the average occupancy rate is at least seventy-five percent (75%) during the succeeding eleven-month period. Except as provided in Section 178.6 of Title 60 of the Oklahoma Statutes, no asset consisting of a single-family or multi-family dwelling unit owned by an entity the property of which would otherwise be exempt pursuant to subparagraph a of this paragraph shall be exempt from ad valorem taxation if any such dwelling unit was improved with or acquired with any portion of proceeds from the sale of obligations issued by any entity organized pursuant to Section 176 of Title 60 of the Oklahoma Statutes if the interest income derived from such obligations is exempt from federal income tax, or
- b. (1) for a facility constructed prior to January 1, 2006, is a continuum of care retirement community providing housing for the aged, licensed under Oklahoma law, owned by a nonprofit entity recognized by the

Internal Revenue Service as a Section 501(c)(3) tax-exempt entity and located in a county with a population of more than five hundred thousand (500,000) according to the latest Federal Decennial Census, and

- (2) (a) for a facility in which construction was completed on or after January 1, 2006, is:
 - i. a continuum of care retirement community providing housing for the aged, licensed under Oklahoma law,
 - ii. owned by a nonprofit entity recognized by the Internal Revenue Service as a Section 501(c)(3) tax-exempt entity, and
 - iii. located in any county of the state regardless of population, or
- (b) for a facility other than a facility described by division (1) of subparagraph b of this paragraph and which is partially or fully constructed prior to January 1, 2006, is:
 - i. owned and occupied on or after January 1, 2006, by an entity that operates a continuum of care retirement community providing housing for the aged, licensed under Oklahoma law,
 - ii. owned by a nonprofit entity recognized by the Internal Revenue Service as a Section 501(c)(3) tax-exempt entity, and
 - iii. is located in any county of the state regardless of population;

9. All property used exclusively and directly for charitable purposes within this state, provided the charity using said property does not pay any rent or remuneration to the owner thereof unless the owner is a charitable institution described in Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), or a veterans' organization described in Section 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(19);

10. All property of any hospital established, organized and operated by any person, partnership, association, organization, trust, or corporation, as a nonprofit and charitable hospital, provided the property and net income from such hospital are used directly, solely, and exclusively within this state for charitable purposes and that no part of such income shall inure to the benefit of any individual, person, partner, shareholder, or stockholder, and provided further that such hospital facilities shall be open to the public without discrimination as to race, color or creed and regardless of ability to pay, and that such hospital is licensed and otherwise complies with the laws of this state relating to the licensing and regulation of hospitals;

11. All libraries and office equipment of ministers of the Gospel actively engaged in ministerial work in the State of Oklahoma, where said libraries and office equipment are being used by said ministers in their ministerial work, shall be deemed to be used exclusively for religious purposes and are declared to be within the meaning of the term "religious purposes" as used in Article X, Section 6 of the Constitution of the State of Oklahoma;

12. Household goods, tools, implements and livestock of every person maintaining a home, not exceeding One Hundred Dollars (\$100.00) in value or One Thousand Dollars (\$1,000.00) in value if Article X, Section 6 of the Oklahoma Constitution provides for an

exemption in such amount; and in addition thereto, there shall be exempt from taxation on personal property the further sum of Two Hundred Dollars (\$200.00) to all enlisted and commissioned personnel, whether on active duty or honorably discharged, who served in the Armed Forces of the United States during:

- a. the Spanish-American War,
- b. the period beginning on April 6, 1917, and ending on July 2, 1921,
- c. the period beginning on December 6, 1941, and ending on such date as the state of national emergency as declared by the President of the United States shall cease to exist, or
- d. any other or future period during which a state of national emergency shall have been or shall be declared to exist by the Congress or the President of the United States.

All surviving spouses made so by the death of such enlisted or commissioned personnel, who are bona fide residents of this state, shall be entitled to the above additional exemption provided in this paragraph;

13. Family portraits;

14. All food and fuel provided in kind for the use of the family not to exceed provisions for one (1) year's time, and all grain and forage necessary to maintain for one (1) year the livestock used to provide food for the family. No person from whom pay is received or expected for board shall be considered a member of the family within the intent and meaning of this paragraph;

15. All growing crops; and

16. All game animals, fowl and reptile, which are not being grown for food or sale and which are kept exclusively for propagation or exhibition, in private grounds or public parks in this state.

Added by Laws 1988, c. 162, § 87, eff. Jan. 1, 1992. Amended by Laws 1989, c. 321, § 19, operative Jan. 1, 1992; Laws 1990, c. 264, § 85, eff. Jan. 1, 1992; Laws 1991, c. 249, § 9, eff. Jan. 1, 1992; Laws 1996, c. 187, § 1, eff. July 1, 1996; Laws 2000, c. 361, § 2, emerg. eff. June 6, 2000; Laws 2001, c. 155, § 1, eff. Nov. 1, 2001; Laws 2002, c. 476, § 5, emerg. eff. June 6, 2002; Laws 2003, c. 81, § 1, eff. Jan. 1, 2004; Laws 2007, c. 254, § 1, eff. Jan. 1, 2008; Laws 2010, c. 304, § 2, eff. Nov. 1, 2010.

§68-2887.1. Application for exemption by charitable institutions.

A charitable institution requesting an exemption pursuant to the provisions of paragraph 8 of Section 2887 of Title 68 of the Oklahoma Statutes shall be required to file an application initially with the county assessor of the county in which the property is located, and, if the information contained in such application complies with the requirements of paragraph 8 of Section 2887 of Title 68 of the Oklahoma Statutes, the property shall be exempt from the date of acquisition thereof by the charitable institution until the earlier of the date of disposition of the property or the date of cessation of compliance with the requirements of paragraph 8 of Section 2887 of Title 68 of the Oklahoma Statutes. The charitable institution annually shall evidence the continuing compliance with such requirements by filing an affidavit with the county assessor, stating whether and the extent to which the property continues to qualify for the exemption. Added by Laws 2000, c. 361, § 3, emerg. eff. June 6, 2000.

§68-2888. Homestead, rural homestead and urban homestead defined.

A. 1. The term “homestead”, as used in the provisions of the Ad Valorem Tax Code governing homestead exemptions, shall mean and include the actual residence of a natural person who is a citizen of the State of Oklahoma, provided the record actual ownership of such residence be vested in such natural person residing and domiciled thereon. Any single person of legal age, married couple and their minor child or children, or the minor child or children of a deceased person, whether residing together or separated, or surviving spouse shall be allowed under Section 2801 et seq. of this title only one homestead exemption in this state. No person or the family of such person shall be required to be domiciled thereon if such person is in the armed service of the United States in time of war or during a state of national emergency as declared by the Congress or the President of the United States, and such person shall not be required to be domiciled thereon in order to assert or claim the exemption provided in Section 2889 of this title, and such exemption may be claimed by any agent of, or member of the family of, such person. The surviving spouse and/or minor children of a deceased person shall be considered record owners of the homestead where the title of record in the office of the county clerk on January 1 is in the name of the deceased, but in all other cases the deed or other evidence of ownership must be of record in the office of the county clerk on January 1 in order for any person to be qualified as the record owner. However, a natural person actually owning, residing and domiciled in the residence on January 1 shall be deemed to be the record owner of the residence on January 1, within the meaning of this section, if the deed or other evidence of ownership of such person, executed on or before January 1, be of record in the office of the county clerk on or before February 1 immediately following. Despite any provision to the contrary in this section, if a parent or parents residing and domiciled in the residence own the residence jointly with one or more of their children, whether residing together or separated, and where the record joint ownership of the property is recorded in the office of the county clerk in accordance with the provisions of this section, the parent or parents residing and domiciled in the residence shall be entitled to the entire homestead exemption. A rural homestead shall not include more than one hundred sixty (160) acres of land and the improvements thereon. An urban homestead shall not include any land except the lot or lots, or the unplatted tract, upon which are located the dwelling, garage, barn and/or other outbuildings necessary or convenient for family use.

2. Despite any provision to the contrary in this section, the person actually owning, residing and domiciled in the residence on May 15, 2000, shall be deemed to be the record owner of the residence on May 15, 2000, within the meaning of this section, if the deed or other evidence of ownership of such person, executed on or before May 15, 2000, be of record in the office of the county clerk on or before such date. However, the provisions of this paragraph shall only apply to any person who is eligible to claim the income tax credit pursuant to Section 2357.29 of this title with respect to the May 3, 1999, tornado, or to any person whose primary residence was damaged or destroyed in the May 3, 1999, tornado and who purchased or built a new primary residence at a location within this state other than the location of the damaged or destroyed residence.

3. Despite any provision to the contrary in this section, the person actually owning, residing and domiciled in the residence on May 15, 2004, shall be deemed to be the record owner of the residence on May 15, 2004, within the meaning of this section, if the deed or other evidence of ownership of such person, executed on or before May 15, 2004, be of record in the office of the county clerk on or before such date. However, the provisions of this paragraph shall only apply to any person who is eligible to claim the income tax credit pursuant to Section 2357.29 of this title with respect to the May 8 or 9, 2003, tornado or to any person whose primary

residence was damaged or destroyed in the May 8 or 9, 2003, tornado and who purchased or built a new primary residence at a location within this state other than the location of the damaged or destroyed residence.

4. Despite any provision to the contrary in this section, the person actually owning, residing and domiciled in the residence as of the date of the tornado shall be deemed to be the record owner of the residence on such date, within the meaning of this section, if the deed or other evidence of ownership of such person, executed on or before such date, be of record in the office of the county clerk on or before such date. However, the provisions of this paragraph shall only apply to any person who is eligible to claim the income tax credit pursuant to Section 2357.29 of this title with respect to the tornado or to any person whose primary residence was damaged or destroyed in the tornado and who purchased or built a new primary residence at a location within this state other than the location of the damaged or destroyed residence.

B. The term "rural homestead" as used herein shall mean and include any homestead located outside a city or town or outside any platted subdivision or addition.

C. The term "urban homestead" as used herein shall mean and include any homestead located within any city or town whether incorporated or unincorporated, or located within a platted subdivision or addition, whether such subdivision or addition be a part of a city or town. In no case shall an urban homestead exceed in area one (1) acre.

Added by Laws 1988, c. 162, § 88, eff. Jan. 1, 1992. Amended by Laws 1997, c. 138, § 1, eff. Nov. 1, 1997; Laws 2000, c. 314, § 27, emerg. eff. June 5, 2000; Laws 2002, c. 190, § 3, emerg. eff. May 6, 2002; Laws 2003, c. 374, § 6, emerg. eff. June 4, 2003; Laws 2013, c. 370, § 6, emerg. eff. May 29, 2013.

NOTE: Laws 2000, c. 157, § 3 repealed by Laws 2000, c. 314, § 30, emerg. eff. June 5, 2000.

§68-2889. Homesteads - Classification - Exemption from ad valorem taxation.

Homesteads, as defined in Section 2888 of this title, are hereby classified for the purpose of taxation as provided in Section 22 of Article X of the Oklahoma Constitution. All homesteads in this state shall be assessed for taxation the same as other real property therein, except that each homestead, as defined by Section 2801 et seq. of this title, shall be exempted from all forms of ad valorem taxation to the extent of One Thousand Dollars (\$1,000.00) of the assessed valuation. Added by Laws 1988, c. 162, § 89, eff. Jan. 1, 1992. Amended by Laws 1997, c. 304, § 10, emerg. eff. May 29, 1997.

§68-2890. Additional homestead exemption.

A. In addition to the amount of the homestead exemption authorized and allowed in Section 2889 of this title, an additional exemption is hereby granted, to the extent of One Thousand Dollars (\$1,000.00) of the assessed valuation on each homestead of heads of households whose gross household income from all sources for the preceding calendar year did not exceed Twenty Thousand Dollars (\$20,000.00).

B. The term "gross household income" as used in this section means the gross amount of income of every type, regardless of the source, received by all persons occupying the same household, whether such income was taxable or nontaxable for federal or state income tax purposes, including pensions, annuities, federal Social Security, unemployment payments, veterans' disability compensation, public assistance payments, alimony, support money, workers' compensation, loss-of-time insurance payments, capital gains and any other type of income received, and excluding gifts. The term "head of household" as used in this section

means a person who as owner or joint owner maintains a home and furnishes support for the home, furnishings, and other material necessities.

C. The application for the additional homestead exemption shall be made each year on or before March 15 or within thirty (30) days from and after receipt by the taxpayer of notice of valuation increase, whichever is later, and upon the form prescribed by the Oklahoma Tax Commission, which shall require the taxpayer to certify as to the amount of gross income. Upon request of the county assessor, the Oklahoma Tax Commission shall assist in verifying the correctness of the amount of the gross income.

D. For persons sixty-five (65) years of age or older as of March 15 and who have previously qualified for the additional homestead exemption, no annual application shall be required in order to receive the exemption provided by this section; however, any person whose gross household income in any calendar year exceeds the amount specified in this section in order to qualify for the additional homestead exemption shall notify the county assessor and the additional exemption shall not be allowed for the applicable year. Any executor or administrator of an estate within which is included a homestead property exempt pursuant to the provisions of this section shall notify the county assessor of the change in status of the homestead property if such property is not the homestead of a person who would be eligible for the exemption provided by this section.

Added by Laws 1988, c. 162, § 90, eff. Jan. 1, 1992. Amended by Laws 1991, c. 249, § 10, eff. Jan. 1, 1992; Laws 1996, c. 323, § 2, eff. Jan. 1, 1997; Laws 2004, c. 447, § 8, emerg. eff. June 4, 2004.

§68-2890.1. Application for limit on fair cash value of homestead - Qualifications for limitation.

A. The application for a limit on the fair cash value of homestead property as provided for in Section 8C of Article X of the Oklahoma Constitution shall be made on or before March 15 or within thirty (30) days from and after receipt by the taxpayer of a notice of valuation increase, whichever is later. The application shall be made upon a form prescribed by the Oklahoma Tax Commission, which shall require the taxpayer to certify as to the amount of gross household income. As used in Section 8C of Article X of the Oklahoma Constitution, "gross household income" shall be as defined in Section 2890 of this title. Upon request of the county assessor, the Oklahoma Tax Commission shall assist in verifying the correctness of the amount of the gross income.

B. For persons who have previously qualified for the limitation on the fair cash value of homestead property as provided for in Section 8C of Article X of the Oklahoma Constitution, no annual application shall be required in order to be subject to the limitation. However:

1. Any such person whose gross household income in any calendar year exceeds the amount provided for in Section 8C of Article X of the Oklahoma Constitution shall notify the county assessor and the limitation shall not be allowed for the applicable year; and

2. Any such person who makes improvements to the property shall notify the county assessor and the improvements shall be assessed in accordance with law by the county assessor and added to the assessed value of the property as provided in Section 8C of Article X of the Oklahoma Constitution.

C. Any executor or administrator of an estate within which is included a homestead property subject to the limitation of the fair cash value of homestead property as provided for in Section 8C of Article X of the Oklahoma Constitution shall notify the county assessor of the

change in status of the homestead property if such property is not the homestead of a person who would be eligible for the limitation of the fair cash value of homestead property.

Added by Laws 1997, c. 304, § 11, emerg. eff. May 29, 1997. Amended by Laws 2000, c. 314, § 28, eff. July 1, 2000; Laws 2004, c. 447, § 9, emerg. eff. June 4, 2004; Laws 2005, c. 1, § 114, emerg. eff. March 15, 2005.

NOTE: Laws 2004, c. 383, § 1 repealed by Laws 2005, c. 1, § 115, emerg. eff. March 15, 2005.

§68-2891. Homestead exemption - Forms.

On or before January 1st of each year, the Oklahoma Tax Commission shall prescribe suitable blank forms to be used by all claimants for homestead exemption. Such forms shall contain provisions for the showing of all information which the Oklahoma Tax Commission may deem necessary to enable the proper county officials to determine whether each claim for exemption should be allowed. It shall be the duty of the county assessor of each county in this state to furnish such forms, upon request, to each person desiring to make application for homestead exemption on property located within that county. The forms so prescribed shall be used uniformly throughout the state and no application for exemption shall be allowed unless the applicant uses the regularly prescribed form in making his or her application.

Added by Laws 1988, c. 162, § 91, eff. Jan. 1, 1992.

§68-2892. Homestead exemption - Application.

A. To receive a homestead exemption, a taxpayer shall be required to file an application with the county assessor. Such application may be filed at any time. However, the county assessor shall, if such applicant otherwise qualifies, grant a homestead exemption for a tax year only if the application is filed on or before March 15 of such year or within thirty (30) days from and after receipt by the taxpayer of notice of valuation increase, whichever is later. Except as provided in this subsection, if an application for a homestead exemption is filed after March 15 or within thirty (30) days after receipt by the taxpayer of notice of valuation increase, whichever is later, the county assessor shall, if such applicant otherwise qualifies, grant the homestead exemption beginning with the following tax year. For any owner of real property who is eligible to claim the income tax credit pursuant to Section 2357.29 of this title with respect to the May 8 or 9, 2003, tornado or for any owner of real property whose primary residence was damaged or destroyed in the May 8 or 9, 2003, tornado and who purchased or built a new primary residence at a location within this state other than the location of the damaged or destroyed residence, the application for a homestead exemption may be filed after March 15, 2004, but no later than June 1, 2004, and the homestead exemption shall be granted for such year. For any owner of real property who is eligible to claim the income tax credit pursuant to Section 2357.29 of this title with respect to the 2013 tornado or for any owner of real property whose primary residence was damaged or destroyed in the 2013 tornado and who purchased or built a new primary residence at a location within this state other than the location of the damaged or destroyed residence, the application for a homestead exemption may be filed after March 15, 2014, but no later than June 1, 2014, and the homestead exemption shall be granted for such year.

B. Any taxpayer who has been granted a homestead exemption and who continues to occupy such homestead property as a homestead, shall not be required to reapply for such homestead exemption.

C. Once granted, the homestead exemption shall remain in full force and effect for each succeeding year, so long as:

1. The record of actual property ownership is vested in the taxpayer;
2. The instrument of ownership is on record in the county clerk's office;
3. The owner-taxpayer is in all other respects entitled by law to the homestead exemption;

and

4. The taxpayer has no delinquent accounts appearing on the personal property tax lien docket in the county treasurer's office. On October 1 of each year, the county treasurer will provide a copy of the personal property tax lien docket to the county assessor. Based upon the personal property tax lien docket, the county assessor shall act to cancel the homestead exemption of all property owners having delinquent personal property taxes. Such cancellation of the homestead exemption will become effective January 1 of the following year and will remain in effect for at least one (1) calendar year; however, such cancellation will not become effective January 1 of the following year if the taxpayer pays such delinquent personal property taxes prior to January 1. Cancellation of the homestead exemption will require the county assessor to notify each taxpayer no later than January 1 of the next calendar year whose homestead is canceled and will require the taxpayer to refile an application for homestead exemption by those dates so indicated in this section and the payment of all delinquent personal property taxes before the homestead can be reinstated.

D. Any purchaser or new owner of real property must file an application for homestead exemption as herein provided.

E. The application for homestead exemption shall be filed with the county assessor of the county in which the homestead is located. A taxpayer applying for homestead exemption shall not be required to appear before the county assessor in person to submit such application.

F. The property owner shall sign and swear to the truthfulness and correctness of the application's contents. If the property owner is a minor or incompetent, the legal guardian shall sign and swear to the contents of the application.

G. The county assessor and duly appointed deputies are authorized and empowered to administer the required oaths.

H. The taxpayer shall notify the county assessor following any change in the use of property with homestead exemption thereon. The notice of change in homestead exemption status of property shall be in writing and may be filed with the county assessor at any time on or before March 15 of the next following year after which such change occurs. The filing of a deed or other instrument evidencing a change of ownership or use shall constitute sufficient notice to the county assessor.

I. Any single person of legal age, married couple and their minor child or children, or the minor child or children of a deceased person, whether residing together or separated, or surviving spouse shall be allowed under this Code only one homestead exemption in the State of Oklahoma.

J. Any property owner who fails to give notice of change to the county assessor and permits the allowance of homestead exemption for any succeeding year where such homestead exemption is unlawful and improper shall owe the county treasurer:

1. An amount equal to twice the amount of the taxes lawfully due but not paid by reason of such unlawful and improper allowance of homestead exemption; and
2. The interest and penalty on such total sum as provided by statutes on delinquent ad valorem taxes. There shall be a lien on the property while such taxes are unpaid, but not for a period longer than that provided by statute for other ad valorem tax liens.

K. Any person who has intentionally or knowingly permitted the unlawful and improper allowance of homestead exemption shall forfeit the right to a homestead exemption on any property in this state for the two (2) succeeding years.

Added by Laws 1988, c. 162, § 92, eff. Jan. 1, 1992. Amended by Laws 1989, c. 321, § 20, operative Jan. 1, 1992; Laws 1990, c. 63, § 2, eff. Jan. 1, 1992; Laws 1997, c. 345, § 3, eff. Nov. 1, 1997; Laws 1998, c. 405, § 11, eff. Nov. 1, 1998; Laws 2000, c. 314, § 29, emerg. eff. June 5, 2000; Laws 2002, c. 190, § 4, emerg. eff. May 6, 2002; Laws 2003, c. 374, § 7, emerg. eff. June 4, 2003; Laws 2004, c. 447, § 10, emerg. eff. June 4, 2004; Laws 2013, c. 370, § 7, emerg. eff. May 29, 2013.

NOTE: Laws 2000, c. 157, § 4 repealed by Laws 2000, c. 314, § 30, emerg. eff. June 5, 2000.

§68-2893. Homestead exemption - Approval or rejection - Notice.

The county assessor shall examine each application for homestead exemption filed with him and shall determine whether or not such application should be approved or rejected and if approved, determine the amount of the exemption. If the application is approved, he shall mark the same "approved" and show thereon the amount of exemption allowed and make the proper deduction upon his assessment rolls. In case he finds that the exemption should not be allowed by reason of not being in conformity to law, he shall mark the application "rejected" and state thereon the reason for such rejection. In any case where the county assessor disallows or reduces an application for exemption, he shall notify the applicant of his action by mailing written notice to him at the address shown in the application, which notice shall be on forms prescribed by the Oklahoma Tax Commission. All applications for exemption, showing thereon the action of the county assessor, shall be delivered to the county board of equalization on or before the fourth Monday of April of each year.

Added by Laws 1988, c. 162, § 93, eff. Jan. 1, 1992.

§68-2894. Homestead exemption - Review of applications by county board of equalization.

The county board of equalization shall have the authority and it shall be its duty to review any and all applications for homestead exemption which may have been filed with the county assessor and to make whatever order is necessary in order to grant homestead exemption to all applicants who are legally entitled to such exemption and prevent unlawful exemption on any property. If the board disallows any exemption which has theretofore been allowed by the county assessor, or changes the amount of exemption as allowed by the county assessor, such disallowance or change shall not be final until ten (10) days' notice in writing of said change shall have been given the applicant, and an opportunity for a hearing afforded on such disallowance or change.

Added by Laws 1988, c. 162, § 94, eff. Jan. 1, 1992.

§68-2895. Homestead exemption - Hearing before county board of equalization when application rejected or amount changed - Appeal.

A. In any case where the county assessor or county board of equalization disallows or rejects an application for homestead exemption or changes the amount of said exemption from that claimed by the applicant, said applicant may obtain a hearing before the county board of equalization by filing a written complaint with the secretary of said board within ten (10) days from receipt of the notice from the county assessor or county board of equalization, showing such rejection or change in amount, and said complaint shall specify his grievances, and the

pertinent facts in relation thereto, in ordinary and concise language and without repetition, and in such manner as to enable a person of common understanding to know what is intended; and the county board of equalization shall be authorized and empowered to take evidence pertinent to said complaint; and for that purpose, is authorized to compel the attendance of witnesses and the production of books, records and papers, by subpoena.

B. The taxpayer shall have the right to appeal from the finding of the board with reference to his application for homestead exemption, as is or may be provided by law for appeals from the county board of equalization on questions of valuation of property, and the appeal shall be taken in the same manner and subject to the same requirements.

Added by Laws 1988, c. 162, § 95, eff. Jan. 1, 1992.

§68-2896. Homesteads - Separate listing and assessment - Buildings used for both dwelling and business or commercial purposes - Rural homesteads.

A. All homesteads shall be separately listed and assessed and separately described on the assessment rolls and tax rolls wherever possible. No homestead exemption shall be allowed on any improvements on real estate or other buildings which are used for business or commercial purposes, but where the same improvement or building is used both as a dwelling and for business purposes the value of that portion used as a dwelling shall be considered to be a part of the homestead and subject to exemption.

B. In any case where a building is used partially as a dwelling and partially for business or commercial purposes, or where some buildings on the same tract of land consist of the dwelling and appurtenances and others are used for business or commercial purposes, it shall be the duty of the county assessor to separately value the dwelling and appurtenances and that part used for business or commercial purposes. The keeping of boarders or roomers by citizens in a building maintained otherwise exclusively as a home shall not be considered as commercial purposes.

C. The location and use of a part of a building or buildings for business or commercial purposes on a rural homestead shall not prevent the owner of such homestead from obtaining an exemption on one hundred sixty (160) acres of land; but in case of urban homesteads where it is impossible to definitely separate by description, land upon which the dwelling and appurtenances are located, from the land upon which the business or commercial buildings are located, only that proportion of the land shall be considered a part of the homestead and subject to exemption which the proportion of the assessed value of the dwelling and appurtenances bears to the total assessed valuation of all buildings and improvements on such lot or lots.

D. In the case of rooming houses, duplexes, apartment buildings, or any other building occupied by more than one family, and used entirely for residential purposes, the homestead and part subject to exemption shall be considered only that proportion of the total assessed value of the land and improvements as the number of rooms occupied by the owner bears to the total number of rooms of such building. The renting of not to exceed three bedrooms shall not constitute business or commercial use or affect the exemption of a homestead and at no part of any hotel, motel, hostel or apartment hotel shall be exempt.

E. In the case of rural homesteads, the homestead shall consist of not more than one hundred sixty (160) acres of land, which shall include and be about and contiguous or adjacent to the land upon which the dwelling house stands, to be selected by the owner, and the land designated as the homestead shall, as nearly as possible, consist of some legal subdivision of a section or sections.

Added by Laws 1988, c. 162, § 96, eff. Jan. 1, 1992.

§68-2897. Homestead exemption - Laws relating to assessment of property not impaired.

No law relating to homestead exemption shall in any manner affect, alter or impair any law relating to the assessment of property, and each homestead which may be entitled to exemption shall be assessed at its fair cash value, estimated at the price it would bring at a fair voluntary sale as is provided by law.

Added by Laws 1988, c. 162, § 97, eff. Jan. 1, 1992.

§68-2898. Rules and regulations.

It shall be the duty of the Oklahoma Tax Commission to issue for the information and guidance of the county assessors and county boards of equalization proper rules and regulations, not inconsistent with the provisions of the Ad Valorem Tax Code, affecting the application, hearing, assessment or equalization of property which is claimed to be entitled to the exemption granted by this Code.

Added by Laws 1988, c. 162, § 98, eff. Jan. 1, 1992.

§68-2899. County assessor - Report to Tax Commission.

It shall be the duty of each county assessor, on or before June 15 of each year unless delayed by court action or other extraordinary circumstances certified by the Oklahoma Tax Commission, to make a report to the Oklahoma Tax Commission upon forms to be prescribed and furnished by the Oklahoma Tax Commission, showing the following information which shall reflect the current balanced records of the county assessor:

1. Total number of rural homesteads within his county; total number of acres allowed homestead exemption; total assessed valuation of rural homesteads before exemption; total amount of exemption allowed on the rural homesteads; and the total assessed valuation of rural homesteads, less exemptions allowed.

2. Total number of urban homesteads within his county; total number of lots allowed homestead exemption; total assessed valuation of urban homesteads before exemption; total amount of exemption allowed on urban homesteads; and the total assessed valuations of urban homesteads, less exemptions allowed.

Added by Laws 1988, c. 162, § 99, eff. Jan. 1, 1992. Amended by Laws 1989, c. 321, § 21, operative Jan. 1, 1992; Laws 1994, c. 278, § 31, eff. Sept. 1, 1994.

§68-2900. Homestead exemption - Unlawful acts - Penalties.

If any person make any false or fraudulent claim for exemption, or make any false statement or false representation of a material fact, in support of such claim, or any person who assists another in the preparation of any such false or fraudulent claim, or enters into any collusion with another by the execution of a fictitious deed, or other instrument, for the purpose of obtaining unlawful homestead exemption pursuant to the provisions of this Code, shall be guilty of a misdemeanor and subject, upon conviction thereof, to a forfeiture of the exemption herein granted for a period of two (2) years from date of conviction, and to a fine of not less than Twenty-five Dollars (\$25.00), nor more than Two Hundred Dollars (\$200.00), or by imprisonment in the county jail for not more than six (6) months, or both. Any person who shall make oath to any false or fraudulent homestead exemption application shall be guilty of the felony of perjury and, upon conviction, subject to the penalty provided by law for the felony of perjury.

Added by Laws 1988, c. 162, § 100, eff. Jan. 1, 1992. Amended by Laws 1997, c. 133, § 566, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 566 from July 1, 1998, to July 1, 1999.

§68-2901. Homestead exemption - Situs of taxpayer.

The claiming of a homestead exemption as provided by the Ad Valorem Tax Code shall thereby fix the situs of such taxpayer in this state for all income, estate and other taxes levied by the State of Oklahoma.

Added by Laws 1988, c. 162, § 101, eff. Jan. 1, 1992.

§68-2902. Manufacturing facilities - Exemption from ad valorem tax.

A. Except as otherwise provided by subsection H of Section 3658 of this title pursuant to which the exemption authorized by this section may not be claimed, a qualifying manufacturing concern, as defined by Section 6B of Article X of the Oklahoma Constitution, and as further defined herein, shall be exempt from the levy of any ad valorem taxes upon new, expanded or acquired manufacturing facilities, including facilities engaged in research and development, for a period of five (5) years. The provisions of Section 6B of Article X of the Oklahoma Constitution requiring an existing facility to have been unoccupied for a period of twelve (12) months prior to acquisition shall be construed as a qualification for a facility to initially receive an exemption, and shall not be deemed to be a qualification for that facility to continue to receive an exemption in each of the four (4) years following the initial year for which the exemption was granted. Such facilities are hereby classified for the purposes of taxation as provided in Section 22 of Article X of the Oklahoma Constitution.

B. For purposes of this section, the following definitions shall apply:

1. "Manufacturing facilities" means facilities engaged in the mechanical or chemical transformation of materials or substances into new products and shall include:

- a. establishments which have received a manufacturer exemption permit pursuant to the provisions of Section 1359.2 of this title,
- b. facilities, including repair and replacement parts, primarily engaged in aircraft repair, building and rebuilding whether or not on a factory basis,
- c. establishments primarily engaged in computer services and data processing as defined under Industrial Group Numbers 5112 and 5415, and U.S. Industry Number 334611 and 519130 of the NAICS Manual, latest revision, and which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and as defined under Industrial Group Number 5142 of the NAICS Manual, latest revision, which derive 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. Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Oklahoma Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such other information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers, all sales to the federal government shall be considered to be an out-of-state buyer,

- d. for which the investment cost of the construction, acquisition or expansion of the manufacturing facility is Two Hundred Fifty Thousand Dollars (\$250,000.00) or more. Provided, "investment cost" shall not include the cost of direct replacement, refurbish, repair or maintenance of existing machinery or equipment, and
- e. establishments primarily engaged in distribution as defined under Industry Numbers 49311, 49312, 49313 and 49319 and Industry Sector Number 42 of the NAICS Manual, latest revision, and which meet the following qualifications:
 - (1) construction with an initial capital investment of at least Five Million Dollars (\$5,000,000.00),
 - (2) employment of at least one hundred (100) full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission,
 - (3) payment of wages or salaries to its employees at a wage which equals or exceeds one hundred seventy-five percent (175%) of the federally mandated minimum wage, as certified by the Oklahoma Employment Security Commission, and
 - (4) commencement of construction on or after November 1, 2007, with construction to be completed within three (3) years from the date of the commencement of construction.

Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and containing such other information as required by the Tax Commission.

Provided, eating and drinking places, as well as other retail establishments, shall not qualify as manufacturing facilities for purposes of this section, nor shall centrally assessed properties.

Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Tax Commission, by annually filing an application with the Tax Commission stating that the facility so qualifies and containing such other information as required by the Tax Commission;

2. "Facility" and "facilities" means and includes the land, buildings, structures, improvements, machinery, fixtures, equipment and other personal property used directly and exclusively in the manufacturing process; and

3. "Research and development" means activities directly related to and conducted for the purpose of discovering, enhancing, increasing or improving future or existing products or processes or productivity.

C. The following provisions shall apply:

1. A manufacturing concern shall be entitled to the exemption herein provided for each new manufacturing facility constructed, each existing manufacturing facility acquired and the expansion of existing manufacturing facilities on the same site, as such terms are defined by Section 6B of Article X of the Oklahoma Constitution and by this section;

2. Except as otherwise provided in paragraph 5 of this subsection, no manufacturing concern shall receive more than one five-year exemption for any one manufacturing facility unless the expansion which qualifies the manufacturing facility for an additional five-year

exemption meets the requirements of paragraph 4 of this subsection and the employment level established for any previous exemption is maintained;

3. Any exemption as to the expansion of an existing manufacturing facility shall be limited to the increase in ad valorem taxes directly attributable to the expansion;

4. Except as provided in paragraphs 5 and 6 of this subsection, all initial applications for any exemption for a new, acquired or expanded manufacturing facility shall be granted only if:

- a. there is a net increase in annualized payroll of at least Two Hundred Fifty Thousand Dollars (\$250,000.00) if the facility is located in a county with a population of fewer than seventy-five thousand (75,000), according to the most recent federal decennial census, while maintaining or increasing payroll in subsequent years, or at least One Million Dollars (\$1,000,000.00) if the facility is located in a county with a population of seventy-five thousand (75,000) or more, according to the most recent federal decennial census, while maintaining or increasing payroll in subsequent years; provided the payroll requirement of this subparagraph shall be waived for claims for exemptions, including claims previously denied or on appeal on March 3, 2010, for all initial applications for exemption filed on or after January 1, 2004, and on or before March 31, 2009, and all subsequent annual exemption applications filed related to the initial application for exemption, for an applicant, if the facility has been located in Oklahoma for at least fifteen (15) years engaged in marine engine manufacturing as defined under U.S. Industry Number 333618 of the NAICS Manual, latest revision, and has maintained an average employment of five hundred (500) or more full-time-equivalent employees over a ten-year period. Any applicant that qualifies for the payroll requirement waiver as outlined in the previous sentence and subsequently closes its Oklahoma manufacturing plant prior to January 1, 2012, may be disqualified for exemption and subject to recapture. For an applicant engaged in paperboard manufacturing as defined under U.S. Industry Number 322130 of the NAICS Manual, latest revision, union master payouts paid by the buyer of the facility to specified individuals employed by the facility at the time of purchase, as specified under the purchase agreement, shall be excluded from payroll for purposes of this section.

The Tax Commission shall verify payroll information through the Oklahoma Employment Security Commission by using reports from the Oklahoma Employment Security Commission for the calendar year immediately preceding the year for which initial application is made for base-line payroll, which must be maintained or increased for each subsequent year; provided, a manufacturing facility shall have the option of excluding from its payroll, for purposes of this section, payments to sole proprietors, members of a partnership, members of a limited liability company who own at least ten percent (10%) of the capital of the limited liability company or stockholder-employees of a corporation who own at least ten percent (10%) of the stock in the corporation. A manufacturing facility electing this option shall indicate such election upon its application for an exemption under this section. Any manufacturing facility electing

this option shall submit such information as the Tax Commission may require in order to verify payroll information. Payroll information submitted pursuant to the provisions of this paragraph shall be submitted to the Tax Commission and shall be subject to the provisions of Section 205 of this title, and

- b. the facility offers, or will offer within one hundred eighty (180) days of the date of employment, a basic health benefits plan to the full-time-equivalent employees of the facility, which is determined by the Department of Commerce to consist of the elements specified in subparagraph b of paragraph 1 of subsection A of Section 3603 of this title or elements substantially equivalent thereto.

For purposes of this section, calculation of the amount of increased payroll shall be measured from the start of initial construction or expansion to the completion of such construction or expansion or for three (3) years from the start of initial construction or expansion, whichever occurs first. The amount of increased payroll shall include payroll for full-time-equivalent employees in this state who are employed by an entity other than the facility which has previously or is currently qualified to receive an exemption pursuant to the provisions of this section and who are leased or otherwise provided to the facility, if such employment did not exist in this state prior to the start of initial construction or expansion of the facility. The manufacturing concern shall submit an affidavit to the Tax Commission, signed by an officer, stating that the construction, acquisition or expansion of the facility will result in a net increase in the annualized payroll as required by this paragraph and that full-time-equivalent employees of the facility are or will be offered a basic health benefits plan as required by this paragraph. If, after the completion of such construction or expansion or after three (3) years from the start of initial construction or expansion, whichever occurs first, the construction, acquisition or expansion has not resulted in a net increase in the amount of annualized payroll, if required, or any other qualification specified in this paragraph has not been met, the manufacturing concern shall pay an amount equal to the amount of any exemption granted, including penalties and interest thereon, to the Tax Commission for deposit to the Ad Valorem Reimbursement Fund;

5. If a facility fails to meet the payroll requirement of subparagraph a of paragraph 4 of this subsection, the payroll requirement shall be waived for claims for exemptions, including claims previously denied or on appeal on June 1, 2009, for all initial applications for exemption filed on or after January 1, 2004, and on or before March 31, 2009, and all subsequent annual exemption applications filed related to such initial application for exemption, for an applicant, if the facility:

- a. has been located for at least five (5) years as of March 31, 2009, in a county in Oklahoma with a population of six hundred thousand (600,000) or more;
- b. is owned by an applicant that has been engaged in manufacturing as defined under U.S. Industry Numbers 323110, 323111, 323121 and 323122 of the NAICS Manual, latest revision;
- c. is owned by an applicant that maintains a workforce of at least three hundred (300) employees on June 1, 2009;
- d. is owned by an applicant that has filed multiple applications for exemption pursuant to this section; and
- e. is owned by an applicant that operates at least one facility in this state of at least seven hundred thirty thousand (730,000) square feet on June 1, 2009.

In the event that any applicant obtaining a waiver of the payroll requirement pursuant to this paragraph ceases to operate all of its facilities in this state on or before a date that is four years after any initial application for an exemption is filed by such applicant, all sums of property taxes exempted under this paragraph through a waiver of the payroll requirement that relate to such application shall become due and payable as if such sums were assessed in the year in which the applicant ceases to operate all of its facilities in the state.

6. Any new, acquired or expanded automotive final assembly manufacturing facility which does not meet the requirements of paragraph 4 of this subsection shall be granted an exemption only if all other requirements of this section are met and only if the investment cost of the construction, acquisition or expansion of the manufacturing facility is Three Hundred Million Dollars (\$300,000,000.00) or more and the manufacturing facility retains an average employment of one thousand seven hundred fifty (1,750) or more full-time-equivalent employees in the year in which the exemption is initially granted and in each of the four (4) subsequent years only if an average employment of one thousand seven hundred fifty (1,750) or more full-time-equivalent employees is maintained in the subsequent year. Any property installed to replace property damaged by the tornado or natural disaster that occurred May 8, 2003, may continue to receive the exemption provided in this paragraph for the full five-year period based on the value of the previously qualifying assets as of January 1, 2003. The exemption shall continue in effect as long as all other qualifications in this paragraph are met. If the average employment of one thousand seven hundred fifty (1,750) or more full-time-equivalent employees is reduced as a result of temporary layoffs because of a tornado or natural disaster on May 8, 2003, then the average employment requirement shall be waived for year 2003 of the exemption period. Calculation of the number of employees shall be made in the same manner as required under Section 2357.4 of this title for an investment tax credit. As used in this paragraph, "expand" and "expansion" shall mean and include any increase to the size or scope of a facility as well as any renovation, restoration, replacement or remodeling of a facility which permits the manufacturing of a new or redesigned product;

7. Any new, acquired, or expanded computer data processing, data preparation, or information processing services provider classified in Industrial Group Number 7374 of the SIC Manual, latest revision, and U.S. Industry Number 514210 of the North American Industrial Classification System (NAICS) Manual, latest revision, may apply for exemptions under this section for each year in which new, acquired, or expanded capital improvements to the facility are made if:

- a. there is a net increase in annualized payroll of the applicant at any facility or facilities of the applicant in this state of at least Two Hundred Fifty Thousand Dollars (\$250,000.00), which is attributable to the capital improvements, or a net increase of Seven Million Dollars (\$7,000,000.00) or more in capital improvements, while maintaining or increasing payroll at the facility or facilities in this state which are included in the application, and
- b. the facility offers, or will offer within one hundred eighty (180) days of the date of employment of new employees attributable to the capital improvements, a basic health benefits plan to the full-time-equivalent employees of the facility, which is determined by the Department of Commerce to consist of the elements specified in subparagraph b of

paragraph 1 of subsection A of Section 3603 of this title or elements substantially equivalent thereto; and

8. An entity engaged in electric power generation by means of wind, as described by the North American Industry Classification System, No. 221119, which does not meet the requirements of paragraph 4 of this subsection shall be granted an exemption only if all other requirements of this section are met and only if there is a net increase in annualized payroll at the facility of at least Two Hundred Fifty Thousand Dollars (\$250,000.00) or a net increase of Two Million Dollars (\$2,000,000.00) or more in capital improvements while maintaining or increasing payroll.

9. An entity which has been granted an exemption for a time period which included calendar year 2009 but which did not meet the base-line payroll requirements of subparagraph a of paragraph 4 of this subsection during calendar year 2009, shall be allowed an exemption, to begin on January 1 of the first calendar year after January 1, 2012, for the number of years, including calendar year 2009, remaining in the entity's five-year exemption period, provided such entity attains or increases payroll at or above the base-line payroll established for the exemption which was in force during calendar year 2009.

D. 1. Except as provided in paragraph 2 of this subsection, the five-year period of exemption from ad valorem taxes for any qualifying manufacturing facility property shall begin on January 1 following the initial qualifying use of the property in the manufacturing process.

2. The five-year period of exemption from ad valorem taxes for any qualifying manufacturing facility, as defined in subparagraph c of paragraph 1 of subsection B of this section which is located within a tax incentive district created pursuant to the Local Development Act by a county having a population of at least five hundred thousand (500,000), according to the most recent federal decennial census, shall begin on January 1 following the expiration or termination of the ad valorem exemption, abatement, or other incentive provided through the tax incentive district.

E. Any person, firm or corporation claiming the exemption herein provided for shall file each year for which exemption is claimed, an application therefor with the county assessor of the county in which the new, expanded or acquired facility is located. The application shall be on a form or forms prescribed by the Tax Commission, and shall be filed on or before March 15, except as provided in Section 2902.1 of this title, of each year in which the facility desires to take the exemption or within thirty (30) days from and after receipt by such person, firm or corporation of notice of valuation increase, whichever is later. In a case where completion of the facility or facilities will occur after January 1 of a given year, a facility may apply to claim the ad valorem tax exemption for that year. If such facility is found to be qualified for exemption, the ad valorem tax exemption provided for herein shall be granted for that entire year and shall apply to the ad valorem valuation as of January 1 of that given year. For applicants which qualify under the provisions of subparagraph b of paragraph 1 of subsection B of this section, the application shall include a copy of the affidavit and any other information required to be filed with the Tax Commission.

F. The application shall be examined by the county assessor and approved or rejected in the same manner as provided by law for approval or rejection of claims for homestead exemptions. The taxpayer shall have the same right of review by and appeal from the county board of equalization, in the same manner and subject to the same requirements as provided by law for review and appeals concerning homestead exemption claims. Approved applications shall be filed by the county assessor with the Tax Commission no later than June 15, except as

provided in Section 2902.1 of this title, of the year in which the facility desires to take the exemption. Incomplete applications and applications filed after June 15 will be declared null and void by the Tax Commission. In the event that a taxpayer qualified to receive an exemption pursuant to the provisions of this section shall make payment of ad valorem taxes in excess of the amount due, the county treasurer shall have the authority to credit the taxpayer's real or personal property tax overpayment against current taxes due. The county treasurer may establish a schedule of up to five (5) years of credit to resolve the overpayment.

G. Nothing herein shall in any manner affect, alter or impair any law relating to the assessment of property, and all property, real or personal, which may be entitled to exemption hereunder shall be valued and assessed as is other like property and as provided by law. The valuation and assessment of property for which an exemption is granted hereunder shall be performed by the Tax Commission.

H. The Tax Commission shall have the authority and duty to prescribe forms and to promulgate rules as may be necessary to carry out and administer the terms and provisions of this section.

Added by Laws 1988, c. 162, § 102, eff. Jan. 1, 1992. Amended by Laws 1989, c. 221, § 2, eff. Jan. 1, 1992; Laws 1992, c. 396, § 2, emerg. eff. June 11, 1992; Laws 1993, c. 68, § 1, emerg. eff. April 14, 1993; Laws 1993, c. 273, § 2, emerg. eff. May 27, 1993; Laws 1994, c. 278, § 32, eff. Sept. 1, 1994; Laws 1995, c. 337, § 10, emerg. eff. June 9, 1995; Laws 1997, c. 190, § 5, eff. July 1, 1997; Laws 1998, c. 301, § 15, eff. Nov. 1, 1998; Laws 1999, c. 134, § 1, emerg. eff. April 28, 1999; Laws 1999, c. 181, § 1, emerg. eff. May 21, 1999; Laws 1999, c. 363, § 1, eff. Jan. 1, 2000; Laws 2000, c. 3, § 3, emerg. eff. March 2, 2000; Laws 2000, c. 339, § 20, emerg. eff. June 6, 2000; Laws 2001, c. 5, § 45, emerg. eff. March 21, 2001; Laws 2001, c. 118, § 1, emerg. eff. April 23, 2001; Laws 2001, c. 358, § 22, eff. July 1, 2001; Laws 2002, c. 232, § 1, eff. Nov. 1, 2002; Laws 2002, c. 476, § 6, emerg. eff. June 6, 2002; Laws 2003, c. 3, § 72, emerg. eff. March 19, 2003; Laws 2003, c. 458, § 1, emerg. eff. June 6, 2003; Laws 2004, c. 10, § 1, emerg. eff. March 15, 2004; Laws 2004, c. 447, § 11, emerg. eff. June 4, 2004; Laws 2005, c. 1, § 116, emerg. eff. March 15, 2005; Laws 2005, c. 479, § 22, eff. July 1, 2005; Laws 2006, c. 16, § 72, emerg. eff. March 29, 2006; Laws 2006, c. 281, § 30, emerg. eff. June 7, 2006; Laws 2007, c. 352, § 1, eff. Nov. 1, 2007; Laws 2008, c. 440, § 12; Laws 2009, c. 2, § 28, emerg. eff. March 12, 2009; Laws 2009, c. 426, § 13, emerg. eff. June 1, 2009; Laws 2010, c. 2, § 68, emerg. eff. March 3, 2010; Laws 2011, c. 383, § 1, eff. Jan. 1, 2012; Laws 2012, c. 306, § 1, emerg. eff. May 29, 2012.

NOTE: Laws 2000, c. 219, § 1 repealed by Laws 2001, c. 5, § 46, emerg. eff. March 21, 2001. Laws 2002, c. 188, § 1 repealed by Laws 2002, c. 299, § 17, emerg. eff. May 23, 2002 and by Laws 2002, c. 476, § 8, emerg. eff. June 6, 2002. Laws 2002, c. 299, § 15 repealed by Laws 2003, c. 3, § 73, emerg. eff. March 19, 2003. Laws 2003, c. 374, § 8 repealed by Laws 2004, c. 5, § 80, emerg. eff. March 1, 2004. Laws 2004, c. 5, § 79 repealed by Laws 2004, c. 317, § 3, emerg. eff. May 19, 2004 and by Laws 2004, c. 447, § 22, emerg. eff. June 4, 2004. Laws 2004, c. 317, § 2 repealed by Laws 2005, c. 1, § 117, emerg. eff. March 15, 2005. Laws 2005, c. 286, § 1 repealed by Laws 2006, c. 16, § 73, emerg. eff. March 29, 2006. Laws 2008, c. 406, § 2 repealed by Laws 2009, c. 2, § 29, emerg. eff. March 12, 2009. Laws 2009, c. 387, § 2 repealed by Laws 2010, c. 2, § 69, emerg. eff. March 3, 2010.

§68-2902.1. Dates and activities to follow in administering Section 2902.

In order to administer subsection C of Section 2902 of this title, the following dates and activities shall apply:

1. Any person, firm or corporation claiming the exemption herein provided pursuant to subsection C of Section 2902 of this title shall file, each year for which the exemption is claimed, an application therefor with the county assessor of the county in which the new, expanded or acquired facility is located. Such application shall be on a form or forms prescribed by the Oklahoma Tax Commission and shall be filed before July 1, 1993; and, thereafter subsequent years of application for the exemption shall be filed on or before March 15 of the calendar year in which the facility desires to take the exemption.

Provided, for those person, firms or corporations qualifying pursuant to subsection C of Section 2902 of this title, the exemption from ad valorem taxes shall continue in effect for the four (4) following years upon application as long as all requirements in subsection C of Section 2902 of this title are met; and

2. Such application shall be examined by the county assessor and approved or rejected by the county assessor in the same manner as provided by law for approval or rejection of claims for homestead exemptions. Any applicants rejected by the county assessor whose applications were received before July 1, 1993, may protest any rejection to the county equalization board which shall conduct hearings to protest in the manner prescribed pursuant to Title 68 of the Oklahoma Statutes. In the event the county equalization board has adjourned and so is unable to conduct a review of the county assessor's rejection in tax year 1993, the board shall hear the protest in 1994. Provided, applicants must appeal within thirty (30) days of rejection. The applicant shall not be required to pay the tax until appeal is heard by the county equalization board. In the event payment is determined to be due by the county equalization board, the company shall pay said tax, but no interest or penalty shall be assessed or due. Approved applications shall be filed by the county assessor with the Tax Commission no later than August 1, 1993. Incomplete applications and applications filed after such date will be declared null and void by the Tax Commission.

Added by Laws 1993, c. 273, § 3, emerg. eff. May 27, 1993. Amended by Laws 2004, c. 447, § 12, emerg. eff. June 4, 2004.

§68-2902.2. Intangible personal property tax exemption - Application - Affidavit.

Any person, firm, or corporation claiming the exemption provided in Section 6A of Article X of the Oklahoma Constitution, relating to property moving through the state in interstate commerce, shall file an application with the county assessor for each year for which the exemption is claimed. The application shall be on a form prescribed by the Oklahoma Tax Commission and shall be filed during the year in which the tax is due, on or before March 15 or within thirty (30) days from and after receipt by the taxpayer of a notice of valuation increase, whichever is later. Claims filed for previous years shall be declared null and void. Eligibility for the exemption shall be established by annually filing an affidavit with the county assessor stating that the property qualifies for exemption pursuant to the provisions of Section 6A of Article X of the Oklahoma Constitution, relating to property moving through the state in interstate commerce, and such other information as may be required by the county assessor.

Each application for such an exemption shall be examined by the county assessor in the same manner as applications for homestead exemptions are examined pursuant to Section 2893 of this title. Further, the applications shall be reviewed by the county board of equalization in the same manner as homestead exemption applications are reviewed pursuant to Section 2894 of

this title and applicants shall have the same rights to review and appeal as provided in Section 2895 of this title.

Added by Laws 2000, c. 10, § 1, emerg. eff. March 29, 2000. Amended by Laws 2000, c. 314, § 24, eff. July 1, 2000; Laws 2002, c. 503, § 5, emerg. eff. June 7, 2002; Laws 2007, c. 346, § 5, eff. Jan. 1, 2008.

§68-2902.3. Qualified aircraft manufacturers – Reimbursement of certain ad valorem taxes paid – Application – Agreement – Aircraft Manufacturer Payment Fund – False or fraudulent application, claim, etc. - Penalties.

A. As used in this section:

1. “Qualified aircraft manufacturer” means a corporation:

- a. primarily engaged in the manufacture or repair of aircraft components and replacement parts,
- b. which is headquartered in this state and the primary facilities of which are located in this state,
- c. which, as of July 1, 2005, has wages in this state totaling at least Eighty Million Dollars (\$80,000,000.00) for the preceding twelve-month period, and
- d. which experienced a decline in annualized wages as a result of the terrorist attacks on the United States on September 11, 2001, and as a result of such decline, had an application for a tax exemption pursuant to the provisions of Section 2902 of Title 68 of the Oklahoma Statutes denied or rejected by the Oklahoma Tax Commission or a county assessor for one (1) or more years beginning after such terrorist attacks and prior to July 1, 2005; and

2. “Tax Commission” or “Commission” means the Oklahoma Tax Commission.

B. A qualified aircraft manufacturer shall be eligible to enter into an agreement with the Tax Commission for a period not to exceed five (5) years. The agreement shall provide for the following:

1. For each year of the term of the agreement, the qualified aircraft manufacturer shall agree to:

- a. maintain Oklahoma wages during the period of the agreement in an amount not less than one hundred percent (100%) of the manufacturer’s wages for the twelve (12) months preceding July 1, 2005,
- b. maintain or increase its investment, based on original cost, in real and personal property in this state in an amount not less than one hundred percent (100%) of the manufacturer’s level of investment, based on original cost, as of July 1, 2005, and
- c. meet all other qualifications specified in this section and provide documentation of such to the Tax Commission; and

2. The Tax Commission shall agree to make payments to the qualified aircraft manufacturer in the amount of ad valorem taxes actually paid by the manufacturer in any year following the terrorist attacks of September 11, 2001, but which would have been exempt from ad valorem taxes pursuant to the provisions of Section 2902 of Title 68 of the Oklahoma Statutes if the manufacturer had not experienced a decline in annualized wages as a result of such terrorist attacks. Payments to a manufacturer shall not exceed the amount of such taxes actually paid by the manufacturer prior to the date of the payment, nor shall payments to a single manufacturer exceed a total of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) over the five-

year period of the agreement or a total of Five Hundred Thousand Dollars (\$500,000.00) in any single fiscal year. If such amount is insufficient to reimburse the manufacturer for ad valorem taxes actually paid by the manufacturer in any year following the terrorist attacks of September 11, 2001, but which would have been exempt from ad valorem taxes pursuant to the provisions of Section 2902 of Title 68 of the Oklahoma Statutes if the manufacturer had not experienced a decline in annualized wages as a result of such terrorist attacks, any amount not reimbursed shall carry forward and may be paid in a subsequent fiscal year subject to the limitations of this section; provided, in no event shall payments be made after the expiration of the agreement.

C. A qualified aircraft manufacturer shall make an initial application to the Tax Commission to enter into an agreement pursuant to the provisions of this section not later than September 1, 2005, and upon approval, shall submit a claim for payment annually thereafter for the remainder of the five-year period of the agreement on a date specified by the Tax Commission. Such application and claim shall be on a form prescribed by the Tax Commission and shall contain such information as may be necessary for the Tax Commission to determine if the qualifications and other requirements of this section have been met. The determination shall be made upon application of the manufacturer and annually thereafter as a condition of receiving a payment pursuant to the provisions of this section. Prior to approving a claim for payment, the Tax Commission shall verify the information contained in the claim and shall verify that all requirements of this section have been met as a condition of making the payment.

D. If the qualified aircraft manufacturer does not meet the terms of the agreement and all provisions of this section, payments shall cease and shall not be resumed, and the agreement shall expire and be void.

E. A qualified aircraft manufacturer that has qualified pursuant to this section may receive payments only in accordance with the provisions under which it initially applied and was approved.

F. As soon as practicable after verification of the eligibility of the qualified aircraft manufacturer as required by this section, the Tax Commission shall issue a warrant to the manufacturer.

G. There is hereby created within the State Treasury a special fund for the Tax Commission to be designated the "Aircraft Manufacturer Payment Fund". The Tax Commission is hereby authorized and directed to withhold a portion of the taxes levied and collected pursuant to Sections 1354 and 2355 of Title 68 of the Oklahoma Statutes which would otherwise be apportioned to the General Revenue Fund for deposit into the fund. The amount deposited shall equal the sum of an amount required for making payments, as determined pursuant to the provisions of this section. All of the amounts deposited in such fund shall be used and expended by the Tax Commission solely for the purposes and in the amounts authorized by this section. The liability of the State of Oklahoma to make the investment payments under this section shall be limited to the balance contained in the fund created by this subsection.

H. The Tax Commission may promulgate rules necessary to implement its duties and responsibilities under the provisions of this section.

I. Any person making an application, claim for payment or any report, return, statement or other instrument or providing any other information pursuant to the provisions of this section who willfully makes a false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully provides any false or fraudulent information, or any person who willfully aids or abets another in making such false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully aids or abets another in providing

any false or fraudulent information, upon conviction, shall be guilty of a felony punishable by the imposition of a fine not less than One Thousand Dollars (\$1,000.00) and not more than Fifty Thousand Dollars (\$50,000.00) or imprisonment in the State Penitentiary for not less than two (2) years and not more than five (5) years, or by both such fine and imprisonment. Any person convicted of a violation of this section shall be liable for the repayment of all investment payments which were paid to the manufacturer. Interest shall be due on such payments at the rate of ten percent (10%) per annum.

Added by Laws 2005, c. 461, § 1, eff. July 1, 2005.

§68-2902.4. Manufacturers of pulp, paper, tissue and paper board - Ad valorem exemption.

Pursuant to Section 6B of Article X of the Oklahoma Constitution, effective for ad valorem exemptions for qualifying manufacturing concerns beginning January 1, 2007, a facility engaged in pulp, paper, tissue and paper board manufacturing, as described by the 2002 North American Industry Classification System, No. 3221, shall be granted an ad valorem exemption only if one of the following requirements is met:

1. An investment of Two Million Dollars (\$2,000,000.00) or more in capital improvements at the facility while maintaining an average weekly wage per employee that is at least one hundred fifty percent (150%) of the Oklahoma average weekly wage as published by the Oklahoma Employment Security Commission in the Quarterly Census of Employment and Wages. The last four quarters available and published by the Oklahoma Employment Security Commission shall be used to calculate the Oklahoma average weekly wage; or

2. An investment of Five Million Dollars (\$5,000,000.00) or more in capital improvements at the facility in the initial year of the exemption with an investment of at least Five Million Dollars (\$5,000,000.00) in each of the four (4) years following the initial year for which the exemption was granted.

Added by Laws 2006, 2nd Ex. Sess., c. 44, § 12, eff. Jan. 1, 2007.

§68-2903. Rural water or sewer district - Exemption from ad valorem and other taxes.

All property, both real and personal, of any rural water or sewer district, as defined in the "Rural Water and Sewer Districts Act" contained in Chapter 266, Oklahoma Session Laws 1963, as amended (Chapter 18, Title 82, O.S. Supp. 1969), and created and organized for the purposes therein described, but which districts are incorporated as nonprofit corporations under the provisions of Chapter 13, Oklahoma Session Laws 1968 (Chapter 19, Title 18, O.S. Supp. 1969), shall be exempt from all ad valorem taxation. The motor vehicles or other vehicles of any such district shall be registered and licensed each year for a license fee of One Dollar (\$1.00), and said districts shall be exempt from sales and use taxes.

Added by Laws 1988, c. 162, § 103, eff. Jan. 1, 1992.

§68-2904. Definitions.

The following words when used in Sections 104 through 111 of this act shall have the following meanings, unless otherwise qualified by the context:

1. "Claimant" means a person who has filed a claim pursuant to Section 106 of this act.
2. "Disabled person" means a person unable to engage in any substantial gainful activity by reason of a medically determined physical or mental impairment which can be expected to last for a continuous period of twelve (12) months or more. Proof of disability may be established by certification by an agency of state government, an insurance company, or as may

be required by the Oklahoma Tax Commission. Eligibility to receive disability benefits under the Federal Social Security Act shall constitute proof of disability, for purposes of said sections.

3. "Gross household income" means the gross amount of income of every type, regardless of the source, received by all persons occupying the same household, whether such income was taxable or nontaxable for federal or state income tax purposes, including pensions, annuities, federal social security, unemployment payments, veterans' disability compensation, public assistance payments, alimony, support money, workers' compensation, loss-of-time insurance payments, capital gains and any other type of income received; and excluding gifts.

4. "Head of household" means a person who as owner or joint owner maintains a home and furnishes his own support for said home, furnishings and other material necessities.

5. "Household" means any house, dwelling or other type of living quarters, and the real property thereof, occupied by the owner or joint owners as a residence, subject to ad valorem taxation.

6. "Property taxes" means the ad valorem taxes on the household actually paid by the head of the household for the preceding calendar year.

Added by Laws 1988, c. 162, § 104, eff. Jan. 1, 1992.

§68-2905. Persons 65 years of age or older or totally disabled person - Application and administration of Sections 2904 to 2911.

The provisions of Sections 2904 through 2911 of this title shall apply only to persons sixty-five (65) years of age or older or to any totally disabled person, who is head of a household, was a resident of and domiciled in this state during the entire preceding calendar year, and whose gross household income does not exceed the amount of Twelve Thousand Dollars (\$12,000.00) for any calendar year. The provisions of these sections shall be administered by the Oklahoma Tax Commission, which shall devise and furnish appropriate forms for claims, reports of household income, proof of property taxes paid, and such other forms as may be deemed necessary to support claims made pursuant to said sections.

Added by Laws 1988, c. 162, § 105, eff. Jan. 1, 1992. Amended by Laws 1996, c. 323, § 3, eff. Jan. 1, 1997.

§68-2906. Person 65 years of age or older or totally disabled person - Filing of claim.

Any person sixty-five (65) years of age or older or any totally disabled person, who is the head of a household, a resident of and domiciled in this state during the entire preceding calendar year, and whose gross household income for such year does not exceed Twelve Thousand Dollars (\$12,000.00) may file a claim for property tax relief on the amount of property taxes paid on the household occupied by such person during the preceding calendar year. Each head of household shall be allowed to file only one claim per year.

Added by Laws 1988, c. 162, § 106, eff. Jan. 1, 1992. Amended by Laws 1996, c. 323, § 4, eff. Jan. 1, 1997.

§68-2907. Person 65 years of age or older or totally disabled person - Amount of claim - Right to file claim.

A. The amount of any claim filed pursuant to Section 108 of this act shall be for the amount of the property taxes paid by the claimant for the preceding calendar year which exceeds

one percent (1%) of the household income, but no claim for property tax relief shall exceed Two Hundred Dollars (\$200.00).

B. The right to file a claim and to receive property tax relief under the provisions of this act shall be personal to the claimant and shall not survive his death, except that a surviving spouse of the claimant may receive benefits hereunder upon the timely filing of a claim. Added by Laws 1988, c. 162, § 107, eff. Jan. 1, 1992.

§68-2908. Persons 65 years of age or older or totally disabled person - Time for filing claims - Income tax credit.

All claims for relief in respect to property taxes authorized by Sections 104 through 111 of this act shall be received by and in the possession of the Oklahoma Tax Commission on or before June 30, 1992, for property taxes paid for the year 1991, and on or before June 30 each year thereafter for property taxes paid for the preceding calendar year. Claimants shall be allowed a direct credit against income taxes owed by such claimant to the State of Oklahoma for the amount of his claim, in which case such claim shall be filed with claimant's income tax return.

Added by Laws 1988, c. 162, § 108, eff. Jan. 1, 1992.

§68-2909. Persons 65 years of age or older or totally disabled person - Proof supporting claim - Forms.

Every person filing a claim under Sections 104 through 111 of this act shall furnish the Oklahoma Tax Commission information and proof of age, household members, disability, amount of property taxes paid, changes, if any, of households, amount of gross income of household, and such other information as the Oklahoma Tax Commission may require. Claims and supporting proof must be on forms prescribed by the Oklahoma Tax Commission.

Added by Laws 1988, c. 162, § 109, eff. Jan. 1, 1992.

§68-2910. Persons 65 years of age or older or totally disabled person - Audit of claims - Hearing.

A. The Oklahoma Tax Commission shall, within a reasonable time after receipt of a claim, audit said claim for correctness and payment. If the Oklahoma Tax Commission determines the amount of a claim to be incorrect or excessive, or the supporting proof to be inadequate, or that the claim should be disallowed for any other reason, it shall notify the claimant by mail of the correct amount, if any, for which the claim can be allowed or the finding and reasons for disallowance of the claim. The claimant may, within thirty (30) days after the date the notice is mailed by the Oklahoma Tax Commission, submit further or additional proof in support of his claim or request an oral hearing before the Oklahoma Tax Commission. B. Upon request for a hearing, the Oklahoma Tax Commission shall notify claimant in writing of the date, place and time of the hearing. The hearing date shall not be less than ten (10) days from the date of mailing the written hearing notice to the claimant. Upon examination of the claimant's additional proof or after the oral hearing, the Oklahoma Tax Commission shall enter an order in accordance with its findings. The order of the Oklahoma Tax Commission shall be final.

Added by Laws 1988, c. 162, § 110, eff. Jan. 1, 1992.

§68-2911. Persons 65 years of age or older or totally disabled person - Direct income tax credit - Payment of claims.

Claims for property tax relief filed under Sections 104 through 111 of this act shall be allowed as a direct tax credit on the taxpayer's individual income tax return filed for the calendar year 1991 and each year thereafter. In all cases where claimants have no income tax liability or where the property tax relief authorized by this act exceeds the claimant's income tax liability, such claim, or any balance thereof, shall be paid out in the same manner and out of the same fund as refunds of income taxes are paid and so much of said fund as is necessary for such purposes is hereby appropriated.

Added by Laws 1988, c. 162, § 111, eff. Jan. 1, 1992.

§68-2912. Taxes on real estate as lien.

As between grantor and grantee of any land where there is no express agreement as to who shall pay the taxes that may be assessed thereon, taxes on any real estate shall become a lien on such real estate on October 1 of each year, and if such real estate is conveyed after said date the grantor shall pay such taxes, and if conveyed on or prior to October 1st of such year the grantee shall pay such taxes.

Added by Laws 1988, c. 162, § 112, eff. Jan. 1, 1992.

§68-2913. Due date of ad valorem taxes - Penalty on delinquent taxes - Collection of taxes.

A. All taxes levied upon an ad valorem basis for each fiscal year shall become due and payable on the first day of November. Except for mortgage servicers, the exclusive method for payment shall be as follows:

1. Unless one-half (1/2) of the taxes so levied has been paid before the first day of January, the entire tax levy for such fiscal year shall become delinquent on that date.
2. If the first half of the taxes levied upon an ad valorem basis for any such fiscal year has been paid before the first day of January, the second half shall be paid before the first day of April thereafter and if not paid shall become delinquent on that date.

In no event may payment be made in more than two equal installments subject to the provisions of the payment schedule specified in this subsection.

B. Mortgage servicers, as defined in 24 C.F.R., part 3500.17, shall pay all accounts which they are servicing in one annual payment before the first day of January or the entire tax levy for such fiscal year shall become delinquent on that date.

C. If the total tax owed is Twenty-five Dollars (\$25.00) or less, then the total amount must be paid before January 1. If the total tax is not paid before January 1, the unpaid balance owing shall become delinquent on the first day of January and shall be subject to delinquent charges as provided for in this section.

D. All delinquent taxes shall bear interest at the rate of one and one-half percent (1 1/2%) per month or major fraction thereof until paid. In no event shall such interest exceed a sum equal to the unpaid principal amount of tax, and when such interest has accumulated to a sum equivalent to one hundred percent (100%) of the unpaid tax the further accumulation of interest shall cease.

E. In addition to any other penalties prescribed by law, delinquent taxes shall be subject to a late payment penalty of five percent (5%) per month or a major fraction thereof until paid. The penalty assessed herein shall only apply to delinquent taxes that are due on property located in a dependent school district in a county with a population of less than seventy-five thousand (75,000) according to the most recent Federal Decennial Census and held by a nonindividual taxpayer when the tax has been paid delinquent for two (2) or more separate and consecutive

years and the fair cash value of the property exceeds Five Hundred Thousand Dollars (\$500,000.00).

F. The county treasurer shall stamp the date of receipt on each letter received containing funds for payment of taxes and no interest shall be added or charged after the receipt of such letter or the amount due. It shall be the duty of every person subject to taxation according to the law to attend the county treasurer's office and pay his or her taxes. If any person neglects to pay his or her taxes until after they have become delinquent, the county treasurer is directed and required to collect the delinquent tax as provided for by law. The first half of taxes payable pursuant to the provisions of this section shall not become delinquent until thirty (30) days after the tax rolls have become completed and filed by the county assessor with the county treasurer.

G. The county treasurer may waive penalties or interest in any case where it is shown to the county treasurer that such penalties or interest were incurred through no fault of the taxpayer. Each waiver of penalties or interest shall be audited by the Office of the State Auditor and Inspector each year during the annual audit of the county offices.

Added by Laws 1988, c. 162, § 113, eff. Jan. 1, 1992. Amended by Laws 1991, c. 47, § 3, eff. Jan. 1, 1992; Laws 1996, c. 94, § 1, eff. Nov. 1, 1996; Laws 1998, c. 287, § 1, emerg. eff. May 27, 1998; Laws 2006, c. 77, § 4, eff. July 1, 2006; Laws 2008, c. 436, § 6, eff. Jan. 1, 2009.

§68-2914. County treasurer - Collection of taxes.

The county treasurer of each county upon receipt of the tax rolls shall proceed with the collection of the taxes as therein extended, issuing, in triplicate, receipts upon all collections, delivering the original to the taxpayer and filing the triplicate with the county clerk. Such receipts shall be, in manner and form, the same as the tax rolls, and shall have endorsed thereon in red ink the amount of delinquent taxes levied against the property.

Added by Laws 1988, c. 162, § 114, eff. Jan. 1, 1992.

§68-2915. Duty to pay taxes - Statement of taxes due.

A. It shall be the duty of every person subject to taxation under the Ad Valorem Tax Code, Section 2801 et seq. of this title, to attend the treasurer's office and pay taxes, and if any person neglects to attend and pay taxes until after they have become delinquent, the treasurer shall collect the same in the manner provided by law. If any person owing taxes, removes from one county to another in this state, the county treasurer shall forward the tax claim to the treasurer of the county to which the person has removed, and the taxes shall be collected by the county treasurer of the latter place as other taxes and returned to the proper county, less legal charges. The county treasurer may visit, in person or by deputy, places other than the county seat for the purpose of receiving taxes. Nothing herein shall be so construed as to prevent an agent of any person subject to taxation from paying the taxes.

B. The county treasurer of each county shall, within thirty (30) days after the tax rolls have been completed and delivered to the office of the county treasurer by the county assessor, mail to each taxpayer at the taxpayer's last-known address a statement showing separately the amount of all ad valorem taxes assessed against the taxpayer's real and personal property for the current year and all delinquent taxes remaining unpaid thereon for previous years. At the county treasurer's option, in lieu of regular mailing, the treasurer may instead send the tax statement to the taxpayer by electronic mail provided the taxpayer has submitted a written request to receive such statements by electronic mail instead of by regular mail. It is expressly provided, however, that failure of any taxpayer to receive such statement, or failure of the treasurer to so mail the

same, shall not in any way extend the date by which such taxes shall be due and payable nor relieve the taxpayer of the duty and responsibility of paying same as provided by law.

C. The statement required by this section shall contain an explanation of how the ad valorem tax bill is calculated using language so that a person of common understanding would know what is intended. The statement shall also contain an explanation of the manner in which ad valorem taxes are apportioned between the county, school district or other jurisdiction levying ad valorem taxes and shall identify the apportionment of the taxes for the current year on the subject property. The State Auditor and Inspector shall promulgate rules necessary to implement the provisions of this subsection.

D. It shall be the mandatory duty of the county treasurer to request an appropriation for necessary postage and expense to defray the cost of furnishing taxpayers the statement herein provided and it shall be the mandatory duty of the board of county commissioners and the county excise board to make such appropriation.

Added by Laws 1988, c. 162, § 115, eff. Jan. 1, 1992. Amended by Laws 1991, c. 47, § 4, eff. Jan. 1, 1992; Laws 1996, c. 323, § 5, eff. July 1, 1997; Laws 1997, c. 340, § 3, emerg. eff. June 9, 1997; Laws 2011, c. 79, § 1.

NOTE: Laws 1997, c. 304, § 12 repealed by Laws 1998, c. 5, § 29, emerg. eff. March 4, 1998.

§68-2916. Mediums in which taxes payable - Tax receipts.

All state, county, school district, city, town, or other taxes shall be paid to the county treasurer, either in lawful currency, or by check or draft upon a bank therein stated, or by post office or express order, or at the option of the county treasurer, by a nationally recognized credit or debit card as determined acceptable by the Oklahoma Tax Commission. If payment is made by a credit or debit card, the county treasurer may add an amount equal to the amount of the service charge incurred for the acceptance of such card. County treasurers may enter into contracts for credit card processing services according to applicable county purchasing law or may enter into agreements with the State Treasurer to participate in any credit card processing agreements entered into by the State Treasurer. It shall be unlawful for any county treasurer to receive in payment of any taxes to be collected, any state, county, school district, city or town warrants. No county treasurer shall be required to execute a tax receipt for any taxes except those paid in lawful money, until the check, draft, post office or express order has been actually paid, and in case any such check, draft, post office or express order should prove to be worthless, it shall not operate as a payment of the tax for the payment of which it was given, and any tax receipt or other receipt given therefor shall be illegal and void. Further, the county treasurer has the option of requiring cash as the method of payment if the taxpayer has previously issued bad or hot checks.

Added by Laws 1988, c. 162, § 116, eff. Jan. 1, 1992. Amended by Laws 1997, c. 144, § 3, eff. July 1, 1997; Laws 1997, c. 340, § 4, emerg. eff. June 9, 1997; Laws 2006, c. 77, § 5, eff. July 1, 2006.

§68-2917. Form of tax receipt - Furnishing list of items and rates of tax levy.

The receipts for taxes issued by the county treasurers shall be in the form prescribed by the State Auditor and Inspector. The said county treasurer shall furnish, when requested, a printed list of the several items and rates of tax levy, by and upon which such tax is authorized to be collected.

Added by Laws 1988, c. 162, § 117, eff. Jan. 1, 1992.

§68-2918. Numbering tax receipts.

All tax receipts issued by the county treasurer shall be numbered and the treasurer shall not receipt for more than one (1) year's taxes on the same property in one tax receipt, but shall keep a separate and distinct receipt, issued for the taxes of each year for which the same have been levied and assessed.

Added by Laws 1988, c. 162, § 118, eff. Jan. 1, 1992. Amended by Laws 2005, c. 47, § 1, eff. Nov. 1, 2005.

§68-2919. County treasurer's entry upon payment of tax.

Whenever any taxes are paid, the county treasurer shall write upon the tax roll, opposite the description of the real estate or property whereon the same were levied, the word "Paid", together with the date of such payment and the name of the person paying the same.

Added by Laws 1988, c. 162, § 119, eff. Jan. 1, 1992.

§68-2920. Fraudulent tax receipt a felony.

If any county treasurer in this state or his deputy, or any other person shall knowingly and willfully make, issue, and deliver any tax receipt, or duplicate tax receipt, required to be issued, by fraudulently making the tax receipt and its duplicate, or the paper purporting to be its duplicate, different from each other with the intent to defraud the State of Oklahoma or any county in said state or any person whomsoever, such county treasurer or deputy treasurer or other person shall be deemed guilty of a felony, and on conviction thereof shall be sentenced to imprisonment in the State Penitentiary for a time not less than one (1) year nor more than five (5) years.

Added by Laws 1988, c. 162, § 120, eff. Jan. 1, 1992. Amended by Laws 1997, c. 133, § 567, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 411, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 567 from July 1, 1998, to July 1, 1999.

§68-2921. County treasurer records.

The county treasurer shall keep a record in the form prescribed by the State Auditor and Inspector, and at the close of each day's business shall enter up the duplicate of each tax receipt issued by him during such day, showing the number of each receipt, date of payment, equalized value, and total tax.

Added by Laws 1988, c. 162, § 121, eff. Jan. 1, 1992.

§68-2922. Duplicate tax receipts - Duty of county clerk.

It shall be the duty of the county clerk on receiving any duplicate tax receipt from the county treasurer forthwith to examine the same and compare them with the abstract and list of receipts required to be filed with him and see that the taxes of the duplicate receipts correspond with the total collections for that day. If found to be correct, he shall enter in his cash book under the collections for the proper municipality the amount so reported by the county treasurer and shall be liable on his official bond to account for the same.

Added by Laws 1988, c. 162, § 122, eff. Jan. 1, 1992.

§68-2923. Apportionment and distribution of collections.

At the end of each calendar month the county treasurer shall apportion all collections for said month, and distribute the same among the different funds to which they belong.
Added by Laws 1988, c. 162, § 123, eff. Jan. 1, 1992.

§68-2924. County treasurer's monthly statement of amount apportioned - County clerk to issue warrants for payment.

The county treasurer shall at the end of each month after apportioning the collections of that month, make a statement to the county clerk of the amount apportioned each town, city and school district for all monies which are required by law to be paid to the treasurers of such towns, cities and school districts by the county treasurer, and the county clerk shall issue a warrant for the amount shown by the statement of the county treasurer, payable to the treasurer of such town, city or school district. The form of the warrant and the manner in which they shall be turned over to the various treasurers of the towns, cities, and school districts shall be prescribed by the State Auditor and Inspector.

Added by Laws 1988, c. 162, § 124, eff. Jan. 1, 1992.

§68-2924.1. Statement of ad valorem revenue to be deposited in Common School Fund - Transfer of monies - Condition effect of section.

A. At the end of each month after apportioning the collections of that month, the county treasurer shall make a statement to the county clerk of the amount of ad valorem revenue collected pursuant to Section 12a of Article X of the Oklahoma Constitution which are required by law to be transferred to the State Treasurer for deposit in the Common School Fund. The county treasurer shall transfer such monies to the State Treasurer in the manner prescribed by the State Auditor and Inspector.

B. The provisions of this section shall not have the force and effect of law unless and until the voters of the State of Oklahoma approve amendments to Section 12a of Article X of the Oklahoma Constitution contained in Enrolled House Joint Resolution No. 1005 of the 1st Extraordinary Session of the 42nd Oklahoma Legislature.

Added by Laws 1989, 1st Ex.Sess., c. 2, § 97, operative Jan. 1, 1991.

§68-2925. Property sold at public sale or under court order - Collection of taxes, interest and costs.

Whenever personal property within the State of Oklahoma is sold at public sale or under order of a court after the first day of January of that year, it shall be the duty of the administrator, executor, referee in bankruptcy, receiver or owner making such property available for sale to pay into the county treasury of the county in which the personal property was originally taxed, the amount of any and all taxes, interest and costs due on said personal property; provided, the priority of the tax lien shall be as set forth in Sections 3102 and 3103 of this title.

Added by Laws 1988, c. 162, § 125, eff. Jan. 1, 1992. Amended by Laws 1992, c. 378, § 1, emerg. eff. June 9, 1992; Laws 1994, c. 63, § 1, eff. Sept. 1, 1994.

§68-2926. Property to be sold at public sale or under court order - Notice - Assessment.

If the property described in Section 125 of this act has not been assessed for taxation for such year, then it shall be the duty of the person having charge of such sale to notify the county assessor in writing that such property is about to be sold and request that he make an immediate assessment of such property for taxation. If the levy for such year has not been made, then the

levy for the next year just preceding shall be taken for the levy of such year, and the taxes figured accordingly.

Added by Laws 1988, c. 162, § 126, eff. Jan. 1, 1992.

§68-2927. Repealed by Laws 1992, c. 378, § 3, emerg. eff. June 9, 1992.

§68-2928. Repealed by Laws 1992, c. 378, § 3, emerg. eff. June 9, 1992.

§68-2929. Selling personal property before taxes, interest and costs paid - Liability.

If any person or entity in this state, after their personal property, except livestock, is assessed and before the tax, interest and costs thereon is paid, shall sell the same, and not retain sufficient money to pay all taxes, interest and costs thereon, the taxes, interest and costs shall be a lien thereon, or if such property is about to be sold at auction, or about to be sold at cost, then in either such event all taxes, interest and costs thereon shall at once become due and payable, and the county treasurer shall at once issue a tax warrant for the collection thereof, and the sheriff shall forthwith collect it as in other cases; provided, the priority of the tax lien shall be as set forth in Sections 3102 and 3103 of this title. The person or entity owing such tax, interest and costs shall be civilly liable to any purchaser of such property for any tax, interest and costs owing thereon, but the property so purchased shall be liable in the hands of the purchaser for such tax, interest and costs. If the property is sold in the ordinary course of retail trade, it shall not be so liable in the hands of the purchaser.

Added by Laws 1988, c. 162, § 129, eff. Jan. 1, 1992. Amended by Laws 1992, c. 378, § 2, emerg. eff. June 9, 1992; Laws 1994, c. 63, § 2, eff. Sept. 1, 1994.

§68-2930. Property seized and sold by attachment, execution of chattel mortgage - Payment of taxes.

If the property of any taxpayer be so seized by attachment, execution or chattel mortgage as to take all property liable to execution, without leaving a sufficient amount of property exempt from levy and sale to pay the taxes, then the tax on the property of such taxpayer shall at once fall due and be paid from the proceeds of the sale of the attached property in preference to all other claims against it, and it is hereby made the duty of constables, deputy sheriffs, sheriffs or other officers selling property under attachment, to ascertain the amount of taxes due on any property so sold and retain from the proceeds of such sale all taxes due, and to pay the same to the county treasurer.

Added by Laws 1988, c. 162, § 130, eff. Jan. 1, 1992.

§68-2931. Removal of property from county before taxes paid.

When any person is about to remove his property from the county after the same has been assessed and before the taxes thereon have been paid, without leaving sufficient remaining for the payment of the taxes thereon, the tax shall at once become due and payable, and the county treasurer shall issue a tax warrant for the collection of the same, and it shall be enforced as in other cases.

Added by Laws 1988, c. 162, § 131, eff. Jan. 1, 1992.

§68-2932. Duties of certain public officers concerning sales, levy of attachments or removal of property.

It shall be the duty of all town trustees, constables, deputy sheriffs, sheriffs, city and town councilmen to at once inform the county treasurer of the making of sales, levy of attachments or removal hereinbefore mentioned, and it shall be the duty of the county treasurer to proceed with the collection of the tax as hereinbefore provided, when such facts become known to him in any manner.

Added by Laws 1988, c. 162, § 132, eff. Jan. 1, 1992.

§68-2933. Property sold or removed from county before delivery of tax rolls - Assessment.

If, before the county assessor has delivered the tax rolls to the county treasurer property subject to taxation is sold or seized, so as to jeopardize the collection of the tax thereon, or is attempted to be removed from the county, as hereinbefore mentioned, the county assessor shall furnish the county treasurer the assessment on such property, and the county treasurer shall at once levy on the property so returned to him the percentage of tax levied in the county for the previous year, and collect the same as hereinbefore provided. If the tax rolls for the year have come into the possession of the county treasurer, then if such property be not listed therein, the county treasurer shall enter the same on the tax rolls and levy thereon the same percentage of tax that is levied in the county for the year, and the county treasurer shall then collect the taxes so levied as in other cases.

Added by Laws 1988, c. 162, § 133, eff. Jan. 1, 1992.

§68-2934. Reduction in assessed valuation due to illegality or voidness - Reentry of valuation and payment of difference.

A. Wherever the assessed valuation of real estate has been heretofore, or may hereafter be, purportedly reduced by any unconstitutional, illegal or unauthorized action or order of any court, board, commission or officer under circumstances such that the purported reduction in assessed valuation was or is void and the ad valorem taxes paid upon such purported reduced valuation, the county treasurer of the county in which such land is situated, upon request from the owner of said real estate or of an interest therein, or any person acting on his behalf, shall reenter upon the current tax rolls, with reference to the year, book, page and line of original valid assessments purportedly reduced, the difference between the valid assessed valuation and the purported valuation after such void reduction, and the amount of ad valorem taxes due upon such difference in valuation.

B. In absence of such request, the county treasurer of the county in which such land is situated may reenter on his current tax rolls in the manner aforesaid, the difference between the valid assessed valuation and the purported valuation after such void reduction the amount of ad valorem taxes due upon difference in valuation, but only when the action or order by authority of which the original reduction was made has been declared unconstitutional by a duly constituted authority. Written notice by registered mail shall be sent to the last record owner of such property prior to such reentry.

C. Within ninety (90) days after the giving of such notice, or reentry upon request by the owner of such land or interest therein as above provided, the taxes so reentered and due upon such difference in valuation may be paid without the payment of any penalty or interest: provided, however, that if not paid within said ninety (90) days, penalties shall begin to accrue only from and after the expiration of said ninety (90) days from the date of such reentry upon the ad valorem taxes due upon such difference in valuation.

Added by Laws 1988, c. 162, § 134, eff. Jan. 1, 1992.

§68-2935. Federal resettlement or rural rehabilitation projects - County treasurer to make application for payments in lieu of taxes.

The county treasurer of any county in this state, in which any resettlement or rural rehabilitation project for resettlement purposes of the United States is located, shall make application to the United States each fiscal year for and on behalf of the county and political subdivisions, whose jurisdiction limits are within or coextensive with the limits of the county, for the payments of such sums in lieu of taxes as the United States may agree to pay on account of the nontaxable property in any such project. In making such applications the county treasurer shall act as the agent of the county and political subdivisions in which any such nontaxable property is situated. The payments received by the county treasurer from the United States on account of said property shall be in consideration of the services and protection afforded such property and the tenants thereon, furnished by the county and its subdivisions. Added by Laws 1988, c. 162, § 135, eff. Jan. 1, 1992.

§68-2936. Receipt of federal in lieu payments - Apportionment and payment to political subdivisions.

Whenever such payment from the United States is received, the county treasurer shall issue a receipt therefor in the name of the county. Immediately after receiving a payment from the United States in lieu of taxes on account of any such nontaxable property, the county treasurer shall, without any deduction, apportion and pay such payment to the county and several political subdivisions in which any such property is located in the same proportion that ad valorem taxes for the year for which the payment is received are apportioned among such subdivisions of government.

Added by Laws 1988, c. 162, § 136, eff. Jan. 1, 1992.

§68-2937. Notice to county and political subdivision boards of apportionment of federal in lieu payments - Crediting funds.

Whenever any such payment from the United States is received and apportioned by the county treasurer, he shall notify the governing boards of the county and subdivisions to which the money was apportioned that such apportionment has been made. All such monies received by the county or any subdivision, pursuant to such apportionment, shall be credited to the various funds of the county and subdivisions involved in the same proportion that ad valorem taxes levied by the county and subdivision for said year are apportioned. Such income shall be estimated and appropriated each year by the governing boards of the county and subdivisions, subject to approval by the county excise board of such estimates and appropriations.

Added by Laws 1988, c. 162, § 137, eff. Jan. 1, 1992.

§68-2938. Basis of application for federal in lieu payments - Installments.

In making and presenting the application for such payments to the United States, the county treasurer shall make application for payments based upon the estimated cost of the public services available for the benefit of the property in any such project and the tenants thereon, after taking into consideration the benefits which may be derived by the county or political subdivision from the project within its jurisdiction, but the amount shall not be in excess of the taxes which would result to the county and political subdivisions for said period if the real property of the project within the county were taxable. If, after the application is presented, the

United States provides for the payment to be made in installments, it shall be the duty of the county treasurer to present a claim or bill to the United States for each installment as it falls due. Added by Laws 1988, c. 162, § 138, eff. Jan. 1, 1992.

§68-2939. Political subdivisions may enter into agreements with federal government for payments for performance of services - Crediting payments - Estimates and appropriations.

If the United States declines to deal with the county treasurer with respect to the county or any political subdivision whose jurisdictional limits are within or coextensive with the limits of the county, or in the event the jurisdictional limits of a subdivision lie in more than one county, such political subdivision is authorized to make requests of the United States for such payments in lieu of taxes as the United States may agree to pay, and is hereby empowered to enter into agreements with the United States for the performance by the political subdivision of services for the benefit of a project, and for the payment by the United States to the political subdivision in one or more installments, of sums in lieu of taxes. Such payments received by the county or any political subdivision shall be credited to the various funds of the county or subdivision receiving the payment in the same proportion that ad valorem taxes levied by the county and subdivision for said year are apportioned. Such income shall be estimated and appropriated each year by the governing boards of the county and subdivisions subject to approval by the county excise board of such estimates and appropriations.

Added by Laws 1988, c. 162, § 139, eff. Jan. 1, 1992.

§68-2940. Property acquired for public purpose - Relief from taxes.

Whenever the United States, the state, or a city, town, county, school district, or any other political subdivision, including, but not limited to, a turnpike authority, municipal trust, water or conservation district, flood control district, levee or waterway improvement district, urban renewal authority, public housing authority, or any other authority authorized by law, state or federal, acquires title to any real property for a governmental purpose between January 1 and October 1 of the tax year, such property shall be relieved of ad valorem tax for the remaining months of the year beginning with the first of the month next succeeding the date its acquisition for public purposes becomes a matter of public record, if the deed thereto was recorded prior to October 1; provided, however, that all taxes assessed against such property prior to its acquisition shall be paid in full and there be paid a sum equal to one-twelfth (1/12) times the number of months that the property remained in private ownership of an amount estimated by the county treasurer of the county wherein the real property lies to be substantially equal to the amount of tax which would have been or will become due and payable for the year had the real property not been acquired for public purposes. In estimating the amount of taxes which would have been or will become due and payable for the tax year had the real property not been acquired for public purposes the county treasurer shall use as a basis the current assessment and the tax rate for the preceding year, unless the tax for the current year shall be by then determined and set, in which event he shall use as basis the new assessment and rate. The public agency acquiring the property shall deduct the amount of such taxes from the purchase price payable to the private owner and remit the same to the county treasurer in satisfaction of such taxes. The county treasurer of any county is hereby authorized upon order of the board of tax roll corrections to cancel of record all taxes assessed against such property for the year of its acquisition when the deed thereto was recorded prior to October 1 and the aforesaid estimated

amount of the tax for the months that the property was in private ownership is paid, which order shall be issued upon application of the acquiring authority.

Added by Laws 1988, c. 162, § 140, eff. Jan. 1, 1992.

§68-2941. Release and extinguishment of liens.

Any and all ad valorem taxes and assessments, together with interest, penalty and costs, heretofore or hereafter levied for any year upon any real property and any lien created thereby in this state are hereby released and extinguished forever upon the expiration of seven (7) years after the date upon which any part thereof became or shall become due, and any lien for ad valorem taxes or assessments together with interest, penalty and costs, for any tax year or years which has heretofore accrued or may hereafter accrue because of the failure of any real property to have been assessed or taxed and placed upon any tax roll, shall be and are hereby extinguished upon the expiration of seven (7) years from the date when such lien would have accrued had such assessment or assessments been made or placed upon the tax rolls as required by law.

Added by Laws 1988, c. 162, § 141, eff. Jan. 1, 1992.

§68-2942. Certification after 15 years of taxes assessed not required of certain persons.

Any county officer or other person who is required to certify to public records shall not be required to certify any taxes which have been or should have been assessed more than fifteen (15) years prior to the date of such certification.

Added by Laws 1988, c. 162, § 142, eff. Jan. 1, 1992.

§68-2943. Duties of officials mandatory - Neglect of duties - Penalties.

The provisions of the Ad Valorem Tax Code relating to the duties of various officials, and the time within which such duties shall be performed, are hereby declared to be mandatory; and the failure of any such official, board or commission, to perform the duties prescribed herein, within the time specified, shall subject them to removal from office for neglect of duty; and they shall receive no remuneration, compensation or salary for their services, after the time herein fixed for the performance of such duties and until the same shall have been completed or performed. Each of them shall also be subject to a penalty of Five Dollars (\$5.00) per day for each day's delay for such neglect or failure; and it shall be the duty of the district attorney as to county officers, and the Attorney General as to state officers, to institute proper action to collect any such penalty; provided, that the validity of any assessment or levy shall not be affected because of any insufficiency, informality or delay in the performance of any duty imposed upon any official, board or commission.

Added by Laws 1988, c. 162, § 143, eff. Jan. 1, 1992.

§68-2944. Under assessment of property - Penalties.

It shall be unlawful for any county assessor, deputy county assessor, member of a county board of equalization or board of county commissioners, or member or duly authorized representative of the Oklahoma Tax Commission or State Board of Equalization to enter into any agreement or understanding with the owner or agent of any taxable property, whereby such property is to be assessed lower proportionately than other taxable property in the same county, as an inducement to have such property brought into or kept in such county, or for any other reason. Any person entering into any such unlawful agreement or understanding, including the owner or agent of the property involved, shall be deemed guilty of a misdemeanor and upon

conviction thereof shall be punished by a fine of not less than Five Hundred Dollars (\$500.00), and by imprisonment in the county jail for not less than six (6) months. Any person convicted of such a misdemeanor shall not be allowed to hold public office in this state.

Added by Laws 1988, c. 162, § 144, eff. Jan. 1, 1992. Amended by Laws 1989, c. 321, § 22, operative Jan. 1, 1992.

§68-2945. False or fraudulent lists or information - Failure or refusal to allow inspection or comply with subpoena.

A. If any person shall knowingly and willfully make or give under oath or affirmation a false and fraudulent list of taxable personal property, or a false and fraudulent list of any taxable personal property under the control of the person or required to be listed by the person, or shall knowingly and willfully make false answer to any question which may be put under oath by any person, board or commission authorized to examine persons under oath in relation to the value or amount of any taxable personal property, the person shall be deemed guilty of the felony of perjury, and upon conviction shall be punished as is provided by law for the punishment of the felony of perjury.

B. If any taxpayer, or any official, employee, or agent of the taxpayer, shall fail or refuse, upon proper request, to permit the inspection of any property or the examination of any books, records and papers by any person authorized by the Ad Valorem Tax Code to do so, or shall fail or refuse to comply with any subpoena duces tecum legally issued under authority of this Code, the taxpayer shall be stopped from questioning or contesting the amount or validity of any assessment placed upon the property of the taxpayer to the board of equalization. Nothing in this section shall impair or impede the right of the taxpayer to appeal any order of the board of equalization to the district court as provided for in Section 2880.1 of this title.

Added by Laws 1988, c. 162, § 145, eff. Jan. 1, 1992. Amended by Laws 1997, c. 133, § 568, eff. July 1, 1999; Laws 2007, c. 250, § 2, eff. Jan. 1, 2008.

NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 568 from July 1, 1998, to July 1, 1999.

§68-2946. Repealed by Laws 1989, c. 321, § 28.

§68-2946.1. Repealed by Laws 1993, c. 273, § 16, eff. July 1, 1993.

§68-2946.2. Abolition of Ad Valorem Task Force.

A. The Ad Valorem Task Force is hereby abolished, effective July 1, 1993.

B. All powers, duties, responsibilities, property, assets, liabilities, fund balances, encumbrances and obligations of the Ad Valorem Task Force are hereby transferred to the Ad Valorem Division of the Oklahoma Tax Commission.

C. The coordinator position of the Task Force shall cease to exist on July 1, 1993. Such employees of the Ad Valorem Task Force as may be needed may be employed by the Ad Valorem Division of the Oklahoma Tax Commission. Such employees shall be transferred and shall be exempt from the provisions of the merit system of personnel administration as provided in the Oklahoma Personnel Act, Section 840.1 et seq. of Title 74 of the Oklahoma Statutes. The employees so transferred shall be exempt from any examination or other employment requirements required for new employees. The Oklahoma Tax Commission shall establish the appropriate salary on the official date of transfer.

D. All rules of the Ad Valorem Task Force pertaining to the functions and powers herein transferred and assigned to the Ad Valorem Division of the Oklahoma Tax Commission, in force at the time of such transfer, shall continue in force and effect as rules of the Ad Valorem Division of the Oklahoma Tax Commission until duly modified or abrogated by the appropriate body.

Added by Laws 1993, c. 273, § 12, eff. July 1, 1993. Amended by Laws 1993, c. 308, § 2, eff. July 1, 1993.

§68-2946.3. Repealed by Laws 1995, c. 246, § 10, eff. Nov. 1, 1995.

§68-2946.4. Repealed by Laws 1999, c. 59, § 4, eff. July 1, 1999.

§68-2947. Computer-Assisted Mass Appraisal Implementation Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Oklahoma Tax Commission, to be designated the "Computer-Assisted Mass Appraisal Implementation Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of appropriations made by the Legislature. Monies appropriated to the fund shall be expended by the Ad Valorem Division of the Oklahoma Tax Commission for the purpose of implementing the visual inspection program and the computer-assisted system of mass appraisal as required by law.

Added by Laws 1989, c. 321, § 25, operative July 1, 1989; Laws 1993, c. 273, § 14, eff. July 1, 1993.

§68-2948. Repealed by Laws 1993, c. 273, § 16, eff. July 1, 1993.

§68-2949. Personal property tax exemption for heads of households 62 years of age or older residing in certain manufactured homes.

A. 1. Beginning with the year 1990 and through the year 2012, any person sixty-two (62) years of age or older, who is the head of a household, is a resident of and is domiciled in this state during the entire preceding calendar year, whose gross household income for the preceding year did not exceed Ten Thousand Dollars (\$10,000.00) and owns and resides in a manufactured home which is located on land not owned by the owner of the manufactured home may receive an exemption on the manufactured home in an amount equal to Two Thousand Dollars (\$2,000.00).

2. For years beginning after December 31, 2012, any person sixty-two (62) years of age or older, who is the head of a household, is a resident of and is domiciled in this state during the entire preceding calendar year and owns and resides in a manufactured home which is located on land not owned by the owner of the manufactured home, may receive an exemption on the manufactured home in an amount equal to Two Thousand Dollars (\$2,000.00) if the person's gross household income for the preceding year did not exceed the greater of Twenty-two Thousand Dollars (\$22,000.00) or fifty percent (50%) of the amount determined by the United States Department of Housing and Urban Development to be the estimated median income for the preceding year for the county or metropolitan statistical area which includes the county in which the claimant's property is located.

B. The application for the exemption provided by this section shall be made each year on or before March 15 or within thirty (30) days from and after the receipt by the taxpayer of notice

of valuation increase, whichever is later and upon the form prescribed by the Oklahoma Tax Commission, which shall require the taxpayer to certify as to the amount of gross income. Upon request of the county assessor, the Tax Commission shall assist in verifying the correctness of the amount of said gross income. The form prescribed by the Tax Commission pursuant to this section shall state in bold letters that the form is to be returned to the county assessor of the county in which the manufactured home is located.

C. For persons sixty-five (65) years of age or older as of March 15 and who have previously qualified for the exemption provided by this section, no annual application shall be required in order to receive the exemption provided by this section; however, any person whose gross household income in any calendar year exceeds the amount specified in this section in order to qualify for the exemption provided by this section shall notify the county assessor and the exemption shall not be allowed for the applicable year. Any executor or administrator of an estate within which is included a homestead property exempt pursuant to the provisions of this section shall notify the county assessor of the change in status of the homestead property if such property is not the homestead of a person who would be eligible for the exemption provided by this section.

D. As used in this section:

1. "Gross household income" means the gross amount of income of every type, regardless of the source, received by all persons occupying the same household, whether such income was taxable or nontaxable for federal or state income tax purposes, including pensions, annuities, federal Social Security, unemployment payments, veterans' disability compensation, public assistance payments, alimony, support money, workers' compensation, loss-of-time insurance payments, capital gains and any other type of income received, and excluding gifts; and

2. "Head of household" means a person who as owner or joint owner maintains a home and furnishes the support for said home, furnishings, and other material necessities.

Added by Laws 1989, c. 321, § 27, operative July 1, 1989. Amended by Laws 1990, c. 322, § 3, emerg. eff. May 30, 1990; Laws 1991, c. 47, § 5; Laws 2004, c. 447, § 13, emerg. eff. June 4, 2004; Laws 2012, c. 266, § 1, eff. Jan. 1, 2013.

§68-2950. Repealed by Laws 2003, c. 8, § 7, eff. July 1, 2003.

§68-3001. Appropriation - Defined.

The term "appropriation" as used in Sections 2482-24113 of this Code is hereby declared to be synonymous with "estimate made and approved," as defined in 62 O.S.1961, Section 473, and the provisions, requirements, limitations and penalty of 62 O.S.1961, Sections 471 through 480, are hereby specifically declared to extend to and embrace "appropriations" as herein defined.

Laws 1965, c. 501, § 2. Renumbered from § 2482 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3002. Financial statement - Estimated needs - Publication - Filing.

A. Notwithstanding the provisions of the School District Budget Act, each board of county commissioners and the board of education of each school district, shall, prior to October 1 of each year, make, in writing, a financial statement, showing the true fiscal condition of their respective political subdivisions as of the close of the previous fiscal year ended June 30th, and shall make a written itemized statement of estimated needs and probable income from all sources

including ad valorem tax for the current fiscal year. Such financial statement shall be supported by schedules or exhibits showing, by classes, the amount of all receipts and disbursements, and shall be sworn to as being true and correct. The statement of estimated needs shall be itemized so as to show, by classes: first, the several amounts necessary for the current expenses of the political subdivision and each officer and department thereof as submitted in compliance with the provisions of Section 3004 of this title; second, the amount required by law to be provided for sinking fund purposes; third, the probable income that will be received from all sources, including interest income and ad valorem taxes; and shall be detailed in form and amount so as to disclose the several items for which the excise board is authorized and required, by this article, to approve estimates and make appropriations.

B. Each municipality that does not prepare an annual audit pursuant to Section 17-105 of Title 11 of the Oklahoma Statutes shall make a financial statement as required by this section. Every municipality shall adopt a budget, which shall contain estimates of expenditures and revenues, including probable income by source, for the budget year; provided, that all municipalities may use estimated fund balances if final certified fund balances are not available. The budget shall be in a format similar to the estimate of needs or, at the municipality's discretion, to Sections 17-207 and 17-212 through 17-214 of Title 11 of the Oklahoma Statutes. This section shall not apply to any municipality that has opted to prepare a budget pursuant to the Municipal Budget Act.

C. Each budget and each financial statement and estimate of needs for each county, city, incorporated town, or school district, as prepared in accordance with this section, shall be published in one issue in some legally qualified newspaper published in such political subdivision. If there be no such newspaper published in such political subdivision, such statement and estimate shall be so published in some legally qualified newspaper of general circulation therein; and such publication shall be made, in each instance, by the board or authority making the estimate.

D. The financial statements and estimates of all counties shall be filed with the county excise board on or before August 17 of each year; and the financial statements and budgets of all incorporated towns shall be filed with the county excise board on or before August 22 of each year; and the financial statements and budgets of all cities shall be filed with the county excise board on or before August 27 of each year; and the financial statements and estimates of all school districts shall be filed with the county excise board on or before October 1 of each year. Said financial statements and estimates shall have attached thereto an affidavit showing the publication thereof as required herein, or they may be filed and the said affidavit attached thereto at any time within five (5) days after the filing thereof.

Added by Laws 1965, c. 501, § 2. Amended by Laws 1988, c. 90, § 10, operative July 1, 1988. Renumbered from § 2483 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992, as amended by Laws 1991, c. 249, § 3, eff. Jan. 1, 1992. Amended by Laws 2002, c. 98, § 9, eff. Nov. 1, 2002; Laws 2003, c. 44, § 1, emerg. eff. April 7, 2003; Laws 2004, c. 361, § 15, eff. July 1, 2004; Laws 2006, c. 75, § 1, emerg. eff. April 21, 2006.

§68-3003. Revenue from nonrecurrent sources not to be included in political subdivisions estimate of probable income - Exceptions - Exclusion from minimum program income of school districts - Federal funds.

A. It shall be unlawful for the governing board of any county, city, town, school district, or other governmental subdivision of this state, in preparation of its budget for any fiscal year, to

estimate as probable income from sources other than ad valorem tax of such governmental subdivision of the state and other than any excise or other tax assessed by legislative enactment and distributed in lieu of ad valorem taxes, any revenue from nonrecurrent sources, regardless of such collections in the immediately preceding fiscal year, to be derived from or the result of sales, forfeitures, penalties, gifts, federal aid allotments of every kind, windfalls, seizures, sheriff's sales, court actions whether civil or criminal, injunctions or protests won or released by dismissal, or from any other such source not normally recurrent year after year and so made recurrent by legislative enactment. Provided, that upon a finding by the governing board of any county, city, town, school district, or other governmental subdivision of this state, that a source of income, although nonrecurrent, will actually be available for the next ensuing fiscal year, the board may include such income in its estimate of probable income. Provided that shared revenues of the federal government, if ascertainable, shall be allowed to be included in the estimates. It shall also be unlawful for any excise board to approve or require the same, or for any supervisory state board, commission, or officer, or for any agent or employee of either thereof to countenance, approve, or require the same or to diminish in any degree the distribution or allotment of state revenues or appropriations by reason of such collections in a prior year or prospect of such collections in the ensuing year; nor shall any revenue received by a school district from gross production taxes during the immediately preceding fiscal year, which was payable to such district in another year or years, be considered as minimum program income of such district for state aid purposes. The provisions of Section 21 of Title 21 of the Oklahoma Statutes shall be applicable where the foregoing prohibitions are disregarded. Revenue received by a school district during the immediately preceding year, which was earned by, or which was payable to, such school district in another year or years, shall not be considered as minimum program income of such district for state aid purposes.

B. All funds received by counties, cities, towns or other subdivisions of government in the State of Oklahoma, hereinafter referred to as the recipient government, from the federal government pursuant to the distribution of funds authorized by the state shall be deposited in the treasury of the recipient government in a fund which shall be recorded and accounted for separately and apart from all other funds. Principal and interest received from investments of the federal monies, proceeds from the sale of assets purchased from the federal monies, and other miscellaneous income derived from the direct operation of the federal monies may be deposited in the fund from which the federal monies were deposited if required by the federal government or by the governing board of the recipient government.

The unappropriated cash balance on hand may be appropriated as needed upon the request of the governing board of the recipient government and approval by the county excise board, provided, if the governing board of the recipient government determines the need to do so, it may estimate the amount remaining to be collected from its entitlement from federal funds during the remainder of its fiscal year and include such estimate in its request for appropriations. The estimate shall not exceed the amount of the entitlement which is to be received during the remainder of the recipient government's fiscal year or, if the amount of the entitlement has not been certified, ninety percent (90%) of such funds received during a corresponding period of the previous fiscal year; provided that if the entitlement is less than that estimated or if the entitlement to be collected during the recipient government's fiscal year, in addition to the unappropriated cash balance, is reduced below the amount appropriated for the fiscal year, the governing board of the recipient government shall request the county excise board for an adequate reduction of appropriations in the fund.

All disbursements made from the fund in which federal monies are deposited shall be made in the same manner as those made from the general fund of the recipient government; provided that, no warrants shall be drawn on the fund unless sufficient monies are available to pay the warrants.

All forms and procedures necessary for the effective operation of this act shall be prescribed by the office of the State Auditor and Inspector.

C. All monies distributed by the federal government and received by any state agency, board, or commission to administer and distribute to counties, cities, towns, or other subdivisions of the government in the State of Oklahoma, hereinafter referred to as the recipient government, that do not follow procedures in subsection B of this section may utilize the letter of commitment appropriation process as specified in this subsection. The recipient government shall receive approval for the program as required by the agency, board, or commission administering the program and by the federal government, if required. Once approved, the state agency, board or commission may authorize a letter of commitment of federal monies available to the recipient government. The Excise Board may approve an appropriation in the amount of the letter of commitment. Each recipient government may establish a separate appropriation within a special revenue fund designated for federal monies. The recipient government may encumber funds in an amount not to exceed the sum of the total letter of commitment, which is a binding commitment of funding which the recipient government will receive for the project or projects eligible for such federal funding. The encumbrance of funds authorized by this section shall be made in accordance with procedures prescribed by the State Auditor and Inspector and shall be administered in accordance with rules and regulations concerning such distribution adopted by the federal government and the state agency, board, or commission. Any expenditure incurred by the recipient government using the letter of commitment appropriation process and disallowed by the federal government or state agency, board, or commission administering the funds shall be paid by the recipient government.

Added by Laws 1965, c. 501, § 2. Amended by Laws 1977, c. 108, § 1, emerg. eff. May 30, 1977; Laws 1985, c. 34, § 1, eff. Nov. 1, 1985. Renumbered from Title 68, § 2484 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992. Amended by Laws 1989, c. 135, § 1, operative July 1, 1989.

§68-3004. Officers to report earnings, cost of maintenance and estimate of needs.

Each officer, board or commission of any county, city or town, and all employees charged with the management or control, of any department or institution of either thereof shall on or before the first Monday in July of each year, make and file with the board or commission charged with the duty of reporting to the excise board, a report in writing showing, by classes, the earnings and cost of maintaining their respective offices or departments for the previous fiscal year, together with an itemized statement and estimate of the probable need thereof for the current or ensuing fiscal year. Provided, that the report relative to the construction and repair of bridges shall be made by the county commissioners and county surveyors, conjointly, and shall be itemized so as to show the location of each proposed new bridge and the estimated cost thereof, and provided further, that the report relative to the probable needs of the courts of record shall be made by the court clerk and district attorney, conjointly, and shall be itemized so as to show separately the respective needs of each court.

Added by Laws 1965, c. 501, § 2. Renumbered from Title 68, § 2485 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992. Amended by Laws 2004, c. 361, § 16, eff. July 1, 2004.

§68-3005. Repealed by Laws 1989, c. 321, § 28.

NOTE: Prior to repeal, this section as amended by Laws 1988, c. 162, § 146 was renumbered from § 2457 of this title by Laws 1988, c. 162, § 164, eff. Jan. 1, 1992.

§68-3005.1. County excise boards - Membership - Unlawful acts - Compensation - Penalties.

A. A county excise board is hereby created for each county in the state, to be composed of the members of the county board of equalization as created in Section 2861 of this title. The county clerk shall serve as secretary and clerk of said board without additional compensation.

B. It shall be unlawful for any member of the county excise board to sell or contract to sell, or to lease or contract to lease, or to represent any person, firm, corporation or association in the sale or the lease of any machinery, supplies, equipment, material, or other goods, wares, or merchandise to any county or city or town of the county. It shall also be unlawful for any member of the county excise board to serve as employee, official, or attorney for any county or city, or town of the county, or for any such member to represent any taxpayer before such board in any manner, or to use his or her position as a board member to further his or her own interests. It shall also be unlawful for any taxpayer or interested party to employ any member of the county excise board in any matter coming before the board.

C. The members of county excise boards in all counties having an assessed valuation of Two Billion Dollars (\$2,000,000,000.00) or more shall receive as compensation an amount not to exceed Seventy-five Dollars (\$75.00) per day. The members of county excise boards in all other counties may receive as compensation an amount not to exceed Fifty Dollars (\$50.00) per day, said amount to be established by the boards.

In addition, the members of county excise boards shall be reimbursed for each mile of travel to and from their residences to the place of meeting of the board for each session attended at the rate provided for other county officers. The members of county excise boards shall be also reimbursed for each mile of necessary travel in the performance of their official duties at the same rate.

The total number of days in each year for which the members of said board may be paid shall be as follows:

In counties having an assessed valuation of Forty Million Dollars (\$40,000,000.00) and less, not to exceed sixty (60) days;

In counties having an assessed valuation of more than Forty Million Dollars (\$40,000,000.00) and not more than Eighty Million Dollars (\$80,000,000.00), not to exceed sixty-five (65) days;

In counties having an assessed valuation of more than Eighty Million Dollars (\$80,000,000.00) and not more than Five Hundred Million Dollars (\$500,000,000.00), not to exceed one hundred (100) days;

In counties having an assessed valuation of more than Five Hundred Million Dollars (\$500,000,000.00), not to exceed two hundred fifty (250) days.

D. Any person violating any of the provisions of this section shall be deemed guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than Two Hundred Dollars (\$200.00) and not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the State Penitentiary for not less than six (6) months or more than two (2) years, or by both such fine and imprisonment.

Added by Laws 1990, c. 322, § 2, eff. Jan. 1, 1992. Amended by Laws 1991, c. 232, § 5, emerg. eff. May 24, 1991; Laws 1999, c. 134, § 4, emerg. eff. April 28, 1999; Laws 1999, c. 187, § 2, eff. Nov. 1, 1999; Laws 2000, c. 64, § 2, eff. July 1, 2000; Laws 2007, c. 172, § 3, eff. Nov. 1, 2007.

§68-3006. Meetings of county excise board - Organization - Powers and duties.

A. The county excise board shall meet at the county seat on the first Monday of July of each year as provided in Section 3014 of this title or on such earlier date in the year as determined by the excise board, and organize by electing one of its members as chairman, and another as vice chairman who shall preside in the absence of the chairman, for the purpose of performing the duties required of it by law during such fiscal year. Thenceforth, said board may meet from day to day, or adjourn from day to day and time to time thereafter for said purpose.

B. In its functionings it is hereby declared an agency of the state, as a part of the system of checks and balances required by the Constitution, and as such it is empowered to require adequate and accurate reporting of finances and expenditures for all budget and supplemental purposes, charged with the duty of requiring adequate provision for performance of mandatory constitutional and statutory governmental functions within the means available, but it shall have no authority thereafter to deny any appropriation for a lawful purpose if within the income and revenue provided.

C. Each member of the county excise board shall be required to attend and successfully complete a course of instruction consisting of at least six (6) hours within eighteen (18) months of appointment for the first four (4) years of service on the board and three (3) hours of instruction for every four (4) years of service after the expiration of the initial four-year period. The course of instruction shall include the duties and responsibilities of the county excise board, including duties and responsibilities related to authorized millage rates imposed by local taxing jurisdictions, and the course shall be offered by or approved by the Oklahoma State University Cooperative Extension Service.

Added by Laws 1965, c. 501, § 2. Amended by Laws 1980, c. 226, § 8, emerg. eff. May 27, 1980. Renumbered from § 2486 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992. Amended by Laws 2012, c. 300, § 1, eff. Nov. 1, 2012.

§68-3007. Order of proceedings of county excise board.

As to each budget, original or supplemental, the county excise board shall proceed in the following order:

(1) Examine the financial statements contained therein for the purpose of ascertaining the true fiscal condition of each of the several fund accounts of the municipality as of the close of the previous fiscal year, or as of the date reported for supplemental purposes; and it may require such additional statistics or financial statements from the municipal officers as will enable it to make such determination, and correct such statements if need be.

(2) Examine specifically the several items and amounts stated in the estimate of needs, and if any be contained therein not authorized by law or that may be contrary to law, or in excess of needs, as determined by the excise board, said item shall be ordered stricken and disregarded. If the amount as to any lawful item exceeds the amount authorized by law, it shall be ordered reduced to that extent; otherwise, the excise board joins in responsibility therefor.

(3) Examine the content of the estimate of needs, and if the governing board has failed to make provision for mandatory governmental functions, whether such mandate be of the

Constitution or of the Legislature, or if the provision submitted by estimate be deemed inadequate, the county excise board shall, whether on request in writing by the officer charged with a mandatory duty or of its own volition, prepare an estimate by items and amounts, either by the items submitted or by additional items, and cause publication thereof in some newspaper of general circulation in the county, in one issue if published in a weekly paper, and in two consecutive issues if published in a daily paper, and thereafter attach such estimate, together with affidavit and proof of publication, to that submitted by the governing board, for further consideration. However, nothing herein contained shall prevent any governing board, upon a timely finding that its estimate of needs as first filed is inadequate, from filing a written request with the excise board to increase such estimate as to any item or items, whether mandatory or not; whereupon the excise board shall cause publication thereof, as aforesaid, at the expense of the municipality.

(4) Compute the total means available to each fund, except the sinking fund, by the converse of the formula provided by law for computing the tax levy, as provided in Section 3017 of this Code.

(5) If the total of the several items of estimated needs for lawful purposes as heretofore ascertained is within the income and revenue lawfully available, the excise board shall approve the same by items and compute the levy required. If said total exceeds the means provided to finance the same, the excise board will proceed to revise the same by reducing items, in whole or in part, in the following order: (a) first apply such revision by reduction of items for governmental functions merely authorized but not required; (b) if further reduction be necessary, second, by reduction of items required by the Legislature but not within Constitutional requirement; (c) if still further reduction be necessary and no other items remain, third, by reduction of items for Constitutional governmental functions until the total thereof be within the income and revenue provided. At the option of the excise board, the governing board may collaborate in such reductions; but the final order shall be that of the county excise board. Laws 1965, c. 501, § 2; Laws 1979, c. 26, § 2, emerg. eff. April 3, 1979. Renumbered from § 2487 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992. Amended by Laws 2007, c. 155, § 14, eff. Nov. 1, 2007.

§68-3008. Attendance and opinion of district attorney - Further detail as to items - Restrictions - Assistance.

The county excise board may require the attendance of the District Attorney at any of its sessions when passing upon the validity or invalidity of items of appropriation; or it may request his opinion in writing as to any such item. Said board is hereby empowered to require such further detail as to any item of any estimate as it deems necessary and proper for such determination, and it may place such restrictions thereon as will limit the use thereof to purposes authorized by law; but such further detail and such restrictions shall not enlarge upon the number of accounts in the bookkeeping systems prescribed and kept as provided by law. However, such further detail and any restrictions imposed thereon shall be disclosed by statements attached to the original copy of such budget filed with the county clerk, and to the duplicate copy of such budget filed with the State Auditor and Inspector. If such excise board desires assistance for the purpose of inspecting and correcting financial statements and accounts, and inspection of levies, it may invoke those provisions of law providing such assistance (74 O.S. 1961, Section 212), provided there shall have been made an appropriation for county audit and an assignment to such county for such purpose.

Laws 1965, c. 501, § 2; Laws 1979, c. 30, § 40, emerg. eff. April 6, 1979. Renumbered from § 2488 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3009. Sinking fund - Building fund and General fund requirements - Special Budget Accounts - Departmentalization and itemization.

The county excise board shall comply with the following:

(a) Provision and levy for the sinking funds of any municipality shall be made in strict conformity to the special statute therefor (62 O.S.1961, Section 431): but no surplus shall be disclosed or computed in any sinking fund account except it be in cash and investments actually on hand in excess of all accrual liabilities, whether collections exceed anticipations or not.

(b) Building fund appropriations and levies under Section X, Article 10, Oklahoma Constitution, shall be computed by the same formula and subject to the same defenses as general funds, but need be itemized only as to the amount needed for construction of new buildings, remodeling or repairing buildings, and purchasing furniture, and for a reserve for interest on warrant issues according to statute.

(c) The general fund shall comprehend and include all appropriations and expenditures financed from levy of ad valorem tax under any of the provisions of Section 9, Article X, Oklahoma Constitution, and all revenues from sources other than ad valorem taxation except the proceeds derived from the sale of bonds and those revenues specifically required by law to be deposited into the sinking fund, the building or replacement funds, or in cash funds, or in any other fund or funds so specifically denominated by statute. If a portion of the ad valorem levies under said Section 9, Article 10, Oklahoma Constitution, and specific revenues from other sources, be required by law to be devoted to a special purpose, other than those specifically required to be accounted for in cash funds, such special purpose shall be provided for by a special budget account within the general fund, distinguished from the governmental budget account, and assigned such appropriation account or accounts as will accomplish such special purpose and include sums at least equivalent to the net estimate of revenues or levy thus specially applied. As to counties, cities, and towns, except as hereinafter provided, the governmental budget account shall be departmentalized, and the appropriations made for the use of each separate office, board, commission or department shall be stated in separate items, and no appropriation shall be available for the use of more than one office, board, commission or department; and the appropriations so made for the use of each such separate office, board, commission or department, or for any special function of either of them, of the several municipalities, including the general fund appropriations of municipalities not so departmentalized, shall not be increased or diminished after such appropriations become final, except in the manner provided by law (Section 24101 of this Code), or by order of a court of competent jurisdiction.

Laws 1965, c. 501, § 2. Renumbered from § 2489 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3010. Items of appropriation - Meaning of terms.

Each of the items of appropriation as hereinafter defined and enumerated shall represent, in the broadest permissible sense, a specific purpose, and each such item of appropriation shall be the estimate made and approved for such purpose, subject to encumbrance and expenditure therefor under restrictions otherwise provided by law. The distinctive functional purpose of each shall be that assigned by statute, charter or ordinance to the office, board, commission or

department for counties, cities and towns, and to quasi-municipal boards serving a particular function but lacking corporate powers. As applied to each, except where otherwise provided by law, the terms used shall be applied in meaning as follows: the term "personal services" is defined to comprehend all salaries, wages, per diem compensation, fees where the only compensation of the recipient is the fees earned, and all allowances or reimbursement for travel expense where authorized by law and/or defined by law, paid to any officer, deputy, employee or other individual for services rendered or employment in relation to the office, department or subdivision of the municipality, including such items as fees and mileage of witnesses and jurors when paid from the general fund, fees of constables and justices of the peace and all other fees, compensation or remuneration paid to individuals or persons who have only their professional, technical or vocational skills and services to sell. In the departments of roads and highways and/or streets and alleys the term "personal services" shall comprehend all items so defined hereinbefore and shall be further specifically defined to include such items as salaries, wages, per diem compensation and all other compensation or remuneration paid to engineers, surveyors, mechanics, truck drivers, tractor and grader operators, carpenters, etc., for professional, technical and vocational skills and services rendered in relation to employment by or within such department or subdivision of the municipality. The term "maintenance and operation" is defined to comprehend all current expense except those items herein defined as "personal services" and/or "capital outlay," and "sinking funds," including all items, articles and materials consumed with use, rentals on machinery and equipment, premiums on surety bonds and insurance, all maintenance and repair accomplished according to the conditions of a contract, and all items of expense paid to any person, firm or corporation who renders service in connection with the repair, sale or trade of articles and commodities. In the departments of roads and highways and/or streets and alleys the term "maintenance and operation" shall comprehend all items so defined hereinbefore, and shall be further specifically defined to include all items, articles and materials consumed with the use in the repair, maintenance, construction or reconstruction of roads, bridges, highways, streets and alleys by the usage of force account labor, rentals on machinery and equipment, premiums on surety bonds and insurance, and all repair and maintenance accomplished under the terms of a contract. The term "capital outlay" is defined to comprehend all items and articles (either new or replacements) not consumed with use but only diminished in value with prolonged use, such as new, or replacements of, machinery, equipment, furniture and fixtures, all real properties, and all construction or reconstruction of buildings, appurtenances and improvements to real properties accomplished according to the conditions of a contract. In the departments of roads and highways and/or streets and alleys the term "capital outlay" shall comprehend all items so defined hereinbefore and shall be further specifically defined to include the cost, and all expense incurred in relation thereto, of rights-of-way or other real property necessary for the construction of roads and highways and/or streets and alleys as the case may be. Provided, that the State Auditor and Inspector may add or substitute, and define, other items of appropriation where necessary to fulfill special functions therein required, but such items shall always be the fewest that will fulfill the requirements of the Constitution or Legislature.

Laws 1965, c. 501, § 2; Laws 1979, c. 30, § 120, emerg. eff. April 6, 1979. Renumbered from § 2490 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3011. Departments operated within general fund - Special budget and cash accounts - Items of appropriation.

(1) For each office, board, commission and department, including public utilities operated within the general fund, and special budget accounts and cash accounts, of counties, cities and towns, the items of appropriation shall, unless otherwise provided by law, be as follows: “personal services,” “maintenance and operation,” and “capital outlay,” applied as enumerated and defined in the preceding section. Provided, that public utilities owned or controlled and managed by the city may be operated within the budget as a department within the general fund or may be separately operated as a private enterprise, not controlled by general taxation statutes, and expenditures for operating expenses, replacements and extensions may be made from the income derived from the operation of such utility without appropriation. Nothing herein contained shall operate to prevent the governing board from transferring any surplus, not needed for the operation of such public utilities, to the general fund or sinking fund of the municipality.

(2) The board of trustees of a town (not a city) having a population less than that required by law to become a city, may at its option submit its estimate of needs in short form, not departmentalized, showing in separate items the amounts of funds estimated and appropriated for the functions and purposes thereof, but defined as follows: “personal services,” “maintenance and operation” and “capital outlay” as enumerated and defined in the preceding section. Small utilities managed directly by such board of town trustees may be operated within such budget or separately operated and reported as are city utilities separately operated; but if within the budget and as separate department, the departmentalized budget form shall be used.
Laws 1965, c. 501, § 2. Renumbered from § 2491 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3012. Public hearings before excise boards.

The county excise board of each county shall at its first annual meeting fix the time and place for public hearings before such board at which meeting any taxpayer may appear and be heard for or against any part of the statements of estimated needs for current expense purposes for the current fiscal year as certified by each of the municipalities.

Laws 1965, c. 501, § 2. Renumbered from § 2492 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3013. Notice of hearing - Continuing hearings - Calling officials for examination.

The notice of such hearing shall be given by one publication in a newspaper of general circulation in such county and such notice shall fix the time and place of such hearing.

The hearing shall be continued from day to day until concluded, not to exceed a total of ten (10) days; provided, however, that such hearing shall be concluded before the expiration of ten (10) days if there are no requests on file with the board at such hearing. Upon the request of any taxpayer at such hearing, the excise board shall have the power to call in the official or person in charge of any office, department, or municipality for examination concerning estimated needs for current expense purposes for the current fiscal year, as certified by the various municipalities.

Laws 1965, c. 501, § 2. Renumbered from § 2493 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3014. Tax levies - Duties of county excise board - Duties of county assessor - Changes and corrections - Delivery to county treasurer.

A. The county excise board shall meet on the first Monday of July of each year, or on such earlier date in the year as determined by the excise board, for the purpose of performing the

duties required of it by law, and shall meet from day to day until all of the levies shall have been fixed and the appropriations approved.

B. As used in this section, "municipality" or "municipal subdivision" shall mean a taxing jurisdiction authorized by law to levy ad valorem taxes.

C. It shall be the duty of said board to certify the levies of each municipality to the county assessor on the same date that such levies are fixed; and it shall be the duty of the county assessor to proceed to extend such levies on his tax rolls immediately upon receipt of such certificates, without regard to any protest that may be filed against any levy. It shall further be the duty of the county assessor to deliver the tax rolls to the county treasurer when the same shall have been completed, and at the same time, to file a true and correct abstract of such tax rolls with the county clerk. The county clerk shall charge the county treasurer with the amount contained in said abstract. Should there be any correction or change in the levy of any municipality, after such levy has been certified by the county excise board to the county assessor, regardless of whether such change is made by order of the county excise board or by a court of competent jurisdiction, it shall be the duty of the county assessor to deliver the tax rolls to the county treasurer, without regard to such change; and it shall be the duty of the county treasurer, with the assistance of the county assessor, to make the necessary corrections on the tax rolls after the same shall have been delivered to the said county treasurer.

D. The county excise board shall fix the levies and make the appropriations of each municipality within fifteen (15) days after the financial statement and estimate of any such municipality is filed, unless the valuations of the county, and the municipal subdivisions thereof, have not been certified to it; and, in that event, said excise board shall have thirty (30) days from the date of receipt of such valuations. If any such municipality extends into a county for which the valuations have not been certified, it shall be the duty of the county excise board to fix the levies and make appropriations for such municipality based upon the certified valuation of the other county for the preceding year. Such municipality shall have thirty (30) days from receipt of the certified valuations of the other county or counties to request modification of the appropriations.

E. It shall be the duty of the county assessor in the preparation of the tax roll to separately list and extend on the rolls all real property by separately listing all city and town lots and all other real property in subdivisions of a quarter of a quarter of a section, or less, if such subdivisions are owned in less quantity, describing the same in the usual and customary manner, or by metes and bounds and showing the value of all buildings and improvements on each separate and distinct piece of property. The county assessor shall, notwithstanding the filing of any protest against the levies or budgets or the pendency of any procedure with reference to the correctness of the assessment of any property or as to the legality of any levy, complete the tax roll and abstract thereof, and deliver the same to the county treasurer and county clerk, respectively, on or before the first day of October of each year. The county treasurer shall accept the said rolls and upon the date fixed when taxes shall become due and payable the county treasurer shall proceed to collect the taxes as provided by law.

Laws 1965, c. 501, § 2; Laws 1980, c. 226, § 9, emerg. eff. May 27, 1980; Laws 1988, c. 77, § 1, emerg. eff. March 25, 1988. Renumbered from § 2494 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3015. Apportionment of millage.

The county excise board shall meet for the purpose of performing the duties required of it by law as provided by the preceding section, and shall on or before July 25th of each year apportion the millage as authorized by Section 9, Article X, Oklahoma Constitution. Laws 1965, c. 501, § 2. Renumbered from § 2495 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3016. Appropriation when estimate not submitted.

Should any municipality fail to make and submit an estimate as herein provided, the county excise board shall have authority to make an appropriation for current expense and sinking fund purposes and make such levy therefor as it may find necessary to meet the probable needs of such municipality, provided that no such estimate shall be approved until the same shall have been by the county excise board advertised in like manner to items that shall be added to or increased in an estimate.

Laws 1965, c. 501, § 2. Renumbered from § 2496 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3017. Computation of appropriations - Procedure.

When the excise board shall have ascertained the total assessed valuation of the property taxed ad valorem in the county and in each municipal subdivision thereof, and shall have computed the total of the several items of appropriation for general fund, sinking fund, and other legal purposes for the county and each municipal subdivision thereof, said board shall then proceed to compute the levy for each fund of each municipality. The procedure for the computation of such levies shall be as follows:

First: Determine the total amount of the several items of appropriation for each fund.

Second: Deduct from such total appropriation the actual cash fund balance of the immediately preceding fiscal year.

Third: Deduct from the remainder thus ascertained the estimated probable income from sources other than ad valorem taxation; however, in no event shall the amount of such estimated income exceed ninety percent (90%) of the actual collections from such sources for the previous fiscal year. Provided, that the amount of such estimated income for a school district may be the amount that is chargeable as minimum program income of the district for the purpose of receiving state equalization aid. Also, deduct the estimated probable revenue to be derived from additional collection from taxes in the process of collection of the immediately preceding taxable year; provided that the amount so estimated shall be cash fund balance as hereinafter defined, and shall include none of that portion of the reserve added at the beginning of such year for delinquent tax, and shall not exceed ninety percent (90%) of the actual collections of additional back taxes legally accrued to and credited to the same fund account of the immediately preceding fiscal year.

Fourth: Add to the remainder a reserve for delinquent taxes, the amount of which reserve shall be determined by the excise board, except for any municipality which has opted by resolution to come under the provisions of Section 17-201 et seq. of Title 11 of the Oklahoma Statutes, in which case the governing body of such municipality shall determine the needs of the municipality for sinking fund purposes, after taking into consideration the amount of uncollected taxes for the previous year or years; provided that the reserve so added shall not exceed twenty percent (20%) or be less than five percent (5%); and provided, further, that the reserve so added shall not be subject to review.

Fifth: Compute the levy necessary to raise an amount of money equal to the remainder thus ascertained, based upon the total assessed valuation of the county or subdivision thereof, taking into consideration any deduction which must be made because of the exemption of homesteads as required by Section 2406 et seq. of this Code.

Sixth: Compute the reduction in levy necessary to be made because of monies being required by law to be used for the purpose of reducing ad valorem tax levies.

The rates of levy for general fund, sinking fund, and other purposes authorized by law shall be separately made and stated, and the revenue accruing therefrom respectively, when collected, shall be credited to the proper fund accounts.

Laws 1965, c. 501, § 2; Laws 1977, c. 228, § 1, eff. July 1, 1977; Laws 1984, c. 146, § 2, operative July 1, 1984; Laws 1988, c. 90, § 11, operative July 1, 1988. Renumbered from § 2497 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3018. Cash fund balance - Transfer - "Cash fund balance" defined.

If and when an actual cash fund balance shall accrue in any fund for any prior fiscal year, such fund balance shall forthwith be transferred to the same fund for the fiscal year next succeeding the year for which the taxes were originally levied, and shall be used to pay any warrants and interest thereon which may be outstanding and unpaid for such year. After all warrants and interest on such warrants for such year have been paid or reserved for, the fund balance, if any, shall forthwith be transferred to the next succeeding year for the same purpose. This procedure shall be followed for each succeeding fiscal year until all warrants issued prior to the current fiscal year are paid or reserved for, and then any cash fund balance remaining shall accrue and be transferred to the current fiscal year, to be used to pay any legal warrant and interest charges of such year. The term "actual cash fund balance", as used herein, is hereby defined to mean an excess of actual cash actually on hand over and above all legal obligations. Taxes in process of collection shall not be considered in determining the actual cash fund balance for any fund for any fiscal year or years.

Laws 1965, c. 501, § 2; Laws 1988, c. 90, § 12, operative July 1, 1988. Renumbered from § 2498 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3019. Certifying appropriation - Accounts - Warrants - Certificates of indebtedness.

The secretary of the excise board shall immediately certify each appropriation as made by the excise board to the clerk or other issuing officer of the municipality for which the same is made. The several items of the estimate as made and approved by the excise board for each fiscal year shall constitute and are hereby declared to be an appropriation of funds for the several and specific purposes named in such estimate, and the appropriations thus made shall not be used for any other fiscal year or purposes whatsoever, except as provided in the preceding section. Each clerk or other issuing officer shall open and keep an account for the amount of each item of appropriation, showing the purpose for which the same is appropriated, and the date, number, and amount of each warrant thereon. No warrant or certificate of indebtedness in any form shall be issued, approved, signed or attested, on or against any appropriation for a purpose other than that for which the said item of appropriation was made, or in excess of the amount thereof.

Added by Laws 1965, c. 501, § 2. Renumbered from § 2499 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992. Amended by Laws 1993, c. 107, § 1, emerg. eff. April 23, 1993.

§68-3020. Temporary appropriations.

A. The excise boards of the various counties in the state may convene at any time after the beginning of any fiscal year, upon call of the chairman of the board, for the purpose of approving temporary appropriations for the counties, cities, school districts and other municipal subdivisions of the state. Whenever the governing board of any such county, city, school district or other municipal subdivision of the state shall present to the excise board of such county or of the county in which any such city, school district or other municipal subdivision is located in whole or in part, a verified application showing that the needs of such county, city, school district or other municipal subdivision so require, such excise board may make temporary appropriations for lawful current expenses of such county, city, school district or other municipal subdivision.

B. Warrants or checks may be drawn against such temporary appropriations pending action by the excise board upon the annual estimate of needs and budget of such county, city, school district or other municipal subdivision for such fiscal year. The amount which may be appropriated by such temporary appropriations shall in no event exceed the entire amount which the governing board, making the application, estimates will be available for the entire fiscal year for each purpose for which a temporary appropriation is requested; provided, however, the limitation on appropriations and any requirement for request or approval of temporary appropriations shall not apply to any city or town if the revenue from the ad valorem tax to the municipal general fund amounted to less than five percent (5%) of the total revenues accruing to the municipal general fund during the prior fiscal year. Such cities and towns may pay for lawful current expenditures pursuant to the estimate of needs as filed by the city or town and pending final action of the excise board.

C. Any such temporary appropriations so approved by the excise board of any county shall, when the annual budget for such county, city, school district or other municipal subdivision is finally approved, be merged in the annual appropriations for the same purposes and any warrant which has been, in the meantime, drawn against such temporary appropriations shall be charged against the final approved annual appropriations of such county, city, school district or other municipal subdivision for the said current fiscal year.

Added by Laws 1965, c. 501, § 2. Amended by Laws 1977, c. 60, § 1, eff. Oct. 1, 1977; Laws 1980, c. 226, § 6, emerg. eff. May 27, 1980; Laws 1983, c. 36, § 1, eff. Nov. 1, 1983; Laws 1988, c. 90, § 13, operative July 1, 1988. Renumbered from § 24100 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992. Amended by Laws 1991, c. 236, § 5, eff. Sept. 1, 1991; Laws 2004, c. 361, § 17, eff. July 1, 2004.

§68-3021. Supplemental and additional appropriations.

Whenever the public welfare or the needs of any county, city, town, or school district shall require, the excise board may, on call of the chair, convene at any time for the purpose of making supplemental or additional appropriations for current expense purposes; provided, that all such appropriations authorizing the creation of an indebtedness shall come within the limitations of Section 26, Article X, Oklahoma Constitution. No supplemental or additional appropriation shall be made for any county, city, town or school district in excess of the income and revenue provided or accumulated for the year. As to all such proposed appropriations the following procedure shall be followed:

First: The proper officers of the county, city, town or school district shall make and file with the excise board a financial statement showing its true fiscal condition as at the close of the

month next preceding or as of May 15 or June 20, or both dates, preceding the date of filing, and shall submit therewith a statement of the amount and purpose for which each proposed supplemental appropriation is to be used. The financial statement shall show, as to current expense or general fund, the amount of cash in the treasury; the amount of taxes in process of collection as to which the date of sale for delinquency has not elapsed; the amount of the uncollected portion of the estimated income other than ad valorem tax as fixed by the excise board for the current fiscal year; the amount of warrants outstanding and an estimate of the interest accrued and accruing thereon; the amount of unexpended balance of all appropriations for current expense purposes as to which a period of six (6) months has not elapsed from the date of the close of the fiscal year for which the appropriation was available; and the surplus or deficit in revenue, if any, in each fund.

Second: If the financial statement herein required shall correctly reflect a surplus in revenue in any fund available for current expenses, and the excise board shall so affirmatively find, it may make supplemental appropriations to an amount not exceeding the aggregate of such surplus.

Third: If the surplus of revenue, as found and determined by the excise board, shall be insufficient for the additional needs and requirements of the county, or other municipal subdivision, the excise board shall have the power and authority to revoke and cancel in whole, or in part, any appropriation or appropriations, or parts thereof, previously made to any officer or department of government of any county, city, town or school district and to make in lieu thereof such supplemental and additional appropriations for current expense purpose as the interest of the public may require; provided, that no appropriation or part thereof shall be revoked or canceled against which there may be an unpaid claim or contract pending. The total amount of all such appropriations shall not exceed the aggregate of the amount of appropriations so revoked or canceled, and the surplus or unappropriated revenue, if any, of the county, city, town or school district for which it is proposed to make such additional appropriation; provided, that before any appropriation or part thereof shall be revoked or canceled, the officer or officers in charge of the office or department of government for which any such appropriation is available shall be notified of the proposed revocation or cancellation, and shall be afforded an opportunity, if so desired, to appear before the excise board and protest against such proposed action. As to counties, cities and school districts, the financial statement and request for supplemental appropriations herein required to be filed with the excise board shall be published at least one time in some newspaper of general circulation in the county or city for which made. The publication shall be made at least three (3) days prior to the date on which the excise board shall consider the proposed supplemental or additional appropriations. No appropriations shall be made and considered by the excise board in the absence of the financial statement herein required to be filed.

Fourth: If at any time during the budget year it appears to the county treasurer that there is temporarily insufficient money in a particular fund to meet the requirements of appropriation in the fund, the excise board, upon request of the county treasurer and upon notification to the county commissioners, may temporarily transfer money from one fund to any other fund with the permission of the county officer in charge of the fund that the money will be temporarily transferred from. No transfer shall be made from the debt service fund to any other fund except as may be permitted by the terms of the bond issue or applicable law. Any funds temporarily transferred shall be repaid to the original fund from which they were transferred within the fiscal year that the funds were transferred.

Added by Laws 1965, c. 501, § 2. Amended by Laws 1973, c. 93, § 1, emerg. eff. May 2, 1973. Renumbered from § 24101 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992. Amended by Laws 1991, c. 236, § 6, eff. Sept. 1, 1991; Laws 2006, c. 96, § 1, emerg. eff. April 25, 2006.

§68-3022. Municipal budgets and levies - Filing - Notice.

After the officers of the several municipal subdivisions of the state, constituting the budget making bodies of such subdivisions, including counties, cities, towns and school districts, shall have made and filed their budgets as required by existing laws with the county clerks, and after advertisement as now required by law, the excise boards shall meet from time to time thereafter until the State Board of Equalization shall have reported the valuation of public service corporations and utilities, together with the equalized valuation of all other property, to the county, and shall then proceed to pass on appropriations and make levies for all such municipal subdivisions as now provided by law, and shall file a copy of all budgets with the levies made thereon, with the State Auditor and Inspector, and one copy with the county clerks of the respective counties, and the county clerk shall immediately thereafter publish notice for one time, in some newspaper of general circulation in the county, that such budgets and levies are on file for the inspection of any citizen.

Within three (3) days after the filing of any such budgets and levies with the State Auditor and Inspector, the State Auditor and Inspector shall give notice by mail of the fact and date of such filing to any taxpayer who shall have filed written request therefor.

Added by Laws 1965, c. 501, § 2. Amended by Laws 1979, c. 30, § 41, emerg. eff. April 6, 1979. Renumbered from Title 68, § 24102 by Laws 1988, c. 162, § 163, eff. Jan 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992; Laws 2004, c. 447, § 14, emerg. eff. June 4, 2004.

§68-3023. Examination of budgets and levies by taxpayers - Filing protests.

(a) Taxpayers of the state shall have the right, at all times, to examine the budgets and levies on file with the respective county clerks of the state and with the State Auditor and Inspector, for the purpose of checking same for illegalities in the levies made, and any taxpayer may, at any time within fifteen (15) days from the date of filing with the State Auditor and Inspector as above provided for, file a protest in writing together with three copies thereof, with the State Auditor and Inspector against any alleged illegality of any levy. Provided the State Auditor and Inspector shall grant an additional fifteen (15) days in which any taxpayer may file protest to any budget or levy upon proper application showing the necessity for such extension. The State Auditor and Inspector shall thereupon transmit by certified mail one copy of each to the county clerk, the district attorney and county treasurer of the county affected thereby; or said protest with the same number of copies may be filed with the county clerk in which event the county clerk shall transmit one copy of each to the State Auditor and Inspector and to the district attorney and county treasurer of the county affected thereby, and such filing shall have the same force and effect as though filed with the State Auditor and Inspector. The said protest shall specify the said alleged illegal levy and the grounds upon which said alleged illegalities are based. Any protest filed by any taxpayer as herein provided shall inure to the benefit of all taxpayers. If no protest is filed by any taxpayer as to the levy of any county or municipal subdivision thereof within said fifteen-day period or any extension thereof all appropriations and levies of said county and municipal subdivisions thereof not protested, shall be deemed to be legal, and all proceedings for refunds or suits for refunds or recovery of taxes or to contest the validity thereof in any manner shall be barred.

(b) The excise board may reconvene at any time within sixty (60) days after the filing of the budgets and levies with the State Auditor and Inspector and reduce any protested budgets and levies which the excise board deems to be illegal.

Laws 1965, c. 501, § 2; Laws 1973, c. 268, § 1, emerg. eff. May 24, 1973; Laws 1979, c. 30, § 42, emerg. eff. April 6, 1979. Renumbered from § 24103 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3024. Court of Tax Review.

A. There is hereby re-created a Court of Tax Review. For each case brought before the Court of Tax Review, the Chief Justice of the Oklahoma Supreme Court shall assign the case to a judicial administrative district. The presiding judge of the judicial administrative district to which the case is assigned shall appoint a panel of three judges of the district court, who shall determine in what county the case will be heard. A majority of the three-judge panel shall be required to render a decision in each case. The Oklahoma Supreme Court shall establish court rules for the Court of Tax Review and the Clerk of the Oklahoma Supreme Court shall serve as Clerk of the Court of Tax Review.

B. The Court of Tax Review is hereby vested with jurisdiction over and shall hear:

1. Complaints regarding valuation of public service corporation property by the State Board of Equalization as authorized by Section 2881 of this title, for which a scheduling conference shall be required within twenty (20) days of the answer filed by the State Board of Equalization;

2. Complaints regarding actions of the State Board of Equalization regarding either intracounty or intercounty property value equalization as authorized by Section 2882 of this title; and

3. Appeals as authorized by Section 2830 of this title concerning Category 2 or Category 3 noncompliance as determined by the Oklahoma Tax Commission. The Court of Tax Review shall determine if a county deemed to be in Category 3 noncompliance is required to reimburse the Oklahoma Tax Commission from the county assessor's budget for all costs incurred as a result of the assumption of the valuation function by the Commission.

C. The Court of Tax Review shall prescribe procedures for the purpose of hearing properly filed protests against alleged illegal levies, as shown on the annual budgets filed with the State Auditor and Inspector. The Court shall reconvene as often as deemed necessary by the Court until final determination has been made as to all protested levies. The judges shall be paid their traveling and living expenses while acting as members of the Court, out of the funds now provided by law for payment of district judges' expenses when holding court outside the counties of their residence. Decisions of the Court of Tax Review concerning alleged illegal levies shall be subject to the provisions of Sections 3025, 3026, 3027, 3028 and 3029 of this title.

D. The Court of Tax Review as it existed prior to July 1, 1997, shall cease to exist and all duties and responsibilities of such court, except as provided in this section, shall be transferred to the Court of Tax Review as re-created in this section.

E. All cases which have not been submitted for determination in the Court of Tax Review as it existed prior to July 1, 1997, shall be transferred to the Court of Tax Review as it exists after July 1, 1997, for disposition. All cases which have been submitted by the parties for determination in the Court of Tax Review prior to July 1, 1997, shall remain with the panel to which they have been assigned for final determination.

Added by Laws 1965, c. 501, § 2. Amended by Laws 1979, c. 30, § 43, emerg. eff. April 6, 1979; Laws 1980, c. 361, § 3, eff. Oct. 1, 1980; Laws 1988, c. 162, § 154, eff. Jan. 1, 1992; Laws 1989, c. 321, § 24, operative Jan. 1, 1992. Renumbered from § 24104 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992, as amended by Laws 1991, c. 249, § 3, eff. Jan. 1, 1992. Amended by Laws 1992, c. 360, § 5, eff. July 1, 1992; Laws 1996, c. 97, § 20, eff. Nov. 1, 1996; Laws 1997, c. 337, § 3, eff. July 1, 1997.

§68-3025. Powers and duties of Court - Continuances.

Said Court shall have the power and it shall be its duty to hear and determine all protests filed under Section 24103 of this Code, and it shall have the power to administer oaths, compel the attendance of witnesses and production of evidence, including any public record from any county in the state upon the hearing of such protests. Said Court shall proceed to hear and determine all said protests as speedily as practicable, and, so far as practicable, shall hear all protests for any county on the same date; provided that continuances may be granted as to any protestant or any county upon good cause shown.

Laws 1965, c. 501, § 2; Renumbered from § 24105 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3026. Decision - Correction of appropriations and tax roll - Representation of counties - Pleading.

The Court of Tax Review shall hear and determine all protests submitted to it and its decision shall be in writing and filed with the State Auditor and Inspector whose duty it shall be, if no appeal be taken as hereinafter provided, to transmit a copy of such decision to the county clerk, county assessor, and county treasurer, and to the protestant or his attorney of record, and it shall thereupon be the duty of the county clerk to correct the appropriations accordingly, and the duty of the county assessor to so correct the tax rolls if the same have not been turned over to the county treasurer. The district attorney, assisted by the Attorney General at the request of the district attorney, shall represent his county and the municipal subdivisions thereof at the hearing of any protest before said Court of Tax Review, and each county shall pay all necessary expenses of its district attorney in attending any such hearings. No pleadings by the county shall be required and the cause shall be deemed at issue upon the filing of such protest.

Laws 1965, c. 501, § 2; Laws 1979, c. 30, § 44, emerg. eff. April 6, 1979; Laws 1988, c. 162, § 155, eff. Jan. 1, 1992. Renumbered from § 24106 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992, and by Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3027. Appeals - Finality of unappealed decision.

Either the protestant or the county may appeal from the final decision of the Court to the Supreme Court of the state, and it shall be sufficient to perfect such appeal if the appellant shall, within thirty (30) days from the date of such decision of the Court, file with the Clerk of the Supreme Court a petition in error with a copy of the order or decision appealed from. If no appeal be taken, the decision of the Court shall be final.

Laws 1965, c. 501, § 2; Laws 1970, c. 189, § 1, eff. Jan. 1, 1971. Renumbered from § 24107 by Laws 1988, c. 162, § 163, eff. Jan 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3028. Time and manner of perfecting record on appeal - Determination without costs - Setting case for hearing.

The Court shall cause the evidence adduced at any time and all hearings to be taken and preserved, and upon an appeal being taken in any case, the record, consisting of protest and the transcript of the proceedings sought to be reviewed, shall be perfected within the time and in the manner prescribed by rule of the Supreme Court. The time limit prescribed herein for filing the petition in error may not be extended. The appeal shall be docketed and determined without cost to either party and the Supreme Court shall, as soon as practicable, set the case for hearing after briefs have been filed under the rules and orders of the Court.

Laws 1965, c. 501, § 2; Laws 1970, c. 189, § 2. Renumbered from § 24108 by Laws 1998, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3029. Mandate from Supreme Court - Correction of appropriation.

After the decision of the Supreme Court in any case becomes final, the Clerk of said Court shall issue and transmit a proper mandate to the State Auditor and Inspector, who shall thereupon transmit certified copies thereof to the county clerk, county treasurer and the attorney of record for the protestant, and the county clerk shall thereupon immediately correct the appropriations in accordance with said mandate and as herein provided in cases where no appeal is taken.

Laws 1965, c. 501, § 2; Laws 1979, c. 30 § 45, emerg. eff. April 6, 1979. Renumbered from § 24109 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3030. Effect of protest - Refund of excess taxes.

(a) The filing of protest as herein provided shall not prevent the spreading of record and the collection of any levy made by the excise board, but if any protest be filed as herein provided and any taxes shall be paid pending the hearing and determination of said protest or pending the decision of the Supreme Court, all that part of the levy alleged in said protest to be illegal shall be retained by the county treasurer in a separate fund until the legality of said levy has been determined, and all taxes paid by any taxpayer in excess of the amount finally determined to be legal shall be refunded by the county treasurer to the taxpayer, together with such interest thereon as may have been received by the county treasurer on such fund pending final determination of the illegality of such levy, upon verified claim filed with the county clerk at any time within six (6) months after such final determination.

(b) It shall be the duty of the county clerk within thirty (30) days from the final determination of the illegality of all levies to notify all taxpayers by publication in one issue of a newspaper of general circulation in the county that refund will be made of excess tax collected.

(c) If no demand is made for refund within said period of six (6) months, said taxes so collected and held shall be distributed to the fund or funds for which they were levied and collected and credited as a surplus therein for the next succeeding fiscal year.

Laws 1965, c. 501, § 2; Renumbered from § 24110 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3031. Payment and collection of taxes not affected.

Nothing in Sections 24102 - 24112 of this Code shall be construed to affect the time for payment and collection of taxes as now provided by law.

Laws 1965, c. 501, § 2. Renumbered from § 24111 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3032. Warrants and debts prohibited during protest period - Exceptions.

(1) Pending the expiration of the time within which protests may be filed with the State Auditor and Inspector, no warrant shall be issued or debt contracted by any municipality for any purpose except as provided hereinafter:

(a) Counties: For salaries and compensation of each officer and all regular deputies and employees thereunder, including home demonstration agents and farm demonstration agents employed by the board of county commissioners under contract with the Extension Division of the Oklahoma State University or United States Department of Agriculture or any other state or federal department under cooperative agreement with the board of county commissioners as now or that may hereafter be provided by law, salaries of the county superintendent of health and regular employees of any county health unit, for regular salaries and maintenance and operation costs of a county hospital and other quasi-municipal boards now or hereafter created by law; for insurance on county property and risks including premiums on bonds of public officials; for office supplies, blank books, stationery, printing, postage, telephone, telegraph, lights, fuel and water; for rent; for support, maintenance, surgical and medical attention and necessary medicine and hospitalization, and transportation, of the poor or insane, prisoners, and widows; for neglected children, crippled children; for support, maintenance, surgical and medical attention and necessary medicines and hospitalization and transportation of crippled, homeless, abandoned, dependent and neglected children, and children in danger of becoming delinquent, whether or not such debts are contracted in conjunction with a cooperating state department or agency; for jury commissioners, jurors, bailiffs, and witnesses for courts of record, for transcripts and each item of court expense as may be necessary and authorized by law; for fees of peace officers, and for such fees and costs in criminal and coroner actions for which the county is liable; for election expenses, including salaries, per diem, and such other expenses as allowed by law; for annual audits and examination of fiscal affairs of the county; for fuels, oils, and maintenance and repair of county highway equipment and regular salaries and wages of the county engineer, his or her assistants, and regularly employed maintenance workers, in event of emergency entered of record in the minutes of the board by full and unanimous adoption, the necessary wages of emergency help, supplies, and materials for county highway repair, or any other necessity of the county as required by an emergency entered of record in the board minutes; and capital outlay items purchased from temporary appropriations approved by the board of county commissioners and the county excise board or county budget boards whichever is appropriate.

(b) Cities and towns: For salaries and temporary compensation for each officer and all regular deputies and employees thereunder, for insurance on city or town property or risks including bonds required of any officials or employees, for office supplies, blank books, stationery, printing, postage, telephone, telegraph, express, freight, drayage, light, current, water, fuels and oils, maintenance materials and supplies, and rents, whether for the city or town proper or for any utility enterprise or for any quasi-municipal or semi-independent board or commission therein authorized and functioning under authority of city charters or the laws of this state, or any department thereof such as street, police, radio, fire, water, light, library, hospital, court, detention home; for board, maintenance and medical care of prisoners; for charities and aid to the poor; for clinics and health service including cooperative agreements with the State Department of Health with or without coordination with the board of county commissioners of the county or schools of the city or town or in cooperation with any other state or federal agency as now or as may hereafter be authorized by law; for jurors and witnesses in the municipal criminal court or

police court; for election expenses, including salaries, per diem, and such other expenses as allowed by law; for annual or special audits and examination of fiscal affairs of cities and towns; for maintenance of public libraries, parks, streets or any other continuously functioning governmental, quasi-governmental, or utility enterprise, and the continuing normal expense of operation thereof whether of salaries, wages, materials, or supplies, and whether herein enumerated or not; for capital improvements or capital outlays; and, in event of emergency entered of record by order of the governing board describing it, the necessary wages of emergency help, supplies, materials, and other necessities as the emergency demands. Provided, however, that this section shall not apply to any city or town if the revenue from the ad valorem tax to the municipal general fund amounted to less than five percent (5%) of the total revenues accruing to the municipal general fund during the prior fiscal year.

(c) School districts: For salaries and compensation of officers; for salaries and compensation of teachers and other employees; for office supplies, blank books, stationery and printing; for light, fuel and water; for school supplies, equipment and apparatus; for freight, express and other transportation charges; for repair and maintenance of buildings, grounds and equipment; for administrative expense; for transportation of children to and from school; and for payment of insurance. Except as otherwise provided by Section 1-117 of Title 70 of the Oklahoma Statutes, capital expenditures, as defined by the section, shall not be authorized by this section from the general fund of a school district but may be authorized from the building fund of a school district.

(d) Fairs: For premiums on livestock; poultry, agricultural and horticultural products; dairy products, boys' and girls' club work, products of domestic science and domestic arts, school exhibits, hand paintings, decorating and drawing, manufactured articles, cultivated plants and flowers.

For necessary expenses of management of all fairs authorized by law including office expenses, postage, telegraph and telephone, salary and traveling expenses of the secretary, printing and necessary office supplies, premium ribbons and badges, clerical help, guards, superintendents and judges.

For advertising the fairs and for decorating and cleaning the grounds and buildings.

For transportation and arrangement of fair exhibits at the county fair and county fair exhibits at the Oklahoma State Fair and other state fairs.

(2) Pending the final determination of any protested levy, no warrant shall be issued or debt contracted against any contested portion of any fund, except for the purposes hereinbefore provided.

Added by Laws 1965, c. 501, § 2. Amended by Laws 1979, c. 30, § 46, emerg. eff. April 6, 1979; Laws 1980, c. 226, § 7, emerg. eff. May 27, 1980; Laws 1989, c. 156, § 1, emerg. eff. May 8, 1989; Laws 1990, c. 221, § 5, operative July 1, 1990; Laws 1991, c. 209, § 1, eff. July 1, 1991. Renumbered from § 24112 by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992; Laws 1995, c. 153, § 1, emerg. eff. May 2, 1995.

§68-3033. County clerk to furnish budget forms.

It is hereby made the duty of each county clerk, as secretary of the county excise board of his county, to procure and furnish, at the expense of his county, the budget forms required by Section 24102 of this Code for the budget making bodies mentioned therein to prepare and file for consideration by said excise board and to be, by them, filed with the county clerk and State Auditor and Inspector as prescribed by law.

Laws 1965, c. 501, § 2; Laws 1979, c. 30, § 47, emerg. eff. April 6, 1979. Renumbered from § 24113 by Laws 1988, c. 162, § 163, eff. Jan 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-3101. Tax lien on real property.

Taxes upon real property are hereby made a lien for seven (7) years from the date upon which such tax became due and payable.

Added by Laws 1985, c. 356, § 11, emerg. eff. July 30, 1985. Renumbered from § 24304.1 by Laws 1988, c. 162, § 161, eff. January 1, 1992 and Laws 1991, c. 249, § 1, eff. January 1, 1992.

§68-3102. Personal property tax lien - Notice - Entry on docket - Priority.

Within sixty (60) days after taxes on personal property shall become delinquent as of April 1, the county treasurer shall mail notice to the last-known address of such delinquent taxpayer and cause a general notice to be published one time in some newspaper of general circulation, published in the county, giving the name of each person owing delinquent personal property taxes, stating the amount thereof due, and stating that such delinquent personal property taxes, within thirty (30) days from date of this publication, shall be placed on a personal property tax lien docket in the office of the county treasurer and the homestead exemption of such taxpayer shall be canceled pursuant to Section 2892 of this title. Such liens are superior to all other liens, conveyances or encumbrances filed subsequent thereto, on real or personal property. The tax lien shall be a lien on all real and personal property of the taxpayer in the county for a period of seven (7) years, except as otherwise provided in subsection B of Section 3103 of this title. From and after the entry of the tax upon the tax lien docket, any person claiming any interest in any land or personal property can sue the county treasurer and board of county commissioners in the district court to determine the validity or priority of the lien.

Added by Laws 1965, c. 501, § 2. Amended by Laws 1970, c. 299, § 2, emerg. eff. April 28, 1970; Laws 1971, c. 165, § 1, emerg. eff. May 25, 1971; Laws 1990, c. 63, § 3, eff. Jan. 1, 1991; Laws 1990, c. 339, § 17, emerg. eff. May 31, 1990; Laws 1991, c. 41, § 1, emerg. eff. April 4, 1991. Renumbered from Title 68, § 24305 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and by Laws 1991, c. 249, § 1, eff. Jan. 1, 1992. Amended by Laws 1997, c. 340, § 5, emerg. eff. June 9, 1997; Laws 2004, c. 447, § 15, emerg. eff. June 4, 2004.

§68-3103. Personal property tax lien record - Priority of liens - Release of lien for purposes of sale - Collection of delinquent personal taxes and penalties - Tax lien docket - Treasurer's statement.

A. Within thirty (30) days after publication of the general notice required in the provisions of Section 3102 of this title, the county treasurer shall cause a personal property tax lien record to be made in a docket for such purpose, showing the names and addresses of all persons, firms, and corporations owing delinquent personal property taxes, setting forth the delinquent years and amounts due and unpaid, together with penalty and costs as provided for by Section 2913 of this title. The liens are superior to all other liens, conveyances or encumbrances filed subsequent thereto, on real or personal property. The tax lien shall be a lien on all personal and real property of the person, firm, or corporation owing the delinquent tax for a period of seven (7) years from the date of the tax lien, except as otherwise provided in subsection B of this section. If such a lien is not collected within seven (7) years from the date upon which such tax became due and payable, the unpaid personal property taxes shall cease to be a lien upon any real or personal

property of the person, firm, or corporation owing the tax. The provisions of this section shall not apply to taxes which became due or payable prior to January 1, 1971.

B. A tax lien on real property of a business arising from delinquent personal property taxes of the business may be released for purposes of a sale of such real property upon application to and approval of the county treasurer. No lien shall be released unless all excess proceeds of the sale are paid to the county treasurer in payment of the personal property taxes which are the subject of the lien. If a county treasurer determines that such a lien should be released, the county treasurer shall make an entry in the county treasurer's tax records indicating that the lien has been removed from the real property to be sold. The tax lien shall remain valid as to all other property of the taxpayer. As used in this subsection, "excess proceeds" means all proceeds over those needed to satisfy any liens on the property which have priority over the personal property tax lien of the county.

C. It shall be the duty of the county treasurer to collect all delinquent personal taxes due and unpaid, together with penalties and costs, as provided for by Section 2913 of this title, and costs and lien fee in the amount of Five Dollars (\$5.00), and, upon receiving the same, shall release the lien on the personal property tax lien docket.

D. The county treasurer shall keep a personal property tax lien docket in the form prescribed by the State Auditor and Inspector and shall enter on the docket the names and addresses of delinquent taxpayers along with the other information required by the provisions of this section.

E. Upon compliance with the provisions of this section and Section 3102 of this title, the county treasurer may enter in the personal property tax lien docket the following statement:

"All unpaid items contained in this tax roll have been transferred to the personal property tax lien docket for this year." No further entries are required and the personal property tax roll for that year may be closed. The provisions of this section apply to all personal property tax rolls after 1970. Except as otherwise provided by subsection B of this section, all unpaid personal property taxes shall become a lien on any real estate owned by the taxpayer.

Added by Laws 1965, c. 501, § 2. Amended by Laws 1970, c. 299, § 3, emerg. eff. April 28, 1970; Laws 1971, c. 165, § 2, emerg. eff. May 25, 1971; Laws 1975, c. 186, § 1, emerg. eff. May 23, 1975; Laws 1979, c. 30, § 124, emerg. eff. April 6, 1979; Laws 1984, c. 195, § 4, eff. Jan. 1, 1985; Laws 1990, c. 63, § 4, eff. Jan. 1, 1991; Laws 1991, c. 41, § 2, emerg. eff. April 4, 1991. Renumbered from § 24306 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and by Laws 1991, c. 249, § 1, eff. Jan. 1, 1992. Amended by Laws 1997, c. 340, § 6, emerg. eff. June 9, 1997.

§68-3104. Tax warrants.

A. 1. The county treasurer shall issue tax warrants for the collection of delinquent personal taxes upon demand of any person, or whenever the treasurer shall deem it advisable, on a form prescribed by the State Auditor and Inspector, to the sheriff of the county in which the real or personal property is located for the collection of such delinquent personal taxes.

2. The tax warrant shall be issued or directed against any person or legal entity who had possession, control or an interest in personal property at the time the taxes were assessed.

3. The tax warrant shall command the sheriff to collect the amount due for unpaid taxes, penalties and interest thereon, cost of advertising, sheriff's collection fees and any other lawful fees on personal property belonging to the person to whom such taxes were assessed, and if no

personal property is found, then upon any real property such person owns or in which such person has an interest.

B. 1. The sheriff, upon receiving a tax warrant, shall levy said warrant and sell the property of the taxpayer in the manner and form as provided for the sale of personal and/or real property on execution.

2. The sheriff shall pay the total amount received from the sale of personal and/or real property to the county treasurer.

3. The tax warrant shall be returned by the sheriff within sixty (60) days after its issuance.

4. Failure to collect or return the tax warrant as provided in this section, shall subject the sheriff to the same penalties as provided by law for the failure to collect or return execution.

5. The sheriff shall be entitled to the same fees as are provided by law for like sales on execution.

Added by Laws 1971, c. 165, § 3, emerg. eff. May 25, 1971. Amended by Laws 1979, c. 30, § 125, emerg. eff. April 6, 1979. Renumbered from § 24306.1 by Laws 1988, c. 162, § 162, eff. January 1, 1992 and Laws 1991, c. 249, § 1, eff. January 1, 1992. Amended by Laws 2003, c. 184, § 6, eff. Nov. 1, 2003.

§68-3105. Real property to be sold for delinquent taxes and special assessments - Exemption.

A. The county treasurer shall in all cases, except those provided for in subsection B of this section, where taxes are a lien upon real property and have been unpaid for a period of three (3) years or more as of the date such taxes first became due and payable, advertise and sell such real estate for such taxes and all other delinquent taxes, special assessments and costs at the tax resale provided for in Section 3125 of this title, which shall be held on the second Monday of June each year in each county. The county treasurer shall not be bound before so doing to proceed to collect by sale all personal taxes on personal property which are by law made a lien on realty, but shall include such personal tax with that due on the realty, and shall sell the realty for all of the taxes and special assessments.

B. In counties with a population in excess of one hundred thousand (100,000) persons according to the most recent federal decennial census, the county treasurer shall not conduct a tax sale of such real estate where taxes are a lien upon real property if the following conditions are met:

1. The real property contains a single-family residential dwelling;

2. The individual residing on the property is sixty-five (65) years of age or older or has been classified as totally disabled, as defined in subsection C of this section, and such individual owes the taxes due on the real property;

3. The real property is not currently being used as rental property;

4. The individual living on the property has an annual income that does not exceed the HHS Poverty Guidelines as established each year by the United States Department of Health and Human Services that are published in the Federal Register and in effect at the time that the proposed tax sale is to take place; and

5. The fair market value of the real property as reflected on the tax rolls in the office of the county assessor does not exceed One Hundred Twenty-five Thousand Dollars (\$125,000.00).

C. As used in this section, a person who is "totally disabled" means a person who is unable to engage in any substantial gainful activity by reason of a medically determined physical or mental impairment which can be expected to last for a continuous period of twelve (12) months or more. Proof of disability may be established by certification by an agency of state

government, an insurance company, or as may be required by the county treasurer. Eligibility to receive disability benefits pursuant to a total disability under the Federal Social Security Act shall constitute proof of disability for purposes of this section.

D. It shall be the duty of the individual owning property subject to the provisions of subsection B of this section to make application to the county treasurer for an exemption from a tax sale prior to the property being sold. It shall also be the duty of the individual to provide evidence to the county treasurer that the individual meets the financial requirements outlined in paragraph 4 of subsection B and all other requirements of this section to qualify for the exemption. Any individual claiming the exemption provided in this section shall establish eligibility for the exemption each year the exemption is claimed.

E. Taxes, interest and penalties will continue to accrue while the exemption is claimed. The exemption from sale of property described in this section shall no longer be applicable and the county treasurer shall proceed with the sale of such real estate if any of the conditions prescribed in this section are no longer met.

F. Every notice of tax resale shall contain language approved by the Office of the State Auditor and Inspector informing the taxpayer of the provisions of this section. Added by Laws 1965, c. 501, § 2. Amended by Laws 1968, c. 404, § 1, emerg. eff. May 17, 1968. Renumbered from § 24311 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992, as amended by Laws 1991, c. 249, § 1, eff. Jan. 1, 1992. Amended by Laws 2002, c. 183, § 1, eff. July 1, 2002; Laws 2003, c. 181, § 1, eff. Nov. 1, 2003; Laws 2007, c. 172, § 4, eff. Nov. 1, 2007; Laws 2008, c. 82, § 1, emerg. eff. April 24, 2008.

§68-3105.1. Tax liens held prior to effective date of act.

Any person holding a tax lien pursuant to Sections 3101 through 3125 of Title 68 of the Oklahoma Statutes prior to the effective date of this act shall be authorized to continue the tax lien or tax deed process under the laws in effect at the time such tax lien or tax deed was obtained.

Added by Laws 2008, c. 82, § 7, emerg. eff. April 24, 2008.

§68-3106. Notice of delinquent taxes and special assessments.

The county treasurer, according to the law, shall give notice of delinquent taxes and special assessments by publication once a week for two (2) consecutive weeks at any time after April 1, but prior to the end of September following the year the taxes were first due and payable, in some newspaper in the county to be designated by the county treasurer. Such notice shall contain a notification that all lands on which the taxes are delinquent and remain due and unpaid will be sold in accordance with Section 3105 of this title, a list of the lands to be sold, the name or names of the last record owner or owners as of the preceding December 31 or later as reflected by the records in the office of the county assessor, which records shall be updated based on real property conveyed after October 1 each year and the amount of taxes due and delinquent. If the sale involves property upon which is located a manufactured home the notice shall contain the following language: "The sale hereby advertised involves a manufactured home which may be subject to the right of a secured party to repossess. A holder of a perfected security interest in such manufactured home may be able to pay ad valorem taxes based upon the value of the manufactured home apart from the value of real property." In addition to said published notice, the county treasurer shall give notice by mailing to the record owner of said real property as of the preceding December 31 or later as reflected by the records in the office of the county

assessor, which records shall be updated based on real property conveyed after October 1 each year, a notice stating the amount of delinquent taxes owed and informing the owner that the subject real property will be sold as provided for in Section 3105 of this title if the delinquent taxes are not paid and showing the legal description of the property of the owner being sold. Failure to receive said notice shall not invalidate said sale. The county treasurer shall charge and collect in cash, cashier's check or money order, in addition to the taxes, interest and penalty, the publication fees as provided by the provisions of Section 121 of Title 28 of the Oklahoma Statutes, and Five Dollars (\$5.00) plus postage for mailing the notice, which shall be paid into the county treasury or whatever fund the publication and mailing fee expenses came from, and the county shall pay the cost of the publication of such notice. But in no case shall the county be liable for more than the amount charged to the delinquent lands for advertising and the cost of mailing.

Added by Laws 1965, c. 501, § 2. Amended by Laws 1968, c. 404, § 2, emerg. eff. May 17, 1968; Laws 1971, c. 154, § 1, emerg. eff. May 22, 1971; Laws 1972, c. 98, § 1, eff. Sept. 1, 1972; Laws 1974, c. 80, § 1, eff. Jan. 1, 1975; Laws 1984, c. 195, § 5, eff. Jan. 1, 1985; Laws 1984, c. 295, § 2, eff. Jan. 1, 1985; Laws 1988, c. 80, § 9, eff. Jan. 1, 1989. Renumbered from § 24312 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992, as amended by Laws 1991, c. 249, § 1, eff. Jan. 1, 1992. Amended by Laws 2007, c. 172, § 5, eff. Nov. 1, 2007; Laws 2008, c. 82, § 2, emerg. eff. April 24, 2008; Laws 2009, c. 191, § 1, eff. Nov. 1, 2009; Laws 2010, c. 416, § 1, eff. Nov. 1, 2010.

§68-3106.1. Renumbered as § 3127.1 of this title by Laws 1997, c. 337, § 5, eff. July 1, 1997.

§68-3107. Repealed by Laws 2008, c. 82, § 8, emerg. eff. April 24, 2008.

§68-3108. Repealed by Laws 2008, c. 82, § 8, emerg. eff. April 24, 2008.

§68-3109. Repealed by Laws 2008, c. 82, § 8, emerg. eff. April 24, 2008.

§68-3110. Repealed by Laws 2008, c. 82, § 8, emerg. eff. April 24, 2008.

§68-3111. Repealed by Laws 2008, c. 82, § 8, emerg. eff. April 24, 2008.

§68-3112. Repealed by Laws 2008, c. 82, § 8, emerg. eff. April 24, 2008.

§68-3113. Redemption of real estate.

The owner of any real estate, or any person having a legal or equitable interest therein, may redeem the same at any time before the execution of a deed of conveyance therefor by the county treasurer by paying to the county treasurer the sum which was originally delinquent including interest at the lawful rate as provided in Section 2913 of this title and such additional costs as may have accrued; provided, that minors or incapacitated or partially incapacitated persons may redeem from taxes any real property belonging to them within one (1) year after the expiration of such disability, with interest and penalty at not more than ten percent (10%) per annum. The term incapacitated as used in this section relates to mental incapacitation only, physical disability is not covered under this term or this section.

Added by Laws 1965, c. 501, § 2. Renumbered from § 24318 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992, as amended by Laws 1991, c. 249, § 1, eff. Jan. 1, 1992. Amended by Laws 1998, c. 246, § 30, eff. Nov. 1, 1998; Laws 2008, c. 82, § 3, emerg. eff. April 24, 2008; Laws 2009, c. 191, § 2, eff. Nov. 1, 2009.

§68-3114. Repealed by Laws 2008, c. 82, § 8, emerg. eff. April 24, 2008.

§68-3115. Repealed by Laws 2008, c. 82, § 8, emerg. eff. April 24, 2008.

§68-3116. Repealed by Laws 2008, c. 82, § 8, emerg. eff. April 24, 2008.

§68-3117. Repealed by Laws 2008, c. 82, § 8, emerg. eff. April 24, 2008.

§68-3118. Repealed by Laws 2008, c. 82, § 8, emerg. eff. April 24, 2008.

§68-3119. Resale tax deed - Rights conveyed.

A resale tax deed shall convey only the surface and surface rights and mineral interests owned by the owners of the surface rights as distinguished from mineral and mineral rights of such real property. The resale tax deed shall not convey any other interest owned by any other individual or legal entity.

Added by Laws 1979, c. 118, § 1. Renumbered from Title 68, § 24323.1 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992. Amended by Laws 2008, c. 82, § 4, emerg. eff. April 24, 2008.

§68-3120. Repealed by Laws 2008, c. 82, § 8, emerg. eff. April 24, 2008.

§68-3121. Repealed by Laws 2008, c. 82, § 8, emerg. eff. April 24, 2008.

§68-3122. Repealed by Laws 2008, c. 82, § 8, emerg. eff. April 24, 2008.

§68-3123. Repealed by Laws 2008, c. 82, § 8, emerg. eff. April 24, 2008.

§68-3124. Repealed by Laws 2008, c. 82, § 8, emerg. eff. April 24, 2008.

§68-3125. Resale by county of unredeemed lands.

If any real estate shall remain unredeemed for the period provided for in Section 3105 of this title, the county treasurer shall proceed to sell such real estate at resale, which shall be held on the second Monday of June each year in each county.

Added by Laws 1965, c. 501, § 2. Renumbered from § 24329 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and by Laws 1991, c. 249, § 1, eff. Jan. 1, 1992. Amended by Laws 2004, c. 177, § 3, emerg. eff. May 3, 2004; Laws 2008, c. 82, § 5, emerg. eff. April 24, 2008.

§68-3126. Advertising expense.

In the event the county excise board fails, neglects or refuses to make an appropriation, or an appropriation in an amount sufficient, to pay the cost of advertising the resale for any year, the county treasurer shall proceed to advertise and hold such resale, and the cost of advertising,

or any part of the cost of advertising over and above the amount appropriated by the county excise board, shall be paid from the resale-property fund, hereinafter provided.

Laws 1965, c. 501, § 2. Renumbered from § 24330 by Laws 1988, c. 162, § 161, eff. Jan 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3127. Notice of resale.

The county treasurer, according to the law, shall give notice of the resale of such real estate by publication of said notice once a week for four (4) consecutive weeks preceding such sale, in some newspaper, having been continuously published one hundred four (104) consecutive weeks with admission to the United States mails as second-class mail matter, with paid circulation and published in the county where delivered to the mails, to be designated by the county treasurer; and if there be no paper published in the county, or publication is refused, the county treasurer shall give notice by written or printed notice posted on the door of the courthouse. Such notice shall contain a description of the real estate to be sold, the name of the record owner of said real estate as of the preceding December 31 or later as shown by the records in the office of the county assessor, which records shall be updated based on real property conveyed after October 1 each year, the time and place of sale, a statement of the date on which said real estate taxes first became due and payable as provided for in Section 2913 of this title, the year or years for which taxes have been assessed but remain unpaid and a statement that the same has not been redeemed, the total amount of all delinquent taxes, costs, penalties and interest accrued, due and unpaid on the same, and a statement that such real estate will be sold to the highest bidder for cash. It shall not be necessary to set forth the amount of taxes, penalties, interest and costs accrued each year separately, but it shall be sufficient to publish the total amount of all due and unpaid taxes, penalties, interest and costs. The county treasurer shall, at least thirty (30) days prior to such resale of real estate, give notice by certified mail, by mailing to the record owner of said real estate, as shown by the records in the county assessor's office, which records shall be updated based on real property conveyed after October 1 each year, and to all mortgagees of record of said real estate a notice stating the time and place of said resale and showing the legal description of the real property to be sold. If the county treasurer does not know and cannot, by the exercise of reasonable diligence, ascertain the address of any mortgagee of record, then the county treasurer shall cause an affidavit to be filed with the county clerk, on a form approved by the State Auditor and Inspector, stating such fact, which affidavit shall suffice, along with publication as provided for by this section, to give any mortgagee of record notice of such resale. Neither failure to send notice to any mortgagee of record of said real estate nor failure to receive notice as provided for by this section shall invalidate the resale, but the resale tax deed shall be ineffective to extinguish any mortgage on said real estate of a mortgagee to whom no notice was sent. Beginning on April 24, 2008, no encumbrancer of real property in this state shall be permitted to file any instrument purporting to encumber real property in any county of the state with any county clerk unless the instrument states on its face the mailing address of such encumbrancer.

Added by Laws 1965, c. 501, § 2. Amended by Laws 1974, c. 80, § 2, eff. Jan. 1, 1975; Laws 1984, c. 295, § 5, eff. Jan. 1, 1985. Renumbered from § 24331 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992, as amended by Laws 1991, c. 249, § 1, eff. Jan. 1, 1992. Amended by Laws 2008, c. 82, § 6, emerg. eff. April 24, 2008; Laws 2010, c. 416, § 2, eff. Nov. 1, 2010.

§68-3127.1. Repealed by Laws 2006, c. 77, § 8, eff. July 1, 2006.

§68-3128. Publication costs on resale, rate.

For publication costs on resale of real estate, and for publishing lists of lands upon which taxes are delinquent, the county treasurer shall charge and collect from the purchaser at such sale, and the publisher shall be paid, as full compensation for publishing said resale list in four regular issues, and for publishing lists of land upon which taxes are delinquent in three regular issues, in some newspaper within the county having been continuously published one hundred four (104) consecutive weeks with admission to the United States mails as second class mail matter:

The publication fees, as provided by Title 28, O.S.1961, Section 121, or as same may hereafter be amended.

Laws 1965, c. 501, § 2. Renumbered from § 24332 by Laws 1988, c. 162, § 161, effective January 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3129. Sale - Property bid off in name of county - County liability.

A. On the day real estate is advertised for resale, the county treasurer shall offer same for sale at the office of the county treasurer between the hours of nine a.m. and four p.m. and continue the sale thereafter from day to day between such hours until all of the real estate is sold. The real estate shall be sold at public auction to the highest bidder for cash.

B. All property must be sold for a sum not less than two-thirds (2/3) of the assessed value of such real estate as fixed for the current fiscal year, or for the total amount of taxes, penalties, interest and costs due on such property, whichever is the lesser. If there is no bid equal to or greater than the sum so required, the county treasurer shall bid off the same in the name of the county. All property bid off in the name of the county shall be for the amount of all taxes, penalties, interest and costs due thereon, and the county treasurer shall issue a deed therefor to the board of county commissioners for the use and benefit of the county.

C. The county treasurers shall provide to the Oklahoma Health Care Authority (OHCA) a list of properties that will be sold at tax resales in their respective counties. Using the information provided, OHCA shall produce a list for each county of properties on which OHCA has liens. The county treasurers shall make the list of properties with OHCA liens available to potential buyers at the tax resales. OHCA shall file a release of the liens on properties that fit the definition of blighted properties as defined in Section 38-101 of Title 11 of the Oklahoma Statutes, in the county records of the county where the property is located upon request of that county's treasurer. The filing of the lien release shall not extinguish the debt owed to OHCA which may be enforced through any legal means available to OHCA.

D. The county shall not be liable to the state or any taxing district thereof for any part of the amount for which any property may be sold to such county. All property bid off in the name of the county shall be exempt from ad valorem taxation as long as title is held for the county.

E. 1. The county shall not be civilly liable for any environmental problems or conditions on any property which existed on the property prior to the county's involuntary ownership of the property pursuant to this section, or which may result from such environmental problems or conditions on the property. During the period of the county's involuntary ownership of the property, the person or persons who would be legally liable for the environmental problems or conditions on the property but for the county's ownership shall continue to be liable for such environmental problems or conditions.

2. In addition, the county shall not be subject to civil liability with regard to any actions taken by the county to remediate any problems or conditions on the property resulting from the environmental problems or conditions if the remedial action is not performed in a reckless or negligent manner.

Added by Laws 1965, c. 501, § 2. Amended by Laws 1991, c. 222, § 2, eff. July 1, 1991.

Renumbered from § 24333 by Laws 1988, c. 162, § 161, effective Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992; Laws 1999, c. 187, § 3, eff. Nov. 1, 1999; Laws 2013, c. 154, § 1, eff. Nov. 1, 2013.

§68-3130. Monies received at resale deemed collections of tax - Credit and apportionment.

Monies received by the county treasurer at resale from individual purchasers, not redemptioners, shall nevertheless be deemed to be collections of tax, and if no redemption be had before issuance and delivery of a deed therefor, the tax monies so collected, not including excess proceeds to be held for the owner thereof, shall be credited and apportioned as such taxes would have been apportioned had they been paid in the proper time and manner, and the monies so collected representing penalties on ad valorem tax, listing fees and publication costs shall be credited to the "resale property fund" of such county as hereinafter provided. In instances where vacant lots are offered for sale for both ad valorem taxes and special improvement taxes, but are sold for less than the total sum due, the county treasurer shall, after deducting the listing fees and publication costs, apportion the proceeds of such sale ratably between the ad valorem and special improvement tax accounts in the same ratio such proceeds bear to the total tax published as due for such resale.

Laws 1965, c. 501, § 2. Renumbered from § 24334 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3131. Filing of resale return with county clerk - Issuance of deed - Payment of sale expenses - Remaining funds, disposition.

A. Within thirty (30) days after resale of property, the county treasurer shall file in the office of the county clerk a return, and retain a copy thereof in the county treasurer's office, which shall show or include, as appropriate:

1. Each tract or parcel of real estate so sold;
2. The date upon which it was resold;
3. The name of the purchaser;
4. The price paid therefor;
5. A copy of the notice of such resale with an affidavit of its publication or posting; and
6. The complete minutes of sale, and that the same was adjourned from day to day until the sale was completed.

Such notice and return shall be presumptive evidence of the regularity, legality and validity of all the official acts leading up to and constituting such resale. Within such thirty (30) days, the county treasurer shall execute, acknowledge and deliver to the purchaser or the purchaser's assigns, or to the board of county commissioners where such property has been bid off in the name of the county, a deed conveying the real estate thus resold. The issuance of such deed shall effect the cancellation and setting aside of all delinquent taxes, assessments, penalties and costs previously assessed or existing against the real estate, and of all outstanding individual and county tax sale certificates, and shall vest in the grantee an absolute and perfect title in fee simple to the real estate, subject to all claims which the state may have had on the real estate for taxes or

other liens or encumbrances. Twelve (12) months after the deed shall have been filed for record in the county clerk's office, no action shall be commenced to avoid or set aside the deed. Provided, that persons under legal disability shall have one year after removal of such disability within which to redeem the real estate.

B. Any number of lots or tracts of land may be included in one deed, for which deed the county treasurer shall collect from the purchaser the fees provided for in Section 43 of Title 28 of the Oklahoma Statutes. The county treasurer shall also charge and collect from the purchaser at such sale an amount in addition to the bid placed on such real estate, sufficient to pay all expenses incurred by the county in preparing, listing and advertising the lot or tract purchased by such bidder, which sums shall be credited and paid into the resale property fund hereinafter provided, to be used to defray to that extent the costs of resale.

C. When any tract or lot of land sells for more than the taxes, penalties, interest and cost due thereon, the excess shall be held in a separate fund for the prior owner of such land to be withdrawn any time within one (1) year. At the end of one (1) year, if such money has not been withdrawn or collected from the county, it shall be credited to the county resale property fund. Added by Laws 1965, c. 501, § 2. Renumbered from § 24335 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992, as amended by Laws 1991, c. 249, § 1, eff. Jan. 1, 1992. Amended by Laws 1994, c. 278, § 33, eff. Sept. 1, 1994; Laws 1999, c. 187, § 4, eff. Nov. 1, 1999; Laws 2004, c. 447, § 17, emerg. eff. June 4, 2004; Laws 2009, c. 191, § 3, eff. Nov. 1, 2009.

§68-3132. Form of resale tax deed.

The resale tax deed shall be in substantially the following form:

Resale Deed

WHEREAS, _____, County Treasurer of _____ County, State of Oklahoma, on the ____ day of _____, 19__, sold separately and singly, in the manner provided by law, at tax resale and (here fill in the name of the purchaser, unless the land was bid in for the county, in which event, the name and official title of the County Treasurer should appear) bid in for (in this space should appear, if bid in for the county, "the County," if not bid in for the County, the name of the successful bidder) the real estate hereinafter described, and

WHEREAS, all proceedings, notices and duties provided, required and imposed by law prerequisite to the vesting of authority in said County Treasurer to execute this resale deed have been followed, given, complied with and performed, and,

WHEREAS, the said _____, County Treasurer, is now by law vested with the power and authority to execute this resale deed,

NOW, THEREFORE, this indenture, made this ____ day of _____, 19__, between the State of Oklahoma, by _____, the County Treasurer of _____ County, of the first part, and (if purchased for the county, the Board of County Commissioners should appear here; if not, the name of the purchaser other than the county), of the second part, witnesseth, that the said party of the first part for and in consideration of the premises and (here fill in the total sum paid, if purchased by one other than the county, or if purchased by the county, the following: "the cancellation of all the taxes, penalties, interest and costs heretofore levied and assessed against the real estate hereinbelow described"), hath granted, bargained and sold, and by these presents doth grant, bargain, sell and convey to the said party of the second part, his (or her) (here should appear such of the following words as are properly applicable: "heirs, successors, executors, administrators and assigns"), forever, the following separately described tracts, parcels, or lots of land so sold separately and singly for the (if sold to one other than the county, here insert

“amount bid”; but if bid in the name of the county, insert “amount of taxes, interest, penalties and costs cancelled”) in the total sum set opposite each, all of said tracts, parcels, or lots of land being located in _____ County, Oklahoma, to wit:

Description Amount \$

(Here should appear a proper legal description of each tract, as sold, and opposite each, the amount of the bid, or the amount of the total taxes, interest, penalty and costs cancelled as to each and every such description) To have and to hold said tracts and parcels of land, with the appurtenances thereto belonging, to said party of the second part, his (or her) (here should appear such of the following words as are properly applicable: “heirs, successors, executors, administrators, and assigns”) forever, in as full and ample manner as the said County Treasurer of said County is empowered by law to sell the same.

In testimony whereof, _____, County Treasurer of said County of _____, State of Oklahoma, has hereunto set his hand and seal the day and year aforesaid.

Attest: State of Oklahoma
(Seal)

By _____
County Treasurer

State of Oklahoma

SS.

_____ County

Before me, the undersigned, a Notary Public within and for the above named county and State, on this ____ day of _____, personally appeared _____, to me known to be the County Treasurer of _____ County, Oklahoma, and the identical person who executed the within and foregoing instrument and conveyance of land, and acknowledged to me that he executed the same in his capacity as County Treasurer of _____ County, Oklahoma, as his free and voluntary act and deed as such, and as the free and voluntary act and deed of _____ County, and the State of Oklahoma, for the uses and purposes therein set forth.

Witness my hand and notarial seal the day and year above written.

Notary Public
(Or County Clerk)

My Commission Expires _____.

Laws 1965, c. 501, § 2. Renumbered from § 24336 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3133. Prima facie evidence, resale tax deed as.

(a) A resale tax deed executed in substantial compliance with the provisions of the preceding section shall be prima facie evidence in all courts of the state, and in all suits and controversies relating to the rights of the grantee named in said deed, his heirs, successors or assigns, to the land thereby conveyed, of the following facts:

- (1) That the real property deeded was subject to taxation for the year or years included in such sale;
- (2) That the property had been legally assessed for such year;
- (3) That the taxes were levied according to law;

(4) That the said property was legally sold to the county at delinquent tax sale more than two (2) years prior to said resale and that the lien acquired by the county at such sale remained in the county;

(5) That the property deeded had not been redeemed from sale at the date of the deed;

(6) That the property was legally sold at resale to the grantee named in said resale deed and was duly advertised before being sold;

(7) That all proceedings, notices and duties provided, required and imposed by law prerequisite to the vesting of authority in the county treasurer to execute such deed had been followed, given, complied with and performed.

(b) To defeat the deed it must be clearly pleaded and clearly proven that one or more of the essential prerequisites to the vesting of authority in said county treasurer to execute such deed was wholly omitted and not done; and a showing that one or more of said prerequisites was irregularly done shall not be sufficient to defeat the deed.

Laws 1965, c. 501, § 2. Renumbered from § 24337 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3134. Management of real estate purchased by county at resale.

So long as the same remains unsold, the board of county commissioners shall manage the real estate purchased at resale in the name of the county; leasing, renting or using such property for the best interests of said county. The board is authorized to collect rents, enforce ejectments, and to make repairs or replacements on said real estate while the title remains in the county. Neglect of the board of county commissioners to acquire possession of such property shall constitute malfeasance in office and any county commissioner upon conviction thereof shall be removed from office.

Laws 1965, c. 501, § 2. Renumbered from § 24338 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3134.1. Dilapidated buildings acquired at resale by county - Tearing down and removal.

The board of county commissioners of any county in this state with a population in excess of five hundred fifty thousand (550,000) may cause dilapidated buildings acquired by resale to be torn down and removed in accordance with the following procedure:

1. For the purposes of this section, "dilapidated building" means a structure which through neglect or injury lacks necessary repairs or otherwise is in a state of decay or partial ruin to such an extent that said structure is a hazard to the health, safety, or welfare of the general public.

"Owner" means the owner of record as shown by the tax rolls of the county treasurer, at the time property was bid off in the name of the county;

2. At least ten (10) days' notice that a building is to be torn down or removed shall be given before the board of county commissioners holds a hearing. A copy of the notice shall be posted on the property to be affected. In addition, a copy of said notice shall be sent by mail to the property owner at the address shown by the tax rolls in the office of the county treasurer. Written notice shall also be mailed to any mortgage holder as shown by the records in the office of the county clerk to the last-known address of the mortgagee. Notice shall also be given by posting a copy of the notice on the property, and by publication in a newspaper having a general circulation in the county. Such notice shall be published once not less than ten (10) days prior to any hearing or action by the board pursuant to the provisions of this section;

3. A hearing shall be held by the board of county commissioners to determine if the property is dilapidated and has become detrimental to the health, safety, or welfare of the general public and the community, or if said property creates a fire hazard which is dangerous to other property;

4. Pursuant to a finding that the condition of the property constitutes a detriment or a hazard and that the property would be benefited by the removal of such conditions, the board of county commissioners may cause the dilapidated building to be torn down and removed. The board of county commissioners shall fix reasonable dates for the commencement and completion of the work. The agents of the county are granted the right of entry on the property for the performance of the necessary duties as a governmental function of the county;

5. The board of county commissioners shall determine the actual cost of the dismantling and removal of dilapidated buildings and any other expenses that may be necessary in conjunction with the dismantling and removal of the buildings including the cost of notice and mailing. If dismantling and removal of the dilapidated buildings is done on a private contract basis, the contract shall be awarded to the lowest and best bidder. All costs and expenses may be paid from the resale property fund of the county;

6. The board of county commissioners may designate, by resolution, an administrative officer or administrative body to carry out the duties of the board specified in this section. The property owner shall have the right of appeal to the board of county commissioners from any order of the administrative officer or administrative body. Such appeal shall be taken by filing written notice of appeal with the county clerk within ten (10) days after the administrative order is rendered;

7. Nothing in the provisions of this section shall prevent the county from abating a dilapidated building as a nuisance or otherwise exercising its duties to protect the health, safety, or welfare of the general public; and

8. The officers, employees or agents of the county shall not be liable for any damages or loss of property due to the removal of dilapidated buildings performed pursuant to the provisions of this section or as otherwise prescribed by law.

Added by Laws 1992, c. 22, § 3, emerg. eff. March 30, 1992.

§68-3135. Sale or auction of property acquired at resale by county.

A. Any property acquired by the county under the provisions of the resale tax laws may be sold by the county treasurer, after notice by publication, at a price as may be approved by the board of county commissioners, the notice to be given after receipt of bid on the property. The notice shall be published by the county treasurer once during each of the three (3) consecutive weeks preceding the sale, and if there be no paper published in the county, the county treasurer shall give notice by written or printed notice posted on the door of the courthouse. The notice shall embrace a description of the property, the amount bid and the name of the bidder, and state that the sale of the property so listed shall be made at the price and to the bidder at a given date, beginning at an hour to be specified therein, subject to the approval of the board of county commissioners, unless higher bids are received at the sale. On the date stated in the notice, the property shall be sold by the county treasurer to the highest competitive bidder, for cash in hand or certified funds, or to the original bidder if there be no higher price offered. The sale in any event shall be subject to the approval of the board of county commissioners in its discretion. The cost of the advertisement and other expense incident to the sale, as provided by law, shall be apportioned to the respective tracts listed in the sale and shall be added to the sale price of the

real estate as a separate and additional charge and shall be paid by the purchaser, in addition to the amount bid upon the real estate. A deposit shall be required of any bidder before advertisement of the property to cover the advertisement and costs. Upon declaring the successful bidder at the sale, and before closing the sale, the bidder shall be required to make, or increase, the bid sufficient to cover cost of advertising and sale, and sufficient to cover the fees of the county clerk for the recording mandatorily required by law upon approval by the board of county commissioners, otherwise the sale shall continue. Upon approval of the sale as hereinbefore provided, the chair of the board of county commissioners shall execute a deed conveying title to the purchaser of the property in as full and ample manner as by law provided on a form prescribed by the State Auditor and Inspector.

B. In addition to the methods provided for in subsection A of this section, the county may also periodically hold auctions to sell any property or properties acquired by the county under the provisions of the resale tax laws. The auctions shall be held at a time, date and place as set by the county treasurer with the approval of the county commissioners. On the date of the auction, the property or properties shall be sold by the county treasurer to the highest competitive bidder, for cash in hand or certified funds. Any bid which is less than all of the real estate ad valorem taxes owed at the time of the original resale shall be accepted only upon approval of the county commissioners and the county excise board. The county treasurer and county commissioners may contract with an auctioneer to conduct the auction for a fee or commission as may be mutually agreed upon. If an auctioneer is employed, the auctioneer shall be responsible for conducting the auction and all the necessary advertising.

Added by Laws 1965, c. 501, § 2. Amended by Laws 1979, c. 30, § 128, emerg. eff. April 6, 1979. Renumbered from § 24339 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992, and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992. Amended by Laws 1995, c. 182, § 6, eff. Nov. 1, 1995; Laws 1996, c. 205, § 1, eff. July 1, 1996; Laws 2007, c. 353, § 12, eff. Nov. 1, 2007.

§68-3136. Report of sale by county of property acquired at resale - Recording.

When any sale is consummated under the provisions of the preceding section, the county treasurer shall file, with the county clerk, the original bid, proof of publication and report and approval of sale by the board of county commissioners, and it shall be the duty of the county clerk to record the same, and index it against each and every tract or parcel sold. The cost of recording shall be considered a part of the cost of sale, and shall be paid by the purchaser. The State Auditor and Inspector shall prescribe, for the use of the several county treasurers, a form of bid and form of report of sale. The form of report of sale shall contain a place for the approval of the sale by the board of county commissioners.

Laws 1965, c. 501, § 2. Amended by Laws 1979, c. 30, § 129, emerg. eff. April 6, 1979. Renumbered from § 24340 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3137. Resale property fund.

A. All penalties, interest and forfeitures which may accrue on delinquent ad valorem taxes, whether real or personal, tangible or intangible, on any properties, persons, firms or corporations within any county, city, town or school district within a county; the proceeds of sale of property acquired by the county at resale, the proceeds of leases, rentals and other royalties arising from the management, control and operation by the county commissioners of property acquired by the county at resale, when collected shall be credited to and accounted for in a

special cash fund to be styled the "resale property fund" of such county, except the proceeds of sale of such property located in any special improvement district and by the resale of which any special improvement taxes were canceled, in which event the proceeds of sale thereof after having been acquired by the county shall be divided ratably between the resale property fund and the special improvement-tax account (paving, etc.) of the special improvement district in which such property is located, in the same ratio as the ad valorem tax bears to the special improvement taxes in the total amount of such taxes published as due at the time of the resale whereby the county acquired title to such property. That portion so accruing to such special improvement-tax account shall, in keeping with the statutes relating thereto, be applied to the fund provided for retirement of bonds and interest coupons of such improvement district.

B. The resale property fund herein created for each county is hereby declared to be a continuous fund, not subject to fiscal year limitations, and is hereby dedicated, insofar as may be necessary, to the enforcement of the tax laws of the state, and is authorized to be expended for the following purposes:

1. For the purchase of necessary records, printing, supplies and equipment, and the employment of necessary clerical personnel, either on whole or part-time basis, in connection with delinquent personal tax lists and personal tax warrants, delinquent real estate tax lists and lists of unredeemed delinquent real estate subject to tax sale or resale, such costs to be limited to those incurred by the county treasurer;

2. For payment of the cost of advertising or publication, or posting if publication cannot be had, of any such lists;

3. For the reimbursement of the purchaser at resale or at commissioners' sale of any lot, tract, or parcel of real estate, sold at resale, against which no tax was due, or where the inclusion of such lot, tract, or parcel in the publication and offer for resale has been held invalid by a court of competent jurisdiction, or where the title thereto is vested in the Commissioners of the Land Office of the State of Oklahoma, or where such Commissioners of the Land Office have instituted or successfully terminated mortgage foreclosure proceedings in relation thereto prior to issuance of either a resale tax deed or a county commissioners' deed, or where such tract or parcel was nontaxable at the time of the assessment thereof for taxes, or where the sale thereof to such purchaser was illegal for any other reason; and such purchaser has no adequate recourse against the property thus sold; such reimbursement shall be made in the order of the claims filed with the county treasurer therefore, when properly supported by evidence satisfactory to said treasurer that the claimant is entitled to reimbursement hereunder. Provided, however, that no claim for refund not filed, as herein provided, within a period of three (3) years from the date of such sale shall be allowed or paid from said fund; and

4. For all rebates allowed under authority of statute by the board of county commissioners or the tax roll correction board of the county upon taxes found to have been illegally or erroneously collected, or on sale of certificate or issue of tax deed on lands or lots on which no tax was due or as to which the sale thereof is or was illegal for any reason. Provided, however, before the owner of such invalid deed may be reimbursed as aforesaid, he shall first be required to divest himself of purported title by attaching a quitclaim deed or other disclaimer to his claim for refund, setting out the reason for invalidity of the tax deed. The same procedure for refund shall apply whether the tax deed be from the county treasurer or the chairman of the board of county commissioners. The determination of whether such property has been erroneously sold for taxes to such purchaser, shall be made by the board of county commissioners; and in event title under an invalid resale tax deed remains with the county commissioners, the board of county

commissioners so finding same invalid shall execute its resolution or order of disclaimer which shall be filed in the deed records of the county clerk without fee. No fee shall be charged for recording any quitclaim deed or disclaimer from the purchaser under the provisions of this section.

C. The expenditures so made shall be made only upon sworn itemized claims approved by the county treasurer and filed with the county clerk and paid by cash voucher drawn by the county clerk payable from said fund. Claims for cost of publication shall take precedence over all other claims on said fund, otherwise said approved claims shall be paid in the order filed as funds accrue from sale of county property as hereinbefore provided. If any such claim has not been paid within three (3) years, the same shall cease to be an obligation of the resale property fund of such county; but nothing in this article shall operate to prevent the payment for such services from an appropriation for such purpose in the general fund of the county in the manner and under the restrictions provided by law.

D. Any residue of cash actually on hand in said fund at any time, after providing for the expense of delinquent tax publication, and for the mandatory holding of sales and resales, made or about to be made, the purchase of necessary records, printing and supplies and the payment of clerical hire, such expenditures, or reserve therefor, to be limited to the necessary expenses incurred by virtue of the authorization herein granted, may be expended by the county commissioners, without further appropriation, in the upkeep, repair and maintenance of unsold properties acquired by the county at resale, by the issuance of cash warrants on such fund in payment of sworn itemized claims therefor; limited in amount to the sum certified to by the county treasurer as being actually on hand in excess of the amount reserved for the purposes hereinbefore stated.

E. On or before the 30th of June of each year the county treasurer shall file a financial statement of the resale property fund with the county clerk for the approval of the board of county commissioners, setting forth the necessary reserves for expenditures either made or anticipated, to cover:

1. The cost of preparing and making delinquent tax publications, as hereinbefore set out;
2. The purchase of necessary records, printing and supplies and the payment of clerical hire, such reserves therefor, to be limited to the necessary expenses incurred by virtue of the authorization herein granted;
3. To pay claims and encumbrances for the upkeep, repair and maintenance of unsold properties;
4. To pay all rebates allowed under authority of statute by the board of county commissioners or the board of tax roll corrections upon taxes found to have been illegally or erroneously collected; and
5. To pay for tax sale certificates or issue of deeds on lands or lots on which no tax was due or as to which the sale thereof was illegal for any reason.

F. Any balance remaining on hand over and above the necessary reserves for the above mentioned items shall be apportioned forthwith by the county treasurer in the following manner:

1. In each county having a net assessed valuation in excess of Eight Million Dollars (\$8,000,000.00):
 - a. one-third (1/3) of such surplus residue to such county to be applied first to the payment of delinquent warrants of such county, thereafter to its current general fund,

- b. one-third (1/3) to the cities and towns of such county, in the ratio that the last certified assessed valuation of each bears to the total such assessed valuation of all such cities and towns in such county, to be by each of them applied in the payment of any delinquent warrants of such city or town, thereafter to its current general fund, and
- c. one-third (1/3) to the various school districts of the county on a scholastic enumeration basis, to be applied by each of them to the payment of any delinquent warrants of such district and thereafter to its current general fund.

2. In each county having a net assessed valuation of Eight Million Dollars (\$8,000,000.00) or less:

- a. In the ratio that the county, city or town and school district levy bears to the fifteen-mill levy as allocated by the county excise board.
- b. Such surplus to the cities and towns of such county in the ratio that the last certified assessed valuation of each bears to the total assessed valuation of all such cities or towns in such county.
- c. Such surplus to the school districts of the county on a scholastic enumeration basis.
- d. The amounts apportioned to each county, city or town and school district shall be applied by each of them to the payment of any delinquent warrants of such municipality and thereafter to its current general fund.

G. Nothing in this section shall be construed to repeal, amend, alter or modify any of the provisions of Sections 2479 or 2480 of this article, but shall be construed to be cumulative thereto.

Added by Laws 1965, c. 501, § 2. Renumbered from Title 68, § 24341 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992; Laws 2004, c. 447, § 18, emerg. eff. June 4, 2004.

§68-3138. Conditions precedent to action to restrain tax collection.

Whenever any action or proceeding shall be commenced and maintained before any court or judge to prevent or to restrain the collection of any tax or part thereof or to recover any such tax previously paid, or to recover the possession or title of any property, real or personal, sold for taxes, or to invalidate any deed or grant thereof for taxes, or to restrain, prevent, recover or delay any payment of taxes; the true and just amount of taxes due upon such property or by such person, if in dispute, must be ascertained and paid before the judgment prayed for, and if not in dispute must be paid in accordance with the provisions of this article.

Laws 1965, c. 501, § 2. Renumbered from § 24342 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3139. Official neglect not to affect sale.

The sale of lands, town or city lots, or any other real property, shall not be invalid on account of such real property having been listed or charged in any other name than that of the rightful owner; nor shall any such sale be invalid nor the conveyance for the real property so sold be voidable by reason of neglect or failure of the county treasurer or any other officer to collect the tax for which it was sold by distraint and sale of personal property.

Laws 1965, c. 501, § 2. Renumbered from § 24343 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3140. Procedure to cancel deed.

To defeat the deed, the person desiring to set the same aside and recover the land, or to resist the recovery of possession by the holder of the deed, in addition to showing clearly the entire failure to do some one or all the things of which the tax deed is made presumptive evidence, must show that he or the person under whom he claims had the right to redeem the land from tax sale at the time the deed was made, and must, when his action to set aside the tax deed is brought, or a defense to a recovery of possession is pleaded, tender in open court for the use of the holder of the tax deed, all taxes, penalties, interests and costs, which the party seeking to redeem would be bound to pay if he was then redeeming the land from tax sale, and on failure so to do, his action or defense, as the case may be, shall be dismissed. The rule that tax proceedings are to be strictly construed as against the tax purchaser, shall not apply to proceedings under this article, but in all courts its provisions shall be liberally construed, to the end that its provisions and all proceedings thereunder shall be sustained.

Laws 1965, c. 501, § 2. Renumbered from § 24344 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3141. Limitation of action to recover land - Payment of taxes due.

No action shall be commenced by the holder of the tax deed or the former owner or owners of land by any person claiming under him or them to recover possession of the land which has been sold and conveyed by deed for nonpayment of taxes, or to avoid such deed, unless such action shall be commenced within one (1) year after the recording of such deed; and in case of action to avoid the deed, not until all taxes, interest and penalties, costs and expenses, shall be paid or tendered by the party commencing such action.

Laws 1965, c. 501, § 2. Renumbered from § 24345 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3142. Tax lien subject to other state lien.

Whenever any lands shall be sold for delinquent taxes under the provisions of this article, upon which any mortgage or other lien exists in favor of the State of Oklahoma, or the Commissioners of the Land Office or any other commission, board or officer having power to loan public funds, or any funds under the control of the state upon real estate security, such tax shall be secondary at all times to the lien of the state, or of the Commissioners of the Land Office, or of such commission, board or officer.

Laws 1965, c. 501, § 2. Renumbered from § 24346 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3143. Prior lien of state or subdivisions against public service corporations for delinquent taxes.

The state or any county, city, town or school district shall have and possess a prior lien against any public service corporation for delinquent taxes.

Laws 1965, c. 501, § 2. Renumbered from § 24347 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3144. Quitclaim deed to land sold through error.

The board of county commissioners of any county in this state may execute quitclaim deeds to persons whose property has been sold to the county at a tax sale through error. The determination of whether such property has been erroneously sold to the county shall be made by the board of county commissioners upon proper application of the aggrieved owner.

Laws 1965, c. 501, § 2. Renumbered from § 24348 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3145. Survival and enforcement of covenants and restrictions running with land after resale or certificate tax deed.

Whenever in any city or incorporated town, or addition or subdivision thereto or thereof, a deed in the chain of title shall contain restrictions and covenants running with the land, as hereinafter defined and limited, said restrictions and covenants shall survive and be enforceable after the issuance of a resale or certificate tax deed, to the same extent that they would be enforceable against a voluntary grantee, immediate, mediate, or remote, of the owner of the title immediately prior to the delivery of the tax deed.

Laws 1965, c. 501, § 2. Renumbered from § 24349 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3146. Restrictions and covenants to which law applicable.

Section 3145 of this title shall apply only to the usual restrictions and covenants limiting the use of property, the type, character and location of buildings, and covenants against nuisances and what the former parties deemed to be undesirable conditions, in, upon, and about the property, and other similar restrictions and covenants.

Laws 1965, c. 501, § 2. Renumbered from § 24350 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992. Amended by Laws 1999, c. 146, § 1, eff. Nov. 1, 1999.

§68-3147. Other rights surviving to grantee.

Any right that the former owner had to enforce like restrictions and covenants against the immediate, mediate or remote grantor and other parties owning other property held or sold under the same plan, or in the same or adjacent subdivisions of land or otherwise, except forfeitures, right of reentry, or reverter, shall likewise survive to the grantee in said tax deed and to his or its heirs, successors and assigns.

Laws 1965, c. 501, § 2. Renumbered from § 24351 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3148. Officials - Failure to perform duties.

(a) Any county official charged with any duty in connection with the holding of delinquent tax sales and tax resales who fails to perform such duty, shall be guilty of malfeasance in office and upon conviction thereof shall be removed from office. In addition, any official who fails to perform such duty shall forfeit all salary or compensation for his services for a period of three months after such failure might, with due diligence, have been discovered; and any official who approves, or votes to approve, a claim for salary or compensation, or issues, registers or pays a warrant for salary or compensation, in violation of the foregoing, shall be liable upon his official bond for the payment of such salary or compensation.

(b) The provisions of this section relate to the duty of the board of county commissioners and the county excise board to provide funds for preparing and advertising delinquent tax sales and tax resales, and to the duty of the county treasurer to prepare, advertise and hold such delinquent tax sales and tax resales. However, no county official shall be held responsible for failure to hold a tax resale when prevented from doing so by prior failure to hold a delinquent tax sale, or for failure to provide more than a substantial portion of the funds necessary to pay the cost of advertising a tax resale.

Laws 1965, c. 501, § 2. Renumbered from § 24400 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3149. Attorney General - Removal of officials.

It shall be the duty of the Attorney General to file charges for removal from office against any official who fails to make provision for the holding of such tax sales and tax resales or to hold such tax sales and tax resales as provided by law.

Laws 1965, c. 501, § 2. Renumbered from § 24401 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3150. Officer derelict in duty forfeits pay.

In case of a dereliction of any duty on the part of any officer or person required by law to perform any duty under the provisions of this article, such person shall thereby forfeit all pay and allowances that would otherwise be due him, and the board of county commissioners, on receiving satisfactory evidence of such dereliction or failure, shall refuse to pay such person or persons any sum whatever for such services.

Laws 1965, c. 501, § 2. Renumbered from § 24402 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3151. County treasurer to account quarterly.

In addition to the statements and showings required by this article, it shall be the duty of the county treasurer four times each year to balance his books and come to an accounting with the board of county commissioners.

Laws 1965, c. 501, § 2. Renumbered from § 24403 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3152. Duties mandatory - Penalty for failure to perform.

The provisions of this article relating to the duties of various officials, and the time within which such duties shall be performed, are hereby declared to be mandatory, and the failure of any such official, board or commission, to perform the duties prescribed herein, within the time specified, shall subject them to removal from office, for neglect of duty; and they shall receive no remuneration, compensation or salary for their services, after the time herein fixed for the performance of such duties and until the same shall have been completed or performed. Each of them shall also be subject to a penalty of Five Dollars (\$5.00) per day for each day's delay for such neglect or failure, and it shall be the duty of the district attorney to institute proper action to collect any such penalty; provided, that the validity of any levy or appropriation shall not be affected because of any insufficiency, informality or delay in the performance of any duty imposed upon any official, board or commission by this article.

Laws 1965, c. 501, § 2. Renumbered from § 24404 by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-3201. Imposition of tax - Definitions.

A. A tax is hereby imposed on each deed, instrument, or writing by which any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser or purchasers, or any other person or persons, by his or their direction, when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds One Hundred Dollars (\$100.00). The tax shall be prorated at the rate of seventy-five cents (\$0.75) for each Five Hundred Dollars (\$500.00) of the consideration or any fractional part thereof.

B. The tax is limited to conveyances of realty sold and does not apply to other conveyances. The tax attaches at the time the deed or other instrument of conveyance is executed and delivered to the buyer, irrespective of the time when the sale is made.

C. As used in this section:

1. "Sold" means a transfer of an interest for a valuable consideration, which may involve money or anything of value; and

2. "Deed" means any instrument or writing whereby realty is assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or, at his direction, any other person.

3. "Consideration" means the actual pecuniary value exchanged or paid or to be exchanged or paid in the future, exclusive of interest, whether in money or otherwise, for the transfer or conveyance of an interest of realty, including any assumed indebtedness.

Laws 1967, c. 259, § 1; Laws 1971, c. 315, § 1, operative, July 1, 1971; Laws 1978, c. 120, § 1; Laws 1983, c. 275, § 14, emerg. eff. June 24, 1983; Laws 1984, c. 195, § 7, eff. Jan. 1, 1985. Renumbered from § 5101 by Laws 1988, c. 162, § 160, eff. Jan. 1, 1992; Laws 1991, c. 338, § 2, eff. Jan. 1, 1992.

§68-3202. Exemptions.

The tax imposed by Section 3201 of this title shall not apply to:

1. Deeds recorded prior to the effective date of Sections 3201 through 3206 of this title;

2. Deeds which secure a debt or other obligation;

3. Deeds which, without additional consideration, confirm, correct, modify or supplement a deed previously recorded;

4. Deeds between husband and wife, or parent and child, or any persons related within the second degree of consanguinity, without actual consideration therefor, deeds between any person and an express revocable trust created by such person or such person's spouse or deeds pursuant to which property is transferred from a person to a partnership, limited liability company or corporation of which the transferor or the transferor's spouse, parent, child, or other person related within the second degree of consanguinity to the transferor, or trust for primary benefit of such persons, are the only owners of the partnership, limited liability company or corporation. However, if any interest in the partnership, limited liability company or corporation is transferred within one (1) year to any person other than the transferor or the transferor's spouse, parent, child, or other person related within the second degree of consanguinity to the transferor, the seller shall immediately pay the amount of tax which would have been due had this exemption not been granted;

5. Tax deeds;

6. Deeds of release of property which is security for a debt or other obligation;
7. Deeds executed by Indians in approval proceedings of the district courts or by the Secretary of the Interior;
8. Deeds of partition, unless, for consideration, some of the parties take shares greater in value than their undivided interests, in which event a tax attaches to each deed conveying such greater share computed upon the consideration for the excess;
9. Deeds made pursuant to mergers of partnerships, limited liability companies or corporations;
10. Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;
11. Deeds or instruments to which the State of Oklahoma or any of its instrumentalities, agencies or subdivisions is a party, whether as grantee or as grantor or in any other capacity;
12. Deeds or instruments to which the United States or any of its agencies or departments is a party, whether as grantor or as grantee or in any other capacity, provided that this shall not exempt transfers to or from national banks or federal savings and loan associations;
13. Any deed executed pursuant to a foreclosure proceeding in which the grantee is the holder of a mortgage on the property being foreclosed, or any deed executed pursuant to a power of sale in which the grantee is the party exercising such power of sale or any deed executed in favor of the holder of a mortgage on the property in consideration for the release of the borrower from liability on the indebtedness secured by such mortgage except as to cash consideration paid; provided, however, the tax shall apply to deeds in other foreclosure actions, unless otherwise hereinabove exempted, and shall be paid by the purchaser in such foreclosure actions; or
14. Deeds and other instruments to which the Oklahoma Space Industry Development Authority or a spaceport user, as defined in the Oklahoma Space Industry Development Act, is a party.

Added by Laws 1967, c. 259, § 2. Amended by Laws 1968, c. 186, § 1, emerg. eff. April 15, 1968; Laws 1971, c. 315, § 2, operative July 1, 1971; Laws 1988, c. 24, § 1, operative July 1, 1988. Renumbered from § 5102 of this title by Laws 1988, c. 162, § 160, eff. Jan. 1, 1992. Amended by Laws 1991, c. 338, § 3, eff. Jan. 1, 1992; Laws 1993, c. 366, § 48, eff. Sept. 1, 1993; Laws 1999, c. 164, § 41, eff. July 1, 1999; Laws 1999, c. 340, § 2, eff. July 1, 1999; Laws 2001, c. 405, § 48, eff. Nov. 1, 2001.

§68-3203. Persons obligated to pay tax - Requisite stamps - Recording.

A. The taxes imposed by Section 3201 of this title shall be paid by any person who makes, signs, issues, or sells any of the documents and instruments subject to the taxes imposed by Section 3201 of this title, or for whose use or benefit the same are made, signed, issued or sold.

B. Only documentary stamps shall be used in payment of the tax imposed by Section 3201 of this title. The requisite stamps shall be affixed to the deed, instrument, or other writing by which the realty is conveyed. Said tax is not to be considered paid until the requisite stamps are affixed to the deed, instrument, or other writing by which the realty is conveyed, which stamps must be affixed before the deed is accepted for recording.

C. The name and address of the buyer shall be shown on the face of the deed, instrument or other writing by which the realty is conveyed prior to the recording of such deed, instrument or other writing.

Laws 1967, c. 259, § 3; Laws 1971, c. 315, § 3, operative July 1, 1971. Renumbered from § 5103 by Laws 1988, c. 162, § 160, eff. Jan. 1, 1992; Laws 1991, c. 338, § 4, eff. Jan. 1, 1992.

§68-3204. Design and distribution of stamps - Accounting - Distribution of funds.

A. The Oklahoma Tax Commission shall design such stamps in such denominations as in its judgment it deems necessary for the administration of this tax. The Oklahoma Tax Commission shall distribute the stamps to the county clerks of the counties of this state, and the county clerks shall have the responsibility of selling these stamps and shall have the further duty of accounting for the stamps to the Oklahoma Tax Commission on the last day of each month. Stamp metering machines or rubber stamps as prescribed by the Oklahoma Tax Commission may be used by the county clerk, and the expenses thereof shall be paid by the county concerned. The use of meters or rubber stamps shall be governed by the Oklahoma Tax Commission.

B. The county clerks shall account for all collections from the sales of such tax stamps to the Oklahoma Tax Commission, on the last day of each month. The first fifty-five cents (\$0.55) of each seventy-five cents (\$0.75) collected shall be apportioned as follows:

1. The county clerks shall retain five percent (5%) of all monies collected for such stamps as their cost of administration and shall pay the same into the county general fund.

2. The remaining ninety-five percent (95%) of the collections shall be transferred by the Oklahoma Tax Commission to the General Revenue Fund of the State Treasury to be expended pursuant to legislative appropriation.

C. The remaining twenty cents (\$0.20) of each seventy-five cents (\$0.75) collected shall be paid into the county general fund.

Added by Laws 1967, c. 259, § 4. Amended by Laws 1971, c. 315, § 4, operative July 1, 1971; Laws 1978, c. 120, § 2; Laws 1981, c. 78, § 1, operative July 1, 1981; Laws 1986, c. 223, § 48, operative July 1, 1986. Renumbered from § 5104 by Laws 1988, c. 162, § 160, eff. Jan. 1, 1992. Amended by Laws 1997, c. 304, § 13, emerg. eff. May 29, 1997.

§68-3205. Rules and regulations - Documentary Stamp Tax Unit.

The Oklahoma Tax Commission shall prescribe such rules and regulations as it may deem necessary to carry out the purpose of Sections 3201 through 3206 of this title. There is hereby created the Documentary Stamp Tax Unit of the Oklahoma Tax Commission. The Oklahoma Tax Commission through the Documentary Stamp Tax Unit shall be responsible for the administration and enforcement of the taxes as imposed by Section 3201 of this title. The provisions of Section 240 of Title 68 of the Oklahoma Statutes apply to the provisions of the documentary stamp tax act.

Laws 1967, c. 259, § 5; Laws 1971, c. 315, § 5, operative July 1, 1971. Renumbered from § 5105 by Laws 1988, c. 162, § 160, eff. Jan. 1, 1992; Laws 1991, c. 338, § 5, eff. Jan. 1, 1992.

§68-3206. Violations - Punishments.

A. Any person who shall willfully fail to purchase and affix the exact amount of stamps on any deed, instrument, or writing as required under Section 3201 of this title shall, upon conviction, be subject to a fine of not more than One Thousand Dollars (\$1,000.00) or to imprisonment of not more than one (1) year, or to both such fine and imprisonment for such offense.

B. The willful removal or alteration of the cancellation or defacing marks with intent to use or cause the same to be used after a documentary stamp has already been used shall, upon conviction, subject the guilty person to a fine of not more than One Thousand Dollars

(\$1,000.00) or to imprisonment of not more than one (1) year, or to both such fine and imprisonment for such offense.

C. Proof of payment of the documentary stamp tax shall be the exhibiting of the conveyance instrument showing the required stamps have been affixed. The failure or refusal of any taxpayer to furnish proof of payment of the documentary stamp tax, upon being so requested to do so by the Oklahoma Tax Commission, within ninety (90) days after being notified by registered or certified mail with return receipt requested shall be prima facie evidence of intent of the taxpayer to defraud the state and evade the payment of such tax. Any taxpayer who intends to defraud the state or evade the payment of the documentary stamp tax, fee, penalty or interest thereon pursuant to the provisions of Section 217 of this title, shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) for each offense.

D. Should the county clerk become aware that the provisions of the documentary stamp law have or might have been violated, he or she shall immediately report the facts to the Oklahoma Tax Commission.

Laws 1967, c. 259, § 6; Laws 1971, c. 315, § 6, operative July 1, 1971. Renumbered from § 5106 by Laws 1988, c. 162, § 160, eff. Jan. 1, 1992; Laws 1991, c. 338, § 6, eff. Jan. 1, 1992.

§68-3301. Repealed by Laws 1991, c. 338, § 7, eff. Jan. 1, 1992.

§68-3401. Short title.

This act shall be known and may be cited as the "Uniform Federal Lien Registration Act". Added by Laws 1988, c. 132, § 1, eff. Nov. 1, 1988. Renumbered from § 24302.5 by Laws 1988, c. 162, § 162, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 2, eff. Jan. 1, 1992.

§68-3402. Applicability.

The Uniform Federal Lien Registration Act applies only to federal tax liens and to other federal liens notices of which under any Act of Congress or any regulation adopted pursuant thereto are required or permitted to be filed in the same manner as notices of federal tax liens. Added by Laws 1988, c. 132, § 2, eff. Nov. 1, 1988. Renumbered from § 24302.6 by Laws 1988, c. 162, § 162, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 2, eff. Jan. 1, 1992.

§68-3403. Notices - Filing.

A. Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed in accordance with the Uniform Federal Lien Registration Act.

B. After any notice required by the Uniform Federal Lien Registration Act to the owner of real property located in the State of Oklahoma, notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens shall be filed in the office of the county clerk of the county in which the real property subject to the liens is situated.

C. Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be filed as follows:

1. If the person against whose interest the lien applies is a corporation or a partnership whose principal executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the county clerk of Oklahoma County, Oklahoma;

2. If the person against whose interest the lien applies is a trust that is not covered by paragraph 1 of this subsection, in the office of the county clerk of Oklahoma County, Oklahoma;

3. If the person against whose interest the lien applies is the estate of a decedent, in the office of the county clerk of Oklahoma County, Oklahoma;

4. In all other cases, in the office of the county clerk of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.

Added by Laws 1988, c. 132, § 3, eff. Nov. 1, 1988. Renumbered from § 24302.7 by Laws 1988, c. 162, § 162, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 2, eff. Jan. 1, 1992.

§68-3404. Certification by U.S. Secretary of Treasury and other officials.

Certification of notices of liens, certificates, or other notices affecting federal liens by the Secretary of the Treasury of the United States or his delegate, or by any official or entity of the United States responsible for filing or certifying of notice of any other lien, entitles them to be filed and no other attestation, certification, or acknowledgement is necessary.

Added by Laws 1988, c. 132, § 4, eff. Nov. 1, 1988. Renumbered from § 24302.8 by Laws 1988, c. 162, § 162, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 2, eff. Jan. 1, 1992.

§68-3405. Duties of filing officers - Filing certificate.

A. If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection B of this section is presented to a filing officer who is:

1. The county clerk of Oklahoma County, the filing officer shall cause the notice to be marked, held, and indexed in accordance with the provisions of Article 9 of the Uniform Commercial Code as if the notice were a financing statement within the meaning of the Uniform Commercial Code; or

2. Any other officer described in Section 3403 of this title, the filing officer shall endorse the notice and mark it with the date and time of receipt and immediately file the notice alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the title and address of the official or entity certifying the lien, and the total amount appearing on the notice of lien.

B. If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the county clerk of Oklahoma County for filing, the clerk shall:

1. Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of the Uniform Commercial Code, but the notice of lien to which the certificate relates may not be removed from the files; and

2. Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate were a release of collateral within the meaning of the Uniform Commercial Code.

C. If a refiled notice of federal lien referred to in subsection A of this section or any of the certificates or notices referred to in subsection B of this section is presented for filing to any other filing officer specified in Section 3403 of this title, the clerk shall permanently attach the refiled notice or the certificate to the original notice of lien and enter the refiled notice or the certificate with the date of filing in any alphabetical lien index on the line where the original notice of lien is entered.

D. Upon request of any person, the filing officer shall issue a certificate showing whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under the Uniform Federal Lien Registration Act or the Uniform Federal Tax Lien Registration Act, naming a particular person, and if a notice or certificate is on file,

giving the date and hour of filing of each notice or certificate. The fee for a certificate is One Dollar (\$1.00). Upon request, the filing officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee of One Dollar (\$1.00) per page. Added by Laws 1988, c. 132, § 5, eff. Nov. 1, 1988. Renumbered from § 24302.9 by Laws 1988, c. 162, § 162, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 2, eff. Jan. 1, 1992; Laws 2000, c. 371, § 180, eff. July 1, 2001.

§68-3406. Filing fee.

A. The fee for filing and indexing each notice of lien or certificate of notice affecting the lien, including a lien on real estate; a lien on tangible and intangible personal property; a certificate of discharge or subordination; and all other notices, including a certificate of release or nonattachment, shall be the uniform filing fee provided by paragraphs (1) and (2) of subsection (a) of Section 1-9-525 of Title 12A of the Oklahoma Statutes if the notice of lien is first filed on or after July 1, 2001.

B. For notices of lien first filed prior to July 1, 2001, the filing fee paid at the time of filing shall be payment for the subsequent filing of all other certificates or notices affecting said tax lien.

C. The filing officer shall bill the District Director of the Internal Revenue Service or other appropriate federal officials on a monthly basis for fees for documents filed by the Internal Revenue Service.

Added by Laws 1988, c. 132, § 6, eff. Nov. 1, 1988. Amended by Laws 1990, c. 339, § 13, eff. Sept. 1, 1990. Renumbered from § 24302.10 of this title by Laws 1988, c. 162, § 162, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 2, eff. Jan. 1, 1992. Amended by Laws 2001, c. 354, § 7, eff. July 1, 2001.

§68-3407. Construction and application of act.

The Uniform Federal Lien Registration Act shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of the Uniform Federal Lien Registration Act among states enacting it.

Added by Laws 1988, c. 132, § 7, eff. Nov. 1, 1988. Renumbered from § 24302.11 by Laws 1988, c. 162, § 162, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 2, eff. Jan. 1, 1992.

§68-3501. Short title.

This act shall be known and may be cited as the "Oklahoma Federal Facilities Development Act".

Added by Laws 1993, c. 1, § 1, emerg. eff. Feb. 8, 1993.

§68-3502. Findings and intent of Legislature.

A. It is the finding of the Legislature that there exists in this state a continuing need for programs to assist political subdivisions in attracting federal facility development and consequent job creation and ancillary economic growth within this state. In order to achieve these essential public purposes, it is necessary to assist and encourage political subdivisions to develop facilities for use by the federal government.

B. It is the intent of the Legislature that:

1. The State of Oklahoma provide appropriate incentives to assist political subdivisions of this state in attracting qualified federal facilities that hold the promise of significant development of the economy of the State of Oklahoma;

2. The amount of such incentives provided in connection with a particular federal facility:
- a. be directly related to the jobs created as a result of the facility locating in the State of Oklahoma, and
 - b. not exceed the estimated net direct state benefits that will accrue to the state as a result of the facility locating in the State of Oklahoma;

3. The Oklahoma Department of Commerce and the Oklahoma Tax Commission implement the provisions of this act and exercise all powers as authorized in this act. The exercise of powers conferred by this act shall be deemed and held to be the performance of essential public purposes; and

4. Nothing herein shall be construed to constitute a guarantee or assumption by the State of Oklahoma of any debt of a political subdivision nor to authorize the credit of the State of Oklahoma to be given, pledged or loaned to any political subdivision.

Added by Laws 1993, c. 1, § 2, emerg. eff. Feb. 8, 1993.

§68-3503. Definitions.

As used in this act:

1. "Qualified federal facility" means a facility developed after March 1, 1993, by or at the expense of a political subdivision of this state and leased or conveyed to the government of the United States which primarily houses federal employees; provided, the annual gross payroll for new direct jobs of a qualified federal facility must be projected by the Department of Commerce as having the potential to equal or exceed Fifty Million Dollars (\$50,000,000.00) when the facility is fully operational;

2. "New direct job" means full-time-equivalent employment in a qualified federal facility which did not exist in this state prior to the date of approval by the Department of Commerce of the application of the political subdivision for the qualified federal facility pursuant to the provisions of Section 4 of this act;

3. "Estimated direct state benefits" means the tax revenues projected by the Department of Commerce to accrue to the state as a result of new direct jobs;

4. "Estimated direct state costs" means the costs projected by the Department of Commerce to accrue to the state as a result of new direct jobs. Such costs shall include but not be limited to:

- a. the costs of education of new state resident children,
- b. the costs of public health, public safety and transportation services to be provided to new state residents,
- c. the costs of other state services to be provided to new state residents,
- d. the costs of employee training and other state services, and
- e. the costs of physical infrastructure needed to support the facility;

5. "Estimated net direct state benefits" means the estimated direct state benefits less the estimated direct state costs;

6. "Net benefit rate" means the estimated net direct state benefits computed as a percentage of gross payroll; provided, the net benefit rate shall not exceed the lesser of five and one-fourth percent (5.25%) or the minimum rate deemed by the Department of Commerce to be

necessary to result in an incentive payment at a level which will enable the political subdivision to attract the qualified federal facility;

7. "Political subdivision" means a municipality, a county or a public trust, the beneficiary or beneficiaries of which are a municipality, a county or the State of Oklahoma or a combination thereof;

8. "Gross payroll" means wages for new direct jobs as defined in paragraph (e) of Section 2385.1 of Title 68 of the Oklahoma Statutes;

9. "Project term" means the length of time a political subdivision may receive incentive payments pursuant to the provisions of this act; provided, the project term shall not exceed twenty (20) years from the date of the first incentive payment;

10. "Total net benefit" means the net benefit rate multiplied by the gross payroll over the project term as estimated by the Department of Commerce pursuant to the provisions of subsection C of Section 4 of this act; and

11. "Develop" means acquire, maintain, construct, improve, enlarge, renew, renovate, replace, lease, equip, furnish or operate.

Added by Laws 1993, c. 1, § 3, emerg. eff. Feb. 8, 1993.

§68-3504. Incentive payments - Amount - Application - Qualifications - Approval - Notice - Additional information.

A. A political subdivision may receive quarterly incentive payments from the Oklahoma Tax Commission pursuant to the provisions of this act in an amount which shall be equal to the net benefit rate multiplied by the actual gross payroll of new direct jobs for a calendar quarter; provided, the total amount of such payments shall not exceed the total net benefit.

B. In order to receive incentive payments pursuant to the provisions of this act, a political subdivision shall apply to the Oklahoma Department of Commerce. The application shall be on a form prescribed by the Department and shall contain such information as may be required by the Department.

C. The Department shall determine if the applicant is qualified to receive incentive payments pursuant to the provisions of this act and if so, conduct a cost/benefit analysis to determine the estimated net direct state benefits and the net benefit rate and to estimate the amount of gross payroll for the project term. In conducting such cost/benefit analysis, the Department shall consider quantitative factors, such as the anticipated level of new tax revenues to the state along with the added cost to the state of providing services, qualitative factors, and such other criteria as deemed appropriate by the Department.

D. Upon approval of such an application, the Department shall notify the Oklahoma Tax Commission and shall provide the Commission with a copy of the application and the results of the cost/benefit analysis. The Tax Commission may require the political subdivision or the qualified federal facility to submit such additional information as may be necessary to administer the provisions of this act.

Added by Laws 1993, c. 1, § 4, emerg. eff. Feb. 8, 1993.

§68-3505. Incentive payments - Funding source.

In order to ensure the availability of funds for incentive payments authorized pursuant to the provisions of this act, the Oklahoma Tax Commission shall transfer such amounts as determined by multiplying the net benefit rate provided by the Department of Commerce by the gross payroll as determined pursuant to the provisions of subsection A of Section 6 of this act.

Such funds shall be transferred from current withholding tax collections into an agency special account designated for this purpose by the Oklahoma Tax Commission at such times as may be deemed necessary by the Tax Commission.

Added by Laws 1993, c. 1, § 5, emerg. eff. Feb. 8, 1993.

§68-3506. Incentive payments - Claims - Verification - Issuance of warrants.

A. As soon as practicable after the end of a calendar quarter for which a political subdivision has qualified to receive an incentive payment, the political subdivision shall file a claim for the payment with the Oklahoma Tax Commission and shall specify the actual number and gross payroll of new direct jobs for the calendar quarter. The Commission shall verify the actual gross payroll for new direct jobs for such calendar quarter. If the Tax Commission is not able to provide such verification, the Tax Commission may request such additional information from the political subdivision as may be necessary or may request the political subdivision to revise its claim.

B. As soon as practicable after such verification, the Tax Commission shall issue a warrant to the political subdivision in the amount of the net benefit rate multiplied by the actual gross payroll as verified by the Commission for the calendar quarter.

Added by Laws 1993, c. 1, § 6, emerg. eff. Feb. 8, 1993.

§68-3507. Incentive payments - Deposit - Use - Investment - Audits - Unused assets.

A. A political subdivision receiving an incentive payment pursuant to the provisions of this act shall deposit such payment in a separate fund and shall not be permitted to use such monies for any purpose other than payment of expenses associated with a qualified federal facility.

A political subdivision shall be permitted to invest the monies accruing to such fund in such manner as is authorized by law for investment of other monies of the political subdivision; provided, the interest earned from such investments shall be deposited to the fund and shall be used solely for payment of expenses associated with a qualified federal facility.

B. A political subdivision receiving an incentive payment pursuant to the provisions of this act shall annually cause an independent financial audit of such fund to be made and shall submit such audit to the Department of Commerce, the Oklahoma Tax Commission, and the State Auditor and Inspector. The State Auditor and Inspector shall review such audit and report his findings to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives.

C. At the end of the project term or at the end of the period of time for which the qualified federal facility is leased or conveyed to the government of the United States, whichever is later, any assets of the qualified federal facility owned by the political subdivision, including, but not limited to any property or any monies remaining in the fund created pursuant to the provisions of subsection A of this section, shall be disposed of between the political subdivision and the state according to the proportions of funding provided by the state through incentive payments authorized by this act and funding provided by the political subdivision.

Added by Laws 1993, c. 1, § 7, emerg. eff. Feb. 8, 1993.

§68-3508. Promulgation of rules.

The Department of Commerce and the Tax Commission shall promulgate such rules as may be necessary to implement the provisions of this act.

Added by Laws 1993, c. 1, § 8, emerg. eff. Feb. 8, 1993.

§68-3600. Repealed by Laws 2002, c. 112, § 4, eff. Dec. 31, 2002.

§68-3601. Short title.

Section 3601 et seq. of this title shall be known and may be cited as the “Oklahoma Quality Jobs Program Act”.

Added by Laws 1993, c. 275, § 1, eff. July 1, 1993. Amended by Laws 1994, c. 7, § 1, emerg. eff. March 29, 1994.

§68-3602. Legislative intent.

It is the intent of the Legislature that:

1. The State of Oklahoma provide appropriate incentives to support establishments of basic industries that hold the promise of significant development of the economy of the State of Oklahoma;

2. The amount of incentives provided pursuant to this act in connection with a particular establishment:

- a. be directly related to the jobs created as a result of the establishment locating in the State of Oklahoma, and
- b. not exceed the estimated net direct state benefits that will accrue to the state as a result of the establishment locating in the State of Oklahoma;

3. The Oklahoma Department of Commerce and the Oklahoma Tax Commission implement the provisions of this act and exercise all powers as authorized in this act. The exercise of powers conferred by this act shall be deemed and held to be the performance of essential public purposes; and

4. Nothing herein shall be construed to constitute a guarantee or assumption by the State of Oklahoma of any debt of any individual, company, corporation or association nor to authorize the credit of the State of Oklahoma to be given, pledged or loaned to any individual, company, corporation or association.

Added by Laws 1993, c. 275, § 2, eff. July 1, 1993.

§68-3603. Definitions.

A. As used in the Oklahoma Quality Jobs Program Act:

1. a. “Basic industry” means:
 - (1) those manufacturing activities defined or classified in the NAICS Manual under Industry Sector Nos. 31, 32 and 33, Industry Group No. 5111 or Industry No. 11331,
 - (2) those electric power generation, transmission and distribution activities defined or classified in the NAICS Manual under U.S. Industry Nos. 221111 through 221122, if:
 - (a) an establishment engaged therein qualifies as an exempt wholesale generator as defined by 15 U.S.C., Section 79z-5a,
 - (b) the exempt wholesale generator facility consumes from sources located within the state at least ninety percent (90%) of the total energy used to produce the electrical output which qualifies for the specialized treatment provided by the

- Energy Policy Act of 1992, P.L. 102-486, 106 Stat. 2776, as amended, and federal regulations adopted pursuant thereto,
- (c) the exempt wholesale generator facility sells to purchasers located outside the state for consumption in activities located outside the state at least ninety percent (90%) of the total electrical energy output which qualifies for the specialized treatment provided by the Energy Policy Act of 1992, P.L. 102-486, 106 Stat. 2776, as amended, and federal regulations adopted pursuant thereto, and
 - (d) the facility is constructed on or after July 1, 1996,
- (3) those administrative and facilities support service activities defined or classified in the NAICS Manual under Industry Group Nos. 5611 and 5612, Industry Nos. 51821, 519130, 52232 and 56142 or U.S. Industry Nos. 524291 and 551114, those other support activities for air transportation defined or classified in the NAICS Manual under Industry Group No. 488190, and those support, repair, and maintenance service activities for the wind industry defined or classified in the NAICS Manual under Industry Group No. 811310,
 - (4) those professional, scientific and technical service activities defined or classified in the NAICS Manual under U.S. Industry Nos. 541710 and 541380,
 - (5) distribution centers for retail or wholesale businesses defined or classified in the NAICS Manual under Sector No. 42, if forty percent (40%) or more of the inventory processed through such warehouse is shipped out-of-state,
 - (6) those adjustment and collection service activities defined or classified in the NAICS Manual under U.S. Industry No. 561440, if seventy-five percent (75%) of the loans to be serviced were made by out-of-state debtors,
 - (7) (a) those air transportation activities defined or classified in the NAICS Manual under Industry Group No. 4811, if the following facilities are located in this state:
 - (i) the corporate headquarters of an establishment classified therein, and
 - (ii) a facility or facilities at which reservations for transportation provided by such an establishment are processed, whether such services are performed by employees of the establishment, by employees of a subsidiary of or other entity affiliated with the establishment or by employees of an entity with whom the establishment has contracted for the performance of such services; provided, this provision shall not disqualify an establishment which uses an out-of-state entity or employees for some reservations services, or

- (b) those air transportation activities defined or classified in the NAICS Manual under Industry Group No. 4811, if an establishment classified therein has or will have within one (1) year sales of at least seventy-five percent (75%) of its total sales, as determined by the Incentive Approval Committee pursuant to the provisions of subsection B of this section, to out-of-state customers or buyers, to in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, or to the federal government,
- (8) flight training services activities defined or classified in the NAICS Manual under U.S. Industry Group No. 611512, which for purposes of the Oklahoma Quality Jobs Program Act shall include new direct jobs for which gross payroll existed on or after January 1, 2003, as identified in the NAICS Manual,
- (9) the following, if an establishment classified therein has or will have within one (1) year sales of at least seventy-five percent (75%) of its total sales, as determined by the Incentive Approval Committee pursuant to the provisions of subsection B of this section, to out-of-state customers or buyers, to in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, or to the federal government:
 - (a) those transportation and warehousing activities defined or classified in the NAICS Manual under Industry Subsector No. 493, if not otherwise listed in this paragraph, Industry Subsector Nos. 482 and 484 and Industry Group Nos. 4884 through 4889,
 - (b) those passenger transportation activities defined or classified in the NAICS Manual under Industry Nos. 561510 and 561599,
 - (c) those freight or cargo transportation activities defined or classified in the NAICS Manual under Industry No. 541614,
 - (d) those insurance activities defined or classified in the NAICS Manual under Industry Group No. 5241,
 - (e) those services to dwellings and other buildings, as defined or classified in the NAICS Manual under Industry Group No. 5617, excluding U.S. Industry Nos. 561730, 56171, 56172, 56174 and 56179,
 - (f) those equipment rental and leasing activities defined or classified in the NAICS Manual under Industry Group No. 5324,
 - (g) those information technology and other computer-related service activities defined or classified in the NAICS Manual under Industry Group Nos. 5112, 5182, 5191 and 5415,

- (h) those business support service activities defined or classified in the NAICS Manual under U.S. Industry Nos. 561410 through 561430, excluding 56143, and Industry No. 51911,
 - (i) those medical and diagnostic laboratory activities defined or classified in the NAICS Manual under Industry Group No. 6215,
 - (j) those professional, scientific and technical service activities defined or classified in the NAICS Manual under Industry Group Nos. 5412, 5414, 5415, 5416 and 5417, Industry Nos. 54131, 54133, 54136 and 54137, and U.S. Industry No. 541990, if not otherwise listed in this paragraph,
 - (k) those communication service activities defined or classified in the NAICS Manual under Industry Nos. 51741 and 51791,
 - (l) those refuse systems activities defined or classified in the NAICS Manual under Industry Group No. 5622, provided that the establishment is primarily engaged in the capture and distribution of methane gas produced within a landfill,
 - (m) general wholesale distribution of groceries, defined or classified in the NAICS Manual under Industry Group Nos. 4244 and 4245,
 - (n) those activities relating to processing of insurance claims, defined or classified in the NAICS Manual under U.S. Industry Nos. 524210 and 524292; provided, activities described in U.S. Industry Nos. 524210 and 524292 in the NAICS Manual other than processing of insurance claims shall not be included for purposes of this subdivision,
 - (o) those agricultural activities classified in the NAICS Manual under U.S. Industry No. 112120,
 - (p) those professional organization activities classified in the NAICS Manual under U.S. Industry No. 813920,
 - (q) alternative energy structure construction classified in the NAICS Manual under U.S. Industry No. 237130,
 - (r) solar reflective coating application classified in the NAICS Manual under U.S. Industry No. 238160,
 - (s) solar heating equipment installation classified in the NAICS Manual under U.S. Industry No. 238220,
 - (t) those wired telecommunications carriers classified in the NAICS Manual under U.S. Industry No. 517110, and
 - (u) those securities, commodity contracts and investment activities classified in the NAICS Manual under Industry Subsector No. 523,
- (10) those activities related to extraction or pipeline transportation of petroleum, natural gas or refined petroleum products, defined or classified in the NAICS Manual under Industry Group No. 2111, 213111, 213112 or 486, subject to the limitations provided in

paragraph 3 of this subsection and paragraph 3 of subsection B of this section,

- (11) those activities performed by the federal civilian workforce at a facility of the Federal Aviation Administration located in this state if the Director of the Oklahoma Department of Commerce determines or is notified that the federal government is soliciting proposals or otherwise inviting states to compete for additional federal civilian employment or expansion of federal civilian employment at such facilities,
 - (12) those activities defined or classified in the NAICS Manual under U.S. Industry No. 711211 (2007 version),
 - (13) those real estate or brokerage activities classified in the NAICS Manual under U.S. Industry No. 53120 for which at least seventy-five percent (75%) of the establishment's revenues are attributed to out-of-state sales and at least seventy-five percent (75%) of the real estate transactions generating those revenues are attributed to real property located outside the State of Oklahoma, or
 - (14) those support activities for rail transportation and those support activities for water transportation defined or classified in the NAICS Manual under U.S. Industry Nos. 4882 and 4883.
- b. An establishment described in subparagraph a of this paragraph shall not be considered to be engaged in a basic industry unless it offers, or will offer within one hundred eighty (180) days of employment, a basic health benefits plan to the individuals it employs in new direct jobs in this state which is determined by the Oklahoma Department of Commerce to consist of the following elements or elements substantially equivalent thereto:
- (1) not more than fifty percent (50%) of the premium shall be paid by the employee,
 - (2) coverage for basic hospital care,
 - (3) coverage for physician care,
 - (4) coverage for mental health care,
 - (5) coverage for substance abuse treatment,
 - (6) coverage for prescription drugs, and
 - (7) coverage for prenatal care;

2. "Change-in-control event" means the transfer to one or more unrelated establishments or unrelated persons, of either:

- a. beneficial ownership of more than fifty percent (50%) in value and more than fifty percent (50%) in voting power of the outstanding equity securities of the transferred establishment, or
- b. more than fifty percent (50%) in value of the assets of an establishment.

A transferor shall be treated as related to a transferee if more than fifty percent (50%) of the voting interests of the transferor and transferee are owned, directly or indirectly, by the other or are owned, directly or indirectly, by the same person or persons, unless such transferred establishment has an outstanding class of equity securities registered under Sections 12(b) or 15(d) of the Securities Exchange Act of 1934, as amended, in which event the transferor and transferee will be treated as unrelated; provided, an establishment applying for the Oklahoma

Quality Jobs Program Act as a result of a change-in-control event is required to apply within one hundred eighty (180) days of the change-in-control event to qualify for consideration. An establishment entering the Oklahoma Quality Jobs Program Act as the result of a change-in-control event shall be required to maintain a level of new direct jobs as agreed to in its contract with the Oklahoma Department of Commerce and to pay new direct jobs an average annualized wage which equals or exceeds one hundred twenty-five percent (125%) of the average county wage as that percentage is determined by the Oklahoma Department of Commerce based upon the most recent U.S. Department of Commerce data for the county in which the new jobs are located. For purposes of this paragraph, healthcare premiums paid by the applicant for individuals in new direct jobs shall not be included in the annualized wage. Such establishment entering the Oklahoma Quality Jobs Program Act as the result of a change-in-control event shall be required to retain the contracted average annualized wage and maintain the contracted maintenance level of new direct jobs numbers as certified by the Tax Commission. If the required average annualized wage or the required new direct jobs numbers do not equal or exceed such contracted level during any quarter, the quarterly incentive payments shall not be made and shall not be resumed until such time as such requirements are met. An establishment described in this paragraph shall be required to repay all incentive payments received under the Oklahoma Quality Jobs Program Act if the establishment is determined by the Oklahoma Tax Commission to no longer have business operations in the state within three (3) years from the beginning of the calendar quarter for which the first incentive payment claim is filed;

3. "New direct job":

- a. means full-time-equivalent employment in this state in an establishment which has qualified to receive an incentive payment pursuant to the provisions of the Oklahoma Quality Jobs Program Act which employment did not exist in this state prior to the date of approval by the Department of the application of the establishment pursuant to the provisions of Section 3604 of this title and with respect to an establishment qualifying for incentive payments pursuant to division (12) of subparagraph a of paragraph 1 of this subsection shall not include compensation paid to an employee or independent contractor for an athletic contest conducted in the state if the compensation is paid by an entity that does not have its principal place of business in the state or that does not own real or personal property having a market value of at least One Million Dollars (\$1,000,000.00) located in the state, and the employees or independent contractors of such entity are compensated to compete against the employees or independent contractors of an establishment that qualifies for incentive payments pursuant to division (12) of subparagraph a of paragraph 1 of this subsection and which is organized under Oklahoma law or that is lawfully registered to do business in the state and which does have its principal place of business located in the state and owns real or personal property having a market value of at least One Million Dollars (\$1,000,000.00) located in the state; provided, that if an application of an establishment is approved by the Oklahoma Department of Commerce after a change-in-control event and the Director of the Oklahoma Department of Commerce determines that the jobs located at such establishment are likely to leave the state, "new direct job" shall include employment that existed in this state prior to the date of

application which is retained in this state by the new establishment following a change in control event, if such job otherwise qualifies as a new direct job, and

- b. shall include full-time-equivalent employment in this state of employees who are employed by an employment agency or similar entity other than the establishment which has qualified to receive an incentive payment and who are leased or otherwise provided under contract to the qualified establishment, if such job did not exist in this state prior to the date of approval by the Department of the application of the establishment or the job otherwise qualifies as a new direct job following a change-in-control event. A job shall be deemed to exist in this state prior to approval of an application if the activities and functions for which the particular job exists have been ongoing at any time within six (6) months prior to such approval. With respect to establishments defined in division (10) of subparagraph a of paragraph 1 of this subsection, new direct jobs shall be limited to those jobs directly comprising the corporate headquarters of or directly relating to manufacturing, maintenance, administrative, financial, engineering, surveying, geological or geophysical services performed by the establishment. Under no circumstances shall employment relating to field services be considered new direct jobs;

4. "Estimated direct state benefits" means the tax revenues projected by the Department to accrue to the state as a result of new direct jobs;

5. "Estimated direct state costs" means the costs projected by the Department to accrue to the state as a result of new direct jobs. Such costs shall include, but not be limited to:

- a. the costs of education of new state resident children,
- b. the costs of public health, public safety and transportation services to be provided to new state residents,
- c. the costs of other state services to be provided to new state residents, and
- d. the costs of other state services;

6. "Estimated net direct state benefits" means the estimated direct state benefits less the estimated direct state costs;

7. "Net benefit rate" means the estimated net direct state benefits computed as a percentage of gross payroll; provided:

- a. except as otherwise provided in this paragraph, the net benefit rate may be variable and shall not exceed five percent (5%),
- b. the net benefit rate shall not exceed six percent (6%) in connection with an establishment which is owned and operated by an entity which has been awarded a United States Department of Defense contract for which:
 - (1) bids were solicited and accepted by the United States Department of Defense from facilities located outside this state,
 - (2) the term is or is renewable for not less than twenty (20) years, and
 - (3) the average annual salary, excluding benefits which are not subject to Oklahoma income taxes, for new direct jobs created as a direct result of the awarding of the contract is projected by the Oklahoma Department of Commerce to equal or exceed Forty Thousand

- Dollars (\$40,000.00) within three (3) years of the date of the first incentive payment,
- c. except as otherwise provided in subparagraph d of this paragraph, in no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits,
 - d. the net benefit rate shall be five percent (5%) for an establishment locating:
 - (1) in an opportunity zone located in a high-employment county, as such terms are defined in subsection G of Section 3604 of this title, or
 - (2) in a county in which:
 - (a) the per capita personal income, as determined by the Department, is eighty-five percent (85%) or less of the statewide average per capita personal income,
 - (b) the population has decreased over the previous ten (10) years, as determined by the Oklahoma Department of Commerce based on the most recent U.S. Department of Commerce data, or
 - (c) the unemployment rate exceeds the lesser of five percent (5%) or two percentage points above the state average unemployment rate as certified by the Oklahoma Employment Security Commission,
 - e. the net benefit rate shall not exceed six percent (6%) in connection with an establishment which:
 - (1) is, as of the date of application, receiving incentive payments pursuant to the Oklahoma Quality Jobs Program Act and has been receiving such payments for at least one (1) year prior to the date of application, and
 - (2) expands its operations in this state by creating additional new direct jobs which pay average annualized wages which equal or exceed one hundred fifty percent (150%) of the average annualized wages of new direct jobs on which incentive payments were received during the preceding calendar year,
 - f. with respect to an establishment defined or classified in the NAICS Manual under U.S. Industry No. 711211 (2007 version) or any establishment defined or classified in the NAICS Manual as a U.S. Industry Number which is not included within the definition of “basic industry” as such term is defined in this section on April 17, 2008, the net benefit rate shall not exceed the highest rate of income tax imposed upon the Oklahoma taxable income of individuals pursuant to subparagraph (g) or subparagraph (h), as applicable, of paragraph 1 and paragraph 2 of subsection B of Section 2355 of this title. Any change in such highest rate of individual income tax imposed pursuant to the provisions of Section 2355 of this title shall be applicable to the computation of incentive payments to an establishment as described by this subparagraph and shall be effective for purposes of incentive payments based on payroll paid by such establishment on or after

- January 1 of any applicable year for which the net benefit rate is modified as required by this subparagraph, and
- g. the net benefit rate shall not exceed six percent (6%) in connection with an establishment which employs United States military veterans in at least ten percent (10%) of its gross payroll. The net benefit rate for an establishment which employs United States military veterans in at least ten percent (10%) of its payroll shall not be lower than five percent (5%).

Incentive payments made pursuant to the provisions of this subparagraph shall be based upon payroll associated with such new direct jobs. For purposes of this subparagraph, the amount of health insurance premiums or other benefits paid by the establishment shall not be included for purposes of computation of the average annualized wage;

8. "Gross payroll" means wages, as defined in Section 2385.1 of this title for new direct jobs;

- 9. a. "Establishment" means any business or governmental entity, no matter what legal form, including, but not limited to, a sole proprietorship; partnership; limited liability company; corporation or combination of corporations which have a central parent corporation which makes corporate management decisions such as those involving consolidation, acquisition, merger or expansion; federal agency; political subdivision of the State of Oklahoma; or trust authority; provided, distinct, identifiable subunits of such entities may be determined to be an establishment, for all purposes of Section 3601 et seq. of this title, by the Department subject to the following conditions:

- (1) within three (3) years of the first complete calendar quarter following the start date, the entity must have a minimum payroll of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) and the subunit must also have or will have a minimum payroll of Two Million Five Hundred Thousand Dollars (\$2,500,000.00),
- (2) the subunit is engaged in an activity or service or produces a product which is demonstratively independent and separate from the entity's other activities, services or products and could be conducted or produced in the absence of any other activity, service or production of the entity,
- (3) has an accounting system capable of tracking or facilitating an audit of the subunit's payroll, expenses, revenue and production. Limited interunit overlap of administrative and purchasing functions shall not disqualify a subunit from consideration as an establishment by the Department,
- (4) the entity has not previously had a subunit determined to be an establishment pursuant to this section; provided, the restriction set forth in this division shall not apply to subunits which qualify pursuant to the provisions of subparagraph b of paragraph 7 of this subsection, and
- (5) it is determined by the Department that the entity will have a probable net gain in total employment within the incentive period.

- b. The Department may promulgate rules to further limit the circumstances under which a subunit may be considered an establishment. The Department shall promulgate rules to determine whether a subunit of an entity achieves a net gain in total employment. The Department shall establish criteria for determining the period of time within which such gain must be demonstrated and a method for determining net gain in total employment;

10. "NAICS Manual" means any manual, book or other publication containing the North American Industry Classification System, United States, 1997, promulgated by the Office of Management and Budget of the United States of America, or the latest revised edition;

11. "Qualified federal contract" means a contract between an agency or instrumentality of the United States government, including but not limited to the Department of Defense or any branch of the United States Armed Forces, but exclusive of any contract performed for the Federal Emergency Management Agency as a direct result of a natural disaster declared by the Governor or the President of the United States with respect to damage to property located in Oklahoma or loss of life or personal injury to persons in Oklahoma, and a lawfully recognized business entity, whether or not the business entity is organized under the laws of the State of Oklahoma or whether or not the principal place of business of the business entity is located within the State of Oklahoma, for the performance of services, including but not limited to testing, research, development, consulting or other services in a basic industry, if the contract involves the performance of such services performed on or after July 1, 2009, by the employees of the business entity within the State of Oklahoma or if the contract involves the performance of such services performed on or after July 1, 2009, by employees of a lawfully recognized business entity that is a subcontractor of the business entity with which the prime contract has been formed. A qualified federal contract described in this paragraph shall not qualify unless both the qualified federal contractor and any subcontractors originally involved in the work or added subsequently during the period of performance verify to the qualified federal contractor verifier that it offers, or will offer within one hundred eighty (180) days of employment of its respective employees, a basic health benefits plan as described in subparagraph b of paragraph 1 of this subsection to individuals who perform qualified labor hours in this state;

12. "Qualified federal contractor verifier" means a nonprofit entity organized under the laws of the State of Oklahoma, having an affiliation with a comprehensive university which is part of The Oklahoma State System of Higher Education, and having the following characteristics:

- a. established multiyear classified and unclassified indefinite-delivery/indefinite-quantity federal contract vehicles in excess of Fifty Million Dollars (\$50,000,000.00),
- b. current capability to sponsor and maintain personnel security clearances and authorized by the federal government to handle and perform classified work up to the Top Secret Sensitive Compartmented Information levels,
- c. at least one on-site federally certified Sensitive Compartmented Information Facility,
- d. on-site secure mass data storage complex with the capability of isolating, segregating and protecting corporate proprietary and classified information,
- e. trusted agent status by maintaining no ownership of, vested interest in, nor royalty production from any intellectual property,

- f. at least one hundred thousand (100,000) square feet of configurable laboratory and support space,
- g. the direct access to restricted air space through a formalized memorandum of agreement with the Department of Defense,
- h. at least five thousand (5,000) acres available for outdoor testing and training facilities, and
- i. the ability to house state-of-the-art surety facilities, including chemical, biological, radiological, explosives, electronics, and unmanned systems laboratories and ranges;

13. "SIC Manual" means the 1987 revision to the Standard Industrial Classification Manual, promulgated by the Office of Management and Budget of the United States of America;

14. "Start date" means the date on which an establishment may begin accruing benefits for the creation of new direct jobs, which date shall be determined by the Department;

15. "Effective date" means the date of approval of a contract under which incentive payments will be made pursuant to the Oklahoma Quality Jobs Program Act, which shall be the date the signed and accepted incentive contract is received by the Department; provided, an approved project may have a start date which is different from the effective date;

16. "Total qualified labor hours" means the reimbursed payment amount for hours of work performed by the State of Oklahoma workforce of a qualified federal contractor or the State of Oklahoma workforce of a subcontractor of a qualified federal contractor and which are required for the full performance of a qualified federal contract;

17. "Qualified labor rate" means the fully reimbursed labor rate paid through a qualified federal contract for qualified labor hours to the qualified federal contractor or subcontractor; and

18. "Qualified federal contractor" means a business entity:

- a. maintaining a prime contract with the federal government as defined in paragraph 11 of this subsection,
- b. providing notice of intent to apply to the Department within one hundred eighty (180) days of July 1, 2010, or one hundred eighty (180) days of the date of the award of a qualified federal contract or award of a new qualified subcontract under an existing qualified federal contract, and
- c. adding substantively to the contract by performing at least eight percent (8%) of the total labor whether qualified and nonqualified labor as determined by the federal contractor verifier on a direct contract or individual task order or delivery order on an indefinite-delivery/indefinite-quantity or other blanket contract vehicle.

Should a prime contractor provide notice to the Department of its intent not to apply for incentive for a qualified federal contract or fails to qualify under the criteria above, subcontractors in order of tier ranking as determined by the federal contract verifier may assume the role of the prime and apply to become a qualified federal contractor provided the entity meets the same criteria above with the exception that notice of intent to apply with the Department must be provided within sixty (60) days of the prime's disqualification or one hundred eighty (180) days of the award of its subcontract, whichever is later.

B. The Incentive Approval Committee is hereby created and shall consist of the Director of the Office of Management and Enterprise Services, the Director of the Department and one member of the Oklahoma Tax Commission appointed by the Tax Commission, or a designee from each agency approved by such member. It shall be the duty of the Committee to determine:

1. Upon initial application on a form approved by the Committee, if an establishment is engaged in a basic industry as defined in subdivision (b) of division (7) or in subdivisions (a) through (n) of division (9) of subparagraph a of paragraph 1 of subsection A of this section or as otherwise provided by subsection C of this section;

2. If an establishment would have been defined as a “basic industry” prior to the amendments to this section to convert from SIC Codes to NAICS Codes. If the Committee so determines, the establishment shall be considered as a “basic industry” for purposes of the Oklahoma Quality Jobs Program Act; and

3. If employees of an establishment as defined in division (10) of subparagraph a of paragraph 1 of subsection A of this section meet the requirements to be considered employed in new direct jobs as specified in paragraph 3 of subsection A of this section.

C. For an establishment defined as a “basic industry” pursuant to division (4) of subparagraph a of paragraph 1 of subsection A of this section, the Incentive Approval Committee shall consist of the members provided by subsection B of this section and the Executive Director of the Oklahoma Center for the Advancement of Science and Technology, or a designee from the Center appointed by the Executive Director.

Added by Laws 1993, c. 275, § 3, eff. July 1, 1993. Amended by Laws 1994, c. 7, § 2, emerg. eff. March 29, 1994; Laws 1994, c. 322, § 22, emerg. eff. June 8, 1994; Laws 1995, c. 349, § 1, eff. July 1, 1995; Laws 1996, c. 3, § 16, emerg. eff. March 6, 1996; Laws 1996, c. 73, § 1, emerg. eff. April 9, 1996; Laws 1996, c. 342, § 5, eff. July 1, 1996; Laws 1997, c. 258, § 1, emerg. eff. May 23, 1997; Laws 1998, c. 379, § 1, eff. July 1, 1998; Laws 1999, c. 134, § 2, emerg. eff. April 28, 1999; Laws 1999, c. 426, § 3, emerg. eff. June 10, 1999; Laws 2000, c. 275, § 1, eff. Jan. 1, 2001; Laws 2001, c. 351, § 1, eff. Nov. 1, 2001; Laws 2002, c. 308, § 1, eff. July 1, 2002; Laws 2003, c. 377, § 1, emerg. eff. June 4, 2003; Laws 2004, c. 457, § 1, eff. July 1, 2004; Laws 2005, c. 352, § 1, emerg. eff. June 6, 2005; Laws 2006, c. 281, § 31, eff. July 1, 2006; Laws 2007, c. 1, § 61, emerg. eff. Feb. 22, 2007; Laws 2008, c. 35, § 1, emerg. eff. April 17, 2008; Laws 2008, c. 406, § 3, eff. Nov. 1, 2008; Laws 2009, c. 369, § 1, eff. July 1, 2009; Laws 2010, c. 2, § 70, emerg. eff. March 3, 2010; Laws 2010, c. 267, § 1, eff. July 1, 2010; Laws 2010, c. 347, § 1, eff. Nov. 1, 2010; Laws 2011, c. 268, § 1, eff. Nov. 1, 2011; Laws 2012, c. 308, § 1, eff. Nov. 1, 2012; Laws 2013, c. 15, § 88, emerg. eff. April 8, 2013; Laws 2013, c. 227, § 23, eff. Nov. 1, 2013; Laws 2013, c. 378, § 1, eff. Nov. 1, 2013.

NOTE: Laws 1994, c. 278, § 34 repealed by Laws 1995, c. 1, § 40, emerg. eff. March 2, 1995. Laws 1995, c. 337, § 11 repealed by Laws 1996, c. 3, § 25, emerg. eff. March 6, 1996. Laws 1999, c. 79, § 2 repealed by Laws 1999, c. 426, § 5, eff. July 1, 1999. Laws 2005, c. 390, § 1 repealed by Laws 2006, c. 16, § 75, emerg. eff. March 29, 2006. Laws 2006, c. 16, § 74 repealed by Laws 2007, c. 1, § 62, emerg. eff. Feb. 22, 2007. Laws 2009, c. 339, § 1 repealed by Laws 2010, c. 2, § 71, emerg. eff. March 3, 2010. Laws 2012, c. 304, § 567 repealed by Laws 2013, c. 15, § 89, emerg. eff. April 8, 2013. Laws 2012, c. 310, § 1 repealed by Laws 2013, c. 15, § 90, emerg. eff. April 8, 2013.

§68-3604. See the following versions:

OS 68-3604v1 (HB 1455, Laws 2013, c. 227, § 24).

OS 68-3604v2 (SB 613, Laws 2013, c. 378, § 2).

§68-3604.1. Quarterly incentive payments for federal contractors - Application and qualifications.

A. A qualified federal contractor may receive quarterly incentive payments for renewable ten-year periods from the Oklahoma Tax Commission pursuant to the provisions of the Oklahoma Quality Jobs Program Act and the provisions of this section.

B. The amount of such payments shall be equal to a net benefit rate of not less than twenty-five hundredths of one percent (0.25%), but not greater than two percent (2%), multiplied by the total qualified labor hours worked by employees of the federal contractor or employees of a qualified federal subcontractor, or both, pursuant to a qualified federal contract for a calendar quarter as verified by the Oklahoma Employment Security Commission and certified by a qualified federal contractor verifier. The net benefit rate for a qualified federal contractor shall be scaled to annual subcontracting goals that account for both total qualified subcontract labor hours and the ratio of qualified subcontract labor hours to total qualified labor hours. Unless limited by the cost/benefit analysis, the net benefit rate shall:

1. Not exceed twenty-five hundredths of one percent (0.25%) when annual qualified subcontract labor hours are less than Two Hundred Thousand Dollars (\$200,000.00) or when annual qualified subcontract labor is less than one percent (1%) of the annual total qualified labor hours claimed;

2. Not be less than five-tenths of one percent (0.5%) when subcontract goals are met with a minimum of Two Hundred Thousand Dollars (\$200,000.00) of annual total qualified subcontractor labor hours and these hours are a minimum of one percent (1%) of the annual total qualified hours claimed;

3. Not be less than one percent (1%) when subcontract goals are met with a minimum of One Million Dollars (\$1,000,000.00) of annual total qualified subcontractor labor hours and when these hours represent a minimum of five percent (5%) of the annual total qualified hours claimed;

4. Not be less than one and five-tenths percent (1.5%) when subcontract goals are met with a minimum of Two Million Dollars (\$2,000,000.00) of annual total qualified subcontractor labor hours and these hours are a minimum of ten percent (10%) of the annual total qualified hours claimed; and

5. Not be less than two percent (2.0%) when subcontract goals are met with a minimum of Four Million Dollars (\$4,000,000.00) of annual total qualified subcontractor labor hours and these hours are a minimum of twenty percent (20%) of the annual total qualified hours claimed.

C. In order to receive incentive payments, a qualified federal contractor shall apply to the Oklahoma Department of Commerce within one hundred eighty (180) days following the date of the award of a qualified federal contract or award of a new qualified subcontract under an existing qualified federal contract. The application shall be on a form prescribed by the Department and shall contain such information as may be required by the Department to determine if the applicant is qualified. Once qualified by the Department, the applicant shall submit qualified federal contracts to the federal contract verifier. The federal contract verifier shall establish with the applicant an information system(s) or contract(s) as may be required to certify the total qualified labor hours, qualified labor rates, and reimbursement through the qualified federal contract. A qualified federal contractor may apply for an effective date for a project, which shall not be more than twenty-four (24) months from the date the application is submitted to the Department. No state agency shall be required to make any payment to a qualified federal contract verifier for any information needed by the agency to perform any duty imposed upon it pursuant to the provisions of Section 3601 et seq. of this title. All costs for the federal contract verifier shall be reimbursed through value-added services on the qualified

federal contract or other mechanisms agreed to by the federal contractor verifier and the federal contract performers.

D. In order to qualify to receive incentive payments as authorized by the Oklahoma Quality Jobs Program Act, in addition to other qualifications specified herein, a qualified federal contractor shall be required to pay direct jobs an average annualized wage which equals or exceeds:

1. One hundred ten percent (110%) of the average county wage as determined by the Department of Commerce based on the most recent U.S. Department of Commerce data for the county in which the new direct jobs are located. For purposes of this paragraph, health care premiums paid by the applicant for individuals in new direct jobs shall be included in the annualized wage; or

2. One hundred percent (100%) of the average county wage as that percentage is determined by the Department of Commerce based upon the most recent U.S. Department of Commerce data for the county in which the new jobs are located. For purposes of this paragraph, health care premiums paid by the applicant for individuals in new direct jobs shall not be included in the annualized wage.

Provided, no average wage requirement shall exceed Twenty-nine Thousand Four Hundred Nine Dollars (\$29,409.00), in any county. This maximum wage threshold shall be indexed and modified from time to time based on the latest Consumer Price Index year-to-date percent change release as of the date of the annual average county wage data release from the Bureau of Economic Analysis of the U.S. Department of Commerce.

3. For qualified subcontractor work, the qualified federal contractor shall have a minimum average qualified labor rate requirement paid to the subcontractor of Thirty-one Dollars (\$31.00) per hour, in any county. This maximum wage threshold shall be indexed and modified from time to time based on the latest Consumer Price Index year-to-date percent change release as of the date of the annual average county wage data release from the Bureau of Economic Analysis of the U.S. Department of Commerce.

E. The Department shall determine if the applicant is qualified to receive incentive payments using information supplied to the Department by the qualified federal contractor verifier. The NAICS code or codes under which the federal government awarded the qualified federal contract shall be used to determine the basic industry for a qualified federal contractor. For federal contracts awarded under NAICS codes not within the definition of basic industry pursuant to paragraph 1 of subsection A of Section 3603 of this title, the Department of Commerce, with the federal contract verifier, may evaluate and utilize individual statement of work items that would qualify within a basic industry definition.

F. If the applicant is determined to be qualified by the Department, the Department shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and the net benefit rate, as provided by subsection B of this section, applicable for a ten-year period beginning with the first complete calendar quarter following the start date and to estimate the amount of gross payroll and total qualified labor hours for a ten-year period beginning with the first complete calendar quarter following the start date. In conducting such cost/benefit analysis, the Department shall consider quantitative factors, such as the anticipated level of new tax revenues to the state along with the added cost to the state of providing services, and such other criteria as deemed appropriate by the Department. In no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits. Using this net cost/benefit analysis model, the Department may establish the renewable ten-year contract with a qualified federal

contractor at the entity level to encompass any current or future qualified federal contracts that meet the cost/benefit analysis metrics as determined by the federal contractor verifier and confirmed by the Department.

G. Upon approval of such an application, the Department shall notify the Tax Commission and shall provide it with a copy of the contract that has been cosigned by the federal contractor verifier and the results of the cost/benefit analysis. The Tax Commission may require the qualified federal contractor, federal contract verifier, and qualified subcontractors to submit such additional information as may be necessary to administer the provisions of the Oklahoma Quality Jobs Program Act. The approved qualified federal contractor shall file quarterly claims with the Tax Commission and shall continue to file such quarterly claims during the ten-year incentive period to show its continued eligibility for incentive payments, as provided in Section 3606 of this title, or until it is no longer qualified to receive incentive payments. The qualified federal contractor may be audited by the Tax Commission to verify such eligibility. Once the qualified federal contractor is approved, an agreement shall be deemed to exist between the qualified federal contractor and the State of Oklahoma, requiring the continued incentive payment to be made as long as the qualified federal contractor retains its eligibility as defined in and established pursuant to this section and Sections 3603 and 3606 of this title and within the limitations contained in the Oklahoma Quality Jobs Program Act, which existed at the time of such approval.

H. For qualified federal contracts with periods of performance exceeding two (2) years, if the actual annual verified gross qualified labor hours for four (4) consecutive calendar quarters does not equal or exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) within three (3) years of the start date, or does not equal or exceed actual annual gross qualified labor hours of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) at any other time during the ten-year period after the start date, the incentive payments shall not be made and shall not be resumed until such time as the actual annual qualified labor hours exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00).

I. If the average annualized wage or minimum average qualified labor rate required by subsection H of this section is not met during any calendar quarter, the incentive payments shall not be made and shall not be resumed until such time as such requirements are met.

J. Before approving a quarterly incentive payment for a qualified federal contract, the federal contract verifier must first determine through the Department that neither the qualified federal contractor nor the subcontractor are receiving incentive payments under the Oklahoma Quality Jobs Program Act, the Saving Quality Jobs Act, the 21st Century Quality Jobs Incentive Act or the Former Military Facility Development Act for the performance of the same such services under the qualified federal contract and is not qualified for approval of an application for incentive payments under the Oklahoma Quality Jobs Program Act, the Saving Quality Jobs Act, the 21st Century Quality Jobs Incentive Act or the Former Military Facility Development Act for the performance of the same such services under the qualified federal contract. If the qualified federal contractor or the subcontractor are receiving or have an approved application for incentive payments under the Oklahoma Quality Jobs Program Act, the Saving Quality Jobs Act, the 21st Century Quality Jobs Incentive Act or the Former Military Facility Development Act for the performance of the same such services under the qualified federal contract, each may choose to defer in part or in entirety the other incentives for the qualified federal contractor to receive the incentives pursuant to subsection B of this section. The federal contract verifier shall confirm any deferrals and ensure the total for all quality jobs incentive payments on any

individual does not exceed the total net benefit to the state. Should neither the federal contractor nor the subcontractor defer in part or in entirety their incentive payments such that the total for all Quality Jobs incentive payments exceeds the total net benefit to the state, the priority for incentive payments shall go to the entity with the earliest recognized start date identified within the current Department of Commerce Quality Jobs contract.

Added by Laws 2009, c. 369, § 2, eff. July 1, 2009. Amended by Laws 2010, c. 267, § 2, eff. July 1, 2010; Laws 2011, c. 268, § 2, eff. Nov. 1, 2011; Laws 2013, c. 227, § 25, eff. Nov. 1, 2013.

§68-3604v1. Incentive payments.

A. Except as otherwise provided in subsection I of this section, an establishment which meets the qualifications specified in the Oklahoma Quality Jobs Program Act may receive quarterly incentive payments for a ten-year period from the Oklahoma Tax Commission pursuant to the provisions of the Oklahoma Quality Jobs Program Act; provided, such an establishment defined or classified in the NAICS Manual under U.S. Industry No. 711211 (2007 version) may receive quarterly incentive payments for a fifteen-year period. The amount of such payments shall be equal to the net benefit rate multiplied by the actual gross payroll of new direct jobs for a calendar quarter as verified by the Oklahoma Employment Security Commission.

B. In order to receive incentive payments, an establishment shall apply to the Oklahoma Department of Commerce. The application shall be on a form prescribed by the Department and shall contain such information as may be required by the Department to determine if the applicant is qualified. An establishment may apply for an effective date for a project, which shall not be more than twenty-four (24) months from the date the application is submitted to the Department.

C. Except as otherwise provided by subsection D or E of this section, in order to qualify to receive such payments, the establishment applying shall be required to:

1. Be engaged in a basic industry;
2. Have an annual gross payroll for new direct jobs projected by the Department to equal or exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) within three (3) years of the first complete calendar quarter following the start date; and
3. Have a number of full-time-equivalent employees subject to the tax imposed by Section 2355 of this title and working an annual average of thirty (30) or more hours per week in new direct jobs located in this state equal to or in excess of eighty percent (80%) of the total number of new direct jobs.

D. In order to qualify to receive incentive payments as authorized by the Oklahoma Quality Jobs Program Act, an establishment engaged in an activity described under:

1. Industry Group Nos. 3111 through 3119 of the NAICS Manual shall be required to:
 - a. have an annual gross payroll for new direct jobs projected by the Department to equal or exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) within three (3) years of the first complete calendar quarter following the start date and make, or which will make within one (1) year, at least seventy-five percent (75%) of its total sales, as determined by the Incentive Approval Committee pursuant to the provisions of subsection B of Section 3603 of this title, to out-of-state customers or buyers, to in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, or to the

federal government, unless the annual gross payroll equals or exceeds Two Million Five Hundred Thousand Dollars (\$2,500,000.00) in which case the requirements for purchase of output provided by this subparagraph shall not apply, and

- b. have a number of full-time-equivalent employees working an average of thirty (30) or more hours per week in new direct jobs equal to or in excess of eighty percent (80%) of the total number of new direct jobs; and

2. Division (4) of subparagraph a of paragraph 1 of subsection A of Section 3603 of this title, shall be required to:

- a. have an annual gross payroll for new direct jobs projected by the Department to equal or exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) within three (3) years of the first complete calendar quarter following the start date, and
- b. have a number of full-time-equivalent employees working an average of thirty (30) or more hours per week in new direct jobs equal to or in excess of eighty percent (80%) of the total number of new direct jobs.

E. 1. An establishment which locates its principal business activity within a site consisting of at least ten (10) acres which:

- a. is a federal Superfund removal site,
- b. is listed on the National Priorities List established under Section 9605 of Title 42 of the United States Code,
- c. has been formally deferred to the state in lieu of listing on the National Priorities List, or
- d. has been determined by the Department of Environmental Quality to be contaminated by any substance regulated by a federal or state statute governing environmental conditions for real property pursuant to an order of the Department of Environmental Quality,

shall qualify for incentive payments irrespective of its actual gross payroll or the number of full-time-equivalent employees engaged in new direct jobs.

2. In order to qualify for the incentive payments pursuant to this subsection, the establishment shall conduct the activity resulting in at least fifty percent (50%) of its Oklahoma taxable income or adjusted gross income, as determined under Section 2358 of this title, whether from the sale of products or services or both products and services, at the physical location which has been determined not to comply with the federal or state statutes described in this subsection with respect to environmental conditions for real property. The establishment shall be subject to all other requirements of the Oklahoma Quality Jobs Program Act other than the exemptions provided by this subsection.

3. In order to qualify for the incentive payments pursuant to this subsection, the entity shall obtain from the Department of Environmental Quality a letter of concurrence that:

- a. the site designated by the entity does meet one or more of the requirements listed in paragraph 1 of this subsection, and
- b. the site is being or has been remediated to a level which is consistent with the intended use of the property.

In making its determination, the Department of Environmental Quality may rely on existing data and information available to it, but may also require the applying entity to provide additional data and information as necessary.

4. If authorized by the Department of Environmental Quality pursuant to paragraph 3 of this subsection, the entity may utilize a remediated portion of the property for its intended purpose prior to remediation of the remainder of the site, and shall qualify for incentive payments based on employment associated with the portion of the site.

F. Except as otherwise provided by subsection G of this section, for applications submitted on and after June 4, 2003, in order to qualify to receive incentive payments as authorized by the Oklahoma Quality Jobs Program Act, in addition to other qualifications specified herein, an establishment shall be required to pay new direct jobs an average annualized wage which equals or exceeds:

1. One hundred ten percent (110%) of the average county wage as determined by the Department of Commerce based on the most recent U.S. Department of Commerce data for the county in which the new direct jobs are located. For purposes of this paragraph, health care premiums paid by the applicant for individuals in new direct jobs shall be included in the annualized wage; or

2. One hundred percent (100%) of the average county wage as that percentage is determined by the Department of Commerce based upon the most recent U.S. Department of Commerce data for the county in which the new jobs are located. For purposes of this paragraph, health care premiums paid by the applicant for individuals in new direct jobs shall not be included in the annualized wage.

Provided, no average wage requirement shall exceed Twenty-five Thousand Dollars (\$25,000.00), in any county. This maximum wage threshold shall be indexed and modified from time to time based on the latest Consumer Price Index year-to-date percent change release as of the date of the annual average county wage data release from the Bureau of Economic Analysis of the U.S. Department of Commerce.

G. 1. As used in this subsection, “opportunity zone” means one or more census tracts in which, according to the most recent federal decennial census, at least thirty percent (30%) of the residents have annual gross household incomes from all sources below the poverty guidelines established by the U.S. Department of Health and Human Services. An establishment which is otherwise qualified to receive incentive payments and which locates its principal business activity in an opportunity zone shall not be subject to the requirements of subsection F of this section.

2. As used in this subsection:

a. “negative economic event” means:

- (1) a man-made disaster or natural disaster as defined in Section 683.3 of Title 63 of the Oklahoma Statutes, resulting in the loss of a significant number of jobs within a particular county of this state, or
- (2) an economic circumstance in which a significant number of jobs within a particular county of this state have been lost due to an establishment changing its structure, consolidating with another establishment, closing or moving all or part of its operations out of this state, and

b. “significant number of jobs” means Local Area Unemployment Statistics (LAUS) data, as determined by the Bureau of Labor Statistics, for a county which are equal to or in excess of five percent (5%) of the total amount of Local Area Unemployment Statistics (LAUS) data for that county for the

calendar year, or most recent twelve-month period in which employment is measured, preceding the event.

An establishment which is otherwise qualified to receive incentive payments and which locates in a county in which a negative economic event has occurred within the eighteen-month period preceding the start date shall not be subject to the requirements of subsection F of this section; provided, an establishment shall not be eligible to receive incentive payments based upon a negative economic event with respect to jobs that are transferred from one county of this state to another.

H. The Department shall determine if the applicant is qualified to receive incentive payments.

I. If the applicant is determined to be qualified by the Department and is not subject to the provisions of subparagraph d of paragraph 7 of subsection A of Section 3603 of this title, the Department shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and the net benefit rate applicable for a ten-year period beginning with the first complete calendar quarter following the start date and to estimate the amount of gross payroll for a ten-year period beginning with the first complete calendar quarter following the start date or for a fifteen-year period for an establishment defined or classified in the NAICS Manual under U.S. Industry No. 711211 (2007 version). In conducting such cost/benefit analysis, the Department shall consider quantitative factors, such as the anticipated level of new tax revenues to the state along with the added cost to the state of providing services, and such other criteria as deemed appropriate by the Department. In no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits, except for applicants subject to the provisions of subparagraph d of paragraph 7 of subsection A of Section 3603 of this title.

J. Upon approval of such an application, the Department shall notify the Tax Commission and shall provide it with a copy of the contract and the results of the cost/benefit analysis. The Tax Commission may require the qualified establishment to submit such additional information as may be necessary to administer the provisions of the Oklahoma Quality Jobs Program Act. The approved establishment shall file quarterly claims with the Tax Commission and shall continue to file such quarterly claims during the ten-year incentive period to show its continued eligibility for incentive payments, as provided in Section 3606 of this title, or until it is no longer qualified to receive incentive payments. The establishment may be audited by the Tax Commission to verify such eligibility. Once the establishment is approved, an agreement shall be deemed to exist between the establishment and the State of Oklahoma, requiring the continued incentive payment to be made as long as the establishment retains its eligibility as defined in and established pursuant to this section and Sections 3603 and 3606 of this title and within the limitations contained in the Oklahoma Quality Jobs Program Act, which existed at the time of such approval.

K. A municipality with a population of less than one hundred thousand (100,000) persons in which an establishment eligible to receive quarterly incentive payments pursuant to the provisions of this section is located may file a claim with the Tax Commission for up to twenty-five percent (25%) of the amount of such payment. The amount of such claim shall not exceed amounts paid by the municipality for direct costs of municipal infrastructure improvements to provide water and sewer service to the establishment. Such claim shall not be approved by the Tax Commission unless the municipality and the establishment have entered into a written agreement for such claims to be filed by the municipality prior to submission of the application of the establishment pursuant to the provisions of this section. If such claim is approved, the

amount of the payment to the establishment made pursuant to the provisions of Section 3606 of this title shall be reduced by the amount of the approved claim by the municipality and the Tax Commission shall issue a warrant to the municipality in the amount of the approved claim in the same manner as warrants are issued to qualifying establishments.

Added by Laws 1993, c. 275, § 4, eff. July 1, 1993. Amended by Laws 1994, c. 7, § 3, emerg. eff. March 29, 1994; Laws 1995, c. 349, § 2, eff. July 1, 1995; Laws 1997, c. 147, § 1, eff. July 1, 1997; Laws 1997, c. 258, § 2, emerg. eff. May 23, 1997; Laws 1998, c. 379, § 2, eff. July 1, 1998; Laws 1999, c. 1, § 25, emerg. eff. Feb. 24, 1999; Laws 2000, c. 149, § 1, emerg. eff. April 28, 2000; Laws 2000, c. 275, § 2, eff. Jan. 1, 2001; Laws 2001, c. 351, § 2, eff. Nov. 1, 2001; Laws 2002, c. 21, § 1, emerg. eff. March 8, 2002; Laws 2003, c. 377, § 2, emerg. eff. June 4, 2003; Laws 2004, c. 457, § 2, eff. July 1, 2004; Laws 2006, c. 282, § 1, eff. July 1, 2006; Laws 2007, c. 1, § 63, emerg. eff. Feb. 22, 2007; Laws 2007, c. 357, § 1, eff. July 1, 2007; Laws 2008, c. 35, § 2, emerg. eff. April 17, 2008; Laws 2008, c. 406, § 5, eff. Nov. 1, 2008; Laws 2013, c. 227, § 24, eff. Nov. 1, 2013.

NOTE: Laws 1998, c. 227, § 1 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999. Laws 2006, c. 281, § 32 repealed by Laws 2007, c. 1, § 64, emerg. eff. Feb. 22, 2007.

§68-3604v2. Incentive payments.

A. Except as otherwise provided in subsection I of this section, an establishment which meets the qualifications specified in the Oklahoma Quality Jobs Program Act may receive quarterly incentive payments for a ten-year period from the Oklahoma Tax Commission pursuant to the provisions of the Oklahoma Quality Jobs Program Act; provided, such an establishment defined or classified in the NAICS Manual under U.S. Industry No. 711211 (2007 version) may receive quarterly incentive payments for a fifteen-year period. The amount of such payments shall be equal to the net benefit rate multiplied by the actual gross payroll of new direct jobs for a calendar quarter as verified by the Oklahoma Employment Security Commission.

B. In order to receive incentive payments, an establishment shall apply to the Oklahoma Department of Commerce. The application shall be on a form prescribed by the Department and shall contain such information as may be required by the Department to determine if the applicant is qualified. An establishment may apply for an effective date for a project, which shall not be more than twenty-four (24) months from the date the application is submitted to the Department.

C. Except as otherwise provided by subsection D or E of this section, in order to qualify to receive such payments, the establishment applying shall be required to:

1. Be engaged in a basic industry;
2. Have an annual gross payroll for new direct jobs projected by the Department to equal or exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) within three (3) years of the first complete calendar quarter following the start date; and
3. Have a number of full-time-equivalent employees subject to the tax imposed by Section 2355 of this title and working an annual average of thirty (30) or more hours per week in new direct jobs located in this state equal to or in excess of eighty percent (80%) of the total number of new direct jobs.

D. In order to qualify to receive incentive payments as authorized by the Oklahoma Quality Jobs Program Act, an establishment engaged in an activity described under:

1. Industry Group Nos. 3111 through 3119 of the NAICS Manual shall be required to:

- a. have an annual gross payroll for new direct jobs projected by the Department to equal or exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) within three (3) years of the first complete calendar quarter following the start date and make, or which will make within one (1) year, at least seventy-five percent (75%) of its total sales, as determined by the Incentive Approval Committee pursuant to the provisions of subsection B of Section 3603 of this title, to out-of-state customers or buyers, to in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, or to the federal government, unless the annual gross payroll equals or exceeds Two Million Five Hundred Thousand Dollars (\$2,500,000.00) in which case the requirements for purchase of output provided by this subparagraph shall not apply, and
- b. have a number of full-time-equivalent employees working an average of thirty (30) or more hours per week in new direct jobs equal to or in excess of eighty percent (80%) of the total number of new direct jobs; and

2. Division (4) of subparagraph a of paragraph 1 of subsection A of Section 3603 of this title, shall be required to:

- a. have an annual gross payroll for new direct jobs projected by the Department to equal or exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) within three (3) years of the first complete calendar quarter following the start date, and
- b. have a number of full-time-equivalent employees working an average of thirty (30) or more hours per week in new direct jobs equal to or in excess of eighty percent (80%) of the total number of new direct jobs.

E. 1. An establishment which locates its principal business activity within a site consisting of at least ten (10) acres which:

- a. is a federal Superfund removal site,
- b. is listed on the National Priorities List established under Section 9605 of Title 42 of the United States Code,
- c. has been formally deferred to the state in lieu of listing on the National Priorities List, or
- d. has been determined by the Department of Environmental Quality to be contaminated by any substance regulated by a federal or state statute governing environmental conditions for real property pursuant to an order of the Department of Environmental Quality,

shall qualify for incentive payments irrespective of its actual gross payroll or the number of full-time-equivalent employees engaged in new direct jobs.

2. In order to qualify for the incentive payments pursuant to this subsection, the establishment shall conduct the activity resulting in at least fifty percent (50%) of its Oklahoma taxable income or adjusted gross income, as determined under Section 2358 of this title, whether from the sale of products or services or both products and services, at the physical location which has been determined not to comply with the federal or state statutes described in this subsection with respect to environmental conditions for real property. The establishment shall be subject to all other requirements of the Oklahoma Quality Jobs Program Act other than the exemptions provided by this subsection.

3. In order to qualify for the incentive payments pursuant to this subsection, the entity shall obtain from the Department of Environmental Quality a letter of concurrence that:
- a. the site designated by the entity does meet one or more of the requirements listed in paragraph 1 of this subsection, and
 - b. the site is being or has been remediated to a level which is consistent with the intended use of the property.

In making its determination, the Department of Environmental Quality may rely on existing data and information available to it, but may also require the applying entity to provide additional data and information as necessary.

4. If authorized by the Department of Environmental Quality pursuant to paragraph 3 of this subsection, the entity may utilize a remediated portion of the property for its intended purpose prior to remediation of the remainder of the site, and shall qualify for incentive payments based on employment associated with the portion of the site.

F. Except as otherwise provided by subsection G of this section, for applications submitted on and after June 4, 2003, in order to qualify to receive incentive payments as authorized by the Oklahoma Quality Jobs Program Act, in addition to other qualifications specified herein, an establishment shall be required to pay new direct jobs an average annualized wage which equals or exceeds:

1. One hundred ten percent (110%) of the average county wage as determined by the Oklahoma State Data Center based on the most recent U.S. Department of Commerce data for the county in which the new direct jobs are located. For purposes of this paragraph, health care premiums paid by the applicant for individuals in new direct jobs shall be included in the annualized wage; or

2. One hundred percent (100%) of the average county wage as that percentage is determined by the Oklahoma State Data Center based upon the most recent U.S. Department of Commerce data for the county in which the new jobs are located. For purposes of this paragraph, health care premiums paid by the applicant for individuals in new direct jobs shall not be included in the annualized wage.

Provided, no average wage requirement shall exceed Twenty-five Thousand Dollars (\$25,000.00), in any county. This maximum wage threshold shall be indexed and modified from time to time based on the latest Consumer Price Index year-to-date percent change release as of the date of the annual average county wage data release from the Bureau of Economic Analysis of the U.S. Department of Commerce.

G. 1. As used in this subsection, "opportunity zone" means one or more census tracts in which, according to the most recent federal decennial census, at least thirty percent (30%) of the residents have annual gross household incomes from all sources below the poverty guidelines established by the U.S. Department of Health and Human Services. An establishment which is otherwise qualified to receive incentive payments and which locates its principal business activity in an opportunity zone shall not be subject to the requirements of subsection F of this section.

2. As used in this subsection:

- a. "negative economic event" means:
 - (1) a man-made disaster or natural disaster as defined in Section 683.3 of Title 63 of the Oklahoma Statutes, resulting in the loss of a significant number of jobs within a particular county of this state, or

- (2) an economic circumstance in which a significant number of jobs within a particular county of this state have been lost due to an establishment changing its structure, consolidating with another establishment, closing or moving all or part of its operations out of this state, and
- b. “significant number of jobs” means Local Area Unemployment Statistics (LAUS) data, as determined by the Bureau of Labor Statistics, for a county which are equal to or in excess of five percent (5%) of the total amount of Local Area Unemployment Statistics (LAUS) data for that county for the calendar year, or most recent twelve-month period in which employment is measured, preceding the event.

An establishment which is otherwise qualified to receive incentive payments and which locates in a county in which a negative economic event has occurred within the eighteen-month period preceding the start date shall not be subject to the requirements of subsection F of this section; provided, an establishment shall not be eligible to receive incentive payments based upon a negative economic event with respect to jobs that are transferred from one county of this state to another.

H. The Department shall determine if the applicant is qualified to receive incentive payments.

I. If the applicant is determined to be qualified by the Department and is not subject to the provisions of subparagraph d of paragraph 7 of subsection A of Section 3603 of this title, the Department shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and the net benefit rate applicable for a ten-year period beginning with the first complete calendar quarter following the start date and to estimate the amount of gross payroll for a ten-year period beginning with the first complete calendar quarter following the start date or for a fifteen-year period for an establishment defined or classified in the NAICS Manual under U.S. Industry No. 711211 (2007 version). In conducting such cost/benefit analysis, the Department shall consider quantitative factors, such as the anticipated level of new tax revenues to the state along with the added cost to the state of providing services, and such other criteria as deemed appropriate by the Department. In no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits, except for applicants subject to the provisions of subparagraph d of paragraph 7 of subsection A of Section 3603 of this title.

J. Upon approval of such an application, the Department shall notify the Tax Commission and shall provide it with a copy of the contract and the results of the cost/benefit analysis. The Tax Commission may require the qualified establishment to submit such additional information as may be necessary to administer the provisions of the Oklahoma Quality Jobs Program Act. The approved establishment shall file quarterly claims with the Tax Commission and shall continue to file such quarterly claims during the ten-year incentive period to show its continued eligibility for incentive payments, as provided in Section 3606 of this title, or until it is no longer qualified to receive incentive payments. The establishment may be audited by the Tax Commission to verify such eligibility. Once the establishment is approved, an agreement shall be deemed to exist between the establishment and the State of Oklahoma, requiring the continued incentive payment to be made as long as the establishment retains its eligibility as defined in and established pursuant to this section and Sections 3603 and 3606 of this title and within the limitations contained in the Oklahoma Quality Jobs Program Act, which existed at the time of such approval. An establishment described in this subsection shall be required to repay

all incentive payments received under the Oklahoma Quality Jobs Program Act if the establishment is determined by the Oklahoma Tax Commission to no longer have business operations in the state within three (3) years from the beginning of the calendar quarter for which the first incentive payment claim is filed.

K. A municipality with a population of less than one hundred thousand (100,000) persons in which an establishment eligible to receive quarterly incentive payments pursuant to the provisions of this section is located may file a claim with the Tax Commission for up to twenty-five percent (25%) of the amount of such payment. The amount of such claim shall not exceed amounts paid by the municipality for direct costs of municipal infrastructure improvements to provide water and sewer service to the establishment. Such claim shall not be approved by the Tax Commission unless the municipality and the establishment have entered into a written agreement for such claims to be filed by the municipality prior to submission of the application of the establishment pursuant to the provisions of this section. If such claim is approved, the amount of the payment to the establishment made pursuant to the provisions of Section 3606 of this title shall be reduced by the amount of the approved claim by the municipality and the Tax Commission shall issue a warrant to the municipality in the amount of the approved claim in the same manner as warrants are issued to qualifying establishments.

Added by Laws 1993, c. 275, § 4, eff. July 1, 1993. Amended by Laws 1994, c. 7, § 3, emerg. eff. March 29, 1994; Laws 1995, c. 349, § 2, eff. July 1, 1995; Laws 1997, c. 147, § 1, eff. July 1, 1997; Laws 1997, c. 258, § 2, emerg. eff. May 23, 1997; Laws 1998, c. 379, § 2, eff. July 1, 1998; Laws 1999, c. 1, § 25, emerg. eff. Feb. 24, 1999; Laws 2000, c. 149, § 1, emerg. eff. April 28, 2000; Laws 2000, c. 275, § 2, eff. Jan. 1, 2001; Laws 2001, c. 351, § 2, eff. Nov. 1, 2001; Laws 2002, c. 21, § 1, emerg. eff. March 8, 2002; Laws 2003, c. 377, § 2, emerg. eff. June 4, 2003; Laws 2004, c. 457, § 2, eff. July 1, 2004; Laws 2006, c. 282, § 1, eff. July 1, 2006; Laws 2007, c. 1, § 63, emerg. eff. Feb. 22, 2007; Laws 2007, c. 357, § 1, eff. July 1, 2007; Laws 2008, c. 35, § 2, emerg. eff. April 17, 2008; Laws 2008, c. 406, § 5, eff. Nov. 1, 2008; Laws 2013, c. 378, § 2, eff. Nov. 1, 2013.

NOTE: Laws 1998, c. 227, § 1 repealed by Laws 1999, c. 1, § 45, emerg. eff. Feb. 24, 1999. Laws 2006, c. 281, § 32 repealed by Laws 2007, c. 1, § 64, emerg. eff. Feb. 22, 2007.

§68-3605. Quality Jobs Program Incentive Payment Fund.

There is hereby created within the State Treasury a special fund for the Oklahoma Tax Commission to be designated the "Quality Jobs Program Incentive Payment Fund". The Oklahoma Tax Commission is hereby authorized and directed to withhold a portion of the taxes levied and collected pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for deposit into the fund. The amount deposited shall equal the sum of an amount determined by multiplying the net benefit rate provided by the Department of Commerce by the gross payroll as determined pursuant to the provisions of subsection A of Section 6 of this act. All of the amounts deposited in such fund shall be used and expended by the Tax Commission solely for the purposes and in the amounts authorized by the Oklahoma Quality Jobs Program Act. The liability of the State of Oklahoma to make the incentive payments under this act shall be limited to the balance contained in the fund created by this section.

Added by Laws 1993, c. 275, § 5, eff. July 1, 1993.

§68-3606. Filing claim to receive incentive payment - Determination - Payments.

A. As soon as practicable after the end of the first complete calendar quarter following the start date, the establishment shall file a claim for the payment with the Oklahoma Tax Commission and shall specify the actual number and gross payroll of new direct jobs for the establishment for the calendar quarter. The Tax Commission shall verify the actual gross payroll for new direct jobs for the establishment for such calendar quarter. If the Tax Commission is not able to provide such verification utilizing all available resources, the Tax Commission may request such additional information from the establishment as may be necessary or may request the establishment to revise its claim. An establishment may file for an extension of the initial filing date with the Oklahoma Department of Commerce. Any such extension shall be based solely upon an extraordinary adverse business circumstance which prevented the establishment from hiring the new direct jobs as projected. If an establishment fails to file claims as required by this section, it shall forfeit the right to receive any incentive payments after three (3) years from the start date. If an establishment has filed at least one claim pursuant to this section but fails to file another claim within two (2) years of the most recent claim, the Tax Commission, after consulting with the Department of Commerce, may dismiss the establishment from the program, forfeiting the establishment's right to receive incentive payments based on that contract.

B. If the actual verified gross payroll for four (4) consecutive calendar quarters does not equal or exceed the applicable total required by Section 3604 of this title within three (3) years of the start date, or does not equal or exceed the applicable total required by Section 3604 of this title at any other time during the ten-year period after the start date or during the fifteen-year period after the start date for establishments defined or classified in the NAICS Manual under U.S. Industry No. 711211 (2007 version), the incentive payments shall not be made and shall not be resumed until such time as the actual verified gross payroll equals or exceeds the amounts specified in Section 3604 of this title. If an establishment fails to achieve the required gross payroll within three (3) years of the start date, the establishment shall not make a new or renewal application for incentive payments authorized pursuant to the Oklahoma Quality Jobs Program Act for a period of twelve (12) months from the last day of the last month of the three-year period during which the required gross payroll amount was not achieved.

C. If the average annualized wage required for an establishment does not equal or exceed the amount specified in paragraph 1 or 2 of subsection F of Section 3604 of this title during any calendar quarter, the incentive payments shall not be made and shall not be resumed until such time as such requirements are met.

D. In no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits, except for establishments subject to the provisions of subparagraph d of paragraph 7 of subsection A of Section 3603 of this title.

E. An establishment that has qualified pursuant to Section 3604 of this title may receive payments only in accordance with the provisions of the law under which it initially applied and was approved. If an establishment that is receiving incentive payments expands, it may apply for additional incentive payments based on the gross payroll anticipated from the expansion only, pursuant to Section 3604 of this title. Provided, an establishment which has suffered an extraordinary adverse business circumstance, as certified by the Incentive Approval Committee, may be allowed to voluntarily withdraw from the Oklahoma Quality Jobs Program, repay to the Tax Commission the total amount of incentive payments received pursuant to the provisions of this section, plus interest at the rate specified in Section 727.1 of Title 12 of the Oklahoma Statutes, and reapply to the Department for a new incentive contract if the establishment

qualifies pursuant to the provisions of the Oklahoma Quality Jobs Program Act. Any funds received by the Tax Commission pursuant to the provisions of this subsection shall be apportioned in the manner that income tax revenues are apportioned.

F. An establishment that is receiving incentive payments may not apply for additional incentive payments for any new projects until twelve (12) quarters after receipt of the first incentive payment, or until the establishment's actual verified gross payroll for new direct jobs equals or exceeds Two Million Five Hundred Thousand Dollars (\$2,500,000.00) during any four consecutive-calendar-quarter period, whichever comes first. After meeting the requirements of this subsection, an establishment may apply for additional incentive payments based upon the gross payroll anticipated from an expansion only.

G. As soon as practicable after verification of the actual gross payroll as required by this section and except as otherwise provided by subsection K of Section 3604 of this title, the Tax Commission shall issue a warrant to the establishment in the amount of the net benefit rate multiplied by the actual gross payroll as determined pursuant to subsection A of this section for the calendar quarter.

Added by Laws 1993, c. 275, § 6, eff. July 1, 1993. Amended by Laws 1995, c. 349, § 3, eff. July 1, 1995; Laws 1998, c. 379, § 3, eff. July 1, 1998; Laws 2000, c. 275, § 3, eff. Jan. 1, 2001; Laws 2001, c. 351, § 3, eff. Nov. 1, 2001; Laws 2004, c. 457, § 3, eff. July 1, 2004; Laws 2006, c. 282, § 2, eff. July 1, 2006; Laws 2007, c. 1, § 65, emerg. eff. Feb. 22, 2007; Laws 2007, c. 357, § 3, eff. July 1, 2007; Laws 2008, c. 35, § 3, emerg. eff. April 17, 2008; Laws 2008, c. 406, § 6, eff. Nov. 1, 2008; Laws 2012, c. 308, § 2, eff. Nov. 1, 2012; Laws 2013, c. 378, § 3, eff. Nov. 1, 2013.

NOTE: Laws 2006, c. 281, § 33 repealed by Laws 2007, c. 1, § 66, emerg. eff. Feb. 22, 2007.

§68-3607. Eligibility of establishments receiving incentive payments to receive certain tax credits and exemptions.

A. Notwithstanding any other provision of law, if a qualified establishment receives an incentive payment pursuant to the provisions of Section 3601 et seq. of this title, neither the qualified establishment nor its contractors or subcontractors shall be eligible to receive the credits or exemptions provided for in the following provisions of law in connection with the activity for which the incentive payment was received:

1. Paragraphs 16 and 17 of Section 1357 of this title;
2. Paragraph 7 of Section 1359 of this title;
3. Section 2357.4 of this title; except as provided in subsection B of this section;
4. Section 2357.7 of this title;
5. Section 2-11-303 of Title 27A of the Oklahoma Statutes;
6. Section 2357.22 of this title;
7. Section 2357.31 of this title;
8. Section 54003 of this title;
9. Section 54006 of this title;
10. Section 625.1 of Title 36 of the Oklahoma Statutes;
11. Subsections C and D of Section 2357.59 of this title;
12. Section 2357.13 of this title; or
13. Section 4201 of this title.

B. Any establishment which has qualified to receive quarterly incentive payments pursuant to subsection B of Section 3604 of this title for a ten-year period with a project start

date after January 1, 2010, shall be eligible to receive the credit provided for in Section 2357.4 of this title if such establishment:

1. Qualifies for the credit allowed pursuant to paragraph 1 of subsection B of Section 2357.4 of this title based on an investment made after January 1, 2010;
2. Pays an average annualized wage which equals or exceeds the average state wage as determined by the Department of Commerce based on the most recent U.S. Department of Commerce data; and
3. Obtains a determination letter from the Oklahoma Department of Commerce that the business activity of the entity will result in a positive net benefit rate.

C. For purposes of the exception provided for in this section:

1. "Estimated direct state benefits" has the meaning set out in paragraph 4 of subsection A of Section 3603 of this title;
2. "Estimated indirect state benefits" means the indirect new tax revenues projected by the Oklahoma Department of Commerce to accrue to the state, including, but not limited to, revenue generated from ancillary support jobs directly related to the primary business;
3. "Estimated direct state costs" has the meaning set out in paragraph 5 of subsection A of Section 3603 of this title; and
4. "Estimated indirect state costs" means the costs projected by the Oklahoma Department of Commerce to accrue to the state as a result of new indirect jobs. Such costs shall include, but not be limited to, costs enumerated in paragraph 3 of this subsection.

D. Any establishment which has qualified to receive quarterly incentive payments pursuant to subsection B of Section 3604 of this title for a ten-year period with a project start date after January 1, 2010, shall be eligible to receive the credit provided for in Section 2357.4 of this title pursuant to the provisions of this section if such establishment obtains a determination letter from the Oklahoma Department of Commerce that the business activity of the entity will result in a positive net benefit rate, to be computed by the Oklahoma Department of Commerce using a methodology which provides for the analysis of estimated direct state benefits, estimated indirect state benefits, estimated direct state costs and estimated indirect state costs. The Oklahoma Department of Commerce shall use such information as it determines to be relevant for the analysis required by this subsection including, but not limited to, the type of business activity in which the entity is engaged or will be engaged, amount of capital investment, type of assets acquired or utilized by the business entity, economic impact of the business activity within the relevant geographic region and such other factors as the Department determines to be relevant. The Oklahoma Department of Commerce may use information regarding the business entity alone or in conjunction with relevant information regarding other business activity in a geographically relevant area surrounding the principal business location of the primary business entity in order to perform the computation of the net benefit rate. If the result of the analysis is a positive net benefit rate, the establishment shall be allowed to qualify to receive quarterly incentive payments pursuant to subsection B of Section 3604 of this title for a ten-year period and shall be eligible to receive the credit provided for in Section 2357.4 of this title. The Oklahoma Department of Commerce shall transmit a determination letter to the authorized representative of the establishment and shall also transmit a copy of the determination letter to the Oklahoma Tax Commission, regardless of whether the result is a positive or negative net benefit rate.

Added by Laws 1993, c. 275, § 7, eff. July 1, 1993. Amended by Laws 1994, c. 278, § 35, eff. Sept. 1, 1994; Laws 1996, c. 342, § 6, emerg. eff. June 14, 1996; Laws 1997, c. 258, § 3, emerg.

eff. May 23, 1997; Laws 1999, c. 390, § 14, emerg. eff. June 8, 1999; Laws 2000, c. 6, § 16, emerg. eff. March 20, 2000; Laws 2008, c. 406, § 7, eff. Nov. 1, 2008; Laws 2009, c. 284, § 1, eff. Jan. 1, 2010; Laws 2013, c. 227, § 26, eff. Nov. 1, 2013.

NOTE: Laws 1999, c. 203, § 2 repealed by Laws 2000, c. 6, § 33, emerg. eff. March 20, 2000.

§68-3608. Promulgation of rules.

The Department of Commerce and the Tax Commission shall promulgate rules necessary to implement their respective duties and responsibilities under the provisions of this act.

Added by Laws 1993, c. 275, § 8, eff. July 1, 1993.

§68-3609. False or fraudulent information in making application, claim for payment or other instrument - Penalties.

Any person making an application, claim for payment or any report, return, statement or other instrument or providing any other information pursuant to the provisions of this act who willfully makes a false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully provides any false or fraudulent information, or any person who willfully aids or abets another in making such false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully aids or abets another in providing any false or fraudulent information, upon conviction, shall be guilty of a felony punishable by the imposition of a fine of not less than One Thousand Dollars (\$1,000.00) and not more than Fifty Thousand Dollars (\$50,000.00), or imprisonment in the State Penitentiary for not less than two (2) years and not more than five (5) years, or by both such fine and imprisonment. Any person convicted of a violation of this section shall be liable for the repayment of all incentive payments which were paid to the establishment. Interest shall be due on such payments at the rate of ten percent (10%) per annum.

Added by Laws 1993, c. 275, § 9, eff. July 1, 1993.

§68-3610. Report on effect of Oklahoma Quality Jobs Program.

The Oklahoma Department of Commerce shall prepare triennially a report which shall include, but not be limited to, documentation of the new direct jobs created under the Oklahoma Quality Jobs Program Act and a fiscal analysis of the costs and benefits of the Program to the state. The report shall be submitted to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor of this state no later than March 1, 1996, and every three (3) years thereafter. The report may be used for the purpose of determining whether to continue or sunset the Oklahoma Quality Jobs Program Act.

Added by Laws 1994, c. 322, § 13, emerg. eff. June 8, 1994. Amended by Laws 1996, c. 112, § 1, eff. Nov. 1, 1996.

§68-3611. Payroll projection.

A. For purposes of the payroll projection required to be made by the Department of Commerce pursuant to paragraph 2 of subsection C of Section 3604 of Title 68 of the Oklahoma Statutes, the Department of Commerce shall include payroll for all jobs created by an establishment as a result of an expanded or new facility, regardless of whether the jobs meet the definition of new direct jobs if:

1. The establishment is defined or classified under Industry Numbers 3443, 3556 or 3728 of the Standard Industrial Classification (SIC) Manual, latest version;

2. The jobs were not created by the establishment more than ten (10) calendar quarters prior to the date of approval of the application by the Department of Commerce; and

3. The establishment's application is approved by the Department of Commerce prior to January 30, 1997.

B. When payroll described in subsection A of this section is included by the Department of Commerce in the projection required by paragraph 2 of subsection C of Section 3604 of Title 68 of the Oklahoma Statutes, then the three-year period of such projection shall begin the month after included payroll is first paid by the establishment, and not on the anticipated date on which the establishment will receive its first incentive payment.

C. For the purpose of determining if an establishment has met the requirements of subsection B of Section 3606 of Title 68 of the Oklahoma Statutes, the Tax Commission shall include payroll for any jobs which the Department of Commerce included in its projection pursuant to the provisions of subsection A of this section. If payroll for such jobs is included, then the three-year period defined in subsection B of Section 3603 of Title 68 of the Oklahoma Statutes shall begin the month after included payroll is first paid by the establishment and not on the date of the first incentive payment.

D. For the purpose of calculating incentive payments as provided by Section 3606 of Title 68 of the Oklahoma Statutes, the Tax Commission shall include payroll for those jobs which meet the requirements of subsections A and C of this section regardless of whether such jobs fall within the definition of a new direct job; provided, an establishment shall in no event be entitled to such incentive payments on payroll made prior to the date of approval of its application by the Department of Commerce.

Added by Laws 1996, c. 342, § 7, emerg. eff. June 14, 1996.

§68-3612. New direct jobs – Inclusion of jobs created by establishment as result of retained, expanded or new facility – Calculation of incentive payments.

A. For purposes of the determination required to be made by the Department of Commerce pursuant to paragraph 2 of subsection A of Section 3603 of Title 68 of the Oklahoma Statutes, the Department of Commerce shall include jobs created by an establishment as a result of a retained, expanded or new facility if:

1. The establishment and jobs are defined or classified under Industry Number 326211 of the NAICS Manual;

2. The jobs were not created by the establishment more than fourteen (14) calendar quarters prior to the date of approval of the application by the Department of Commerce; and

3. The establishment's application has been approved by the Department of Commerce prior to March 30, 1997.

B. For the purpose of calculating incentive payments as provided by Section 3606 of Title 68 of the Oklahoma Statutes, the Oklahoma Tax Commission shall include payroll for those jobs which meet the requirements of subsection A of this section regardless of whether such jobs fall within the definition of a new direct job; provided, an establishment shall in no event be entitled to such incentive payments on payroll for those jobs which meet the requirements of subsection A of this section made prior to the effective date of this act. No claims may be made for such payroll prior to July 1, 2004.

Added by Laws 2003, c. 376, § 5, eff. July 1, 2003.

§68-3621. Short title.

This act shall be known and may be cited as the “Compete with Canada Film Act”.
Added by Laws 2001, c. 259, § 1, eff. July 1, 2001.

§68-3622. Legislative intent.

The Legislature hereby finds that the production of films in Oklahoma not only provides jobs for Oklahomans and dollars for Oklahoma businesses, but also enhances the state’s image nationwide. Recognizing that the high costs of film production are driving motion picture and television production out of the country, most notably to Canada, and that the film industry is always seeking attractive locations that can help cut the costs of production, the Legislature further finds that the State of Oklahoma, with the appropriate incentive, can become an attractive site for film production and that Oklahoma is presently among several states with minimal incentives to attract the film industry. It is therefore the intent of the Legislature that Oklahoma provide an incentive that will stand out among those of other states and increase film production in this state.

Added by Laws 2001, c. 259, § 2, eff. July 1, 2001.

§68-3623. Definitions.

As used in the Compete with Canada Film Act:

1. “Crew” means any person who works on preproduction, principal photography, and postproduction, with the exception of producers, principal cast, screenwriters, and the director. The qualifying salary of producers, principal cast, screenwriters, and the director, also known as “above-the-line personnel”, may be included as crew if the salaries are paid to loan-out corporations and limited liability companies registered to do business in the State of Oklahoma or the salaries are paid to Oklahoma-based above-the-line personnel. The qualifying salary of above-the-line personnel shall not comprise more than twenty-five percent (25%) of total expenditures as defined in paragraph 2 of this section. For purposes of this paragraph, “Oklahoma-based” means a company or individual with an Oklahoma income tax requirement;

2. “Expenditure” or “production cost” includes but is not limited to:

- a. wages or salaries of persons who are residents of this state and who have earned income from working on a film in this state, including payments to personal services corporations with respect to the services of qualified performing artists, as determined under Section 62(a)(A) of the Internal Revenue Code,
- b. the cost of construction and operations, wardrobe, accessories and related services,
- c. the cost of photography, sound synchronization, lighting and related services,
- d. the cost of editing and related services,
- e. rental of facilities and equipment,
- f. other direct costs of producing a film, and
- g. the wages and salaries of persons who are defined and registered as an Oklahoma Expatriate by the Office of the Oklahoma Film and Music Commission;

3. “Film” means a professional single media, multimedia program or feature, which is not child pornography as defined in subsection A of Section 1024.1 of Title 21 of the Oklahoma

Statutes or obscene material as defined in paragraph 1 of subsection B of Section 1024.1 of Title 21 of the Oklahoma Statutes, including, but not limited to, national advertising messages that are broadcast on a national affiliate or cable network, fixed on film or digital video, which can be viewed or reproduced and which is exhibited in theaters, licensed for exhibition by individual television stations, groups of stations, networks, cable television stations or other means or licensed for home viewing markets; and

4. "Production company" means a person or company who produces film for exhibition in theaters, on television or elsewhere.

Added by Laws 2001, c. 259, § 3, eff. July 1, 2001. Amended by Laws 2002, c. 203, § 1, eff. July 1, 2002; Laws 2006, c. 29, § 1, eff. July 1, 2006; Laws 2007, c. 341, § 1; Laws 2008, c. 436, § 14, eff. July 1, 2009.

§68-3624. Oklahoma Film Enhancement Rebate Program.

A. There is hereby created the Oklahoma Film Enhancement Rebate Program. A rebate in the amount of up to seventeen percent (17%) of documented expenditures made in Oklahoma directly attributable to the production of a film, television production, or television commercial, as defined in Section 3623 of this title, in this state, may be paid to the production company responsible for the production. Provided, for documented expenditures made after July 1, 2009, the rebate amount shall be thirty-five percent (35%), except as provided in subsection B of this section.

B. The amount of rebate paid to the production company as provided for in subsection A of this section shall be increased by an additional two percent (2%) of documented expenditures if a production company spends at least Twenty Thousand Dollars (\$20,000.00) for the use of music created by an Oklahoma resident that is recorded in Oklahoma or for the cost of recording songs or music in Oklahoma for use in the production.

C. The rebate program shall be administered by the Office of the Oklahoma Film and Music Commission and the Oklahoma Tax Commission, as provided in the Compete with Canada Film Act.

D. To be eligible for a rebate payment:

1. The production company responsible for a film, television production, or television commercial, as defined in Section 3623 of this title, made in this state shall submit documentation to the Office of the Oklahoma Film and Music Commission of the amount of wages paid for employment in this state to residents of this state directly relating to the production and the amount of other production costs incurred in this state directly relating to the production;

2. The production company has filed or will file any Oklahoma tax return or tax document which may be required by law;

3. Except major studio productions, the production company shall provide the name of the completion guarantor and a copy of the bond guaranteeing the completion of the project or if a film has not secured a completion bond, the production company shall provide evidence that all Oklahoma crew and local vendors have been paid and there are no liens against the production company pending in the state;

4. The minimum budget for the film shall be Fifty Thousand Dollars (\$50,000.00) of which not less than Twenty-five Thousand Dollars (\$25,000.00) shall be expended in this state;

5. The production company shall provide evidence of financing for production prior to the commencement of principal photography; and

6. The production company shall provide evidence of a certificate of general liability insurance with a minimum coverage of One Million Dollars (\$1,000,000.00) and a workers' compensation policy pursuant to state law, which shall include coverage of employer's liability.

E. A production company shall not be eligible to receive both a rebate payment pursuant to the provisions of this act and an exemption from sales taxes pursuant to the provisions of paragraph 21 of Section 1357 of this title. If a production company has received such an exemption from sales taxes and submits a claim for rebate pursuant to the provisions of the Compete with Canada Film Act, the company shall be required to fully repay the amount of the exemption to the Tax Commission. A claim for a rebate shall include documentation from the Tax Commission that repayment has been made as required herein or shall include an affidavit from the production company that the company has not received an exemption from sales taxes pursuant to the provisions of paragraph 21 of Section 1357 of this title.

F. The Office shall approve or disapprove all claims for rebate and shall notify the Tax Commission. The Tax Commission shall, upon notification of approval from the Office of the Film and Music Commission, issue payment for all approved claims from funds in the Oklahoma Film Enhancement Rebate Program Revolving Fund created in Section 3625 of this title. Provided, no claims for rebate for expenditures made on or after July 1, 2009, shall be paid prior to July 1, 2010. The amount of payments in any single fiscal year shall not exceed Five Million Dollars (\$5,000,000.00). If the amount of approved claims exceeds the amount specified in this subsection in a fiscal year, payments shall be made in the order in which the claims are approved by the Office. If an approved claim is not paid in whole or in part, the unpaid claim or unpaid portion may be paid in the following fiscal year subject to the limitations specified in this subsection.

Added by Laws 2001, c. 259, § 4, eff. July 1, 2001. Amended by Laws 2002, c. 203, § 2, eff. July 1, 2002; Laws 2005, c. 381, § 15, eff. July 1, 2005; Laws 2006, c. 29, § 2, eff. July 1, 2006; Laws 2007, c. 341, § 2; Laws 2008, c. 436, § 15, eff. July 1, 2009; Laws 2009, c. 426, § 14, eff. July 1, 2009.

§68-3625. Oklahoma Film Enhancement Rebate Program Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Tax Commission to be designated the "Oklahoma Film Enhancement Rebate Program Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Tax Commission which are specifically required by law to be deposited in the fund and any public or private donations, contributions, and gifts received for the benefit of the fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Tax Commission for the purpose of paying rebates as provided in this act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. The Oklahoma Tax Commission shall apportion, from the revenues which would otherwise be apportioned to the General Revenue Fund pursuant to subparagraph a of paragraph 1 of Section 2352 of this title, an amount that the Commission estimates to be necessary to pay the rebates provided by Section 3624 of this title to the Oklahoma Film Enhancement Rebate Program Revolving Fund.

Added by Laws 2001, c. 259, § 5, eff. July 1, 2001. Amended by Laws 2005, c. 381, § 16, eff. July 1, 2005; Laws 2012, c. 304, § 568.

§68-3626. Termination of act.

The provisions of the Compete with Canada Film Act shall be terminated effective July 1, 2014, and no claim shall be paid thereafter.

Added by Laws 2001, c. 259, § 6, eff. July 1, 2001. Amended by Laws 2008, c. 436, § 16, eff. July 1, 2009.

§68-3651. Short title.

This act shall be known and may be cited as the “Oklahoma Quality Jobs Incentive Leverage Act”.

Added by Laws 2002, c. 299, § 1, emerg. eff. May 23, 2002.

§68-3652. Legislative findings.

The Legislature finds that certain establishments which have, previous to the effective date of this act, qualified for incentive payments pursuant to the Oklahoma Quality Jobs Program Act are a source of economic benefits for the state, its political subdivisions and its residents that can only be achieved through the use of specialized economic incentives. The Oklahoma Quality Jobs Incentive Leverage Act is enacted in order to provide a mechanism for the leverage of incentive payments for the purpose of promoting and sustaining economic growth and activity within the State of Oklahoma. The Legislature finds that the use of the incentive payment, together with other fiscal resources, is a method that provides a beneficial correlation between the use of monies in the Quality Jobs Program Incentive Leverage Fund and the total economic benefits to be derived from the use of proceeds from the sale of obligations provided by Section 3654 of this title.

Added by Laws 2002, c. 299, § 2, emerg. eff. May 23, 2002. Amended by Laws 2008, c. 182, § 1, eff. Nov. 1, 2008.

§68-3653. Definitions.

As used in this act:

1. “Establishment” means a business that:
 - a. has at least One Hundred Fifteen Million Dollars (\$115,000,000.00) in annual gross compensation paid with respect to jobs located in Oklahoma according to Oklahoma Employment Security records and company reports for the three (3) years prior to the irrevocable election filing date provided by Section 3658 of this title,
 - b. has an average salary of at least Forty Thousand Dollars (\$40,000.00) paid to employees as of the irrevocable election filing date provided by Section 3658 of this title,
 - c. intends to add substantial gross compensation, as defined below, with respect to full-time-equivalent employment located in Oklahoma within three (3) years of filing an initial irrevocable election with the Oklahoma Department of Commerce pursuant to the provisions of subsection A of Section 3658 of this title,
 - d. has at least Two Hundred Million Dollars (\$200,000,000.00) total investment in Oklahoma,

- e. intends to add investment for additional modernization and retooling of a facility located in the state, on or after the effective date of this act, of at least One Hundred Million Dollars (\$100,000,000.00), but for purposes of this act not in excess of an additional Two Hundred Fifty Million Dollars (\$250,000,000.00) within five (5) years of filing a second irrevocable election with the Oklahoma Department of Commerce pursuant to the provisions of subsection A of Section 3658 of this title, unless the establishment has completed at least eighty percent (80%) of the expenditures for the additional investment by the end of the five-year period in which case the establishment shall be allowed a one-year extension for completion of the investment,
- f. for purposes of an initial irrevocable election filed prior to the effective date of this act, has and maintains at least one thousand five hundred fifty (1,550) full-time employees in the state, and
- g. is described by Industry Number 3011, Industry Group Number 301, Major Group 30 of the Standard Industrial Classification Manual (SIC), latest revision;

2. "Gross compensation" means wages, as defined in Section 2385.1 of Title 68 of the Oklahoma Statutes, and benefits paid on behalf of employees receiving wages; and

3. "Substantial gross compensation" means annualized compensation of Four Million Dollars (\$4,000,000.00) or more within three (3) years of filing the initial irrevocable election with the Oklahoma Department of Commerce pursuant to Section 3658 of this title.

Added by Laws 2002, c. 299, § 3, emerg. eff. May 23, 2002. Amended by Laws 2008, c. 182, § 2, eff. Nov. 1, 2008.

§68-3654. Issuance of obligations - Calculation of foregone incentives - Payment of proceeds - Repayment - Guaranty.

A. The Oklahoma Development Finance Authority shall, according to the requirements of the Oklahoma Development Finance Authority Act, issue obligations in a principal amount determined as required by this section upon certification by the Oklahoma Department of Commerce that an establishment has filed the second irrevocable election described in subsection A of Section 3658 of this title. The Authority shall not issue any additional obligations as a result of a second irrevocable election authorized by Section 3658 of this title until any obligations issued by the Authority prior to the effective date of this act have been fully defeased. No obligation issued by the Oklahoma Development Finance Authority pursuant to this act shall be considered a general obligation of the State of Oklahoma for any purpose and the indebtedness incurred shall be a debt of the Oklahoma Development Finance Authority and not a debt of the State of Oklahoma.

B. Notwithstanding any other provision of this section to the contrary, the total principal amount of indebtedness incurred by the Authority shall not be greater than an amount required for proceeds equal to fourteen and four-tenths percent (14.4%) of the maximum amount of projected additional investment, as disclosed pursuant to Section 3655 of this title, for the applicable facility of an establishment as defined by Section 3653 of this title. The maximum amount of projected additional investment for purposes of this subsection shall not exceed Two Hundred Fifty Million Dollars (\$250,000,000.00).

C. The proceeds of such issuance shall be used by the Authority for the benefit of an establishment making a second irrevocable election pursuant to the requirements of this act and such proceeds shall be made available to an establishment for purposes of making the investments described by Section 3653 and Section 3655 of this title according to the requirements of this act and any agreement executed by the establishment and the Oklahoma Development Finance Authority.

D. Upon receipt and analysis of the disclosures regarding proposed investment for additional modernization and retooling of a facility located within the state and owned by an establishment that qualifies for access to the proceeds from the sale of the obligations, the Oklahoma Development Finance Authority shall, if requested by the establishment, structure the issuance of the obligations in a manner that provides for the receipt of proceeds equal to fourteen and four-tenths percent (14.4%) of the amount of additional investment disclosed pursuant to the provisions of Section 3655 of this title.

E. Upon availability of such proceeds, the Authority shall make payment to the qualified establishment of the full allocation of proceeds from a second or subsequent issuance of obligations based upon the computation required by subsection D of this section.

F. The obligations authorized by subsection A of this section, whether issued prior to or on or after the effective date of this act, shall be fully repaid in a period not to exceed twenty (20) years from their issuance.

G. The Oklahoma Development Finance Authority shall require that each and every establishment filing a second irrevocable election pursuant to Section 3658 of this title will use proceeds derived from the sale of obligations issued pursuant to subsection A of this section according to the requirements of this act.

H. An establishment that otherwise qualifies to use proceeds from the sale of obligations pursuant to this section shall be required to provide documentation to the Oklahoma Development Finance Authority that, prior to the effective date of this act, a minimum of Fifty Million Dollars (\$50,000,000.00) has been expended or legally committed for expenditure for a modernization and retooling of an existing facility located within the state before the Authority is authorized to transfer any such proceeds to the establishment.

I. Subject to the requirements of this section, the Oklahoma Development Finance Authority is authorized to issue its obligations in the principal amount required in order to make the proceeds from the sale of its obligations available to each establishment that qualifies for the use of such proceeds as required by this section, and in such additional principal amount as may be required for the payment of interest or the payment of principal and interest for the fiscal year ending June 30, 2010, or subsequent fiscal year, together with such additional principal amount that may be required or that may be associated with the costs of the issuance of the obligations. Under no circumstances shall the amount of proceeds derived from the sale of obligations authorized by subsection A of this section and which are made available to a qualified establishment exceed the amount prescribed by this section.

J. The Oklahoma Development Finance Authority shall provide that the first payment of interest or the first payment of principal and interest in repayment of the obligations authorized by subsection A of this section as a result of a second irrevocable election shall not become due until the later of July 1, 2009, or the first date upon which the revenues payable to the Authority from the Quality Jobs Program Incentive Leverage Fund are no longer committed to the payment of debt service requirements and related costs in connection with obligations issued by the Authority pursuant to the Quality Jobs Program Incentive Leverage Act prior to the effective

date of this act, if feasible, or the Authority shall provide for the first payment of interest or the first payment of principal and interest using some portion of the proceeds derived from the sale of obligations authorized by subsection A of this section. If any payment of principal or interest with respect to obligations issued on or after the effective date of this act is due at any time after July 1, 2009, the Authority may use such proceeds with respect to such required payment. With respect to obligations issued by the Authority as a result of a second irrevocable election, in no case shall the Authority issue the obligations in any manner that requires the use of revenues apportioned to the Quality Jobs Program Incentive Leverage Fund pursuant to Section 3659 of this act until July 1, 2009, or thereafter.

K. The Oklahoma Development Finance authority may enter into such agreements with a qualified establishment as are necessary to implement the provisions of this act. The Authority shall require that an establishment using proceeds from obligations issued pursuant to this section as a result of a second irrevocable election enter into a contract with the Authority reflecting the benefits derived by the State of Oklahoma in a manner consistent with the findings of Section 3652 of this title. The Authority may provide for the issuance of obligations in a manner that results in availability of proceeds suitable to the proposed additional investment activity of an establishment and which takes into account the obligation of the Authority to repay principal and interest with the objective of obtaining the most favorable financing terms to the Authority for the repayment of the obligations.

L. If an establishment to which proceeds from the sale of obligations issued pursuant to subsection A of this section as a result of a second irrevocable election are transferred does not make use of the proceeds in the amount required by any agreement with the Authority or in contravention of any of the terms or requirements imposed by the Authority or by the requirements of this act, the establishment shall become liable to the Oklahoma Development Finance Authority for the payment of principal, interest or other costs associated with the repayment of any amount of debt represented by obligations issued pursuant to subsection A of this section resulting from a second irrevocable election to the extent such proceeds were paid to the establishment and such proceeds were not used in the amount disclosed to the Oklahoma Development Finance Authority pursuant to Section 3655 of this title. If an establishment does not make the full amount of additional investment as disclosed pursuant to Section 3655 of this title, the establishment shall be liable for principal, interest or other costs associated with repayment of debt equal to the difference between the amount of investment disclosed pursuant to Section 3655 of this title and the actual investment made by the establishment multiplied by fourteen and four-tenths percent (14.4%).

M. An establishment that otherwise qualifies for the use of proceeds derived from the sale of obligations pursuant to subsection A of this section resulting from a second irrevocable election shall execute and deliver to the Oklahoma Development Finance Authority a guaranty, or shall cause a guaranty to be executed and delivered by a third party, in such form as the Authority may determine, for the benefit of the Oklahoma Development Finance Authority in the event of a deficit between the sum of the incentive payment and the withholding taxes transferred to the Quality Jobs Program Incentive Leverage Fund pursuant to Section 3659 of this title and the total amount required for the payment of principal, interest or other costs associated with the obligations, proceeds from the sale of which are paid to the establishment or are available for use by the establishment. The Authority shall only accept a third-party guaranty from an entity that has a net worth in excess of the net worth of the establishment on behalf of which the guaranty is provided. Payments received by the Oklahoma Development Finance

Authority pursuant to the provisions of this subsection and pursuant to the terms of the guaranty shall be deposited into the Quality Jobs Program Incentive Leverage Fund. The Oklahoma Development Finance Authority shall require that the guaranty provide for such terms of payment as may be required to make payments of principal, interest or other costs in a timely manner to the entity or entities to which the Authority is obligated to make payment. No revenues authorized to be apportioned pursuant to Section 2352 of Title 68 of the Oklahoma Statutes shall be transferred to the Quality Jobs Program Incentive Leverage Fund until the terms of the guaranty have been invoked and payment received or until the Oklahoma Development Finance Authority determines an event of default under the terms of the guaranty.

N. The Oklahoma Development Finance Authority, in addition to any other powers granted to it pursuant to the Oklahoma Development Finance Authority Act, may pursue such remedies for the collection of any debt owed to the Authority as authorized by this section as are available to any creditor under the laws of the State of Oklahoma.

O. The provisions of the Oklahoma Development Finance Authority Act shall be fully applicable to the obligations issued pursuant to subsection A of this section and except insofar as the provisions of this act are inconsistent with the provisions of the Oklahoma Development Finance Authority Act, the Oklahoma Quality Jobs Incentive Leverage Act shall supercede and govern all entities, transactions, obligations, rights and remedies associated with such obligations.

Added by Laws 2002, c. 299, § 4, emerg. eff. May 23, 2002. Amended by Laws 2008, c. 182, § 3, eff. Nov. 1, 2008.

§68-3655. Proposed amount of investment and expenditure - Period required for full expenditure - Determination of total principal amount.

A. Within sixty (60) days after filing the second irrevocable election pursuant to Section 3658 of this title, each establishment that has filed such election shall provide to the Oklahoma Development Finance Authority, on such form as may be prescribed by the Authority for this purpose, the total amount of additional investment and expenditure proposed by the establishment for the additional modernization or retooling of a facility located within the state owned by the establishment. The full amount of expenditures qualifying for the use of proceeds pursuant to Section 3654 of this title shall be made not later than five (5) years from the date as of which the disclosure document required by this subsection is filed, except as such period may be extended pursuant to subparagraph e of paragraph 1 of Section 3653 of this title; provided, such five-year-time period may be extended one time, for a period not to exceed twelve (12) months, by the Oklahoma Department of Commerce if the establishment makes a request for an extension and provides the Department with a schedule of intended investment and expenditure.

B. The Oklahoma Development Finance Authority shall evaluate the information provided pursuant to subsection A of this section in order to determine the total principal amount of the issuance or issuances authorized by subsection A of Section 3654 of this title. The total principal amount of any indebtedness issued by the Authority shall not exceed an amount required in order to allow all establishments that have made the disclosure required by subsection A of this section to fully expend proceeds made available to the establishment by the Authority, plus amounts required for repayment of the obligations, if applicable, and the costs of the issuance.

Added by Laws 2002, c. 299, § 5, emerg. eff. May 23, 2002. Amended by Laws 2007, c. 349, § 1, emerg. eff. June 4, 2007; Laws 2008, c. 182, § 4, eff. Nov. 1, 2008.

§68-3656. Use of Credit Enhancement Reserve Fund for issuance of obligations.

A. The Oklahoma Development Finance Authority may use the Credit Enhancement Reserve Fund in order to obtain favorable financing terms for the issuance of obligations authorized by Section 3654 of this title. The commitment from the Credit Enhancement Reserve Fund for any such obligations shall not exceed Ten Million Dollars (\$10,000,000.00).

B. For purposes of the issuance authorized by Section 3654 of this title, the provisions of Section 5063.4c of Title 74 of the Oklahoma Statutes shall not be applicable.

Added by Laws 2002, c. 299, § 6, emerg. eff. May 23, 2002. Amended by Laws 2008, c. 182, § 5, eff. Nov. 1, 2008.

§68-3657. Quality Jobs Program Incentive Leverage Fund.

There is hereby created within the State Treasury a special fund for the Oklahoma Development Finance Authority to be designated the "Quality Jobs Program Incentive Leverage Fund". All amounts deposited into the fund shall be used and expended by the Oklahoma Development Finance Authority solely for the purposes and in the amounts authorized by the Oklahoma Quality Jobs Incentive Leverage Act. The Oklahoma Development Finance Authority is hereby specifically authorized and directed to use the monies transferred from the Quality Jobs Program Incentive Leverage Fund for the payment of principal, interest and other costs associated with the issuance of obligations pursuant to the provisions of this act. The Oklahoma Development Finance Authority shall establish separate accounts within the Quality Jobs Program Incentive Leverage Fund as may be required to separately record transactions involving each establishment that files an irrevocable election or second irrevocable election pursuant to Section 3658 of this title and to provide for the deposit of incentive payments, if applicable, and withholding taxes apportioned to the Fund pursuant to Section 3659 of this title or for such other purposes as the Authority may determine to be necessary.

Added by Laws 2002, c. 299, § 7, emerg. eff. May 23, 2002. Amended by Laws 2008, c. 182, § 6, eff. Nov. 1, 2008.

§68-3658. Irrevocable election to transfer incentive payments to Fund - Claim and use of tax credits - Ineligibility for certain exemptions.

A. An establishment, as defined in Section 3653 of this title, which has been authorized to receive incentive payments pursuant to the Oklahoma Quality Jobs Program Act prior to the effective date of this act, and that intends to use proceeds derived from the sale of obligations issued pursuant to Section 3654 of this title which obligations are issued on or after the effective date of this act, shall, as a condition of being eligible to make use of such proceeds, file a second irrevocable election with the Oklahoma Department of Commerce.

B. An establishment shall file its second irrevocable election with the Oklahoma Department of Commerce not later than one hundred eighty (180) days prior to the last date that withholding tax revenues attributable to the payroll of the establishment are legally required to be used in satisfaction of any debt service requirements or related costs imposed pursuant to an issuance of obligations by the Oklahoma Development Finance Authority if such issuance occurred prior to the effective date of this act. Such second irrevocable election shall be required in order for the establishment to be eligible for use of any proceeds from the sale of additional obligations authorized by Section 3654 of this title which obligations are issued on or after the effective date of this act. From the date upon which the second irrevocable election is filed until the last date upon which withholding tax revenues attributable to the payroll of the establishment

are legally required to be used in satisfaction of any debt service requirements or related costs imposed as a result of obligations issued by the Oklahoma Development Finance Authority prior to the effective date of this act, the five-year period of time within which the establishment would otherwise be required to make investment pursuant to this act shall be extended.

C. Upon filing such second irrevocable election, any incentive payments which would have been paid to the establishment pursuant to the Oklahoma Quality Jobs Program Act after such filing shall be deposited to the Quality Jobs Program Incentive Leverage Fund. Such incentive payments shall be treated as an asset of the establishment which has been paid to the State of Oklahoma for purposes of this act.

D. Beginning upon the later date of July 1, 2009, or the first date upon which the revenues payable to the Authority from the Quality Jobs Program Incentive Leverage Fund are no longer committed to the payment of debt service requirements and related costs in connection with obligations issued by the Authority pursuant to the Quality Jobs Incentive Leverage Act prior to the effective date of this act, and for each fiscal year thereafter as otherwise required by this act, monies transferred to the Quality Jobs Program Incentive Leverage Fund shall be used for the payment of principal and interest or other costs associated with the additional issuance of obligations by the Oklahoma Development Finance Authority pursuant to the provisions of Section 3654 of this title as a result of a second irrevocable election. Not later than January 1 and July 1 of each year, the Oklahoma Development Finance Authority shall certify to the Oklahoma Department of Commerce and the Oklahoma Tax Commission the amount which will be required for payment of principal, interest and other costs associated with the issuance of such obligations for the succeeding six-month period.

E. Beginning on the later date of July 1, 2009, or the first date upon which the revenues payable to the Authority from the Quality Jobs Program Incentive Leverage Fund are no longer committed to the payment of debt service requirements and related costs in connection with obligations issued by the Authority pursuant to the Quality Jobs Incentive Leverage Act prior to the effective date of this act, and for each fiscal year thereafter as otherwise required by this act, as often as may be necessary for the Oklahoma Development Finance Authority to make payments with respect to indebtedness issued pursuant to the provisions of this act as a result of a second irrevocable election, the Tax Commission shall transfer from the revenues specified in Section 3659 of this title an amount required to equal the difference between the incentive payment deposit and the amount certified pursuant to the provisions of subsection C of this section. The Tax Commission shall then transfer the total amount required pursuant to the certification to the Oklahoma Development Finance Authority.

F. An establishment to which proceeds from the sale of any obligations issued by the Oklahoma Development Finance Authority are made available as provided by this act pursuant to a second irrevocable election shall not claim any tax credits that would otherwise be authorized pursuant to Section 2357.4 of Title 68 of the Oklahoma Statutes as a result of jobs created or capital investment made as a direct result of the use of such bond proceeds. For purposes of this subsection and for purposes of computing any tax credit pursuant to Section 2357.4 of Title 68 of the Oklahoma Statutes, "bond proceeds" shall mean the amount transferred, paid or made available to the establishment together with the total amount of principal and interest paid by the Oklahoma Development Finance Authority with respect to any amount of proceeds transferred, paid or made available to the establishment.

G. An establishment that files a second irrevocable election authorized by this section and to which proceeds from the sale of obligations authorized by Section 3654 of this title are paid or

made available may utilize income tax credits earned prior to the effective date of this act pursuant to Section 2357.4 of Title 68 of the Oklahoma Statutes for a period of fifteen (15) taxable years subsequent to the year in which the election is filed.

H. An establishment that files a second irrevocable election authorized by this section and to which any proceeds from the sale of obligations authorized by Section 3654 of this title are paid or made available shall not be eligible to claim any exemption pursuant to Section 6B of Article X of the Oklahoma Constitution or Section 2902 of Title 68 of the Oklahoma Statutes with respect to real or personal property constituting the facility described by the establishment pursuant to the disclosure document as provided by Section 3655 of this title. The maximum amount of investment in any facility for purposes of the foregone exemption required by this subsection shall be Five Hundred Million Dollars (\$500,000,000.00), inclusive of any amounts invested prior to the effective date of this act.

I. An establishment that files a second irrevocable election authorized by this section and to which any proceeds from the sale of obligations authorized by Section 3654 of this title are paid or made available shall not be eligible to claim any exemption otherwise available pursuant to Section 1359 of Title 68 of the Oklahoma Statutes with respect to the facility constructed, acquired, improved or equipped with such proceeds. The provisions of this subsection shall not require any waiver of sales tax exemption with respect to personal property acquired for the manufacturing process after completion of construction of the applicable facility.

Added by Laws 2002, c. 299, § 8, emerg. eff. May 23, 2002. Amended by Laws 2008, c. 182, § 7, eff. Nov. 1, 2008.

§68-3659. Remitted withholding taxes - Transfer and apportionment.

A. Beginning on the later date of July 1, 2009, or the first date upon which the revenues payable to the Authority from the Quality Jobs Program Incentive Leverage Fund are no longer committed to the payment of debt service requirements and related costs in connection with obligations issued by the Authority pursuant to the Quality Jobs Incentive Leverage Act prior to the effective date of this act, and for each fiscal year thereafter during which any obligations issued by the Oklahoma Development Finance Authority issued pursuant to Section 3654 of this title remain unpaid as a result of a second irrevocable election, the Oklahoma Tax Commission shall identify an establishment that makes the second irrevocable election authorized by Section 3658 of this title and shall compute the amount of withholding taxes imposed pursuant to Section 2385.2 of Title 68 of the Oklahoma Statutes attributable to employees of that establishment whose wages are subject to the levy.

B. Beginning on the later date of July 1, 2009, or the first date upon which the revenues payable to the Authority from the Quality Jobs Program Incentive Leverage Fund are no longer committed to the payment of debt service requirements and related costs in connection with obligations issued by the Authority pursuant to the Quality Jobs Incentive Leverage Act prior to the effective date of this act, and for each fiscal year thereafter during which any obligations issued by the Oklahoma Development Finance Authority issued pursuant to Section 3654 of this title as a result of a second irrevocable election remain unpaid, the Oklahoma Tax Commission shall transfer to the Quality Jobs Program Incentive Leverage Fund an amount of withholding taxes remitted by an establishment which has made the second irrevocable election equal to the amount required pursuant to subsection E of Section 3658 of this title. With respect to the withholding taxes remitted by an establishment that makes the second irrevocable election pursuant to Section 3658 of this title, the Tax Commission shall continue to transfer such taxes to

the Quality Jobs Program Incentive Leverage Fund for any period of time after which the establishment files the second irrevocable election. If the Oklahoma Development Finance Authority does not issue obligations as a result of the second irrevocable election, the establishment shall notify the Tax Commission and the Oklahoma Development Finance Authority that further transfers of withholding taxes remitted by the establishment to the Quality Jobs Program Incentive Leverage Fund are not required.

C. Subject to the provisions of Section 11, Chapter 299, O.S.L. 2002, if the amount of the withholding taxes remitted by the establishment is less than the amount required pursuant to subsection E of Section 3658 of this title, the proceeds from the guaranty required by subsection M of Section 3654 of this title shall be paid to the Quality Jobs Program Incentive Leverage Fund.

D. After the amount of withholding taxes required to be transmitted to the Quality Jobs Program Incentive Leverage Fund has been computed, the remaining withholding tax remitted by a qualified establishment shall be apportioned in the manner prescribed by law.

E. The amount of withholding taxes transferred to the Quality Jobs Program Incentive Leverage Fund pursuant to this section shall be deemed not to have accrued to the State Treasury for purposes of certifications required by the State Board of Equalization pursuant to Section 23 of Article X of the Oklahoma Constitution and shall be deemed to be monies held in trust for the benefit of the Oklahoma Development Finance Authority in order to repay obligations issued by the Authority pursuant to Section 3654 of this title.

F. The withholding taxes attributable to the wages of employees of an establishment which has made the second irrevocable election provided for by Section 3658 of this title shall be apportioned in the manner prescribed by law as soon as all of the obligations of the Oklahoma Development Finance Authority issued pursuant to Section 3654 of this title have been fully repaid and after such time the provisions of this section shall cease to have the force and effect of law.

Added by Laws 2002, c. 299, § 9, emerg. eff. May 23, 2002. Amended by Laws 2008, c. 182, § 8, eff. Nov. 1, 2008.

§68-3660. Establishments ceasing to qualify for incentive payment - Liability for payment of principal, interest or other costs.

A. An establishment making the second irrevocable election pursuant to the provisions of Section 3658 of this title and which ceases to qualify for an incentive payment pursuant to the provisions of the Oklahoma Quality Jobs Program Act, other than a payment in the amount of One Dollar (\$1.00) as provided in paragraph 1 of subsection D of Section 3658 of this title, and the withholding tax collections of which are not sufficient to make required payments of principal or interest because of a reduction in gross payroll at a facility constructed with or equipped with personal property acquired through the use of proceeds from the issuance of obligations by the Oklahoma Development Finance Authority pursuant to the provisions of this act, shall be liable to the State of Oklahoma and the Oklahoma Development Finance Authority for the amount of any required principal or interest payment associated with obligations issued as a result of a second irrevocable election the proceeds of which have been paid to the establishment or are available for use by the establishment that remains after using the incentive payment plus the withholding taxes of the establishment.

B. An establishment incurring an obligation for the payment of any principal, interest or other costs pursuant to subsection A of this section shall be liable only for amounts accrued

during such period of time. The establishment shall not have any direct liability for subsequent periods of time during which the sum of the incentive payment and the withholding tax collected from the establishment is sufficient to make required payments in satisfaction of the obligations issued pursuant to subsection A of Section 3654 of this title.

Added by Laws 2002, c. 299, § 10, emerg. eff. May 23, 2002. Amended by Laws 2008, c. 182, § 9, eff. Nov. 1, 2008.

§68-3701. Short title.

Sections 1 through 12 of this act shall be known and may be cited as the “Saving Quality Jobs Act”.

Added by Laws 1994, c. 322, § 1, emerg. eff. June 8, 1994.

§68-3702. Legislative intent.

It is the intent of the Legislature that:

1. The State of Oklahoma provide appropriate incentives to support establishments:
 - a. that hold promise of retaining and gaining jobs when the State of Oklahoma is in competitive situations with other states or nations,
 - b. when there is a direct threat to the existing revenue base and wealth of the state because existing jobs are at risk, and
 - c. provided, however, new jobs must be created in conjunction with provisions of incentives to retain at-risk jobs;
2. The State of Oklahoma provide appropriate incentives to support establishments that hold the promise of growth in strategic industries that yield higher long-term benefits for job retention and increasing the wealth of the state and which create competitive advantages for the State of Oklahoma in attracting and retaining industries and thus jobs;
3. The State of Oklahoma provide appropriate incentives to establishments that locate in areas of the state that would be highly impacted statistically in their labor forces when establishments locate in such an area;
4. The State of Oklahoma provide appropriate incentives to establishments that reduce continuing unemployment for citizens by employing the chronically unemployed;
5. The Oklahoma Department of Commerce and the Oklahoma Tax Commission implement the provisions of the Saving Quality Jobs Act and exercise all powers as authorized in this act. The exercise of powers conferred by the Saving Quality Jobs Act shall be deemed and held to be the performance of essential public purposes; and
6. Nothing herein shall be construed to constitute a guarantee or assumption by the State of Oklahoma of any debt of any individual, company, corporation or association nor to authorize the credit of the State of Oklahoma to be given, pledged or loaned to any individual, company, corporation or association.

Added by Laws 1994, c. 322, § 2, emerg. eff. June 8, 1994.

§68-3703. Definitions.

Unless otherwise indicated in the Saving Quality Jobs Act, the definitions contained in Section 3603 of Title 68 of the Oklahoma Statutes shall apply to the Saving Quality Jobs Act.

Other definitions of the Saving Quality Jobs Act are:

1. “At-risk jobs” are those jobs of a qualifying establishment, presently existing in Oklahoma which the Director of the Department of Commerce finds would be lost within the

state based on changes in establishment structure; consolidation attempts of establishments; and other such factors as determined on a case-by-case basis, unless incentives are offered. Provided, that the Department shall limit the number of at-risk jobs for each establishment so that the number of at-risk jobs shall not exceed the number of new direct jobs anticipated to be created. However, under no circumstances shall the number of at-risk jobs exceed two hundred jobs for any single establishment;

2. "Fiscal year" means July 1 through June 30;
 3. "High impact projects" means those projects described in Section 8 of this act;
 4. "Premium net benefit rate" means the percentage rate determined by the Oklahoma Department of Commerce and utilized by the Oklahoma Tax Commission to calculate quarterly premium payments which are further described in Section 5 of this act; and
 5. "Premium payments" means those payments made in addition to incentive payments to approved establishments under the terms of the Saving Quality Jobs Act which are calculated in accordance with the provisions of Section 5 of this act.
- Added by Laws 1994, c. 322, § 3, emerg. eff. June 8, 1994.

§68-3704. Quarterly premium payments.

An establishment which is qualified for incentive payments pursuant to the Oklahoma Quality Jobs Program Act shall be entitled to claim quarterly premium payments for a period of three (3) years, to be calculated as provided by Section 5 of this act, if such establishment meets either of the following qualifications:

1. It is certified by the Oklahoma Department of Commerce and confirmed by the Governor that the establishment has demonstrated that its existing jobs are at risk. In order to qualify for the premium, the establishment must create one new job for each at-risk job saved. In such cases, the premium payment shall be calculated as provided in Section 5 of this act.

The Department shall specify the type of application, information or documentation necessary to satisfy the requirement of this paragraph; or

2. An establishment is engaged in an industry which is strategically important to the general economic development of this state due to its impact upon factors such as labor, other establishments in the same or related industries, demand for component or material supplies and other factors which may be determined by rule of the Department of Commerce. Provided, that those industries classified and defined in the Standard Industrial Classification (SIC) Manual, latest version, as follows shall be considered strategic for purposes of this section:

- a. Electronic components, n.e.c., SIC 3675,
- b. Miscellaneous plastics products, SIC 3070,
- c. Central administrative offices, (no SIC Code),
- d. Instruments and related products, SIC 38,
- e. Chemicals including pharmaceuticals, SIC 28,
- f. Engineering and architectural services, SIC 871,
- g. Aircraft and parts manufacturing, SIC 372, and
- h. Research and testing services, SIC 873.

Added by Laws 1994, c. 322, § 4, emerg. eff. June 8, 1994.

§68-3705. Maximum allowable premium payments - Apportionments - Application to receive payments - Continuing eligibility.

A. An establishment which meets the qualifications specified in the Saving Quality Jobs Act may claim premium payments for a three-year period from the Oklahoma Tax Commission pursuant to the provisions of the Saving Quality Jobs Act in an amount equal to the premium net benefit rate multiplied by the actual gross payroll of the establishment's new direct jobs for a calendar quarter as verified by the Oklahoma Employment Security Commission. The premium net benefit rate of the establishment shall be calculated by the Department of Commerce by dividing the maximum allowable premium payment for the establishment, which shall be calculated as follows, by the anticipated quarterly gross payroll of the establishment:

1. The maximum allowable premium payment to an establishment which qualifies for premium payments pursuant to the provisions of paragraph 1 of Section 4 of this act shall be calculated to be equal to one-tenth of one percent (1/10 of 1%) of the estimated net direct state benefits, apportioned over the three-year payment period as provided by subsection B of this section, for each qualifying at-risk job which is retained by an establishment. Provided, that the number of retained at-risk jobs utilized for said calculation shall not exceed the number of new direct jobs added by the establishment pursuant to the Quality Jobs Program Act, or two hundred jobs whichever is less. Additionally, the maximum allowable premium payment shall be reduced as set out in paragraphs 3 and 4 of this subsection.

2. The maximum allowable premium payment of an establishment which qualifies for premium payments pursuant to the provisions of paragraph 2 of Section 4 of this act shall be calculated to be equal to twenty percent (20%) of the estimated net direct state benefits, apportioned over the three-year payment period as provided by subsection B of this section. Provided, the maximum allowable premium payment shall be reduced as set out in paragraphs 3 and 4 of this subsection.

3. Under no circumstances may the combined premium payment and quality job incentive payment made to an establishment exceed five percent (5%) of the gross payroll of the establishment. If the sum of the establishment's maximum premium payment as a percent of anticipated gross payroll and the establishment's net benefit rate exceed five percent (5%) of gross payroll, then the Department of Commerce shall reduce the establishment's allowable premium payment such that the combined premium payment and quality job incentive payment shall equal five percent (5%) of gross payroll.

4. The maximum aggregate amount of payments, to all qualified establishments in any fiscal year of the State of Oklahoma, which are authorized pursuant to this section and Section 8 of this act is Two Million Five Hundred Thousand Dollars (\$2,500,000.00). For the purposes of this paragraph, projected premium and incentive payments of each qualified establishment pursuant to this section and Section 8 of this act shall be aggregated by the Department of Commerce to determine if said limit has been reached. Notwithstanding any other provision of law, when the maximum Two Million Five Hundred Thousand Dollars (\$2,500,000.00) of projected premium and incentive payments provided by this section and Section 8 of this act have been obligated to specific establishments for a given fiscal year, then no additional application for payments may be considered by the Department of Commerce for that fiscal year and in any event no payments in excess of said Two Million Five Hundred Thousand Dollars (\$2,500,000.00) shall be paid by the Tax Commission within any fiscal year pursuant to this section and Section 8 of this act.

B. Upon calculating an establishment's allowable possible premium payment as provided by subsection A of this section, the Department of Commerce shall apportion said total amount among each of the three (3) years of the payment period as provided by subsection B of this

section. Said apportionment shall be made in the same proportions as the first three (3) years of an establishment's annual estimated net direct state benefits pursuant to the Oklahoma Quality Jobs Program Act.

C. In order to receive premium payments, an establishment shall apply to the Oklahoma Department of Commerce. The application shall be on a form prescribed by the Department and shall contain such information as may be required by the Department to determine if the applicant is qualified.

D. In order to qualify for and remain qualified to receive premium payments, the establishment applying must have applied for, be qualified for and remain qualified for incentive payments pursuant to the Oklahoma Quality Jobs Program Act and meet all qualifications and requirements of the Saving Quality Jobs Act.

E. The Department shall determine if the applicant is qualified to receive premium payments.

F. If the applicant is determined to be qualified by the Department of Commerce, the Department shall communicate such information to the Tax Commission, including the establishment's premium net benefit rate and the maximum allowable premium payment amount during the three-year payment period, when supplying information required by the Oklahoma Quality Jobs Program Act. The Tax Commission may require the establishment to submit such additional information as may be necessary to administer the provisions of the Saving Quality Jobs Act. The approved establishment shall report to the Tax Commission periodically to show its continued eligibility for premium payments. The establishment may be audited by the Tax Commission to verify such eligibility.

Added by Laws 1994, c. 322, § 5, emerg. eff. June 8, 1994.

§68-3706. Saving Quality Jobs Premium Payment Fund.

There is hereby created within the State Treasury a special fund for the Oklahoma Tax Commission to be designated the "Saving Quality Jobs Premium Payment Fund". The Oklahoma Tax Commission is hereby authorized and directed to withhold a portion of the taxes levied and collected pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for deposit into the fund. The amount deposited shall equal the sum of an amount determined by multiplying the premium net benefit rate provided by the Department of Commerce by the gross payroll of each establishment approved pursuant to Section 5 of this act. All of the amounts deposited in such fund shall be used and expended by the Tax Commission solely for the purposes and in the amounts authorized by the Saving Quality Jobs Act. Liability of the State of Oklahoma for payments made pursuant to the Saving Quality Jobs Act shall be limited to the balance contained in the fund created by this section and Section 9 of this act. The total payments from the fund created by this section together with all payments from the High Impact Project Payment Fund created pursuant to Section 9 of this act shall not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) for any one fiscal year.

Added by Laws 1994, c. 322, § 6, emerg. eff. June 8, 1994.

§68-3707. Filing of claim - Issuance of warrant.

A. As soon as practicable after the end of a calendar quarter for which an establishment has qualified to receive a premium payment, the establishment shall file a claim for the payment with the Oklahoma Tax Commission and shall specify the actual number and gross payroll of new direct jobs or at-risk jobs for the establishment for the calendar quarter. The Tax

Commission shall verify the actual gross payroll for new direct jobs for the establishment for such calendar quarter. If the Tax Commission is not able to provide such verification utilizing all available resources, the Tax Commission may request such additional information from the establishment as may be necessary or may request the establishment to revise its claim.

B. As soon as practicable after such verification, the Tax Commission shall issue a warrant to the establishment in the amount of the premium net benefit rate multiplied by the actual gross payroll for the calendar quarter in accordance with Section 5 of this act. Provided, that the premium payments received by an establishment shall not exceed the total maximum allowable premium payment over the entire three-year period as communicated to the Tax Commission by the Department of Commerce. If an establishment is entitled to a quarterly payment pursuant to both the Oklahoma Quality Jobs Program Act and the Saving Quality Jobs Act, the Tax Commission may issue one warrant for both.
Added by Laws 1994, c. 322, § 7, emerg. eff. June 8, 1994.

§68-3708. High impact projects.

A. An establishment which meets the qualifications specified in the Oklahoma Quality Jobs Program Act, Sections 3602 through 3609 of Title 68 of the Oklahoma Statutes, except that the establishment has an annual gross payroll for new direct jobs, as defined in the Oklahoma Quality Jobs Program Act, projected by the Department of Commerce to equal at least One Million Dollars (\$1,000,000.00) but less than Two Million Five Hundred Thousand Dollars (\$2,500,000.00) within three (3) years of the anticipated date of receipt of first incentive payment may qualify for payments for the High Impact Projects Payments Fund created in Section 9 of this act pursuant to approval by the Oklahoma Department of Commerce if the establishment provides a number of new direct jobs that is equal to or greater than one percent (1%) of the total labor force of the county in which the establishment locates. Such establishments shall be deemed "high impact projects".

B. 1. High impact projects, upon approval of the Oklahoma Department of Commerce, may receive quarterly incentive payments for a six-year period from the Oklahoma Tax Commission in an amount which shall be equal to two and one-half percent (2.5%) of gross payroll for new direct jobs.

2. During the first three (3) years of the six-year period, an approved project may receive quarterly incentive payments irrespective of whether a minimum annual payroll of One Million Dollars (\$1,000,000.00) for new direct jobs is achieved. In the event a minimum annual payroll of One Million Dollars (\$1,000,000.00) for new direct jobs is not achieved by an approved project within three (3) years, payments will cease and will not be resumed.

3. An approved project which achieves the minimum required payroll during the first three (3) years is eligible to receive incentive payments during the remaining three (3) years of the six-year period. Provided, in order to receive an incentive payment for any quarter during the remaining three (3) years of eligibility, the approved project must have an actual verified gross payroll which equal or exceeds One Million Dollars (\$1,000,000.00) for new direct jobs for the four (4) consecutive calendar quarters immediately preceding the quarter for which application for payment is made.

C. Upon approval of such high impact project to receive payments, the Department of Commerce shall notify the Oklahoma Tax Commission in writing and shall provide it with a copy of the application and the approval. The Tax Commission may require the establishment implementing the high impact project to submit additional information as is necessary for the

Tax Commission to verify continuing eligibility for receipt of incentive payments. Any information submitted in response to such inquiries shall be considered a part of the documentation for qualification and shall be subject to audit by the Tax Commission.

D. As soon as practicable after receipt of departmental approval of a high impact project, the Tax Commission shall notify the establishment performing the high impact project of procedures and requirements to receive warrants. Once the establishment has complied, the Tax Commission shall issue quarterly warrants as long as eligibility continues.

E. The prohibition set forth in Section 3607 of Title 68 of the Oklahoma Statutes shall apply to an establishment which receives incentive payments pursuant to the provisions of this section.

Added by Laws 1994, c. 322, § 8, emerg. eff. June 8, 1994.

§68-3709. High Impact Projects Payments Fund.

There is hereby created within the State Treasury a special fund for the Oklahoma Tax Commission to be designated the "High Impact Projects Payments Fund". The Oklahoma Tax Commission is hereby authorized and directed to withhold a portion of the taxes levied and collected pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for deposit into the fund. The amount deposited shall equal the sum of an amount determined by multiplying two and one-half percent (2.5%) by the gross payroll for new direct jobs for each establishment approved pursuant to Section 8 of this act. All of the amounts deposited in such fund may be used and expended by the Tax Commission for the purposes and in the amounts authorized by the Saving Quality Jobs Act. Liability of the State of Oklahoma for payments made pursuant to the Saving Quality Jobs Act is limited to the balance contained in the fund created by this section and Section 6 of this act. The total payments from the fund created by this section together with all payments from the Saving Quality Jobs Premium Payment Fund created pursuant to Section 6 of this act shall not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) for any one fiscal year.

Added by Laws 1994, c. 322, § 9, emerg. eff. June 8, 1994.

§68-3710. Rulemaking.

The Department of Commerce and the Tax Commission shall promulgate rules necessary to implement their respective duties and responsibilities under the provisions of the Saving Quality Jobs Act.

Added by Laws 1994, c. 322, § 10, emerg. eff. June 8, 1994.

§68-3711. Agreement between establishment and state - Fraud.

A. Once a project is approved pursuant to the Saving Quality Jobs Act, an agreement shall be deemed to exist between the establishment implementing the project and the State of Oklahoma requiring continuing payments to be made as established pursuant to this section and within the limitations herein.

B. Any person making an application, claim for payment or any report, return, statement or other instrument or providing any other information pursuant to the provisions of the Saving Quality Jobs Act who willfully makes a false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully provides any false or fraudulent information, or any person who willfully aids or abets another in making such false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully aids or

abets another in providing any false or fraudulent information, upon conviction, shall be guilty of a felony punishable by the imposition of a fine of not less than One Thousand Dollars (\$1,000.00) and not more than Fifty Thousand Dollars (\$50,000.00), or imprisonment in the State Penitentiary for not less than two (2) years and not more than five (5) years, or by both such fine and imprisonment. Any person convicted of a violation of this section shall be liable for the repayment of all incentive payments which were paid to the establishment. Interest shall be due on such payments at the rate of ten percent (10%) per annum.
Added by Laws 1994, c. 322, § 11, emerg. eff. June 8, 1994.

§68-3712. Report on effect of Saving Quality Jobs Program.

The Oklahoma Department of Commerce shall prepare triennially a report which shall include, but not be limited to, documentation of the new direct jobs created or saved under the Saving Quality Jobs Act and a fiscal analysis of the costs and benefits of the act to the state. The report shall be submitted to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor of this state no later than March 1, 1996, and every three (3) years thereafter. The report may be used for the purpose of determining whether to continue or sunset the Saving Quality Jobs Act.

Added by Laws 1994, c. 322, § 12, emerg. eff. June 8, 1994. Amended by Laws 1996, c. 112, § 2, eff. Nov. 1, 1996.

§68-3801. Short title.

Sections 1 through 8 of this act shall be known and may be cited as the "Former Military Facility Development Act".

Added by Laws 1994, c. 363, § 1, eff. July 1, 1994.

§68-3802. Qualification for incentive payments - Definitions - Cost/benefit analysis.

A. Except as otherwise provided by this section, an establishment which meets the qualifications specified in the Oklahoma Quality Jobs Program Act, Sections 3601 through 3609 of Title 68 of the Oklahoma Statutes, except that the establishment:

1. Has an annual gross payroll for new direct jobs, as defined in the Oklahoma Quality Jobs Program Act, projected by the Department of Commerce to equal at least One Million Five Hundred Thousand Dollars (\$1,500,000.00) but less than Two Million Five Hundred Thousand Dollars (\$2,500,000.00) within three (3) years of the anticipated date of receipt of first incentive payment; and

2. Locates its principal business activity at a former military facility, may qualify for payments from the Former Military Facility Projects Fund created in Section 3 of this act pursuant to approval by the Oklahoma Department of Commerce. Such establishments shall be deemed "former military facility projects".

B. Unless otherwise indicated in the Former Military Facility Development Act, the definitions contained in Section 3603 of Title 68 of the Oklahoma Statutes shall apply to the Former Military Facility Development Act.

C. As used in this section, "former military facility" shall mean any tract or parcel of real property used primarily for a military purpose during a state of war, armed conflict or during peace time, title to which was vested in the United States Government, any branch of the Armed Forces of the United States of America or was subsequently conveyed by such entities to the State of Oklahoma, any political subdivision of the State of Oklahoma, or any public trust having

the State of Oklahoma or any political subdivision of the State of Oklahoma as its beneficiary, whether singly or in combination with other government entities prior to the date on which the establishment acquired its interest.

D. The Department shall determine if the applicant is qualified to receive incentive payments.

E. If the applicant is determined to be qualified by the Department of Commerce, the Department shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and the net benefit rate applicable for a ten-year period and to estimate the amount of gross payroll for a ten-year period. In conducting such cost/benefit analysis, the Department shall consider quantitative factors, such as the anticipated level of new tax revenues to the state along with the added cost to the state of providing services, and such other criteria as deemed appropriate by the Department. In no event shall former military facility project payments, cumulatively, exceed the estimated net direct state benefits. Notwithstanding any other provision of law, when the maximum of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) of projected former military facility projects payments provided by Sections 1 through 8 of this act have been obligated to specific establishments for a given fiscal year, then no additional application for such payments may be considered by the Department of Commerce for that fiscal year and in any event no payments in excess of said Two Million Five Hundred Thousand Dollars (\$2,500,000.00) shall be paid by the Tax Commission within any fiscal year.

F. An establishment which meets the qualifications specified in Sections 1 through 8 of this act may receive quarterly incentive payments for a ten-year period from the Oklahoma Tax Commission pursuant to the provisions of the Former Military Facility Development Act in an amount which shall be equal to the net benefit rate multiplied by the actual gross payroll of new direct jobs for a calendar quarter as verified by the Oklahoma Employment Security Commission except as provided and limited by this section and in Sections 3 and 4 of this act.

G. Upon approval of such an application, the Department shall notify the Oklahoma Tax Commission and shall provide it with a copy of the application and the results of the cost/benefit analysis. The Tax Commission may require the qualified establishment to submit such additional information as may be necessary to administer the provisions of the Former Military Facility Development Act. The approved establishment shall report to the Tax Commission periodically to show its continued eligibility for incentive payments, as provided in Section 4 of this act. The establishment may be audited by the Tax Commission to verify such eligibility. Once the establishment is approved, an agreement shall be deemed to exist between the establishment and the State of Oklahoma, requiring the continued payment to be made as long as the establishment retains its eligibility as defined in and established pursuant to this section and Sections 3 and 4 of this act and within the applicable limitations contained in the Oklahoma Quality Jobs Program Act, which existed at the time of such approval.

H. No incentive payments which would otherwise be authorized by this section shall be made to an establishment occupying any lands title to which has been held or title to which is held, at the time of application for such payments, by any public trust created pursuant to the provisions of Section 176 et seq. of Title 60 of the Oklahoma Statutes if such trust is specifically excluded from the definition of "state agency" or "agency of the state" by the provisions of Section 33 of Title 25 of the Oklahoma Statutes or any other provision of law.
Added by Laws 1994, c. 363, § 2, eff. July 1, 1994.

§68-3803. Former Military Facility Projects Fund.

There is hereby created within the State Treasury a special fund for the Oklahoma Tax Commission to be designated the "Former Military Facility Projects Fund". The Oklahoma Tax Commission is hereby authorized and directed to withhold a portion of the taxes levied and collected pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for deposit into the Fund. The amount deposited shall equal the sum of an amount determined by multiplying the net benefit rate provided by the Department of Commerce by the gross payroll of each qualified military facility project establishment. All of the amounts deposited in such Fund shall be used and expended by the Tax Commission solely for the purposes and in the amounts authorized by the Former Military Facility Development Act. Liability of the State of Oklahoma to make the payments under the Former Military Facility Development Act shall be limited to the balance contained in the Fund created by this section. Provided, the Tax Commission may never pay more than Two Million Five Hundred Thousand Dollars (\$2,500,000.00) from the Fund in any one (1) fiscal year.

Added by Laws 1994, c. 363, § 3, eff. July 1, 1994.

§68-3804. Filing of claim - Issuance of warrant.

A. As soon as practicable after the end of a calendar quarter for which an establishment has qualified to receive a payment from the Former Military Facility Project Fund, the establishment shall file a claim for the payment with the Oklahoma Tax Commission and shall specify the actual number and gross payroll of new direct jobs for the establishment for the calendar quarter. The Tax Commission shall verify the actual gross payroll for new direct jobs for the establishment for such calendar quarter. If the Tax Commission is not able to provide such verification utilizing all available resources, the Tax Commission may request such additional information from the establishment as may be necessary or may request the establishment to revise its claim.

B. If the actual verified gross payroll for four (4) consecutive calendar quarters does not equal or exceed a total of One Million Five Hundred Thousand Dollars (\$1,500,000.00) within three (3) years of the date of the first incentive payment, or does not equal or exceed a total of One Million Five Hundred Thousand Dollars (\$1,500,000.00) at any other time during the ten-year period after the date the first payment was made, the incentive payments shall not be made and shall not be resumed until such time as the actual verified gross payroll equals or exceeds the amounts specified in this subsection. Provided, in no event shall former military facility projects payments, cumulatively for any individual establishment, exceed the estimated net direct state benefits determined by the Department to apply to the military facility project establishment. Provided further, in no event shall the former military projects facility payments exceed, cumulatively for all qualifying establishments, payments in excess of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) in any single fiscal year.

C. An establishment that has qualified pursuant to Section 2 of this act may receive payments only in accordance with the provisions under which it initially applied and was approved. If an establishment that is receiving former military facility projects payments expands, it may apply for additional incentive payments based on the gross payroll anticipated from the expansion only, pursuant to Section 3604 of Title 68 of the Oklahoma Statutes.

D. As soon as practicable after such verification, the Tax Commission shall issue a warrant to the former military facility project establishment in the amount of the net benefit rate multiplied by the actual gross payroll as determined pursuant to subsection A of this section for the calendar quarter.

Added by Laws 1994, c. 363, § 4, eff. July 1, 1994.

§68-3805. Establishments receiving incentive payments not eligible to receive certain tax credits and exemptions.

The prohibition set forth in Section 3607 of Title 68 of the Oklahoma Statutes shall apply to an establishment which receives incentive payments pursuant to the Former Military Facility Development Act.

Added by Laws 1994, c. 363, § 5, eff. July 1, 1994.

§68-3806. Rulemaking.

The Department of Commerce and the Tax Commission shall promulgate rules necessary to implement their respective duties and responsibilities under the provisions of the Former Military Facility Development Act.

Added by Laws 1994, c. 363, § 6, eff. July 1, 1994.

§68-3807. Fraud..

Any person making an application, claim for payment or any report, return, statement or other instrument or providing any other information pursuant to the provisions of the Former Military Facility Development Act who willfully makes a false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully provides any false or fraudulent information, or any person who willfully aids or abets another in making such false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully aids or abets another in providing any false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully aids or abets another in providing any false or fraudulent information, upon conviction, shall be guilty of a felony punishable by the imposition of a fine of not less than One Thousand Dollars (\$1,000.00) and not more than Fifty Thousand Dollars (\$50,000.00), or imprisonment in the State Penitentiary for not less than two (2) years and not more than five (5) years, or by both such fine and imprisonment. Any person convicted of a violation of this section shall be liable for the repayment of all incentive payments which were paid to the establishment. Interest shall be due on such payments at the rate of ten percent (10%) per annum.

Added by Laws 1994, c. 363, § 7, eff. July 1, 1994.

§68-3808. Report on effect of Former Military Facility Development Act.

The Oklahoma Department of Commerce shall prepare triennially a report which shall include, but not be limited to, documentation of the new direct jobs created under the Former Military Facility Development Act and a fiscal analysis of the costs and benefits of the act to the state. The report shall be submitted to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor of this state no later than March 1, 1996, and every three (3) years thereafter. The report may be used for the purpose of determining whether to continue or sunset the Former Military Facility Development Act.

Added by Laws 1994, c. 363, § 8, eff. July 1, 1994. Amended by Laws 1996, c. 112, § 3, eff. Nov. 1, 1996.

§68-3901. Short title.

This act shall be known and may be cited as the “Small Employer Quality Jobs Incentive Act”.

Added by Laws 1997, c. 419, § 1, eff. Jan. 1, 1998.

§68-3902. Incentive payments.

It is the intent of the Legislature that:

1. The State of Oklahoma provide appropriate incentives to support the creation of quality jobs, particularly by small businesses, in basic industries in this state;

2. The incentives provided be directly related to quality jobs created as a result of a business locating or expanding in this state;

3. The Oklahoma Department of Commerce and the Oklahoma Tax Commission implement the provisions of this act and exercise all powers as authorized in this act. The exercise of powers conferred by this act shall be deemed and held to be the performance of essential public purposes; and

4. Nothing herein shall be construed to constitute a guarantee or assumption by the State of Oklahoma of any debt of any individual, company, corporation or association nor to authorize the credit of the State of Oklahoma to be given, pledged or loaned to any individual, company, corporation or association.

Added by Laws 1997, c. 419, § 2, eff. Jan. 1, 1998.

§68-3903. Definitions.

As used in the Small Employer Quality Jobs Incentive Act:

1. “Basic industry” means a basic industry as defined under the Oklahoma Quality Jobs Program Act in divisions (1) through (9) of subparagraph a of paragraph 1 of subsection A of Section 3603 of this title, excluding those activities described in division (10) of subparagraph a of paragraph 1 of subsection A of Section 3603 of this title. Provided, for the purposes of the Small Employer Quality Jobs Incentive Act, the determination required by subdivision (b) of division (7) or division (8) of subparagraph a of paragraph 1 of subsection A of Section 3603 of this title shall be made by the Oklahoma Department of Commerce and not the Incentive Approval Committee;

2. “Establishment” means any business, no matter what legal form, including, but not limited to, a sole proprietorship, partnership, corporation, or limited liability corporation located in a county with a population of not more than two hundred thousand (200,000) persons, as determined by the Department of Commerce based on the most recent U.S. Department of Commerce data or located in an “opportunity zone”; provided, a business classified as research and development in the physical, engineering and life sciences as described under U.S. Industry Number 541710 or classified as a testing laboratory as described under U.S. Industry Number 541380 in the North American Industry Classification System (NAICS) Manual shall be considered to be an establishment for purposes of the Small Employer Quality Jobs Incentive Act regardless of the population of the county in which the establishment is located. As used in this paragraph, “opportunity zone” means one or more census tracts in which, according to the most recent Federal Decennial Census, at least thirty percent (30%) of the residents have annual gross household incomes from all sources below the poverty guidelines established by the U.S. Department of Health and Human Services;

3. “Estimated direct state benefits” means the tax revenues projected by the Oklahoma Department of Commerce to accrue to the state as a result of new direct jobs;

4. "Estimated direct state costs" means the costs projected by the Department to accrue to the state as a result of new direct jobs. Such costs shall include, but not be limited to:

- a. the costs of education of new state resident children,
- b. the costs of public health, public safety and transportation services to be provided to new state residents,
- c. the costs of other state services to be provided to new state residents, and
- d. the costs of other state services;

5. "Estimated net direct state benefits" means the estimated direct state benefits less the estimated direct state costs;

6. "Full-time employment" means employment of persons residing in this state and working for thirty (30) hours per week or more in this state, which has a minimum six-month duration during any twelve-month period;

7. "Gross taxable payroll" means wages, as defined in Section 2385.1 of this title, for new direct jobs;

8. "Net benefit rate" means the estimated net direct state benefits computed as a percentage of gross payroll; provided:

- a. the net benefit rate may be variable and shall not exceed five percent (5%), and
- b. in no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits; and

9. "New direct job" means full-time employment which did not exist in this state prior to the date of approval, by the Oklahoma Department of Commerce, of an application made pursuant to the Small Employer Quality Jobs Incentive Act. A job shall be deemed to exist in this state prior to approval of an application if the activities and functions for which the particular job exists have been ongoing at any time within six (6) months prior to such approval.

Added by Laws 1997, c. 419, § 3, eff. Jan. 1, 1998. Amended by Laws 2002, c. 308, § 2, eff. July 1, 2002; Laws 2003, c. 377, § 3, emerg. eff. June 4, 2003; Laws 2005, c. 352, § 2, eff. July 1, 2005; Laws 2006, c. 281, § 34, eff. July 1, 2006; Laws 2013, c. 227, § 27, eff. Nov. 1, 2013.

§68-3904. Incentive payments.

A. An establishment which meets the qualifications specified in the Small Employer Quality Jobs Incentive Act may receive quarterly incentive payments for a seven-year period from the Oklahoma Tax Commission pursuant to the provisions of the Small Employer Quality Jobs Incentive Act in an amount equal to the net benefit rate multiplied by the actual gross taxable payroll of new direct jobs as verified by the Tax Commission.

B. In order to receive incentive payments, an establishment shall apply to the Oklahoma Department of Commerce. The application shall be on a form prescribed by the Department and shall contain such information as may be required by the Department to determine if the applicant is qualified. The establishment may apply for an effective date for a project, which shall not be more than twelve (12) months from the date the application is submitted to the Department.

C. Before approving an application for incentive payments, the Department must first determine that the applicant meets the following requirements:

1. Be engaged in a basic industry;

2. Has no more than ninety full-time employees in this state on the date of application nor an average of more than ninety full-time employees in this state during the four calendar quarters immediately preceding the date of application;

3. Has a projected minimum employment, as determined by the Department, of new direct jobs within twelve (12) months of the date of application, or after July 1, 2011, within twenty-four (24) months of the date of application, as follows:

- a. if the establishment is located in a municipality with a population less than three thousand five hundred (3,500) persons, as determined by the Department of Commerce based on the most recent U.S. Department of Commerce data, or if the establishment is located in an unincorporated area and the largest municipality within twenty (20) miles of the establishment is such a municipality, five new direct jobs,
- b. if the establishment is located in a municipality with a population of three thousand five hundred (3,500) persons or more but less than seven thousand (7,000) persons, as determined by the Department of Commerce based on the most recent U.S. Department of Commerce data, or if the establishment is located in an unincorporated area and the largest municipality within twenty (20) miles of the establishment is such a municipality, ten new direct jobs, and
- c. if the establishment is located in a municipality with a population of seven thousand (7,000) persons or more, as determined by the Department of Commerce based on the most recent U.S. Department of Commerce data, or if the establishment is located in an unincorporated area and the largest municipality within twenty (20) miles of the establishment is such a municipality, fifteen new direct jobs.

Provided, for an establishment engaged in software publishing as defined or classified in the NAICS Manual under Industry Group No. 5112, data processing, hosting and related services as defined or classified in the NAICS Manual under Industry Group No. 5182, computer systems design and related services as defined or classified in the NAICS Manual under Industry Group No. 5415, scientific research and development services as defined or classified in the NAICS Manual under Industry Group No. 5417, medical and diagnostic laboratories as defined or classified in the NAICS Manual under Industry Group No. 6215 or testing laboratories as defined or classified in the NAICS Manual under U.S. Industry No. 541380, the projected minimum employment requirements of this paragraph must be achieved within thirty-six (36) months of the date of application;

4. Has or will have within twelve (12) months of the date of application, or after July 1, 2011, within twenty-four (24) months of the date of application, as determined by the Department, sales of at least seventy-five percent (75%) of its total sales to out-of-state customers or buyers, to in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, or to the federal government, except that:

- a. those establishments in the NAICS Manual under the U.S. Industry No. 541710 or 541380 are excused from the seventy-five percent (75%) out-of-state sales requirement,

- b. warehouses that serve as distribution centers for retail or wholesale businesses shall be required to distribute forty percent (40%) of inventory to out-of-state locations, and
- c. adjustment and collection services activities defined or classified in the NAICS Manual under U.S. Industry No. 561440 shall be required to have seventy-five percent (75%) of loans to be serviced made by out-of-state debtors;

5. Will pay the individuals it employs in new direct jobs an average annualized wage which equals or exceeds:

- a. one hundred twenty-five percent (125%) of the average county wage of small employers located in that county as that percentage is determined by the Department of Commerce based on the most recent wage and employment data from the Oklahoma Employment Security Commission for the county in which the new direct jobs are located. For purposes of this subparagraph, health care premiums paid by the applicant for individuals in new direct jobs shall be included in the annualized wage, or
- b. one hundred ten percent (110%) of the average county wage of small employers located in that county as that percentage is determined by the Department of Commerce based upon the most recent wage and employment data from the Oklahoma Employment Security Commission for the county in which the new direct jobs are located. For purposes of this subparagraph, health care premiums paid by the applicant for individuals in new direct jobs shall not be included in the annualized wage, or
- c. one hundred percent (100%) of the average county wage, excluding health care premiums paid by the applicant for individuals in new direct jobs if the county in which the new jobs are located has:
 - (1) according to the most recent annual determination by the Oklahoma Employment Security Commission, a county unemployment rate more than ten percent (10%) higher than the state unemployment rate, and
 - (2) according to the most recent United States Census Bureau Data, a county personal poverty rate above fifteen percent (15%);

6. Has a basic health benefit plan which, as determined by the Department, meets the elements established under divisions (1) through (7) of subparagraph b of paragraph 1 of subsection A of Section 3603 of this title and which will be offered to individuals within twelve (12) months of employment in a new direct job;

7. Has not received incentive payments under the Oklahoma Quality Jobs Program Act, the Saving Quality Jobs Act, or the Former Military Facility Development Act; and

8. Is not qualified for approval of an application for incentive payments under the Oklahoma Quality Jobs Program Act, the Saving Quality Jobs Act, or the Former Military Facility Development Act.

D. The Oklahoma Department of Commerce shall determine if an applicant is qualified to receive the incentive payment. Upon qualifying the applicant, the Department shall notify the Tax Commission and shall provide it with a copy of the application, and approval which shall provide the number of persons employed by the applicant upon the date of approval and the maximum total incentives which may be paid to the applicant during the seven-year period. The

Tax Commission may require the qualified establishment to submit additional information as may be necessary to administer the provisions of the Small Employer Quality Jobs Incentive Act. The approved establishment shall report to the Tax Commission quarterly to show its continued eligibility for incentive payments, as provided in Section 3905 of this title. Establishments may be audited by the Tax Commission to verify such eligibility. Once the establishment is approved, an agreement shall be deemed to exist between the establishment and the State of Oklahoma, requiring incentive payments to be made for a seven-year period as long as the establishment retains its eligibility and within the limitations of the Small Employer Quality Jobs Incentive Act which existed at the time of such approval. Any establishment which has been approved for incentive payments prior to July 1, 2002, shall continue to receive such payments pursuant to the laws as they existed prior to July 1, 2002, for any period of time of the original five-year period for such payments remaining after July 1, 2002.

Added by Laws 1997, c. 419, § 4, eff. Jan. 1, 1998. Amended by Laws 1998, c. 379, § 4, eff. July 1, 1998; Laws 1999, c. 67, § 1, emerg. eff. April 7, 1999; Laws 2002, c. 308, § 3, eff. July 1, 2002; Laws 2003, c. 377, § 4, emerg. eff. June 4, 2003; Laws 2004, c. 457, § 4, eff. July 1, 2004; Laws 2005, c. 352, § 3, eff. July 1, 2005; Laws 2006, c. 256, § 1, eff. July 1, 2006; Laws 2007, c. 1, § 67, emerg. eff. Feb. 22, 2007; Laws 2007, c. 357, § 3, eff. July 1, 2007; Laws 2010, c. 254, § 1, eff. Jan. 1, 2011; Laws 2013, c. 227, § 28, eff. Nov. 1, 2013.

NOTE: Laws 2006, c. 281, § 35 repealed by Laws 2007, c. 1, § 68, emerg. eff. Feb. 22, 2007.

§68-3905. Quarterly reports to Commission - Quarterly incentive payments.

A. 1. Beginning with the first complete calendar quarter after the application of the establishment is approved by the Oklahoma Department of Commerce, the establishment shall begin filing quarterly reports with the Oklahoma Tax Commission that specify the actual number and individual gross taxable payroll of new direct jobs for the establishment and such other information as required by the Tax Commission. In no event shall the first claim for incentive payments be filed later than three (3) years from the start date designated by the Department. The Tax Commission shall verify the actual individual gross taxable payroll for new direct jobs. If the Tax Commission is not able to provide such verification utilizing all available resources, the Tax Commission may request additional information from the establishment as may be necessary or may request the establishment to revise its reports.

The establishment shall continue filing such reports during the seven-year incentive period or until it is no longer qualified to receive incentive payments. Such reports shall constitute a claim for quarterly incentive payments by the establishment.

2. Upon receipt of a report for the initial calendar quarter of the incentive period and for each subsequent calendar quarter thereafter, the Tax Commission shall determine if the establishment has met the following requirements:

- a. created and or maintained the minimum number of new direct jobs as specified in paragraph 3 of subsection C of Section 3904 of this title, and
- b. paid the individuals it employed in new direct jobs an annualized wage which equaled or exceeded the applicable percentage of the average county wage as that percentage was determined by the Oklahoma Department of Commerce upon approval of the application.

3. Upon determining that an establishment has met the requirements of paragraph 2 of this subsection for the initial calendar quarter of the incentive period, the Tax Commission shall issue a warrant to the establishment in an amount which shall be equal to the net benefit rate

multiplied by the amount of gross taxable payroll of new direct jobs actually paid by the establishment.

B. Except as provided in subsection C of this section, the quarterly incentive payment provided for in subsection A of this section shall be allowed in each of the twenty-seven subsequent calendar quarters.

C. 1. An establishment which does not meet the requirements of paragraph 2 of subsection A of this section within twelve (12) months of the date of its application, or after July 1, 2011, within twenty-four (24) months of the date of its application, shall be ineligible to receive any incentive payments pursuant to its application and approval.

2. An establishment which at any time during the twenty-seven subsequent calendar quarters does not meet the requirements of paragraph 2 of subsection A of this section shall be ineligible to receive an incentive payment during the calendar quarter in which such requirements are not met.

Added by Laws 1997, c. 419, § 5, eff. Jan. 1, 1998. Amended by Laws 1999, c. 67, § 2, emerg. eff. April 7, 1999; Laws 2002, c. 308, § 4, eff. July 1, 2002; Laws 2006, c. 281, § 36, eff. July 1, 2006; Laws 2010, c. 254, § 2, eff. Jan. 1, 2011.

§68-3906. Small Employer Quality Jobs Incentive Payment Fund.

There is hereby created within the State Treasury a special fund for the Oklahoma Tax Commission to be designated the "Small Employer Quality Jobs Incentive Payment Fund". The Tax Commission is hereby authorized and directed to withhold a portion of the taxes levied and collected pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for deposit into the fund. The amount deposited shall equal the sum estimated by the Tax Commission to be sufficient to pay incentive payments claimed pursuant to the provisions of Section 5 of this act. All of the amounts deposited in such fund shall be used and expended by the Tax Commission solely for the purposes and in the amounts authorized by the Small Employer Quality Jobs Incentive Act. The liability of the State of Oklahoma to make incentive payments under this act shall be limited to the balance contained in the fund created by this section.

Added by Laws 1997, c. 419, § 6, eff. Jan. 1, 1998.

§68-3907. Rulemaking authority.

The Oklahoma Department of Commerce and the Oklahoma Tax Commission shall promulgate rules necessary to implement their respective duties and responsibilities under the provisions of this act.

Added by Laws 1997, c. 419, § 7, eff. Jan. 1, 1998.

§68-3908. Violations and penalties.

Any person making an application, claim for payment or any report, return, statement, invoice, or other instrument or providing any other information pursuant to the provisions of this act who willfully makes a false or fraudulent application, claim, report, return, statement, invoice, or other instrument or who willfully provides any false or fraudulent information, or any person who willfully aids or abets another in making such false or fraudulent application, claim, report, return, statement, invoice, or other instrument or who willfully aids or abets another in providing any false or fraudulent information, upon conviction, shall be guilty of a felony. The fine for a violation of this provision shall not be less than One Thousand Dollars (\$1,000.00) nor more than Fifty Thousand Dollars (\$50,000.00). Any person convicted of a violation of this

section shall be liable for the repayment of all incentive payments which were paid to the establishment. Interest shall be due on such payments at the rate of ten percent (10%) per annum.

Added by Laws 1997, c. 419, § 8, eff. Jan. 1, 1998.

§68-3909. Establishment receiving incentive payment and its contractors and subcontractors ineligible to receive certain tax credits and exemptions.

Notwithstanding any other provision of law, if a qualified establishment receives an incentive payment pursuant to the provisions of this act, neither the qualified establishment nor its contractors or subcontractors shall be eligible to receive the credits or exemptions provided for in the following provisions of law in connection with the activity for which the incentive payment was received:

1. Paragraphs 16 and 17 of Section 1357 of this title;
2. Paragraph 8 of Section 1359 of this title;
3. Section 2357.4 of this title;
4. Section 2357.7 of this title;
5. Section 2-11-303 of Title 27A of the Oklahoma Statutes;
6. Section 2357.22 of this title;
7. Section 2357.31 of this title;
8. Section 54003 of this title;
9. Section 54006 of this title;
10. Section 625.1 of Title 36 of the Oklahoma Statutes; or
11. Subsections C and D of Section 2357.59 of this title.

Added by Laws 1997, c. 419, § 9, eff. Jan. 1, 1998. Amended by Laws 2008, c. 406, § 8, eff. Nov. 1, 2008.

§68-3910. Triennial report.

The Oklahoma Department of Commerce shall prepare triennially a report which shall include, but not be limited to, documentation of the new direct jobs created under the Small Employer Quality Jobs Incentive Act and a fiscal analysis of the costs and benefits of the act to the state. The report shall be submitted to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor no later than March 1, 2001, and every three (3) years thereafter. The report may be used for the purpose of determining whether to continue or sunset the Small Employer Quality Jobs Incentive Act.

Added by Laws 1997, c. 419, § 10, eff. Jan. 1, 1998.

§68-3911. Short title.

This act shall be known and may be cited as the "21st Century Quality Jobs Incentive Act".

Added by Laws 2009, c. 285, § 1, eff. Nov. 1, 2009.

§68-3912. Legislative intent.

It is the intent of the Legislature that:

1. The State of Oklahoma provide appropriate incentives to attract growth industries and sectors to Oklahoma in the twenty-first century through a policy of rewarding businesses with a highly skilled, knowledge-based workforce;

2. The Oklahoma Department of Commerce and the Oklahoma Tax Commission implement the provisions of this act and exercise all powers as authorized in this act. The exercise of powers conferred by this act shall be deemed and held to be the performance of essential public purposes; and

3. Nothing herein shall be construed to constitute a guarantee or assumption by the State of Oklahoma of any debt of any individual, company, corporation or association nor to authorize the credit of the State of Oklahoma to be given, pledged or loaned to any individual, company, corporation or association.

Added by Laws 2009, c. 285, § 2, eff. Nov. 1, 2009.

§68-3913. Definitions.

As used in the 21st Century Quality Jobs Incentive Act:

1. "Basic industry" means:

- a. a basic industry as defined under the Oklahoma Quality Jobs Program Act in divisions (1) through (9) of subparagraph a of paragraph 1 of subsection A of Section 3603 of Title 68 of the Oklahoma Statutes, excluding those activities described in division (10) of subparagraph a of paragraph 1 of subsection A of Section 3603 of Title 68 of the Oklahoma Statutes. For the purposes of this act, if a determination is required by subdivision (b) of division (7) or by division (9) of subparagraph a of paragraph 1 of subsection A of Section 3603 of Title 68 of the Oklahoma Statutes, such determination shall be:
 - (1) made by the Oklahoma Department of Commerce and not by the Incentive Approval Committee, and
 - (2) based on a requirement that those industries that are required to have at least seventy-five percent (75%) of total sales to out-of-state customers or buyers for purposes of the Quality Jobs Program Act shall only be required to have fifty percent (50%) of total sales, as determined by the Department of Commerce, to out-of-state customers or buyers, to in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, or to the federal government, for the purposes of this act,
- b.
 - (1) those specialty hospitals (except psychiatric and substance abuse hospitals) defined or classified in the NAICS Manual under U.S. Industry Group No. 62231, and
 - (2) those performing arts companies defined or classified in the NAICS Manual under U.S. Industry Group No. 7111, and
- c. an establishment classified in this subparagraph which has or will have within one (1) year sales of at least fifty percent (50%) of its total sales, as determined by the Department of Commerce, to out-of-state customers or buyers, to in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, or to the federal government:
 - (1) those electric utility activities defined or classified in the NAICS Manual under U.S. Industry Group No. 2211 which meet the

requirements of subdivisions a, b and d of division 2 of subparagraph a of paragraph 1 of Section 3603 of Title 68 of the Oklahoma Statutes,

- (2) those heavy and civil engineering construction activities defined or classified in the NAICS Manual under U.S. Industry Group No. 237,
- (3) those motion picture and video industries defined or classified in the NAICS Manual under U.S. Industry Group No. 5121,
- (4) those sound recording industries defined or classified in the NAICS Manual under U.S. Industry Group No. 5122,
- (5) those securities, commodity contracts and other financial investment activities defined or classified in the NAICS Manual under U.S. Industry Group No. 523,
- (6) those insurance carriers and related activities defined or classified in the NAICS Manual under U.S. Industry Group No. 524,
- (7) those funds, trusts and other financial vehicles defined or classified in the NAICS Manual under U.S. Industry Group No. 525,
- (8) those professional, scientific and technical services defined or classified in the NAICS Manual under U.S. Industry Group Nos. 5411, 5412, 5413, 5414, 5418 and 5419, and
- (9) those electronic and precision equipment repair and maintenance activities defined or classified in the NAICS Manual under U.S. Industry Group No. 8112;

2. "Establishment" means any business, no matter what legal form, including, but not limited to, a sole proprietorship, partnership, corporation, or limited liability corporation;

3. "Estimated direct state benefits" means the tax revenues projected by the Oklahoma Department of Commerce to accrue to the state as a result of new direct jobs;

4. "Estimated indirect state benefits" means the indirect new tax revenues projected by the Oklahoma Department of Commerce to accrue to the state, including, but not limited to, revenue generated from ancillary support jobs directly related to the establishment;

5. "Estimated direct state costs" means the costs projected by the Department to accrue to the state as a result of new direct jobs. Such costs shall include, but not be limited to:

- a. the costs of education of new state resident children,
- b. the costs of public health, public safety and transportation services to be provided to new state residents,
- c. the costs of other state services to be provided to new state residents, and
- d. the costs of other state services;

6. "Estimated indirect state costs" means the costs projected by the Department to accrue to the state as a result of new indirect jobs. Such costs shall include, but not be limited to, costs enumerated in subparagraphs a, b, c and d of paragraph 5 of this subsection;

7. "Estimated net direct state benefits" means the estimated direct state benefits less the estimated direct state costs;

8. "Estimated net direct and indirect state benefits" means the estimated direct and indirect state benefits less the estimated direct and indirect state costs;

9. "Full-time employment" means employment of persons residing in this state and working for thirty (30) hours per week or more in this state, which has a minimum six-month duration during any twelve-month period;

10. "Gross taxable payroll" means wages, as defined in Section 2385.1 of Title 68 of the Oklahoma Statutes, for new direct jobs;

11. "Initial net benefit rate" means the estimated net direct state benefits computed as a percentage of gross payroll; provided:

- a. the initial net benefit rate may be variable and shall not exceed seven percent (7%), and
- b. in no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits; and

12. "Fulfillment net benefit rate" means the estimated net direct and indirect state benefits computed as a percentage of gross payroll after the completion of the first twelve (12) quarters or until the establishment reaches ten new direct jobs, whichever occurs first, provided:

- a. the fulfillment net benefit rate may be variable and shall not exceed ten percent (10%), and
- b. in no event shall incentive payments, cumulatively, exceed the estimated net direct and indirect state benefits; and

13. "New direct job" means full-time employment which did not exist in this state prior to the date of approval, by the Oklahoma Department of Commerce, of an application made pursuant to this act. A job shall be deemed to exist in this state prior to approval of an application if the activities and functions for which the particular job exists have been ongoing at anytime within six (6) months prior to such approval.

Added by Laws 2009, c. 285, § 3, eff. Nov. 1, 2009.

§68-3914. See the following versions:

OS 68-3914v1 (HB 1455, Laws 2013, c. 227, § 29).

OS 68-3914v2 (SB 613, Laws 2013, c. 378, § 4).

§68-3914v1. Incentive payments.

A. An establishment which meets the qualifications specified in the 21st Century Quality Jobs Incentive Act may receive quarterly incentive payments for a ten-year period from the Oklahoma Tax Commission pursuant to the provisions of this act, as verified by the Tax Commission, in an amount equal to:

1. The gross payroll multiplied by the initial net benefit rate until such time as the establishment creates ten new direct jobs; or
2. The gross payroll multiplied by the fulfillment net benefit rate after such time as the establishment created and maintains ten new direct jobs.

B. In order to receive incentive payments, an establishment shall apply to the Oklahoma Department of Commerce. The application shall be on a form prescribed by the Department and shall contain such information as may be required by the Department to determine if the applicant is qualified. The establishment may apply for an effective date for a project, which shall not be more than twelve (12) months from the date the application is submitted to the Department.

C. Before approving an application for incentive payments, the Department must first determine that the applicant meets the following requirements:

1. Be engaged in a basic industry as defined in the 21st Century Quality Jobs Incentive Act;

2. Will hire at least ten full-time employees in this state within twelve (12) quarters of the date of application;

3. Will pay the individuals it employs in new direct jobs an average annualized wage which equals or exceeds the lower of three hundred percent (300%) of the average of Oklahoma county wages or three hundred percent (300%) of the average county wage for the county in which the applicant is located as that percentage is determined by the Department of Commerce based on the most recent U.S. Department of Commerce data;

4. Has a basic health benefit plan which, as determined by the Department, meets the elements established under divisions (1) through (7) of subparagraph b of paragraph 1 of subsection A of Section 3603 of this title and which will be offered to individuals within twelve (12) months of employment in a new direct job;

5. Has not received incentive payments under the Small Employer Quality Jobs Program Act, the Saving Quality Jobs Act or the Former Military Facility Development Act; and

6. Is not qualified for approval of an application for incentive payments under the Small Employer Quality Jobs Program Act, the Saving Quality Jobs Act or the Former Military Facility Development Act.

D. The Oklahoma Department of Commerce shall determine if an applicant is qualified to receive the incentive payment. Upon qualifying the applicant, the Department shall notify the Tax Commission and shall provide it with a copy of the contract and approval which shall provide the number of persons employed by the applicant upon the date of approval and the maximum total incentives which may be paid to the applicant during the ten-year period. The Tax Commission may require the qualified establishment to submit additional information as may be necessary to administer the provisions of this act. The approved establishment shall report to the Tax Commission quarterly to show its continued eligibility for incentive payments, as provided in Section 3905 of this title. Establishments may be audited by the Tax Commission to verify such eligibility. Once the establishment is approved, an agreement shall be deemed to exist between the establishment and the State of Oklahoma, requiring incentive payments to be made for a ten-year period as long as the establishment retains its eligibility and within the limitations of this act as it existed at the time of such approval.

Added by Laws 2009, c. 285, § 4, eff. Nov. 1, 2009. Amended by Laws 2013, c. 227, § 29, eff. Nov. 1, 2013.

§68-3914v2. Incentive payments.

A. An establishment which meets the qualifications specified in the 21st Century Quality Jobs Incentive Act may receive quarterly incentive payments for a ten-year period from the Oklahoma Tax Commission pursuant to the provisions of this act, as verified by the Tax Commission, in an amount equal to:

1. The gross payroll multiplied by the initial net benefit rate until such time as the establishment creates ten new direct jobs; or

2. The gross payroll multiplied by the fulfillment net benefit rate after such time as the establishment created and maintains ten new direct jobs.

B. In order to receive incentive payments, an establishment shall apply to the Oklahoma Department of Commerce. The application shall be on a form prescribed by the Department and shall contain such information as may be required by the Department to determine if the applicant is qualified. The establishment may apply for an effective date for a project, which

shall not be more than twelve (12) months from the date the application is submitted to the Department.

C. Before approving an application for incentive payments, the Department must first determine that the applicant meets the following requirements:

1. Be engaged in a basic industry as defined in the 21st Century Quality Jobs Incentive Act;
2. Will hire at least ten full-time employees in this state within twelve (12) quarters of the date of application;
3. Will pay the individuals it employs in new direct jobs an average annualized wage which equals or exceeds three hundred percent (300%) of the average county wage for the county in which the applicant is located as that percentage is determined by the Oklahoma State Data Center based on the most recent U.S. Department of Commerce data. For purposes of this paragraph, health care premiums paid by the applicant for individuals in new direct jobs shall not be included in the annualized wage. Provided, no average wage requirement shall exceed Ninety-four Thousand Dollars (\$94,000.00) in any county. This maximum wage threshold shall be indexed and modified from time to time based on the latest Consumer Price Index year-to-date percent change release as of the date of the annual average county wage data release from the Bureau of Economic Analysis of the U.S. Department of Commerce;
4. Has a basic health benefit plan which, as determined by the Department, meets the elements established under divisions (1) through (7) of subparagraph b of paragraph 1 of subsection A of Section 3603 of Title 68 of the Oklahoma Statutes and which will be offered to individuals within twelve (12) months of employment in a new direct job;
5. Has not received incentive payments under the Small Employer Quality Jobs Program Act, the Saving Quality Jobs Act or the Former Military Facility Development Act; and
6. Is not qualified for approval of an application for incentive payments under the Small Employer Quality Jobs Program Act, the Saving Quality Jobs Act or the Former Military Facility Development Act.

D. The Oklahoma Department of Commerce shall determine if an applicant is qualified to receive the incentive payment. Upon qualifying the applicant, the Department shall notify the Tax Commission and shall provide it with a copy of the contract and approval which shall provide the number of persons employed by the applicant upon the date of approval and the maximum total incentives which may be paid to the applicant during the ten-year period. The Tax Commission may require the qualified establishment to submit additional information as may be necessary to administer the provisions of this act. The approved establishment shall report to the Tax Commission quarterly to show its continued eligibility for incentive payments, as provided in Section 3905 of Title 68 of the Oklahoma Statutes. Establishments may be audited by the Tax Commission to verify such eligibility. Once the establishment is approved, an agreement shall be deemed to exist between the establishment and the State of Oklahoma, requiring incentive payments to be made for a ten-year period as long as the establishment retains its eligibility and within the limitations of this act as it existed at the time of such approval.

Added by Laws 2009, c. 285, § 4, eff. Nov. 1, 2009. Amended by Laws 2013, c. 378, § 4, eff. Nov. 1, 2013.

§68-3915. Quarterly reports.

A. 1. Beginning with the first complete calendar quarter after the application of the establishment is approved by the Oklahoma Department of Commerce, the establishment shall begin filing quarterly reports with the Oklahoma Tax Commission that specify the actual number and individual gross taxable payroll of new direct jobs for the establishment and such other information as required by the Tax Commission. In no event shall the first claim for incentive payments be filed later than three (3) years from the start date designated by the Department. The Tax Commission shall verify the actual individual gross taxable payroll for new direct jobs. If the Tax Commission is not able to provide such verification utilizing all available resources, the Tax Commission may request additional information from the establishment as may be necessary or may request the establishment to revise its reports.

The establishment shall continue filing such reports during the ten-year incentive period or until it is no longer qualified to receive incentive payments. Such reports shall constitute a claim for quarterly incentive payments by the establishment.

2. Upon receipt of a report for the initial calendar quarter of the incentive period and for each subsequent calendar quarter thereafter, the Tax Commission shall determine if the establishment has met the following requirements:

- a. during the initial twelve (12) quarters of the contract or until the establishment creates ten new direct jobs, paid the individuals it employed in new direct jobs an average annualized wage that exceeded the requirements of paragraph 3 of subsection C of Section 3914 of this title, or
- b. after the establishment created ten new direct jobs:
 - (1) paid the individuals it employed in new direct jobs an average annualized wage which equaled or exceeded the requirements of paragraph 3 of subsection C of Section 3914 of this title, and
 - (2) created and/or maintained the minimum number of new direct jobs as specified in the 21st Century Quality Jobs Incentive Act.

3. Upon determining that an establishment has met the requirements of paragraph 2 of this subsection for the initial calendar quarter of the incentive period, the Tax Commission shall issue a warrant to the establishment in an amount which shall be equal to either:

- a. the initial net benefit rate multiplied by the amount of gross taxable payroll of new direct jobs actually paid by the establishment during the initial twelve (12) quarters of the contract or until the establishment reaches ten new direct jobs, whichever comes first, or
- b. the fulfillment net benefit rate multiplied by the amount of gross taxable payroll of new direct jobs actually paid by the establishment after it creates or maintains ten new direct jobs.

B. Except as provided in subsection C of this section, the quarterly incentive payment provided for in subsection A of this section shall be allowed in each of the thirty-nine (39) subsequent calendar quarters.

C. 1. An establishment which does not meet the requirements of paragraph 2 of subsection A of this section within twelve (12) quarters of the date of its application shall be ineligible to receive any incentive payments pursuant to its application and approval.

2. An establishment which at any time during the thirty-nine (39) subsequent calendar quarters does not meet the requirements of paragraph 2 of subsection A of this section shall be ineligible to receive an incentive payment during the calendar quarter in which such requirements are not met.

3. An establishment which has met the requirements of paragraph 2 of subsection A of this section within twelve (12) quarters of the date of its application, but which at any time during the subsequent twenty-eight (28) quarters fails to meet the requirements of paragraph 2 of subsection A of this section in four (4) consecutive quarters, shall be ineligible to receive any further incentive payments pursuant to its application and approval.

Added by Laws 2009, c. 285, § 5, eff. Nov. 1, 2009. Amended by Laws 2011, c. 341, § 1, eff. Nov. 1, 2011.

§68-3916. 21st Century Quality Jobs Incentive Payment Fund.

There is hereby created within the State Treasury a special fund for the Oklahoma Tax Commission to be designated the "21st Century Quality Jobs Incentive Payment Fund". The Tax Commission is hereby authorized and directed to withhold a portion of the taxes levied and collected pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for deposit into the fund. The amount deposited shall equal the sum estimated by the Tax Commission to be sufficient to pay incentive payments claimed pursuant to the provisions of Section 4 of this act. All of the amounts deposited in such fund shall be used and expended by the Tax Commission solely for the purposes and in the amounts authorized by the 21st Century Quality Jobs Incentive Act. The liability of the State of Oklahoma to make incentive payments under the 21st Century Quality Jobs Incentive Act shall be limited to the balance contained in the fund created by this section.

Added by Laws 2009, c. 285, § 6, eff. Nov. 1, 2009.

§68-3917. Rulemaking authority.

The Oklahoma Department of Commerce and the Oklahoma Tax Commission shall promulgate rules necessary to implement their respective duties and responsibilities under the provisions of the 21st Century Quality Jobs Incentive Act.

Added by Laws 2009, c. 285, § 7, eff. Nov. 1, 2009.

§68-3918. Violations and penalties.

Any person making an application, claim for payment or any report, return, statement, invoice, or other instrument or providing any other information pursuant to the provisions of this act who willfully makes a false or fraudulent application, claim, report, return, statement, invoice, or other instrument, or who willfully provides any false or fraudulent information, or any person who willfully aids or abets another in making such false or fraudulent application, claim, report, return, statement, invoice, or other instrument, or who willfully aids or abets another in providing any false or fraudulent information, upon conviction, shall be guilty of a misdemeanor. The fine for a violation of this provision shall not be less than One Thousand Dollars (\$1,000.00) nor more than Fifty Thousand Dollars (\$50,000.00). Any person convicted of a violation of this section shall be liable for the repayment of all incentive payments which were paid to the establishment. Interest shall be due on such payments at the rate of ten percent (10%) per annum.

Added by Laws 2009, c. 285, § 8, eff. Nov. 1, 2009.

§68-3919. Disqualification from receipt of credits or exemptions under other laws.

Notwithstanding any other provision of law, if a qualified establishment receives an incentive payment pursuant to the provisions of the 21st Century Quality Jobs Incentive Act, neither the qualified establishment nor its contractors or subcontractors shall be eligible to

receive the credits or exemptions provided for in the following provisions of law in connection with the activity for which the incentive payment was received:

1. Paragraphs 16 and 17 of Section 1357 of Title 68 of the Oklahoma Statutes;
2. Paragraph 8 of Section 1359 of Title 68 of the Oklahoma Statutes;
3. Section 2357.4 of Title 68 of the Oklahoma Statutes;
4. Section 2357.7 of Title 68 of the Oklahoma Statutes;
5. Section 2-11-303 of Title 27A of the Oklahoma Statutes;
6. Section 2357.22 of Title 68 of the Oklahoma Statutes;
7. Section 2357.31 of Title 68 of the Oklahoma Statutes;
8. Section 54003 of Title 68 of the Oklahoma Statutes;
9. Section 54006 of Title 68 of the Oklahoma Statutes;
10. Section 625.1 of Title 36 of the Oklahoma Statutes; or
11. Subsections C and D of Section 2357.59 of Title 68 of the Oklahoma Statutes.

Added by Laws 2009, c. 285, § 9, eff. Nov. 1, 2009.

§68-3920. 21st Century Quality Jobs Incentive Act.

The Oklahoma Department of Commerce shall prepare a report which shall include, but not be limited to, documentation of the new direct jobs created under this act and a fiscal analysis of the costs and benefits of the act to the state. The report shall be submitted to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor no later than March 1, 2011, and every three (3) years thereafter. The report may be used for the purpose of determining whether to continue or sunset the 21st Century Quality Jobs Incentive Act.

Added by Laws 2009, c. 285, § 10, eff. Nov. 1, 2009.

§68-4001. Repealed by Laws 2004, c. 322, § 18, eff. Dec. 1, 2004 (State Question No. 713, Legislative Referendum No. 336, adopted at election held Nov. 2, 2004).

§68-4002. Oklahoma Health Care Authority – Authority to assess Home-Based Support Quality Assurance Assessment.

A. As used in this section:

1. “Contracted community-based service provider” means any entity contracted by the Department of Human Services, the Oklahoma Health Care Authority, or any private person providing the support, or promotion of support, for a service recipient to remain in such person’s home or residence and shall include, but not be limited to, entities and persons providing personal support, professional support, case management, and transportation services, and services through a Home and Community-Based Waiver or Advantage Waiver as defined by Title XIX of the Social Security Act, Section 1915 (C); and

2. “Gross receipts” means annual gross revenues received in compensation for services rendered by a contracted community-based service provider, but shall not include any amount received by a contracted service provider as a charitable contribution or any amount received by a provider as compensation for services rendered that is not reimbursed;

B. 1. For the purpose of providing quality care enhancements, the Oklahoma Health Care Authority is authorized to and shall annually assess a Home-Based Support Quality Assurance Assessment pursuant to this section on each contracted community-based service provider in this state. Quality of care enhancements include, but are not limited to, the purposes specified in Section 1 of this act.

2. The Home-Based Support Quality Assurance Assessment assessed on a contracted community-based service provider shall be calculated by the Oklahoma Health Care Authority by multiplying the total annual Medicaid gross receipts for the provision of all services rendered in this state by the contracted community-based service provider by five and one-half percent (5.5%), regardless of whether such Medicaid receipts are based on days or hours of service, the cost of services rendered, or some other basis. The Home-Based Support Quality Assurance Assessment shall not be increased unless specifically authorized by the Legislature. Added by Laws 2010, c. 133, § 2, eff. Nov. 1, 2010.

§68-4101. Short title.

This act shall be known and may be cited as the “Oklahoma Specialized Quality Investment Act”.

Added by Laws 2004, c. 391, § 1, eff. July 1, 2004. Amended by Laws 2006, c. 1, § 12, eff. July 1, 2007, following passage of State Question No. 725 (SB 755, Laws 2005, c. 239) on Nov. 7, 2006.

§68-4102. Legislative intent – Incentives to support retention of manufacturing and jobs.

It is the intent of the Legislature that:

1. The State of Oklahoma provide appropriate incentives to support retention of a qualified manufacturing establishment:

- a. that is imminently at risk of ceasing operations in this state,
- b. that provides long-term benefits through retention of quality jobs which increase the wealth of the state, and
- c. that agrees to engage in significant modernization and retooling that will promote the growth of the industry in Oklahoma and, by doing so, stabilize the economy of the State of Oklahoma when there is a direct threat to the existing revenue base and wealth of the state because existing establishments are at risk of being lost to other states or nations;

2. The amount of incentives provided pursuant to this act in connection with a particular establishment be directly related to benefits due to retention of jobs and the investment of additional capital for modernizing and retooling;

3. The Oklahoma Department of Commerce and the Oklahoma Tax Commission implement the provisions of this act and exercise all powers as authorized in this act. The exercise of powers conferred by this act shall be deemed and held to be the performance of essential public purposes; and

4. Nothing herein shall be construed to constitute a guarantee or assumption by the State of Oklahoma of any debt of any individual, company, corporation or association. Nor does this act authorize the credit of the State of Oklahoma to be given, pledged or loaned to any individual, company, corporation or association. Nothing herein shall be construed to constitute a gift by the State of Oklahoma to any individual, company, corporation or association.

Added by Laws 2004, c. 391, § 2, eff. July 1, 2004.

§68-4103. Definitions.

For purposes of the Oklahoma Specialized Quality Investment Act:

1. “Capital costs” means costs for land, buildings, improvements to buildings, fixtures and for machinery, equipment and other personal property used in and for the manufacturing process

incurred by a qualified establishment, on or after the effective date of this act, with respect to the manufacturing site located in this state and specified in a quality investment agreement;

2. "Department" means the Oklahoma Department of Commerce;

3. "Qualified establishment" means a business entity engaged in the activity described by Industry Number 3011, Industry Group Number 301, Major Group 30 of the Standard Industrial Classification manual, latest revision. No establishment that has been certified as eligible to participate in the Oklahoma Quality Jobs Incentive Leverage Act incentive program shall be eligible for any investment payment pursuant to the Oklahoma Specialized Quality Investment Act. A qualified establishment shall enter into a quality investment agreement pertaining to a single manufacturing site as that term is defined in Section 1352 of this title. No combination of other locations of an establishment or any related entities of an establishment shall be included in a quality investment agreement. An establishment may enter into additional quality investment agreements for additional sites;

4. "Fiscal year" means the state fiscal year, which shall begin on July 1 of a calendar year and end on June 30 of the next calendar year;

5. "Quality investment agreement" means an agreement with duration, for purposes of computing the total incentive payment amount, of not more than five (5) years entered into between a qualified establishment and the Department; and

6. "Start date" means the date on which a qualified establishment begins accruing benefits because of investment of new capital costs in a manufacturing site that is designated in a quality investment agreement with the Oklahoma Department of Commerce.

Added by Laws 2004, c. 391, § 3, eff. July 1, 2004. Amended by Laws 2006, c. 1, § 13, eff. July 1, 2007, following passage of State Question No. 725 (SB 755, Laws 2005, c. 239) on Nov. 7, 2006.

§68-4104. Quality investment agreements – Duration – Investment – Terms.

A. A qualified establishment shall be eligible to enter into a quality investment agreement with the Oklahoma Department of Commerce for a period not to exceed five (5) years.

B. Under such an agreement, the establishment shall agree to abide by the terms of the agreement in accordance with the provisions of this act, including investing capital costs in this state in a projected amount each year during the term of the agreement. Actual investment amounts may vary from those amounts specified in the agreement, but in no event shall the quality investment payments made exceed an amount that is based on the estimated amount in the agreement or the actual investment amount listed in the claim and verified by the Oklahoma Tax Commission. The total amount of capital costs eligible for investment payments to a qualified establishment shall not exceed Fifty Million Dollars (\$50,000,000.00). In exchange, the state shall agree to make an annual payment in an amount equal to ten percent (10%) of the amount of capital costs invested by the qualified establishment in this state during the preceding fiscal year.

C. No investment payment authorized by this act shall be made to a qualified establishment until July 1, 2005, or thereafter. The amount of investment payment shall not exceed a total of One Million Dollars (\$1,000,000.00) for any fiscal year during which a quality investment agreement is in effect.

D. If a qualified establishment makes a capital investment during any period of time in excess of Ten Million Dollars (\$10,000,000.00) and the amount of the investment payment to which the establishment is otherwise entitled by this act would exceed the limit prescribed by

subsection C of this section, the establishment may carry over the excess investment payment amount to any subsequent fiscal year and may be paid such amount in a subsequent year if the combined amount of the carryover and investment payment based on actual capital investment for the preceding period does not exceed One Million Dollars (\$1,000,000.00). Not more than Five Million Dollars (\$5,000,000.00) in total investment payments shall be payable or paid to a qualified establishment.

E. Any carryover amount may be carried over for a period of time necessary in order for the qualified establishment to be paid the full amount of investment payments authorized by this act based upon actual capital investment made in the state during the term of the quality investment agreement.

F. A qualified establishment may enter into a quality investment agreement with the Department according to the following procedures:

1. The establishment shall make an initial application to the Department on a form prescribed by the Department containing such information as may be required by the Department;

2. The Department shall determine if the establishment meets the following requirements:

- a. the establishment is engaged in manufacturing described by Industry Number 3011, Industry Group Number 301, Major Group 30 of the Standard Industrial Classification Manual, latest revision, at a specified site in this state,
- b. the establishment has been located and doing business in this state for a continuous period of time of not less than ten (10) years prior to the date of the application,
- c. the establishment offers, or will offer within twelve (12) months of entering into a quality investment agreement, a basic health benefits plan as described in subparagraph b of paragraph 1 of subsection A of Section 3603 of Title 68 of the Oklahoma Statutes to its employees in this state,
- d. the establishment will incur, with respect to the manufacturing site which is the subject of the agreement, capital costs projected to equal or exceed Ten Million Dollars (\$10,000,000.00) within the period of the quality investment agreement, and capital costs projected to equal or exceed One Million Dollars (\$1,000,000.00) during the first year of the agreement,
- e. the establishment will maintain Oklahoma taxable payroll during the period of the quality investment agreement and for at least two (2) years following expiration of the agreement in an amount not less than sixty percent (60%) of the establishment's Oklahoma taxable payroll as of the start date, and
- f. the establishment will pay its employees in this state an average annualized wage which equals or exceeds Forty Thousand Dollars (\$40,000.00) exclusive of health care benefits paid for by the establishment; and

3. The determination shall be made upon application of the establishment and annually thereafter as a condition of receiving an investment payment pursuant to the provisions of this act.

Upon approval of an establishment, the Department shall enter into a quality investment agreement with the establishment for a period not to exceed five (5) years. The agreement shall specify the start date and the duration of the agreement. The agreement shall provide that:

- a. the establishment shall receive an investment payment in an amount determined by the provisions of this section,
- b. the establishment shall continue to meet the requirements of paragraph 2 of this subsection and all other provisions of this act for the duration of the agreement, and
- c. the establishment shall agree to make an investment in capital costs in this state in a projected amount for each year of the agreement.

Added by Laws 2004, c. 391, § 4, eff. July 1, 2004.

§68-4105. Specialized Quality Investment Payment Fund.

There is hereby created within the State Treasury a special fund for the Oklahoma Tax Commission to be designated the “Specialized Quality Investment Payment Fund”. The Tax Commission is hereby authorized and directed to withhold a portion of the taxes levied and collected pursuant to Sections 1354 and 2355 of this title for deposit into the fund. The amount deposited shall equal the sum of an amount required for making investment payments, as determined pursuant to the provisions of this act. All of the amounts deposited in such fund shall be used and expended by the Tax Commission solely for the purposes and in the amounts authorized by the Oklahoma Specialized Quality Investment Act. The liability of the State of Oklahoma to make the investment payments under this act shall be limited to the balance contained in the fund created by this section.

Added by Laws 2004, c. 391, § 5, eff. July 1, 2004. Amended by Laws 2006, c. 1, § 14, eff. July 1, 2007, following passage of State Question No. 725 (SB 755, Laws 2005, c. 239) on Nov. 7, 2006.

§68-4106. Claims for investment payments – Timing – Verification – Cessation of payments and recovery of payments when agreement terms not met – Additional payments.

A. As soon as practicable after the end of a fiscal year for which a qualified establishment has qualified to receive an investment payment, the establishment shall file a claim for the payment with the Oklahoma Tax Commission for ten percent (10%) of the total amount of capital costs actually invested by the establishment during such fiscal year.

B. If the first claim for investment payment is filed later than two (2) years from the start date designated by the Department, the agreement shall be deemed expired and void.

C. The Tax Commission shall verify for each fiscal year the actual amount of capital costs and the actual tax benefit accrued or to be accrued to the State of Oklahoma. If the Tax Commission is not able to provide such verification utilizing all available resources, the Tax Commission may request such additional information from the establishment as may be necessary or may reject the establishment’s claim based upon analysis of actual capital costs incurred by the establishment.

D. If the qualified establishment does not meet the terms of the agreement and all provisions of this act, investment payments shall cease and shall not be resumed, and the agreement shall expire and be void. The Oklahoma Department of Commerce may seek to recover in a court of competent jurisdiction any payments made to a qualified establishment if the establishment does not comply with the requirements of subparagraph e of paragraph 2 of subsection F of Section 4 of this act; provided, however, that no investment payments shall be subject to recovery or recapture based upon a failure to invest capital equal to the amount estimated by the qualified establishment as stated in a quality investment agreement.

E. A qualified establishment that has qualified pursuant to Section 4 of this act may receive payments only in accordance with the provisions under which it initially applied and was approved.

F. An establishment that is receiving investment payments may not apply for additional investment payments for any new capital costs until expiration of its quality investment agreement. Provided, a qualified establishment may apply for additional investment payments pursuant to subsequent quality investment agreements based upon additional capital costs at a different manufacturing site.

G. As soon as practicable after verification of the eligibility of the manufacturer as required by this section, the Tax Commission shall issue a warrant to the establishment.
Added by Laws 2004, c. 391, § 6, eff. July 1, 2004.

§68-4107. Eligibility to receive other credits or exemptions.

Notwithstanding any other provision of law, if a qualified establishment receives an investment payment pursuant to the provisions of this act, neither the qualified establishment nor its contractors or subcontractors shall be eligible to receive the credits or exemptions provided for in the following provisions of law in connection with the activity for which the investment payment was received:

1. Section 625.1 of Title 36 of the Oklahoma Statutes (premium tax credits);
2. Paragraph 7 of Section 1359 of Title 68 of the Oklahoma Statutes (construction materials sales tax refunds);
3. Section 2357.4 of Title 68 of the Oklahoma Statutes (new jobs/investment income tax credits);
4. Section 2902 of Title 68 of the Oklahoma Statutes (state reimbursement to communities for property tax exemptions to manufacturers);
5. Section 3601 et seq. of Title 68 of the Oklahoma Statutes (Oklahoma Quality Jobs Program Act);
6. Section 3651 et seq. of Title 68 of the Oklahoma Statutes (Oklahoma Quality Jobs Incentive Leverage Act);
7. Section 3701 et seq. of Title 68 of the Oklahoma Statutes (Saving Quality Jobs Act);
8. Section 3801 et seq. of Title 68 of the Oklahoma Statutes (Former Military Facility Development Act); and
9. Section 3901 et seq. of Title 68 of the Oklahoma Statutes (Small Employer Quality Jobs Incentive Act).

Added by Laws 2004, c. 391, § 7, eff. July 1, 2004.

§68-4108. Rules – Implementation.

The Oklahoma Department of Commerce and the Oklahoma Tax Commission shall promulgate rules necessary to implement their respective duties and responsibilities under the provisions of this act.

Added by Laws 2004, c. 391, § 8, eff. July 1, 2004.

§68-4109. False or fraudulent applications and instruments – Felony – Punishment.

Any person making an application, claim for payment or any report, return, statement or other instrument or providing any other information pursuant to the provisions of this act who willfully makes a false or fraudulent application, claim, report, return, statement, invoice or other

instrument or who willfully provides any false or fraudulent information, or any person who willfully aids or abets another in making such false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully aids or abets another in providing any false or fraudulent information, upon conviction, shall be guilty of a felony punishable by the imposition of a fine not less than One Thousand Dollars (\$1,000.00) and not more than Fifty Thousand Dollars (\$50,000.00) or imprisonment in the State Penitentiary for not less than two (2) years and not more than five (5) years, or by both such fine and imprisonment. Any person convicted of a violation of this section shall be liable for the repayment of all investment payments which were paid to the establishment. Interest shall be due on such payments at the rate of ten percent (10%) per annum.

Added by Laws 2004, c. 391, § 9, eff. July 1, 2004.

§68-4201. Short title.

This act shall be known and may be cited as the "Oklahoma Quality Investment Act".

Added by Laws 2006, c. 1, § 1, eff. July 1, 2007, following passage of State Question No. 725 (SB 755, Laws 2005, c. 239) on Nov. 7, 2006.

§68-4202. Purpose – Legislative intent – Incentive payments.

A. It is the purpose of this act to implement the provisions of the constitutional amendment contained in Enrolled Senate Bill No. 755 of the 1st Session of the 50th Oklahoma Legislature.

B. It is the intent of the Legislature that:

1. The State of Oklahoma provide appropriate incentives to support retention of manufacturing establishments:

- a. that yield higher long-term benefits for job retention and increase the wealth of the state,
- b. that create competitive advantages for the State of Oklahoma in attracting and retaining industries and jobs, and
- c. that hold the promise of significant modernization and retooling that will assure the stability of the industry in Oklahoma and, by doing so, help enlarge the tax base and stabilize the economy of the State of Oklahoma when there is a direct threat to the existing revenue base and wealth of the state because existing establishments are at risk of being lost to other states or nations;

2. The amount of incentives provided pursuant to this act in connection with a particular establishment be directly related to benefits caused by retention of jobs and investment and the placing of new investment, created as a result of the establishment modernizing and retooling in, and thereby remaining and growing in the State of Oklahoma as reflected by the economic impact, historical contributions trends and tax revenue projections analyses;

3. The Quality Investment Committee created by this act, the Oklahoma Department of Commerce, the Oklahoma Tax Commission, the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives implement the provisions of this act and exercise all powers as authorized in this act. The exercise of powers conferred by this act shall be deemed and held to be the performance of essential public purposes; and

4. Nothing herein shall be construed to constitute a guarantee or assumption by the State of Oklahoma of any debt of any individual, company or corporation or association. Nor does

this act authorize the credit of the State of Oklahoma to be given, pledged or loaned to any individual, company, corporation or association. Nothing herein shall be construed to constitute a gift by the State of Oklahoma to any individual, company, corporation or association.

C. In fiscal years when the provisions of subparagraph a of paragraph 6 of Section 23 of Article X of the Oklahoma Constitution are not applicable and the balance at the beginning of such fiscal year in the Constitutional Reserve Fund is equal to or greater than Eighty Million Dollars (\$80,000,000.00), up to Ten Million Dollars (\$10,000,000.00) may be expended for the purpose of providing incentives to support retention of at-risk manufacturing establishments in this state in order to retain employment for residents of this state. Such incentives shall be paid by the Oklahoma Tax Commission upon a unanimous finding by the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate that:

1. Such incentives have been recommended by the Quality Investment Committee created by this act pursuant to criteria set out by law;
2. The incentive will result in a substantial benefit to this state; and
3. Payment of the incentive would be in accordance with law.

Added by Laws 2006, c. 1, § 2, eff. July 1, 2007, following passage of State Question No. 725 (SB 755, Laws 2005, c. 239) on Nov. 7, 2006.

§68-4203. Definitions.

For purposes of the Oklahoma Quality Investment Act:

1. "At-risk establishments" are those manufacturing establishments, presently existing in Oklahoma which the Quality Investment Committee, as described in paragraph 6 of this section, finds would be lost within the state based on changes in global economies, establishment structure, consolidation of establishments, and which are structurally noncompetitive but which could regain a competitive position with new investment if incentives are offered;
2. "Capital costs" means costs for land, building, improvements to buildings, fixtures and for machinery and equipment as those terms are described in Section 2902 of Title 68 of the Oklahoma Statutes;
3. "Economic impact" means economic impact as described in analyses that identify the value in terms of sales tax and income tax revenues to the state and to the local community of the establishment that the retention and expansion or modernization of the manufacturing site provides. The Oklahoma Department of Commerce may contract for the performance of an economic impact analysis to aid it in determining whether to recommend entering into a Quality Investment Contract with a particular establishment;
4. "Historical contributions trends" means historical contributions of an establishment as described in analyses of direct and indirect historical contributions to the state and local economies that an establishment has had on jobs and tax base growth, and on payroll and tax revenue inputs and growth. Analyses shall include consideration of positive trends attributable to suppliers of the establishment. The Oklahoma Department of Commerce may contract for the performance of an historical contributions analysis to aid the Quality Investment Committee in determining whether to recommend entering into a Quality Investment Contract with a particular establishment;
5. "Local community" means the town or city and the county of the location of the establishment; provided, a city or town and a county may jointly constitute the "local community";

6. "Quality Investment Committee" means the independent committee referenced in paragraph 6 of Section 23 of Article X of the Oklahoma Constitution that consists of the following members:

- a. the Director of the Oklahoma Department of Commerce,
- b. the Dean of Engineering of Oklahoma State University,
- c. the Director of the Oklahoma Alliance for Manufacturing Excellence,
- d. the Dean of the Price Business College of the University of Oklahoma,
- e. the Executive Director for the Oklahoma Center for the Advancement of Science and Technology,
- f. one small business representative from the Oklahoma Science and Technology Research and Development Board, and
- g. the State Director of Career Technology Education;

7. "Tax revenues projections" means a projection of anticipated tax revenues based upon an analysis of historic taxes collected from the establishment in the local community and in the state overall over the previous ten (10) years in order to determine:

- a. the average of the growth percentages to determine the projected growth in such revenues to the community and the state over the following ten (10) years if no retooling occurs but retention is assumed to be a constant and remains stagnant,
- b. the modernization or retooling project's estimated impact on tax revenues and growth rates over the following ten (10) years, and
- c. the projections of loss in tax revenues should the plant location close and operations, in whole or in part, are removed from the state.

The Oklahoma Department of Commerce may contract with the Oklahoma Tax Commission for performance of tax revenues projections analyses to aid it in determining whether to enter into an agreement upon recommendation of the Quality Investment Committee;

8. "Establishment" means a manufacturer that is a partnership, limited partnership, corporation, limited liability company, limited liability partnership, or sole proprietorship. The establishment may enter into a Quality Investment Contract pertaining to only one manufacturing site as that term is defined in Section 1352 of Title 68 of the Oklahoma Statutes. No combination of other locations of the establishment, or any related entities of the establishment is contemplated. An establishment may have multiple contracts due to multiple sites or multiple expansions due to retooling and modernization at one site;

9. "NAICS" Manual means any manual book or other publication containing the North American Industry Classification System, United States, 1997, or as updated or amended from time to time, promulgated by the Office of Management and Budget of the United States of America; and

10. "Start date" means the date on which an establishment may begin accruing benefits for investment of new capital costs in a manufacturing site that is assigned in the agreement with the Oklahoma Department of Commerce.

Added by Laws 2006, c. 1, § 3, eff. July 1, 2007, following passage of State Question No. 725 (SB 755, Laws 2005, c. 239) on Nov. 7, 2006.

§68-4204. Quality Investment Contracts – Application – Requirements – Qualifications.

A. An establishment which meets the qualifications specified in the Oklahoma Quality Investment Act may apply to enter into a Quality Investment Contract to receive annual incentive

payments over a five-year period from the Oklahoma Tax Commission pursuant to the provisions of the Oklahoma Quality Investment Act in an amount which shall not exceed ten percent (10%) of the amount of actual capital costs invested pursuant to a Quality Investment Contract developed and executed pursuant to this act. The Committee shall review economic impacts, historical contributions trends and tax revenue projections analyses conducted by or on behalf of the Oklahoma Department of Commerce, and shall consider whether or not the establishment is located in an economically distressed area of the state, the number of jobs which are at risk, and the average salary of the jobs which are at risk for the purposes of making recommendations for offering a Quality Investment Contract and the percentage of investment which shall be provided as incentive payments. Provided, incentive payments shall in no event exceed ten percent (10%) of the capital costs actually incurred for the Oklahoma site that is the subject of the agreement. Provided, a county, town or municipality in which an establishment eligible to receive annual incentive payments pursuant to this section is located may join in the Quality Investment Contract with the state and the establishment and set out that it intends to annually appropriate a portion of local sales tax revenue that shall be included in the incentive payments.

Provided further, the Quality Investment Committee may not recommend and the state shall not enter into contracts that would result in payments from state revenues to all establishments in the program in an amount in excess of Ten Million Dollars (\$10,000,000.00) in any fiscal year. The maximum amount of projected investment for purposes of a contract made pursuant to this act shall not exceed Fifty Million Dollars (\$50,000,000.00).

B. In order to receive incentive payments, an establishment shall apply to and enter into a Quality Investment Contract with the Oklahoma Department of Commerce on behalf of the state and the local community when the town, city or county resolve to join with the agreement. The application shall be on a form prescribed by the Committee and shall contain such information as may be required by the Committee and the Oklahoma Department of Commerce to determine if the applicant is qualified.

C. In order to qualify to receive such payments, the establishment applying shall be required to:

1. Be engaged in manufacturing in activities described under Industry Group Nos. 31 through 33 of the NAICS Manual;
2. Incur capital costs for new retooling or modernization projected to equal or exceed One Million Dollars (\$1,000,000.00) within twenty-four (24) months of the start date; and
3. Apply to and enter into a Quality Investment Contract specifying:
 - a. the amount of capital investment the establishment must make within twenty-four (24) months of the start date in order to remain in the Oklahoma Quality Investment Program,
 - b. the total minimum amount of Oklahoma taxable payroll it will maintain in this state during the course of the agreement,
 - c. the total amount in incentive payments it may receive,
 - d. if applicable, the amount of local revenues a county or municipality intends to apportion to the establishment annually, and
 - e. that it will offer "basic health insurance" as defined in the Oklahoma Quality Jobs Program Act, within twelve (12) months of entering into a Quality Investment Contract.

Added by Laws 2006, c. 1, § 4, eff. July 1, 2007, following passage of State Question No. 725 (SB 755, Laws 2005, c. 239) on Nov. 7, 2006.

§68-4205. Application for incentive payment – Cessation of payment – New application – Verification and payment.

A. As soon as practicable after the end of a calendar year for which an establishment has qualified to receive an incentive payment, the establishment shall file a claim for the payment with the Oklahoma Tax Commission for one-tenth (1/10) or less of the total amount of investment identified and specified in its Quality Investment Contract. Provided, in the event the establishment applies for an incentive payment before all investment for retooling or modernization has occurred, the payment shall be reduced by the percentage of investment costs predicted but not incurred at the time of the claim as those costs bear to the whole investment. In no event shall the first claim for investment payment be filed later than two (2) years from the start date designated by the Quality Investment Committee. The Tax Commission shall verify for each calendar year the actual amount of capital investment in Oklahoma and the amounts of local communities' sales tax rebates for the establishment. If the Tax Commission is not able to provide such verification utilizing all available resources, the Tax Commission may request such additional information from the establishment as may be necessary or may reject the establishment's claim.

B. If the capital costs for investment in retooling or investment does not meet or exceed One Million Dollars (\$1,000,000.00) within twenty-four (24) months of the start date of the establishment as set out in its agreement with the Quality Investment Committee, incentive payments shall cease and shall not be resumed.

C. An establishment that has qualified pursuant to Section 4 of this act may receive payments only in accordance with the provisions under which it initially applied and was approved.

D. An establishment that is receiving incentive payments may not apply for additional incentive payments for any new capital improvement projects until twelve (12) quarters after receipt of the first incentive payment, or until the establishment's actual verified capital costs of retooling and modernization equals or exceeds One Million Dollars (\$1,000,000.00), whichever comes first. After meeting the requirements of this subsection, an establishment may apply for additional incentive payments based upon additional retooling and modernization capital costs and investment.

E. As soon as practicable after verification of the eligibility of the manufacturer as required by this section, the Tax Commission shall issue a warrant to the establishment.
Added by Laws 2006, c. 1, § 5, eff. July 1, 2007, following passage of State Question No. 725 (SB 755, Laws 2005, c. 239) on Nov. 7, 2006.

§68-4206. Quality Investment Committee – Meetings – Recommendations – Consideration by Governor, Speaker and President Pro Tempore – Investments authorized.

A. The Quality Investment Committee shall meet not less than once per quarter and consider applications for Quality Investment Contracts from at-risk establishments. The Committee shall review each application received since its last meeting and consider for each application economic impacts, historical contributions trends and tax revenue projections analyses conducted by or on behalf of the Oklahoma Department of Commerce; whether the establishment is located in an economically distressed area of the state; whether loss of the

establishment would cause the local community to become an economically distressed area; the number of jobs of Oklahoma citizens which are at risk; and the average salary of the jobs which are at risk.

B. Based on its review of applications, the Committee shall make recommendations to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate as to which applications for investment contracts should be approved and the percentage of investment the state should make as an incentive payment to the at-risk establishment for those contracts which are approved. In making such recommendations, the Committee shall not make recommendations for Quality Investment Contracts which could require payments in any year in excess of the amount allowed by the Oklahoma Quality Investment Act or the provisions of Section 23 of Article X of the Oklahoma Constitution.

C. The Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall meet as often as is necessary to consider recommendations of the Quality Investment Committee. The Governor shall schedule and chair such meetings. Quality Investment Contracts shall only be entered into upon the unanimous approval by the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate of the terms of the contract. A decision on recommendations of the Quality Investment Committee shall be made within thirty (30) days of receipt of such recommendations.

D. For any fiscal year, the incentives shall not exceed ten percent (10%) of the amount invested by an establishment in capital assets to be utilized in this state. The contract shall make payment of any incentives in any fiscal year contingent on the balance at the beginning of such fiscal year in the Constitutional Reserve Fund being equal to or greater than Eighty Million Dollars (\$80,000,000.00) and on the certification by the State Board of Equalization for such fiscal year General Revenue Fund being greater than that of the preceding fiscal year certification. Investment contracts authorized by this act shall provide that if any incentive payment is payable during a fiscal year in which either the balance at the beginning of the fiscal year in the Constitutional Reserve Fund is not equal to or greater than Eighty Million Dollars (\$80,000,000.00) or when the certification by the State Board of Equalization for such fiscal year General Revenue Fund is less than that of the immediately prior fiscal year certification, then any incentive payments which would have been payable during such fiscal year shall be payable in the first fiscal year when funds are available pursuant to the provisions of division 1 of subparagraph (b) of paragraph 6 of Section 23 of Article X of the Oklahoma Constitution. In the event that the amount of incentives due in any year under investment contracts authorized by this subsection is less than the amounts available for payment under this subsection in such year, then incentives payments for such year shall be reduced pro rata.

Added by Laws 2006, c. 1, § 6, eff. July 1, 2007, following passage of State Question No. 725 (SB 755, Laws 2005, c. 239) on Nov. 7, 2006.

§68-4207. Ineligibility for certain tax credits or exemptions.

Notwithstanding any other provision of law, if a qualified establishment receives an incentive payment pursuant to the provisions of this act, neither the qualified establishment nor its contractors or subcontractors shall be eligible to receive the credits or exemptions provided for in the following provisions of law in connection with the activity for which the incentive payment was received:

1. Section 625.1 of Title 36 of the Oklahoma Statutes (premium tax credits);

2. Paragraph 7 of Section 1359 of Title 68 of the Oklahoma Statutes (construction materials sales tax refunds);
3. Section 2357.4 of Title 68 of the Oklahoma Statutes (new jobs/investment income tax credits);
4. Section 2357.7 of Title 68 of the Oklahoma Statutes (venture capital investment credits);
5. Section 2-11-303 of Title 27A of the Oklahoma Statutes (pollution control equipment investment income tax credits);
6. Section 2357.22 of Title 68 of the Oklahoma Statutes (income tax credits for investment in clean-burning motor fuel vehicles);
7. Section 2357.31 of Title 68 of the Oklahoma Statutes (small business income tax credits);
8. Section 54003 of Title 68 of the Oklahoma Statutes (research and development or computer services sales tax refunds);
9. Subsections C and D of Section 2357.29 of Title 68 of the Oklahoma Statutes (recycling income tax credits);
10. Section 2902 of Title 68 of the Oklahoma Statutes (state reimbursement to communities for property tax exemptions to manufacturers);
11. Section 3601 et seq. of Title 68 of the Oklahoma Statutes (Oklahoma Quality Jobs Program Act);
12. Section 3701 et seq. of Title 68 of the Oklahoma Statutes (Saving Quality Jobs Act);
13. Section 3801 et seq. of Title 68 of the Oklahoma Statutes (Former Military Facilities Development Act);
14. Section 3901 et seq. of Title 68 of the Oklahoma Statutes (Small Employer Quality Jobs Incentive Act);
15. Sections 3651 through 3659 of Title 68 of the Oklahoma Statutes (Quality Jobs Incentive Leverage Act); and
16. Section 4101 et seq. of Title 68 of the Oklahoma Statutes (Oklahoma Specialized Quality Investment Act).

Added by Laws 2006, c. 1, § 7, eff. July 1, 2007, following passage of State Question No. 725 (SB 755, Laws 2005, c. 239) on Nov. 7, 2006.

§68-4208. Oklahoma Department of Commerce and Oklahoma Tax Commission – Rules.

The Oklahoma Department of Commerce and the Oklahoma Tax Commission shall promulgate rules necessary to implement their respective duties and responsibilities under the provisions of this act.

Added by Laws 2006, c. 1, § 8, eff. July 1, 2007, following passage of State Question No. 725 (SB 755, Laws 2005, c. 239) on Nov. 7, 2006.

§68-4209. False or fraudulent application or other information – Aiding or abetting – Felony – Punishment.

Any person making an application, claim for payment or any report, return, statement or other instrument or providing any other information pursuant to the provisions of this act who willfully makes a false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully provides any false or fraudulent information, or any person who willfully aids or abets another in making such false or fraudulent application, claim, report,

return, statement, invoice or other instrument or who willfully aids or abets another in providing any false or fraudulent information, upon conviction, shall be guilty of a felony punishable by the imposition of a fine not less than One Thousand Dollars (\$1,000.00) and not more than Fifty Thousand Dollars (\$50,000.00) or imprisonment in the State Penitentiary for not less than two (2) years and not more than five (5) years, or by both such fine and imprisonment. Any person convicted of a violation of this section shall be liable for the repayment of all incentive payments which were paid to the establishment. Interest shall be due on such payments at the rate of ten percent (10%) per annum.

Added by Laws 2006, c. 1, § 9, eff. July 1, 2007, following passage of State Question No. 725 (SB 755, Laws 2005, c. 239) on Nov. 7, 2006.

§68-4210. Five-year performance review – Written report.

A. The Oklahoma Department of Commerce shall, using its own resources or through a contract with a service provider, conduct a five-year performance review of the Oklahoma Quality Investment Act. The performance review may include measures of economic productivity in areas or regions affected by the business activity of any recipient of a payment authorized pursuant to this act. Such measures of economic productivity may include, but shall not be limited to, total payroll statistics, business activity supported by the business activity of the payment recipients, growth in property tax values attributable to capital expansion, growth in state or local tax sources attributable to capital expansion, increased investment activity by other business entities, business site location inquiries related to the business activity of a recipient or such other indicators of the net benefits to the State of Oklahoma or an economic region as the Department of Commerce or its service provider may select.

B. The results of the five-year performance review shall be provided in a written report to be submitted not later than January 31, 2012, and not later than January 31 each successive five-year period covering the results of performance measurement of the Oklahoma Quality Investment Act as conducted pursuant to subsection A of this section. The first such report shall only be required to address the performance measures for the period of July 1, 2006, through December 31, 2011. The report shall be provided to the Governor, the Speaker of the Oklahoma House of Representatives, the President Pro Tempore of the State Senate and to each member of the Quality Investment Committee.

C. The Quality Investment Committee shall use the results of the five-year performance report in making determinations required of it pursuant to the Oklahoma Quality Investment Act. Added by Laws 2006, c. 1, § 10, eff. July 1, 2007, following passage of State Question No. 725 (SB 755, Laws 2005, c. 239) on Nov. 7, 2006.

§68-4301. Short title.

This act shall be known and may be cited as the “Oklahoma Quality Events Incentive Act” and shall be in effect through June 30, 2015.

Added by Laws 2010, c. 386, § 1, eff. July 1, 2012.

§68-4302. Legislative findings.

The Legislature finds that certain quality events conducted within the state have a significant economic impact. In order to assist with the promotion of such events and to assist the promoters and organizers of such events with the planning and performance of such events, the Legislature finds that it is in furtherance of an essential governmental function to provide a

method by which an eligible municipality or an eligible county may utilize a portion of the state sales tax revenues derived from taxable transactions occurring within a designated area to promote certain qualifying events. The State of Oklahoma has a legitimate interest in economic development related to the occurrence of quality events and the Legislature finds that the use of state sales tax revenues authorized by this act provides a method by which the state can compete successfully in a national and global economy against other jurisdictions offering similar incentives for such events.

Added by Laws 2010, c. 386, § 2, eff. July 1, 2012.

§68-4303. Definitions.

As used in the Oklahoma Quality Events Incentive Act:

1. "Certified sponsor" means an entity or organization authorized to promote and conduct a quality event, which is incurring expenses for the promotion of such event to be conducted within the corporate limits of an eligible municipality or an unincorporated area within a county;
2. "Economic impact study" means a study of the geographic area designated by a host community pursuant to Section 4304 of this title, which includes:
 - a. a description and, if applicable, history of the quality event,
 - b. information regarding the site selection process for the quality event,
 - c. an estimate of the expenses anticipated to be incurred in connection with hosting the quality event,
 - d. an estimate of the total gross sales made by vendors within the designated area during any period of time during which no quality event activity occurs,
 - e. a detailed estimate of the anticipated increase in sales tax revenue directly attributable to the quality event,
 - f. the general economic impact likely to occur in the designated area as a result of the preparation for, occurrence of and activity occurring in connection with the dissolution of, a quality event, and
 - g. any additional information the Oklahoma Tax Commission may require;
3. "Eligible local support amounts" means:
 - a. any payment made by a local government entity or transfer of monies from the general fund or transfer of tax revenues derived from a locally imposed tax to a certified sponsor for the purpose of attracting, promoting, advertising, organizing, conducting or otherwise supporting a quality event, or
 - b. any direct payment made by a certified sponsor to a for-profit or nonprofit entity, other than the host community, for the purpose of attracting, promoting, advertising, organizing, conducting or otherwise supporting a quality event;
4. "Event history" means:
 - a. historical information on the event including past locations of the event,
 - b. a description of previous attempts by the host community to secure the event,
 - c. information regarding attempts by other communities to recruit the event, and

d. if applicable, the competitive bidding process for securing the event by the host community;

5. "Host community" means any county, incorporated city or town, or any combination of counties, incorporated cities or towns of the state which are authorized by their respective governing bodies to host or assist in the presentation of a quality event;

6. "Incremental sales tax revenue" means, with respect to a new event, a comparison of the amount of additional state sales tax revenue, if any, in excess of the amount of state sales tax revenue collected within a quality event area during the same month of the preceding year for purposes of the economic impact study required by Section 4304 of this title; or, with respect to a recurring event, a comparison of the amount of additional sales tax revenue, if any, in excess of the calculated average amount of sales tax revenue collected in the quality event area during the preceding year for purposes of the economic impact study required by Section 4304 of this title. For purposes of computing the calculated average amount of monthly sales tax revenue collected as required by this paragraph with respect to a recurring event, the Oklahoma Tax Commission shall average total sales tax revenue collected by month but shall exclude revenue collected during the same month or months in a prior year during which the recurring event was conducted and if the event does not occur during the months of November or December, shall also exclude revenue collected during the immediately preceding November and December. The calculated average amount of monthly sales tax revenue shall be used to determine whether a recurring event produces incremental sales tax revenues for purposes of this act;

7. "New event" means a quality event which did not occur within a period of twenty-four (24) months prior to the month during which a quality event is held;

8. "Quality event" means:

- a. a new event or a meeting of a nationally recognized organization or its members,
- b. a new or existing event that is a national, international or world championship, or
- c. a new or existing event that is managed or produced by an Oklahoma-based national or international organization;

9. "Quality event area" means a geographic area designated by a host community pursuant to Section 4304 of this title, determined to realize direct economic benefit from the preparation for, occurrence of and activity occurring in connection with the dissolution of, a quality event; provided, the designated area shall never constitute an area greater than thirteen (13) miles from any property line of the primary property at which the quality event is located. For purposes of this act the property line shall be based on the legal description or survey of a single location determined by a host community to be the primary property for a quality event area;

10. "Recurring event" means a quality event which occurred at least once within the twenty-four (24) months prior to the month during which a quality event is held;

11. "Revenue capture period" means a time period beginning no earlier than two (2) days prior to the quality event date or the first day upon which the quality event occurs and ending no later than two (2) days after the conclusion of the quality event date or the last day upon which quality event activities occur;

12. "State sales tax revenue" means the proceeds from the state sales tax levy imposed pursuant to Section 1354 of this title upon taxable transactions occurring within the quality event area during the authorized revenue capture period; and

13. "Vendors" means those persons or business entities making taxable sales of tangible personal property or services within a quality event area and, unless the context otherwise requires, shall have the same meaning as defined by Section 1352 of this title.

Added by Laws 2010, c. 386, § 3, eff. July 1, 2012. Amended by Laws 2013, c. 156, § 1.

§68-4304. Quality event - Designation - Submission of forms to Oklahoma Tax Commission.

A. Not later than six (6) months prior to the initial date of a quality event, a host community may designate:

1. A geographic area as a quality event area;
2. A length of time as the revenue capture period; and
3. The type of expenses eligible for distribution of captured revenues to the host community including, but not limited to, advertising, facility rental, promotional materials and security.

B. Any designation made by a host community for purposes of this act shall be made pursuant to an ordinance or resolution duly adopted by the governing body of the host community.

C. A host community may only designate one quality event during a single designated revenue capture period for purposes of the payments authorized by this act.

D. Within thirty (30) days of the date on which the host community adopts an ordinance or resolution pursuant to subsection A of this section, such host community shall submit to the Oklahoma Tax Commission, on such forms as the Tax Commission may prescribe, a copy of such ordinance or resolution, an economic impact study and the event history.

E. Within sixty (60) days from the date of receipt of the information from the host community as required by subsection D of this section, the Tax Commission shall approve or disapprove, in whole or in part, the economic impact study for the purposes of this act. In making its determination, the Tax Commission shall consider whether or not the economic impact study contains the elements required in paragraph 2 of Section 4303 of this title and whether or not the information provided is validly documented and based on generally accepted economic and statistical standards used for purposes of similar studies. The Oklahoma Department of Commerce and the Oklahoma Tourism and Recreation Department shall provide such assistance and information as requested by the Tax Commission to approve or disapprove an economic impact study.

Added by Laws 2010, c. 386, § 4, eff. July 1, 2012. Amended by Laws 2013, c. 156, § 2.

§68-4305. Eligible local support.

A. The host community shall provide to the Oklahoma Tax Commission detailed information disclosing the total amount of eligible local support amounts for purposes of determining the amount of incremental state sales tax revenue that may be paid to a host community in which a quality event occurs.

B. The Tax Commission shall verify the amount of eligible local support amounts prior to making any payment to a host community.

C. Within ninety (90) days after the conclusion of a quality event, the Tax Commission shall determine the amount of incremental state sales tax revenue remitted by vendors located within the designated quality event area.

D. The Tax Commission shall compare the total amount of eligible local support amounts with the total amount of incremental state sales tax revenues remitted by vendors located within the designated quality event area.

E. If the Tax Commission determines that the total amount of incremental state sales tax revenues is zero, no payment shall be made to a host community.

F. If the Tax Commission determines that the total amount of incremental state sales tax revenues is greater than zero, but less than the total amount of eligible local support amounts, the Tax Commission shall make payment, subject to the limitations of subsection I of this section, to the host community of the quality event in an amount equal to the incremental state sales tax revenues.

G. If the Tax Commission determines that the total amount of incremental state sales tax revenues is at least equal to the amount of eligible local support amounts, the Tax Commission shall make payment, subject to the limitations of subsection I of this section, to the host community in which the quality event occurs in an amount equal to, but not greater than, the eligible local support amounts.

H. No payment shall be made to any host community from a source other than the incremental state sales tax revenues, if any, derived from state sales tax remittances of vendors located within the applicable quality event area.

I. No payment shall be made to any host community in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) for a single quality event regardless of the amount of eligible local support paid by the host community.

Added by Laws 2010, c. 386, § 5, eff. July 1, 2012.

§68-4306. Proceeds from county or municipality sales tax.

No proceeds from the levy of any sales tax imposed by a county or a municipality shall be affected by the provisions of this act and the proceeds from any such levy shall be collected and remitted as required by the Oklahoma Sales Tax Code. The distribution of the revenues shall be made in accordance with all applicable requirements of law with respect to such sales tax levies.

Added by Laws 2010, c. 386, § 6, eff. July 1, 2012.

§68-4307. Maximum total payments.

Notwithstanding any other provision of this act, total payments resulting from the provisions of the Oklahoma Quality Events Incentive Act to all host communities shall not exceed:

1. Two Million Dollars (\$2,000,000.00) for the fiscal year ending June 30, 2013;
2. Two Million Five Hundred Thousand Dollars (\$2,500,000.00) for the fiscal year ending June 30, 2014; and
3. Three Million Dollars (\$3,000,000.00) for the fiscal year ending June 30, 2015.

Added by Laws 2010, c. 386, § 7, eff. July 1, 2012.

§68-4308. Payment of incremental sales tax revenues.

After the conclusion of a quality event for which the Oklahoma Tax Commission has given approval pursuant to subsection E of Section 4 of this act, and within the time limit prescribed by Section 5 of this act, the Tax Commission shall utilize the amount of incremental sales tax revenues derived from the levy of the state sales tax imposed pursuant to Section 1354 of Title

68 of the Oklahoma Statutes necessary to make payment to a host community based upon eligible local support payments according to the requirements of Section 5 of this act.
Added by Laws 2010, c. 386, § 8, eff. July 1, 2012.

§68-4309. Promulgation of rules.

The Oklahoma Tax Commission may promulgate such rules as may be necessary to implement the provisions of this act including, but not limited to, any rules governing the accuracy of the economic impact study.
Added by Laws 2010, c. 386, § 9, eff. July 1, 2012.

§68-4310. Annual report.

The Executive Director of the Oklahoma Department of Commerce shall make a report to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate not later than December 1, 2013, and each December 1 thereafter if this act is in force and effect, regarding the effect and impact of the Oklahoma Quality Events Incentive Act.
Added by Laws 2010, c. 386, § 10, eff. July 1, 2012.

§68-4311. Contract, memorandum of understanding, other agreement - Subsequent unenforceability of act.

A. A county, city or town that enters into any contract, memorandum of understanding or other agreement with a person or lawfully recognized business entity while the Oklahoma Quality Events Incentive Act is in force and effect and in reliance upon the provisions of the Oklahoma Quality Events Incentive Act shall receive the payments provided by this act even if the Oklahoma Quality Events Incentive Act ceases to have the force and effect of law at any time subsequent to the execution of such contract, memorandum of understanding or agreement, including any amendments to such documents if the amendments are incorporated and adopted while the Oklahoma Quality Events Incentive Act is in force and effect.

B. Any person or lawfully recognized business entity that enters into a contract, memorandum of understanding or other agreement with another person or lawfully recognized business entity while the Oklahoma Quality Events Incentive Act is in force and effect and in reliance upon the provisions of the Oklahoma Quality Events Incentive Act shall have the right to enforce the terms of such contract, memorandum of understanding or agreement with respect to any amount payable pursuant to the terms of the Oklahoma Quality Events Incentive Act as of the date upon which such contract, memorandum of understanding or agreement is executed, including any amendments to such documents if the amendments are incorporated and adopted while the Oklahoma Quality Events Incentive Act is in force and effect.
Added by Laws 2010, c. 386, § 11, eff. July 1, 2012.

§68-4401. Short title.

Sections 5 through 10 of this act shall be known and may be cited as the “Lake Murray Area Infrastructure Support Act”.
Added by Laws 2007, c. 106, § 5, eff. July 1, 2007.

§68-4402. Legislative findings.

The Legislature finds that sales taxable transactions conducted within the area designated by Section 7 of this act have a significant economic impact. In order to assist the Oklahoma

Tourism and Recreation Department with the maintenance and improvement of critical infrastructure for the Lake Murray area, the Legislature finds that it is in furtherance of an essential governmental function to provide a method by which the State of Oklahoma may utilize a portion of certain incremental state sales tax revenues derived from taxable transactions occurring within the area designated by Section 7 of this act as the "Lake Murray Designated Area" to ensure the proper maintenance and allow for the continued development of critical infrastructure within the Lake Murray area.

Added by Laws 2007, c. 106, § 6, eff. July 1, 2007.

§68-4403. Definitions.

As used in this act:

1. "Base Year" or "Lake Murray Designated Area Base Year" means the amount of state sales tax revenue remitted by vendors located within the Lake Murray Designated Area during the fiscal year ending June 30, 2007, or the amount of state sales tax revenue remitted by vendors as a result of sales taxable transactions occurring within the Lake Murray Designated Area during the fiscal year ending June 30, 2007, or the sum of both such amounts;

2. "Incremental sales tax revenues" means the amount of sales tax revenue in excess of the amount of sales tax revenue collected within the Lake Murray Designated Area during the Base Year for purposes of the computation required by subsection A of Section 10 of this act;

3. "Lake Murray Designated Area" means the area of land bordered on the north by State Highway 70, on the east by the eastern side of Townships 5 and 6 South, Range 2 East, on the south by the southern side of Township 6 South, Range 2 East and on the west by Interstate 35;

4. "State sales tax revenue" means a portion of the proceeds from the state sales tax levy imposed pursuant to Section 1354 of Title 68 of the Oklahoma Statutes upon taxable transactions occurring within the Lake Murray Designated Area; and

5. "Vendors" means those persons or business entities making taxable sales of tangible personal property or services within the Lake Murray Designated Area or which are required to remit sales tax based upon transactions occurring within the Lake Murray Designated Area and unless the context otherwise requires shall have the same meaning as defined by Section 1352 of Title 68 of the Oklahoma Statutes.

Added by Laws 2007, c. 106, § 7, eff. July 1, 2007.

§68-4404. Boundary designation - Amount of sales tax revenue - Affected vendors - Forms and procedures.

A. The Department of Tourism and Recreation shall notify the Oklahoma Tax Commission on such form as the Tax Commission may prescribe of the precise boundary of the Lake Murray Designated Area.

B. The Oklahoma Tax Commission shall determine the amount of state sales tax revenue collected within the Lake Murray Designated Area during the Base Year in order to allow the computation of incremental sales tax revenues pursuant to subsection A of Section 10 of this act.

C. The Tax Commission shall identify all vendors upon which the duty to collect sales tax is imposed pursuant to the Oklahoma Sales Tax Code located or doing business within the Lake Murray Designated Area. The Tax Commission shall provide any required instructions to affected vendors relevant to any duties that may be imposed upon the vendors with respect to the collection and remittance of sales tax derived from transactions occurring within or attributable to transactions occurring within the Lake Murray Designated Area.

D. The Oklahoma Tax Commission may prescribe special forms or prescribe by rule special sales tax reporting procedures applicable to vendors making taxable sales of tangible personal property or services within the Lake Murray Designated Area in order to implement the provisions of the Lake Murray Area Infrastructure Support Act.
Added by Laws 2007, c. 106, § 8, eff. July 1, 2007.

§68-4405. Sales tax, distribution of revenue, applicability of act.

No proceeds from the levy of any sales tax imposed by a county or a municipality shall be affected by the provisions of the Lake Murray Area Infrastructure Support Act and the proceeds from any such levy shall be collected and remitted as required by the Oklahoma Sales Tax Code. The distribution of the revenues shall be made in accordance with all applicable requirements of law with respect to such sales tax levies. The provisions of the Lake Murray Area Infrastructure Support Act shall not be applicable and shall not have the force or effect of law unless the Oklahoma Tourism and Recreation Commission approves an agreement for the leasing of certain real property, including, but not limited to the existing Lake Murray State Lodge facility to another entity for the purpose of operation and development of lodge facilities within the Lake Murray resort area.

Added by Laws 2007, c. 106, § 9, eff. July 1, 2007.

§68-4406. Remission of sales tax revenues - Maintenance and development of assets.

A. The Oklahoma Tax Commission shall remit to the Oklahoma Tourism and Recreation Department Revolving Fund created pursuant to Section 2251 of Title 74 of the Oklahoma Statutes, or to a designated account established within such fund, twenty-five percent (25%) of the incremental sales tax revenues derived from the levy of the state sales tax imposed pursuant to Section 1354 of Title 68 of the Oklahoma Statutes collected from vendors making taxable sales within or attributable to transactions within the Lake Murray Designated Area.

B. The Oklahoma Tourism and Recreation Department shall be able to use the revenues apportioned to the Oklahoma Tourism and Recreation Department Revolving Fund pursuant to subsection A of this section to support the maintenance and development of assets owned by the State of Oklahoma and located within the Lake Murray Designated Area as determined by the Oklahoma Tourism and Recreation Department to be necessary for sustaining the Lake Murray area and related state park assets as a viable tourism destination.

Added by Laws 2007, c. 106, § 10, eff. July 1, 2007.

§68-5001. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-5002. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-5003. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-5004. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-5005. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-5006. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-5006.1. Forms - Mailing address required.

The forms prescribed by the Oklahoma Tax Commission pursuant to Sections 5006 or 2909 of this title shall have the mailing address of the Tax Commission printed on such forms. Added by Laws 1989, c. 63, § 3, eff. Jan. 1, 1990.

§68-5007. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-5008. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-5009. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-5010. Short title.

Sections 1 through 7 of this act shall be known and may be cited as the "Sales Tax Relief Act".

Added by Laws 1990, c. 126, § 1, emerg. eff. April 25, 1990.

§68-5011. Eligibility for relief - Computation - Convicted felons.

A. Except as otherwise provided by this section, beginning with the calendar year 1990 and for each calendar year through 1998, and for calendar year 2003, any individual who is a resident of and is domiciled in this state during the entire calendar year for which the filing is made and whose gross household income for such year does not exceed Twelve Thousand Dollars (\$12,000.00) may file a claim for sales tax relief.

B. For calendar years 1999, 2002 and 2004, any individual who is a resident of and is domiciled in this state during the entire calendar year for which the filing is made may file a claim for sales tax relief if the gross household income for such year does not exceed the following amounts:

1. For an individual not subject to the provisions of paragraph 2 of this subsection and claiming no allowable personal exemption other than the allowable personal exemption for that individual or the spouse of that individual, Fifteen Thousand Dollars (\$15,000.00); or

2. For an individual claiming one or more allowable personal exemptions other than the allowable personal exemption for that individual or the spouse of that individual, an individual with a physical disability constituting a substantial handicap to employment, or an individual who is sixty-five (65) years of age or older at the close of the tax year, Thirty Thousand Dollars (\$30,000.00).

C. For calendar years 2000, 2001, 2005 and following, an individual who is a resident of and is domiciled in this state during the entire calendar year for which the filing is made may file

a claim for sales tax relief if the gross household income for such year does not exceed the following amounts:

1. For an individual not subject to the provisions of paragraph 2 of this subsection and claiming no allowable personal exemption other than the allowable personal exemption for that individual or the spouse of that individual, Twenty Thousand Dollars (\$20,000.00); or

2. For an individual claiming one or more allowable personal exemptions other than the allowable personal exemption for that individual or the spouse of that individual, an individual with a physical disability constituting a substantial handicap to employment, or an individual who is sixty-five (65) years of age or older at the close of the tax year, Fifty Thousand Dollars (\$50,000.00).

D. The amount of the claim filed pursuant to the Sales Tax Relief Act shall be Forty Dollars (\$40.00) multiplied by the number of allowable personal exemptions. As used in the Sales Tax Relief Act, "allowable personal exemption" means a personal exemption to which the taxpayer would be entitled pursuant to the provisions of the Oklahoma Income Tax Act, except for:

1. The exemptions such taxpayer would be entitled to pursuant to Section 2358 of this title if such taxpayer or spouse is blind or sixty-five (65) years of age or older at the close of the tax year;

2. An exemption for a person convicted of a felony if during all or any part of the calendar year for which the claim is filed such person was an inmate in the custody of the Department of Corrections; or

3. An exemption for a person if during all or any part of the calendar year for which the claim is filed such person resided outside of this state.

E. A person convicted of a felony shall not be permitted to file a claim for sales tax relief pursuant to the provisions of Sections 5010 through 5016 of this title for the period of time during which the person is an inmate in the custody of the Department of Corrections. Such period of time shall include the entire calendar year if the person is in the custody of the Department of Corrections during any part of the calendar year. The provisions of this subsection shall not prohibit all other members of the household of an inmate from filing a claim based upon the personal exemptions to which the household members would be entitled pursuant to the provisions of the Oklahoma Income Tax Act.

F. The Department of Corrections shall withhold up to fifty percent (50%) of any money inmates receive for claims made pursuant to the Sales Tax Relief Act prior to September 1, 1991, for costs of incarceration.

G. For purposes of Section 139.105 of Title 17 of the Oklahoma Statutes, the gross household income of any individual who may file a claim for sales tax relief shall not exceed Twelve Thousand Dollars (\$12,000.00).

Added by Laws 1990, c. 126, § 2, emerg. eff. April 25, 1990. Amended by Laws 1991, c. 272, § 1, eff. Sept. 1, 1991; Laws 1992, c. 311, § 2, eff. Sept. 1, 1992; Laws 1998, c. 427, § 6, eff. Jan. 1, 1999; Laws 2004, c. 322, § 15, eff. Dec. 1, 2004 (State Question No. 713, Legislative Referendum No. 336, adopted at election held Nov. 2, 2004).

§68-5012. Gross household income.

For purposes of this act "gross household income" means the gross amount of income of every type, regardless of the source, received by all persons occupying the same household, whether such income was taxable or nontaxable for federal or state income tax purposes,

including pensions, annuities, federal social security, unemployment payments, veterans' disability compensation, public assistance payments, alimony, support money, workers' compensation, loss-of-time insurance payments, capital gains and any other type of income received; and excluding gifts.

Added by Laws 1990, c. 126, § 3, emerg. eff. April 15, 1990.

§68-5013. Filing of claim - Credits - Refunds - Families receiving federal assistance or state supplemental payments.

A. All claims for relief authorized by the Sales Tax Relief Act shall be received by and in the possession of the Oklahoma Tax Commission on or before June 30 of each year for sales taxes paid for the preceding calendar year. Claimants shall be allowed a direct credit against income taxes owed by such claimant to the State of Oklahoma for the amount of such claim, in which case such claim shall be filed with the income tax return of the claimant on or before April 15 following the close of the taxable year, unless the claimant has been granted an extension of time in order to file an income tax return, in which case the claim may be filed with the return filed pursuant to the extension. In all cases where claimants have no income tax liability or where the sales tax relief authorized by this section exceeds the income tax liability of the claimant, such claim, or any balance thereof, shall be paid out in the same manner and out of the same fund as refunds of income taxes are paid and so much of said fund as is necessary for such purposes is hereby appropriated.

B. 1. Sales tax relief for families receiving assistance pursuant to the federal program of Temporary Aid to Needy Families shall be transferred from the Oklahoma Tax Commission to the Department of Human Services as provided in this subsection for purposes of obtaining federal matching funds to increase the payments to recipients of Temporary Aid to Needy Families. The determination of the amount to be transferred by the Oklahoma Tax Commission shall be based on a statistical report prepared monthly by the Department of Human Services which identifies the number of recipients of Temporary Aid to Needy Families. The amount transferred shall equal one-twelfth (1/12) of the annual sales tax relief for all persons receiving assistance during the month of the report. The amount transferred shall be paid out of the Income Tax Withholding Refund Account of the Tax Commission.

2. Monies received from the Tax Commission shall be deposited in the Human Services Fund. Recipients of assistance pursuant to the federal program of Temporary Aid to Needy Families shall receive sales tax relief as a part of their monthly Temporary Aid to Needy Families.

C. All duties of the Tax Commission to make sales tax relief payments to recipients since January 1, 1992, of state supplemental payments or medical assistance as patients in long-term care facilities who have received such supplemental payments or medical assistance throughout the calendar year are hereby transferred to the Department of Human Services. Receipt of such supplemental payments or medical assistance shall constitute automatic eligibility for sales tax relief under the provisions of the Sales Tax Relief Act. Sales tax relief payments to persons identified in this subsection shall be made as soon as practicable after the commencement of each calendar year. The Department of Human Services shall notify the Tax Commission of the total amount of the sales tax relief payments made in order that such sum may be transferred from the Income Tax Withholding Refund Account of the Tax Commission to the Department.

D. For those individuals receiving assistance or state supplemental payments as provided in subsections B and C of this section, the Department of Human Services shall make the sales tax relief payment without the requirement of an additional application form.

E. To avoid duplication of payment, at the end of each calendar year, the Department of Human Services shall provide the Tax Commission with a list of the individuals who received sales tax relief from the Department. Persons receiving sales tax relief payments directly from the Department of Human Services shall not be entitled to additional sales tax relief payments from the Tax Commission.

F. The Department of Human Services and the Tax Commission shall work jointly to notify individuals receiving assistance or state supplemental payments from the Department of Human Services of their possible entitlement and right to apply for sales tax relief as provided for in the Sales Tax Relief Act.

Added by Laws 1990, c. 126, § 4, emerg. eff. April 25, 1990. Amended by Laws 1992, c. 130, § 1, eff. July 1, 1992; Laws 1998, c. 301, § 16, eff. Nov. 1, 1998; Laws 2007, c. 155, § 15, eff. Nov. 1, 2007.

§68-5014. Information changes.

Every person filing a claim pursuant to the Sales Tax Relief Act shall furnish the Oklahoma Tax Commission information changes, if any, of households, amount of gross income of household, number of personal exemptions claimed, and such other information as the Oklahoma Tax Commission may require. Claims and supporting proof must be on forms prescribed by the Oklahoma Tax Commission.

Added by Laws 1990, c. 126, § 5, emerg. eff. April 25, 1990.

§68-5015. Audit of claim - Notice - Hearing.

A. The Oklahoma Tax Commission shall, within a reasonable time after receipt of a claim, audit said claim for correctness and payment. If the Oklahoma Tax Commission determines the amount of a claim to be incorrect or excessive, or the supporting proof to be inadequate, or that the claim should be disallowed for any other reason, it shall notify the claimant by mail of the correct amount, if any, for which the claim can be allowed or the finding and reasons for disallowance of the claim. The claimant may, within thirty (30) days after the date the notice is mailed by the Oklahoma Tax Commission, submit further or additional proof in support of his claim or request an oral hearing before the Oklahoma Tax Commission.

B. Upon request for a hearing, the Oklahoma Tax Commission shall notify claimant in writing of the date, place and time of the hearing. The hearing date shall not be less than ten (10) days from the date of mailing the written hearing notice to the claimant. Upon examination of the claimant's additional proof or after the oral hearing, the Oklahoma Tax Commission shall enter an order in accordance with its findings. The order of the Oklahoma Tax Commission shall be final.

Added by Laws 1990, c. 126, § 6, emerg. eff. April 25, 1990.

§68-5016. False or fraudulent claims - Penalties.

In addition to the penalties provided in the Uniform Tax Procedure Code, any person who knowingly and willfully files a claim for sales tax relief to which such person is not entitled or who knowingly and willfully furnishes any false or fraudulent information to the Tax Commission pursuant to the provisions of the Sales Tax Relief Act, shall be subject to a penalty

equal to the amount of the relief claimed. In addition to such penalty, such person shall repay to the Tax Commission any amount of sales tax relief granted pursuant to such claim.

Added by Laws 1990, c. 126, § 7, emerg. eff. April 25, 1990. Amended by Laws 1990, c. 339, § 19, emerg. eff. May 31, 1990.

§68-5101. Renumbered as § 3201 of this title by Laws 1988, c. 162, § 160, eff. Jan. 1, 1992.

§68-5102. Renumbered as § 3202 of this title by Laws 1988, c. 162, § 160, eff. January 1, 1992.

§68-5103. Renumbered as § 3203 of this title by Laws 1988, c. 162, § 160, eff. Jan. 1, 1992.

§68-5104. Renumbered as § 3204 of this title by Laws 1988, c. 162, § 160, eff. Jan. 1, 1992.

§68-5105. Renumbered as § 3205 of this title by Laws 1988, c. 162, § 160, eff. Jan. 1, 1992.

§68-5106. Renumbered as § 3206 of this title by Laws 1988, c. 162, § 160, eff. Jan. 1, 1992.

§68-5301. Imposition of tax on new vehicles and vessels in lieu of ad valorem tax.

A. A tax is hereby imposed in lieu of the ad valorem tax on the inventories of new automobiles, new trucks, new travel trailers, new manufactured homes, new recreational vehicles and new motorcycles owned and/or possessed for sale by Oklahoma licensed dealers, licensed under the Oklahoma Vehicle License and Registration Act, and on the inventories of new vessels and new motors owned and/or possessed for sale by Oklahoma licensed dealers licensed pursuant to the Oklahoma Vessel and Motor Registration Act. Said tax shall be paid by the dealer on such new vehicles in lieu of the annual ad valorem tax assessment of his average inventory of new vehicles, new manufactured homes, new recreational vehicles, new vessels and new motors, but shall not relieve any other property of the dealer from ad valorem taxation.

B. Used motor vehicle dealers shall pay a tax in lieu of the ad valorem tax on inventories of used motor vehicles as provided for in Section 1137.1 of Title 47 of the Oklahoma Statutes. Amended by Laws 1986, c. 172, § 4, eff. July 1, 1986; Laws 1989, c. 346, § 74, eff. Jan. 1, 1990.

§68-5302. Affixing of stamp prior to sale and registration - Amount of stamp.

A. The in-lieu tax imposed in Section 5301 of this title shall be evidenced by a tax stamp affixed by said dealer to the Manufacturer's Certificate or Statement of Origin covering each new automobile, truck, travel trailer, manufactured home, recreational vehicle, motorcycle, vessel, watercraft, motorboat, or other boats and motor before the dealer executes the assignment on such Certificate of Origin transferring the ownership of such vehicle to the purchaser. The tax stamp shall be in the amount of Three Dollars and fifty cents (\$3.50).

B. It shall be unlawful for a licensed new vehicle, manufactured home, recreational vehicle, or motorboat and vessel dealer to sell or assign a Certificate of Origin to any new automobile, truck, travel trailer, manufactured home, recreational vehicle, motorcycle, vessel, watercraft, motorboat, or other boat or motor sold by the manufacturer of such vehicle to such dealer for delivery and registration in Oklahoma without his having first obtained and affixed to such Certificate of Origin a proper tax stamp as required by the provisions of this section, except to assign such Certificate of Origin to another authorized licensed dealer franchised to sell such new items of the same manufacturer.

C. No new automobile, manufactured home, recreational vehicle, truck, travel trailer, motorcycle, vessel, watercraft, motorboat, or other boat or motor shall be registered and licensed by the Oklahoma Tax Commission or one of its motor license agents unless the Manufacturer's Certificate or Statement of Origin covering such new vehicle, manufactured home, recreational vehicle, vessel, watercraft, motorboat, or other boat and motor shall have the tax stamp provided for in this section affixed on such Manufacturer's Certificate or Statement of Origin. Amended by Laws 1984, c. 195, § 8, eff. Jan. 1, 1985.

§68-5304. Purchase of stamps - Form - Distribution - Custody.

The tax stamps required by this act to be placed upon Manufacturer's Certificates or Statements of Origin of new automobiles, new trucks, new travel trailers, new manufactured homes, new recreational vehicles, new motorcycles, new vessels, new watercraft, new motorboats and other new boats and new motors, and on the applications for registration of the vehicles described in Section 5303 of this title shall be manufactured or purchased by the Oklahoma Tax Commission in the required amounts. Said tax stamps shall be of such design, color combination and material as the Tax Commission shall deem necessary for the administration of this tax and to afford the best security to the tax revenue involved. The Commission may require any manufacturer of such tax stamps to furnish a bond in such amount as it deems necessary to protect the state and counties against loss. The Tax Commission shall distribute such tax stamps to the county treasurer of each county, taking such receipt therefor as may be necessary, and said county treasurer shall have the responsibility of the custody and the sale of said stamps to the person required by this act to obtain same, and shall have the duty of accounting for said stamps to their respective counties, and to the Oklahoma Tax Commission as it may require.

Laws 1971, c. 177, § 4, operative July 1, 1971; Laws 1972, c. 97, § 4, operative July 1, 1972; Laws 1973, c. 271, § 4, operative July 1, 1973; Laws 1978, c. 216, § 4, emerg. eff. April 21, 1978; Laws 1981, c. 118, § 32.

§68-5305. Apportionment of revenue.

The county treasurer shall, at the end of each calendar month, apportion all collections from the sales of the tax stamps herein provided for as follows:

Two percent (2%) shall be deposited to the credit of the General Revenue Fund of the State Treasury, and

Forty-nine percent (49%) shall be allocated to the schools of the county on an ADA basis, and forty-nine percent (49%) shall go to the general fund of the county.

Amended by Laws 1986, c. 223, § 49, operative July 1, 1986.

§68-5306. Qualifications.

When used in this act, the terms "automobile", "truck", "manufactured home", "travel trailer" and "motorcycle" shall have the meanings as same are respectively defined in the Oklahoma Vehicle License and Registration Act, and the terms "new automobile", "new truck", "new motorcycle", "new manufactured home" and "new recreational vehicle" shall be given the same meaning as the term "new vehicle" is defined in the Oklahoma Vehicle License and Registration Act. Vessel and motors shall have the same meanings as in the Oklahoma Vessel and Motor Registration Act. The term "truck" shall also include truck-tractors and farm trucks, but this act shall not be construed as relieving or exempting from ad valorem taxation the

inventory of dealers in special mobilized machinery, motor homes or any other similar self-propelled vehicles.

Laws 1971, c. 177, § 6, operative July 1, 1971; Laws 1972, c. 97, § 5, operative July 1, 1972; Laws 1973, c. 271, § 5, operative July 1, 1973; Laws 1978, c. 216, § 5, emerg. eff. April 21, 1978; Laws 1981, c. 118, § 33.

§68-5401. Tax on farm equipment in lieu of ad valorem tax - Items to be taxed - Minimum retail list price - Exceptions.

A. A tax is hereby imposed, in lieu of the ad valorem tax on certain items of the whole goods inventories, both new and used items, owned and/or possessed for sale or lease by retailers of farm tractors and other equipment as defined by subsection C of this section.

B. Items to be taxed in lieu of ad valorem pursuant to the provisions of this section are those items of inventory of whole goods agricultural equipment and whole goods attachments thereto received from suppliers of agricultural equipment, if said items have a retail list price of Five Hundred Dollars (\$500.00) or higher but not including repair or replacement parts. The tax shall be paid by the dealer on such items in lieu of the annual ad valorem tax assessment of dealer's average inventory but shall not relieve any other property of the dealer from ad valorem taxation. Each dealer shall maintain a sales log for applicable items pursuant to this section with a serial number where applicable. The log shall be subject to inspection by county assessors. Equipment sold by consignment or by auctions where the selling agent does not take title to the equipment shall continue to be subject to ad valorem taxation. Sales of covered whole goods items between dealers shall be considered wholesale transactions and shall not be subject to the tax imposed by this section until sold at retail.

C. For purposes of this act, a retailer of farm tractors and other equipment is any person having a franchise or dealer agreement for selling and retailing farm tractors and farm implements. On and after January 1, 1993, those business entities which do not have a franchise or dealer agreement for retailing farm equipment, but which from time to time publicly buy and sell such farm equipment shall also be subject to the provisions of this section, and the tax imposed by this section shall apply to the same items and under the same conditions as apply to franchised dealers.

D. "Whole goods agricultural equipment" shall be defined as any machine, including but not limited to a farm tractor, combine, plow or baler, capable of performing agricultural operations either with power from its own engine, or when drawn or otherwise moved by another whole goods unit. "Whole goods attachments" shall be defined as those complete attachments which, when fitted to, drawn or otherwise moved by other equipment, perform specialized agricultural operations. Such attachments include, but shall not be limited to, combine headers, mowers, swathers, shredders and cultivation and haying equipment.

Added by Laws 1991, c. 149, § 1, eff. Jan. 1, 1992. Amended by Laws 1992, c. 360, § 7, eff. July 1, 1992.

§68-5402. When tax shall apply - Tax stamps - Affixing stamps prior to transfer of ownership.

A. The in-lieu tax imposed in Section 5401 of this title shall apply on the date of sale or lease and shall be evidenced by a tax stamp. The tax stamp shall be based on the following actual sales price without reduction for any trade-in:

1. Beginning with sales of Five Hundred Dollars (\$500.00) to One Thousand Nine Hundred Ninety-nine Dollars (\$1,999.00): \$6.00;

2. Two Thousand Dollars (\$2,000.00) to Nine Thousand Nine Hundred Ninety-nine Dollars (\$9,999.00): \$12.00;
3. Ten Thousand Dollars (\$10,000.00) to Nineteen Thousand Nine Hundred Ninety-nine Dollars (\$19,999.00): \$18.00;
4. Twenty Thousand Dollars (\$20,000.00) to Twenty-nine Thousand Nine Hundred Ninety-nine Dollars (\$29,999.00): \$24.00;
5. Thirty Thousand Dollars (\$30,000.00) to Thirty-nine Thousand Nine Hundred Ninety-nine Dollars (\$39,999.00): \$36.00;
6. Forty Thousand Dollars (\$40,000.00) to Forty-nine Thousand Nine Hundred Ninety-nine Dollars (\$49,999.00): \$48.00;
7. Fifty Thousand Dollars (\$50,000.00) to Fifty-nine Thousand Nine Hundred Ninety-nine Dollars (\$59,999.00): \$60.00;
8. Sixty Thousand Dollars (\$60,000.00) to Sixty-nine Thousand Nine Hundred Ninety-nine Dollars (\$69,999.00): \$72.00;
9. Seventy Thousand Dollars (\$70,000.00) to Seventy-nine Thousand Nine Hundred Ninety-nine Dollars (\$79,999.00): \$84.00;
10. Eighty Thousand Dollars (\$80,000.00) to Eighty-nine Thousand Nine Hundred Ninety-nine Dollars (\$89,999.00): \$96.00; and
11. Ninety Thousand Dollars (\$90,000.00) and above: \$108.00.

B. The appropriate tax stamp or stamps shall be affixed by the dealer to the dealer's copy of the sales invoice covering new or used whole goods agricultural equipment and whole goods attachments thereto sold before transferring ownership to any new or used farm implement. Added by Laws 1991, c. 149, § 2, eff. Jan. 1, 1992. Amended by Laws 1992, c. 360, § 8, eff. July 1, 1992.

§68-5403. Manufacture or purchase of stamps - Form - Bond - Distribution - Custody.

A. The tax stamp or stamps required by Section 5402 of this title to be affixed upon the dealer's copy of the sales invoice covering each new or used whole goods agricultural equipment or whole goods attachment thereto sold shall be manufactured or purchased by the Oklahoma Tax Commission in the required amounts. Said tax stamps shall be of such design, color combination and material and value in multiples of Six Dollars (\$6.00) as the Tax Commission shall deem necessary for the administration of this tax and to afford the best security to the tax revenue involved. Said stamps shall be purchased by dealers in the county where the business is located.

B. The Commission may require any manufacturer of such tax stamps to furnish a bond in such amount as it deems necessary to protect the state and local taxing entities against loss.

C. The Tax Commission shall distribute such tax stamps to the county treasurer of each county, taking such receipt therefor as may be necessary. The county treasurer shall have the responsibility of the custody and the sale of the stamps to the person required by Section 5402 of this title to obtain such stamps. In addition, the county treasurer shall have the duty of accounting for said stamps to their respective counties, and to the Oklahoma Tax Commission as it may require.

Added by Laws 1991, c. 149, § 3, eff. Jan. 1, 1992. Amended by Laws 1992, c. 360, § 9, eff. July 1, 1992.

§68-5404. Apportionment of collections from stamp sales - Report to county assessor - Computation of new assessed valuation.

The county treasurer shall apportion each month all collections from the sale of tax stamps pursuant to Section 5402 of this title as follows:

1. Two percent (2%) shall be deposited to the credit of the General Revenue Fund of the State Treasury; and
2. Ninety-eight percent (98%) shall be distributed as if said funds had been collected as ad valorem tax where the farm implement dealer's business is located.

Funds received by taxing jurisdictions from this source shall be utilized as if the said funds had in fact been generated by ad valorem taxes, including servicing of debt by sinking funds. On and after January 1, 1993, and at the end of each calendar year thereafter, the treasurer shall furnish a report to the county assessor, which shall show the total amount of in-lieu taxes authorized by this act and apportioned during the fiscal year to those taxing jurisdictions authorized to receive revenue from such in-lieu taxes. The assessor shall calculate annually the amount of assessed valuation that otherwise would be displaced by such in-lieu tax, by dividing the total amount of revenue derived from such tax apportioned to each taxing jurisdiction by the actual millage rate levied by each taxing jurisdiction during the fiscal year. The assessor shall add the result of that calculation to the actual assessed valuation of each taxing jurisdiction to determine the new adjusted assessed valuation of each taxing jurisdiction, and said adjusted assessed valuation shall be used for all purposes, including the determination of debt limits, in the following fiscal year whenever the term "assessed valuation" is required to be used.

Added by Laws 1991, c. 149, § 4, eff. Jan. 1, 1992. Amended by Laws 1992, c. 27, § 1, eff. July 1, 1992; Laws 1993, c. 146, § 26.

§68-6001. Definitions.

As used in Section 6001 et seq. of this title:

1. "Aircraft" means and includes every self-propelled plane, airplane, helicopter, or balloon or sailplane manufactured by mass production or individually constructed or assembled, used, or designed for navigation or flight in the air or airspace, and subject to registration with the Federal Aviation Administration;
2. "Commercial airline" means an air carrier, foreign air carrier or intrastate air carrier, as defined by Section 40102 of Title 49 of the United States Code, 49 U.S.C., Section 40102, and operating pursuant to Part 121 or 129 of Title 14 of the Code of Federal Regulations, 14 CFR, Part 121 or 129, or conducting scheduled or unscheduled services pursuant to Part 135 thereof;
3. "Purchase price" means the total amount paid for the aircraft whether paid in money or otherwise. "Purchase price" is further defined as the fair market value when no current purchase is involved; and
4. "Use" means and includes the operation or basing of an aircraft on or from any airport in this state for a period of thirty (30) days or more. For purposes of Section 6001 et seq. of this title, the term "use" does not apply to aircraft which are intended for exclusive use in another state, but which are stored in this state pending shipment to such other state, or aircraft which are retained in this state solely for fabrication, repair, testing, alteration, modification, refurbishing or maintenance.

Added by Laws 1984, c. 138, § 2, operative July 1, 1984. Amended by Laws 1995, c. 337, § 12, emerg. eff. June 9, 1995; Laws 1996, c. 344, § 2, eff. July 1, 1996; Laws 2000, c. 239, § 2, eff. July 1, 2000.

§68-6002. Levy of tax - Interest.

Beginning on and after July 1, 1984, there shall be levied an excise tax of three and one-fourth percent (3 1/4%) of the purchase price of each aircraft that is to be registered with the Federal Aviation Administration, upon the transfer of legal ownership of any such aircraft or the use of any such aircraft within this state. The excise tax levied pursuant to the provisions of Sections 6001 through 6004 of this title is in lieu of all other taxes on the transfer or the first registration in this state on aircraft, including optional equipment and accessories attached thereto at the time of sale and sold as a part thereof, except annual aircraft registration fees. The tax hereby levied shall be due at the time of the transfer of legal ownership or first registration in this state, and shall be collected by the Oklahoma Tax Commission at the time of the issuance of a certificate of registration for any such aircraft. The excise tax levied pursuant to the provisions of this section shall be delinquent from and after the twentieth day after the legal ownership or possession of any aircraft is obtained. Any person failing or refusing to pay the tax provided for in this section on or before the date of delinquency shall pay, in addition to the tax, a penalty of ten percent (10%) on the total amount of tax due. Interest shall be collected on the total delinquent tax at the rate of one and one-fourth percent (1 1/4%) per month from the date of the delinquency until said tax is paid.

Added by Laws 1984, c. 138, § 3, operative July 1, 1984. Amended by Laws 1985, c. 179, § 95, operative July 1, 1985; Laws 1991, c. 342, § 25, emerg. eff. June 15, 1991.

§68-6003. Exemptions.

The following aircraft shall be exempt from provisions of Section 6001 et seq. of this title:

1. Aircraft manufactured under an F.A.A. approved certificate and which are owned and in the physical possession of the manufacturer of the aircraft. The aircraft shall have an aircraft exemption license as provided for in Section 254 of Title 3 of the Oklahoma Statutes;

2. Aircraft owned by dealers and in the dealer's inventory, not including aircraft that are used personally or for business. In order for this exemption to apply, the dealer shall be licensed in accordance with Section 254.1 of Title 3 of the Oklahoma Statutes;

3. Aircraft of the federal government, any agency thereof, any territory or possession, any state government, agency, or political subdivision thereof;

4. Aircraft transferred from one corporation or limited liability company to another corporation or limited liability company pursuant to reorganization of the corporation or limited liability company. For the purpose of this section the term reorganization means a statutory merger, consolidation, or acquisition;

5. Aircraft purchased or used by commercial airlines as defined by paragraph 2 of Section 6001 of this title;

6. Aircraft transferred in connection with the dissolution or liquidation of a corporation or limited liability company and only if included in a payment in kind to the shareholders or members;

7. Aircraft transferred to a corporation for the purpose of organizing such corporation. However, the former owners of the aircraft must have control of the corporation in proportion to their interest in the aircraft prior to the transfer;

8. Aircraft transferred to a partnership or limited liability company when the organization of the partnership or limited liability company is by the former owners of the aircraft. However,

the former owners of the aircraft must have control of the partnership in proportion to their interest in the aircraft prior to the transfer;

9. Aircraft transferred from a partnership or limited liability company to the members of the partnership or limited liability company and if made in payment in kind in the dissolution of the partnership;

10. Aircraft transferred or conveyed to a partner of a partnership or shareholder or member of a limited liability company or other person who after such sale owns a joint interest in the aircraft and on which the sales or use tax levied pursuant to the provisions of this title or the excise tax levied pursuant to the provisions of Section 6002 of this title have previously been paid on the aircraft;

11. Aircraft on which a tax levied pursuant to the provisions of the laws of another state, equal to or in excess of the excise tax levied by Section 6002 of this title, has been paid by the person using the aircraft in this state. Aircraft on which a tax levied pursuant to the laws of another state, in an amount less than the excise tax levied by Section 6002 of this title, has been paid by the person using the aircraft in this state shall be subject to the levy of the excise tax at a rate equal to the difference between the rate of tax levied by Section 6002 of this title and the rate of tax levied by the other state;

12. Aircraft when legal ownership of such aircraft is obtained by the applicant for a certificate of title by inheritance;

13. Aircraft when legal ownership of such aircraft is obtained by the lienholder or mortgagee under or by foreclosure of a lien or mortgage in the manner provided for by law;

14. Aircraft which is transferred between husband and wife or parent and child where no valuable consideration is given;

15. Aircraft which is purchased by a resident of this state and used exclusively in this state for agricultural spraying purposes; provided, if such aircraft is sold, leased or used outside this state or for a purpose other than agricultural spraying at any time within three (3) years from the date of purchase, the excise tax levied pursuant to the provisions of Section 6002 of this title shall be due and payable. For purposes of this subsection, "agricultural spraying" means the aerial application of any substance sold and used for soil enrichment or soil corrective purposes or for promoting the growth and productivity of plants and animals;

16. Aircraft which have a selling price in excess of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) and which are transferred to a purchaser who is not a resident of this state for immediate transfer out of state;

17. Aircraft which is transferred without consideration between an individual and an express trust which that individual or the spouse, child or parent of that individual has a right to revoke; and

18. Rotary-wing aircraft purchased to be used exclusively for the purpose of training U.S. military personnel or other training authorized by the U.S. Government. The exemption provided by this paragraph shall cease to be effective on January 1, 2018.

Added by Laws 1984, c. 138, § 4, operative July 1, 1984. Amended by Laws 1985, c. 341, § 3, emerg. eff. July 30, 1985; Laws 1986, c. 41, § 8, operative July 1, 1986; Laws 1991, c. 184, § 1, eff. July 1, 1991; Laws 1992, c. 225, § 4, eff. July 1, 1992; Laws 1993, c. 41, § 1, emerg. eff. April 5, 1993; Laws 1993, c. 366, § 49, eff. Sept. 1, 1993; Laws 1994, c. 363, § 11, eff. July 1, 1994; Laws 1995, c. 337, § 13, emerg. eff. June 9, 1995; Laws 1996, c. 344, § 3, eff. July 1, 1996; Laws 1997, c. 294, § 27, eff. July 1, 1997; Laws 1999, c. 283, § 1, eff. July 1, 1999; Laws 2000, c. 138, § 3, eff. July 1, 2000; Laws 2013, c. 380, § 1, eff. Nov. 1, 2013.

NOTE: Laws 1991, 1st Ex.Sess., c. 2, § 14 repealed by Laws 1992, c. 225, § 11, eff. July 1, 1992.

§68-6003.1. Repealed by Laws 2009, c. 424, § 1, emerg. eff. June 1, 2009.

§68-6004. Report on transfer of legal ownership of aircraft - Cancellation or suspension of license.

The Tax Commission shall require every person licensed as a dealer in aircraft pursuant to the provisions of Sections 251 through 257 of Title 3 of the Oklahoma Statutes to make a report to the Tax Commission within a period of thirty (30) days after the transfer by such person of the legal ownership of any aircraft. The report shall be made on a form prescribed and furnished by the Tax Commission, showing the name and address of the purchaser, a description of the aircraft, including the name of the manufacturer, the Federal Aviation Administration registration number of the aircraft, the type and year manufactured, the serial number, the date of the transfer, and the amount of the sale price. The Tax Commission may cancel or suspend the license of any person licensed as a dealer in aircraft pursuant to the provisions of Sections 251 through 257 of Title 3 of the Oklahoma Statutes who shall fail or refuse to comply with the provisions of Sections 2 through 8 of this act.

Added by Laws 1984, c. 138, § 5, operative July 1, 1984.

§68-6005. Distribution of revenues.

A. For fiscal years beginning prior to July 1, 1999, all revenues derived pursuant to the provisions of Sections 6001 through 6007 of this title shall be paid monthly by the Oklahoma Tax Commission to the State Treasurer and placed to the credit of the General Revenue Fund to be paid out pursuant to direct appropriation by the Legislature.

B. 1. For the fiscal year beginning July 1, 1999, fifty percent (50%) of all revenues derived pursuant to the provisions of Sections 6001 through 6007 of this title shall be paid monthly by the Tax Commission to the State Treasurer and placed to the credit of the General Revenue Fund to be paid out pursuant to direct appropriation by the Legislature, and fifty percent (50%) of the revenues shall be placed to the credit of the Oklahoma Aeronautics Commission Revolving Fund; and

2. For the fiscal year beginning July 1, 2000, and for each fiscal year thereafter, one hundred percent (100%) of the revenues derived pursuant to the provisions of Sections 6001 through 6007 of this title shall be paid monthly by the Tax Commission to the State Treasurer and shall be placed to the credit of the Oklahoma Aeronautics Commission Revolving Fund.

Added by Laws 1984, c. 138, § 6, operative July 1, 1984. Amended by Laws 1998, c. 303, § 1, eff. July 1, 1999; Laws 1999, c. 283, § 3, eff. July 1, 1999.

§68-6006. Seizure and sale of aircraft.

A. If the owner of an aircraft subject to the tax levied pursuant to the provisions of this act fails or refuses to pay said tax after proper demand thereof by an officer or agent of the Tax Commission, such officer or agent shall report said failure to the Tax Commission, and shall seize and hold the aircraft in the same manner as provided for in Section 116.14 of Title 47 of the Oklahoma Statutes for the seizure of motor vehicles.

B. The Tax Commission, upon demand of the owner of said aircraft, shall accord a hearing to said owner as provided for by law and enter its findings and order accordingly. If it

shall be determined by the Tax Commission that said tax is due and payable, then it shall issue its warrant directly to the sheriff of the county in which the aircraft is located, and direct the sale of such aircraft according to the same procedures provided for in Section 116.14 of Title 47 of the Oklahoma Statutes for the sale of vehicles for failure to pay the annual license fee. Such seizure and sale of such aircraft may include both the registration fee due and the excise tax levied pursuant to the provisions of this act, together with all costs of advertisement and sale. The sale shall be conducted in the same manner as provided for by law for the sale of personal property under execution.

Added by Laws 1984, c. 138, § 7, operative July 1, 1984.

§68-6007. Rules and regulations.

Authority is hereby given to the Oklahoma Tax Commission to promulgate all necessary rules and regulations for the purpose of implementing and enforcing the provisions of Sections 2 through 6 of this act.

Added by Laws 1984, c. 138, § 8, operative July 1, 1984.

§68-6101. Assessments - Rebates.

A. All parties required to pay an assessment pursuant to Section 173 of Title 85 of the Oklahoma Statutes shall be entitled to receive a rebate equal to two-thirds (2/3) of the amount of the assessment actually paid, subject to application to and approval of the same by the Oklahoma Tax Commission. This rebate shall only apply to assessments due after January 15, 2002. This rebate shall not be considered in determining tax liability of an insurer pursuant to Section 629 of Title 36 of the Oklahoma Statutes.

B. Beginning January 1, 2003, the Oklahoma Tax Commission shall accept applications for rebates from all eligible parties for assessments paid pertaining to the previous calendar year. If any party fails to apply for a rebate on or before May 31 of each year, the Tax Commission shall reduce the amount of the rebate in the application by ten percent (10%). No rebates shall be paid until after July 1 of each year.

C. The Oklahoma Tax Commission may promulgate rules as necessary to effectuate the provisions of this act.

Added by Laws 2002, c. 31, § 2, emerg. eff. April 10, 2002. Amended by Laws 2007, c. 155, § 16, eff. Nov. 1, 2007.

§68-6102. Workers' Compensation Assessment Rebate Fund.

There is hereby created within the State Treasury a special fund for the Oklahoma Tax Commission to be designated the "Workers' Compensation Assessment Rebate Fund". The Oklahoma Tax Commission is hereby authorized and directed to withhold a portion of the taxes levied and collected pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for deposit into the fund. The amount deposited shall be appropriate to pay the rebates provided for in Section 2 of this act. All of the amounts deposited in such fund shall be used and expended by the Oklahoma Tax Commission solely for the purpose of payment of rebates authorized by Section 2 of this act. The liability of the State of Oklahoma to make the rebate payments under Section 2 of this act shall be limited to the balance contained in the fund created by this section.

Added by Laws 2002, c. 31, § 3, emerg. eff. April 10, 2002.

§68-24100. Renumbered as § 3020 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-24101. Renumbered as § 3021 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and by Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-24102. Renumbered as § 3022 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-24103. Renumbered as § 3023 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-24104. Renumbered as § 3024 of this title by Laws 1988, c. 162, § 163, eff. January 1, 1992 and by Laws 1991, c. 249, § 3, eff. January 1, 1992.

§68-24105. Renumbered as § 3025 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-24106. Renumbered as § 3026 of this title by Laws 1988, c. 162, § 163, eff. January 1, 1992, and by Laws 1991, c. 249, § 3, eff. January 1, 1992.

§68-24107. Renumbered as § 3027 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-24108. Renumbered as § 3028 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-24109. Renumbered as § 3029 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-24110. Renumbered as § 3030 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-24111. Renumbered as § 3031 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-24112. Renumbered as § 3032 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-24113. Renumbered as § 3033 of this title by Laws 1988, c. 162, § 163, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 3, eff. Jan. 1, 1992.

§68-24200. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24201. Repealed by Laws 1988, c. 162, § 165, eff. Jan. 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24202. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24203. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24204. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24205. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24206. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24207. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24208. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24209. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24210. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24211. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24212. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24213. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24214. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24215. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24216. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24217. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24218. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24219. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24220. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24227. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24228. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24229. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24230. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24231. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24232. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24233. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24237. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24302.5. Renumbered as § 3401 of this title by Laws 1988, c. 162, § 162, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 2, eff. Jan. 1, 1992.

§68-24302.6. Renumbered as § 3402 of this title by Laws 1988, c. 162, § 162, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 2, eff. Jan. 1, 1992.

§68-24302.7. Renumbered as § 3403 of this title by Laws 1988, c. 162, § 162, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 2, eff. Jan. 1, 1992.

§68-24302.8. Renumbered as § 3404 of this title by Laws 1988, c. 162, § 162, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 2, eff. Jan. 1, 1992.

§68-24302.9. Renumbered as § 3405 of this title by Laws 1988, c. 162, § 162, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 2, eff. Jan. 1, 1992.

§68-24302.10. Renumbered as § 3406 of this title by Laws 1988, c. 162, § 162, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 2, eff. Jan. 1, 1992.

§68-24302.11. Renumbered as § 3407 of this title by Laws 1988, c. 162, § 162, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 2, eff. Jan. 1, 1992.

§68-24303. Repealed by Laws 1988, c. 162, § 165, eff. Jan. 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24304. Repealed by Laws 1984, c. 295, § 6, eff. Jan. 1, 1985.

§68-24304.1. Renumbered as § 3101 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24305. Renumbered as § 3102 of this title by Laws 1988, c. 162, § 161, eff. January 1, 1992 and Laws 1991, c. 249, § 1, eff. January 1, 1992.

§68-24306. Renumbered as § 3103 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24306.1. Renumbered as § 3104 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24311. Renumbered as § 3105 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24312. Renumbered as § 3106 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24313. Renumbered as § 3107 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24313.1. Renumbered as § 3108 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24314. Renumbered as § 3109 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24315. Renumbered as § 3110 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24316. Renumbered as § 3111 of this title by Laws 1988, c. 162, § 161, eff. January 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24317. Renumbered as § 3112 of this title by Laws 1988, c. 162, § 161, eff. January 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24318. Renumbered as § 3113 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24319. Renumbered as § 3114 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24320. Renumbered as § 3115 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24321. Renumbered as § 3116 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24322. Renumbered as § 3117 of this title by Laws 1988, c. 162, § 161, eff. January 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24323. Renumbered as § 3118 of this title by Laws 1988, c. 162, § 161, eff. January 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24323.1. Renumbered as §3119 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24324. Renumbered as § 3120 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24325. Renumbered as § 3121 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24326. Renumbered as §3122 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24327. Renumbered as § 3123 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24328. Renumbered as § 3124 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24329. Renumbered as §3125 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24330. Renumbered as § 3126 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24331. Renumbered as § 3127 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24332. Renumbered as § 3128 of this title by Laws 1988, c. 162, § 161, eff. January 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24333. Renumbered as § 3129 of this title by Laws 1988, c. 162, § 161, effective January 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24334. Renumbered as § 3130 of this title by Laws 1988, c. 162, § 161, effective January 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan 1, 1992.

§68-24335. Renumbered as § 3131 of this title by Laws 1988, c. 162, § 161, effective January 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24336. Renumbered as § 3132 of this title by Laws 1988, c. 162, § 161, eff. January 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24337. Renumbered as § 3133 of this title by Laws 1988, c. 162, § 161, effective January 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24338. Renumbered as § 3134 of this title by Laws 1988, c. 162, § 161, effective January 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24339. Renumbered as § 3135 of this title by Laws 1988, c. 162, § 161, effective January 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24340. Renumbered as § 3136 of this title by Laws 1988, c. 162, § 161, effective January 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24341. Renumbered as § 3137 of this title by Laws 1988, c. 162, § 161, effective January 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24342. Renumbered as § 3138 of this title by Laws 1988, c. 162, § 161, effective January 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24343. Renumbered as § 3139 of this title by Laws 1988, c. 162, § 161, effective January 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24344. Renumbered as § 3140 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24345. Renumbered as § 3141 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24346. Renumbered as § 3142 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24347. Renumbered as § 3143 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24348. Renumbered as § 3144 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24349. Renumbered as § 3145 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24350. Renumbered as § 3146 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24351. Renumbered as § 3147 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24400. Renumbered as § 3148 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24401. Renumbered as § 3149 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24402. Renumbered as § 3150 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24403. Renumbered as § 3151 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24404. Renumbered as § 3152 of this title by Laws 1988, c. 162, § 161, eff. Jan. 1, 1992 and Laws 1991, c. 249, § 1, eff. Jan. 1, 1992.

§68-24410. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-24411. Repealed by Laws 1988, c. 162, § 165, eff. January 1, 1992 and by Laws 1991, c. 249, § 4, eff. Jan. 1, 1992.

§68-50001. Tax on fire insurance gross premiums - Fire Marshal Fund - Salaries of employees of State Fire Marshal.

There is hereby levied upon percentages of fire insurance gross premiums from a sum of the following lines of insurance: fire, allied, homeowners multiperil, commercial multiperil, growing crops, ocean marine, inland marine, auto physical damage (including collision), and aircraft physical damage, less returns and dividends to policyholders, which is issued in this state by companies doing business in this state a tax of five-sixteenths of one percent (5/16 of 1%). The percentages of fire insurance gross premiums to be considered for taxation shall be determined annually by the Commissioner. This tax shall be collected annually, by the last day of February, from companies collecting such premiums and shall be collected by the Insurance Commissioner as other taxes on insurance are collected. The Insurance Commissioner shall keep a separate account of all such monies received and shall pay the same to the State Treasurer. There is hereby created in the State Treasury a fund for the Fire Marshal Commission and the State Fire Marshal to be designated the "Fire Marshal Fund". The fund shall consist of all monies collected pursuant to the provisions of this section and shall be used in the performance of duties imposed by law upon the Fire Marshal Commission and the Office of the State Fire Marshal. Expenditures from the Fire Marshal Fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. Beginning July 1, 1982, all expenditures from the Fire Marshal Fund shall be made pursuant only to legislative appropriation. Beginning July 1, 1983, all monies collected pursuant to the provisions of this section shall be deposited in the State Treasury for credit to the General Revenue Fund of the state. Employees of the Office of State Fire Marshal, other than the State Fire Marshal, shall have salaries commensurate with those fixed by the Merit System of Personnel Administration. All salaries shall be payable monthly from funds available to the State Fire Marshal. The State Fire Marshal, subject to confirmation by the Fire Marshal Commission, shall appoint and fix the salaries of such employees as are necessary to fulfill the duties of his office.

Added by Laws 1941, p. 334, § 1, emerg. eff. May 16, 1941. Amended by Laws 1965, c. 291, § 1, emerg. eff. June 24, 1965; Laws 1967, c. 40, § 1, emerg. eff. March 24, 1967, Laws 1970, c. 103, § 1, emerg. eff. March 30, 1970; Laws 1973, c. 42, § 1, emerg. eff. April 25, 1973; Laws 1974, c. 113, § 1, emerg. eff., May 1, 1974; Laws 1976, c. 115, § 1, emerg. eff. May 14, 1976; Laws 1977, c. 34, § 1, emerg. eff. May 14, 1976; Laws 1977, c. 34, § 1, emerg. eff. May 6, 1977; Laws 1978, c. 163, § 1, emerg. eff. April 7, 1978; Laws 1979, c. 290, § 1, emerg. eff. May 25, 1979; Laws 1980, c. 88, § 1, emerg. eff. April 10, 1980; Laws 1981, c. 239, § 1, emerg. eff. June 22, 1981; Laws 1982, c. 216, § 4, emerg. eff. April 29, 1982; Laws 1983, c. 202, § 4, operative July 1, 1983; Laws 1987, c. 175, § 34, eff. Nov. 1, 1987; Laws 2012, c. 304, § 569.

NOTE: Laws 1981, c. 36, § 3 repealed by Laws 1981, c. 239, § 2, emerg. eff. June 22, 1981.

§68-50002. Lost cigarette and tobacco stamps - Refunds.

The Oklahoma Tax Commission is hereby authorized to refund a wholesaler and/or jobber for cigarette or tobacco tax stamps which have not been received after a period of ninety (90) days has expired from the date of mailing such stamps; provided that before any refund is made, (a) an affidavit shall have been filed by the wholesaler and/or jobber with the Oklahoma Tax Commission setting forth the facts, (b) the Oklahoma Tax Commission has made an investigation, and (c) an audit has been made to determine the loss. Payment of any such refund

shall be made from current collections from such stamps and an appropriation of so much of said funds as is necessary for such purpose is hereby made.

Laws 1967, c. 373, § 1, emerg. eff. May 22, 1967.

§68-50003. Return of stamps found after refund.

If, after payment of the refund, the cigarette or tobacco stamps are found, such stamps shall be returned immediately to the Oklahoma Tax Commission and failure to return the stamps shall constitute a felony.

Laws 1967, c. 373, § 2, emerg. eff. May 22, 1967.

§68-50004. Coin-operated amusement devices - Location and hours of operation - Licensing.

Any coin-operated amusement device, including pool and billiard tables, operated in conjunction with any place of business may lawfully be operated and remain open for play during all hours that the place of business in which such device is located may lawfully remain open for business, provided however that not more than one (1) coin-operated pool and billiard table operate in each individual place of business outside the city limits of a city or town, and the presence of such coin-operated amusement devices shall not require any other license because of their presence, as long as they are incidental to the operation of such business and there is a valid coin-operated amusement device license for each such device. Provided that any incorporated city or town may, by ordinance, authorize and license family amusement centers offering pool and billiards to persons of all ages and either sex.

Laws 1967, c. 392, § 1, emerg. eff. May 23, 1967.

§68-50005. Supernumerary Tax Consultant - Creation of office.

There is hereby created the office of State Supernumerary Tax consultant.

Laws 1967, c. 304, § 1, emerg. eff. May 11, 1967.

§68-50006. Qualifications.

(a) No person shall be qualified to serve as a state Supernumerary Tax Consultant unless he shall have the following qualifications:

(1) He shall have served as a member of the Oklahoma tax Commission for at least sixteen (16) years immediately prior to his accepting the position of Supernumerary Tax Consultant.

(2) He shall have been an employee or member of the Oklahoma Tax Commission for a period of not less than thirty-four (34) years prior to his election to assume supernumerary status.

(3) He shall be, at the time of his election to assume supernumerary status, at least sixty-five (65) years of age.

(b) Any person having the above qualifications may elect to become a Supernumerary Tax Consultant at any time prior to the appointment of his successor, by filing written declaration of his intention to accept such position with the Governor of the State of Oklahoma, who shall endorse his approval thereon, if the applicant meets the qualifications herein specified. Upon the approval by the Governor of such election, the office then held by the member of the Oklahoma Tax Commission shall immediately become vacant and the vacancy shall be filled as provided by law and the Constitution.

Added by Laws 1967, c. 304, § 2, emerg. eff. May 11, 1967.

§68-50007. Oath - Duties - Expenses.

Each Supernumerary Tax Consultant shall take the oath of office provided by law and the constitution for other state officers, and shall serve as Tax Consultant upon request of and assignment by the Oklahoma Tax Commission.

A Supernumerary Tax Consultant shall have such duties as are assigned to him by the Oklahoma Tax Commission. A recital in the minutes of the Commission shall be conclusive evidence of the Tax Consultant's authority to act in that capacity. Each Supernumerary Tax Consultant assigned by the Oklahoma Tax Commission on official business to a place other than the office of the Oklahoma Tax Commission shall receive travel and per diem expenses as provided by law for other state officers or employees.

Laws 1967, c. 304, § 3, emerg. eff. May 11, 1967.

§68-50008. Term of office - Removal - Compensation

A Supernumerary Tax Consultant shall hold office during good behavior and may be removed from office in the same manner and upon the same grounds as members of the Oklahoma Tax Commission. Each such Tax Consultant shall receive an annual salary of Eighteen Thousand Dollars (\$18,000.00) per year, payable monthly out of the State Treasury. Supernumerary Tax Consultants shall be subject to all laws, rules and regulations governing the actions of Tax Commissioners and Tax Commission employees. Supernumerary Tax Consultants shall not engage in any activity on a salary or fee basis in conflict with their duties as such Tax Consultant.

Laws 1967, c. 304, § 4, emerg. eff. May 11, 1967; Laws 1976, c. 232, § 8, emerg. eff. June 15, 1976.

§68-50009. Political activity prohibited.

It shall be unlawful for any Supernumerary Tax Consultant of this state to be a candidate for any political office, or to take part in or contribute any money or other thing of value, directly or indirectly, to any political campaign for public office, or in any way to be active or participate in any political contest in any primary, or general election, except to cast a ballot. Any violation of this section shall constitute a misdemeanor and upon conviction thereof said Supernumerary Tax Consultant shall be removed from office.

Laws 1967, c. 304, § 6, emerg. eff. May 11, 1967.

§68-50010. Short title.

Section 50010 et seq. of this title shall be known and may be cited as the "Oklahoma Tourism Promotion Act".

Added by Laws 1987, c. 114, § 1, eff. Nov. 1, 1987. Amended by Laws 2006, 2nd Ex. Sess., c. 44, § 13, eff. July 1, 2007.

§68-50011. Definitions.

As used in the Oklahoma Tourism Promotion Act:

1. "Committee" means the Oklahoma Tourism Promotion Advisory Committee;
2. "Department" means the Oklahoma Tourism and Recreation Department; and
3. "Tourism promotion" or "promote Oklahoma tourism" means and is limited to:
 - a. the cost of producing advertisements, placement of those advertisements with the media (newspapers, magazines, radio, television, billboard, direct mail, and the Internet) and the production and printing of collateral

materials designed specifically to support and fulfill information requests generated by the media advertising campaigns, and the production, printing and distribution of brochures and promotions for regional, national and international tourism conferences. Tourism promotion shall also include festivals, sites and events concerning ethnic history and ethnic events which have occurred or are occurring in this state. For purposes of this paragraph, “ethnic” means of or relating to races or large groups of people classed according to common traits or customs, and

- b. the cost of providing a computerized consumer-oriented traveler response information program. Such program shall include a comprehensive state data base containing up-to-date information on state travel attractions and facilities, including but not limited to, lodging facilities, restaurants, chambers of commerce, convention and visitors bureaus, golf courses, campgrounds, events, regional tourism organizations and all other attractions. Oklahoma travel attractions and facilities shall be included on such data base free of charge.

“Tourism promotion” and “promote Oklahoma tourism” shall not include expenses for travel or lodging.

Added by Laws 1987, c. 114, § 2, eff. Nov. 1, 1987. Amended by Laws 1988, c. 142, § 4, emerg. eff. April 25, 1988; Laws 1988, c. 287, § 9, operative July 1, 1988; Laws 1989, c. 226, § 1, emerg. eff. May 9, 1989; Laws 1993, c. 366, § 50, eff. Sept. 1, 1993; Laws 1995, c. 296, § 1, eff. July 1, 1995; Laws 1997, c. 101, § 1, eff. July 1, 1997; Laws 1999, c. 390, § 15, emerg. eff. June 8, 1999; Laws 2006, 2nd Ex. Sess., c. 44, § 14, eff. July 1, 2007.

§68-50012. Repealed by Laws 2006, 2nd Ex. Sess., c. 44, § 19, eff. July 1, 2007.

§68-50013. Repealed by Laws 2006, 2nd Ex. Sess., c. 44, § 19, eff. July 1, 2007.

§68-50014. Oklahoma Tourism Promotion Revolving Fund - Oklahoma Tourism Capital Improvement Revolving Fund.

A. 1. There is hereby created in the State Treasury a revolving fund for the Oklahoma Tourism and Recreation Department, to be designated the “Oklahoma Tourism Promotion Revolving Fund”. The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Tourism and Recreation Department and apportioned to such fund pursuant to the provisions of Sections 1353 and 1403 of this title and such other monies accredited to the fund pursuant to law.

2. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Tourism and Recreation Department for the purpose of Oklahoma tourism promotion, as defined by Section 50011 of this title, provided that the Department shall ensure that all areas of the state will be adequately promoted, and all monies expended from the fund shall reflect a consistent brand and image in the promotion of Oklahoma tourism.

3. No monies from this revolving fund shall be transferred for any purpose to any other state agency or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense with the exception of contracting and payment for research work completed by an institution of The Oklahoma State System of Higher Education.

No monies from this revolving fund shall be expended for any wage or salary of any employee of any state agency. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

B. 1. There is hereby created in the State Treasury a revolving fund for the Oklahoma Tourism and Recreation Department, to be designated the "Oklahoma Tourism Capital Improvement Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Tourism and Recreation Department and apportioned to such fund pursuant to the provisions of Sections 1353 and 1403 of this title and such other monies accredited to the fund pursuant to law.

2. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Tourism and Recreation Department for the purpose of funding capital improvement projects or operations at state parks and tourist information centers; provided, no more than twenty percent (20%) of the amount accruing annually shall be expended for the purpose of funding operations.

3. No monies from this revolving fund shall be transferred for any purpose to any other state agency. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1987, c. 114, § 5, eff. Nov. 1, 1987. Amended by Laws 1995, c. 296, § 2, eff. July 1, 1995; Laws 1998, c. 301, § 17, eff. Nov. 1, 1998; Laws 2005, c. 17, § 1, eff. Nov. 1, 2005; Laws 2006, 2nd Ex. Sess., c. 44, § 15, eff. July 1, 2007; Laws 2010, c. 466, § 3, eff. July 1, 2010; Laws 2012, c. 304, § 570.

§68-50015. Oklahoma Tourism Promotion Advisory Committee.

A. There is hereby created an Oklahoma Tourism Promotion Advisory Committee which shall advise the Oklahoma Tourism and Recreation Department on matters of statewide tourism promotion. The Committee shall consist of thirteen (13) members and one ex officio nonvoting member as follows:

1. Chair of the Senate Tourism Committee, or designee;
2. Chair of the House of Representatives Tourism and Recreation Committee, or designee;
3. President of the Oklahoma Travel Industry Association, or designee;
4. President of the Oklahoma Lakes and Countries Association, or designee;
5. Member of the Oklahoma Tourism and Recreation Commission, selected by the Oklahoma Tourism and Recreation Commission, whose occupation shall be in the tourism industry;
6. President of the Oklahoma Hotel/Motel Association, or designee;
7. President of the Oklahoma Restaurant Association, or designee;
8. Representative of the City Convention and Tourism Bureau or a representative of a municipal chamber of commerce, appointed by the Oklahoma Tourism and Recreation Commission;
9. Director of the Oklahoma Arts Council, or designee;
10. Representative of the tour operator or travel agent sector, appointed by the Oklahoma Tourism and Recreation Commission;

11. Representative of the transportation sector, including but not limited to, airlines, bus companies, car rental business, appointed by the Oklahoma Tourism and Recreation Commission;

12. Executive Director of the Oklahoma Historical Society, or designee; and

13. Director of the Native American Cultural and Educational Authority, or designee.

The Director of the Travel Promotion Division of the Oklahoma Tourism and Recreation Department, or designee, shall serve as the ex officio nonvoting member.

B. The initial appointed members shall be appointed on or before January 1, 1988. The term of office of each appointed member shall be for one (1) year and end on December 31 of each year, but all members shall hold office until their successors are appointed.

C. The membership shall annually elect a chair and vice-chair of the Committee, each of whom shall serve for a term of one (1) fiscal year and until their successor is elected, and who shall perform such duties as the Committee directs.

D. The members of the Committee shall receive no compensation for their services or reimbursements for any expenses incurred.

E. The Committee shall hold at least four regular meetings each calendar year at a place and time to be fixed by the Oklahoma Tourism and Recreation Commission.

Added by Laws 1987, c. 114, § 6, eff. Nov. 1, 1987. Amended by Laws 1994, c. 47, § 1, emerg. eff. April 11, 1994; Laws 1994, c. 334, § 2, eff. July 1, 1994; Laws 1995, c. 296, § 3, eff. July 1, 1995; Laws 1996, c. 348, § 9, eff. July 1, 1996; Laws 2001, c. 355, § 2, emerg. eff. June 1, 2001; Laws 2010, c. 249, § 1, eff. July 1, 2010.

§68-50016. Master capital improvement plan - Submission of project list to Legislature.

The Department of Tourism and Recreation shall develop, periodically revise and maintain a comprehensive state master capital improvement plan for state park and recreation facilities under its jurisdiction, and shall prioritize projects within the plan. Prior to the expenditure of funds in the Oklahoma Tourism Capital Improvement Revolving Fund, the Department shall identify and list the specific projects for which such funds will be used, which shall be taken from the state master plan in the order of priority. If the Department determines that an emergency exists which could adversely affect the public peace, health and safety, it may identify and list a project not taken from the state master plan in the order of priority. In such instance, the Department shall include a determination of the existence of such emergency and a justification therefor.

The list of such projects shall be submitted to the President Pro Tempore of the Oklahoma State Senate and the Speaker of the Oklahoma House of Representatives. The Legislature may, within thirty (30) legislative days after submission of the list, in a bill or joint resolution approved by a vote of not fewer than two-thirds (2/3) of the members in each house thereof, disapprove one or more projects on the list and direct the Department to revise and resubmit the list as provided herein.

Added by Laws 2006, 2nd Ex. Sess., c. 44, § 16, eff. July 1, 2007.

§68-53001. Renumbered as § 2-11-401 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§68-53002. Renumbered as § 2-11-402 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§68-53003. Renumbered as § 2-11-403 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§68-53004. Renumbered as § 2-11-404 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§68-53005. Renumbered as § 2-11-405 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§68-53006. Renumbered as § 2-11-406 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§68-53007. Renumbered as § 2-11-407 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§68-53008. Renumbered as § 2-11-408 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§68-53009. Renumbered as § 2-11-409 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§68-53010. Renumbered as § 2-11-410 of Title 27A by Laws 1993, c. 145, § 359, eff. July 1, 1993.

§68-54001. Short title.

Sections 5 through 10 of this act shall be known and may be cited as the “Oklahoma Research and Development Incentives Act”.

Added by Laws 1992, c. 225, § 5, eff. July 1, 1992.

§68-54002. Definitions.

As used in the Oklahoma Research and Development Incentives Act:

1. “Qualified purchaser” means any new or expanding business which adds and maintains for a period of at least thirty-six (36) months at least ten (10) new full-time-equivalent in-state employees at an average annual salary of Thirty-five Thousand Dollars (\$35,000.00) per employee, as certified by the Employment Security Commission and is a business 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;

2. “Qualified purchases” means computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment; and

3. “Primarily engaged in” means that not less than seventy-five percent (75%) of the combined annual gross revenues of the original business and the expanding business or not less than seventy-five percent (75%) of the annual gross revenues of the new business result from such activities.

Added by Laws 1992, c. 225, § 6, eff. July 1, 1992.

§68-54003. Purchaser primarily engaged in computer services and data processing or research and development - Sales and use tax exemption.

A. There are hereby specifically exempted from the taxes levied by Section 1354 and Section 1402 of Title 68 of the Oklahoma Statutes sales of qualified purchases to a qualified purchaser which is primarily engaged in computer services and data processing as defined under Industrial Group Numbers 7372, 7373, 7374 and 7375 of the SIC Manual, latest revision, or a qualified purchaser which is primarily engaged in research and development as defined under Industrial Group Numbers 8731, 8732, 8733 and 8734 of the SIC Manual, latest revision.

B. A qualified purchaser which is primarily engaged in computer services and data processing as defined under Industrial Group Number 7374 of the SIC Manual, latest revision, shall be required to have a minimum of One Hundred Thousand Dollars (\$100,000.00) in qualified purchases in order to be eligible to receive the exemption provided for in this section.

C. In order to be eligible to receive the exemption provided for in this section, a new or expanding business shall not include the existing employee positions of any business enterprise that is directly or beneficially owned by a corporation, trust, joint venture, proprietorship, or partnership doing business in this state as of January 1, 1992.

D. Eligibility to receive the exemption provided for in this subsection pursuant to the requirement to derive fifty percent (50%) of revenues from out-of-state buyers or consumers and pursuant to the requirement that the business be primarily engaged in computer services and data processing or in research and development shall be established, subject to review by the Oklahoma Tax Commission, by annually filing an affidavit with the Oklahoma Tax Commission stating that the business so qualifies and such other information as required by the Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers or consumers, all sales to the federal government shall be considered to be sales to an out-of-state buyer or consumer.

Added by Laws 1992, c. 225, § 7, eff. July 1, 1992.

§68-54004. Purchaser primarily engaged in computer services and data processing or research and development - Refund of state and local sales taxes.

A. In order to administer the exemption for sales to a qualified computer services, data processing or research and development facility as provided by Section 7 of this act, there shall be made a sales tax refund for state and local sales taxes paid by the account created by this section to such qualified facility.

B. The Oklahoma Tax Commission shall transfer each month from sales tax collected the amount which the Commission estimates to be necessary to make the sales tax refund provided by this section to an account designated as the Commission determines.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local sales taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified computer services, data processing or research and development facility upon the principal amount of any refund made to such qualified facility for purposes of administering the exemption provided by Section 7 of this act, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-month Treasury Bill of the United States government as of the first working day of the month in

which the transfer is made. The interest rate so determined shall accrue upon the amount transferred to the account. In each subsequent month, the Commission shall determine the interest rate paid for a three-month Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

D. For purposes of this section, state and local sales taxes paid by a contractor or subcontractor for qualified purchases as defined in Section 6 of this act, purchased by that contractor or subcontractor pursuant to a contract with a qualified computer services, data processing or research and development facility shall, upon proper showing, be refunded to such qualified facility.

E. The qualified computer services, data processing or research and development facility shall file with the Oklahoma Tax Commission the following documentation for any refund claimed:

1. Invoices indicating the amount of state and local sales tax billed;
2. Affidavit of each vendor that state and local sales tax billed has not been audited, rebated, or refunded to such qualified facility but rather the sales tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and
3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

F. In the event that state and local sales tax was paid by a contractor or subcontractor, the qualified computer services, data processing or research and development facility shall file with the Oklahoma Tax Commission all documentation required in subsection E of this section but in lieu of the affidavit of each vendor the qualified facility shall file, for any refund claimed, an affidavit from the contractor or subcontractor stating that the sales tax refund of the qualified facility is based on state and local sales tax paid by the contractor or subcontractor on qualified purchases as defined in Section 6 of this act, purchased and that the amount of state and local sales tax claimed was paid to the vendor and no credit, refund, or rebate has been claimed by the contractor or subcontractor.

G. Only sales of qualified purchases as defined in Section 6 of this act, made after July 1, 1992, shall be eligible for the refund established by this section.

H. The qualified computer services, data processing or research and development facility shall file, within thirty-six (36) months of the date of the first purchase which is exempt from taxation pursuant to the provisions of Section 7 of this act, with the Oklahoma Tax Commission a certification issued by the Employment Security Commission in order to qualify for the refund authorized by this section.

I. Notwithstanding the provisions of any state tax law, the amount refunded under this section shall be assessed if the number of new full-time-equivalent employees drops below the number prescribed in Section 6 of this act, at any time within thirty-six (36) months of the date certification is issued by the Oklahoma Employment Security Commission.

Added by Laws 1992, c. 225, § 8, eff. July 1, 1992.

§68-54005. Purchaser primarily engaged in computer services and data processing or research and development - Refund of state and local use taxes.

A. In order to administer the exemption for sales to a qualified computer services, data processing or research and development facility as provided by Section 7 of this act, as

applicable to the use tax imposed by law, there shall be made a use tax refund for state and local taxes paid by qualified facilities for qualified purchases as defined in Section 6 of this act, from the account created by this section.

B. The Oklahoma Tax Commission shall transfer each month from use tax collected the amount which the Commission estimates to be necessary to make the use tax refund provided by this section to an account designated as the Commission determines.

C. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local use taxes paid together with accrued interest upon such total. The amount of interest paid to a qualified computer services, data processing or research and development facility upon the principal amount of any refund made to such facility for purposes of administering the exemption provided by Section 7 of this act, shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection B of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-month Treasury Bill of the United States government as of the first working day of the month in which the transfer is made. The interest rate so determined shall accrue upon the amount transferred to the account. In each subsequent month, the Commission shall determine the interest rate paid for a three-month Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

D. For purposes of this section, state and local use taxes paid by a contractor or subcontractor for qualified purchases as defined in Section 6 of this act, purchased by that contractor or subcontractor pursuant to a contract with a qualified facility shall, upon proper showing, be refunded to such qualified facility.

E. The qualified computer services, data processing or research and development facility shall file with the Oklahoma Tax Commission the following documentation for any refund claimed:

1. Invoices indicating the amount of state and local use tax billed;
2. Affidavit of each vendor that state and local use tax billed has not been audited, rebated, or refunded to such qualified facility but rather the use tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and
3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

F. In the event that state and local use tax was paid by a contractor or subcontractor, the qualified facility shall file with the Oklahoma Tax Commission all documentation required in subsection E of this section but in lieu of the affidavit of each vendor the qualified facility shall file, for any refund claimed, an affidavit from the contractor or subcontractor stating that the use tax refund of the qualified manufacturer is based on state and local use tax, paid by the contractor or subcontractor on qualified purchases as defined in Section 6 of this act, purchased and that the amount of the state and local use tax claimed was paid to the vendor and no credit, refund, or rebate has been claimed by the contractor or subcontractor.

G. Only sales of tangible personal property made after July 1, 1992, shall be eligible for the refund established by this section.

H. The qualified computer services, data processing or research and development facility shall file, within thirty-six (36) months of the date of the first purchase which is exempt from taxation pursuant to the provisions of Section 7 of this act, with the Oklahoma Tax Commission, a certification issued by the Employment Security Commission in order to qualify for the refund authorized by this section.

I. Notwithstanding the provisions of any state tax law, the amount refunded under this section shall be assessed if the number of new full-time-equivalent employees drops below the number prescribed in Section 6 of this act, at any time within thirty-six (36) months of the date certification is issued by the Oklahoma Employment Security Commission.

Added by Laws 1992, c. 225, § 9, eff. July 1, 1992.

§68-54006. Repealed by Laws 2013, c. 363, § 20, eff. Jan. 1, 2014.

§68-55001. Definitions – Implementation of federal law – Taxes to which act applies – Services deemed to be provided by home service provider.

A. As used in this section:

1. “Charges for mobile telecommunications services” means any charge for, or associated with, the provision of commercial mobile radio service, as defined in Section 20.3 of Title 47 of the Code of Federal Regulations as in effect on June 1, 1999, or any charge for, or associated with, a service provided as an adjunct to a commercial mobile radio service, that is billed to the customer by or for the customer's home service provider regardless of whether individual transmissions originate or terminate within the licensed service area of the home service provider;

2. a. “Customer” means, in general:

- (1) the person or entity that contracts with the home service provider for mobile telecommunications services, or
- (2) if the end user of mobile telecommunications services is not the contracting party, the end user of the mobile telecommunications service, but this division applies only for the purpose of determining the place of primary use.

b. The term “customer” does not include:

- (1) a reseller of mobile telecommunications service, or
- (2) a serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area;

3. “Designated database provider” means a corporation, association, or other entity representing the state and political subdivisions of the state that is:

a. responsible for providing an electronic database prescribed in Section 3 of this act, and

b. approved by the Tax Commission;

4. “Enhanced zip code” means a United States postal zip code of 9 or more digits;

5. “Home service provider” means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications services;

6. “Licensed service area” means the geographic area in which the home service provider is authorized by law or contract to provide commercial mobile radio service to the customer;

7. "Mobile telecommunications service" means commercial mobile radio service, as defined in Section 20.3 of Title 47 of the Code of Federal Regulations as in effect on June 1, 1999;

8. "Place of primary use" means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which must be:

- a. the residential street address or the primary business street address of the customer, and
- b. within the licensed service area of the home service provider;

9. "Prepaid telephone calling services" means the right to purchase exclusively telecommunications services that must be paid for in advance, that enables the origination of calls using an access number, authorization code, or both, whether manually or electronically dialed, if the remaining amount of units of service that have been prepaid is known by the provider of the prepaid service on a continuous basis;

10. "Reseller" means a provider who purchases telecommunications services from another telecommunications service provider and then resells, uses as a component part of, or integrates the purchased services into a mobile telecommunications service. The term "reseller" does not include a serving carrier with which a home service provider arranges for the services to its customers outside the home service provider's licensed service area; and

11. "Serving carrier" means a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider's or reseller's licensed service area.

B. The Oklahoma Legislature finds that the United States Congress has enacted the Mobile Telecommunications Sourcing Act for the purpose of establishing uniform nationwide sourcing rules for state and local taxation of mobile telecommunications services. In general, the rules provide that taxes on mobile telecommunications services shall be paid to the jurisdiction where the customer's primary use of such services occurs, irrespective of where the mobile telecommunications services originate, terminate, or pass through. The Oklahoma Legislature desires to implement the federal Mobile Telecommunications Sourcing Act in the state, and to make state and local government officials aware of its provisions. The Oklahoma Legislature recognizes that the federal act is intended to provide sourcing rules in a manner that is revenue-neutral among the states, and that the sourcing rules required by it are likely in fact to be revenue-neutral at the state level. The Oklahoma Legislature further finds that the federal requirements are within the powers of the federal government.

C. 1. This act shall apply to the tax imposed by Section 1354 of Title 68 of the Oklahoma Statutes and any tax, charge, or fee that may be levied by the state or a taxing jurisdiction within this state as a fixed charge for each customer or measured by gross amounts charged to customers for mobile telecommunications services, regardless of whether such tax, charge, or fee is imposed on the vendor or customer of the service and regardless of the terminology used to describe the tax, charge, or fee.

2. This act does not apply to:

- a. any tax, charge, or fee levied upon or measured by the net income, capital stock, net worth, or property value of the provider of mobile telecommunications service,
- b. any tax, charge, or fee that is applied to an equitably apportioned amount that is not determined on a transactional basis,

- c. any tax, charge, or fee that represents compensation for a mobile telecommunications service provider's use of public rights-of-way or other public property, provided that such tax, charge, or fee is not levied by the taxing jurisdiction as a fixed charge for each customer or measured by gross amounts charged to customers for mobile telecommunication services, or
 - d. any generally applicable business and occupation tax that is imposed by the state, is applied to gross receipts or gross proceeds, is the legal liability of the home service provider, and that statutorily allows the home service provider to elect to use the sourcing method required in this section.
3. The provisions of this act:
- a. do not apply to the determination of the taxing situs of prepaid telephone calling services, and
 - b. do not apply to the determination of the taxing situs of air-ground radiotelephone service as defined in Section 22.99 of Title 47 of the Code of Federal Regulations as in effect on June 1, 1999.

D. 1. Notwithstanding any other provision of law of this state or any political subdivision of this state, mobile telecommunications services provided in a taxing jurisdiction to a customer, the charges for which are billed by or for the customer's home service provider, shall be deemed to be provided by the customer's home service provider.

2. All charges for mobile telecommunications services that are subject to the tax imposed by Section 1354 of Title 68 of the Oklahoma Statutes and that are deemed under this act to be provided to a customer's place of primary use within this state by the customer's home service provider are subject to the tax, regardless of where the mobile telecommunication services originate, terminate, or pass through.

3. A home service provider shall be responsible for obtaining and maintaining the customer's place of primary use. Subject to the provisions of paragraph 5 of this subsection, a home service provider may rely on the applicable residential or business street address supplied by the home service provider's customer, and will not be liable for any additional taxes, charges, or fees based on a different determination of the place of primary use for taxes, charges, or fees that are customarily passed on to the customer as a separate itemized charge if the reliance on information provided by its customer is in good faith.

4. Except as provided in paragraph 5 of this subsection, a home service provider may treat the address used by the home service provider for tax purposes for any customer under a service contract or agreement in effect on or before July 28, 2002, as that customer's place of primary use for the remaining term of such service contract or agreement, excluding any extension or renewal of such service contract or agreement, for purposes of determining the taxing jurisdictions to which taxes, charges, or fees on charges for mobile telecommunications services are remitted.

5. The Oklahoma Tax Commission may:
- a. determine that the address used for purposes of determining the taxing jurisdictions to which taxes, charges, or fees for mobile telecommunications services are remitted does not meet the definition of "place of primary use" in this section and give binding notice to the home service provider to change the place of primary use on a prospective basis from the date of notice of determination. Before the Tax Commission gives such notice of determination, the customer shall be given an opportunity to demonstrate in

- accordance with Tax Commission rules and administrative procedures that the address is the customer's place of primary use, or
- b. determine that the assignment of a taxing jurisdiction by a home service provider under Section 3 of this act does not reflect the correct taxing jurisdiction and give binding notice to the home service provider to change the assignment on a prospective basis from the date of notice of determination. The home service provider shall be given an opportunity to demonstrate in accordance with Tax Commission rules and administrative procedures that the assignment reflects the correct taxing jurisdiction.

6. If charges for nontaxable mobile telecommunications services are aggregated with and not separately stated from charges that are subject to taxation, then the charges for nontaxable mobile telecommunications services will be subject to taxation unless the home service provider can reasonably identify charges not subject to the tax, charge, or fee from its books and records that are kept in the regular course of business.

7. If a customer believes that an amount of tax, charge or fee, or assignment of place of primary use or taxing jurisdiction included on a billing is erroneous, the customer shall notify the home service provider in writing. The customer shall include in this written notification the street address for the place of primary use, the account name and number for which the customer seeks a correction of the tax assignment, a description of the error asserted by the customer, and any other information that the home service provider reasonably requires to process the request. Within sixty (60) days of receiving a notice under this section, the home service provider shall review its records and the electronic database or enhanced zip code to determine the customer's taxing jurisdiction. If this review shows that the amount of tax, charge or fee, or assignment of place of primary use or taxing jurisdiction is in error, the home service provider shall correct the error and refund or credit the amount of tax, charge or fee erroneously collected from the customer for a period of up to two (2) years. If this review shows that the amount of tax, charge or fee, or assignment of place of primary use or taxing jurisdiction is correct, the home service provider shall provide a written explanation to the customer. The procedures in this section shall be the first course of remedy available to customers seeking correction of assignment of place of primary use or taxing jurisdiction, or a refund of or other compensation for taxes, charges or fees erroneously collected by the home service provider, and no cause of action based upon a dispute arising from the Act shall accrue until a customer has reasonably exercised the rights and procedure set forth herein.

Added by Laws 2001, c. 153, § 2.

§68-55002. Provision of electronic database containing local taxing jurisdiction information – Liability of home service provider – Presumption.

A. The Oklahoma Tax Commission may provide an electronic database to a home service provider or, if the Tax Commission does not provide such an electronic database to home service providers, then the designated database provider may provide an electronic database to a home service provider. Such database shall provide the appropriate local taxing jurisdiction for each street address in the state, including to the extent practicable, any multiple postal street addresses applicable to one street location, and shall be in the format required by Section 119 of the federal “Mobile Telecommunications Sourcing Act”.

B. The Tax Commission or designated database provider shall provide notice of the availability of the then current electronic database, and any subsequent revisions thereof, by

publication in the manner normally employed for the publication of informational tax, charge, or fee notices to taxpayers in the state.

C. A home service provider using the data contained in an electronic database described in subsection A of this section shall be held harmless from any tax, charge, or fee liability that otherwise would be due solely as a result of any error or omission in such database provided by the Tax Commission or designated database provider. The home service provider shall reflect changes made to such database during a calendar quarter not later than thirty (30) days after the end of such calendar quarter.

D. If an electronic database is not provided under subsection A of this section, a home service provider shall be held harmless from any tax, charge, or fee liability in this state that otherwise would be due solely as a result of an assignment of a street address to an incorrect taxing jurisdiction if, subject to Section 2 of this act, the home service provider employs an enhanced zip code to assign each street address to a specific taxing jurisdiction for each level of taxing jurisdiction and exercises due diligence at each level of taxing jurisdiction to ensure that each such street address is assigned to the correct taxing jurisdiction. If an enhanced zip code overlaps boundaries of taxing jurisdictions of the same level, the home service provider must designate one specific jurisdiction within such enhanced zip code for use in taxing the activity for such enhanced zip code for each level of taxing jurisdiction. Any enhanced zip code assignment changed in accordance with Section 2 of this act is deemed to be in compliance with this section.

E. For purposes of this section, there is a rebuttable presumption that a home service provider has exercised due diligence if such home service provider demonstrates that it has:

1. Expended reasonable resources to implement and maintain an appropriately detailed electronic database of street address assignments to taxing jurisdictions;
2. Implemented and maintained reasonable internal controls to promptly correct misassignments of street addresses to taxing jurisdictions; and
3. Used all reasonably obtainable and usable data pertaining to municipal annexation, incorporations, reorganizations and any other changes in jurisdictional boundaries that materially affect the accuracy of such database.

F. Subsection D of this section applies to a home service provider that is in compliance with the requirements of that subsection until the later of:

1. Eighteen (18) months after the nationwide standard numeric code described in federal "Mobile Telecommunications Sourcing Act" has been approved by the Federation of Tax Administrators and the Multistate Tax Commission; or
2. Six (6) months after the Tax Commission or a designated database provider in this state provides such database as prescribed in subsection A of this section.

Added by Laws 2001, c. 153, § 3.

§68-55003. Judgment limiting or impairing federal act – Invalidity of act.

If a court of competent jurisdiction enters a final judgment on the merits that:

1. Is based on federal or state law;
2. Is no longer subject to appeal; and
3. Substantially limits or impairs the essential elements of the federal Mobile

Telecommunications Sourcing Act, P.L. 106-252, codified at 4 U.S.C., Sections 116 through 126 or Sections 2 and 3 of this act;

then the provisions of this act shall be invalid and shall have no legal effect as of the date of entry of such judgment.

Added by Laws 2001, c. 153, § 4.

§68-55004. When act applies relating to tax liabilities.

The provisions of this act relating to tax liabilities shall apply only to charges on or revenues from customer bills issued on or after August 1, 2002.

Added by Laws 2001, c. 153, § 5.