ENGROSSED SENATE AMENDMENT
TO
ENGROSSED HOUSE BILL NO. 1055 BY: MITCHELL of the HOUSE

and

WEEDN of the SENATE

AN ACT RELATING TO REVENUE AND TAXATION; AMENDING 68 O.S. 1981, SECTION 1001, AS LAST AMENDED BY SECTION 1, CHAPTER 229, O.S.L. 1990 (68 O.S. SUPP. 1990, SECTION 1001), WHICH RELATES TO GROSS PRODUCTION TAXES; MODIFYING LANGUAGE RELATING TO EXEMPTION FOR CERTAIN ENHANCED RECOVERY PROJECTS; DEFINING TERMS; PROVIDING EXEMPTION FROM TAX FOR PRODUCTION RESULTING FROM TERTIARY ENHANCED RECOVERY PROJECTS; PROVIDING PROCEDURES RELATED THERETO; PROVIDING AN EFFECTIVE DATE; AND DECLARING AN EMERGENCY.

AUTHORS: Add the following Senate Coauthors: CAPPS, EASLEY, FORD, GILES, ROBINSON and TAYLOR

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill and insert

"[REVENUE AND TAXATION - 68 O.S., SECTION 1001, GROSS PRODUCTION TAXES - ENHANCED RECOVERY PROJECTS - EFFECTIVE DATE -

EMERGENCY]

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

SECTION 1. AMENDATORY 68 O.S. 1981, Section 1001, as last amended by Section 1, Chapter 229, O.S.L. 1990 (68 O.S. Supp. 1990, Section 1001), is amended to read as follows:

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

(b) Except as otherwise exempted pursuant to subsections (d) and (e) of this section, there is hereby levied upon the production of petroleum or other crude or mineral oil a tax equal to seven percent (7%) of the gross value of the production of petroleum or other crude or mineral oil based on 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 for oil measurements and a tax equal to seven percent (7%) of the gross value of the production of natural gas and/or casinghead gas. The terms gas, natural gas or casinghead gas, when used in this article are interchangeable and any provisions relating to any one of these shall relate to all gas, natural gas or casinghead gas.

(c) The tax hereby levied shall also attach to, and is levied on, what is known as the royalty interest; and the amount of such tax shall be a lien on such interest.

(d) (1) Any incremental production which results from an enhanced recovery project shall be exempt from the gross production tax levied pursuant to this section from the project beginning date until project payback is achieved for new enhanced recovery projects or until project payback is achieved but not to exceed a period of thirty-six (36) months for tertiary enhanced recovery projects existing on ~~the effective date of this act~~ July 1, 1991. ~~This~~

~~exemption shall take effect July 1, 1988.~~ Project payback shall be determined by appropriate payback indicators, as established by the Oklahoma Corporation Commission and approved by the Oklahoma Tax Commission.

(2) 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.

(3) For purposes of this subsection:

(i) 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.

(ii) Project beginning date means the date on which the injection of liquids, gases, or other matter begins on an enhanced recovery project.

(4) The Oklahoma 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 (i) of paragraph (3) of <u>this</u> subsection

~~(d) of this section~~, and the establishment of appropriate payback indicators which will not include any expenses beyond the completion date of the well.

(5) Any person, firm, corporation, or association requesting such exemption for projects existing on the effective date of this act shall file an application for qualification for such exemption with the Oklahoma Corporation Commission which, upon finding that the enhanced recovery project meets the requirements of this subsection, shall approve the application for qualification. For new enhanced recovery projects approved by the Oklahoma Corporation Commission after the effective date of this act, such approval shall constitute qualification for the exemption.

(6) Any person, firm, corporation, or association seeking such exemption shall file an application for such exemption with the Oklahoma Tax Commission which, upon determination of qualification by the Oklahoma Corporation Commission, shall approve the application for such exemption.

(7) The Tax Commission may require any person, firm, corporation, or association requesting such exemption to furnish information or records concerning the exemption as is deemed necessary by the Commission.

(8) 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) The production of oil, gas or oil and gas from a horizontally drilled well producing prior to July 1, 1994 which production commenced after the effective date of this act, 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 twenty-four (24) months commencing with the month of initial production from the horizontally drilled well. Provided, any incremental production

which results from a horizontally drilled well producing prior to July 1, 1994, 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 twenty-four (24) 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 Oklahoma Tax Commission.

(2) 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 said formation.

(3) The Corporation Commission and the Oklahoma Tax Commission shall promulgate joint rules for the qualification for this exemption and such rules shall contain provisions for verification of any horizontally drilled wells.

(4) Any person, firm, corporation, or association requesting such exemption shall file an application for qualification for such exemption with the Oklahoma Corporation Commission which, upon finding that the horizontally drilled well meets the requirements of this subsection, shall approve the application for qualification.

(5) Any person, firm, corporation, or association seeking such exemption shall file an application for such exemption with the Oklahoma Tax Commission which, upon determination of qualification by the Oklahoma Corporation Commission, shall approve the application for such exemption.

(6) The Tax Commission shall require any person, firm, corporation, or association requesting such exemption to furnish necessary financial and other information or records in order to determine and justify the exemption and to determine the project payback.

(7) 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.

(f) All persons, firms, corporations, or associations shall only be entitled to either the exemption granted pursuant to subsection (d) of this section or the exemption granted pursuant to subsection (e) of this section for each oil, gas or oil and gas well drilled or recompleted in this state. However, any person, firm, corporation or association which qualifies for the exemption granted pursuant to subsection (e) of this section shall not be prohibited from qualification for the exemption granted pursuant to subsection (d) of this section, if the exemption granted pursuant to subsection (e) of this section has expired.

(g) The Tax Commission shall have the power to require any such person, firm, corporation or association engaged in mining or the production or the purchase of such asphalt, mineral ores aforesaid, petroleum or other crude oil or other mineral oil, natural gas or casinghead gas, or the owner of any royalty interest therein to furnish any additional information by it deemed to be necessary for the purpose of correctly computing the amount of said tax; and to examine the books, records and files of such person, firm, corporation or association; and shall have power to conduct hearings and compel the attendance of witnesses, and the production of books, records and papers of any person, firm, association or corporation.

(h) Any person or any member of any firm or association, or any officer, official, agent or employee of any corporation who shall fail or refuse to testify; or who shall fail or refuse to produce

any books, records or papers which the Tax Commission shall require; or who shall fail or refuse to furnish any other evidence or information which the Tax Commission may require; or who shall fail or refuse to answer any competent questions which may be put to him by the Tax Commission, touching the business, property, assets or effects of any such person, firm, association or corporation, relating to the gross production tax imposed by this article or exemption authorized pursuant to subsection (d) of this section or other laws, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars ($500.00), or imprisonment in the jail of the county where such offense shall have been committed, for not more than one (1) year, or by both such fine and imprisonment; and each day of such refusal on the part of such person shall constitute a separate and distinct offense.

(i) The Tax Commission shall have the power and authority to ascertain and determine whether or not any report herein required to be filed with it is a true and correct report of the gross products, and of the value thereof, of such person, firm, corporation or association engaged in the mining or production or purchase of asphalt and ores bearing minerals aforesaid and of petroleum or other crude oil or mineral oil and of natural gas or casinghead gas; and if any person, firm, corporation or association has made an untrue or incorrect report of the gross production or value or volume thereof, as hereinbefore required, or shall have failed or refused to make such report, the Tax Commission, shall under the rules and regulations prescribed by it, ascertain the correct amount of either, and compute said tax.

(j) The payment of the taxes herein levied shall be in full, and in lieu of all taxes by the state, counties, cities, towns, school districts and other municipalities upon any property rights attached to or inherent in the right to said minerals, upon

producing leases for the mining of asphalt and ores bearing lead, zinc, jack, gold, silver or copper, or for petroleum or other crude oil or other mineral oil, or for natural gas and/or casinghead gas, upon the mineral rights and privileges for the minerals aforesaid belonging or appertaining to land, upon the machinery, appliances and equipment used in and around any well producing petroleum or other crude or mineral oil, or natural gas and/or casinghead gas, or any mine producing asphalt or any of the mineral ores aforesaid and actually used in the operation of such well or mine; and also upon the oil, gas, asphalt or ores bearing minerals hereinbefore mentioned during the tax year in which the same is produced, and upon any investment in any of the leases, rights, privileges, minerals or other property hereinbefore in this paragraph mentioned or described; and any interest in the land, other than that herein enumerated, and oil in storage, asphalt and ores bearing minerals hereinbefore named, mined, produced and on hand at the date as of which property is assessed for general and ad valorem taxation for any subsequent tax year, shall be assessed and taxed as other property within the taxing district in which such property is situated at the time.

(k) No equipment, material or property shall be exempt from the payment of ad valorem tax by reason of the payment of the gross production tax as herein provided except such equipment, machinery, tools, material or property as is actually necessary and being used and in use in the production of asphalt or of ores bearing lead, zinc, jack, gold, silver or copper or of petroleum or other crude oil, or other mineral oil or of natural gas and casinghead gas; and it is expressly declared that no ice plants, hospitals, office buildings, garages, residences, gasoline extraction or absorption plants, water systems, fuel systems, rooming houses and other buildings, nor any equipment or material used in connection therewith, shall be exempt from ad valorem tax.

(l) The exemption from ad valorem tax set forth in subsections (j) and (k) of this section shall continue to apply to all property from which production of oil, gas or oil and gas is exempt from gross production tax pursuant to subsections (d) and (e) of this section.

SECTION 2. This act shall become effective July 1, 1991.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the Senate the 1st day of April, 1991.

President of the Senate

Passed the House of Representatives the ____ day of _____, 1991.

Speaker of the House of Representatives