OIL AND GAS SEVERANCE TAX AMENDMENTS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Gordon E. Snow

This act amends provisions relating to the Oil and Gas Severance Tax. The act extends the time period for a taxpayer to claim a tax credit for a workover or recompletion, and modifies provisions relating to claiming the tax credit. The act requires the Tax Review Commission to review the oil and gas severance tax on or before the October 2008 interim meeting and prescribes the scope of the review. This act repeals obsolete language and makes technical changes. The act provides for retrospective operation.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

59-5-102, as last amended by Chapter 414, Laws of Utah 1998

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-5-102** is amended to read:

59-5-102. Severance tax -- Rate -- Computation -- Annual exemption -- Study by Tax Review Commission.

(1) (a) Each person owning an interest, working interest, royalty interest, payments out of production, or any other interest, in oil or gas produced from a well in the state, or in the proceeds of the production, shall pay to the state a severance tax [~~equal to 4%~~] <u>on the basis</u> of the value, at the well, of the oil or gas produced, saved, and sold or transported from the field where the substance was produced <u>as provided in this section</u>.

(b) Beginning January 1, 1992, the severance tax rate for oil is as follows:

(i) 3% of the value up to and including the first $13 per barrel for oil; and

(ii) 5% of the value from $13.01 and above per barrel for oil.

(c) Beginning January 1, 1992, the severance tax rate for natural gas is as follows:

(i) 3% of the value up to and including the first $1.50 per MCF for gas; and

(ii) 5% of the value from $1.51 and above per MCF for gas.

(d) Beginning January 1, 1992, the severance tax rate for natural gas liquids is 4% of the taxable value for natural gas liquids.

(e) If [~~the~~] oil or gas is shipped outside the state[~~, this~~]:

(i) the shipment constitutes a sale[~~;~~]; and

(ii) the oil or gas is subject to the [~~severance~~] tax imposed by this section.

(f) [~~If~~] (i) Except as provided in Subsection (1)(f)(ii), if the oil or gas is stockpiled, the tax is not [~~applicable~~] imposed until [~~it~~] the oil or gas is:

(A) sold[~~,~~];

(B) transported[~~,~~]; or

(C) delivered. [~~However,~~]

(ii) Notwithstanding Subsection (1)(f)(i), if oil or gas [~~that~~] is stockpiled for more than two years, the oil or gas is subject to the [~~severance~~] tax imposed by this section.

(2) [~~No~~] A tax is not imposed under this section upon:

(a) the first $50,000 annually in gross value of each well or wells as defined in this part, to be prorated among the owners in proportion to their respective interests in the production or in the proceeds of the production;

(b) stripper wells, unless the exemption prevents the severance tax from being treated as a deduction for federal tax purposes;

(c) the first six months of production for wells started after January 1, 1984, but before January 1, 1990;

(d) the first 12 months of production for wildcat wells started after January 1, 1990; or

(e) the first six months of production for development wells started after January 1, 1990.

(3) (a) [~~Through December 31, 2004~~] Subject to Subsections (3)(b) and (c), a working interest owner who pays for all or part of the expenses of a recompletion or workover [~~is entitled to~~] may claim a nonrefundable tax credit equal to 20% of the amount paid.

(b) The tax credit under Subsection (3)(a) for each recompletion or workover may not exceed $30,000 per well during each calendar year. [~~The tax credit shall apply to the taxable year in which the recompletion or workover is completed and shall be claimed quarterly~~

~~beginning on the third quarter after recompletion or workover is completed under rules made by the commission.~~]

(c) If any amount of tax credit a taxpayer is allowed under this Subsection (3) exceeds the taxpayer's tax liability under this part for the calendar year for which the taxpayer claims the tax credit, the amount of tax credit exceeding the taxpayer's tax liability for the calendar year may be carried forward for the next three calendar years.

(4) A 50% reduction in the tax rate is imposed upon the incremental production achieved from an enhanced recovery project.

(5) [~~These~~] The taxes imposed by this section are:

(a) in addition to all other taxes provided by law; and [~~are~~]

(b) delinquent, unless otherwise deferred, on June 1 next succeeding the calendar year when the oil or gas is:

(i) (A) produced[~~,~~];

(B) saved[~~,~~]; and

(C) sold; or

(ii) transported from the premises.

(6) With respect to the tax imposed by this [~~chapter~~] section on each owner of oil or gas or in the proceeds of the production of those substances produced in the state, each owner is liable for the tax in proportion to the owner's interest in the production or in the proceeds of the production.

(7) The tax imposed by this section shall be reported and paid by each producer [~~who~~] that takes oil or gas in kind pursuant to agreement on behalf of the producer and on behalf of each owner entitled to participate in the oil or gas sold by the producer or transported by the producer from the field where the oil or gas is produced.

(8) Each producer shall deduct the tax imposed by this section from the amounts due to other owners for the production or the proceeds of the production.

(9) (a) The Tax Review Commission shall review the tax provided for in this part on or before the October [~~2002~~] 2008 interim meeting.

(b) The Tax Review Commission shall address in its review the following statutory provisions:

(i) the severance tax rate structure provided for in this section;

(ii) the exemptions provided for in Subsection (2);

(iii) the credit provided for in Subsection (3), including:

(A) the cost of the credit;

(B) the purpose and effectiveness of the credit; and

(C) whether the credit benefits the state;

(iv) the tax rate reduction provided for in Subsection (4);

(v) other statutory provisions or issues as determined by the Tax Review Commission; and

(vi) whether the statutory provisions the Tax Review Commission reviews under this Subsection (9) should be:

(A) continued;

(B) modified; or

(C) repealed.

(c) The Tax Review Commission shall report its findings and recommendations regarding the tax provided for in this part to the Revenue and Taxation Interim Committee on or before the November [~~2002~~] 2008 interim meeting.

Section 2. **Retrospective operation.**

(1) Subject to Subsection (2), this act has retrospective operation to January 1, 2003.

(2) This act applies to returns filed for calendar years beginning on or after January 1, 2003.