

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

HOUSE BILL NO. 1719

By: Pope (Clay)

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 1359, as last amended by Section 7, Chapter 301, O.S.L. 1998 (68 O.S. Supp. 1998, Section 1359), which relates to manufacturers exemptions from sales tax; exempting certain materials used in the exploration or production of oil and gas from sales tax; creating income tax credit for certain agricultural producers; defining term; setting forth amount of credit; providing for calculation of credit; requiring certain commodity levels to be determined by certain agency; setting forth certain commodity levels; authorizing refund of unused credit; permitting Oklahoma Tax Commission to promulgate rules; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 1359, as last amended by Section 7, Chapter 301, O.S.L. 1998 (68 O.S. Supp. 1998, Section 1359), is amended to read as follows:

Section 1359. Exemptions - Manufacturers.

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

1. Sales of goods, wares, merchandise, tangible personal property, machinery and equipment to a manufacturer for use in a manufacturing operation;
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 500.4 of this title;
3. 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;

4. 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;

5. 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;

6. Machinery, equipment, fuels and chemicals or other materials 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 paragraph;

7. 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 of 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. For purposes of this paragraph, the total cost of construction shall include building and construction material and engineering and architectural fees or charges directly associated with the construction of a new or expanded facility. The total cost of construction shall not include attorney fees. However, where the total cost of construction of 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 the 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;

8. 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;

9. 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;

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

11. 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;

12. 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~~

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

14. Machinery, electricity, fuels, pipe, and materials used in the exploration or production of crude oil or natural gas in this state.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.28 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For taxable years beginning after December 31, 1999, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for Oklahoma agricultural producers when the average yearly agricultural commodity prices as determined by the Farm Service Agency of the United States Department of Agriculture drop below the levels set forth in this section. As used in this section, "agricultural producer" means any person who produces in this state the agricultural commodities set forth in subsection C of this section.

B. The credit allowed by this section shall be twenty-five percent (25%) of the ad valorem tax paid on the property used by the Oklahoma agricultural producer for growing the agricultural commodity for which the price drops below the level set forth in this section. The property used to calculate the percentage of ad valorem tax paid and used to calculate the credit allowed by this section shall not include any property used for growing or producing agricultural commodities for which the price is not below the levels set forth in this section.

C. If the average yearly price as determined by the Farm Service Agency of the United States Department of Agriculture of the following agricultural commodities drops below the following price levels, then the Oklahoma agricultural producer shall be eligible for the credit provided by this section:

1. Live cattle - \$55.00 per one hundred weight;
2. Hogs - \$35.00 per one hundred weight;
3. Milk - \$12.80 per one hundred weight;
4. Wheat - \$2.80 per bushel;
5. Soybean - \$5.50 per bushel;
6. Sorghum - \$3.80 per one hundred weight;

7. Peanuts - \$0.33 per pound;
8. Corn - \$2.00 per bushel;
9. Cotton - \$0.60 per pound;
10. Alfalfa hay - \$90.00 per ton; and
11. All other hay - \$70.00 per ton.

D. If the credit allowed pursuant to this section exceeds the amount of state income taxes due or if there are no state income taxes due on the income of the taxpayer, the unused credit shall be refunded to the agricultural producer.

E. The Oklahoma Tax Commission shall promulgate any necessary rules to implement the provisions of this section.

SECTION 3. This act shall become effective January 1, 2000.

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