

1 **SENATE FLOOR VERSION**

2 March 1, 2023

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 750

By: Montgomery of the Senate

and

Fetgatter of the House

6
7
8 [sales tax - exemptions for manufacturing -
commercial mining of digital assets - effective date]
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11 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

14 Section 1359. Exemptions - Manufacturing.

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

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

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

18 2. Ethyl alcohol when sold and used for the purpose of blending
19 same with motor fuel on which motor fuel tax is levied by Section
20 500.4 of this title;

21 3. Sales of containers when sold to a person regularly engaged
22 in the business of reselling empty or filled containers or when
23 purchased for the purpose of packaging raw products of farm, garden,
24 or orchard for resale to the consumer or processor. This exemption

1 shall not apply to the sale of any containers used more than once
2 and which are ordinarily known as returnable containers, except
3 returnable soft drink bottles and the cartons, crates, pallets, and
4 containers used to transport returnable soft drink bottles. Each
5 and every transfer of title or possession of such returnable
6 containers in this state to any person who is not regularly engaged
7 in the business of selling, reselling or otherwise transferring
8 empty or filled containers shall be taxable under this Code.

9 Additionally, this exemption shall not apply to the sale of labels
10 or other materials delivered along with items sold but which are not
11 necessary or absolutely essential to the sale of the sold
12 merchandise;

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

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

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

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

23 a. any manufacturing enterprise whose total cost of
24 construction of a new or expanded facility exceeds the

1 sum of Five Million Dollars (\$5,000,000.00) and in
2 which at least one hundred (100) new full-time-
3 equivalent employees, as certified by the Oklahoma
4 Employment Security Commission, are added and
5 maintained for a period of at least thirty-six (36)
6 months as a direct result of the new or expanded
7 facility,

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

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

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

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

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

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

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

1 purposes of this paragraph, "proper production" shall include, but
2 not be limited to, machinery or equipment required by Federal
3 Communications Commission rules and regulations;

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

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

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

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; and

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

7 As used in 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 50,000 square feet, located in
16 this state and utilized in the commercial mining of
17 digital assets or in hosting persons engaged in the
18 commercial mining of digital assets through
19 utilization of the facility's infrastructure,
20 including servers and network hardware powered by
21 internet bandwidth, electricity, and other services
22 generally required for such mining operations.

23 Provided, no facility shall qualify as a "colocation
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1 facility” unless the facility has entered into a load
2 reduction agreement with its retail 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 e. “load reduction agreement” means an agreement wherein
11 the customer grants the retail electric supplier the
12 right, upon demand, to temporarily reduce or curtail
13 the customer’s use of electric power in order to
14 respond to inclement weather or other adverse
15 conditions, and

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

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

23 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
24 March 1, 2023 - DO PASS AS AMENDED BY CS