

OKLAHOMA TAX COMMISSION

**REVENUE IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT
SECOND REGULAR SESSION, FIFTY-EIGHTH OKLAHOMA LEGISLATURE**

DATE OF IMPACT STATEMENT: April 15, 2022

BILL NUMBER: SB 590 **STATUS AND DATE OF BILL:** Committee Substitute 4/13/2022

AUTHORS: House Martinez Senate Montgomery

TAX TYPE (S): Sales and Income **SUBJECT:** Exemption

PROPOSAL: Amendatory & New Law

EFFECTIVE DATE: November 1, 2022

Sections 1-3 define relevant terms and propose to exempt from the sales tax levy, the sale of machinery and equipment including but not limited to servers and computers, racks, power distribution units, cabling, switchgear, transformers, substations, software, network equipment, and electricity used for commercial mining of digital assets in a colocation facility. In addition, the measure provides a time period of November 1, 2022 through December 31, 2037, for which the sales tax exemption proposed in Section 3 of the measure would be effective.

Section 4 proposes to amend 68 O.S. § 2357.4 relating to the Oklahoma Investment / New Jobs Credit effective for tax year 2022 and subsequent tax years.

REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 23:	Sections 1-3	\$126,000	decrease	in	state	sales	tax	revenues.
	Section 4	Unknown	decrease	in	income	tax	collections	
FY 24:	Sections 1-3	\$220,000	decrease	in	state	sales	tax	revenues
	Section 4	Unknown	decrease	in	income	tax	collections	

Apr. 18, 2022
DATE

Rick Miller
DIVISION DIRECTOR

mk & msm

4/18/2022
DATE

Huan Gong
HUAN GONG, ECONOMIST

4/19/2022
DATE

Joseph P. Barpa
FOR THE COMMISSION

The revenue impact provided herein is an estimate of the potential impact on the collection or apportionment of tax revenues affected by the proposed legislation. It is not intended to be an estimate of the overall fiscal impact on the state budget if the proposed legislation is enacted.

ATTACHMENT TO REVENUE IMPACT SB 590 - [Committee Substitute] - Prepared April 15, 2022

Sections 1-3 define relevant terms and propose to exempt from the sales tax levy, the sale of machinery and equipment including but not limited to servers and computers, racks, power distribution units, cabling, switchgear, transformers, substations, software, network equipment, and electricity used for commercial mining of digital assets¹ in a colocation facility². In addition, the measure provides a time period of November 1, 2022 through December 31, 2037, for which the sales tax exemption proposed in Section 3 of the measure would be effective.

Sales of machinery and equipment purchased and used by persons and establishments primarily engaged in computer services and data processing as defined under Industrial Group Number 7374³ of the SIC Manual⁴, latest version, which derive at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer are exempt from sales tax. 68 O.S. § 1357(21)(b).

The activities of the facilities described in the measure fall within the parameters of the referenced classification number and should they meet the qualification requirements their purchases of machinery and equipment outlined in the measure would be exempt from sales tax pursuant to paragraph 21 of Section 1357.⁵ The only transaction identified in the measure not covered by the existing sales tax exemption would be purchases of electricity.

There is one identified establishment that could be eligible for the proposed sales tax exemption with estimated state sales tax attributable to the purchase of electricity used for commercial mining of digital assets of \$210,000. The measure proposes an effective date of November 1, 2022. Application of inflation rate adjustments of 2.5% for FY 23 and 2.3%⁶ for FY 24, yields a decrease of \$125,563 in state sales tax revenues for FY 23 and an estimated decrease in state sales tax revenues of \$220,201 for FY 24.

Section 4 proposes to amend 68 O.S. § 2357.4 relating to the Oklahoma Investment / New Jobs Credit effective for tax year 2022 and subsequent tax years.

Under current law there is an income tax credit for either an investment in depreciable property⁷ used in a manufacturing or processing facility or for a net increase in average levels of employment in said facilities. Any credit allowed but not used may be carried over in order to each of the four years following the year of qualification and, to the extent not used in those years, in order to each of the fifteen years following the initial five-year period; however, for investments in property made on or after January 1, 2000, the carryover period is unlimited. The credit for the investment portion is generally 1% of the investment in depreciable property per year for 5 years; under certain conditions⁸ that amount is increased to 2%.

This measure proposes to add colocation facilities as entities eligible for the Oklahoma Investment / New Jobs Credit effective for tax year 2022 and subsequent tax years. This would result in an unknown decrease in income tax collections as early as FY23 when tax year 2022 income tax returns are filed.

¹ "Commercial mining of digital assets" means the process through which blockchain technology is used to mine digital assets at a colocation facility.

² "Colocation facility" means a facility or facilities, totaling not less than fifty thousand (50,000) square feet, located in this state and utilized in the commercial mining of digital assets or in hosting persons engaged in the commercial mining of digital assets through utilization of the facility's infrastructure, including servers and network hardware powered by internet bandwidth, electricity, and other services generally required for mining operations.

³ Corresponding North American Industry Classification System code of 518210.

⁴ Computer Processing and Data Preparation and Processing Services - Establishments primarily engaged in providing computer processing and data preparation services. The service may consist of complete processing and preparation of reports from data supplied by the customer or a specialized service, such as data entry or making data processing equipment available on an hourly or time-sharing basis.

⁵ Eligibility for the exemption set out in this paragraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers or consumers, all sales to the federal government shall be considered to be to an out-of-state buyer or consumer.

⁶ IHS Markit

⁷ The investment cannot directly result in the loss of jobs.

⁸ To qualify for the 2% investment in qualified depreciable property with a total cost equal to or greater than \$40 million must be made within 3 years from the date of initial qualifying expenditure and placed in service in this state during those years for use in the manufacture of products described by any Industry Number contained in Division D of Part I of the Standard Industrial Classification (SIC) Manual. Investment in Enterprise Zones also double the credit to 2% per 62 O.S. § 690.4.