

ENGROSSED HOUSE AMENDMENT  
TO  
ENGROSSED SENATE BILL NO. 535

By: Easley of the Senate

and

Rice and Wells of the  
House

( revenue and taxation - modifying dates - modifying  
rate - modifying revenue apportionment - effective  
date -

emergency )

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

"( revenue and taxation - amending 68 O.S., Sections  
1001 and 1356 - gross production taxes -  
exemptions - effective date -

emergency )

SECTION 1. AMENDATORY 68 O.S. 2001, Section 1001, as  
amended by Section 1, Chapter 416, O.S.L. 2002 (68 O.S. Supp. 2002,  
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. 1. Effective January 1, 1999, through June 30, 2004, except  
as otherwise exempted pursuant to subsections D, E, F, G, H, I and J

of this section, there is hereby levied upon the production of oil a tax as set forth in this subsection on the gross value of the production of oil based on a per barrel measurement of 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. If the average price of Oklahoma oil as determined by the Oklahoma Tax Commission pursuant to the provisions of paragraph 3 of this subsection equals or exceeds Seventeen Dollars (\$17.00) per barrel, then the tax shall be seven percent (7%). If the average price of Oklahoma oil as determined by the Tax Commission pursuant to paragraph 3 of this subsection is less than Seventeen Dollars (\$17.00) but is equal to or exceeds Fourteen Dollars (\$14.00) per barrel, then the tax shall be four percent (4%). If the average price of Oklahoma oil as determined by the Tax Commission pursuant to paragraph 3 of this subsection is less than Fourteen Dollars (\$14.00) per barrel, then the tax shall be one percent (1%).

2. Effective July 1, 2004, except as otherwise exempted pursuant to subsections D, E, F, G, H, I and J of this section, there shall be levied upon the production of oil a tax equal to seven percent (7%) of the gross value of the production of oil based on a per barrel measurement of 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.

3. Effective January 1, 1999, through June 30, 2004, the average price of Oklahoma oil for purposes of this section shall be computed by the Tax Commission each month. At the first of each month, the Tax Commission shall compute the average price per barrel of sweet crude oil paid by the three largest purchasers of sweet crude oil in this state. The three largest purchasers shall be identified by the most recent annual report published by the Oklahoma Corporation Commission. The three purchasers identified shall report to the Tax Commission, on forms prescribed by the Tax

Commission, the average price paid per barrel of sweet crude oil by the purchasers during the preceding calendar month. Effective July 1, 2002, through June 30, 2007, the average price of gas for purposes of this section shall be computed by the Tax Commission each month by using Oklahoma average pricing information published monthly according to appropriate reference material prescribed by the Tax Commission.

4. Effective July 1, 2002, through June 30, 2007, except as otherwise exempted pursuant to subsections D, E, F, G, H, I and J of this section, there is hereby levied upon the production of gas a tax as set forth in this subsection on the gross value of the production of gas. If the average price of gas as determined by the Tax Commission pursuant to the provisions of paragraph 3 of this subsection equals or exceeds Two Dollars and ten cents (\$2.10) per thousand cubic feet (mcf), then the tax shall be seven percent (7%). If the average price of gas as determined by the Tax Commission pursuant to the provisions of paragraph 3 of this subsection is less than Two Dollars and ten cents (\$2.10) per thousand cubic feet (mcf) but is equal to or exceeds One Dollar and seventy-five cents (\$1.75) per thousand cubic feet (mcf), then the tax shall be four percent (4%). If the average price of gas as determined by the Tax Commission pursuant to the provisions of paragraph 3 of this subsection is less than One Dollar and seventy-five cents (\$1.75) per thousand cubic feet (mcf), then the tax shall be one percent (1%).

5. Effective July 1, 2007, except as otherwise exempted pursuant to subsections D, E, F, G, H, I and J of this section, there shall be levied a tax equal to seven percent (7%) of the gross value of the production of gas.

C. The taxes hereby levied shall also attach to, and are levied on, what is known as the royalty interest, and the amount of such tax shall be a lien on such interest.

D. 1. Except as otherwise provided in this section, any incremental production attributable to the working interest owners 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 July 1, 1988. This exemption shall take effect July 1, 1988, and shall apply to enhanced recovery projects approved or having a project beginning date prior to July 1, 1993. Project payback pursuant to this paragraph for enhanced recovery projects qualifying for this exemption on or after July 1, 1990, and on or before June 30, 1993, shall be determined by appropriate payback indicators which will not include any expenses beyond the completion date of the well. Project payback pursuant to this paragraph for enhanced recovery projects qualifying for this exemption on or after October 17, 1987, and on or before June 30, 1990, shall be determined by appropriate payback indicators as previously established and allowed by the Tax Commission for projects qualifying during such period.

2. Except as otherwise provided in this section, for secondary recovery projects approved and having a project beginning date on or after July 1, 1993, and before July 1, 2000, any incremental production attributable to the working interest owners which results from such secondary recovery projects shall be exempt from the gross production tax levied pursuant to this section from the project beginning date until project payback is achieved but not to exceed a period of ten (10) years. Project payback pursuant to this paragraph shall be determined by appropriate payback indicators which will provide for the recovery of capital expenses and fifty percent (50%) of operating expenses, in determining project payback.

3. Except as otherwise provided in this section, for secondary recovery properties approved or having an initial project beginning date on or after July 1, 2000, and before July 1, ~~2002~~ 2006, any incremental production attributable to the working interest owners which results from such secondary recovery property shall be exempt from the gross production tax levied pursuant to this section for a period not to exceed five (5) years from the initial project beginning date or for a period ending upon the termination of the secondary recovery process, whichever occurs first.

4. Except as otherwise provided in this section, for tertiary recovery projects approved and having a project beginning date on or after July 1, 1993, and before July 1, ~~2003~~ 2006, any incremental production attributable to the working interest owners which results from such tertiary recovery projects shall be exempt from the gross production tax levied pursuant to this section from the project beginning date until project payback is achieved, but not to exceed a period of ten (10) years. Project payback pursuant to this paragraph shall be determined by appropriate payback indicators which will provide for the recovery of capital expenses and operating expenses, excluding administrative expenses, in determining project payback. The capital expenses of pipelines constructed to transport carbon dioxide to a tertiary recovery project shall not be included in determining project payback pursuant to this paragraph.

5. 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.

6. For purposes of this subsection:

- a. "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, and

- b. "project beginning date" means the date on which the injection of liquids, gases, or other matter begins on an enhanced recovery project.

7. The 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 a of paragraph 6 of this subsection, and the establishment of appropriate payback indicators as approved by the Tax Commission for the determination of project payback for each of the exemptions authorized by this subsection.

8. For new secondary recovery projects and tertiary recovery projects approved by the Corporation Commission on or after July 1, 1993, and before July 1, ~~2003~~ 2006, such approval shall constitute qualification for an exemption.

9. Any person seeking an exemption shall file an application for such exemption with the Tax Commission which, upon determination of qualification by the Corporation Commission, shall approve the application for such exemption.

10. The Tax Commission may require any person requesting such exemption to furnish information or records concerning the exemption as is deemed necessary by the Tax Commission.

11. 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. Except as otherwise provided in this section, the production of oil, gas or oil and gas from a horizontally drilled well producing prior to July 1, 2002, which production commenced after July 1, 1995, 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. Except as otherwise provided in this section, the production of oil, gas or oil and gas from a horizontally drilled well producing prior to July 1, ~~2003~~ 2006, which production commenced after July 1, 2002, 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 forty-eight (48) 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 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 the formation.

F. 1. Except as otherwise provided by this section, the severance or production of oil, gas or oil and gas from an inactive well shall be exempt from the gross production tax levied pursuant to subsection B of this section for a period of twenty-eight (28) months from the date upon which production is reestablished. This exemption shall take effect July 1, 1994, and shall apply to wells for which work to reestablish or enhance production began on or after July 1, 1994, and for which production is reestablished prior to July 1, ~~2003~~ 2006. For all such production, a refund against gross production taxes shall be issued as provided in subsection L of this section.

2. As used in this subsection, for wells for which production is reestablished prior to July 1, 1997, "inactive well" means any well that has not produced oil, gas or oil and gas for a period of not less than two (2) years as evidenced by the appropriate forms on file with the Corporation Commission reflecting the well's status. As used in this subsection, for wells for which production is reestablished on or after July 1, 1997, and prior to July 1, ~~2003~~ 2006, "inactive well" means any well that has not produced oil, gas or oil and gas for a period of not less than one (1) year as evidenced by the appropriate forms on file with the Corporation Commission reflecting the well's status. Wells which experience mechanical failure or loss of mechanical integrity, as defined by the Corporation Commission, including but not limited to, casing leaks, collapse of casing or loss of equipment in a wellbore, or any



similar event which causes cessation of production, shall also be considered inactive wells.

G. 1. Except as otherwise provided by this section, any incremental production which results from a production enhancement project shall be exempt from the gross production tax levied pursuant to subsection B of this section for a period of twenty-eight (28) months from the date of first sale after project completion of the production enhancement project. This exemption shall take effect July 1, 1994, and shall apply to production enhancement projects having a project beginning date on or after July 1, 1994, and prior to July 1, ~~2003~~ 2006. For all such production, a refund against gross production taxes shall be issued as provided in subsection L of this section.

2. As used in this subsection:

- a. (1) for production enhancement projects having a project beginning date prior to July 1, 1997, "production enhancement project" means any workover as defined in this paragraph, recompletion as defined in this paragraph, or fracturing of a producing well, and
- (2) for production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, ~~2003~~ 2006, "production enhancement project" means any workover as defined in this paragraph, recompletion as defined in this paragraph, reentry of plugged and abandoned wellbores, or addition of a well or field compression,
- b. "incremental production" means the amount of crude oil, natural gas or other hydrocarbons which are produced as a result of the production enhancement project in excess of the base production,

- c. "base production" means the average monthly amount of production for the twelve-month period immediately prior to the commencement of the project or the average monthly amount of production for the twelve-month period immediately prior to the commencement of the project less the monthly rate of production decline for the project for each month beginning one hundred eighty (180) days prior to the commencement of the project. 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 commencement of the project based on the production history of the well. If the well or wells covered in the application had production for less than the full twelve-month period prior to the filing of the application for the production enhancement project, the base production shall be the average monthly production for the months during that period that the well or wells produced,
- d. (1) for production enhancement projects having a project beginning date prior to July 1, 1997, "recompletion" means any downhole operation in an existing oil or gas well that is conducted to establish production of oil or gas from any geological interval not currently completed or producing in such existing oil or gas well, and
- (2) for production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, ~~2003~~ 2006, "recompletion" means any downhole operation in an existing oil or gas well that is conducted to establish production of oil or gas from any geologic

interval not currently completed or producing in such existing oil or gas well within the same or a different geologic formation, and

e. "workover" means any downhole operation in an existing oil or gas well that is designed to sustain, restore or increase the production rate or ultimate recovery in a geologic interval currently completed or producing in the existing oil or gas well. For production enhancement projects having a project beginning date prior to July 1, 1997, "workover" includes, but is not limited to, acidizing, reperforating, fracture treating, sand/paraffin removal, casing repair, squeeze cementing, or setting bridge plugs to isolate water productive zones from oil or gas productive zones, or any combination thereof. For production enhancement projects having a project beginning date on or after July 1, 1997, and prior to July 1, ~~2003~~ 2006, "workover" includes, but is not limited to:

- (1) acidizing,
- (2) reperforating,
- (3) fracture treating,
- (4) sand/paraffin/scale removal or other wellbore cleanouts,
- (5) casing repair,
- (6) squeeze cementing,
- (7) installation of compression on a well or group of wells or initial installation of artificial lifts on gas wells, including plunger lifts, rod pumps, submersible pumps and coiled tubing velocity strings,

- (8) downsizing existing tubing to reduce well loading,
- (9) downhole commingling,
- (10) bacteria treatments,
- (11) upgrading the size of pumping unit equipment,
- (12) setting bridge plugs to isolate water production zones, or
- (13) any combination thereof.

"Workover" shall not mean the routine maintenance, routine repair, or like for like replacement of downhole equipment such as rods, pumps, tubing, packers, or other mechanical devices.

H. Except as otherwise provided by this section, the production of oil, gas or oil and gas from wells spudded between July 1, 1994, and June 30, 2000, and drilled to a depth of fifteen thousand (15,000) feet or greater shall be exempt from the gross production tax levied pursuant to subsection B of this section from the date of first sales for a period of twenty-eight (28) months. For purposes of qualifying for this exemption, "depth" means the length of the maximum continuous string of drill pipe utilized between the drill bit face and the drilling rig's kelly bushing. Except as otherwise provided in subsection K of this section, the production of oil, gas or oil and gas from wells spudded between July 1, 1997, and ~~June 30, 2003~~ July 1, 2006, and drilled to a depth of twelve thousand five hundred (12,500) feet or greater shall be exempt from the gross production tax levied pursuant to subsection B of this section from the date of first sales for a period of twenty-eight (28) months; provided:

1. The production of oil, gas or oil and gas from wells spudded between July 1, 2002, and ~~June 30, 2003~~ July 1, 2006, and drilled to a depth of fifteen thousand (15,000) feet or greater shall be exempt from the gross production tax levied pursuant to subsection B of

this section from the date of first sales for a period of forty-eight (48) months; and

2. The production of oil, gas or oil and gas from wells spudded between July 1, 2002, and ~~June 30, 2003~~ July 1, 2006, and drilled to a depth of seventeen thousand five hundred (17,500) feet or greater shall be exempt from the gross production tax levied pursuant to subsection B of this section from the date of first sales for a period of sixty (60) months.

For all such wells spudded, a refund against gross production taxes shall be issued as provided in subsection L of this section.

I. 1. Except as otherwise provided by this section, the production of oil, gas or oil and gas from wells spudded or reentered between July 1, 1995, and ~~June 30, 2003~~ July 1, 2006, which qualify as a new discovery pursuant to this subsection shall be exempt from the gross production tax levied pursuant to subsection B of this section from the date of first sales for a period of twenty-eight (28) months. For all such wells spudded or reentered, a refund against gross production taxes shall be issued as provided in subsection L of this section. As used in this subsection, "new discovery" means production of oil, gas or oil and gas from:

- a. (1) for wells spudded or reentered on or after July 1, 1997, a well that discovers crude oil in paying quantities that is more than one (1) mile from the nearest oil well producing from the same producing formation, and
- (2) for wells spudded or reentered on or after July 1, 1997, and prior to July 1, ~~2003~~ 2006, a well that discovers crude oil in paying quantities that is more than one (1) mile from the nearest oil well producing from the same producing interval of the same formation,

- b. (1) for wells spudded or reentered prior to July 1, 1997, a well that discovers crude oil in paying quantities beneath current production in a deeper producing formation that is more than one (1) mile from the nearest oil well producing from the same deeper producing formation, and
- (2) for wells spudded or reentered on or after July 1, 1997, and prior to July 1, ~~2003~~ 2006, a well that discovers crude oil in paying quantities beneath current production in a deeper producing interval that is more than one (1) mile from the nearest oil well producing from the same deeper producing interval,
- c. (1) for wells spudded or reentered prior to July 1, 1997, a well that discovers natural gas in paying quantities that is more than two (2) miles from the nearest gas well producing from the same producing formation, and
- (2) for wells spudded or reentered on or after July 1, 1997, and prior to July 1, ~~2003~~ 2006, a well that discovers natural gas in paying quantities that is more than two (2) miles from the nearest gas well producing from the same producing interval, or
- d. (1) for wells spudded or reentered prior to July 1, 1997, a well that discovers natural gas in paying quantities beneath current production in a deeper producing formation that is more than two (2) miles from the nearest gas well producing from the same deeper producing formation, and
- (2) for wells spudded or reentered on and after July 1, 1997, and prior to July 1, ~~2003~~ 2006, a well

that discovers natural gas in paying quantities beneath current production in a deeper producing interval that is more than two (2) miles from the nearest gas well producing from the same deeper producing interval.

2. The Corporation Commission shall deliver to the Legislature a report on the number of wells as defined by paragraph 1 of this subsection that are drilled and the amount of production from those wells. The first such report shall be delivered to the Legislature no later than February 1, 1997, and each February 1, thereafter, until the conclusion of the program.

J. Except as otherwise provided by this section, the production of oil, gas or oil and gas from any well, drilling of which is commenced after July 1, 2000, and prior to July 1, ~~2003~~ 2006, located within the boundaries of a three-dimensional seismic shoot and drilled based on three-dimensional seismic technology, shall be exempt from the gross production tax levied pursuant to subsection B of this section from the date of first sales as follows:

1. If the three-dimensional seismic shoot is shot prior to July 1, 2000, for a period of eighteen (18) months; and

2. If the three-dimensional seismic shoot is shot on or after July 1, 2000, for a period of twenty-eight (28) months.

For all such production, a refund against gross production taxes shall be issued as provided in subsection L of this section.

K. 1. The exemptions provided for in subsections F, G, H, I and J of this section shall not apply:

- a. to the severance or production of oil, upon determination by the Tax Commission that the weighted average price of Oklahoma oil exceeds Thirty Dollars (\$30.00) per barrel calculated on an annual calendar year basis,

- b. to the severance or production of oil or gas upon which gross production taxes are paid at a rate of one percent (1%) pursuant to the provisions of subsection B of this section, and
- c. to the severance or production of gas, upon determination by the Tax Commission that the weighted average wellhead price of Oklahoma gas exceeds Five Dollars (\$5.00) per thousand cubic feet (mcf) calculated on an annual calendar year basis.

2. Notwithstanding the exemptions granted pursuant to subsections E, F, G, H, I and J of this section, there shall continue to be levied upon the production of petroleum or other crude or mineral oil or natural gas or casinghead gas, as provided in subsection B of this section, from any wells provided for in subsection E, F, G, H, I or J of this section, a tax equal to one percent (1%) of the gross value of the production of petroleum or other crude or mineral oil or natural gas or casinghead gas. The tax hereby levied shall be apportioned as follows:

- a. fifty percent (50%) of the sum collected shall be apportioned to the County Highway Fund as provided in subparagraph b of paragraph 1 of Section 1004 of this title, and
- b. fifty percent (50%) of the sum collected shall be apportioned to the appropriate school district as provided in subparagraph c of paragraph 1 of Section 1004 of this title.

Upon the expiration of the exemption granted pursuant to subsection E, F, G, H, I or J of this section, the provisions of this paragraph shall have no force or effect.

L. For all oil and gas production exempt from gross production taxes pursuant to subsections E, F, G, H, I and J of this section during a given fiscal year, a refund of gross production taxes shall



be issued to the well operator or a designee in the amount of such gross production taxes paid during such period which shall not be claimed until after the end of such fiscal year. As used in this paragraph, a fiscal year shall be deemed to begin on July 1 of one calendar year and shall end on June 30 of the subsequent calendar year. No refunds shall be claimed or paid pursuant to the provisions of this subsection for oil or gas production upon which a tax is paid at a rate of one percent (1%) as specified in subsection B of this section. If there are insufficient funds collected from the production of oil to satisfy the refunds claimed for oil production pursuant to subsection E, F, G, H, I or J of this section, the Tax Commission shall pay the balance of the refund claims out of the gross production taxes collected from the production of gas.

M. 1. The Corporation Commission and the Tax Commission shall promulgate joint rules for the qualification for the exemptions provided for in subsections E, F, G, H, I and J of this section and the rules shall contain provisions for verification of any wells from which production may be qualified for the exemptions.

2. Any person requesting any exemption shall file an application for qualification for the exemption with the Corporation Commission which, upon finding that the well meets the requirements of subsection E, F, G, H, I or J of this section, shall approve the application for qualification.

3. Any person seeking an exemption shall:

- a. file an application for the exemption with the Tax Commission which, upon determination of qualification by the Corporation Commission, shall approve the application for an exemption, and
- b. provide a copy of the approved application to the remitter of the gross production tax.

4. The Tax Commission may require any person requesting an exemption to furnish necessary financial and other information or records in order to determine and justify the refund.

5. Upon the expiration of the exemption granted pursuant to subsection E, F, G, H, I or J of this section, the Tax Commission shall collect the gross production tax levied pursuant to this section. If a person who qualifies for the exemption elects to remit his or her own gross production tax during the exemption period, the first purchaser shall not be liable to withhold or remit the tax until the first day of the month following the receipt of written notification from the person who is qualified for such exemption stating that such exemption has expired and directing the first purchaser to resume tax remittance on his or her behalf.

N. All persons shall only be entitled to either the exemption granted pursuant to subsection D of this section or the exemption granted pursuant to subsection E, F, G, H, I or J of this section for each oil, gas or oil and gas well drilled or recompleted in this state. However, any person who qualifies for the exemption granted pursuant to subsection E, F, G, H, I or J 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, F, G, H, I or J of this section has expired.

O. The Tax Commission shall have the power to require any such person engaged in mining or the production or the purchase of such asphalt, mineral ores aforesaid, oil, or 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 the tax; and to examine the books, records and files of such person; and shall have power to conduct hearings and compel the attendance of witnesses, and the production of books, records and papers of any person.

P. 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 or her by the Tax Commission, touching the business, property, assets or effects of any such person relating to the gross production tax imposed by this article or exemption authorized pursuant to 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.

Q. 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 engaged in the mining or production or purchase of asphalt and ores bearing minerals aforesaid and of oil and gas. If any person has made an untrue or incorrect report of the gross production or value or volume thereof, or shall have failed or refused to make such report, the Tax Commission shall, under the rules prescribed by it, ascertain the correct amount of either, and compute the tax.

R. 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 the minerals, upon producing leases for the mining of asphalt and ores bearing lead, zinc, jack, gold,

silver or copper, or for oil, or for 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 oil, or gas, or any mine producing asphalt or any of the mineral ores aforesaid and actually used in the operation of such well or mine. The payment of gross production tax shall also be in lieu of all taxes 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 described herein. 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.

S. 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 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 oil or gas. 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.

T. The exemption from ad valorem tax set forth in subsections R and S 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 subsection D, E, F, G, H, I or J of this section.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 1356, as last amended by Section 60 of Enrolled House Bill No. 1816 of the 1st Session of the 49th Oklahoma Legislature, is amended to read as follows:

Section 1356. Exemptions - Governmental and nonprofit entities.

There are hereby specifically exempted from the tax levied by Section 1350 et seq. of this title:

1. Sale of tangible personal property or services to the United States government or to the State of Oklahoma, any political subdivision of this state or any agency of a political subdivision of this state; provided, all sales to contractors in connection with the performance of any contract with the United States government, State of Oklahoma or any of its political subdivisions shall not be exempted from the tax levied by Section 1350 et seq. of this title, except as hereinafter provided;

2. Sales of property to agents appointed by or under contract with agencies or instrumentalities of the United States government if ownership and possession of such property transfers immediately to the United States government;

3. Sales of property to agents appointed by or under contract with a political subdivision of this state if the sale of such property is associated with the development of a qualified federal facility, as provided in the Oklahoma Federal Facilities Development Act, and if ownership and possession of such property transfers immediately to the political subdivision or the state;

4. Sales made directly by county, district or state fair authorities of this state, upon the premises of the fair authority, for the sole benefit of the fair authority or sales of admission tickets to such fairs or fair events at any location in the state authorized by county, district or state fair authorities; provided,

the exemption provided by this paragraph for admission tickets to fair events shall apply only to any portion of the admission price that is retained by or distributed to the fair authority. As used in this paragraph, "fair event" shall be limited to an event held on the premises of the fair authority in conjunction with and during the time period of a county, district or state fair;

5. Sale of food in cafeterias or lunch rooms of elementary schools, high schools, colleges or universities which are operated primarily for teachers and pupils and are not operated primarily for the public or for profit;

6. Dues paid to fraternal, religious, civic, charitable or educational societies or organizations by regular members thereof, provided, such societies or organizations operate under what is commonly termed the lodge plan or system, and provided such societies or organizations do not operate for a profit which inures to the benefit of any individual member or members thereof to the exclusion of other members and dues paid monthly or annually to privately owned scientific and educational libraries by members sharing the use of services rendered by such libraries with students interested in the study of geology, petroleum engineering or related subjects;

7. Sale of tangible personal property or services to or by churches, except sales made in the course of business for profit or savings, competing with other persons engaged in the same or a similar business or sale of tangible personal property or services by an organization exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, made on behalf of or at the request of a church or churches if the sale of such property is conducted not more than once each calendar year for a period not to exceed three (3) days by the organization and proceeds from the sale of such property are used by the church or churches or by the organization for charitable purposes;

8. The amount of proceeds received from the sale of admission tickets which is separately stated on the ticket of admission for the repayment of money borrowed by any accredited state-supported college or university or any public trust of which a county in this state is the beneficiary, for the purpose of constructing or enlarging any facility to be used for the staging of an athletic event, a theatrical production, or any other form of entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket. Such facilities include, but are not limited to, athletic fields, athletic stadiums, field houses, amphitheaters and theaters. To be eligible for this sales tax exemption, the amount separately stated on the admission ticket shall be a surcharge which is imposed, collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the college or university to effect the capital improvements hereinbefore described;

9. Sales of tangible personal property or services to the council organizations or similar state supervisory organizations of the Boy Scouts of America, Girl Scouts of U.S.A. and the Campfire Boys and Girls;

10. Sale of tangible personal property or services to any county, municipality, rural water district, public school district, the institutions of The Oklahoma State System of Higher Education, the Grand River Dam Authority, the Northeast Oklahoma Public Facilities Authority, the Oklahoma Municipal Power Authority, City of Tulsa-Rogers County Port Authority, Muskogee City-County Port Authority, the Oklahoma Department of Veterans Affairs, or to any person with whom any of the above-named subdivisions or agencies of this state has duly entered into a public contract pursuant to law, necessary for carrying out such public contract or to any subcontractor to such a public contract. Any person making purchases on behalf of such subdivision or agency of this state

shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such subdivision or agency of this state and set out the name of such public subdivision or agency. Any person who wrongfully or erroneously certifies that purchases are for any of the above-named subdivisions or agencies of this state or who otherwise violates this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days or both;

11. Sales of tangible personal property or services to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), including materials, supplies, and equipment used in the construction and improvement of buildings and other structures owned by the institutions and operated for educational purposes.

Any person, firm, agency or entity making purchases on behalf of any institution, agency or subdivision in this state, shall certify in writing, on the copy of the invoice or sales ticket the nature of the purchases, and violation of this paragraph shall be a misdemeanor as set forth in paragraph 10 of this section;

12. Tuition and educational fees paid to private institutions of higher education and private elementary and secondary institutions of education accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs or accredited as defined by the Oklahoma State Regents for Higher Education which are exempt from



taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

13. a. Sales of tangible personal property made by:
  - (1) a public school,
  - (2) a private school offering instruction for grade levels kindergarten through twelfth grade,
  - (3) a public school district,
  - (4) a public or private school board,
  - (5) a public or private school student group or organization,
  - (6) a parent-teacher association or organization other than as specified in subparagraph b of this paragraph, or
  - (7) public or private school personnel for purposes of raising funds for the benefit of a public or private school, public school district, public or private school board or public or private school student group or organization, or
- b. Sales of tangible personal property made by or to nonprofit parent-teacher associations or organizations exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501 (c) (3).

The exemption provided by this paragraph for sales made by a public or private school shall be limited to those public or private schools accredited by the State Department of Education or registered by the State Board of Education for purposes of participating in federal programs. Sale of tangible personal property in this paragraph shall include sale of admission tickets and concessions at athletic events.

Sale of tangible personal property in this paragraph shall not include rings, bracelets, necklaces or other similar items that have a retail value that exceeds Fifty Dollars (\$50.00);

14. Sales of tangible personal property by:

- a. local 4-H clubs,
- b. county, regional or state 4-H councils,
- c. county, regional or state 4-H committees,
- d. 4-H leader associations,
- e. county, regional or state 4-H foundations, and
- f. authorized 4-H camps and training centers.

The exemption provided by this paragraph shall be limited to sales for the purpose of raising funds for the benefit of such organizations. Sale of tangible personal property exempted by this paragraph shall include sale of admission tickets;

15. The first Seventy-five Thousand Dollars (\$75,000.00) each year from sale of tickets and concessions at athletic events by each organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(4);

16. Items or services which are subsequently given away by the Oklahoma Tourism and Recreation Department as promotional items pursuant to Section 1834 of Title 74 of the Oklahoma Statutes;

17. Sales of tangible personal property or services to fire departments organized pursuant to Section 592 of Title 18 of the Oklahoma Statutes which items are to be used for the purposes of the fire department. Any person making purchases on behalf of any such fire department shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such fire department and set out the name of such fire department. Any person who wrongfully or erroneously certifies that the purchases are for any such fire department or who otherwise violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or both;

18. Complimentary or free tickets for admission to places of amusement, sports, entertainment, exhibition, display or other recreational events or activities which are issued through a box office or other entity which is operated by a state institution of higher education with institutional employees or by a municipality with municipal employees;

19. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property by fire departments organized pursuant to Titles 11, 18, or 19 of the Oklahoma Statutes for the purposes of raising funds for the benefit of the fire department. Fire departments selling tangible personal property for the purposes of raising funds shall be limited to no more than six (6) days each year to raise such funds in order to receive the exemption granted by this paragraph;

20. Sales of tangible personal property or services to any Boys & Girls Clubs of America affiliate in this state which is not affiliated with the Salvation Army and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

21. Sales of tangible personal property or services to any organization, which takes court-adjudicated juveniles for purposes of rehabilitation, and which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), provided that at least fifty percent (50%) of the juveniles served by such organization are court adjudicated and the organization receives state funds in an amount less than ten percent (10%) of the annual budget of the organization;

22. Sales of tangible personal property or services to:

- a. any federally qualified community health center as defined in Section 254c of Title 42 of the United States Code,

- b. any migrant health center as defined in Section 254b of Title 42 of the United States Code,
- c. any clinic receiving disbursements of state monies from the Indigent Health Care Revolving Fund pursuant to the provisions of Section 66 of Title 56 of the Oklahoma Statutes, and
- d. any community based health center which meets all of the following criteria:
  - (1) provides primary care services at no cost to the recipient, and
  - (2) is exempt from taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

23. Dues or fees, including free or complimentary dues or fees which have a value equivalent to the charge that could have otherwise been made, to YMCAs, YWCAs ~~or~~, municipally owned recreation centers, or recreation centers owned and operated for church purposes for the use of facilities and programs;

24. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property or services to or by a cultural organization established to sponsor and promote educational, charitable and cultural events for disadvantaged children, and which organization is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

25. Sales of tangible personal property or services to museums or other entities which have been accredited by the American Association of Museums. Any person making purchases on behalf of any such museum or other entity shall certify, in writing, on the copy of the invoice or sales ticket to be retained by the vendor that the purchases are made for and on behalf of such museum or other entity and set out the name of such museum or other entity.

Any person who wrongfully or erroneously certifies that the purchases are for any such museum or other entity or who otherwise violates the provisions of this paragraph shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount equal to double the amount of sales tax involved or incarcerated for not more than sixty (60) days, or by both such fine and incarceration;

26. Sales of tickets for admission by any museum accredited by the American Association of Museums. In order to be eligible for the exemption provided by this paragraph, an amount equivalent to the amount of the tax which would otherwise be required to be collected pursuant to the provisions of Section 1350 et seq. of this title shall be separately stated on the admission ticket and shall be collected and used for the sole purpose of servicing or aiding in the servicing of debt incurred by the museum to effect the construction, enlarging or renovation of any facility to be used for entertainment, edification or cultural cultivation to which entry is gained with a paid admission ticket;

27. Sales of tangible personal property or services occurring on or after June 1, 1995, to children's homes which are supported or sponsored by one or more churches, members of which serve as trustees of the home;

28. Sales of tangible personal property or services to the organization known as the Disabled American Veterans, Department of Oklahoma, Inc., and subordinate chapters thereof;

29. Sales of tangible personal property or services to youth camps which are supported or sponsored by one or more churches, members of which serve as trustees of the organization;

30. Transfer of tangible personal property made pursuant to Section 3226 of Title 63 of the Oklahoma Statutes by the University Hospitals Trust;

31. Sales of tangible personal property or services to a municipality, county or school district pursuant to a lease or lease-purchase agreement executed between the vendor and a municipality, county or school district. A copy of the lease or lease-purchase agreement shall be retained by the vendor;

32. Sales of tangible personal property or services to any spaceport user, as defined in the Oklahoma Space Industry Development Act;

33. The sale, use, storage, consumption, or distribution in this state, whether by the importer, exporter, or another person, of any satellite or any associated launch vehicle, including components of, and parts and motors for, any such satellite or launch vehicle, imported or caused to be imported into this state for the purpose of export by means of launching into space. This exemption provided by this paragraph shall not be affected by:

- a. the destruction in whole or in part of the satellite or launch vehicle,
- b. the failure of a launch to occur or be successful, or
- c. the absence of any transfer or title to, or possession of, the satellite or launch vehicle after launch;

34. The sale, lease, use, storage, consumption, or distribution in this state of any space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity, including components thereof;

35. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property, placed on or used aboard any space facility, space propulsion system or space vehicle, satellite, or station possessing space flight capacity, which is launched into space, irrespective of whether such tangible property is returned to this state for subsequent use, storage, or consumption in any manner;

36. The sale, lease, use, storage, consumption, or distribution in this state of tangible personal property meeting the definition of "section 38 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of 1986, that is an integral part of and used primarily in support of space flight; however, section 38 property used in support of space flight shall not include general office equipment, any boat, mobile home, motor vehicle, or other vehicle of a class or type required to be registered, licensed, titled, or documented in this state or by the United States government, or any other property not specifically suited to supporting space activity. The term "in support of space flight", for purposes of this paragraph, means the altering, monitoring, controlling, regulating, adjusting, servicing, or repairing of any space facility, space propulsion systems or space vehicle, satellite, or station possessing space flight capacity, including the components thereof;

37. The purchase or lease of machinery and equipment for use at a fixed location in this state, which is used exclusively in the manufacturing, processing, compounding, or producing of any space facility, space propulsion system or space vehicle, satellite, or station of any kind possessing space flight capacity. Provided, the exemption provided for in this paragraph shall not be allowed unless the purchaser or lessee signs an affidavit stating that the item or items to be exempted are for the exclusive use designated herein. Any person furnishing a false affidavit to the vendor for the purpose of evading payment of any tax imposed by Section 1354 of this title shall be subject to the penalties provided by law. As used in this paragraph, "machinery and equipment" means "section 38 property" as defined in Sections 48(a)(1)(A) and (B)(i) of the Internal Revenue Code of 1986, which is used as an integral part of the manufacturing, processing, compounding, or producing of items of tangible personal property. Such term includes parts and

accessories only to the extent that the exemption thereof is consistent with the provisions of this paragraph;

38. The amount of a surcharge or any other amount which is separately stated on an admission ticket which is imposed, collected and used for the sole purpose of constructing, remodeling or enlarging facilities of a public trust having a municipality or county as its sole beneficiary;

39. Sales of tangible personal property or services which are directly used in or for the benefit of a state park in this state, which are made to an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3) and which is organized primarily for the purpose of supporting one or more state parks located in this state;

40. The sale, lease or use of parking privileges by an institution of The Oklahoma State System of Higher Education;

41. Sales of tangible personal property or services for use on campus construction projects for the benefit of institutions of The Oklahoma State System of Higher Education or private institutions of higher education accredited by the Oklahoma State Regents for Higher Education when such projects are financed by or through the use of nonprofit entities which are exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3);

42. Sales of tangible personal property or services by an organization which is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), in the course of conducting a national championship sports event, but only if all or a portion of the payment in exchange therefor would qualify as the receipt of a qualified sponsorship payment described in Internal Revenue Code, 26 U.S.C., Section 513(i). Sales exempted pursuant to this paragraph shall be



exempt from all Oklahoma sales, use, excise and gross receipts taxes;

43. Sales of tangible personal property or services to or by an organization which:

- a. is exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3),
- b. is affiliated with a comprehensive university within The Oklahoma State System of Higher Education, and
- c. has been organized primarily for the purpose of providing education and teacher training and conducting events relating to robotics; and

44. The first Fifteen Thousand Dollars (\$15,000.00) each year from sales of tangible personal property by youth athletic teams which are part of an athletic organization exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(4), for the purposes of raising funds for the benefit of the team.

SECTION 3. This act shall become effective July 1, 2003.

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 House of Representatives the 14th day of April, 2003.

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Presiding Officer of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2003.

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Presiding Officer of the Senate