

ENROLLED SENATE
BILL NO. 996

BY: SNYDER and GUSTAFSON of the
SENATE

and

GRIESER of the HOUSE

AN ACT RELATING TO REVENUE AND TAXATION;
AMENDING 68 O.S 1991, SECTIONS 1008 AND 1024, AS
AMENDED BY SECTION 13 OF ENROLLED HOUSE BILL NO.
2363 OF THE 2ND SESSION OF THE 43RD OKLAHOMA
LEGISLATURE, WHICH RELATE TO THE GROSS
PRODUCTION TAX CODE; AUTHORIZING OKLAHOMA TAX
COMMISSION TO MAKE CERTAIN REFUNDS TO
COMMISSIONERS OF THE LAND OFFICE; SPECIFYING
CIRCUMSTANCES UNDER WHICH SUCH REFUNDS MAY BE
MADE; AUTHORIZING EXAMINATION OF TAX COMMISSION
RECORDS UNDER CERTAIN CIRCUMSTANCES; PROVIDING
FOR RECOVERY OF CERTAIN TAXES PAID; EXEMPTING
COMMISSIONERS OF THE LAND OFFICE FROM CERTAIN
TIME LIMITATIONS; PROVIDING THAT TAX COMMISSION
NOT REQUIRED TO PAY CERTAIN INTEREST OR
PENALTIES; SPECIFYING PROCEDURES FOR TAX
RECOVERY; PROVIDING FOR CREATION OF CERTAIN
PRESUMPTION AND ALLOWING PRESENTATION OF
EVIDENCE IN REBUTTAL; SPECIFYING LIABILITY FOR
INTEREST AND LIABILITY AND NONLIABILITY FOR
PENALTIES ON CERTAIN TAXES UNDER CERTAIN
CIRCUMSTANCES; AUTHORIZING TAX COMMISSION TO
MAKE CERTAIN REFUND PAYMENTS; PROVIDING FOR
CERTAIN CONSTRUCTION OF ACT; PROVIDING FOR
CODIFICATION; AND DECLARING AN EMERGENCY.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 1008, is
amended to read as follows:

Section 1008. A. ~~It~~ Except as set forth in subsection B of this section, in all cases of overpayment, duplicate payment or payment made in error on account of the production being derived from restricted Indian lands and lands owned by the United States, the state, counties, cities, towns and school districts, and therefore exempt from taxation, the Oklahoma Tax Commission is authorized to refund any such over-paid duplicate or erroneously paid gross production taxes, where an application for such refund is made within three (3) years from the date of the payment thereof, out of any undistributed gross production tax collections in the depository account of the Oklahoma Tax Commission, from the same county from which the original tax was derived. Provided, however, this exemption shall apply only to the interest in such production owned by the restricted Indian or exempt governmental entity. A determination made by the federal government or any agency thereof in allowing a refund or recovery of overpayment, duplicate payment

or erroneous payment of taxes arising out of the same circumstances under which a claim has been submitted to the Oklahoma Tax Commission for a refund may create a presumption that the evidence upon which the federal government or agency thereof relied in allowing a refund or recovery is correct. The Oklahoma Tax Commission shall not, however, be bound by such presumption of correctness, but may if it deems the circumstances to warrant present evidence in rebuttal thereof.

B. Notwithstanding the provisions of subsection A of this section, the Oklahoma Tax Commission is authorized to refund directly to the Commissioners of the Land Office any gross production tax paid to the Tax Commission in error after January 1, 1978, on any oil and gas royalty interest of the Commissioners of the Land Office out of any undistributed gross production tax collections in the depository account of the Oklahoma Tax Commission, from the same county from which the original tax was derived.

Said refund shall only be issued as the result of a determination by the Commissioners of the Land Office that said erroneous payment of such gross production tax has been made to the Tax Commission during the period after January 1, 1978. Such determination by the Commissioners of the Land Office may create a presumption that the evidence upon which the Commissioners of the Land Office relied in reaching the determination of erroneous payment is correct. The Tax Commission shall not, however, be bound by the presumption of correctness, but may if it deems the circumstances to warrant, present evidence in rebuttal thereof.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 1024, as amended by Section 13 of Enrolled House Bill No. 2363 of the 2nd Section of the 43rd Oklahoma Legislature, is amended to read as follows:

Section 1024. A. The Tax Commission may upon written request, release to any person the volume of production, during any specified available period of time, of any substance taxable pursuant to the provisions of this article from any lease lawfully plugged, pursuant to the laws of this state after certification of said plugging by the Oklahoma Corporation Commission.

B. The Tax Commission may, upon oral or written request, release the lease name, legal description, Oklahoma Tax Commission assigned production unit number for any lease or unit in this state and the Oklahoma Tax Commission assigned purchaser or producer reporting number and purchaser or producer name to any person.

C. The Tax Commission may, upon written request, release the volume of production, producing formation and well classification, active or inactive, on a lease by lease basis to any person.

D. The Tax Commission shall, upon written request, release information provided in the Reclaimer's and Transporters Monthly Tax Report of Lease Production Stored and Sold, OTC Form 323A-7-81, or any form succeeding this form, to any person.

E. The Tax Commission shall, upon written request, release the following information to any person executing an affidavit, under penalty of perjury, declaring that they are an interest owner in the well, lease or unit for which the information is requested:

1. The gross, exempt and net volumes and values of production, tax reimbursements, additional values and taxes remitted thereon, during any available period of time of any substance taxable pursuant to the provisions of this article or the Petroleum Excise Tax of this state.

2. The lease name, legal description, industry or company well or lease unique number, Oklahoma Tax Commission assigned production

unit number for any lease or unit in this state and the Oklahoma Tax Commission assigned purchaser or producer reporting number and purchaser or producer name.

3. The producing formation and well classification, active or inactive, on a lease by lease basis and if available, on a well by well basis, and British Thermal Unit content, NGPA classification, gas code, gravity, tier, category and oil class.

F. It is specifically provided that:

1. The Tax Commission shall establish a schedule of costs for the furnishing of the information in accordance with the provisions of subsections A and B of this section and shall collect said costs;

2. No civil or criminal liability shall attach to any member of the Tax Commission, or to any agents, servants, or employees of the Tax Commission for any error or omission in the preparation and publication of the requested information;

3. No costs shall be charged to the Oklahoma Corporation Commission Oil and Gas Conservation Division or Energy Conservation Services Division or to the Oklahoma Geological Survey for examination of the files and records of the Tax Commission; and

4. All funds collected pursuant to the provisions of this section shall be paid to the State Treasury and deposited to the credit of the Tax Commission Revolving Fund.

G. A duly authorized agent of the Oklahoma Corporation Commission Oil and Gas Conservation Division or Energy Conservation Services Division or of the Oklahoma Geological Survey may examine necessary records and files of the Tax Commission relating to the gross production tax for the purpose of estimating or forecasting reserves or production of oil or gas. Such examination shall be limited to information of volume of production, producing formation and well classification, active or inactive, on a lease by lease basis.

H. A duly authorized agent of the Commissioners of the Land Office may examine necessary records and files of the Tax Commission relating to the gross production tax for the purpose of determining the amount of erroneous payment of gross production tax made to the Oklahoma Tax Commission after January 1, 1978.

I. The provisions of this section shall be exceptions to the provisions of Sections 205 and 205.1 of this title and said sections shall be strictly construed against the disclosure of any other information contained in the records and files of the Tax Commission except as otherwise provided by law.

~~I.~~ J. Any violation of the provisions of this section shall constitute a misdemeanor and shall be punishable as provided for in Section 205 of this title.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1008a of Title 68, unless there is created a duplication in numbering, reads as follows:

A. If any person responsible for paying oil or gas royalty to the Commissioners of the Land Office has, after January 1, 1978, paid or caused to be paid, or pays, or causes to be paid, to the Oklahoma Tax Commission, gross production tax pursuant to Section 1001 of Title 68 of the Oklahoma Statutes, petroleum excise tax pursuant to Section 1102 of Title 68 of the Oklahoma Statutes, or conservation excise tax pursuant to Section 1108 of Title 68 of the Oklahoma Statutes, on such royalty, the Commissioners of the Land Office shall recover the taxes so paid directly from the Oklahoma Tax Commission. For the purposes of this act, the Commissioners of the Land Office shall not be subject to the time limitations for refunds of Section 227 or Section 1008 of Title 68 of the Oklahoma Statutes. Notwithstanding any other provision of the Oklahoma

Statutes, the Oklahoma Tax Commission shall not be required to pay interest or penalties on such taxes to the Commissioners of the Land Office.

B. Upon written request and proper documentation provided by the Commissioners of the Land Office, the Oklahoma Tax Commission shall pay to the Commissioners of the Land Office any gross production tax pursuant to Section 1001 of Title 68 of the Oklahoma Statutes, petroleum excise tax pursuant to Section 1101 of Title 68 of the Oklahoma Statutes, excise tax on gas, pursuant to Section 1102 of Title 68 of the Oklahoma Statutes, or conservation excise tax pursuant to Section 1108 of Title 68 of the Oklahoma Statutes paid on oil or gas royalty due to the Commissioners of the Land Office. Said written request shall only be issued as the result of a determination by the Commissioners of the Land Office that erroneous payment of such gross production tax pursuant to Section 1001 of Title 68 of the Oklahoma Statutes, excise tax on gas pursuant to Section 1102 of Title 68 of the Oklahoma Statutes, or conservation excise tax pursuant to Section 1108 of Title 68 of the Oklahoma Statutes has been made to the Oklahoma Tax Commission after January 1, 1978. Such determination by the Commissioners of the Land Office may create a presumption that the evidence upon which the Commissioners of the Land Office relied in reaching the determination of erroneous payment is correct. The Oklahoma Tax Commission shall not, however, be bound by the presumption of correctness but may, if the Oklahoma Tax Commission deems the circumstances to warrant, present evidence in rebuttal thereof.

C. Any person responsible for paying oil or gas royalty to the Commissioners of the Land Office who has, after January 1, 1978, and before January 1, 1989, paid or caused to be paid, or pays, or causes to be paid, to the Oklahoma Tax Commission, gross production tax pursuant to Section 1001 of Title 68 of the Oklahoma Statutes, petroleum excise tax pursuant to Section 1101 of Title 68 of the Oklahoma Statutes, excise tax on gas pursuant to Section 1103 of Title 68 of the Oklahoma Statutes, or conservation excise tax pursuant to Section 1108 of Title 68 of the Oklahoma Statutes, on said royalty, shall be liable to the Commissioners of the Land Office for interest thereon, pursuant to the Oklahoma Statutes. Notwithstanding any other provision of the Oklahoma Statutes, such person shall not be liable to the Commissioners of the Land Office for penalties thereon.

D. Any person responsible for paying oil or gas royalty to the Commissioners of the Land Office who has, on or after January 1, 1989, paid or caused to be paid, or pays or causes to be paid, to the Oklahoma Tax Commission, gross production tax pursuant to Section 1001 of Title 68 of the Oklahoma Statutes, petroleum excise tax pursuant to Section 1101 of Title 68 of the Oklahoma Statutes, excise tax on gas pursuant to Section 1103 of Title 68 of the Oklahoma Statutes, or conservation excise tax pursuant to Section 1108 of Title 68 of the Oklahoma Statutes, on said royalty, shall be liable to the Commissioners of the Land Office for interest and penalties thereon, pursuant to the Oklahoma Statutes.

E. The Oklahoma Tax Commission is hereby authorized to make refund payments to the Commissioners of the Land Office pursuant to the provisions of this act as though the Commissioners of the Land Office were a taxpayer or tax remitter.

F. Nothing in this act shall preclude the Commissioners of the Land Office from collecting royalty payments directly from their lessees or the designees of their lessees, other than as specified in this act.

SECTION 4. 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 12th day of May, 1992.

President of the Senate

Passed the House of Representatives the 26th day of May, 1992.

Speaker of the House of Representatives