

BOARD OF COUNTY COMMISSIONERS OF PAYNE COUNTY
Resolution # 2013-1

ADOPTION OF USE TAX PROVISIONS

A resolution of the Board of County Commissioners of Payne County, Oklahoma, supplementing all Payne County Sales Tax Resolution provisions currently in effect by adopting provisions levying and assessing an excise tax of thirteen sixteenths of one percent (13/16ths of 1%) of the purchase price upon the storage, use or consumption of tangible, personal property purchased outside the State of Oklahoma and brought into Payne County, Oklahoma; providing exemptions thereto; specifying when such taxes are payable; providing such taxes constitute superior claims; providing collection of tax by retailer or vendor; providing collection of tax by retailer or vendor not maintaining place of business within state or both within or without state; providing for revoking permits; establishing remunerative deductions allowed vendors or retailers of other states; providing interest and penalties for delinquent payment of taxes; providing for waiver of interest and penalties; providing for submission of claim for refund of erroneous payments; providing penalties for fraudulent returns; providing that records shall be confidential and privileged; providing that taxes collected hereunder shall be cumulative; providing for severability of the sections of this resolution; defining terms, defining tax collector; establishing classification of tax payers; ratifying subsisting state permits; establishing purposes for which revenues collected hereunder shall be expended; establishing citation of the resolution; and providing for an effective date.

WHEREAS, 68 O.S. 2011, Section 1411, allows a County to levy an excise tax on the storage, use or other consumption of tangible personal property, and WHEREAS, Payne County is desirous of utilizing this additional tax, as permitted in said Section 1411. NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF PAYNE COUNTY, OKLAHOMA:

SECTION 1. Use Tax Provisions Adopted.

The following Use Tax provisions are hereby adopted for Payne County, Oklahoma:

Use Tax (Resolution # 2013-1)

Section 1. 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 Payne County, Oklahoma, tangible, personal property purchased or brought into this County, an excise tax on the storage, use or otherwise consuming within the County of such property at the rate of thirteen-sixteenths of one percent (13/16th of 1%) of the purchase price of such property. Such tax shall be paid by every person storing, using or otherwise consuming, within the County, tangible personal property purchased or brought into the County. The additional tax levied hereunder shall be paid at the time of importation or storage of the property within the County and shall be assessed to only property purchased outside Oklahoma; provided, that, the tax levied herein shall not be levied against tangible, personal property intended solely for use outside the County, but which is stored in the County pending shipment outside the County or which is temporarily retained in the County for the purpose of fabrication, repair, testing, alteration, Maintenance or other service. Any person liable for payment of the Use Tax authorized herein, may deduct from such Use Tax any County 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 if the taxes imposed by the County had been levied on the sale of such goods or services.

Section 2. Exemptions.

The provisions of this Resolution shall not apply:

1. In respect to the use of an article of tangible, personal property brought into the County by a non-resident individual visiting in this County for his or her personal use or enjoyment while within the County;
2. In respect to the use of tangible, personal property purchased for re-sale 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 the Payne County, Oklahoma, Use Tax Resolution, has been paid by the person using such tangible, personal property in the County, whether such tax was levied under the Laws of Oklahoma or some other State, Municipality or County of the United States. If any article of tangible, personal property has already been subjected to a tax by Oklahoma or any other State or County in respect to its sale or use, in an amount less than the tax imposed by both the Oklahoma Use Tax Code and the Payne County, Oklahoma, Use Tax Resolution, 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 the Payne County, Oklahoma, Use Tax Resolution, 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, Municipality or County, if that State, Municipality or County does not grant like credit for taxes paid in Oklahoma, the Municipality and the County;

4. In respect to the use of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in the County, and machinery and equipment purchased and used by persons in the operation of manufacturing plants already established in the County, which machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property subject to the taxation under the Sales Tax Code of Payne County, Oklahoma. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;

5. In respect to the use of tangible, personal property now specifically exempted from taxation under the Sales Tax Code of Payne County, Oklahoma;

6. In respect to the use of any article of tangible, personal property brought into the County by an individual with intent to become a resident of this County where such personal property is for such individual's personal use or enjoyment;

7. In respect to the use of any article of tangible personal property used, or to be used, by commercial airlines or railroads; or

8. In respect to livestock purchased outside Oklahoma and brought into this County for feeding or breeding purposes, and which is later re-sold.

Section 3. Time Due; Returns; Payment.

The tax levied by this Article is due and payable at the time and in the manner and form prescribed for payment of the State Use Tax under the Use Tax Code of the State of Oklahoma.

Section 4. Tax Constitutes Debt.

Such taxes, penalty or 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 with any other debt.

Section 5. Collection of Tax by Retailer or Vendor.

Every retailer or vendor maintaining places of business both within and without the State of Oklahoma, and making sales of tangible, personal property from a place of business outside this State for use in Payne County, Oklahoma, shall, at the time of making such sales, collect the Use Tax levied by this Resolution from the purchaser and give to the purchaser a receipt therefore in the manner and form prescribed by the Oklahoma Tax Commission, if said Tax Commission shall, by regulation, require such receipt. Each retailer or vendor shall list with said Tax Commission the name and address of all his agents operating in this County and location of any and all distribution or sales houses or offices or other places of business in this County.

Section 6. Collection of Tax by Retailer or Vendor not Maintaining a Place of Business within State or Both Within and Without State; Permits.

The Oklahoma Tax Commission may, at its discretion, upon application, authorize the collection of the Use Tax herein levied by any retailer or vendor not maintaining a place of business within this State but who makes sales of tangible personal property for use in this County, and by the out-of-State place of business of any retailer or vendor maintaining places of business both within and without Oklahoma and making sales of tangible, personal property at such out-of-State place of business for use in this County. Such retailer or vendor may be issued, without charge, a Permit to collect such taxes, by said Tax Commission in such manner and subject to such regulations and agreements as it shall prescribe. When so authorized, it shall be

the duty of such retailer or vendor to collect the Use Tax upon all tangible, personal property sold to his knowledge for use within this County. Such authority and Permit may be canceled when, at any time, said Tax Commission considers that such Use Tax can more effectively be collected from the person using such property in this County; provided, however, that, in all instances where such sales are made or completed by delivery to the purchaser within this County 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 County Sales Tax at the point of delivery and the tax shall be collected and reported under the taxpayer's Sales Tax Permit number accordingly.

Section 7. Revoking Permits.

Whenever any retailer or vendor not maintaining a place of business in this State, or both within and without this State, authorized to collect the Use 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 Oklahoma Tax Commission, said Tax Commission may, upon notice and hearing as provided for in 68 O.S. 2011, Section 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 this State may, after the notice and hearing above provided, cancel said corporation's license to do business in this State and shall issue a new License only when such corporation has complied with the obligations under this Resolution, the Oklahoma Use Tax Code, or any order, rules or regulations of the Oklahoma Tax Commission.

Section 8. Remunerative Deductions Allowed Vendors or Retailers of Other States.

Returns and remittances of the Use Tax herein levied and collected shall be made to the Oklahoma Tax Commission at the time and in the manner, form and amount prescribed for returns and remittances required by the Oklahoma Use Tax Code; remittances of Use Taxes collected hereunder shall be subject to the same discount as may be allowed by said Code for the collection of State Use Taxes.

Section 9. Interest and Penalties; Delinquency.

Section 217 of Title 68 O.S. 2011 is hereby adopted and made a part of this Resolution, 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 Use Tax levied by this Resolution; provided, that, the failure or refusal of any retailer or vendor to make and transmit the reports and remittances of Use Tax in the time and manner required by this Resolution shall cause such Tax to be delinquent. In addition, if such delinquency continues for a period of five (5) days, the retailer or vendor shall forfeit his claim to any discount allowed under this Resolution.

Section 10. 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 Use 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. 2011, Section 220; to accomplish the purposes of this Section, the applicable provisions of said Section 220 are hereby adopted by reference and made a part of this Resolution.

Section 11. Erroneous Payments; Claim for Refund.

Refund of erroneous payment of the County 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 provided for administration of the State Use Tax as set forth in 68 O.S. 2011, Section 227; 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 Resolution.

Section 12. Fraudulent Returns.

In addition to all civil penalties provided by this Resolution, 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 Use Tax, or portion thereof, rightfully due under this Resolution, shall be an offense, and upon conviction thereof the offending taxpayer shall be punished by a fine of not more than one hundred dollars (\$100.00). Each day of non-compliance with this Resolution shall constitute a separate offense.

Section 13. Records Confidential.

The confidential and privileged nature of the records and files concerning the administration of the County Use Tax is legislatively recognized and declared, and to protect the same, the provisions of 68 O.S. 2011, Section 205, of the State Uniform Tax Procedure Code, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the County Use Tax as if herein set forth in full.

Section 14. Provisions Cumulative.

The Provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of County Resolutions and regulations.

Section 15. Provisions Severable.

The provisions hereof are hereby declared to be severable, and if any Section, paragraph, sentence or clause of this Resolution, is for any reason held invalid or inoperative by any court of competent jurisdiction, such decision shall not affect any other Section, paragraph, sentence or clause hereof.

Section 16. Definitions.

The definitions of words, terms and phrases contained in the Oklahoma Use Tax Code, Section 1401, 68 O.S. 1991 and 1998 Supplement, 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:

1. County shall mean Payne County, Oklahoma.
2. Transaction shall mean sale.
3. The term "Tax Collector", as used herein, means the Department of the County, or the official agency of the State, duly designated according to Law or contract authorized by Law, to administer the collection of the Use Tax herein levied.

Section 17. Classification of Taxpayers.

For the purpose of this Resolution, the classification of taxpayers hereunder shall be as prescribed by State Law for purposes of the Oklahoma Use Tax Code.

Section 18. Subsisting State Permits.

All valid and subsisting Permits to do business issued by the Oklahoma Tax Commission pursuant to the Oklahoma Use Tax Code are, for the purpose of this Resolution, hereby ratified, confirmed and adopted in lieu of any requirement for an additional County Permit for the same purpose.

Section 19. Purpose of Revenues.

It is hereby declared that the purpose of this Resolution is to provide revenues for the support of self-insurance funding and any and all revenues derived hereunder shall be apportioned to the Payne County Self Insurance Fund. (Reference – Resolution #2004-22.)

SECTION 2. Citation.

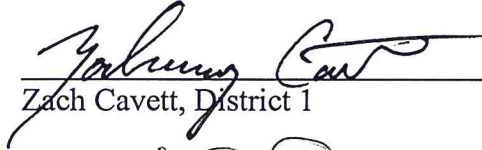
This Resolution shall be known and may be cited as the Payne County, Oklahoma, "Use Tax Resolution".

SECTION 3. Effective Date.


This Resolution shall take effect on and after the 7th day of January, 2013.

PASSED, APPROVED, AND ADOPTED THIS 7th day of January, 2013.


BOARD OF COUNTY COMMISSIONERS
OF PAYNE COUNTY, OKLAHOMA



Zach Cavett, District 1



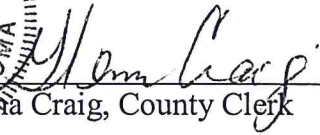
Chris Reding, District 2



Jim Arthur, District 3



Attest



Glenna Craig, County Clerk