

SEVERANCE TAX AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Evan J. Vickers

Senate Sponsor: J. Stuart Adams

LONG TITLE

General Description:

This bill amends the Oil and Gas Severance Tax part to address the interests in oil or gas or the proceeds of production of oil or gas that are not subject to the severance tax.

Highlighted Provisions:

This bill:

- provides that certain interests of the United States, the state, a political subdivision of the state, or an Indian or Indian tribe in oil or gas or the proceeds of production of oil or gas are not subject to the severance tax on oil and gas; and
makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-5-102, as last amended by Laws of Utah 2010, Chapter 323

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 -- Tax credit -- Tax rate reduction -- Study by Tax Review Commission.

(1) [Each] (a) Subject to Subsection (1)(b), a person owning an interest[;] in oil or gas

30 produced from a well in the state, including a working interest, royalty interest, [payments]  
31 payment out of production, or any other interest, [~~in oil or gas produced from a well in the~~  
32 ~~state;~~] or in the proceeds of the production of oil or gas, shall pay to the state a severance tax on  
33 the basis of the value determined under Section 59-5-103.1 of the oil or gas:

- 34 [~~(a)~~] (i) produced; and
- 35 [~~(b)~~-(i)] (ii) (A) saved;
- 36 [(i)] (B) sold; or
- 37 [(iii)] (C) transported from the field where the substance was produced.

38 (b) This section applies to an interest in oil or gas produced from a well in the state or  
39 in the proceeds of the production of oil or gas produced from a well in the state except for:

40 (i) an interest of the United States in oil or gas or in the proceeds of the production of  
41 oil or gas;

42 (ii) an interest of the state or a political subdivision of the state in oil or gas or in the  
43 proceeds of the production of oil or gas; or

44 (iii) an interest of an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or  
45 in the proceeds of the production of oil or gas produced from land under the jurisdiction of the  
46 United States.

47 (2) (a) Subject to Subsection (2)(d), the severance tax rate for oil is as follows:

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

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

50 (b) Subject to Subsection (2)(d), the severance tax rate for natural gas is as follows:

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

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

54 (c) Subject to Subsection (2)(d), the severance tax rate for natural gas liquids is 4% of  
55 the value of the natural gas liquids.

56 (d) (i) On or before December 15, 2004, the Office of the Legislative Fiscal Analyst  
57 and the Governor's Office of Planning and Budget shall prepare a revenue forecast estimating

58 the amount of revenues that:

59 (A) would be generated by the taxes imposed by this part for the calendar year  
60 beginning on January 1, 2004 had 2004 General Session S.B. 191 not taken effect; and

61 (B) will be generated by the taxes imposed by this part for the calendar year beginning  
62 on January 1, 2004.

63 (ii) Effective on January 1, 2005, the tax rates described in Subsections (2)(a) through  
64 (c) shall be:

65 (A) increased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated  
66 under Subsection (2)(d)(i)(B) is less than the amount of revenues estimated under Subsection  
67 (2)(d)(i)(A); or

68 (B) decreased as provided in Subsection (2)(d)(iii) if the amount of revenues estimated  
69 under Subsection (2)(d)(i)(B) is greater than the amount of revenues estimated under  
70 Subsection (2)(d)(i)(A).

71 (iii) For purposes of Subsection (2)(d)(ii):

72 (A) subject to Subsection (2)(d)(iv)(B):

73 (I) if an increase is required under Subsection (2)(d)(ii)(A), the total increase in the tax  
74 rates shall be by the amount necessary to generate for the calendar year beginning on January 1,  
75 2005 revenues equal to the amount by which the revenues estimated under Subsection  
76 (2)(d)(i)(A) exceed the revenues estimated under Subsection (2)(d)(i)(B); or

77 (II) if a decrease is required under Subsection (2)(d)(ii)(B), the total decrease in the tax  
78 rates shall be by the amount necessary to reduce for the calendar year beginning on January 1,  
79 2005 revenues equal to the amount by which the revenues estimated under Subsection  
80 (2)(d)(i)(B) exceed the revenues estimated under Subsection (2)(d)(i)(A); and

81 (B) an increase or decrease in each tax rate under Subsection (2)(d)(ii) shall be in  
82 proportion to the amount of revenues generated by each tax rate under this part for the calendar  
83 year beginning on January 1, 2003.

84 (iv) (A) The commission shall calculate any tax rate increase or decrease required by  
85 Subsection (2)(d)(ii) using the best information available to the commission.

86 (B) If the tax rates described in Subsections (2)(a) through (c) are increased or  
87 decreased as provided in this Subsection (2)(d), the commission shall mail a notice to each  
88 person required to file a return under this part stating the tax rate in effect on January 1, 2005  
89 as a result of the increase or decrease.

90 (3) If oil or gas is shipped outside the state:

91 (a) the shipment constitutes a sale; and

92 (b) the oil or gas is subject to the tax imposed by this section.

93 (4) (a) Except as provided in Subsection (4)(b), if the oil or gas is stockpiled, the tax is  
94 not imposed until the oil or gas is:

95 (i) sold;

96 (ii) transported; or

97 (iii) delivered.

98 (b) Notwithstanding Subsection (4)(a), if oil or gas is stockpiled for more than two  
99 years, the oil or gas is subject to the tax imposed by this section.

100 (5) A tax is not imposed under this section upon:

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

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

104 (c) the first six months of production for development wells started after January 1,  
105 1990.

106 (6) (a) Subject to Subsections (6)(b) and (c), a working interest owner who pays for all  
107 or part of the expenses of a recompletion or workover may claim a nonrefundable tax credit  
108 equal to 20% of the amount paid.

109 (b) The tax credit under Subsection (6)(a) for each recompletion or workover may not  
110 exceed \$30,000 per well during each calendar year.

111 (c) If any amount of tax credit a taxpayer is allowed under this Subsection (6) exceeds  
112 the taxpayer's tax liability under this part for the calendar year for which the taxpayer claims  
113 the tax credit, the amount of tax credit exceeding the taxpayer's tax liability for the calendar

114 year may be carried forward for the next three calendar years.

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

117 (8) The taxes imposed by this section are:

118 (a) in addition to all other taxes provided by law; and

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

121 (i) produced; and

122 (ii) (A) saved;

123 (B) sold; or

124 (C) transported from the field.

125 (9) With respect to the tax imposed by this section on each owner of oil or gas or in the  
126 proceeds of the production of those substances produced in the state, each owner is liable for  
127 the tax in proportion to the owner's interest in the production or in the proceeds of the  
128 production.

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

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

135 (12) (a) The Tax Review Commission shall review the applicability of the tax provided  
136 for in this chapter to coal-to-liquids, oil shale, and tar sands technology on or before the  
137 October 2011 interim meeting.

138 (b) The Tax Review Commission shall address in its review the cost and benefit of not  
139 applying the tax provided for in this chapter to coal-to-liquids, oil shale, and tar sands  
140 technology.

141 (c) The Tax Review Commission shall report its findings and recommendations under

142 this Subsection (12) to the Revenue and Taxation Interim Committee on or before the  
143 November 2011 interim meeting.