

CITY OF MUSKOGEE USE TAX CODE

Sec. 74-216. - Short title.

This article, including all amendments thereto, shall be known and may be cited as the "Muskogee Use Tax Ordinance."

Sec. 74-217. - Excise tax on storage, use, or other consumption of tangible, personal property levied.

There is hereby levied and there shall be paid by every person storing, using, or otherwise consuming within the city, tangible personal property purchased or brought into the city, an excise tax on storage, use or other consumption in the city of such property at the rate of four percent of the purchase price of such property. Said rate shall be equivalent to the prevailing city sales tax rate. Such tax shall be paid by every person storing, using, or otherwise consuming, within the city, tangible personal property purchased or brought into the city. The additional tax levied hereunder shall be paid at the time of importation or storage of the property within the city and shall be assessed to only property purchased outside the state; provided the tax levied herein shall not be levied against tangible personal property intended solely for use outside the city, which is stored in the city pending shipment outside the city or which is temporarily retained in the city for the purpose of fabrication, repair, testing, alteration, maintenance, or other service. Any person liable for payment of the tax authorized herein may deduct from such tax any local or municipal sales tax previously paid on such goods or services; provided that the amount deducted shall not exceed the amount that would have been due under the taxes which would be levied by the city on the sale of goods or services.

Sec. 74-218. - Exemptions.

The provisions of this article shall not apply:

(1) In respect to the use of an article of tangible personal property brought into the city by a nonresident individual visiting in the city for his personal use or enjoyment while within the city;

(2) In respect to the use of tangible personal property purchased for resale before being used;

(3) In respect to the use of any article of tangible personal property on which a tax, equal to or in excess of that levied by both the Oklahoma Use Tax Code and this article, has been paid by the person using such tangible personal property in the city, whether such tax was levied under the laws of the state or some other state or municipality of the United States. If any article of tangible personal property has already been subjected to a tax by the state or any other state or municipality in respect to its sale or use, in an amount less than the tax imposed by both the Oklahoma Use Tax Code and this article, the provisions of this article shall also apply to it by a rate measured by the difference only between the rate provided by both the Oklahoma Use Tax Code and this article, and the rate by which the previous tax upon the sale or use was computed. Provided, that no credit shall be given for taxes paid in another state or municipality, if that state or municipality does not grant like credit for taxes paid in the state and the city;

(4) In respect to the use of tangible personal property now specifically exempted from taxation under this article;

(5) In respect to the use of any article of tangible personal property brought into the city by an individual with intent to become a resident of the city where such personal property is for such individual's personal use or enjoyment;

(6) In respect to the use of any article of tangible personal property used or to be used by commercial airlines or railroads;

(7) In respect to livestock purchased outside the state and brought into the city for feeding or breeding purposes, and which is later resold.

Sec. 74-219. - Time when due; returns; payments.

The tax levied by this article is due and payable at the time and in the manner and form proscribed for payment of the state use tax under the Oklahoma Use Tax Code.

Sec. 74-220. - Bracket system.

A bracket system is hereby adopted by reference from the system published by the state for the convenience of vendors in collecting both the state sales tax and the city use tax. The use of the referenced bracket system does not relieve the retailer or vendor from the duty and liability to remit to the commission an amount equal to the cumulative percentage of the gross purchase price (less the discount allowed by the law and ordinances) of the property taxed during the taxable period.

Sec. 74-221. - Tax constitutes debt.

Such taxes, penalty and interest due hereunder shall at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt.

Sec. 74-222. - Collection of tax by retailer or vendor.

Every retailer or vendor maintaining places of business both within and outside the state, and making sales of tangible personal property from a place of business outside the state for use in the city shall at the time of making such sales collect the use tax levied by this article from the purchaser and give to the purchaser a receipt therefor in the manner and form proscribed by the tax commission, if the tax commission shall, by regulation, require such receipt. Each retailer or vendor shall list with the tax commission the name and address of all his agents operating in the city and location of any and all distribution or sales houses or offices or other places of business in the city.

Sec. 74-223. - Collection of tax by retailer or vendor not maintaining a place of business within state, or both within and outside state; permits.

The tax commission may, in its discretion, upon application, authorize the collection of the tax herein levied by any retailer or vendor not maintaining a place of business within the state but who makes sales of tangible personal property for use in the city and by the out-of-state

place of business of any retailer or vendor maintaining places of businesses, both within and outside the state and making sale of tangible personal property at such out-of-state place of business for use in the city. Such retailer or vendor may be issued, without charge, a permit to collect such taxes, by the tax commission in such manner and subject to such regulations and agreements as it shall proscribe. When so authorized, it shall be the duty of such retailer or vendor to collect the tax upon all tangible personal property sold to the retailer's or vendor's knowledge for use within the city. Such authority and permit may be canceled when at any time the tax commission considers that such tax can more effectively be collected from the person using such property in the city. Provided, however, that in all instances where such sales are made or completed by delivery to the purchaser within the city by the retailer or vendor in such retailer's or vendor's vehicle, whether owned or leased (not by common carrier), such sales or transactions shall continue to be subject to applicable city sales tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly

Sec. 74-224. - Revoking permits.

Whenever any retailer or vendor not maintaining place of business in the state, or both within and without the state, and authorized to collect the tax herein levied, fails to comply with any of the provisions of this article or the Oklahoma Use Tax Code or any order, rules or regulations of the tax commission, the tax commission may, upon notice and hearing as provided for in 68 O.S. § 1408, by order, revoke the use tax permit, if any, issued to such retailer or vendor, and if any such retailer or vendor is a corporation authorized to do business in the state may, after notice and hearing provided in this section, cancel said corporation's license to do business in the state and shall issue a new license only when such corporation has complied with the obligations under this article, the Oklahoma Use Tax Code, or any order, rules or regulations of the tax commission. No order authorized in this section shall be made until the retailer or vendor is given an opportunity to be heard and to show cause why such order should not be made and he shall be given ten days' notice by mail of the time, place and purpose of such hearing.

Sec. 74-225. - Remunerative deductions allowed vendors or retailers of other states.

Returns and remittances of the tax herein levied and collected shall be made to the tax commission at the time and in the manner, form and amount as proscribed for returns and remittances required by the Oklahoma Use Tax Code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by said code for the collection of state use taxes. No deductions from tax shall be allowed if any such report or payment of tax is delinquent.

Sec. 74-226. - Interest and penalties; delinquency.

The provisions of 68 O.S. § 217 are hereby adopted and made a part of this article, and interest and penalties at the rates and in the amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this article. Provided, that the failure or refusal of any retailer or vendor to make and transmit the reports and remittances of tax in the time and manner required by this article shall cause such tax to be delinquent.

Sec. 74-227. - Waiver of interest and penalties.

The interest or penalty or any portion thereof accruing by reason of a retailer's or vendor's failure to pay the city tax herein levied may be waived or remitted in the same manner as provided for said waiver or remittance as applied in administration of the state use tax provided in 68 O.S. § 227, and to accomplish the purposes of this section the applicable provisions of said section 227 are hereby adopted by reference and made a part of this article.

Sec. 74-228. - Erroneous payments; claim for refund.

Refund of erroneous payment of the city use tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitations of time, as provided for administration of the state use tax as set forth in 68 O.S. § 227, and to accomplish the purpose of this section, the applicable

provisions of said section 227 are hereby adopted by reference and made a part of this article.

Sec. 74-229. - Fraudulent returns, or failure to file returns or remittances.

In addition to all civil penalties provided by this article, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false and fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this article shall be a municipal code violation punishable according to a schedule of fines, as shall be modified from time to time by the council, and made available for public viewing in the office of the clerk of court, subject to the provisions of section 1-14.

Sec. 74-230. - Records confidential.

The confidential and privileged nature of the records and files concerning the administration of the city use tax is legislatively recognized and declared. Therefore, the provisions of 68 O.S. § 205 of the state use tax code, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the city use tax as if herein set forth in full.

Sec. 74-231. - Provisions cumulative.

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of the city ordinances.

Sec. 74-232. - Definitions.

The definitions of words, terms and phrases contained in the Oklahoma Use Tax Code, 68 O.S. § 1401, are hereby adopted by reference and made a part of this article. In addition thereto, the following words and terms shall be defined as follows:

Tax collector means the department of the city government or the official agency of the state, duly designated according to law or contract authorized by law, to administer the collection of the tax herein levied.

Transaction means a sale.

Sec. 74-233. - Classification of taxpayers.

For the purpose of this article, the classification of taxpayers hereunder shall be as proscribed by state law for purposes of the Oklahoma Use Tax Code.

Sec. 74-234. - Subsisting state permits.

All valid and subsisting permits to do business issued by the tax commission pursuant to the Oklahoma Use Tax Code are for the purpose of this article hereby ratified, confirmed and adopted in lieu of any requirement for additional city permit for the same purpose.

Sec. 74-235. - Purposes of revenues.

It is hereby declared to be the purpose of this article to provide revenues for the support of the functions of the municipal government of the city, and any and all revenues derived hereunder may be expended by the council for any purpose of which funds may be lawfully expended as authorized by ordinance, and the statutes of the state.