

FEES AND TAXES ON OIL AND GAS

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Gordon E. Snow

This act amends provisions relating to Mines and Mining and the Oil and Gas Severance Tax. This act modifies the due dates for making quarterly payments of fees deposited into the Oil and Gas Conservation Account and requires the fees to be reported on forms provided by the State Tax Commission. The act modifies the requirements for making quarterly payments of the oil and gas severance tax. The act modifies provisions relating to claiming a tax credit for a workover or recompletion. The act repeals obsolete language and makes technical changes. This act provides for retrospective operation. This act provides a coordination clause.

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

AMENDS:

40-6-14, as last amended by Chapter 8, Laws of Utah 2000

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

59-5-107, as last amended by Chapter 228, Laws of Utah 1995

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

Section 1. Section **40-6-14** is amended to read:

40-6-14. Fee on oil and gas at well -- Payment of fee -- Collection -- Penalty and interest on delinquencies -- Payment when product taken in-kind -- Interests exempt.

(1) There is levied a fee of .002 of the value at the well of oil and gas:

(a) produced and saved;

(b) sold; or

(c) transported from the premises in Utah where the oil or gas is produced.

(2) (a) The State Tax Commission shall administer the collection of the fee, including any penalties and interest.

(b) The monies collected shall be deposited in the Oil and Gas Conservation Account created in Section 40-6-14.5.

(c) Time periods for the State Tax Commission to allow a refund or assess the fee shall be determined in accordance with Section 59-5-114.

(3) (a) Each person having an ownership interest in oil or gas at the time of production shall be liable for a proportionate share of the fee equivalent to his ownership interest.

(b) As used in this section "ownership interest" means any:

- (i) working interest;
- (ii) royalty interest;
- (iii) interest in payments out of production; or
- (iv) any other interest in the oil or gas, or in the proceeds of the oil or gas, subject to the fee.

(4) (a) The operator, on behalf of [~~himself~~] the operator and any person having an ownership interest in the oil or gas, shall pay the [~~assessed~~] fee [~~quarterly~~] to the State Tax Commission [~~on or before the 45th day following the quarter in which the fee accrued.~~]:

(i) quarterly; and

(ii) as provided in Subsections (4)(b) and (c).

(b) For purposes of Subsection (4)(a), the quarterly fee payments are due as follows:

- (i) for the quarter beginning on January 1 and ending on March 31, on or before June 1;
- (ii) for the quarter beginning on April 1 and ending on June 30, on or before September 1;

(iii) for the quarter beginning on July 1 and ending on September 30, on or before December 1; and

(iv) for the quarter beginning on October 1 and ending on December 31, on or before March 1 of the next year.

(c) The fee required by this section shall be reported to the State Tax Commission on forms provided by the State Tax Commission.

(5) (a) Any fee not paid within the time specified shall:

(i) carry a penalty as provided in Section 59-1-401; and

(ii) bear interest at the rate and in the manner prescribed in Section 59-1-402.

(b) (i) The fee, together with the interest, shall be a lien upon the oil or gas against which ~~[it is]~~ the fee and interest are levied.

(ii) The operator shall deduct from any amounts due to the persons owning an interest in the oil or gas, or in the proceeds at the time of production, a proportionate amount of the charge before making payment to the persons.

(6) (a) When product is taken in-kind by an interest owner who is not the operator and the operator cannot determine the value of the in-kind product, the operator shall:

- (i) report 100% of the production;
- (ii) deduct the product taken in-kind; and
- (iii) pay the levy on the difference.

(b) The interest owner who takes the product in-kind shall file a report and pay the levy on ~~[his]~~ the interest owner's share of production excluded from the operator's report.

(7) This section shall apply to any interest in oil or gas produced in the state except:

- (a) any interest of the United States;
- (b) any interest of the state or ~~[its]~~ a political [subdivisions] subdivision of the state in any oil or gas or in the proceeds of the oil or gas;
- (c) any interest of any Indian or Indian tribe in any oil or gas or in the proceeds produced from land subject to the supervision of the United States; or
- (d) oil or gas used in producing or drilling operations or for repressuring or recycling purposes.

Section 2. Section **59-5-102** is amended to read:

59-5-102. Severance tax -- Rate -- Computation -- Annual exemption.

(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%]~~ on the basis 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 as provided in this section.

(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 the~~ (i) Except as provided in Subsection (1)(f)(ii), if 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]~~ Subject to Subsections (3)(b) and (c), through December 31, 2004, 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 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 interim meeting.]~~

Section 3. Section **59-5-107** is amended to read:

59-5-107. Date tax due -- Extensions -- Installment payments -- Penalty on delinquencies -- Audit.

(1) ~~[The]~~ Except as provided in Subsections (2) and (3), the tax imposed by this [chapter]

part is due and payable on or before June 1 of the year next succeeding the calendar year when the oil or gas is:

- (a) (i) produced[;];
- (ii) saved[;]; and
- (iii) sold; or
- (b) transported from the field where produced.

(2) [~~The~~] (a) Notwithstanding Subsection (1), the commission may, for good cause shown upon a written application by the taxpayer, extend the time of payment of the whole or any part of the tax for a period not to exceed six months.

(b) If the commission allows an extension [is granted] under Subsection (2)(a), interest at the rate and in the manner prescribed in Section 59-1-402 shall be charged and added to the amount of the [~~deferred payment of the~~] tax allowed the extension.

(3) [~~Every~~] (a) A taxpayer subject to this [~~chapter~~] part whose total tax obligation for the [~~preceding~~] current calendar year [~~was~~] will be \$3,000 or more shall pay the taxes assessed under this [~~chapter~~] part in quarterly installments as provided in Subsections (3)(b) and (4). [~~Each~~]

(b) For purposes of Subsection (3)(a), each quarterly installment shall be based on the estimated gross value received by the taxpayer during the quarter preceding the date on which the installment is due.

(4) [~~The~~] For purposes of Subsection (3), the quarterly installments are due as follows:

(a) for the quarter beginning on January 1 [~~through~~] and ending on March 31, on or before June 1;

(b) for the quarter beginning on April 1 [~~through~~] and ending on June 30, on or before September 1;

(c) for the quarter beginning on July 1 [~~through~~] and ending on September 30, on or before December 1; and

(d) for the quarter beginning on October 1 [~~through~~] and ending on December 31, on or before March 1 of the next year.

(5) (a) [~~If~~] Subject to Subsection (5)(b) and except as provided in Subsection (6), if the

tax imposed by Section 59-5-102 is not paid when due or is underpaid, the taxpayer is subject to the penalty provided under Section 59-1-401~~[, unless otherwise provided in Subsection (6)]~~.

(b) ~~[An]~~ For purposes of Subsection (5)(a), an underpayment exists if less than 80% of the tax due for a quarter is paid.

(6) ~~[The]~~ Notwithstanding Subsection (5)(a), the penalty for failure to pay ~~[the]~~ a tax due or for underpayment of a tax may not be assessed if the taxpayer's total quarterly tax installment ~~[payment equals]~~ payments equal 25% or more of the tax reported and paid by the taxpayer for the preceding ~~[taxable]~~ calendar year.

(7) ~~[There shall be no]~~ The commission may not add interest ~~[added]~~ to any ~~[estimated tax payments]~~ quarterly installment subject to a penalty under this section.

(8) The commission may conduct audits to determine whether any tax is owed under this ~~[section]~~ part.

Section 4. 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.

Section 5. Coordination clause.

If this bill and H.B. 28, Oil and Gas Severance Tax Amendments, both pass, it is the intent of the Legislature that the amendments to Subsections 59-5-102(3)(a) and (9) in H.B. 28 supersede the amendments to Subsections 59-5-102(3)(a) and (9) in this bill.