

ENGROSSED HOUSE AMENDMENT  
TO  
ENGROSSED SENATE BILL NO. 911

By: Easley, Fair, Long (Ed),  
Kerr and Campbell of the  
Senate

and

Rice of the House

( economically at-risk oil leases - effective date -  
emergency )

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AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
entire bill and insert

"( oil and gas - economically at-risk oil lease - exemption  
from gross production tax - codification - effective  
date - emergency )

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 80 of Title 52, unless there is  
created a duplication in numbering, reads as follows:

A. "Economically at-risk oil lease" means any oil lease  
operated at a net loss or net profit which is less than the total  
gross production tax remitted for said lease during the previous tax  
reporting year.

B. When certified as such pursuant to the provisions of this  
section, an economically at-risk oil lease shall be eligible for an  
exemption equaling six percent (6%) of the gross production tax

levied pursuant to subsection (b) of Section 1001 of Title 68 of the Oklahoma Statutes for a period of twenty-four (24) months after the lease is certified. The exemption shall not apply for a full year if it is determined by the Tax Commission that the weighted average price of Oklahoma oil exceeds Twenty Dollars (\$20.00) per barrel calculated on an annual calendar year basis.

C. Notwithstanding the exemption granted pursuant to this section, all revenue derived from the one percent (1%) remaining of the tax levy imposed by Section 1001 of Title 68 of the Oklahoma Statutes as gross production tax after the exemption shall be apportioned as follows:

1. Fifty percent (50%) of the sum collected shall be apportioned to the County Highway Fund as provided in paragraph 4 of Section 1004 of Title 68 of the Oklahoma Statutes; and

2. Fifty percent (50%) of the sum collected shall be apportioned to the appropriate school district as provided in paragraph 4 of Section 1004 of Title 68 of the Oklahoma Statutes.

D. Any operator making application for an at-risk oil lease status under the provisions of this section shall submit appropriate documentation to the Corporation Commission, as determined by the Commission to be appropriate and necessary, including, but not limited to, the operator's federal income tax returns for said lease.

E. For the purposes of this section, determination of the economically at-risk oil lease status shall be made by subtracting from the net revenue of that lease for the previous calendar year (gross revenue less gross production tax, if any, and royalty) the operating expenses of the lease for the previous calendar year, which shall include overhead costs up to the maximum overhead percentage allowed by the Council of Petroleum Accountants Societies (COPAS) guidelines. For the purposes of this calculation,

depreciation, depletion or intangible drilling costs shall not be included as lease operating expenses.

F. The Corporation Commission shall have sole authority to determine if an oil lease qualifies for certification as an economically at-risk oil lease and shall make said determination within thirty (30) days after an application is filed for economically at-risk oil lease status. The Corporation Commission shall promulgate rules governing the certification process.

G. The operator of a certified economically at-risk oil lease shall:

1. File an application for the exemption with the Oklahoma Tax Commission which, upon certification of the lease by the Corporation Commission, shall approve the application for such exemption; and

2. Provide a copy of the approved certification to the person responsible for remitting the gross production tax for the lease.

H. Any oil lease certified as an economically at-risk oil lease shall be eligible for recertification for one additional twenty-four-month period if the lease still meets the qualifications for certification at the time application is made for recertification.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 1359, as last amended by Section 14 of Enrolled House Bill No. 2428 of the 2nd Session of the 45th Oklahoma Legislature, is amended to read as follows:

Section 1359. Exemptions - Manufacturers.

There are hereby specifically exempted from the tax levied by this article:

1. Goods, wares, merchandise, and property purchased for the purpose of being used or consumed in the process of manufacturing, compounding, processing, assembling, or preparing for sale a finished article and such goods, wares, merchandise, or property become integral parts of the manufactured, compounded, processed, assembled, or prepared products or are consumed in the process of

manufacturing, compounding, processing, assembling, or preparing products for resale. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such;

2. Ethyl alcohol when sold and used for the purpose of blending same with motor fuel on which motor fuel tax is levied by ~~Section 529~~ of this title;

3. Sale of machinery and equipment purchased and used by persons establishing new manufacturing plants in Oklahoma, and machinery and equipment purchased or equipment built on site and used by persons in the operation of manufacturing plants already established in Oklahoma. This exemption shall not apply unless such machinery and equipment is incorporated into, and is directly used in, the process of manufacturing property for sale or resale. The term "manufacturing plants" shall mean those establishments primarily engaged in manufacturing or processing operations, and generally recognized as such. For the purposes of this paragraph, sales made to a contractor or subcontractor of persons who are determined to be qualified for incentive benefits pursuant to the Oklahoma Quality Jobs Program Act shall be considered sales made to such persons; provided, the sales were made after July 1, 1993, and before December 31, 1995, but not more than twelve (12) months before such person was determined to be qualified for incentive benefits and that the sales are otherwise qualified for the exemption provided by this paragraph and that the property which is the subject of the sales is utilized for the purpose of the contract by which the person obtained the services of the contractor or subcontractor;

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

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

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

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

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

7. Machinery, equipment, fuels and chemicals incorporated into and directly used or consumed in the process of treatment to substantially reduce the volume or harmful properties of hazardous waste at treatment facilities specifically permitted pursuant to the Hazardous Waste Management Act and operated at the place of waste generation, or facilities approved by the Department of Environmental Quality for the cleanup of a site of contamination.

The term "hazardous waste" may include low-level radioactive waste for the purpose of this subsection;

8. Sales of tangible personal property to a qualified manufacturer to be consumed or incorporated in a new manufacturing facility or to expand an existing manufacturing facility. For purposes of this subsection, sales made to a contractor or subcontractor that has previously entered into a contractual relationship with a qualified manufacturer for construction or expansion of a manufacturing facility shall be considered sales made to a qualified manufacturer. For the purposes of this subsection, "qualified manufacturer" means any enterprise whose total cost of construction material for a new or expanded facility exceeds the sum of Five Million Dollars (\$5,000,000.00) and in which at least one hundred (100) new full-time-equivalent employees, as certified by the Employment Security Commission, are added and maintained for a period of at least thirty-six (36) months as a direct result of the new or expanded facility. Provided, however, where the total cost of construction material for a new or expanded facility exceeds Ten Million Dollars (\$10,000,000.00) and the combined cost of construction material, machinery, equipment and other tangible personal property exempt from sales tax under the provisions of this subsection exceeds the sum of Fifty Million Dollars (\$50,000,000.00) the required number of new full-time-equivalent employees under this subsection shall be reduced to seventy-five (75) new employees. The employment requirement of this subsection can be satisfied by the employment of a portion of the required number of new full-time-equivalent employees at a manufacturing facility that is related to or supported by the new or expanded manufacturing facility so long as both facilities are owned by one person or business entity. For purposes of this section "manufacturing facility" shall mean building and land improvements used in manufacturing as defined by the Standard Industrial Classification Code and shall also mean

building and land improvements used for the purpose of packing, repackaging, labeling or assembling for distribution to market, products at least seventy percent (70%) of which are made in Oklahoma by the same company but at an off-site in-state manufacturing facility or facilities. It shall not include a retail outlet unless said retail outlet is operated in conjunction with and on the same site or premises as the manufacturing facility. Up to ten percent (10%) of the square feet of a manufacturing facility building may be devoted to office space used to provide clerical support for the manufacturing operation. Such ten percent (10%) may be in a separate building as long as it is part of the same contiguous tract of property on which the manufacturing facility is located. Only sales of tangible personal property made after June 1, 1988, shall be eligible for the exemption provided by this subsection;

9. Sales of tangible personal property purchased and used by a licensed radio or television station in broadcasting. This exemption shall not apply unless such machinery and equipment is used directly in the manufacturing process, is necessary for the proper production of a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. This exemption begins with the equipment used in producing live programming or the electronic equipment directly behind the satellite receiving dish or antenna, and ends with the transmission of the broadcast signal from the broadcast antenna system. For purposes of this subsection, "proper production" shall include, but not be limited to, machinery or equipment required by Federal Communications Commission rules and regulations;

10. Sales of tangible personal property purchased or used by a licensed cable television operator in cablecasting. This exemption shall not apply unless such machinery and equipment is used directly in the manufacturing process, is necessary for the proper production

of a cablecast signal or is such that the failure of the machinery or equipment to operate would cause cablecasting to cease. This exemption begins with the equipment used in producing local programming or the electronic equipment behind the satellite receiving dish, microwave tower or antenna, and ends with the transmission of the signal from the cablecast head-end system. For purposes of this subsection, "proper production" shall include, but not be limited to, machinery or equipment required by Federal Communications Commission rules and regulations;

11. Sales of packaging materials for use in packing, shipping or delivering tangible personal property for sale when sold to a manufacturer of tangible personal property or producer of agricultural products. This exemption shall not apply to the sale of any packaging material which can be used more than once or which is ordinarily known as a returnable container;

12. Sales of any pattern used in the process of manufacturing iron, steel or other metal castings. The exemption provided by this subsection shall be applicable irrespective of ownership of the pattern provided that such pattern is used in the commercial production of metal castings; ~~and~~

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

14. Sales of tangible personal property purchased and used by or on behalf of an oil operator on leases certified as economically at-risk oil leases. This exemption shall not apply unless such property is used directly in the process of repairing, recompleting or otherwise enhancing the production from these certified leases. The exemption provided for in this paragraph shall be limited to a period of twenty-four (24) months after such lease is certified. The exemption shall not apply if it is determined by the Tax Commission that the weighted average price of Oklahoma oil exceeds

Twenty Dollars (\$20.00) per barrel calculated on an annual calendar year basis.

SECTION 3. This act shall become effective July 1, 1996.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the House of Representatives the 9th day of April, 1996.

Speaker of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1996.

President of the Senate