

An Act

ENROLLED HOUSE
BILL NO. 2429

By: Osborn (Leslie) and Wallace
of the House

and

David and Fields of the
Senate

An Act relating to revenue and taxation; amending 68 O.S. 2011, Section 1001, as last amended by Section 1 of Enrolled House Bill No. 2377 of the 1st Session of the 56th Oklahoma Legislature, which relates to gross production taxes; providing certain reduced rate; clarifying references; amending 68 O.S. 2011, Section 1004, as last amended by Section 4, Chapter 337, O.S.L. 2016 (68 O.S. Supp. 2016, Section 1004), which relates to apportionment of gross production taxes; making certain apportionment applicable to certain rate; providing an effective date; and declaring an emergency.

SUBJECT: Gross Production Tax Code

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 1001, as last amended by Section 1 of Enrolled House Bill No. 2377 of the 1st Session of the 56th Oklahoma Legislature, is amended to read as follows:

Section 1001. A. There is hereby levied upon the production of asphalt, ores bearing lead, zinc, jack and copper a tax equal to three-fourths of one percent ($3/4$ of 1%) on the gross value thereof.

B. 1. Effective July 1, 2013, through June 30, 2015, except as otherwise exempted pursuant to subsections D, E, F, G, H, I and J of this section, there shall be levied upon the production of oil a tax equal to seven percent (7%) of the gross value of the production of

oil based on a per barrel measurement of forty-two (42) U.S. gallons of two hundred thirty-one (231) cubic inches per gallon, computed at a temperature of sixty (60) degrees Fahrenheit.

2. Effective July 1, 2013, through June 30, 2015, except as otherwise exempted pursuant to subsections D, E, F, G, H, I and J of this section, there shall be levied a tax equal to seven percent (7%) of the gross value of the production of gas.

3. Effective July 1, 2015, except as otherwise provided in this section, there shall be levied a tax on the gross value of the production of oil and gas as follows:

- a. upon the production of oil a tax equal to seven percent (7%) of the gross value of the production of oil based on a per barrel measurement of forty-two (42) U.S. gallons of two hundred thirty-one (231) cubic inches per gallon, computed at a temperature of sixty (60) degrees Fahrenheit,
- b. upon the production of gas a tax equal to seven percent (7%) of the gross value of the production of gas, and
- c. notwithstanding the levies in subparagraphs a and b of this paragraph, the production of oil, gas, or oil and gas from wells spudded on or after July 1, 2015, shall be taxed at a rate of two percent (2%) commencing with the month of first production for a period of thirty-six (36) months. Thereafter, the production shall be taxed as provided in subparagraphs a and b of this paragraph.

C. The taxes hereby levied shall also attach to, and are levied on, what is known as the royalty interest, and the amount of such tax shall be a lien on such interest.

D. 1. Except as otherwise provided in this section, for secondary recovery projects approved or having an initial project beginning date on or after July 1, 2000, and before July 1, 2017, any incremental production attributable to the working interest owners which results from such secondary recovery projects shall be exempt from the gross production tax levied pursuant to this section for a period not to exceed five (5) years from the initial project beginning date or for a period ending upon the termination of the

secondary recovery process, whichever occurs first; provided however, that the exemption provided by this paragraph shall not apply to production occurring on or after July 1, 2017.

2. Except as otherwise provided in this section, for tertiary recovery projects approved and having a project beginning date on or after July 1, 1993, and before July 1, 2017, any incremental production attributable to the working interest owners which results from such tertiary recovery projects shall be exempt from the gross production tax levied pursuant to this section from the project beginning date until project payback is achieved, but not to exceed a period of ten (10) years; provided however, that the exemption provided by this paragraph shall not apply to production occurring on or after July 1, 2017. Project payback pursuant to this paragraph shall be determined by appropriate payback indicators which will provide for the recovery of capital expenses and operating expenses, excluding administrative expenses, in determining project payback. The capital expenses of pipelines constructed to transport carbon dioxide to a tertiary recovery project shall not be included in determining project payback pursuant to this paragraph.

3. The provisions of this subsection shall also not apply to any enhanced recovery project using fresh water as the primary injectant, except when using steam.

4. For purposes of this subsection:

- a. "incremental production" means the amount of crude oil or other liquid hydrocarbons which is produced during an enhanced recovery project and which is in excess of the base production amount of crude oil or other liquid hydrocarbons. The base production amount shall be the average monthly amount of production for the twelve-month period immediately prior to the project beginning date minus the monthly rate of production decline for the project for each month beginning one hundred eighty (180) days prior to the project beginning date. The monthly rate of production decline shall be equal to the average extrapolated monthly decline rate for the twelve-month period immediately prior to the project beginning date as determined by the Corporation Commission based on the production history of the field, its current status, and sound reservoir engineering principles, and

b. "project beginning date" means the date on which the injection of liquids, gases, or other matter begins on an enhanced recovery project.

5. The Corporation Commission shall promulgate rules for the qualification for this exemption which shall include, but not be limited to, procedures for determining incremental production as defined in subparagraph a of paragraph 4 of this subsection, and the establishment of appropriate payback indicators as approved by the Tax Commission for the determination of project payback for each of the exemptions authorized by this subsection.

6. For new secondary recovery projects and tertiary recovery projects approved by the Corporation Commission on or after July 1, 1993, and before July 1, 2017, such approval shall constitute qualification for an exemption.

7. Any person seeking an exemption shall file an application for such exemption with the Tax Commission which, upon determination of qualification by the Corporation Commission, shall approve the application for such exemption.

8. The Tax Commission may require any person requesting such exemption to furnish information or records concerning the exemption as is deemed necessary by the Tax Commission.

9. Upon the expiration of the exemption granted pursuant to this subsection, the Tax Commission shall collect the gross production tax levied pursuant to this section.

E. 1. Except as otherwise provided in this section, the production of oil, gas or oil and gas from a horizontally drilled well producing prior to July 1, 2011, which production commenced after July 1, 2002, shall be exempt from the gross production tax levied pursuant to subsection B of this section from the project beginning date until project payback is achieved but not to exceed a period of forty-eight (48) months commencing with the month of initial production from the horizontally drilled well. For purposes of subsection D of this section and this subsection, project payback shall be determined as of the date of the completion of the well and shall not include any expenses beyond the completion date of the well, and subject to the approval of the Tax Commission.

2. Claims for refund for the production periods within the fiscal years ending June 30, 2010, and June 30, 2011, shall be filed and received by the Tax Commission no later than December 31, 2011.

3. For production commenced on or after July 1, 2011, and prior to July 1, 2015, the tax levied pursuant to the provisions of this section on the production of oil, gas or oil and gas from a horizontally drilled well shall be reduced to a rate of one percent (1%) for a period of forty-eight (48) months from the month of initial production; provided however, such production occurring on or after the effective date of this act for the remainder of such forty-eight-month period shall be subject to a reduced rate of four percent (4%). The taxes collected from the production of oil shall be apportioned pursuant to the provisions of paragraph 8 7 of subsection B of Section 1004 of this title. The taxes collected from the production of gas shall be apportioned pursuant to the provisions of paragraph 4 3 of subsection B of Section 1004 of this title.

4. The production of oil, gas or oil and gas on or after July 1, 2011, and prior to July 1, 2015, from these qualifying wells shall be taxed at a rate of one percent (1%) until the expiration of forty-eight (48) months commencing with the month of initial production.

5. As used in this subsection, "horizontally drilled well" shall mean an oil, gas or oil and gas well drilled or recompleted in a manner which encounters and subsequently produces from a geological formation at an angle in excess of seventy (70) degrees from vertical and which laterally penetrates a minimum of one hundred fifty (150) feet into the pay zone of the formation.

F. 1. Except as otherwise provided by this section, the severance or production of oil, gas or oil and gas from an inactive well shall be exempt from the gross production tax levied pursuant to subsection B of this section for a period of twenty-eight (28) months from the date upon which production is reestablished; provided however, that the exemption provided by this paragraph shall not apply to production occurring on or after July 1, 2017. This exemption shall take effect July 1, 1994, and shall apply to wells for which work to reestablish or enhance production began on or after July 1, 1994, and for which production is reestablished prior to July 1, 2017. For all such production, a refund against gross production taxes shall be issued as provided in subsection L of this section.

2. As used in this subsection, for wells for which production is reestablished prior to July 1, 1997, "inactive well" means any well that has not produced oil, gas or oil and gas for a period of not less than two (2) years as evidenced by the appropriate forms on file with the Corporation Commission reflecting the well's status. As used in this subsection, for wells for which production is reestablished on or after July 1, 1997, and prior to July 1, 2017, "inactive well" means any well that has not produced oil, gas or oil and gas for a period of not less than one (1) year as evidenced by the appropriate forms on file with the Corporation Commission reflecting the well's status. Wells which experience mechanical failure or loss of mechanical integrity, as defined by the Corporation Commission, including but not limited to, casing leaks, collapse of casing or loss of equipment in a wellbore, or any similar event which causes cessation of production, shall also be considered inactive wells.

G. 1. Except as otherwise provided by this section, any incremental production which results from a production enhancement project shall be exempt from the gross production tax levied pursuant to subsection B of this section for a period of twenty-eight (28) months from the date of first sale after project completion of the production enhancement project; provided however, that the exemption provided by this paragraph shall not apply to production occurring on or after July 1, 2017. This exemption shall take effect July 1, 1994, and shall apply to production enhancement projects having a project beginning date on or after July 1, 1994, and prior to July 1, 2017. For all such production, a refund against gross production taxes shall be issued as provided in subsection L of this section.

2. As used in this subsection:

- a. for production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, 2017, "production enhancement project" means any workover as defined in this paragraph, recompletion as defined in this paragraph, reentry of plugged and abandoned wellbores, or addition of a well or field compression,
- b. "incremental production" means the amount of crude oil, natural gas or other hydrocarbons which are

produced as a result of the production enhancement project in excess of the base production,

- c. "base production" means the average monthly amount of production for the twelve-month period immediately prior to the commencement of the project or the average monthly amount of production for the twelve-month period immediately prior to the commencement of the project less the monthly rate of production decline for the project for each month beginning one hundred eighty (180) days prior to the commencement of the project. The monthly rate of production decline shall be equal to the average extrapolated monthly decline rate for the twelve-month period immediately prior to the commencement of the project based on the production history of the well. If the well or wells covered in the application had production for less than the full twelve-month period prior to the filing of the application for the production enhancement project, the base production shall be the average monthly production for the months during that period that the well or wells produced,
- d. for production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, 2017, "recompletion" means any downhole operation in an existing oil or gas well that is conducted to establish production of oil or gas from any geologic interval not currently completed or producing in such existing oil or gas well within the same or a different geologic formation, and
- e. "workover" means any downhole operation in an existing oil or gas well that is designed to sustain, restore or increase the production rate or ultimate recovery in a geologic interval currently completed or producing in the existing oil or gas well. For production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, 2017, "workover" includes, but is not limited to:
 - (1) acidizing,
 - (2) reperforating,

- (3) fracture treating,
- (4) sand/paraffin/scale removal or other wellbore cleanouts,
- (5) casing repair,
- (6) squeeze cementing,
- (7) installation of compression on a well or group of wells or initial installation of artificial lifts on gas wells, including plunger lifts, rod pumps, submersible pumps and coiled tubing velocity strings,
- (8) downsizing existing tubing to reduce well loading,
- (9) downhole commingling,
- (10) bacteria treatments,
- (11) upgrading the size of pumping unit equipment,
- (12) setting bridge plugs to isolate water production zones, or
- (13) any combination thereof.

"Workover" shall not mean the routine maintenance, routine repair, or like for like replacement of downhole equipment such as rods, pumps, tubing, packers, or other mechanical devices.

H. 1. For purposes of this subsection, "depth" means the length of the maximum continuous string of drill pipe utilized between the drill bit face and the drilling rig's kelly bushing.

2. Except as otherwise provided in subsection K of this section:

- a. the production of oil, gas or oil and gas from wells spudded between July 1, 1997, and July 1, 2005, and drilled to a depth of twelve thousand five hundred

