

1 **SENATE FLOOR VERSION**

2 April 10, 2023

3 **AS AMENDED**

4 ENGROSSED HOUSE
5 BILL NO. 1600

6 By: Martinez of the House

7 and

8 Montgomery of the Senate

9 [digital asset mining - sales tax exemption -
10 effective date]

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

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

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

20 2. Ethyl alcohol when sold and used for the purpose of blending
21 same with motor fuel on which motor fuel tax is levied by Section
22 500.4 of this title;

23 3. Sales of containers when sold to a person regularly engaged
24 in the business of reselling empty or filled containers or when

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

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

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

22 5. Sale of tangible personal property when sold by the
23 manufacturer to a person who transports it to a state other than
24 Oklahoma for immediate and exclusive use in a state other than

1 Oklahoma. Provided, no sales at a retail outlet shall qualify for
2 the exemption under this paragraph;

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

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

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

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

23 c. any manufacturing enterprise whose total cost of
24 construction of an expanded facility exceeds the sum

1 of Three Hundred Million Dollars (\$300,000,000.00) and
2 in which the manufacturer has and maintains an average
3 employment level of at least one thousand seven
4 hundred fifty (1,750) full-time-equivalent employees,
5 as certified by the Employment Security Commission, or
6 d. any enterprise primarily engaged in the general
7 wholesale distribution of groceries defined or
8 classified in the North American Industry
9 Classification System (NAICS) Manual under Industry
10 Groups No. 4244 and 4245 and which has at least
11 seventy-five percent (75%) of its total sales to in-
12 state customers or buyers and whose total cost of
13 construction of a new or expanded facility exceeds the
14 sum of Forty Million Dollars (\$40,000,000.00) with
15 such construction commencing on or after July 1, 2005,
16 and before December 31, 2005, and which at least fifty
17 new full-time-equivalent employees, as certified by
18 the Oklahoma Employment Security Commission, are added
19 and maintained for a period of at least thirty-six
20 (36) months as a direct result of the new or expanded
21 facility.

22 For purposes of this paragraph, the total cost of construction
23 shall include building and construction material and engineering and
24 architectural fees or charges directly associated with the

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

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

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

1 satellite receiving dish or antenna, and ends with the transmission
2 of the broadcast signal from the broadcast antenna system. For
3 purposes of this paragraph, "proper production" shall include, but
4 not be limited to, machinery or equipment required by Federal
5 Communications Commission rules and regulations;

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

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

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1 11. Sales of any pattern used in the process of manufacturing
2 iron, steel or other metal castings. The exemption provided by this
3 paragraph shall be applicable irrespective of ownership of the
4 pattern provided that such pattern is used in the commercial
5 production of metal castings;

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

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

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

16 15. Sales of tangible personal property and services used or
17 consumed in all phases of the extraction and manufacturing of
18 crushed stone and sand, including but not limited to site
19 preparation, dredging, overburden removal, explosive placement and
20 detonation, onsite material hauling and/or transfer, material
21 washing, screening and/or crushing, product weighing and site
22 reclamation; and

23 16. Sale, use or consumption of paper stock and other raw
24 materials which are manufactured into commercial printed material in

1 this state primarily for use and delivery outside this state. For
2 the purposes of this section, "commercial printed material" shall
3 include magazines, catalogs, retail inserts and direct mail.

4 17. Beginning on the effective date of this act and ending on
5 December 31, 2029, sales of machinery and equipment, including but
6 not limited to, servers and computers, racks, power distribution
7 units, cabling, switchgear, transformers, substations, software, and
8 network equipment, and electricity used for commercial mining of
9 digital assets purposes in a colocation facility.

10 For purposes of this paragraph:

11 a. "blockchain technology" means shared or distributed
12 data structures or digital ledgers governed by
13 consensus protocols and maintained by peer-to-peer
14 networks that:

15 (1) Store digital transactions, and

16 (2) Verify and secure transactions cryptographically,

17 b. "colocation facility" means a facility or facilities,
18 totaling not less than fifty-thousand (50,000) square
19 feet, located in this state and utilized in the
20 commercial mining of digital assets or in hosting
21 persons engaged in the commercial mining of digital
22 assets through utilization of the facility's
23 infrastructure, including servers and network hardware
24 powered by Internet bandwidth, electricity, and other

1 services generally required for such mining
2 operations. Provided, no facility shall qualify as a
3 "colocation facility" unless the facility has entered
4 into a load reduction agreement with its retail
5 electric supplier,

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

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

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

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

13 and

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

20 f. "mine" or "mining" means the process through which
21 blockchain transactions are verified and accepted by
22 adding the transactions to a blockchain ledger, which
23 involves solving complex and mathematical

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1 cryptographic problems associated with a block
2 containing transaction data.

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

4 COMMITTEE REPORT BY: COMMITTEE ON FINANCE
5 April 10, 2023 - DO PASS AS AMENDED

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