

OKLAHOMA TAX COMMISSION

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

DATE OF IMPACT STATEMENT: May 3, 2022

BILL NUMBER: SB 1305

STATUS AND DATE OF BILL: Engr. House Amendment to Eng. 4/27/2022

AUTHORS: House Pfeiffer Senate Rader

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

PROPOSAL: Amendatory and New Law

The Engrossed House Amendment to Engrossed SB 1305 proposes to amend 68 O.S. §§ 1356 and 1357, relating to sales tax exemptions. The measure also creates a new income tax credit for 50% of eligible expenditures incurred by a family caregiver for the care and support of an eligible family member, effective for taxable years beginning after December 31, 2022.

EFFECTIVE DATE: Emergency – July 1, 2022 (Sections 1 and 2)
January 1, 2023 (Section 3)

REVENUE IMPACT:

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

FY 23: Estimated decrease of \$1,366,000 in sales tax collections (see attached).

Unknown decrease in income tax revenue (see attached).

May 3, 2022
DATE

Rick Miller
DIVISION DIRECTOR

bjs, mm, bdf

5/3/2022
DATE

Huan Gong
HUAN GONG, ECONOMIST

5/4/2022
DATE

Joseph L. Ayers
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 1305 [Engrossed House Amendment]
Prepared 5/2/2022**

The Engrossed House Amendment to Engrossed SB 1305 proposes to amend 68 O.S. §§ 1356 and 1357, relating to sales tax exemptions. The measure also creates a new income tax credit for 50% of eligible expenditures incurred by a family caregiver for the care and support of an eligible family member, effective for taxable years beginning after December 31, 2022.

Section 1 amends 68 O.S. § 1356 to add a sales tax exemption for sales of tangible personal property or services to a qualified nonprofit entity, the principal functions of which are to provide assistance to a natural person following a disaster,¹ with program emphasis on repair or restoration to single-family residential dwellings or the construction of a replacement single-family residential dwelling. An entity operated exclusively for charitable and educational purposes through the coordination of volunteers for the disaster recovery of homes (as derived from Part III, Statement of Program Services, of Internal Revenues Service Form 990) that offers its services free of charge to disaster survivors statewide who are low income, with no or limited means of recovery on their own, for the restoration of single-family housing following a disaster, including related general and administrative expenses, will be eligible for the exemption. The exemption is applicable to sales made on or after July 1, 2022.

Currently, there is one known organization which could qualify for the proposed sales tax exemption, and the estimated revenue impact associated with this proposal is anticipated to be a minimal decrease in state sales tax collections for FY 23.

Section 2 amends 68 O.S. § 1357 by expanding the sales tax exemption for sales of prosthetic devices to include hearing aids purchased from an audiologist or hearing aid dealer or fitter who is licensed by Oklahoma, as required by law.

Based on OTC sales tax reporting and remittance data, state sales tax collections of approximately \$1,280,000 million are attributable to the described sales of hearing aids for FY 21. Calculated with effective date of July 1, 2022, and application of inflation rate adjustments² results in an estimated decrease in state sales tax collections of approximately \$1,366,000 million for FY 23.³

Section 3 creates a new income tax credit for 50% of eligible expenditures incurred by a family caregiver for the care and support of an eligible family member, effective for taxable years beginning after December 31, 2022. The annual credit amount is limited to \$2,000, unless the eligible family member is a veteran or has a diagnosis of dementia, in which case, the maximum allowable credit is \$3,000. If two or more family caregivers claim the credit for the same eligible family member, the maximum allowable credit must be allocated in equal amounts among each family caregiver.

Total annual credits are limited to \$1.5 million. If total credit exceed \$1.5 million in any calendar year, the Oklahoma Tax Commission (OTC) will permit any excess over \$1.5 million but will factor such excess into the percentage adjustment formula for subsequent years. The OTC will annually calculate and publish by the first day of the affected year the percentage by which the credits will be reduced so the total annual amount of credits used to offset tax does not exceed \$1.5 million. The formula used for the percentage adjustment is \$1.5 million divided by the credits claimed in the

¹ For purposes of the proposed exemption “disaster” is defined to mean damage to property with or without accompanying injury to persons from heavy rain, high winds, tornadic winds, drought, wildfire, snow, ice, geologic disturbances, explosions, chemical accidents or spills and other events, causing damage to property on a large scale.

² IHS Markit/US Forecast Flash, January 3, 2022 [4.2% for FY 22, and 2.4% for FY 23].

³ Includes seven months of sales tax collections

second preceding year.⁴

The following definitions are provided:

- “Activities of daily living (ADL)” include:
 - Ambulating, which is the extent of an individual's ability to move from one position to another and walk independently,
 - Feeding, which is the ability of an individual to feed oneself,
 - Dressing, which is the ability to select appropriate clothes and to put the clothes on without aid,
 - Personal hygiene, which is the ability to bathe and groom oneself and maintain dental hygiene and nail and hair care,
 - Continence, which is the ability to control bladder and bowel function, and
 - Toileting, which is the ability to get to and from the toilet without aid, using it appropriately, and cleaning oneself;
- “Eligible expenditure” includes:
 - The improvement or alteration to the family caregiver's or eligible family member's primary residence to permit the eligible family member to live in the residence and to remain mobile, safe, and independent,
 - The family caregiver's purchase or lease of equipment, including but not limited to durable medical equipment, that is necessary to assist an eligible family member in carrying out one or more activities of daily living (ADL), and
 - Other paid or incurred expenses by the family caregiver that assist the family caregiver in providing care to an eligible family member, such as expenditures related to:
 - Hiring a home care aide,
 - Respite care,
 - Adult day care,
 - Personal care attendants,
 - Health care equipment, and
 - Technology.

The eligible expenditure must be directly related to assisting the family caregiver in providing care to an eligible family member. Eligible expenditure shall not include the carrying out of general household maintenance activities such as painting, plumbing, electrical repairs, or exterior maintenance;

- “Eligible family member” means an individual who:
 - Is 62 years of age or older,
 - Requires assistance with at least two activities of daily living (ADL) as certified by a licensed health care provider, as defined in paragraph 1 of 63 O.S. § 3090.2,
 - Qualifies as a dependent, spouse, parent, or other relation by blood or marriage to the family caregiver; and
 - Lives in a private residential home and not in an assisted living center, nursing facility or residential care home.
- “Family caregiver” means an individual:
 - Providing care and support for an eligible family member,
 - Who has a federal adjusted gross income of less than \$50,000 for an individual and less than \$100,000 for a couple filing jointly, and
 - Who has personally incurred uncompensated expenses directly related to the care of an eligible family member.

⁴ Because the formula to be used for the percentage adjustment is \$1.5 million divided by the credits claimed in the second preceding tax year, the credit limit is not enforceable until tax year 2025.

In its *2020 Older Americans Key Indicators of Well-Being* report, the Federal Interagency Forum on Aging Related Statistics (FIFARS) reported that approximately 3.1 million persons age 65 and over were Medicare beneficiaries who had dementia and were living in settings other than nursing homes during 2015.⁵ It is estimated that approximately 36,334 (1.17%)⁶ of these persons were Oklahoma residents; however, the actual number of Oklahoma residents age 65 and over who have dementia and are living in a private residential home is unknown. If a \$3,000 credit was claimed for 50% of these persons, the resulting decrease in income tax revenue would be approximately \$54.5 million. The actual number of persons in Oklahoma who have dementia and who meet all the criteria to be considered eligible family members for the proposed credit is unknown.

Data published by the Chronic Conditions Data Warehouse further indicates approximately 5.5 million persons age 65 and over were enrolled in Medicare in the United States during 2019.⁷ This information and the percentages of Medicare beneficiaries age 65 and older who were reported by FIFARS as having limitations in activities of ADLs during 2015 were used to estimate the following:

Estimated Number of OK Medicare Enrollees with Limitations Performing 1 or More ADLs		
	<i>Rate</i>	<i># of Persons</i>
2017 Medicare Enrollees, Age 65 and Over		5,500,000
Limitations Performing 1-2 ADLs	16.3%	896,500
Limitations Performing 3-4 ADLs	4.9%	269,500
Limitations Performing 5-6 ADLs	2.9%	159,500
Est. Medicare Enrollees with Limitations Performing 1 or More ADLs		1,325,500
Est. OK Medicare Enrollees with Limitations Performing 1 or More ADLs	1.17%	15,508

If a \$2,000 credit was claimed for each of the estimated Oklahoma Medicare enrollees with limitations performing one or more ADLs, the resulting decrease in income tax revenue would be approximately \$31 million. The actual number of persons requiring assistance with at least two ADLs and who meet all the criteria to be considered eligible family members for the proposed credit is unknown.

Due to a scarcity of data, the actual number of persons who may be considered eligible family members and eligible caregivers for the proposed credit and the related eligible expenditure amounts are unknown. As a result, the expected revenue impact of this proposal is an unknown decrease in income tax collections, beginning for FY 24 when the 2023 tax returns are filed. Because the formula to be used for the percentage adjustment is \$1.5 million divided by the credits claimed in the second preceding tax year, the credit limit is not enforceable until tax year 2025.

⁵ See https://agingstats.gov/docs/LatestReport/OA20_508_10142020.pdf.

⁶ Based on U.S. Census Bureau data, an estimated 54.8 million people in the U.S. were 65 years or over during 2021, and an estimated 642,000 (1.17%) of these people lived in Oklahoma. See <https://www.census.gov/quickfacts/fact/table/US/PST045221> and <https://www.census.gov/quickfacts/OK>.

⁷ See <https://www2.cdwdata.org/web/guest/medicare-charts/medicare-enrollment-charts>.