

YALE CITY CODE

Chapter 23

TAXATION

Article 1. In General

Sec. 23-1. Annual inspection fee on telephone companies.

(a) There is hereby levied an annual inspection fee and service charge upon each and every person operating a telephone exchange in the city in an amount equal to two (2) percent of the gross revenues for each current year for exchange telephone transmission service rendered wholly within the city to compensate the city for the expense incurred and service rendered incident to the exercise of its police power, supervision, and regulation, and police control of the construction of lines and equipment of the telephone company in the city. Such inspection fee and charge shall be due and payable to the city on or before the first day of January of each year, and shall be deposited in the city's general fund.

(b) The fee levied in subsection (a) shall be in lieu of all concessions, charges, excise, franchise, license, privilege, and permit fees or taxes or assessments, except ad valorem taxes.

(c) This section is not intended to extinguish or abrogate any arrangement whereby the city is permitted to use underground conduit, duct space, or pole contacts of the company for fire alarm and/or police call systems.

Article 2. Yale Sales Tax Ordinance

Sec. 23-2. Citation and Codification.

This ordinance shall be known and shall be cited as the "City of Yale Sales Tax Ordinance."

Sec. 23-3. Definitions.

(a) Unless specified otherwise herein, the definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, Section 1352, Title 68 of the Oklahoma Statutes, are hereby adopted by reference and made a part of this Article.

(b) In addition to the definitions contained herein and in Title 68, Section 1352 of the Oklahoma Statutes the term "Gross Receipts" shall also include the total retail sale price received for the sale, preparation or service of mixed beverages, ice and nonalcoholic beverages to be

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mixed with alcoholic beverages for consumption on the premises where such sale, preparation and service occurs shall constitute the gross receipts from such transaction.

Sec. 23-4. Tax Collector Defined.

The term "Tax Collector" as used herein 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.

Sec. 23-5. Classification of Taxpayers.

For the purpose of this chapter the classification of taxpayers hereunder- shall be as prescribed by State law for purposes of the Oklahoma Sale Tax Code.

Sec. 23-6. Subsisting State Permits.

All valid and subsisting permits to do business issued by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purpose of this ordinance, hereby ratified, confirmed and adopted in lieu of any requirement for an additional City permit for the same purpose.

Sec. 23-7. Effective date.

This ordinance shall become and be effective on and after April 1, 1971.

Sec. 23-8. Purposes of revenues.

It is hereby declared to be the purpose of this ordinance to provide revenues for the general and special purposes of the municipal government of the City of Yale, Oklahoma.

Sec. 23-9. Tax rate; sales subject to tax.

There is hereby levied an excise tax of three percent (3%) upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax law of Oklahoma, including but not exclusive of the following:

- (1) Tangible personal property.
- (2) Natural or artificial gas, electricity, ice, steam, or any other utility or public service except water.
- (3) Transportation for hire or persons by common carriers, including railroads, both, steam and electric, motor transportation companies, pullman car companies, airlines and all other means of transportation for hire.

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(4) Service by telephone and telegraph companies to subscribers or users, including transmission of messages, whether local or long distance. This shall include all services and rental charges having any connection with transmission of any message.

(5) Printing or printed matters of all types, kinds, and characters and the service of printing or over printing.

(6) Service of furnishing rooms of hotels, public rooming houses and public lodging houses and tourists camps.

(7) Service of furnishing storage or parking privileges by auto hotels and parking lots.

(8) Food, confections and all drinks sold or dispensed by hotels, restaurants, or other dispensers, and sold for immediate consumption upon the premises or delivered or carried away from the premises for consumption elsewhere.

(9) Advertising of all kinds, types and character, including any and all devices used for advertising purposes and the servicing of any advertising devices, except as provided in subsection (15) of Section 23-10 hereof.

(10) Dues or fees to clubs, and the sale of tickets or admission to places of amusement, to athletic, entertainment, recreational events, or dues or fees for the privilege of having access to or the use of amusement, entertainment, athletic or recreational facilities, including free or complimentary passes, tickets, dues or fees are hereby declared to have a value equivalent to the sale price of tickets, passes, admissions, fees or dues of like kind or character.

(11) For the purpose of this article, sales or service and tangible personal property made for the purpose of developing real estate even though such real estate is intended for resale as real property, are hereby to be sales to consumers or users. Sale of service and tangible personal property, including materials, supplies and equipment made to contractors who use same in the performance of any contract, are hereby declared to be sales to consumers or users and not sales for resale. Sales of tangible personal property to persons who are primarily engaged in selling their services shall be deemed sales to consumers or users, and therefore, taxable. Sales of tangible personal property to peddlers, solicitors, and other salesman who do not have established places of business shall be deemed to be sales to consumers or users, and therefore taxable.

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(12) For purposes of this section, a sale shall include the sale, preparation of service of ice or nonalcoholic beverages that are sold, prepared or served for the purpose of being mixed with alcoholic beverages for consumption on the premises where such sale, preparation or service occurs.

Sec. 23-10. Exemptions.

There is hereby specifically exempted from the tax levied by this Article the gross receipts or gross proceeds exempted from the Sales Tax Law of Oklahoma inclusive but not exclusive of and derived from the:

- (1) Sale of non-intoxicating beverages taxed as provided by State Law.
- (2) Sale of raw products from the farm orchard, or garden, where such sale is made by the producer of such raw products directly to the consumer or user; gross receipts or gross proceeds derived from the sale of livestock, poultry products, and dairy products by the producers; exemptions granted by this subdivision shall not apply when such articles are sold, even though by the producer thereof, at or from an "established business place" not on a farm; neither shall this exemption apply unless said articles are produced or grown within the State of Oklahoma. The provisions of this subsection are intended to exempt the sale of dairy products when sold by a dairyman or farmer who owns all of the cows from which the dairy products he sells are produced. The provisions of this subsection shall not be constructed to exempt sales by florists, nurseryman and chicken hatcheries.
- (3) Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members, thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for profit which inures to the benefit of any individual member of members thereof to exclusion of other members.
- (4) Sale of tangible personal property or services to or by churches, except where such organizations may be engaged in business for profit or savings, competing with other persons engaged in the same or similar business.
- (5) Gross receipts and gross proceeds derived from the transportation of school children to and from schools and high schools in motor and other vehicles.

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(6) Transportation of persons where the fare of each person does not exceed fifteen cents (\$.15), or local transportation of persons within the corporate limits of cities and towns except by taxicabs.

(7) Sale of food in public, common, high school or colleges cafeterias and lunch rooms operated primarily for teachers and pupils, not operated primarily for the public and not operated for profit.

(8) Carrier sales made directly to consumers or users of newspapers or any other periodicals where any individual transportation does not exceed twenty-five (\$.25) cents.

(9) Sales to the United States Government, State of Oklahoma, or any of its political subdivisions.

(10) Sales of gasoline or motor fuel on which the Motor Fuel Tax, Gasoline Excise Tax or Special Fuels Tax has been paid to the State of Oklahoma.

(11) Sale of crude petroleum or natural or casinghead gas and other products subject to gross production tax under the provisions of the laws of the State of Oklahoma. 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.

(12) Sale of motor vehicles, attached optional equipment and accessories, on which the Oklahoma Motor Vehicle Excise Tax has been paid.

(13) Sale by County, District and State Fairs.

(14) Sale of advertising space in newspapers and periodicals and billboard advertising service, and sales of time for radio and television broadcasts of advertising.

(15) Sales for resale to persons regularly engaged in the business of reselling the articles purchased, whether within or without the State, provided that such sales to residents of this State are made to persons to whom sales tax permits have been issued by the Oklahoma Tax Commission as provided by law. This exemption shall not apply to the sales of articles made to persons holding permits when such persons purchase items for their use and which they are not regularly engaged in the business of reselling; neither shall this exemption apply to sales of tangible personal property to peddlers, solicitors and other salesmen who do not have sales tax permits or established places of business.

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(16) Goods, wares, merchandise, and property sold for use in manufacturing, compounding, processing, assembling or preparing for sale shall be classified as having been sold for the purpose of resale or the subject matter of resale only in the event:

- (a) such goods, wares, merchandise or property are purchased for the purpose of being manufactured into a finished article and if it becomes a recognizable, integral part of the manufactured, compounded, processed, assembled or prepared products; or
- (b) it is consumed in the process of manufacturing, compounding, processing, assembling, or preparing products for resale.

(17) Sale of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in Oklahoma, and machinery and equipment purchased and used by persons on the operation of manufacturing plants already established in Oklahoma, provided, this exemption shall not apply unless such machinery and equipment is incorporated into, and is directly used in the process of manufacturing property subject to taxation hereunder. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such.

(18) Sale of tangible personal property manufactured in Oklahoma when sold by the manufacturer to a person who transports it to another state for immediate and exclusive use in some other state.

(19) Sale of an interest in tangible personal property to a partner or other person who after such sale owns a joint interest in such tangible personal property where the Oklahoma Sales or Use Tax has previously been paid on such tangible personal property.

(20) Sales of containers shall be exempt when sold to a person regularly engaged in the business of reselling empty or filled containers, or when he purchases such containers for the purpose of packaging raw products of farm, garden or orchard, for resale to the consumer or processor, provided, this exemption shall not apply to the sale of containers used more than once and which are ordinarily known as returnable containers unless a tax under this Title is collected and paid to the Tax Collector with respect to each and every transfer by such person of title or possession of such returnable container if made to any consumer or user within this State; nor shall it apply to the sale of labels or other materials delivered along with items sold but which are necessary or absolutely essential to the sale of the sold merchandise.

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(21) Exemptions of poultry and livestock feed, and farm machinery as prescribed by the State Sales Tax Code shall be equally applicable as exemptions from the tax herein levied.

(22) Sales of agricultural fertilizer to persons regularly engaged for profit in the business of farming and/or ranching which are exempt from State sales taxes under provision of Title 68 Oklahoma Statutes, Section 1358 shall likewise be exempt from the City Sales Tax herein levied.

Sec. 23-11. Other exempt transfers.

Also there is hereby specifically exempted from the tax herein levied the transfer of tangible personal property exempted from the Sales Tax Law of Oklahoma inclusive but not exclusive of the following:

(1) From one corporation to another corporation pursuant to a reorganization. As used in this subsection the term "reorganization" means:

(a) A statutory merger or consolidation.

(b) The acquisition by a corporation of substantially all of properties of another corporation when the consideration is solely all or a part of the voting stock of the acquiring corporation, or its parent or subsidiary corporation.

(2) In connection with winding up, dissolution or liquidation of a corporation only when there is a distribution in kind to the shareholders of the property of such corporation.

(3) To a corporation for the purpose of organization of such corporation where the former owners of the property transferred are immediately after the transfer in control of the corporation, and the stock or securities received by each is substantially in proportion to this interest in the property prior to the transfer.

(4) To a partnership in the organization of such partnership if the former owners of the property transferred are immediately after the transfer, members of such partnership and the interest in the partnership, received by each, is substantially in proportion to his interest in the property prior to the transfer.

(5) From a partnership to the members thereof when made in kind in the dissolution of such partnership.

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Sec. 23-12. Tax due when; returns; records.

The tax levied hereunder shall be due and payable at the time and in the manner and form prescribed for payment of the State Sales Tax under the Sales Tax Law of the State of Oklahoma.

Sec. 23-13. Payment of tax; brackets.

(a) The tax herein levied shall be paid to the Tax Collector at the time in form and manner provided for payment of state sales tax under the Sales Tax Law of Oklahoma.

(b) The bracket system for the collection of the 3% City Sales Tax by the Tax Collector, shall be as the same is hereinafter adopted by the agreement of the City of Yale, Oklahoma, and the Tax Collector, in the collection of both the 3% State Sales Tax.

Sec. 23-14. 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. 23-15. Vendor's Duty to Collect Tax.

(a) The tax levied hereunder shall be paid by the consumer or user to the vendor, and it shall be the duty of each and every vendor in this City to collect from the consumer or user the full amount of the tax levied under this Article, or an amount equal as nearly as possible or practicable to the average equivalent thereof.

(b) Vendors shall add the tax imposed hereunder, or the average equivalent thereof, to the sales price or charge, and when added such tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to vendor until paid, and shall be recoverable at law in the same manner as other debts.

(c) A vendor as defined herein, who willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied under this Article, or willfully, or intentionally fails, neglects or refuses to comply with the provisions or remits or rebates to a consumer or user, either directly or indirectly, and by whatsoever means, all or any part of the tax herein levied, or makes in any form of advertising, verbally or otherwise, any statement which infers that he is absorbing the tax, or paying the tax for the consumer or user by an adjustment of prices or at a price including the tax, or in any manner whatsoever shall be deemed guilty of an offense and

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upon conviction thereof shall be fined not more than Five Hundred Dollars (\$500.00), not including costs.

Sec. 23-16. Returns and Remittances, Discounts.

Returns and remittances of the tax herein levied and collected shall be made to the tax collector at the time and in the manner, form and amount as prescribed for returns and remittances required by the State Sales Tax Code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by said Code for collection of state sales taxes.

Sec. 23-17. Interest and Penalties, Delinquency.

Title 68 Section 217 is hereby adopted and made apart of this Article, and interest and penalties at the rates and in 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 taxpayer 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. In addition, if such delinquency continues for a period of five (5) days, the taxpayer shall forfeit his claim to any discount allowed under this ordinance.

Sec. 23-18. Waiver of Interest and Penalties.

The interest of penalty or any portion thereof accruing by reason of a taxpayer'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 Sales Tax provided in Title 68, Section 220; and 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 ordinance.

Sec. 23-19. Erroneous Payments, Claim for Refund.

Refund or erroneous payment of the City Sales Tax herein levied may be made to any taxpayer making such erroneous payment in the same manner and procedure, and under the same limitation of time, as provided for administration of the State Sales Tax as set forth in Title 68, Section 226 and to accomplish the purposes of this Section, the applicable provisions of said Section 226 are hereby adopted by reference and made a part of this ordinance.

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Sec. 23-20. Fraudulent returns, penalty.

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 an offense, and upon conviction thereof the offending taxpayer shall be subject to fine of not more than Five Hundred Dollars (\$500.00) excluding costs.

Sec. 23-21. Records Confidential.

The confidential and privileged nature of the records and files concerning the administration of the City Sales Tax is legislatively recognized and declared, and to protect the same, provisions of Title 68, Section 205 of the State Sales Tax Code, and each subsection thereof, is hereby adopted by reference and made fully effective and applicable to administration of the City Sales Tax as if here set forth in full.

Sec. 23-22. Amendments.

The people of the City of Yale, Oklahoma, by their approval of this tax at the election herein authorize the Board of Commissioners by ordinance duly enacted to make such administrative and technical changes or additions in the method and manner of administration and enforcing this tax as may be necessary or proper for efficiency and fairness except that the rate of the tax herein provided shall not be changed without approval of the qualified electors of the City as provided by law.

Sec. 23-23. Provisions cumulative.

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

Sec. 23-24. Provisions severable.

The provisions hereof are hereby declared to be severable, and if any section, paragraph, sentence or clause of this ordinance 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.

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Article 3. Yale Use Tax Ordinance

Sec. 23-25. Definitions.

The definitions of words, terms and phrases contained in the Oklahoma Use Tax Code, Title 68, Section 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:

- (1) City shall mean the City of Yale, Oklahoma.
- (2) Transaction shall mean sale.
- (3) The term "tax collector" as used herein means the department of the municipal 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.

Sec. 23-26. Classification of Taxpayers.

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

Sec. 23-27. 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 an additional municipal permit for the same purpose.

Sec. 23-28. Purposes for 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 of Yale, and any and all revenues derived hereunder may be expended by the City Commission of the City of Yale for any purpose for which funds may be lawfully expended as authorized.

Sec. 23-29. Excise Tax on Storage, Use or Other Consumption of Intangible, Personal Property Levied.

There is hereby levied and there shall be paid by every storing, using or otherwise consuming within the City of Yale, Oklahoma tangible, personal property purchased or brought into the City of Yale, Oklahoma, an excise tax on the storage, use or other consumption within the municipality of such property at the rate of four percent (4%) of the purchase price of such property. Such tax shall be paid by every person storing, using or otherwise consuming, with the

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City of Yale, Oklahoma. The additional tax levied hereunder shall be paid at the time of importation or storage of the property purchased outside of the State of Oklahoma; provided, that the tax levied herein shall not be levied against tangible personal property intended solely for use outside the corporate limits of the City of Yale, but which is stored in the City of Yale pending shipment outside the municipality or which is temporarily retained in the municipality 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 if the taxes imposed by the City of Yale had been levied on the sale of such goods or services.

Sec. 23-30. Exemptions.

The provisions of this ordinance shall not apply:

(a) in respect to the use of an article of tangible, personal property brought in to the City of Yale by a nonresident individual visiting in this municipality for his or her personal use or enjoyment while within the City of Yale;

(b) in respect to the use of tangible, personal property purchased for resale before being used;

(c) in respect to the use of any article or tangible, personal property on which a tax, equal to or in excess of that levied by both the Oklahoma Use Tax Code and the City of Yale Use Tax Ordinance, has been paid by the person using such tangible, personal property in the municipality, whether such tax was levied under the laws of Oklahoma 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 Oklahoma or any other state or municipality in respect to its sale or use, in an amount less than the tax imposed by both of Oklahoma Use Tax Code and the City of Yale Use Tax Ordinance, and the rate by which 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 the state or municipality does not grant like credit for taxes paid in Oklahoma and the municipality;

(d) in respect to the use of machinery and equipment purchased and used by persons establishing new manufacturing or processing plants in the City of Yale, and machinery and equipment purchased and used by persons in the operation of manufacturing plants already

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established in the City of Yale. Provided, this exemption shall not apply unless such machinery and equipment are incorporated into, and are directly used in, the process of manufacturing property subject to taxation under the Sales Tax Code of the municipality. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;

(e) in respect to the use of tangible, personal property now specifically exempted from taxation under the Sales Tax Code of the City of Yale;

(f) in respect to the use of any article of tangible, personal property brought in to the City of Yale by an individual with intent to become a resident of the City of Yale where such personal property is for such individuals personal use or enjoyment;

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

(h) in respect to livestock purchased outside Oklahoma and brought into the City of Yale for feeding or breeding purposes, and which is later resold.

Sec. 23-31. Time when due; Returns; Payment.

The tax levied by this ordinance 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.

Sec. 23-32. 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. 23-33. 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 the City of Yale 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 thereof or in the manner and form prescribed by the Tax Commission, if the Tax Commission shall, by regulations, require such receipt. Each retailer or vendor shall list with the Tax Commission the

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name and address of all his agents operating in the City of Yale and location of any and all distribution of sales houses or offices or other places of business in the City of Yale.

Sec. 23-34. Collection of Tax by Retailer or Vendor not Maintaining a Place of Business within State or Both within and without State Permits.

The tax commission may, in its discretion, upon application, authorize the collection of the tax herein levied by any retailer or vendor not maintaining a place of business within this state but who makes sales of tangible personal property for use in the City of Yale 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 places of business for use in the City of Yale. 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 prescribe. When so authorized, it shall be the duty of such retailer or vendor to collect the tax upon all tangible, personal property sold to his knowledge for use within the City of Yale. Such authority and permit may be canceled when at any time the Tax Commission considers that such tax can more effectively be collected from the person using such property in this municipality. Provided, however, that in all instances where such sales are made or completed by delivery to the purchaser within the City of Yale 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 municipal Sales Tax at the point of delivery and the tax shall be collected and reported under taxpayer's sales tax permit number accordingly.

Sec. 23-35. Revoking Permits.

Whenever any retailer or vendor not maintaining a place of business in this state, or both within and without this state, and authorized to collect the tax herein levied, fails to comply with any of the provisions of this Article or 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 title 68, 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 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

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under this Ordinance, the Oklahoma Use Tax Code, or any order, rules and regulations of the Tax Commission.

Sec. 23-36. 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 prescribed 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.

Sec. 23-37. Interest and Penalties; Delinquency.

Section 217 of Title 68 is hereby adopted and made a part of this Code, 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 the Article 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 ordinance.

Sec. 23-38. 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 municipal 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 Title 68, section 220, and 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 Code.

Sec. 23-39. Erroneous Payments; Claim for Refund.

Refund or erroneous payment of the municipal 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 Title 68, Section 221, 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 ordinance.

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Sec. 23-40. Fraudulent returns, penalty.

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 Code shall be an offense, and upon conviction thereof this offending taxpayer shall be subject to fine of not more than Five Hundred Dollars (\$500.00) excluding costs. Each day of noncompliance with this Article shall constitute a separate offense.

Sec. 23-41. Records Confidential.

The confidential and privileged nature of the records and files concerning the administration of the municipal Use Tax is legislatively recognized and declared, and to protect the same, provisions of Title 68, Section 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 municipal Use Tax as if here set forth in full.

Sec. 23-42. Provisions Cumulative.

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

Sec. 23-43. Provisions Severable.

The provisions hereof are hereby declared to be severable, and if any section, paragraph, sentence or clause of this Article 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.

Article 4. Yale Transportation Sales Tax

Sec. 23-44. Citation.

This article shall be known and may be cited as the Yale Transportation Sales Tax Ordinance.

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Sec. 23-45. Tax Levied.

There is hereby levied an excise tax of one percent (1%) upon the gross proceeds or gross receipts derived from all sales taxable under the State of Oklahoma Sales Tax Code and by Section 23-9 of the Yale City Code.

Sec. 23-46. Supplemental Nature of Tax.

The excise tax hereby levied shall be in addition to any and all other excise taxes levied and assessed by the City of Yale, Oklahoma, including those levied and assessed by Section 23-9 and Section 23-29 of the Yale City Code, further Sections 23-2 through 23-24 of the Yale City Code shall apply to the excise tax levied and assessed by this Article.

Sec. 23-47. Existing State Permits.

All valid and existing permits to do business issued by the Oklahoma Tax Commission pursuant to the Oklahoma Sales Tax Code are, for the purposes of this Article, hereby ratified, confirmed and adopted in lieu of any requirement for an additional City of Yale permit for the same purpose.

Sec. 23-48. Effective Date.

This Article shall become effective and in force and effect on and after September 1, 2013 subject to Ordinance No. 322 of the City of Yale, Oklahoma having been approved by a majority of the registered, qualified voters of the City of Yale voting in the manner prescribed by State law and the Charter of the City of Yale, Oklahoma.

Sec. 23-49. Purposes and Use for Revenues from Tax.

The revenues collected from the excise tax levied pursuant to this Article shall be used only to fund transportation and infrastructure projects identified by the Yale City Commission to include, but not limited to the following:

- (1) Roadway maintenance and repair;
- (2) Roadway new construction, reconstruction and replacement;
- (3) Bridge new construction, repair, replacement or expansion;
- (4) Intersection modification and improvements;
- (5) Traffic signal and street light construction, repair, replacement or enhancement;
- (6) Sidewalk and walkway construction, repair, replacement or expansion;

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- (7) Traffic control devices to include signage;
- (8) Roadway capacity enhancements and expansion;
- (9) Purchase or lease of materials or equipment necessary to complete transportation projects;
- (10) Acquisition of rights or way and easements incidental to transportation related projects;
- (11) Drainage modifications and improvements;
- (12) Vehicular and pedestrian safety enhancements and improvements;
- (13) Designs, studies and other services incidental to the improvements listed herein;
- (14) Labor, materials, equipment and services used to construct, reconstruct, repair or maintain streets, alleys, rights of way and any associated transportation related projects;
- (15) Utility modifications and improvements incidental to transportation related projects;
- (16) Payment of the principal and interest on bonds issued by a public trust having as a beneficiary the City of Yale, to finance one or more of the transportation and infrastructure projects authorized by Ordinance No. 322 as approved by the voters of the City of Yale.

Sec. 23-50. Amendments.

The citizens of the City of Yale, Oklahoma, by their approval of the adoption of Article 4 of Chapter 23 of the Yale City Code as proposed by Ordinance No. 322 at an election as herein provided, do hereby authorize the City Commission of the City of Yale, by ordinance duly enacted, to make such administrative and technical modifications, additions or changes to the method and manner of administering or enforcing such Article 4 as may be necessary or proper for efficiency, except that the tax rate herein provided and the purposes and uses authorized shall not be changed nor amended without prior approval of the qualified voters of the City of Yale as provided by law.

Sec. 23-51. Provisions Cumulative.

The provisions hereof shall be cumulative, and in addition to any and all other taxing provisions of the Yale City Code.