

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

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking.

PROPOSED RULES:

Chapter 65. Sales and Use Tax [AMENDED]

SUMMARY:

As part of the Tax Commission's ongoing review of its rules, many proposed amendments to the existing rules have been made to implement recent legislation. All legislative references are to the Second Regular Session of the 58th Legislature (2022) unless otherwise indicated.

The proposed amendment to Section 710:65-13-30 implements the provisions of HB 2234 [2021]; HB 2234 levies a tax at the rate of \$0.03 per kilowatt hour or its equivalent on the electric current used to charge or recharge the battery or batteries of an electric vehicle, beginning January 1, 2024. Electric vehicle charging tax collected and remitted to the Tax Commission is in lieu of state and local sales tax. [68:6501 et seq]

The proposed revocation of Sections 710:65-13-52 and 710:65-19-294 implements the provisions of SB 72 which repealed the Oklahoma Research and Development Incentives Act (68 O.S. §§ 54001, et seq.). This Act allowed a sales/use tax exemption for sales of computers, data processing equipment, related peripherals, telegraph or telecommunications services, and equipment, to new and expanding businesses classified under designated industrial group numbers of the Standard Industrial Classification (SIC) manual and that meet other requirements set forth in the Act.

The proposed amendments to Sections 710:65-13-170 and 710:65-13-173 are to clarify the taxability treatment of medical appliances, medical devices and other medical equipment furnished to Medicare/Medicaid program recipients, and the taxability treatment of drugs and prosthetic equipment. [68:1357.6]

The proposed amendment to Section 710:65-13-275 implements the provisions of SB 1670 which amended 68 O.S. § 1357(34) by expanding the sales tax exemption for surviving spouses of 100% disabled veterans to include sales to the surviving spouse of a person who is determined by the United States Department of Defense or any branch of the United States military to have died while in the line of duty if the spouse has not remarried.

The proposed promulgation of new Section 710:65-13-369.1 implements the provisions of SB 1305 which amended 68 O.S. § 1356 to add a sales tax exemption for sales of tangible personal property or services to a qualified nonprofit entity, the principal functions of which are to provide assistance to a natural person following a disaster, with program emphasis on repair or restoration to single-family residential dwellings or the construction of a replacement single-family residential dwelling. The exemption is applicable to sales made on or after July 1, 2022.

The proposed promulgation of new Section 710:65-13-371 implements the provisions of SB 1496 which amended 68 O.S. § 1356 by exempting from the sales tax levy, sales of tangible personal property or services to or by a women's veteran's organization, and its subchapters in Oklahoma, that is exempt from taxation pursuant to 26 U.S.C., § 501(c)(19) and is known as the Oklahoma Women Veterans Organization.

The proposed promulgation of new Section 710:65-13-372 implements the provisions of HB 3649 which amended 68 O.S. § 1356 by providing a sales tax exemption for sales of tangible personal property or services to an organization that is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), that provides support to veterans, active duty members of the Armed Forces, reservists and members of the National Guard to assist with the transition to civilian life, and that provides documentation to the Tax Commission that over 70% of its revenue is expended on support for transition to civilian life.

The proposed amendment to Section 710:65-19-142 implements the provisions of Sections 1 and 3 of HB 3905 which amended 68 O.S. §§ 227 and 1364.1, relating to direct pay permits, which allow hospitals, similar institutions and medical practitioners to purchase certain medical appliances, medical devices and other medical equipment without the payment of sales or use tax to the vendor. A direct pay permit allows a purchaser to remit the taxes due directly to the Tax Commission. A person may only file a claim for refund of sales/use tax erroneously paid on purchases of items exempted pursuant to 68 O.S. §1357.6, if the person presented the seller a direct pay permit issued pursuant to 68 O.S. §1364.1 at the time of purchase of the items for which the refund is claimed.

Other sections may be amended to clarify policy, improve readability, correct scrivener's errors, remove obsolete language, update or correct citations, update contact information, and ensure accurate internal cross-references, which do not change the interpretation or intent of the rules.

AUTHORITY:

68 O.S. §§ 203, 1357(34), and 6504; Oklahoma Tax Commission

COMMENT PERIOD:

Persons wishing to present their views in writing may do so by 4:30 p.m., February 7, 2023, at the following address: Oklahoma Tax Commission, Tax Policy and Research Division, Oklahoma City, Oklahoma 73194, Attention: Lisa Haws, or by email to lhaws@tax.ok.gov.

PUBLIC HEARING:

A public hearing is scheduled for 1:30 p.m., on Wednesday, February 8, 2023, at the Oklahoma Tax Commission, 123 Robert S. Kerr Ave, Oklahoma City, Oklahoma. Those wishing to make oral comments at the public hearing should request placement on the docket well in advance of the hearing date by calling Lakesha Mackie at (405) 521-3133. Time limitations may be imposed on oral presentations to ensure that all persons who have filed written requests for placement on the docket will have an opportunity to speak.

In order to facilitate entry into the building, those wishing to appear should contact Lakesha Mackie at (405) 521-3133 at least 24 hours prior to the hearing date to complete their visitor pre-registration. In order to gain access to the hearing, attendees must register at the information desk in the lobby by presenting a driver license or other photo identification.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

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

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from the below listed contact person. The proposed rules may also be viewed on the agency's website at <http://www.tax.ok.gov>.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a Rule Impact Statement will be prepared and available from the below listed contact person. The Rule Impact Statement may also be viewed on the agency's website at <http://www.tax.ok.gov>.

CONTACT PERSON:

Lisa R. Haws, Agency Liaison, Tax Policy Division, Oklahoma Tax Commission, Oklahoma City, Oklahoma 73194. Telephone number: 405-521-3133; Email: lhaws@tax.ok.gov

TITLE 710. OKLAHOMA TAX COMMISSION
CHAPTER 65. SALES AND USE TAX
SUBCHAPTER 13. SALES AND USE TAX EXEMPTIONS
PART 5. ITEMS SUBJECT TO OTHER TAXES

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

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

(b) **Motor vehicles.** Sales of motor vehicles on which the Oklahoma vehicle excise tax levied in Section 2101 et seq. of Title 68 has been, or will be paid, are subject to sales/use tax at the rate of 1.25% of the gross receipts of such sales. (**See** 710:65-19-215). The provisions of this subsection do not apply to low-speed/medium-speed electrical vehicles, power units (truck tractors) and trailers proportionally registered pursuant to the International Registration Plan (IRP) 47 O.S. § 1120 or trailers and semitrailers registered under subsection C of Section 1133 of Title 47 of the Oklahoma Statutes to transport cargo over the highways of this state.

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

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

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

(f) **Sales of crude petroleum, natural or casinghead gas, and other products.** *Sales of crude petroleum, natural or casinghead gas, and other products subject to gross production tax pursuant to 68 O.S. §1001 et seq. and 68 O.S. §1101 et seq. are not subject to sales tax. This exemption shall not apply when such products are sold to a consumer or user for consumption or use, except when*

used for injection into the earth for the purpose of promoting or facilitating the production of oil or gas. [See: 68 O.S. § 1355(3)]

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

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

(i) **Sales of charity game equipment.** Sales of charity game equipment on which a tax is paid pursuant to the Oklahoma Charity Games Act, (3A O.S. § 401 et seq.), are not subject to sales tax. Additionally charity games equipment is exempt from sales tax when sold to the following entities: ~~or which is sold to~~

(1) a veterans' organization exempt from taxation pursuant to the provisions of Section 501(c)(4),(7),(8),(10), or (19) of the Internal Revenue Code; ~~or which is sold to~~

(2) a group home for mentally disabled individuals exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code are not subject to sales tax; and

(3) a charitable healthcare organization exempt from taxation pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended.

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

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

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

(k) **Sales of electricity at charging stations.** Beginning January 1, 2024, sales of electricity when sold by a charging station owner or operator for purposes of charging an electric vehicle and the tax imposed pursuant 68 O.S. § 6504(A) is collected and remitted to the Oklahoma Tax Commission. [See: 710:55-8-1 through 710:55-8-6]

PART 9. COMPUTERS; DATA PROCESSING; TELECOMMUNICATIONS

710:65-13-52. Sales of computers, data processing equipment, related peripherals, and telephone, telegraph, or telecommunications service and equipment to a qualified purchaser primarily engaged in computer services and data processing or research and development [REVOKED]

(a) **Definitions.** In addition to the definitions found in the Oklahoma Research and Development Act, 68 O.S. §54001 et seq., the following words and terms, when used in this Section shall have the following meaning, unless the context clearly indicates otherwise:

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

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

(3) **"Primarily engaged in"** means that at least seventy five percent (75%) of the gross revenues of the new or expanding business must come from such activities.

(4) **"Qualified purchaser"** means any new or expanded business or facility which adds at least ten (10) new in-state full-time equivalent employees, as certified by the Employment Security Commission, for a period of at least thirty six (36) months at an average annual salary of at least Thirty five Thousand Dollars (\$35,000.00) per year per employee. In addition, at least fifty percent (50%) of the annual gross revenues must be derived from sales of a product or service to an out-of-state buyer or consumer.

(5) **"Qualified purchases"** means computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications service and equipment.

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

(b) **Qualification.** Sales of computers, data processing equipment, related peripherals and telephone, telegraph or telecommunications services and equipment sold to a qualified purchaser by a qualified vendor are exempt from sales and use tax.

(c) **Exempt items.** Exempt items shall include, but shall not be limited, to the following:

- (1) Bar code reader
- (2) Card reader/punch
- (3) Computer
- (4) CRT
- (5) Dedicated lines
- (6) Disk drive
- (7) Fixed disk
- (8) Key punch
- (9) Memory
- (10) Modem
- (11) Monitor

- ~~(12) Plotter~~
- ~~(13) Printer~~
- ~~(14) Removable disk~~
- ~~(15) Software~~
- ~~(16) Tape drive~~
- ~~(17) Telegraph equipment~~
- ~~(18) Telegraph service~~
- ~~(19) Telephone equipment~~
- ~~(20) Telephone service~~
- ~~(21) Terminal~~
- ~~(22) Video display terminal~~

~~(d) **Non-exempt items.** The exemption shall not apply to the following:~~

- ~~(1) Supplies, such as:
 - ~~(A) Cleaning product~~
 - ~~(B) Cleaning kit~~
 - ~~(C) Diskettes~~
 - ~~(D) Media storage~~
 - ~~(E) Paper~~
 - ~~(F) Pens~~
 - ~~(G) Print wheels~~
 - ~~(H) Print-out label~~
 - ~~(I) Print-out ruler~~
 - ~~(J) Ribbons~~
 - ~~(K) Storage case~~
 - ~~(L) Tape~~
 - ~~(M) Template~~~~
- ~~(2) Furniture, such as:
 - ~~(A) Acoustical protector~~
 - ~~(B) Acoustical shelving~~
 - ~~(C) Chair~~
 - ~~(D) Desk~~
 - ~~(E) Rack~~
 - ~~(F) Stand~~
 - ~~(G) Table~~~~
- ~~(3) Accessories, such as:
 - ~~(A) Dust cover~~
 - ~~(B) Filter~~
 - ~~(C) Radiation shield~~
 - ~~(D) Security system~~
 - ~~(E) Static dissipater~~
 - ~~(F) Surge protector~~~~

~~(e) **Qualified purchaser explained.** Specifically exempted from sales and use taxes are sales of qualified purchases to a qualified purchaser primarily engaged in computer services and data processing as defined under Industrial Group~~

~~Number 7372 (prepackaged software), Industrial Group Number 7373 (computer integrated system design), Industrial Group Number 7374 (computer processing and data preparation and processing services) and Industrial Group Number 7375 (information retrieval services). In order to qualify for this exemption under Industrial Group 7374 a qualified purchaser must have a minimum of One Hundred Thousand Dollars (\$100,000.00) in qualified purchases yearly. In order to qualify for this exemption, a new or expanding business can 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.~~

~~(f) **Out-of-state sales.** Eligibility to receive the exemption provided for in 68 O.S. §54003(1) as a business which derives at least fifty percent (50%) of its annual gross revenues from sales of a product or service to an out-of-state buyer or consumer shall be established, subject to review by the Oklahoma Tax Commission on an annual basis, by an affidavit that the business qualifies for such exemption. The Oklahoma Tax Commission may require additional information as required to ensure that the business qualifies for such exemption. All sales to the federal government shall be considered to be sales to an out-of-state buyer or consumer.~~

~~(g) **Limitations.** No exemption shall be granted if the qualified computer services and data processing or research and development facility fails to file the documentation required by Subsection (j) of this Section with the Commission. Additionally, the required certification issued by the Employment Security Commission must be filed with the Tax Commission within thirty-six (36) months of the date of first purchase.~~

~~(h) **Administration.** Pursuant to statute, the exemption for sales to a qualified computer service and data processing or research and development facility outlined in this Section will be administered as a refund for state and local taxes paid by the qualified computer services and data processing or research and development facility to the vendor or, in the case of use tax, self-remitted to the State of Oklahoma.~~

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

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

~~(1) **Invoices** indicating the amount of state and local taxes billed to the qualified computer services and data processing or research and development facility.~~

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

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

~~(k) **Filing claims.** At the option of the entity who believes it will be certified as a qualified computer services and data processing or research and development facility, the documentation required by Subsection (j) of this Section can be filed monthly, quarterly, semiannually, or annually. The Commission will review the documentation submitted and determine within thirty (30) days whether the refund claimed will be allowed. In the event that the claim is denied, the person who submitted the documentation will be notified by the Commission as to the reason for denial. The entity submitting the documentation will similarly be notified that a claim has been approved.~~

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

~~(m) **Certification process.**~~

~~(1) **Application review.** Upon completion of the new or expanded business and the addition of the employees as required by statute, the entity believing it falls within the exemption shall apply for certification on forms provided by the Commission. Each application for certification shall be reviewed by the Commission for the purpose of determining that the total annual purchases exceeded the sum of One Hundred Thousand Dollars (\$100,000.00) required by law. During such time that the Commission is reviewing the application for certification, the Commission will forward a copy of the application for certification to the Employment Security Commission who will review employees hired. Upon completion of the review by the Commission and the Employment Securities Commission, the Tax Commission will notify the applicant of the approval or denial of the certification requested.~~

~~(2) **Approval.** The applicant whose certification has been approved shall receive a refund in the amount not to exceed the total amount of state and local sales taxes paid and previously approved by the Commission. The qualified computer services and data processing or research and development facility will also receive accrued interest upon the principal~~

amount of the refund made as provided for by statute. [~~See: 68 O.S. § 54005(C)~~]

(3) ~~**Denial.**~~ The following procedure shall apply when a request for certification is denied:

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

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

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

(4) ~~**Protest of denial of certification.**~~ The following procedure shall apply to protests of any denial of certification:

(A) ~~Applicants filing a protest to the denial of certification by the Commission shall be scheduled for a hearing before the Commission for a date, time and place set by the Commission. Notice of the date, time and place will be given by mail at least ten (10) days prior to the hearing. The burden of proving that the denial of certification was erroneous is on the applicant. The applicant can present testimony, evidence and argument in support of the requested certification.~~

(B) ~~The Commission will issue an order in each case. That order is directly appealable to the Oklahoma Supreme Court. The appeal must be perfected within thirty (30) days of the mailing of the order by filing a Petition in Error with the Clerk of the Supreme Court of the State of Oklahoma and by filing a designation of the record with the Secretary of the Commission at the same time the Petition in Error is filed. [~~See: 710:1-5-21 through 710:1-5-49 / 68 O.S. §§225, 1357.4, 1404.3~~]~~

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

710:65-13-170. Medicines, drugs, Drugs and prosthetic devices hospitals, nursing homes, practitioners, and medical equipment and appliances, generally

(a) ~~**Prescription Drugs drugs.**~~ Sales of drugs, except for over the counter drugs, prescribed for the treatment of human beings by a person licensed to prescribe the drugs are exempt from sales tax. Ocular lenses, if permanently implanted through medical surgery, and sales of insulin and medical oxygen are also exempt from sales tax. [68 O.S. § 1357(9)]

(b) **Over-the counter drugs.** Sales of over-the-counter drugs do not qualify for the sales tax exemption outlined in (a) of this Section.

(c) **Prosthetic devices.** Sales of prosthetic devices as defined in 710:65-13-169 for use by an individual are exempt from sales tax.

(d) **Documentation required to be maintained by the vendor when sales are made to healthcare providers.** For sales qualifying for exemption pursuant to subsections (a) and (c) of this Section to entities providing healthcare services to individuals, the documentation set out in (1) or (2) of this subsection must be obtained by the vendor and maintained as part of the vendor's records to substantiate the exemption claimed.

(1) Where the healthcare provider presents its direct payment permit, vendors should obtain and maintain in their files and records the information outlined in OAC 710:65-7-10, or

(2) Sufficiently detail the product sold and disclose as a separate line item on the bill or invoice.

~~(c) **Medical equipment, appliance, or device.** Except as set forth in 710:65-13-171 and 710:65-13-173, the sale or rental of medical equipment, appliances or devices is taxable. Examples of these taxable items are: syringes, replacement joints, bandages, oxygen regulators and tanks, crutches and wheelchairs.~~

~~(d) **Sales to hospitals, nursing homes and practitioners.** Notwithstanding the provisions outlined in subsection (b), sales of medical appliances, medical devices and other medical equipment to hospitals, infirmaries, sanitariums, nursing homes, and similar institutions, and practitioners are taxable when such items are furnished to their patients as part of the services provided. The institutions, companies and practitioners are considered to be the users or consumers. In-state vendors collect and remit the tax on sales of such property to the institutions, and use tax is due on out-of-state purchases. These institutions and practitioners primarily render services and are not liable for sales tax on receipts from meals, bandages, dressings, x-ray photographs, and other tangible personal property when used in rendering medical service to patients, regardless of whether the tangible items are billed separately.~~

~~(e) **Sales to medical benefits recipients, generally.** Unless otherwise prohibited by federal or state law, if a vendor of medical equipment and devices makes a sale to an individual, the sale is not considered to be made to a governmental agency or insurance company, even if the individual assigns the proceeds of an insurance policy to the vendor and the vendor receives payment directly from the insurance company or the governmental agency via the assignment.~~

~~(f) **Sales tax refund claims.** Under circumstances where hospitals, nursing homes, similar institutions and practitioners dispense or provide medical appliances, medical devices or medical equipment to Medicare or Medicaid patients, a refund may be claimed by the institution or practitioner for the sales taxes previously paid by the institution or practitioner on such items.~~

~~(g) **Direct payment permits (DPP).** Health care providers may qualify for a direct payment permit, valid for three (3) years, pursuant to the provisions of Section 710:65-9-10 of this Chapter.~~

710:65-13-173. Exemption for medical appliances, medical devices and other medical equipment furnished to Medicare/Medicaid program recipients

(a) **General provisions.** Sales of medical appliances, medical devices and other medical equipment are exempt if all of the following requirements are met:

- (1) The item is a drug, medical appliance, medical device, or medical equipment as defined in 710:65-13-169;
- (2) The item is administered or distributed by a "practitioner" or purchased or leased, by or on behalf of an individual, pursuant to a prescription or work order of a practitioner; and
- (3) The item is furnished to a Medicare or Medicaid program recipient and the cost of said item will be reimbursed by Medicare or Medicaid.

(b) **Documentation required when reimbursement is made to vendor.** The documentation set out in (1) through (3) of this subsection must be obtained by the vendor and maintained as part of the vendor's records to substantiate the exemption claimed:

- (1) Name and address of the purchaser or lessee or person on whose behalf the item is being purchased or leased;
- (2) A copy of the prescription or work order; and
- (3) A copy of the document which shows that the person on whose behalf the item is being purchased or leased is a Medicare or Medicaid patient.

(c) **Documentation required when reimbursement is made directly to the Medicare recipient.** The documentation set out in this subsection must be maintained as part of the claimant's records to substantiate the exemption claimed:

- (1) Name and address of the purchaser or lessee or person on whose behalf the item is being purchased or leased;
- (2) A copy of the prescription or work order;
- (3) A copy of the eligible recipient's Medicare card; and
- (4) A copy of the receipt or invoice issued by the vendor at the time of purchase, with a notation stating that the cost of the item is reimbursable by Medicare, but that Medicare will not be billed by the vendor.

(d) **Sales tax refund claims.** ~~Under circumstances where~~ For purchases made prior to July 1, 2022, a refund may be claimed by hospitals, nursing homes, similar institutions and practitioners that dispense or provide medical appliances, medical devices or medical equipment to Medicare or Medicaid patients, ~~a refund may be claimed by the institution or practitioner~~ for the sales taxes previously paid by the institution or practitioner on such items. The documentation set out in (1) through (3) of this subsection must be obtained as part of the claimant's records to substantiate the exemption claimed:

- (1) Name and address of the purchaser or lessee or person on whose behalf the item is being purchased or leased;
- (2) A copy of the prescription or work order; and
- (3) A copy of the document which shows that the person on whose behalf the item is being purchased or leased is a Medicare or Medicaid patient.

For purchases made on or after July 1, 2022, refund claims for items exempted pursuant to the provisions of this Section will not be allowed unless the purchaser's direct payment permit issued pursuant to 710:65-9-10 was presented to the vendor at the time of sale and the tax was accrued by the direct pay permit holder. To substantiate the refund claim the documentation outlined in subsection (e) of this Section will be required.

(e) **Medical equipment purchased pursuant to a direct payment permit.** To substantiate the sales tax exemption for certain medical equipment pursuant to subsection (a) of this Section, a healthcare provider holding a direct pay permit must maintain separate from confidential patient records the following information:

- (1) Patient case number or account number;
- (2) Type of insurance; and
- (3) Item description or product number.

(f) **Medicare and Medicaid recipients.** Eyeglasses, contact lenses, and hearing aids are considered items of "medical equipment", and if their cost will be reimbursed by Medicare or Medicaid pursuant to the terms and conditions set out in this Section, the sale is tax exempt.

~~(g) **Examples of medical appliances, medical devices, and medical equipment.** A nonexclusive list of **medical appliances, medical devices, and medical equipment** is as follows:~~

~~(1) **IPPB, circuits, devices and supplies:**~~

- ~~(A) Air oxygen mixers~~
- ~~(B) Emergency oxygen delivery units~~
- ~~(C) Manual resuscitators~~
- ~~(D) Nebulizers, tubing~~

~~(2) **Oxygen equipment:**~~

- ~~(A) Cylinder stands, support devices~~
- ~~(B) Cylinder transport devices (sheaths, carts)~~
- ~~(C) Face masks~~
- ~~(D) Liquid oxygen base dispenser~~
- ~~(E) Liquid oxygen portable dispenser~~
- ~~(F) Nasal cannulas~~
- ~~(G) Oxygen concentrators~~
- ~~(H) Oxygen cylinders~~
- ~~(I) Oxygen fittings, accessories~~
- ~~(J) Oxygen humidifiers~~
- ~~(K) Oxygen tubing~~
- ~~(L) Regulators, flowmeters~~

~~(M) Tank wrench~~

~~(3) **Respiratory therapy equipment.**~~

~~(A) Aerosol compressors (stationary and portable)~~

~~(B) Aspirators~~

~~(C) Percussors, vibrators~~

~~(D) Room humidifiers (with script)~~

~~(E) Ultrasonic nebulizers~~

~~(F) Volume ventilators, respirators and related device supplies~~

~~(h) **Other examples.** The following nonexclusive list contains other examples of **medical appliances, medical devices, and medical equipment** that qualify for the exemption described herein:~~

~~(1) Adhesive bandages~~

~~(2) Alternating pressure mattresses~~

~~(3) Alternating pressure pads~~

~~(4) Alternating pressure pads~~

~~(5) Anesthesia trays~~

~~(6) Aneurysm clips~~

~~(7) Arterial bloodsets~~

~~(8) Artificial sheepskin~~

~~(9) Aspirators~~

~~(10) Atomizers~~

~~(11) Autolit~~

~~(12) Back cushions~~

~~(13) Bathing aids~~

~~(14) Bathing caps~~

~~(15) Bathtub grab bars~~

~~(16) Bathtub lifts~~

~~(17) Bathtub seats~~

~~(18) Bed pans~~

~~(19) Bed rails~~

~~(20) Bedside commodes~~

~~(21) Bedside rails~~

~~(22) Bedside tables~~

~~(23) Bedside trays~~

~~(24) Bedwetting prevention devices~~

~~(25) Belt vibrators~~

~~(26) Biopsy needles~~

~~(27) Biopsy trays~~

~~(28) Blood administering sets~~

~~(29) Blood cell washing equipment~~

~~(30) Blood pack holders~~

~~(31) Blood pack trays~~

~~(32) Blood pack units~~

~~(33) Blood pressure meters~~

~~(34) Blood processing supplies~~
~~(35) Blood tubing~~
~~(36) Blood warmers~~
~~(37) Bone fracture therapy devices~~
~~(38) Breast pumps~~
~~(39) Breathing machines~~
~~(40) Canes~~
~~(41) Cannula systems~~
~~(42) Cardiac electrodes~~
~~(43) Cardiac pacemakers~~
~~(44) Cardiopulmonary equipment~~
~~(45) Catheter trays~~
~~(46) Cervical pillows~~
~~(47) Chair lifts~~
~~(48) Clamps~~
~~(49) Commode chairs~~
~~(50) Communication aids for physically impaired~~
~~(51) Connectors~~
~~(52) Contact lens cases~~
~~(53) Contact lenses~~
~~(54) Contact solution~~
~~(55) Convoluted pads~~
~~(56) Corrective eyeglasses~~
~~(57) Cotton balls~~
~~(58) Crawlers~~
~~(59) Crutch cushions~~
~~(60) Crutch handgrips~~
~~(61) Crutch tips~~
~~(62) Crutches~~
~~(63) Crutches~~
~~(64) Crutches, crutch pads, tips~~
~~(65) Decubitus prevention devices~~
~~(66) Decubitus seating pads, bed pads~~
~~(67) Dialysis chairs~~
~~(68) Dialysis machines~~
~~(69) Dialysis supplies~~
~~(70) Dialyzers~~
~~(71) Dietetic scales~~
~~(72) Disposable diapers~~
~~(73) Disposable gloves~~
~~(74) Disposable underpads~~
~~(75) Donor chairs~~
~~(76) Drainage bags~~
~~(77) Dressing aids, button loops, zipper aids, etc.~~

(78) Dressings
(79) Drug infusion devices
(80) Dry-aid kits for ears
(81) Earmolds
(82) Eating and drinking aids
(83) EKG paper
(84) Elastic bandages
(85) Elastic supports
(86) Electrodes
(87) Emesis basins
(88) Endo trach tubes
(89) Enema units
(90) Enteral and parenteral feeding equipment and supplies (tubes, pumps, containers)
(91) Exercise devices
(92) Eyeglasses
(93) First-aid kits
(94) Fistula sets
(95) Fitted stroller
(96) Foam seating pads
(97) Foam slant pillows
(98) Foam wedges
(99) Gauze bandages
(100) Gauze packings
(101) Gavage containers
(102) Geriatric chairs
(103) Geriatric chairs
(104) Grooming aids
(105) Grooming aids, dental aids
(106) Hand exercise equipment putty
(107) Hand sealers
(108) Head halters
(109) Hearing aid carriers
(110) Hearing aid repair kits
(111) Hearing aids
(112) Heart stimulators
(113) Heat lamps
(114) Heat pads
(115) Hemodialysis devices
(116) Hemolators
(117) Hospital beds
(118) Hospital beds
(119) Hot water bottles
(120) Household aids for the impaired

(121) Hydraulic lifts
(122) Hydro collators
(123) Hydro-therm heating pads
(124) Hypodermic syringes and needles
(125) I.V. administering sets
(126) I.V. connectors
(127) I.V. stands
(128) I.V. tubing
(129) Ice bags
(130) Ident-a-bands
(131) Incontinent garments
(132) Incubators
(133) Infrared lamps
(134) Inhalators
(135) Insulin infusion devices
(136) Invalid rings
(137) Iron lungs
(138) Irrigation apparatus
(139) Irrigation solutions
(140) Karaya paste
(141) Karaya seals
(142) Kidney dialysis machines
(143) Knee immobilizers
(144) Laminar flow equipment
(145) Latex gloves
(146) Leg weights (rehab. related)
(147) Leukopheresis pumps
(148) Lift recliners
(149) Lithotripter
(150) Lumbosacral supports
(151) Lymphedema pumps
(152) Manometer trays
(153) Massagers
(154) Maternity belts
(155) Medigrade tubing
(156) Modulung oxygenators
(157) Moist heat pads
(158) Muscle stimulators
(159) Muscle stimulators
(160) Myelogram trays
(161) Myringotomy tubes
(162) Nebulizers
(163) Needles
(164) Nerve stimulators

(165) Neuromuscular electrical stimulators [when not worn on the body]
(166) Overbed tables
(167) Oxygen equipment
(168) Page turning devices
(169) Pap smear kits
(170) Paraffin baths
(171) Patient lifts
(172) Patient lifts slings
(173) Patient safety vests
(174) Patient transport devices, boards
(175) Physicians instruments
(176) Pigskin
(177) Plasma extractors
(178) Plasmapheresis units
(179) Plaster (surgical)
(180) Plastic heat sealers
(181) Post-surgical bust forms
(182) Posture back supports
(183) Posture back supports for seating
(184) Prescribed device repair kits
(185) Pressure pads
(186) Raised toilet seats
(187) Reaching aids
(188) Respirators
(189) Restraints
(190) Resuscitators
(191) Sauna baths
(192) Security pouches
(193) Servipak dialysis supplies
(194) Shampoo trays
(195) Shelf trays
(196) Shoulder immobilizers
(197) Shower chairs
(198) Shower grip bars
(199) Shower seating
(200) Side rails
(201) Sitting and sleeping cushions
(202) Sitz bath kit
(203) Small vein infusion kits
(204) Specialized seating, desks, work stations
(205) Specially built hospital beds
(206) Specially designed hand utensils
(207) Specimen containers
(208) Spinal puncture trays

~~(209) Sponges (surgical)—~~
~~(210) Stairglides, lifts in home~~
~~(211) Stairway elevators~~
~~(212) Standing frames, devices and accessories~~
~~(213) Steri-peel~~
~~(214) Stethoscope~~
~~(215) Stools~~
~~(216) Stopcocks~~
~~(217) Strap-on urinals~~
~~(218) Suction equipment~~
~~(219) Sun lamps~~
~~(220) Surgical bandages~~
~~(221) Surgical equipment~~
~~(222) Suspensories~~
~~(223) Sutures~~
~~(224) Thermometers~~
~~(225) Toilet aids~~
~~(226) Toilet safety frames~~
~~(227) Toilet seat rails~~
~~(228) Toilet seat risers~~
~~(229) Tourniquets~~
~~(230) Trach tubes~~
~~(231) Traction equipment~~
~~(232) Traction stands, pulleys, etc.~~
~~(233) Transcutaneous electrical nerve stimulators (tens unit) [when not worn on the body]~~
~~(234) Transcutaneous nerve stimulators~~
~~(235) Transfer boards~~
~~(236) Transfusion sets~~
~~(237) Trapeze bars bar stand~~
~~(238) Trapezes~~
~~(239) Tub sealers~~
~~(240) Underpads~~
~~(241) Urinals~~
~~(242) Vacutainers~~
~~(243) Vacuum units~~
~~(244) Vaporizers~~
~~(245) Venous blood sets~~
~~(246) Vibrators~~
~~(247) Walker accessories~~
~~(248) Walkers~~
~~(249) Walkers, including walker chairs~~
~~(250) Walking bars~~
~~(251) Walking canes, quad canes, accessories~~

- (252) Water beds
- (253) Wheel walkers
- (254) Wheelchairs
- (255) Whirlpools
- (256) Writing and speech aids for the impaired
- (257) X-ray film

(i) **Prosthetic devices.** A nonexclusive list of **prosthetic devices** is as follows:

- (1) Abdominal belts
- (2) Anti-embolism stockings
- (3) Arch supports
- (4) Arm slings
- (5) Artificial arteries
- (6) Artificial breasts
- (7) Artificial ears
- (8) Artificial eyes
- (9) Artificial heart valves
- (10) Artificial implants
- (11) Artificial larynx
- (12) Artificial limbs
- (13) Artificial noses
- (14) Athletic supporters
- (15) Bone cement
- (16) Bone nails
- (17) Bone pins
- (18) Bone plates
- (19) Bone screws
- (20) Bone wax
- (21) Braces
- (22) Cast heels
- (23) Casts
- (24) Catheter devices and supplies
- (25) Catheters
- (26) Cervical braces
- (27) Cervical collars
- (28) Clavicle splints
- (29) Colostomy devices
- (30) Colostomy supplies and devices
- (31) Corrective braces
- (32) Corrective pessaries
- (33) Corrective shoes
- (34) Cosmetic gloves
- (35) Dental prosthesis
- (36) Dorsolumbar belts
- (37) Dorsolumbar supports

- (38) Eyelid load prosthesis
- (39) Heart valves
- (40) Hernia belts
- (41) Ileostomy devices
- (42) Iliac belts
- (43) Mastectomy pads
- (44) Neuromuscular electrical stimulators [when worn on the body]
- (45) Organ implants
- (46) Orthopedic implants
- (47) Orthopedic shoes
- (48) Orthotic supports (Bandages, belts, and similar supplies)
- (49) Ostomy devices
- (50) Pacemaker equipment
- (51) Pacemakers
- (52) Penile implants
- (53) Rib belts
- (54) Rupture belts
- (55) Sacroiliac supports
- (56) Sacrolumbar belts
- (57) Sacrolumbar supports
- (58) Space shoes
- (59) Splints
- (60) Splints, holders
- (61) Stoma appliances (colostomy, ileostomy, ureterostomy, catheters)
- (62) Stoma bags
- (63) Transcutaneous electrical nerve stimulators (tens unit) [when worn on the body]
- (64) Trusses
- (65) Ureostomy devices

PART 42. DISABLED VETERANS IN RECEIPT OF COMPENSATION AT THE ONE HUNDRED PERCENT RATE

710:65-13-275. Exemption for disabled veterans in receipt of compensation at the one hundred percent rate, and unremarried surviving spouses of qualifying veterans thereof, and unremarried surviving spouses of persons who died while in the line of duty

(a) **General provisions for exemption afforded certain veterans.** Sales of tangible personal property or services are exempt from sales tax when made to persons who 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 compensation at the 100% rate for a permanent disability sustained through military action or accident or resulting from a

disease contracted while in such service and are registered with the veterans registry created by the Oklahoma Department of Veterans Affairs. The exemption includes sales to the spouse of such veteran or to a household member where the veteran resides and who is authorized to make purchases on behalf of the veteran in the veteran's absence, so long as the purchase is for the benefit of the qualified veteran.

(b) **General provisions for exemption afforded an unremarried surviving spouse of deceased-qualifying a veteran qualifying under subsection (a) of this Section or a person who died in the line of duty.** Sales of tangible personal property or services are exempt from sales tax when made to a an unremarried surviving spouse of a deceased veteran qualifying for the exemption set out in subsection (a) of this Section or to an unremarried surviving spouse of a person determined by the United States Department of Defense or any branch of the United States military to have died while in the line of duty if the spouse has not remarried. The exemption includes sales to a household member where the qualifying surviving spouse of the deceased-qualifying veteran resides who is authorized to make purchases on behalf of the spouse in his or her absence, so long as the purchase is for the benefit of the spouse.

(c) **Qualification to receive an exemption card.** To qualify for exemption under this Section and receive an exemption card a veteran or surviving spouse of ~~the~~ a-qualifying veteran must be an Oklahoma "resident" as defined in 68 O.S. §2353 and submit to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, ~~OK~~ OK 73194 the following information:

(1) **Qualifying veteran.** A letter from the United States Department of Veterans Affairs certifying that the veteran is receiving disability compensation at the 100% rate and proof of registration with the veterans registry established in accordance with 72 O.S. § 721.

(2) **Unremarried surviving spouse of veterans qualifying for exemption under subsection (a) of this Section.** A letter from the United States Department of Veterans Affairs, Muskogee, OK certifying that the applicant is the unremarried spouse of the qualifying veteran.

(3) **Unremarried surviving spouse of a person who died in the line of duty.** An original or certified copy of the Department of Defense Form DD-1300 which certifies that the applicant is the surviving spouse of a person who died in the line of duty.

(d) **Exemption limitations.** The authorized exemption in this Section is subject to the following limitations:

(1) **Disabled veterans in receipt of compensation at the one hundred percent rate.** The authorized exemption for a qualified veteran is limited to Twenty-five Thousand Dollars (\$25,000.00) per year of qualifying purchases made by the qualified veteran, spouse or household member authorized to make purchases on behalf of the qualified veteran in the veteran's absence. The Tax Commission may request persons asserting or claiming exemption under this Section to provide a statement executed under oath, that the total

sales amounts for which the exemption is applicable have not exceeded the yearly limitation of Twenty-five Thousand Dollars (\$25,000.00). If an exempt sale exceeds the exemption limitation, the sales tax in excess of the limitation shall be treated as a direct sales tax liability and the Tax Commission may recover the tax including penalty and interest by the use of any method authorized by law.

(2) **Unremarried surviving spouse of ~~qualifying disabled veteran~~.** The exemptions authorized in subsection (b) of this Section ~~exemption for the an~~ unremarried surviving ~~spouse~~ spouse is are limited to One Thousand Dollars (\$1,000.00) per year of qualifying purchases made by the qualified surviving spouse. The Tax Commission may request persons asserting or claiming exemption under this Section to provide a statement executed under oath, that the total sales amount for which the exemption is applicable has not exceeded the yearly limitation of One Thousand Dollars ~~(1,000.00)~~ ~~(\$1,000.00)~~. If an exempt sale exceeds the exemption limitation, the sales tax in excess of the limitation shall be treated as a direct sales tax liability and the Tax Commission may recover the tax including penalty and interest by the use of any method authorized by law.

(e) **Qualifying sales.** Sales are exempt if the qualified veteran or surviving spouse has an interest in the funds presented and the purchase is made on his or her behalf, and the qualified ~~veteran's~~ person's spouse or household member or the surviving spouse's household member authorized to make purchases on behalf of the veteran or surviving spouse in their absence has presented the exemption card issued by the Oklahoma Tax Commission.

(f) **Previously qualified veterans.** Veterans which were granted the sales tax exemption outlined in this Section prior to November 1, 2020, must register with the ODVA veterans registry prior to July 1, 2023, in order to remain qualified.

(g) **Perfection of exemption.** The sales tax exemption afforded 100% disabled veterans must be perfected by presenting the sales tax exemption card issued to the qualifying veteran by the Tax Commission at the time of sale so that the vendor does not charge and collect sales tax on the purchase.

(h) **Denial of exemption by vendor.** All vendors shall honor the proof of eligibility for the sales tax exemption to both the qualified veteran, qualified unremarried surviving spouse and persons making purchases for the benefit of the disabled veteran or surviving spouse. Qualifying 100% disabled veterans and qualifying unremarried surviving spouses who have had claims for sales tax exemption denied by vendors may notify the Tax Commission of such denial by submitting to the Audit Services Division a signed and completed OTC Form 13-37, which is available online at www.tax.ok.gov.

(i) **Refund request.** A refund of sales taxes erroneously paid may be claimed only under circumstances where a vendor refused to honor the proof of exemption eligibility issued by the Tax Commission and the person eligible for

the exemption submits to the Tax Commission a completed and signed OTC Form 13-37 *Disabled American Veterans Notification of Denial of Exemption*.

(j) **Purchases by contractors.** Purchases of tangible personal property or services by a contractor, as defined by 68 O.S. Section 1352 are taxable to the contractor. A contractor who performs improvements to real property for a disabled veteran in receipt of compensation at the one hundred percent (100%) rate or an unremarried surviving spouse of the qualifying veteran who qualifies for the exemption from sales tax on their purchases described in this Section may **not** purchase tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to disabled veterans in receipt of compensation at the one hundred percent rate.

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

710:65-13-369.1. Exemption for nonprofit organizations restoring single family housing following a disaster

(a) **General provisions.** Sales of tangible personal property or services to a nonprofit entity, organized pursuant to Oklahoma law before January 1, 2019, exempt from federal income taxation pursuant to Section 501(c) of the Internal Revenue Code of 1986, as amended, the principal functions of which are to provide assistance to natural persons following a disaster, with program emphasis on repair or restoration to single-family residential dwellings or the construction of a replacement single-family residential dwelling are exempt from sales tax. An entity operated exclusively for charitable and educational purposes through the coordination of volunteers for the disaster recovery of homes (as derived from Part III, Statement of Program Services, of Internal Revenue Service Form 990) and offers its services free of charge to disaster survivors statewide who are low income with no or limited means of recovery on their own for the restoration to single-family housing following a disaster including related general and administrative expenses, shall be eligible for the exemption. As used in this Section, "disaster" means damage to property with or without accompanying injury to persons from heavy rain, high winds, tornadic winds, drought, wildfire, snow, ice, geologic disturbances, explosions, chemical accidents or spills and other events causing damage to property on a large scale.

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. Section 501(c)(3);

(2) A written description stating the activities of the organization which shows that the applicant meets the criteria set out in subsection (a) of this Section as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or

(D) Notarized letter from the President or Chairperson of the organization.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of tangible personal property or services, purchased by the organization, invoiced to the organization, and paid for by funds or checks directly from the organization, will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of tangible personal property or services to a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

710:65-13-371. Exemption for Oklahoma Women Veterans Organization and Subchapters

(a) **General provisions.** *Sales of tangible personal property or services to or by a women's veteran's organization, and its subchapters in Oklahoma, that is exempt from taxation pursuant to 26 U.S.C., § 501(c)(19) and is known as the Oklahoma Women Veterans Organization are exempt from sales tax. [68 O.S. § 1356(85)]*

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(19); and,

(2) Written confirmation that the applicant is currently recognized as the Oklahoma Women Veterans Organization or a subchapter thereof.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of goods or services purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in

this Section may **not** purchase the tangible personal property or services to perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

710:65-13-372. Exemption for nonprofit organizations that provide support to veterans, active duty members of the Armed Forces, reservists and members of the National Guard

(a) **General provisions.** Sales of tangible personal property or services to an organization that is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), and which provides support to veterans, active duty members of the Armed Forces, reservists and members of the National Guard to assist with the transition to civilian life, and that provides documentation to the OTC that over 70% of its revenue is expended on support for transition to civilian life are exempt from sales tax. [68 O.S. § 1356(84)]

(b) **Application process.** Application for exemption is made by submitting to the Business Tax Services Division, Oklahoma Tax Commission, Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E available online at www.tax.ok.gov along with supporting documentation as follows:

(1) Letter from the Internal Revenue Service (IRS) recognizing the organization as exempt from federal income taxation pursuant to 26 U.S.C. § 501(c)(3);

(2) A written description stating the activities of the organization which shows that the applicant meets the criteria set out in subsection (a) of this Section as evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or

(D) Notarized letter from the President or Chairperson of the organization;
and

(3) A copy of an audit, income tax informational return or financial statement which demonstrates that for the last fiscal year end before application that over 70% of the applying organization's funds were expended on the support for veterans, active duty members of the Armed Forces, reservists and members of the National Guard to assist with the transition to civilian life.

(c) **Exemption limited to eligible, properly documented transactions.** Only sales of goods or services purchased by the organization, invoiced to the organization, and paid for by funds or check directly from the organization will qualify for the exemption described in this Section.

(d) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. § 1352, are taxable to the contractor. A contractor who performs improvements to real property for organizations which qualify for the exemption from sales tax on their purchases described in this Section may **not** purchase the tangible personal property or services to

perform the contract exempt from sales tax under the exemption provided by statute to the qualified organizations.

SUBCHAPTER 19. SPECIFIC APPLICATIONS AND EXAMPLES

PART 15. "H"

710:65-19-142. Hospitals, nursing homes, similar institutions and practitioners

(a) **General Provisions provisions.** Hospitals, infirmaries, sanitariums, nursing homes, and like similar institutions and practitioners are primarily engaged in the business of rendering services, are generally considered to be the consumers or users of tangible personal property and services used in the operation of the institutions. Thus, with the exception of drugs, not to include over-the-counter drugs, and prosthetic devices, the gross proceeds derived from sales of tangible personal property and certain services to such institutions and practitioners are subject to tax. In-state vendors collect and remit sales tax on sales of such property to the institutions and practitioners, and use tax is due on out-of-state purchases. They Healthcare institutions are not required to collect, report, and remit sales tax on gross receipts from meals, bandages, dressings, drugs, x-ray photographs or other tangible personal property when such items of tangible personal property are used in the rendering of a hospital their service, regardless of whether the items are billed separately. This is true irrespective of whether or not such tangible items are billed separately to their patients.

(b) **Vendors selling to healthcare institutions.** With the exception of drugs, excluding over-the-counter drugs, as outlined in 710:65-13-170, hospitals, infirmaries, and sanitariums are deemed to be the purchasers for use or consumption of all tangible personal property used in the rendering of their service, and the sellers Sellers of these items tangible personal property to hospitals, infirmaries or sanitariums institutions and practitioners are required to collect tax on sales of such property to hospitals, unless the hospital, nursing homes, and similar institutions, is are owned or operated by the federal government, the State of Oklahoma, a city, county, public trust, or a federally-recognized Indian Tribe, in which case the exemption described at OAC 710:65-13-130 will apply.

(c) **Exceptions to the requirement to pay sales tax on purchases.** Hospitals, infirmaries or sanitariums, nursing homes, similar institutions and practitioners engaged in the administration of drugs to their patients, may purchase drugs, (except for over-the-counter drugs), and prosthetic devices for use by individuals exempt from sales tax, as outlined in subsections (a) and (c) of 710:65-13-170.

~~(e)~~ (d) **Sales tax refund claims.** For purchases made prior to July 1, 2022, a refund may be claimed by hospitals, nursing homes, similar institutions and practitioners that dispense or provide medical appliances, medical devices or medical equipment to Medicare or Medicaid patients for the sales taxes

previously paid by the institution or practitioner on such items. The documentation set out in (1) through (3) of this subsection must be obtained as part of the claimant's records to substantiate the exemption claimed:

(1) Name and address of the purchaser or lessee or person on whose behalf the item is being purchased or leased;

(2) A copy of the prescription or work order; and

(3) A copy of the document which shows that the person on whose behalf the item is being purchased or leased is a Medicare or Medicaid patient.

For purchases made on or after July 1, 2022, refund claims for items exempted pursuant to the provisions of 710:65-13-173 will not be allowed unless the purchaser's direct payment permit issued pursuant to 710:65-9-10 was presented to the vendor at the time of sale and the tax was accrued by the direct pay permit holder. To substantiate the refund claim the documentation outlined in subsection (e) of this Section will be required.

(e) **Direct pay permits.** Health care providers such as hospitals, nursing homes, similar institutions and practitioners may qualify for a direct payment permit, valid for three (3) years, pursuant to the provisions of Section 710:65-9-10. To substantiate the sales tax exemption for certain medical appliances, medical devices and other medical equipment pursuant to 68 O.S. § 1357.6(A), a healthcare provider holding a direct pay permit must maintain separate from confidential patient records the following information:

(1) Patient case number or account number;

(2) Type of insurance; and

(3) Item description or product number.

~~(e)~~ (f) **Provision of meals.** When hospitals furnish meals to nurses, attendants and patients as a part of the service rendered, the hospitals are deemed to be the users or consumers of the food and beverages used in the preparation of these meals and the sellers of these items to the hospital are required to collect tax on the sales of such property.

~~(d)~~ (g) **Cafeterias open to public.** When privately owned hospitals operate cafeterias that serve meals to the public, they will be allowed to purchase all foodstuffs used to operate the cafeteria exempt from tax for resale with a valid sales tax permit. The hospitals will then be required to collect the sales tax on sales to their customers and report and remit same to the Commission each month. The hospitals will also be required to pay sales tax on the cost of all foodstuffs withdrawn from stock, which are used to feed patients.

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

PART 35. "R"

710:65-19-294. Research and development [REVOKED]

~~(a) The development of information pursuant to a research and development contract is a sale of a service which is not subject to the sales tax. Although the person performing the research and development may be under contract to provide such things as plans, designs and specifications, or to test and evaluate a proposed product, the primary objective of the customer is to obtain the results of the technical skill and the experimental and research work of the engineers and other technicians of the researcher.~~

~~(b) In certain instances under a research and development contract, the information cannot be developed without the production of a prototype. In this situation, the research and development company must pay tax on the materials used to construct the prototype since it is used to compile the data, designs, drawings and whatever else is provided the customer. The measure of the tax is the cost of the materials going into the production of the prototype as well as other materials consumed in performing the contract. The transfer of the prototype is incidental to the transfer of information, and for sales tax purposes is deemed not a sale of tangible personal property.~~

~~(c) A research and development contract is distinguishable from a contract for the production of an item after the research and development has been completed. All charges to the researcher's customer relating to the production of such an item are for the sale of tangible personal property, not research and development services, and as such are subject to the tax.~~

~~(d) A new or expanding business primarily engaged in research and development as defined under Industrial Group Numbers 8731, 8732, 8733, and 8734 of the SIC Manual, latest revision, may qualify for sales and/or use tax exemption on certain of its purchases under the Oklahoma Research and Development Incentives Act. [See: 68 O.S. § 5400] et seq. and OAC 710:65-13-52]~~

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

RULE IMPACT STATEMENT

Pursuant to 75 O.S. §303(D), the Oklahoma Tax Commission provides the following rule impact statement with regard to proposed rule changes to Chapter 65 of Title 710 of the Oklahoma Administrative Code.

DESCRIPTION: The proposed amendment to Section 710:65-13-30 implements the provisions of HB 2234 [2021]; HB 2234 levies a tax at the rate of \$0.03 per kilowatt hour or its equivalent on the electric current used to charge or recharge the battery or batteries of an electric vehicle, beginning January 1, 2024. Electric vehicle charging tax collected and remitted to the Tax Commission is in lieu of state and local sales tax. [68:6501 et seq]

The proposed revocation of Sections 710:65-13-52 and 710:65-19-294 implements the provisions of SB 72 which repealed the Oklahoma Research and Development Incentives Act (68 O.S. § 54001, et seq.). This Act allowed a sales/use tax exemption for sales of computers, data processing equipment, related peripherals, telegraph or telecommunications services, and equipment, to new and expanding businesses classified under designated industrial group numbers of the Standard Industrial Classification (SIC) manual and that meet other requirements set forth in the Act.

The proposed amendments to Sections 710:65-13-170 and 710:65-13-173 are to clarify the taxability treatment of medical appliances, medical devices and other medical equipment furnished to Medicare/Medicaid program recipients, and the taxability treatment of drugs and prosthetic equipment. [68:1357.6]

The proposed amendment to Section 710:65-13-275 implements the provisions of SB 1670 which amended 68 O.S. § 1357(34) by expanding the sales tax exemption for surviving spouses of 100% disabled veterans to include sales to the surviving spouse of a person who is determined by the United States Department of Defense or any branch of the United States military to have died while in the line of duty if the spouse has not remarried.

The proposed promulgation of new Section 710:65-13-369.1 implements the provisions of SB 1305 which amended 68 O.S. § 1356 to add a sales tax exemption for sales of tangible personal property or services to a qualified nonprofit entity, the principal functions of which are to provide assistance to a natural person following a disaster, with program emphasis on repair or restoration to single-family residential dwellings or the construction of a replacement single-family residential dwelling. The exemption is applicable to sales made on or after July 1, 2022.

The proposed promulgation of new Section 710:65-13-371 implements the provisions of SB 1496 which amended 68 O.S. § 1356 by exempting from the sales tax levy, sales of tangible personal property or services to or by a women's

veteran's organization, and its subchapters in Oklahoma, that is exempt from taxation pursuant to 26 U.S.C., § 501(c)(19) and is known as the Oklahoma Women Veterans Organization.

The proposed promulgation of new Section 710:65-13-372 implements the provisions of HB 3649 which amended 68 O.S. § 1356 by providing a sales tax exemption for sales of tangible personal property or services to an organization that is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), that provides support to veterans, active duty members of the Armed Forces, reservists and members of the National Guard to assist with the transition to civilian life, and that provides documentation to the Tax Commission that over 70% of its revenue is expended on support for transition to civilian life.

The proposed amendment to Section 710:65-19-142 implements the provisions of Sections 1 and 3 of HB 3905 which amended 68 O.S. §§ 227 and 1364.1, relating to direct pay permits, which allow hospitals, similar institutions and medical practitioners to purchase certain medical appliances, medical devices and other medical equipment without the payment of sales or use tax to the vendor. A direct pay permit allows a purchaser to remit the taxes due directly to the Tax Commission. A person may only file a claim for refund of sales/use tax erroneously paid on purchases of items exempted pursuant to 68 O.S. §1357.6, if the person presented the seller a direct pay permit issued pursuant to 68 O.S. §1364.1 at the time of purchase of the items for which the refund is claimed.

CLASSES AFFECTED: All taxpayers, including but not limited to charging station owners and operators; vendors of drugs, prosthetic devices, medical appliances, medical devices and other medical equipment; healthcare providers, hospitals and nursing homes; unremarried surviving spouses of persons who died while in the line of duty; and, nonprofit organizations.

PERSONS BENEFITED: All taxpayers and affected classes will benefit from increased clarity of Oklahoma tax laws and Tax Commission procedures.

PROBABLE ECONOMIC IMPACT OF THE PROPOSED RULE UPON AFFECTED CLASSES OF PERSONS OR POLITICAL SUBDIVISIONS: There are no anticipated increase to costs associated with the proposed rule changes.

LISTING OF ALL FEE CHANGES, INCLUDING A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE: The rulemaking action does not levy, implement, or increase an existing fee.

PROBABLE COSTS TO THE AGENCY: Costs to promulgate and enforce the proposed rules will be funded through normal agency budget. No measurable impact on State revenues is anticipated.

ECONOMIC IMPACT ON POLITICAL SUBDIVISIONS: The agency does not anticipate any economic impact on any political subdivision to implement the proposed rules change at this time.

SMALL BUSINESS IMPACT: After consideration with reference to Section 303(A)(4) and 303(B)(6) of Title 75, it is believed that the proposed rules will have no adverse impact upon Small Business.

ALTERNATIVE METHODS AND COSTS OF COMPLIANCE: There are no less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rules. No formalized compliance cost minimization measures have been pursued.

DETERMINATION OF THE EFFECT ON PUBLIC HEALTH, SAFETY AND ENVIRONMENT: The agency does not anticipate any impact on public health, safety, or environment as a result of implementation of the proposed rules at this time.

DETERMINATION OF THE DETRIMENTAL EFFECT WILL THERE BE ON THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT IF THE RULE CHANGE IS NOT IMPLEMENTED: The agency does not anticipate any detrimental effect on public health, safety, or environment as a result of failure to implement the proposed rules at this time.

DATE PREPARED: December 13, 2022