

OKLAHOMA TAX COMMISSION

**REVENUE IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT
FIRST REGULAR SESSION, FIFTY-NINTH OKLAHOMA LEGISLATURE**

DATE OF IMPACT STATEMENT: February 3, 2023

BILL NUMBER: SB 133 **STATUS AND DATE OF BILL:** Introduced 01/04/2023

AUTHORS: House: n/a Senate: Bullard

TAX TYPE (S): Sales **SUBJECT:** Exemption

PROPOSAL: Amendatory

The measure proposes to exclude the growing, harvesting, and processing of marijuana¹ from the term "Agricultural Products" for purposes of qualification for the sales tax exemption authorized by 68 O.S. § 1358.

EFFECTIVE DATE: November 1, 2023

REVENUE IMPACT:

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

FY 24: \$297,000 increase in state sales tax revenues

FY 25: \$454,000 increase in state sales tax revenues

<u>Feb. 6, 2023</u>	<u>Rick Miller</u>	<u>msm</u>
DATE	DIVISION DIRECTOR	
<u>2/6/2023</u>	<u>Huan Gong</u>	
DATE	HUAN GONG, ECONOMIST	
<u>2/8/2023</u>	<u>Joseph P Gappa</u>	
DATE	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.

¹ As defined in 63 O.S. § 427.2(28).

ATTACHMENT TO REVENUE IMPACT - SB 133 [Introduced] Prepared 02/3/2023

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 permit² which constitutes proof of eligibility for the agricultural sales tax exemption³. This renewable exemption allows the holder of an agricultural exemption permit to purchase tangible personal property to be used in agricultural production⁴ exempt from sales tax for a period of three (3) years.

Pursuant to the passage of HB 3208 [2022] a moratorium was established on the issuance of new commercial grower licenses by the OMMA for the period beginning August 1, 2022 and ending August 1, 2024. The moratorium does not apply to license renewals or the issuance of commercial grower licenses necessitated by a change in ownership or location of the commercial grower unless the applicant is subject to disciplinary action. The estimated impact outlined as follows includes those groups excepted from the moratorium.

It is unclear from the provisions of the measure whether the existing permits are to be cancelled upon expiration or whether they are to be cancelled as soon as possible after the effective date of the measure. The estimated revenue impact provided herein assumes the former.

In accordance with current OMMA permitting records, 7,086 registered commercial growers of medical marijuana have been issued a sales tax agricultural exemption permit. Based upon Oklahoma Tax Commission sales tax reporting data for FY 22, a total of \$165,090,000 in exempt state sales tax was attributable to the agricultural sales tax exemption, along with a total of 92,077 agricultural exemptions issued. Dividing \$165,090,000 by 92,007 results in an estimated annual average of \$1,793 in state sales tax per exempted agricultural producer/farmer. Multiplying the annual average sales tax by the 7,086 commercial growers of medical marijuana results in an estimated \$12,704,885 in exempted state sales taxes. For the referenced permit holders it is anticipated that significant startup purchases for greenhouses, equipment, and supplies have previously occurred. Therefore the impact will be limited to continued expenditures for supplies and fertilizers along with repair and replacement parts purchased exempt from sales tax equal to 10% or \$179 of the estimated annual sales tax exemption. Multiplying 7,086 by \$179.30 results in an estimated

² 68 O.S. § 1358.1

³ 68 O.S. § 1358

⁴ 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.

\$1,270,489 in state sales taxes for FY 22. Application of growth rate adjustments of 3.9% for FY 23 and 2.2% for FY 24 results in an estimated annual sales tax exemption of \$1,349,079 related to the referenced permit holders. Based on the November 1, 2023 effective date of the measure it is estimated that only 22% or 1559 of the 7,086 permits would expire between November 1, 2023 and June 30, 2024 resulting in an estimated increase of \$296,797 in state sales taxes for FY 24 [$\$1,349,079 \times 22\% = \$296,797$] while one third of the 7,086 permits or 2,362 would expire in FY 25 resulting in an increase of \$454,100 in state sales tax revenues for FY 25. [$\$1,349,079 \times 2\%$ FY 25 inflation rate adjustment = $\$1,376,061 \times 33\% = \$454,100$]