

BILL SUMMARY
1st Session of the 59th Legislature

Bill No.:	HB2316
Version:	Introduced
Request Number:	5612
Author:	Rep. Hilbert
Date:	3/1/2023
Impact:	FY-24 Sales Tax Revenue Decrease: \$27,245,000

Research Analysis

HB2316, as introduced, defines *occasional sale* in the Sale Tax Code and provides that occasional sales are exempt from sale tax.

Prepared By: Quyen Do

Fiscal Analysis

Officials from the Oklahoma Tax Commission estimate the following fiscal impact as a result of the provisions of HB 2316 in its current form:

Section one of the measure proposes amendment to Section 1352 of Title 68 by defining occasional sale¹.

Section two of the measure proposes amendment to Section 1356 of Title 68 to exempt occasional sales from the sales tax levy.

Based upon Oklahoma Tax Commission sales tax reporting and remittance data, a total of \$26,205,684 in state sales tax was remitted in FY 22 on transactions designated as "casual" which meet the definition of "occasional sale" for purposes of the proposed sales tax exemption. The measure provides for an effective date of July 1, 2023. Assuming similar qualifying occasional sales in FY 24 as those which occurred in FY 22 along with application of sales tax growth rates of 3.8% for FY 23 and .16% for FY 24 results in an estimated decrease of \$27,245,022 in state sales taxes for FY 24

Sales taxes are not presently reported in such a manner to capture remittance amounts related to business sales of fixtures and equipment. Therefore, the estimated revenue impact outlined above does not account for any losses in state sales tax revenues attributed to sales of fixtures and equipment qualifying under the provisions of the proposed sales tax exemption.

FY 24: Decrease of \$27,245,000 in state sales tax revenue

¹ Occasional sale means a) one or two sales of taxable items, other than an amusement service, at retail during a twelve-month period by a person who does not habitually engage, or hold himself out as engaging, in the business of selling taxable items at retail, b) the sale of the entire operating assets of a business or of a separate division, branch, or identifiable segment of a business, c) a transfer of all or substantially all the property used by a person in the course of an activity if after the transfer the real or ultimate ownership of the property is substantially similar to that which existed before the transfer, d) the sale of not more than ten admissions for amusement services during a twelve-month period by a person who does not hold himself out as engaging, or does not habitually engage, in providing amusement services, or e) the sale of tangible personal property by an individual if: (1) the property was originally bought by the individual or a member of the individual's family for the personal use of the individual or the individual's family, (2) the individual does not hold a permit issued under this code and is not required to obtain a permit as a "seller" or "retailer" as those terms are defined by law, (3) the individual does not employ an auctioneer, broker, or factor, other than an online auction, to sell the property, and (4) the total receipts from sales of the individual's tangible personal property in a calendar year do not exceed Three Thousand Dollars (\$3,000.00), f) within the meaning of subparagraph b of this paragraph, separate division, branch, or identifiable segment of a business exists if before its sale the income and expenses attributable to the separate division, branch, or segment could be separately ascertained from the books of account or record, g) within the meaning of subparagraph c of this paragraph, the stockholders, bondholders, partners, or other persons holding an interest in a corporation or other entity have the real or ultimate ownership of the property of the corporation or other entity, h) this section does not apply to a rental or lease of a taxable item, i) subparagraph a of this paragraph does not apply to a sale made by a person who holds a permit issued pursuant to the provisions of the Oklahoma Sales Tax Code, j) a person who holds a permit issued under the Oklahoma Sales Tax Code and makes a purchase from a person entitled to claim the exemption provided by subparagraph a of this paragraph shall accrue use tax on the transaction and remit it to the Oklahoma Tax Commission.

Prepared By: John McPhetridge, House Fiscal Staff

Other Considerations

None.