

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 750

By: Montgomery of the Senate

and

Fetgatter of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to sales tax; amending 68 O.S. 2021,
11 Section 1359, which relates to exemptions for
12 manufacturing; providing exemption for sales of
13 certain equipment used in the commercial mining of
digital assets for certain period; defining terms;
updating statutory language; and providing an
effective date.

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

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

19 Section 1359. Exemptions - Manufacturing.

20 There are hereby specifically exempted from the tax levied by
21 Section 1350 et seq. of this title:

22 1. Sales of goods, wares, merchandise, tangible personal
23 property, machinery and equipment to a manufacturer for use in a
24 manufacturing operation. Goods, wares, merchandise, property,

1 machinery and equipment used in a nonmanufacturing activity or
2 process as set forth in paragraph 14 of Section 1352 of this title
3 shall not be eligible for the exemption provided for in this
4 subsection by virtue of the activity or process being performed in
5 conjunction with or integrated into a manufacturing operation.

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

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1 2. Ethyl alcohol when sold and used for the purpose of blending
2 same with motor fuel on which motor fuel tax is levied by Section
3 500.4 of this title;

4 3. Sales of containers when sold to a person regularly engaged
5 in the business of reselling empty or filled containers or when
6 purchased for the purpose of packaging raw products of farm, garden,
7 or orchard for resale to the consumer or processor. This exemption
8 shall not apply to the sale of any containers used more than once
9 and which are ordinarily known as returnable containers, except
10 returnable soft drink bottles and the cartons, crates, pallets, and
11 containers used to transport returnable soft drink bottles. Each
12 and every transfer of title or possession of such returnable
13 containers in this state to any person who is not regularly engaged
14 in the business of selling, reselling or otherwise transferring
15 empty or filled containers shall be taxable under this Code.

16 Additionally, this exemption shall not apply to the sale of labels
17 or other materials delivered along with items sold but which are not
18 necessary or absolutely essential to the sale of the sold
19 merchandise;

20 4. Sales of or transfers of title to or possession of any
21 containers, after June 30, 1987, used or to be used more than once
22 and which are ordinarily known as returnable containers and which do
23 or will contain beverages defined by paragraphs 4 and 14 of Section
24 506 of Title 37 of the Oklahoma Statutes, or water for human

1 consumption and the cartons, crates, pallets, and containers used to
2 transport such returnable containers;

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

8 6. Machinery, equipment, fuels and chemicals or other materials
9 incorporated into and directly used or consumed in the process of
10 treatment to substantially reduce the volume or harmful properties
11 of hazardous waste at treatment facilities specifically permitted
12 pursuant to the Oklahoma Hazardous Waste Management Act and operated
13 at the place of waste generation, or facilities approved by the
14 Department of Environmental Quality for the cleanup of a site of
15 contamination. The term "hazardous" waste may include low-level
16 radioactive waste for the purpose of this paragraph;

17 7. Except as otherwise provided by subsection I of Section 3658
18 of this title pursuant to which the exemption authorized by this
19 paragraph may not be claimed, sales of tangible personal property to
20 a qualified manufacturer or distributor to be consumed or
21 incorporated in a new manufacturing or distribution facility or to
22 expand an existing manufacturing or distribution facility. For
23 purposes of this paragraph, sales made to a contractor or
24 subcontractor that has previously entered into a contractual

1 relationship with a qualified manufacturer or distributor for
2 construction or expansion of a manufacturing or distribution
3 facility shall be considered sales made to a qualified manufacturer
4 or distributor. For the purposes of this paragraph, "qualified
5 manufacturer or distributor" means:

6 a. any manufacturing enterprise whose total cost of
7 construction of a new or expanded facility exceeds the
8 sum of Five Million Dollars (\$5,000,000.00) and in
9 which at least one hundred (100) new full-time-
10 equivalent employees, as certified by the Oklahoma
11 Employment Security Commission, are added and
12 maintained for a period of at least thirty-six (36)
13 months as a direct result of the new or expanded
14 facility,

15 b. any manufacturing enterprise whose total cost of
16 construction of a new or expanded facility exceeds the
17 sum of Ten Million Dollars (\$10,000,000.00) and the
18 combined cost of construction material, machinery,
19 equipment and other tangible personal property exempt
20 from sales tax under the provisions of this paragraph
21 exceeds the sum of Fifty Million Dollars
22 (\$50,000,000.00) and in which at least seventy-five
23 (75) new full-time-equivalent employees, as certified
24 by the Oklahoma Employment Security Commission, are

1 added and maintained for a period of at least thirty-
2 six (36) months as a direct result of the new or
3 expanded facility,

4 c. any manufacturing enterprise whose total cost of
5 construction of an expanded facility exceeds the sum
6 of Three Hundred Million Dollars (\$300,000,000.00) and
7 in which the manufacturer has and maintains an average
8 employment level of at least one thousand seven
9 hundred fifty (1,750) full-time-equivalent employees,
10 as certified by the Employment Security Commission, or

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

1 (36) months as a direct result of the new or expanded
2 facility.

3 For purposes of this paragraph, the total cost of construction
4 shall include building and construction material and engineering and
5 architectural fees or charges directly associated with the
6 construction of a new or expanded facility. The total cost of
7 construction shall not include attorney fees. For purposes of
8 subparagraph c of this paragraph, the total cost of construction
9 shall also include the cost of qualified depreciable property as
10 defined in Section 2357.4 of this title and labor services performed
11 in the construction of an expanded facility. For the purpose of
12 subparagraph d of this paragraph, the total cost of construction
13 shall also include the cost of all parking, security and dock
14 structures or facilities necessary to manage, process or secure
15 vehicles used to receive and/or distribute groceries through such a
16 facility. The employment requirement of this paragraph can be
17 satisfied by the employment of a portion of the required number of
18 new full-time-equivalent employees at a manufacturing or
19 distribution facility that is related to or supported by the new or
20 expanded manufacturing or distribution facility as long as both
21 facilities are owned by one person or business entity. For purposes
22 of this section, "manufacturing facility" shall mean building and
23 land improvements used in manufacturing as defined in Section 1352
24 of this title and shall also mean building and land improvements

1 used for the purpose of packing, repackaging, labeling or assembling
2 for distribution to market, products at least seventy percent (70%)
3 of which are made in ~~Oklahoma~~ this state by the same company but at
4 an off-site, in-state manufacturing or distribution facility or
5 facilities. It shall not include a retail outlet unless the retail
6 outlet is operated in conjunction with and on the same site or
7 premises as the manufacturing facility. Up to ten percent (10%) of
8 the square feet of a manufacturing or distribution facility building
9 may be devoted to office space used to provide clerical support for
10 the manufacturing operation. Such ten percent (10%) may be in a
11 separate building as long as it is part of the same contiguous tract
12 of property on which the manufacturing or distribution facility is
13 located. Only sales of tangible personal property made after June
14 1, 1988, shall be eligible for the exemption provided by this
15 paragraph. The exemption authorized pursuant to subparagraph d of
16 this paragraph shall only become effective when the governing body
17 of the municipality in which the enterprise is located approves a
18 resolution expressing the municipality's support for the
19 construction for such new or expanded facility. Upon approval by
20 the municipality, the municipality shall forward a copy of such
21 resolution to the Oklahoma Tax Commission;

22 8. Sales of tangible personal property purchased and used by a
23 licensed radio or television station in broadcasting. This
24 exemption shall not apply unless such machinery and equipment is

1 used directly in the manufacturing process, is necessary for the
2 proper production of a broadcast signal or is such that the failure
3 of the machinery or equipment to operate would cause broadcasting to
4 cease. This exemption begins with the equipment used in producing
5 live programming or the electronic equipment directly behind the
6 satellite receiving dish or antenna, and ends with the transmission
7 of the broadcast signal from the broadcast antenna system. For
8 purposes of this paragraph, "proper production" shall include, but
9 not be limited to, machinery or equipment required by Federal
10 Communications Commission rules and regulations;

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

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

6 11. Sales of any pattern used in the process of manufacturing
7 iron, steel or other metal castings. The exemption provided by this
8 paragraph shall be applicable irrespective of ownership of the
9 pattern, provided that such pattern is used in the commercial
10 production of metal castings;

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

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

17 14. Deposits, rent or other charges made for returnable
18 cartons, crates, pallets, and containers used to transport mushrooms
19 or mushroom products from a farm for resale to the consumer or
20 processor;

21 15. Sales of tangible personal property and services used or
22 consumed in all phases of the extraction and manufacturing of
23 crushed stone and sand, including but not limited to site
24 preparation, dredging, overburden removal, explosive placement and

1 detonation, onsite material hauling and/or transfer, material
2 washing, screening and/or crushing, product weighing and site
3 reclamation; ~~and~~

4 16. Sale, use or consumption of paper stock and other raw
5 materials which are manufactured into commercial printed material in
6 this state primarily for use and delivery outside this state. For
7 the purposes of this section, "commercial printed material" shall
8 include magazines, catalogs, retail inserts and direct mail; and

9 17. Beginning on the effective date of this act and before
10 January 1, 2039, sales of machinery and equipment including but not
11 limited to servers and computers, racks, power distribution units,
12 cabling, switchgear, transformers, substations, software, network
13 equipment, and electricity used for commercial mining of digital
14 assets in a colocation facility.

15 As used in this paragraph:

16 a. "blockchain technology" means shared or distributed
17 data structures or digital ledgers governed by
18 consensus protocols and maintained by peer-to-peer
19 networks that:

20 (1) store digital transactions, and

21 (2) verify and secure transactions cryptographically,

22 b. "colocation facility" means a facility or facilities,
23 totaling not less than 50,000 square feet, located in
24 this state and utilized in the commercial mining of

1 digital assets or in hosting persons engaged in the
2 commercial mining of digital assets through
3 utilization of the facility's infrastructure,
4 including servers and network hardware powered by
5 internet bandwidth, electricity, and other services
6 generally required for such mining operations.

7 Provided, no facility shall qualify as a "colocation
8 facility" unless the facility has entered into a load
9 reduction agreement with its retail electric supplier,

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

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

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

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

17 e. "load reduction agreement" means an agreement wherein
18 the customer grants the retail electric supplier the
19 right, upon demand, to temporarily reduce or curtail
20 the customer's use of electric power in order to
21 respond to inclement weather or other adverse
22 conditions, and

23 f. "mine" or "mining" means the process through which
24 blockchain transactions are verified and accepted by

1 adding the transactions to a blockchain ledger, which
2 involves solving complex and mathematical
3 cryptographic problems associated with a block
4 containing transaction data.

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

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