SHORT TITLE: Revenue and taxation; sales tax exemption; agricultural commodity processing facility; codification; emergency.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 570 By: Wright of the Senate

and

Ferguson of the House

AS INTRODUCED

An Act relating to revenue and taxation; providing sales tax exemption for construction of agricultural commodity processing facility; defining terms; providing for sales tax exemption; providing certain sales treated as made to owner of agricultural commodity processing facility; providing for refund of state and local sales taxes paid; requiring transfer of collected sales tax and deposit into account; prescribing procedures with respect to payment of sales tax refund; providing for payment of interest on certain amounts and prescribing method for computation of interest; providing for refund of tax to owner based upon contractual relationship with certain contractors or subcontractors; requiring documentation and specifying content thereof; providing for documentation in the event of payment of tax by contractors or subcontractors; providing for codification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1359.2 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Agricultural commodity processing facility" means buildings, structures, fixtures, and improvements used or operated primarily for the processing or production of marketable products from agricultural commodities. The term does not include a facility that provides only storage, cleaning, drying or transportation of agricultural commodities;

2. "Facility" means each part of the facility which is used in a process primarily for:

a. the processing of agricultural commodities, including receiving or storing agricultural commodities,

b. transporting the agricultural commodities or product before, during or after the processing, or

c. packaging or otherwise preparing the product for sale or shipment;

3. "Owner" means the person, firm, partnership, corporation, limited liability company or other legal entity which acquires title to the improvements which constitute an agricultural commodity processing facility; and

4. "Tangible personal property" does not include tools or machinery used to construct an agricultural commodity processing facility.

B. There are hereby exempted from the tax levied by Section 1354 of Title 68 of the Oklahoma Statutes sales of tangible personal property used to construct an agricultural commodity processing facility in this state if the tangible personal property is to be consumed or incorporated in the structure of the facility or used in the construction process. For purposes of this section, sales made to a contractor or subcontractor that has previously entered into a

contractual relationship with an owner of an agricultural commodity processing facility for construction of the facility shall be considered sales to the owner.

C. In order to administer the exemption provided by this section, there shall be made a sales tax refund for state and local sales taxes paid by the owner of an agricultural commodity processing facility from the account created by this section.

D. The Oklahoma Tax Commission shall transfer each month from sales tax collected the amount which the Commission estimates to be necessary to make the sales tax refund provided by this section to an account designated as the Commission determines.

E. Any refund shall be paid from the account prescribed by this section at the time the claim for refund is approved by the Oklahoma Tax Commission. The amount of the refund shall not exceed the total state and local sales taxes paid together with accrued interest upon such total. The amount of interest paid to an owner upon the principal amount of any refund made to such owner for purposes of administering the exemption provided by this section shall be determined according to the provisions of this subsection. For any month during which the Oklahoma Tax Commission transfers a sum to the account prescribed by subsection D of this section, the Commission shall determine an interest rate by determining the rate of interest paid for a three-month Treasury Bill of the United States government as of the first working day of the month in which the transfer is made. The interest rate so determined shall accrue upon the amount transferred to the account. In each subsequent month, the Commission shall determine the interest rate paid for a three-month Treasury Bill of the United States government as of the first working day of the month and such interest rate shall accrue upon any amount transferred during the month and upon the amounts previously transferred to the account together with interest previously accrued upon such amounts.

F. For purposes of this section, state and local sales taxes paid by a contractor or subcontractor for tangible personal property purchased by that contractor or subcontractor pursuant to a contract with an owner for construction of an agricultural commodity processing facility shall, upon proper showing, be refunded to the owner.

G. The owner shall file with the Oklahoma Tax Commission the following documentation for any refund claimed:

1. Invoices indicating the amount of state and local sales tax billed;

2. Affidavit of each vendor that state and local sales tax billed has not been audited, rebated, or refunded to the owner but rather the sales tax charged has been collected by the vendor and remitted to the Oklahoma Tax Commission; and

3. All additional documentation required to be submitted pursuant to rules promulgated by the Oklahoma Tax Commission.

H. In the event that state and local sales tax was paid by a contractor or subcontractor, the owner shall file with the Oklahoma Tax Commission all documentation required in subsection G of this section but in lieu of the affidavit of each vendor the owner shall file, for any refund claimed, an affidavit from the contractor or subcontractor stating that the sales tax refund of the owner is based on state and local sales tax paid by the contractor or subcontractor on tangible personal property exempt from sales tax as provided by this section and that the amount of state and local sales tax claimed was paid to the vendor and no credit, refund, or rebate has been claimed by the contractor or subcontractor.

SECTION 2. 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.

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