

1 ENGROSSED SENATE AMENDMENTS
TO
2 ENGROSSED HOUSE
BILL NO. 1600

By: Martinez of the House

and

Montgomery of the Senate

[digital asset mining - sales tax exemption -
effective date]

11 AMENDMENT NO. 1. Page 1, strike the enacting clause

12 AMENDMENT NO. 2. Page 11, line 2, after the first comma “,” delete
the year “2038” and insert the year “2029”

14 Passed the Senate the 24th day of April, 2023.

16 _____
17 Presiding Officer of the Senate

18 Passed the House of Representatives the ____ day of _____,
19 2023.

21 _____
22 Presiding Officer of the House
23 of Representatives

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9

10 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

11 SECTION 1. AMENDATORY 68 O.S. 2021, Section 1359, is
12 amended to read as follows:

13 Section 1359. There are hereby specifically exempted from the
14 tax levied by Section 1350 et seq. of this title:

15 1. Sales of goods, wares, merchandise, tangible personal
16 property, machinery and equipment to a manufacturer for use in a
17 manufacturing operation. Goods, wares, merchandise, property,
18 machinery and equipment used in a nonmanufacturing activity or
19 process as set forth in paragraph 14 of Section 1352 of this title
20 shall not be eligible for the exemption provided for in this
21 subsection by virtue of the activity or process being performed in
22 conjunction with or integrated into a manufacturing operation.

23 For the purposes of this paragraph, sales made to any person,
24 firm or entity that has entered into a contractual relationship for

1 the construction and improvement of manufacturing goods, wares,
2 merchandise, property, machinery and equipment for use in a
3 manufacturing operation shall be considered sales made to a
4 manufacturer which is defined or classified in the North American
5 Industry Classification System (NAICS) Manual under Industry Group
6 No. 324110. Such purchase shall be evidenced by a copy of the sales
7 ticket or invoice to be retained by the vendor indicating that the
8 purchases are made for and on behalf of such manufacturer and set
9 out the name of such manufacturer as well as include a copy of the
10 Manufacturing Exemption Permit of the manufacturer. Any person who
11 wrongfully or erroneously certifies that purchases are being made on
12 behalf of such manufacturer or who otherwise violates this paragraph
13 shall be guilty of a misdemeanor and upon conviction thereof shall
14 be fined an amount equal to double the amount of sales tax involved
15 or incarcerated for not more than sixty (60) days or both;

16 2. Ethyl alcohol when sold and used for the purpose of blending
17 same with motor fuel on which motor fuel tax is levied by Section
18 500.4 of this title;

19 3. Sales of containers when sold to a person regularly engaged
20 in the business of reselling empty or filled containers or when
21 purchased for the purpose of packaging raw products of farm, garden,
22 or orchard for resale to the consumer or processor. This exemption
23 shall not apply to the sale of any containers used more than once
24 and which are ordinarily known as returnable containers, except

1 returnable soft drink bottles and the cartons, crates, pallets, and
2 containers used to transport returnable soft drink bottles. Each
3 and every transfer of title or possession of such returnable
4 containers in this state to any person who is not regularly engaged
5 in the business of selling, reselling or otherwise transferring
6 empty or filled containers shall be taxable under this Code.
7 Additionally, this exemption shall not apply to the sale of labels
8 or other materials delivered along with items sold but which are not
9 necessary or absolutely essential to the sale of the sold
10 merchandise;

11 4. Sales of or transfers of title to or possession of any
12 containers, ~~after June 30, 1987,~~ used or to be used more than once
13 and which are ordinarily known as returnable containers and which do
14 or will contain beverages ~~defined by paragraphs 4 and 14 of Section~~
15 ~~506 of Title 37 of the Oklahoma Statutes,~~ or water for human
16 consumption and the cartons, crates, pallets, and containers used to
17 transport such returnable containers;

18 5. Sale of tangible personal property when sold by the
19 manufacturer to a person who transports it to a state other than
20 Oklahoma for immediate and exclusive use in a state other than
21 Oklahoma. Provided, no sales at a retail outlet shall qualify for
22 the exemption under this paragraph;

23 6. Machinery, equipment, fuels and chemicals or other materials
24 incorporated into and directly used or consumed in the process of

1 treatment to substantially reduce the volume or harmful properties
2 of hazardous waste at treatment facilities specifically permitted
3 pursuant to the Oklahoma Hazardous Waste Management Act and operated
4 at the place of waste generation, or facilities approved by the
5 Department of Environmental Quality for the cleanup of a site of
6 contamination. The term "hazardous" waste may include low-level
7 radioactive waste for the purpose of this paragraph;

8 7. Except as otherwise provided by subsection I of Section 3658
9 of this title pursuant to which the exemption authorized by this
10 paragraph may not be claimed, sales of tangible personal property to
11 a qualified manufacturer or distributor to be consumed or
12 incorporated in a new manufacturing or distribution facility or to
13 expand an existing manufacturing or distribution facility. For
14 purposes of this paragraph, sales made to a contractor or
15 subcontractor that has previously entered into a contractual
16 relationship with a qualified manufacturer or distributor for
17 construction or expansion of a manufacturing or distribution
18 facility shall be considered sales made to a qualified manufacturer
19 or distributor. For the purposes of this paragraph, "qualified
20 manufacturer or distributor" means:

21 a. any manufacturing enterprise whose total cost of
22 construction of a new or expanded facility exceeds the
23 sum of Five Million Dollars (\$5,000,000.00) and in
24 which at least one hundred (100) new full-time-

1 equivalent employees, as certified by the Oklahoma
2 Employment Security Commission, are added and
3 maintained for a period of at least thirty-six (36)
4 months as a direct result of the new or expanded
5 facility,

6 b. any manufacturing enterprise whose total cost of
7 construction of a new or expanded facility exceeds the
8 sum of Ten Million Dollars (\$10,000,000.00) and the
9 combined cost of construction material, machinery,
10 equipment and other tangible personal property exempt
11 from sales tax under the provisions of this paragraph
12 exceeds the sum of Fifty Million Dollars
13 (\$50,000,000.00) and in which at least seventy-five
14 (75) new full-time-equivalent employees, as certified
15 by the Oklahoma Employment Security Commission, are
16 added and maintained for a period of at least thirty-
17 six (36) months as a direct result of the new or
18 expanded facility,

19 c. any manufacturing enterprise whose total cost of
20 construction of an expanded facility exceeds the sum
21 of Three Hundred Million Dollars (\$300,000,000.00) and
22 in which the manufacturer has and maintains an average
23 employment level of at least one thousand seven
24

1 hundred fifty (1,750) full-time-equivalent employees,
2 as certified by the Employment Security Commission, or
3 d. any enterprise primarily engaged in the general
4 wholesale distribution of groceries defined or
5 classified in the North American Industry
6 Classification System (NAICS) Manual under Industry
7 Groups No. 4244 and 4245 and which has at least
8 seventy-five percent (75%) of its total sales to in-
9 state customers or buyers and whose total cost of
10 construction of a new or expanded facility exceeds the
11 sum of Forty Million Dollars (\$40,000,000.00) with
12 such construction commencing on or after July 1, 2005,
13 and before December 31, 2005, and which at least fifty
14 new full-time-equivalent employees, as certified by
15 the Oklahoma Employment Security Commission, are added
16 and maintained for a period of at least thirty-six
17 (36) months as a direct result of the new or expanded
18 facility.

19 For purposes of this paragraph, the total cost of construction
20 shall include building and construction material and engineering and
21 architectural fees or charges directly associated with the
22 construction of a new or expanded facility. The total cost of
23 construction shall not include attorney fees. For purposes of
24 subparagraph c of this paragraph, the total cost of construction

1 shall also include the cost of qualified depreciable property as
2 defined in Section 2357.4 of this title and labor services performed
3 in the construction of an expanded facility. For the purpose of
4 subparagraph d of this paragraph, the total cost of construction
5 shall also include the cost of all parking, security and dock
6 structures or facilities necessary to manage, process or secure
7 vehicles used to receive and/or distribute groceries through such a
8 facility. The employment requirement of this paragraph can be
9 satisfied by the employment of a portion of the required number of
10 new full-time-equivalent employees at a manufacturing or
11 distribution facility that is related to or supported by the new or
12 expanded manufacturing or distribution facility as long as both
13 facilities are owned by one person or business entity. For purposes
14 of this section, "manufacturing facility" shall mean building and
15 land improvements used in manufacturing as defined in Section 1352
16 of this title and shall also mean building and land improvements
17 used for the purpose of packing, repackaging, labeling or assembling
18 for distribution to market, products at least seventy percent (70%)
19 of which are made in Oklahoma by the same company but at an off-
20 site, in-state manufacturing or distribution facility or facilities.
21 It shall not include a retail outlet unless the retail outlet is
22 operated in conjunction with and on the same site or premises as the
23 manufacturing facility. Up to ten percent (10%) of the square feet
24 of a manufacturing or distribution facility building may be devoted

1 to office space used to provide clerical support for the
2 manufacturing operation. Such ten percent (10%) may be in a
3 separate building as long as it is part of the same contiguous tract
4 of property on which the manufacturing or distribution facility is
5 located. Only sales of tangible personal property made after June
6 1, 1988, shall be eligible for the exemption provided by this
7 paragraph. The exemption authorized pursuant to subparagraph d of
8 this paragraph shall only become effective when the governing body
9 of the municipality in which the enterprise is located approves a
10 resolution expressing the municipality's support for the
11 construction for such new or expanded facility. Upon approval by
12 the municipality, the municipality shall forward a copy of such
13 resolution to the Oklahoma Tax Commission;

14 8. Sales of tangible personal property purchased and used by a
15 licensed radio or television station in broadcasting. This
16 exemption shall not apply unless such machinery and equipment is
17 used directly in the manufacturing process, is necessary for the
18 proper production of a broadcast signal or is such that the failure
19 of the machinery or equipment to operate would cause broadcasting to
20 cease. This exemption begins with the equipment used in producing
21 live programming or the electronic equipment directly behind the
22 satellite receiving dish or antenna, and ends with the transmission
23 of the broadcast signal from the broadcast antenna system. For
24 purposes of this paragraph, "proper production" shall include, but

1 not be limited to, machinery or equipment required by Federal
2 Communications Commission rules and regulations;

3 9. Sales of tangible personal property purchased or used by a
4 licensed cable television operator in cablecasting. This exemption
5 shall not apply unless such machinery and equipment is used directly
6 in the manufacturing process, is necessary for the proper production
7 of a cablecast signal or is such that the failure of the machinery
8 or equipment to operate would cause cablecasting to cease. This
9 exemption begins with the equipment used in producing local
10 programming or the electronic equipment behind the satellite
11 receiving dish, microwave tower or antenna, and ends with the
12 transmission of the signal from the cablecast head-end system. For
13 purposes of this paragraph, "proper production" shall include, but
14 not be limited to, machinery or equipment required by Federal
15 Communications Commission rules and regulations;

16 10. Sales of packaging materials for use in packing, shipping
17 or delivering tangible personal property for sale when sold to a
18 producer of agricultural products. This exemption shall not apply
19 to the sale of any packaging material which is ordinarily known as a
20 returnable container;

21 11. Sales of any pattern used in the process of manufacturing
22 iron, steel or other metal castings. The exemption provided by this
23 paragraph shall be applicable irrespective of ownership of the
24

1 pattern provided that such pattern is used in the commercial
2 production of metal castings;

3 12. Deposits or other charges made and which are subsequently
4 refunded for returnable cartons, crates, pallets, and containers
5 used to transport cement and cement products;

6 13. Beginning January 1, 1998, machinery, electricity, fuels,
7 explosives and materials, excluding chemicals, used in the mining of
8 coal in this state;

9 14. Deposits, rent or other charges made for returnable
10 cartons, crates, pallets, and containers used to transport mushrooms
11 or mushroom products from a farm for resale to the consumer or
12 processor;

13 15. Sales of tangible personal property and services used or
14 consumed in all phases of the extraction and manufacturing of
15 crushed stone and sand, including but not limited to site
16 preparation, dredging, overburden removal, explosive placement and
17 detonation, onsite material hauling and/or transfer, material
18 washing, screening and/or crushing, product weighing and site
19 reclamation; and

20 16. Sale, use or consumption of paper stock and other raw
21 materials which are manufactured into commercial printed material in
22 this state primarily for use and delivery outside this state. For
23 the purposes of this section, "commercial printed material" shall
24 include magazines, catalogs, retail inserts and direct mail.

1 17. Beginning on the effective date of this act and ending on
2 December 31, 2038, sales of machinery and equipment, including but
3 not limited to, servers and computers, racks, power distribution
4 units, cabling, switchgear, transformers, substations, software, and
5 network equipment, and electricity used for commercial mining of
6 digital assets purposes in a colocation facility.

7 For purposes of this paragraph:

8 a. "blockchain technology" means shared or distributed
9 data structures or digital ledgers governed by
10 consensus protocols and maintained by peer-to-peer
11 networks that:

12 (1) Store digital transactions, and

13 (2) Verify and secure transactions cryptographically,

14 b. "colocation facility" means a facility or facilities,
15 totaling not less than fifty-thousand (50,000) square
16 feet, located in this state and utilized in the
17 commercial mining of digital assets or in hosting
18 persons engaged in the commercial mining of digital
19 assets through utilization of the facility's
20 infrastructure, including servers and network hardware
21 powered by Internet bandwidth, electricity, and other
22 services generally required for such mining
23 operations. Provided, no facility shall qualify as a
24 "colocation facility" unless the facility has entered

1 into a load reduction agreement with its retail
2 electric supplier,

3 c. "commercial mining of digital assets" means the
4 process through which blockchain technology is used to
5 mine digital assets at a colocation facility,

6 d. "digital assets" means a type of virtual currency that
7 utilizes blockchain technology and that:

8 (1) can be digitally traded between users, or

9 (2) can be converted or exchanged for legal tender,

10 and

11 e. "load reduction agreement" means an agreement wherein
12 the customer grants the retail electric supplier the
13 right, upon demand, to temporarily reduce or curtail
14 the customer's use of electric power in order to
15 respond to inclement weather or other adverse
16 conditions,

17 f. "mine" or "mining" means the process through which
18 blockchain transactions are verified and accepted by
19 adding the transactions to a blockchain ledger, which
20 involves solving complex and mathematical
21 cryptographic problems associated with a block
22 containing transaction data.

23 SECTION 2. This act shall become effective November 1, 2023.

24

1 Passed the House of Representatives the 6th day of March, 2023.

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3 _____
4 Presiding Officer of the House
5 of Representatives

6 Passed the Senate the ___ day of _____, 2023.

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8 _____
9 Presiding Officer of the Senate