A motion by Oklahoma to adopt a Best Practice under Section 335 related to Vouchers:

Best Practices Number 1 - Vouchers

This document is limited to the specific types of transactions described herein.

As used herein, a voucher is an instrument that is:

a. issued to a purchaser for an amount that is less than the face value and both the face value and amount paid by the purchaser are noted on the voucher;
b. redeemable for personal property or services in a single visit only at the seller's business;
c. redeemable either for a specific product or for a certain dollar amount towards the purchase price of any product sold by the seller;
d. issued, marketed, or distributed by a third party pursuant to a specific agreement with the seller, and the seller determines the price at which the voucher is to be issued and allows redemption of the specific voucher for personal property or services ("third party agreement");
e. not the sale of a digital code as defined by the Agreement or its rules;
f. not the sale of a ticket for an admission to a specific performance or event on a specific date and time;
g. not a gift card or gift certificate nor is it convertible, in whole or in part, to gift cards, gift certificates or cash;
h. not usable in combination with other promotions or coupons offered by the seller; and
i. not a prepaid calling service or a prepaid wireless calling service.

Vouchers may be provided to purchasers in the form of an electronic instrument that is scanned by the seller from the purchaser's electronic device.

<u>Best Practice 1.1</u>
The member state administers the difference between the value of a voucher allowed by the seller and the amount the purchaser paid for the voucher as a discount that is not included in the sales price (i.e., same treatment as a seller's in-store coupon), provided the seller is not reimbursed by a third party, in money or otherwise, for some or all of that difference.

> **Example A.** A voucher is issued for $20 by Third Party pursuant to an agreement with Seller B that entitles the purchaser to $50 towards the purchase of any food and drink sold by Seller B. The agreement provides that Third Party will retain $10 of the amount paid by the purchaser for advertising and marketing the voucher. The voucher identifies the amount paid by the purchaser, the face value of the voucher, and the expiration date for the period that the discount is available. The purchaser buys $100 of food and drink prior to the expiration of the $30 discount offered by the seller and tenders the voucher plus enough money to pay for the food and drink. The measure (sales price) subject to sales tax is $70 which is made up of the $20 in consideration received by Third Party from the issuance of the voucher and the additional $50 paid in cash by the purchaser directly to Seller B.

Example B. $20 worth of deal certificate are issued by Third Party for $10. The purchaser is issued two $10 certificates by Third Party for a specific seller. The two $10 deal certificates do not disclose amount paid by the purchaser for each certificate. The purchaser presents $20 of taxable items to the seller and tenders the two $10 deal certificates to pay for the items. Since the amount paid by the purchaser to Third Party is not on the face of the certificate; the deal certificate is not a "voucher". If the seller can substantiate the amount the purchaser paid to the third party for the certificate, the member state would only require the seller to charge sales tax on the amount the purchaser paid for the certificate, regardless of the value of the certificate.

Example C. A voucher is issued for $20 by Third Party which entitles purchaser to $50 towards food and drinks for a specific seller. The face value of the voucher is $50 and the amount paid ($20) by the purchaser to Third Party is indicated on the voucher. Purchaser redeems the voucher for $50 of food and drinks after the stated expiration date. The seller honors the voucher for the face value of $50. Pursuant to the agreement between Third Party and the seller, Third Party retains the $20 paid by the purchaser and does not remit any of the purchase price to the seller. The sales price would be $20. Since the voucher indicates the amount the purchaser paid for it, the difference ($30) between the face value of the voucher allowed by the seller ($50) and the amount the purchaser paid to Third Party for the voucher ($20) is not included in the sales price.

Even though the seller is not receiving any portion of the purchase price from Third Party, sales tax applies to the amount paid by the customer ($20) to Third Party as evidenced on the voucher. The fact that Third Party does not transfer any amount to the seller does not impact the sales price upon the customer's redemption of the voucher.

Example D. A voucher is issued for $19 which entitles purchaser to $99 of services for a specific seller. The face value of $99 and the amount paid by the purchaser ($19) is indicated on the voucher. Upon ordering $99 of services, purchaser attempts to redeem the voucher after the stated expiration date. The seller only honors the voucher in the amount of $19 and the purchaser pays the remaining $80 in cash. Pursuant to the agreement between Third Party and the seller, Third Party retains the $19 paid by the purchaser and does not remit any of the purchase price to the seller.

The entire $99 is subject to sales tax because the voucher indicates the face value of $99 and the amount the purchaser paid for the voucher. The $19 paid for the voucher issued by Third Party and the additional $80 paid by the purchaser to the seller are included in sales price. Amounts reimbursed by the Third Party, if any, are not relevant in determining consideration included in sales price.

Best Practice 1.2

The member state provides that when the discount on a voucher will be fully reimbursed by a third party (i.e., same as the treatment of a manufacturer's coupon) the seller is to use the face value of the voucher and not the price paid by the purchaser as the measure (sales price) that is subject to tax.

Example. Same facts as Example A in Best Practice 1.1, except Seller B received consideration from a third party directly reimbursing Seller B for the $30 discount taken by the purchaser. The measure (sales price) subject to sales tax is $100 which is made up of the $20 received from the sale of the voucher, the $30 in consideration received as a direct reimbursement of the discount and the $50 paid in cash by the purchaser directly to Seller B.

Best Practice 1.3

The member state provides that costs and expenses of the seller are not deductible from the sales price and are included in the measure (sales price) that is subject to tax. Further, reductions in the amount of consideration received by the seller from the third party that issued, marketed, or distributed the vouchers, such as advertising or marketing expenses, are costs or expenses of the seller.

Example. A $20 voucher is issued by Third Party for $10 for a specific seller. The voucher indicates a face value of $20 and that the purchaser paid $10 for the voucher. By contract, the Third Party is required to remit $8 to the seller and allowed to retain $2 for advertising and marketing the voucher. The purchaser presents $20 of taxable items to the seller and tenders the $20 voucher to pay for the items. The sales price on which the sales tax is levied is $10, which includes the $2 retained by Third Party. The $2 retained by Third Party for advertising and marketing the voucher is a cost or expense of the seller and may not be deducted from the measure (sales price) that is subject to tax regardless of how the seller records the amount retained by the Third Party in its books and records. The difference between the value of the voucher and the amount the purchaser paid to Third Party is a discount that is not included in the sales price.