

OKLAHOMA TAX COMMISSION

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

DATE OF IMPACT STATEMENT: February 4, 2022

BILL NUMBER: SB 1101 STATUS AND DATE OF BILL: Introduced 11/04/2021

AUTHORS: House n/a Senate Burns

TAX TYPE (S): Sales SUBJECT: Exemption

PROPOSAL: Amendatory

The measure proposes to exclude the growing, harvesting, and processing of marijuana from the term "Agricultural Products" for purposes of qualification for the sales tax exemption authorized by 68 O.S. § 1358.

EFFECTIVE DATE: November 1, 2022

REVENUE IMPACT:

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

FY 23: \$2,481,000 increase in state sales tax revenues

FY 24: \$4,338,000 increase in state sales tax revenues

Feb. 7, 2022

DATE

Rick Miller

DIVISION DIRECTOR

msm

2/7/2022

DATE

Huan Gong

HUAN GONG, ECONOMIST

2/7/2022

DATE

[Signature]
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 1101 [Introduced] Prepared 02/04/2022

The measure proposes to exclude the growing, harvesting, and processing of marijuana from the term "Agricultural Products" for purposes of qualification for the sales tax exemption authorized by 68 O.S. § 1358.

Presently, persons that have obtained a medical marijuana grower's license from the Oklahoma Medical Marijuana Authority ("OMMA") may apply for an agricultural sales tax exemption permit¹ which constitutes proof of eligibility for the agricultural sales tax exemption². This exemption allows the holder of an agricultural exemption permit to purchase tangible personal property to be used in agricultural production³ exempt from sales tax.

This measure would require the Oklahoma Tax Commission to revoke agricultural exemption permits currently in effect and refuse permit issuance to establishments whose sole agricultural product is medical marijuana.

In accordance with OMMA permitting records, currently 8,300 registered growers of medical marijuana have been issued a sales tax agricultural exemption permit. Based upon Oklahoma Tax Commission sales tax reporting data, in FY 21 a total of \$150,133,000 in exempt state sales tax was attributable to the agricultural sales tax exemption, along with a total of 110,000 agricultural exemptions issued. Dividing \$150,133,000 by 110,000 results in an estimated annual average of \$1,365 in state sales tax per exempted agricultural producer/farmer. Multiplying the annual average sales tax by the 8,300 medical marijuana growers' results in an estimated \$11,329,500 in exempted state sales taxes. For the referenced permit holders these exempt transactions already occurred and represent startup purchases for greenhouses, equipment, and supplies. These 8,300 medical marijuana growers will continue to purchase supplies, fertilizers and repair and replacement parts exempt from sales tax equal to 10% or \$136.48 of the estimated annual sales tax exemption. Multiplying 8,300 by \$136.48 results in an estimated \$1,132,784 in state sales taxes for FY 21. The measure proposes an effective date of November 1, 2022. Application of growth rate adjustments of 4.2% for FY 22 and 2.4% for FY 23 and FY 24 results in an estimated \$705,069 increase in state sales tax revenues for FY 23 and an estimated increase of \$1,237,698 in state sales tax revenues for FY 24.

In addition, based upon information from the OMMA, from July 2021 through December 3, 2021, the average monthly growth of growers grew by 231 per month. Multiplied by 12 months results in an estimated 2,772 new growers for FY 23 and an additional 2,772 new growers for FY 24. For purposes of this impact, it is estimated that 20%⁴ of these new growers will not have any production for 18-24 months or will produce nothing and close down. Accounting for the proposed effective date of November 1, 2022 along with application of a growth rate of 2.4% results in an estimated 1,294 new growers for FY 23 and 2,218 new growers for FY 24 that will make expenditures with an average state sales tax of \$1,365 per exempted grower, resulting in an estimated increase of \$1,776,083 in state sales tax revenues for FY 23 and an estimated increase of \$3,100,232 in state sales tax revenues for FY 24.

NET ESTIMATE:

The measure will result in an estimated increase of \$2,481,152 in state sales tax revenues for FY 23 and an estimated increase of \$4,337,930 in state sales tax revenues for FY 24.

¹ 68 O.S. § 1358.1

² 68 O.S. § 1358

³ In accordance with OAC 710:65-13-15(a)(1) "agricultural production" and "production of agricultural products" is limited to what would ordinarily be considered a farming or ranching operation undertaken for profit. The term refers to the raising of food crops or livestock for sale. Included within the meaning of "agricultural production" and "production of agricultural products" are ranches, orchards, and dairies. Also included is any feedlot operation, whether or not the land upon which a feedlot operation is located is used to grow crops to feed the livestock in the feedlot and regardless of whether or not the livestock fed are owned by persons conducting the feedlot. Further, the terms "farm", "farming", "farming operation", "agricultural production" and "production of agricultural products" shall be deemed to include the planting, growing, cultivation and harvesting of shrubs, flowers, trees and other plants for sale in the wholesale division of a nursery operation and the planting, growing, cultivation and harvesting of sod by commercial growers of sod. 68 O.S. § 1352.1

⁴ Entrepreneur article by Timothy Carter dated January 3, 2022.