

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

**RULEMAKING ACTION:**

PERMANENT final adoption

**RULES:**

Subchapter 3. Reports and Returns; Payments and Penalties; Records

Part 1. General Provisions

710:65-3-4 [AMENDED]

Subchapter 9. Permits

710:65-9-8 [AMENDED]

710:65-9-10 [AMENDED]

Subchapter 13. Sales and Use Tax Exemptions

Part 29. Manufacturing

710:65-13-154 [AMENDED]

Part 31. Medicine, Medical Appliances, and Health Care Entities and Activities

710:65-13-170 [AMENDED]

710:65-13-172 [AMENDED]

710:65-13-173 [AMENDED]

**AUTHORITY:**

68 O.S. § 203; Oklahoma Tax Commission

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n/a

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n/a

**ANALYSIS:**

Section 710:65-3-4 has been amended to update and delete obsolete language.

Section 710:65-9-8 has been amended consistent with the provisions of House Bill 1039 [2013] which modifies the definition of “special event” found in 68 O.S. § 1364.2(K)(2) to exclude registered farmers markets.

Sections 710:65-9-10, 710:65-13-170 and 710:65-13-173 have been amended to implement House Bill 1399 [2013] which allows certain healthcare providers to obtain a direct payment permit to make sales/use tax payments directly to the Tax Commission on items used in Oklahoma in a taxable manner. **[68:1364.1]**

Section 710:65-9-10 has also been amended to reflect the provisions of Section 1 of Senate Bill 1465 [2012] which provides that sales made to direct payment permit holders of tangible personal property intended solely for use in other states, but which is stored in Oklahoma pending shipment to other states or which is temporarily retained in Oklahoma for the purpose of fabrication, repair, testing, alteration, maintenance, or other service are not subject to Oklahoma sales tax. **[68:1364.1]**

Section 710:65-13-154 has been amended to update rule references consistent with governing statutory authority. **[68:3607]**

Section 710:65-13-172 has been amended to conform to legislative changes made in Section 3 of House Bill 1104 to correct an out-of-date U.S. Code reference relating to the sales tax exemption afforded certain health centers. **[68:1356(22)]**

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**PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF SEPTEMBER 12, 2014:**

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

**PART 1. GENERAL PROVISIONS**

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

(a) **General provisions.** Every vendor shall file a monthly report for sales made the preceding month stating the name of the seller, address, telephone number, federal employer identification number (FEIN) or social security number (SSN), sales tax number as it appears on the sales tax permit of the business and the period (month and year) covered by the report. In addition, the report shall disclose the following:

- (1) Total gross receipts for the preceding month from sales, both taxable and non-taxable.
- (2) The "**sales value**" of all withdrawals from inventory of goods initially purchased exempt from sales tax, including all items withdrawn for gifts, donations, prizes or business or personal use. Included is the cost of all withdrawals from inventory of goods initially purchased on a tax deferred basis pursuant to a direct pay permit which are subsequently withdrawn for a taxable use.
- (3) Deductions allowed by law. Deductions not specifically delineated on the face of the return must be fully explained in the space provided.
- (4) The amount of tax due, including any city or county tax, or both, as described in (d) of this Section.

(5) The balance of tax due less any remuneration earned, as described in (b) of this Section.

(A) The return should show the amount of interest (if any) that is due.

(B) The return should show the amount of penalty (if any) that is due.

(6) Such other reasonable information as the Commission may require. [See: 68 O.S. §§1365, ~~1367~~ 1367.1]

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

(c) **Exception to the requirement to file electronically.** The vendor may apply in writing to the Business Tax Electronic Filing Coordinator, Oklahoma Tax Commission, ~~P.O. Box 269057, Oklahoma City, OK, 73126-9057~~ 440 S. Houston Suite 501, Tulsa, OK, 74127-8913, for a determination that the vendor is unable to participate in the electronic funds transfer and electronic data interchange program, and if the application is approved, the vendor will be permitted to report on paper and to deduct the remuneration of one percent (1%).

(1) To determine whether a vendor is "unable" to file electronically, the following guidelines shall be utilized:

(A) The taxpayer does not have access to a computer or internet access at home or place of business; and,

(B) The taxpayer does not use a tax preparer that has a computer or one that does not have internet access; and,

~~(C) The taxpayer is unable to use the Telefile system.~~

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

(3) An aggrieved taxpayer may protest the determination of the Commission as provided by 68 O.S. § 207 pursuant to ~~OAC 710:1-5-21~~ 710:1-5-20 through ~~710:1-5-48~~ 710:1-5-49, the rules of practice and procedure before the Commission.

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

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

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

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

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

## SUBCHAPTER 9. PERMITS

### 710:65-9-8. Special event permits and reporting

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

(1) **"An event held on an irregular basis"**, for purposes of this Section, means any event that does not occur on a continuous and ongoing basis, even if there is some frequency or pattern of occurrences. Events held on "an irregular basis" may include, but are not limited to, events held once a week or only certain weeks, events that are held every weekend or only on particular weekends, events held once a month or for only certain months, and other events that are held on a periodic basis, as well as those which occur more sporadically.

(2) **"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. [68 O.S. § 1352(18)]

(3) **"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 Title 68 of the Oklahoma Statutes by special event vendors. [68 O.S. ~~Supp. 2003~~ § 1364.2]

(4) **"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:

(A) ~~any a~~ county, district or state fair, ~~or~~

(B) a public or private school or university-sponsored event, ~~or~~

(C) an event sponsored by a church organization exempt from taxation pursuant to 501(c)(3) of the Internal Revenue Code, ~~;~~

(D) ~~"Special event"~~ shall not include an event sponsored by a city or town that includes less than ten special event vendors; ~~or~~

(E) a registered farmers market which is a designated area where 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. [68 O.S. ~~Supp. 2003~~ 2013 § 1364.2]

(5) **"Special event vendor"** means a person making sales of tangible personal property or services taxable under Section 1350 et seq. of Title 68 of the Oklahoma Statutes at a special event within this state and who is not permitted under Section 1364 of Title 68 of the Oklahoma Statutes. [68 O.S. ~~Supp. 2003~~ § 1364.2]

(b) **Application for special event permit.** Every promoter or organizer of a special event shall file an application for a special event permit with the Taxpayer Assistance Division, Oklahoma Tax Commission at least 20 days before the beginning of the special event. If more than one special event is to be held at the same location during a single calendar year, all may be included in one application, and a separate permit will be issued for each event. Each permit will include the dates of the event to be held, and must be prominently displayed at the site of the event for its duration. If an applicant wishes to have permits issued for additional events after an application has been previously submitted, another supplemental application must be filed for the additional events. The application form for a special event permit may be obtained from the Compliance Division,

Oklahoma Tax Commission, 409 N.E. 28<sup>th</sup> Street, Oklahoma City, OK 73194, or online at [www.tax.ok.gov](http://www.tax.ok.gov).

(c) **Fee.** There is a fee of fifty dollars (\$50.00) for each application filed, which must be remitted with the application.

(d) **Promoter or organizer to distribute vendors' reporting forms.** Special event promoters and organizations are required to provide sales tax report forms to special event vendors that will be selling tangible personal property and taxable services at the event.

(e) **Promoter or organizer to collect reports and tax from special event vendors.** At the end of the event, special event promoters are required to collect the sales tax reports, along with the sales tax due from each special event vendor.

(f) **Promoter or organizer to report and remit sales tax.** Promoters or organizers of special events must file sales tax reports and remit taxes collected from special events, as follows:

(1) Promoters and organizers are required to file the sales tax reports within fifteen days following the last day of a special event.

(2) Payment of the total tax due is required at the time the sales tax report is filed. 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; and,

(3) The organizer or promoter shall also submit a list of vendors at each event that hold a valid sales tax permit issued under 68 O.S. § 1364. The list shall include the vendor's name, address, telephone number, and sales tax permit number.

(4) Promoters and organizers are only liable for the failure to report and remit the sales taxes that have been collected by them from special event vendors.

(g) **Limitation of responsibilities of promoters or organizers.** 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 (b) of this Section;

(2) Providing report forms to special event vendors as provided in (d) 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.

(h) **Denial of limitation.** Requests submitted pursuant to (g) of this Section 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 (i) of this Section.

(i) **Vendor reporting and remitting pursuant to subsection (g).** A special event vendor who has participated in a special event approved under subsection (g) 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. Sales taxes shall be considered delinquent and interest as provided by law will be charged if payment is not received or postmarked by the fifteenth (15th) day following the event.

(j) **Reporting and remitting tax when event lasts 30 days or longer.** When the special event will last thirty (30) days or longer, a sales tax report is required to be filed for each calendar month by the 15th day of the following month.

(k) **Remuneration.** Provided that the required sales tax reports are timely filed and the tax due remitted, promoters and organizers to whom special event permits have been issued may deduct the applicable remuneration allowed by 68 O.S. § 1367.1.

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

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

(b) **Qualification for direct payment permit.** To qualify for a direct payment permit, valid for three (3) years, an applicant must meet the requirement set forth in paragraph 1, 2, or 3. In addition to any other conditions mandated by statute, all applicants for a direct payment permit must comply with all conditions, prerequisites and qualifications described in (1) through (5) of this subsection:

(1) ~~Qualifying purchases threshold.~~ **Documentation for established businesses.** The applicant must be making purchases of \$800,000.00 annually in taxable items for the use in its Oklahoma enterprises, and not for resale: and

~~(A) Documentation for established businesses.~~ Annual annual purchases of \$800,000.00 must be verifiable from the applicant's sales or use tax records.

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

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

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

~~(2)~~(1) Overall compliance with tax provisions. The applicant must be in compliance with all pertinent tax laws of the State of Oklahoma and with the respective rules of the Commission.

~~(3)~~(2) Applicant must establish reliability and accuracy of accounting methods. All The applicant(s) must be able to establish to the satisfaction of the Commission that the applicant is or will be using an accounting method which clearly distinguishes between taxable and nontaxable purchases. An explanation of the accounting procedures which will be used to determine the taxability of any purchase and to ensure that any tax due is correctly accrued and remitted must accompany the application for a direct payment permit. Additionally to substantiate the exempt purchase of medical equipment pursuant to subsection (a) of 710:65-13-173, a healthcare provider holding a direct pay permit must maintain separate from confidential patient records the following information:

(i) Patient case number or account number;

(ii) Type of insurance and

(iii) Item description or product number.

~~(4)~~(3) Compliance with reporting and remitting requirements; waiver of discount. The applicant must agree to accrue and pay all taxes imposed by the Sales or Use Tax Codes, on the applicable direct payment sales or use tax return, for items not specifically exempted. The

applicant must agree to make the payments to the State on or before the 20<sup>th</sup> day of the month following ~~each monthly~~ the applicable reporting period in which the items become subject to the tax by reason of their consumption in this State. A written agreement to this effect, signed by an officer or other person authorized to legally bind the applicant, and an acknowledgement that the discount allowed by Section 1367.1 of Title 68 is waived on all purchases which are taxable to the applicant, must be furnished to the Commission and it must be signed and returned along with the application for a direct payment permit.

~~(5)~~**(4) Compliance with restrictions on purchases for resale.** The applicant must agree to give a resale certificate, rather than a direct payment permit, for any item that will be resold, as provided by the Sales or Use Tax Codes.

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

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

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

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

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

- (1) A **copy** of the purchaser's Direct Payment Permit (DPP), or if unavailable, the name, address, and DPP number of the purchaser;
- (2) A statement that the permit-holder claims deferral of the payment of state, city and county sales or use taxes upon its purchases of taxable tangible personal property or services;
- (3) A statement that the articles purchased are for use in the purchaser's Oklahoma enterprises, and not for resale;
- (4) The signature of the purchaser or a person authorized to legally bind the purchaser, and date signed.

~~(h)~~**(i) Limitations on use of direct payment procedure.** Direct payment certification procedures are not applicable to the purchase of materials or supplies used, transferred, or consumed by a third

party in performing services for the direct payment permit-holder, regardless of whether the third party is a contractor, service provider, or other person.

~~(j)~~ **Incidence of tax for purchases made pursuant to direct payment permit and stored in Oklahoma.** For taxable items purchased under a direct payment permit, the incidence of Oklahoma sales and use taxes to be accrued and remitted on items stored in Oklahoma is to be determined by reference to this subsection, as well as to the provisions of the Oklahoma Sales and Use Tax Codes. [See: 68 O.S. § 1361(C)]

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

(2) **Sales tax to be accrued on items and goods purchased in Oklahoma.** Items and goods purchased in Oklahoma pursuant to a valid Oklahoma direct payment permit are subject to Oklahoma sales and applicable city and county sales taxes at the time they are first used or consumed in a taxable manner. ~~Removal of goods originally purchased tax free in Oklahoma from an inventory held in this State, even if the goods are intended for transfer to another state, constitutes a taxable event or incidence upon which Oklahoma sales tax and applicable city and county sales taxes must be accrued and remitted to the Commission by the direct payment permit holder.~~ Sales made to direct payment permit holders of tangible personal property intended solely for use in other states, but which is stored in Oklahoma pending shipment to other states or which is temporarily retained in Oklahoma for the purpose of fabrication, repair, testing, alteration, maintenance, or other service are not subject to Oklahoma sales tax.

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

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

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

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

~~(m)~~ **Procedure upon cancellation, revocation, or forfeiture.** Any entity whose direct payment permit is either voluntarily forfeited, or is cancelled or revoked by action of the Commission, must

immediately notify all vendors from whom purchases of taxable items are made advising them that any certification provided to them pursuant to the forfeited, cancelled or revoked direct payment permit is no longer valid.

## **SUBCHAPTER 13. SALES AND USE TAX EXEMPTIONS**

### **PART 29. MANUFACTURING**

#### **710:65-13-154. Limitation on credits**

No qualified establishment, nor its contractors or subcontractors, receiving an incentive payment pursuant to the Oklahoma Quality Jobs Program Act, 68 O.S. § 3601 et seq., shall be eligible to receive the credit described in 710:65-13-153, 710:65-13-155, or 710:65-13-156. [See: 68 O.S. ~~Supp.~~ 1993, § 3607]

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

#### **710:65-13-170. Medicines, drugs, hospitals, nursing homes, practitioners, and medical equipment and appliances, generally**

(a) **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) **Medical equipment, appliance, or device.** Except as set forth in 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.

(c) **Sales to hospitals, nursing homes and practitioners.** 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.

(d) **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.

(e) **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.

(f) **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.

**710:65-13-172. Exemption for ~~community health centers, migrant health centers,~~ indigent health care clinics, certain community-based health care centers, and community mental health centers**

(a) **Qualification for the exemption for ~~community health centers, migrant health centers,~~ indigent health care clinics, and certain community-based health care centers and community mental health centers.** Sales tax does not apply to the sale of tangible personal property or taxable services when sold to:

(1) Any ~~federally qualified community~~ health center as defined in Section 254e 254b(a) of Title 42 of the United States Code;

(2) ~~Any migrant health center as defined in Section 254b of Title 42 of the United States Code;~~

(3) 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;

(4) (3) Any community-based health center which provides primary care services at no cost to the recipients, **and** 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). For purposes of this Section, "**primary care services**" means health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians, and where appropriate, physician assistants, nurse practitioners, or other licensed medical professionals; or

(5)(4) Any community mental health center as defined in Section 3-302 of Title 43A of the Oklahoma Statutes. For purposes of this Section, "**community mental health center**" means a facility offering:

(A) *A comprehensive array of community-based mental health services, including, but not limited to, ~~inpatient treatment, outpatient treatment, emergency evaluation and care, partial hospitalization, emergency care, consultation, and education, rehabilitation services, and aftercare, and~~*

(B) *Certain services at the option of the center, including, but not limited to, ~~prescreening, rehabilitation services, pre-care and after care, inpatient treatment, training programs, and research and evaluation programs.~~*

(b) **Application process.** Application for exemption is made by submitting to the Taxpayer Assistance Division, Oklahoma Tax Commission, 2501 Lincoln Blvd., Oklahoma City, OK 73194, a completed Form 13-16-A, contained in Packet E available telephonically at (405) 521-3160 or online at [www.tax.ok.gov](http://www.tax.ok.gov) along with the applicable documentation set forth in (c) of this Section:

(c) **Supporting documentation required.**

(1) ~~Federally qualified community health~~ **Health** centers ~~or migrant health centers.~~ Federally qualified community health **Health** centers ~~or migrant health centers~~, must submit the letter of notification from the U.S. Department of Health and Human Services, recognizing that the center qualifies under the terms of the relevant statute Section 254b(a) of Title 42 of the United States Code.

(2) **Clinics receiving disbursements of state monies from the Oklahoma Indigent Health Care Revolving Fund.** Clinics receiving disbursements of state monies from the Oklahoma Indigent Health Care Revolving Fund must submit a copy of the letter or disbursement voucher from the Fund, showing the date the funds were disbursed.

(3) **Community-based health centers.** Community-based health centers must submit the documentation described in (A) through (C) of this paragraph:

(A) A 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);

(B) A written description of the primary care services provided must be submitted, stating the activities of the organization, and evidenced by copies of the following, as applicable:

(i) By-laws;

(ii) An audit or other financial statement, showing the types and amounts of revenue received; and

(iii) Intake documents or other forms used to obtain information from clients and which specifically reflect that the primary care services were being provided at no cost to the recipients.

(C) For the purposes of this paragraph, "**at no cost to the recipient**" means at no cost to either the recipient or any unit of government, or any insurance company, or any other person or entity. Centers which provide primary care services on a "sliding scale" fee schedule do **not** qualify for the exemption.

(4) **Community mental health centers.** Community mental health centers must submit to the Commission, as part of its application, proof of recognition by the Oklahoma Department of Mental Health and Substance Abuse Services that applicant qualifies as a Community Mental Health Center, along with a written description of the comprehensive array of community-based mental health and other optional services the facility offers, as may be evidenced by copies of:

(A) Articles of incorporation;

(B) By-laws;

(C) Brochure; or

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

(d) **Exemption limited to eligible, properly documented transactions.** Only sales of tangible personal property and 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.

(e) **Purchases by contractors.** Purchases of taxable personal property or services by a contractor, as defined by 68 O.S. §1352, are taxable to the contractor. A contractor may not purchase tangible personal property or services to perform contracts with qualifying health care organizations exempt from sales tax.

#### **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 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. 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.

(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.

(e) (f) **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

(4) (g) **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

(g) (h) **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