

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL 1081

By: Morgan and Robinson of the
Senate

and

Mitchell and Bonny of the
House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68 O.S. 2001, Sections 1001, as last amended by Section 1 of Enrolled Senate Bill No. 1253 of the 2nd Session of the 49th Oklahoma Legislature, 1009 and 1010, which relate to gross production tax; extending time period during which Oklahoma Tax Commission makes certain computation; modifying time period for determination of tax rate; modifying the date by which certain gross production taxes become delinquent; providing exception to certain notification requirement; modifying date by which certain reports become delinquent; requiring prepayment of certain tax; providing for modification of certain bond requirement; providing for computation of prepayment amount; establishing date by which prepayment becomes delinquent; providing for codification; and providing effective dates.

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 1001, as last amended by Section 1 of Enrolled Senate Bill No. 1253 of the 2nd Session of the 49th Oklahoma Legislature, 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, 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 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, 2007, 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, 2007, the average price of Oklahoma oil for purposes of this section shall be computed by the Tax Commission based on the total value of oil reported each month that is subject to the tax levied under this section. At the first of each month, the Tax Commission shall compute the average price paid per barrel of oil reported on the monthly tax report for the most current production month on file. The average price as computed by the Tax Commission shall be used to determine the applicable tax rate for the ~~second~~ third month

following production. 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 based on the total value of gas reported each month that is subject to the tax levied by this section. At the first of each month, the Tax Commission shall compute the average price paid per thousand cubic feet (mcf) of gas as reported on the monthly tax report for the most current production month on file. The average price as computed by the Tax Commission shall be used to determine the applicable tax rate for the ~~second~~ third month following production.

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, 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, 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, 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, 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, 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, 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, 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, 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, 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, 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 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 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 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 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, 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, 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, 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, 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, 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, subject to the following provisions:

1. A refund shall not be claimed until after the end of such fiscal year. As used in this subsection, 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;

2. No claims for refunds pursuant to the provisions of this subsection shall be filed more than eighteen (18) months after the first day of the fiscal year in which the refund is first available;

3. No claims for refunds pursuant to the provisions of this subsection shall be filed by or on behalf of persons other than the operator or a working interest owner of record at the time of production;

4. 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; and

5. No refund shall be paid unless the person making the claim for refund demonstrates by affidavit or other means prescribed by the Tax Commission that an amount equal to or greater than the amount of the refund has been invested in the exploration for or production of crude oil or natural gas in this state by such person not more than three (3) years prior to the date of the claim. No amount of investment used to qualify for a refund pursuant to the provisions of this paragraph may be used to qualify for another refund pursuant to the provisions of this paragraph.

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 1009, is amended to read as follows:

Section 1009. ~~(a)~~ A. The gross production tax on asphalt and on ores bearing lead, zinc, jack, gold, silver or copper, and on petroleum oil, tank bottoms, pit oil, and liquid hydrocarbons from which petroleum oil is extracted, and on gas shall be paid on a monthly basis in accordance with this article.

~~(b)~~ B. The gross production tax shall become due on the first day of each calendar month on all lead, zinc, jack, gold, silver or copper, petroleum oil, tank bottoms, pit oil, and liquid hydrocarbons from which petroleum oil is extracted, natural gas or casinghead gas produced in and saved during the preceding monthly period, and, if the tax is not paid on or before the ~~last day of the month the same becomes due~~ twenty-fifth day of the second calendar

month following the month of production, the tax shall become delinquent and shall be collected in the manner provided by law for the collection of delinquent gross production taxes. The provisions of this subsection shall apply to payment of gross production taxes irrespective of any other statute relating thereto.

~~(e)~~ C. On all petroleum oil extracted from tank bottoms, pit oil, or liquid hydrocarbons, the gross production tax shall be paid by the operator of the reclaiming plant, unless the tax levied by this article has already been paid thereon.

~~(d)~~ D. On oil and gas sold at the time of production, the gross production tax shall be paid by the purchaser of such products, and such purchaser shall, and is hereby authorized to deduct in making settlements with the producer and/or royalty owner, the amount of tax so paid. In the event oil is not sold at the time of production but is retained by the producer, the tax on such oil not so sold shall be paid by the producer for himself including the tax due on royalty oil not sold; provided, that in settlement with the royalty owner such producer shall have the right to deduct the amount of such tax so paid on royalty oil or to deduct therefrom royalty oil equivalent in value at the time such tax becomes due with the amount of the tax paid. The gross production tax upon asphalt, or on ores bearing lead, zinc, jack, gold, silver or copper shall be paid by the producer for himself, including the royalty interest; provided, that in settlement with the royalty owner such producer shall have the right to deduct the amount of such tax so paid on royalty asphalt, or on ores bearing lead, zinc, jack, gold, silver or copper, or to deduct therefrom royalty asphalt, or ores bearing lead, zinc, jack, gold, silver or copper, equivalent in value at the time such tax became due, to the amount of tax paid.

~~(e)~~ ~~(1)~~ E. 1. Producers, either as operators of producing wells or as nonoperating working interest owners who take gas in kind at the wellhead at the time of production, may elect to report

and pay the gross production tax on such gas in accordance with the provisions of this section, if the first sale of such gas by the producer is to a final consumer or user of the gas. This election shall not be available to a producer if the first sale of such gas is to a purchaser who is approved and bonded to remit gross production taxes or unless prior approval of the Oklahoma Tax Commission is obtained by the producer. This election shall not be controlled by any contractual provisions between the producer and the purchaser. This election shall be made only by the producer upon forms prescribed therefor.

Upon exercise of the election to report and pay the gross production tax by a producer, the purchaser of such gas shall not be liable for the gross production tax and shall not be required to obtain a purchaser's reporting number for such gas.

~~(2)~~ 2. Gas when produced and utilized in any manner, except when used in the operation of the lease or premises in the production of oil or gas, or for repressuring, shall be considered for the purpose of this article, as to the amount utilized, as gas actually produced and saved.

~~(f)~~ F. In case oil or gas is sold under circumstances where the sale price does not represent the cash price prevailing for oil or gas of like kind, character or quality in the field from which such product is produced, the Tax Commission may require the said tax to be paid upon the basis of the prevailing price then being paid at the time of production in said field for oil or gas of like kind, quality and character.

~~(g)~~ G. Pursuant to the provisions of a gas purchase contract or agreement, if the first purchaser makes payments to the producer as a result of the failure or refusal of said purchaser to take gas, said payments, for purposes of this article, are hereby deemed to be part of the gross value of gas taken according to said contract or agreement. The gross production tax shall be calculated upon the

gross value, including said payments, in accordance with the provisions of this article. Gas on which the gross production tax has been paid in this manner when taken by said purchaser shall be reported as gas on which said tax has been paid. If said gas, which corresponds to such payments, is not taken but payments therefor are retained by the producer, then said payments are hereby deemed to be a premium on gas which was taken under said contract or agreement.

SECTION 3. AMENDATORY 68 O.S. 2001, Section 1010, is amended to read as follows:

Section 1010. A. The tax provided for in Section 1001 et seq. of this title shall be paid to the Oklahoma Tax Commission.

B. Except as otherwise provided in subsection G of this section, every person responsible for paying or remitting the tax levied by Section 1001 et seq. of this title on the production from any lease shall file with the Tax Commission a monthly report on each lease, regardless of sales or purchases of production from the lease during the report period, under oath, on forms prescribed by the Tax Commission, giving, with other information required, the following:

1. The Tax Commission assigned production unit number, subnumber and merge number, or, with the consent of the Tax Commission, the full description of the property by lease name, subdivision of quarter section, section, township, and range, from which the oil or gas was produced, or both, as may be required by the Tax Commission;

2. The Tax Commission assigned company reporting numbers of the producer and purchaser, or with the consent of the Tax Commission, the company name;

3. The gross amount of asphalt, ores bearing lead, zinc, jack, gold, silver or copper, oil or gas produced or purchased, or, in the event of no production or no sale or purchase during the report period, zero gross amount shall be reported;

4. The kind of mineral, oil, gas, or casinghead gas produced or purchased;

5. The total value of the mineral oil, gas, or casinghead gas, at the time and place of production, including any and all premiums paid for the sale thereof, at the price paid, if purchased at the time of production;

6. If requested by the Tax Commission, the prevailing market price of oil not sold at the time of production; and

7. The amount of royalty payable on the production from the lease, if the royalty is claimed to be exempt from taxation by law, and the facts on which such claim of exemption is based and such other information pertaining to the claim as the Tax Commission may require.

Each report required by the provisions of this section shall be filed on separate forms as to product and county.

C. No person shall engage in the mining or production within this state of asphalt or ores bearing lead, zinc, jack, gold, silver, or copper, oil or gas, prior to obtaining from the Tax Commission a Tax Commission assigned producer reporting number and a Tax Commission assigned production unit number, subnumber and merge number for each producing lease. No person shall engage in the purchase of asphalt, ores bearing lead, zinc, jack, gold, silver or copper, oil or gas from a producing lease prior to obtaining from the Tax Commission a Tax Commission assigned purchaser reporting number and the Tax Commission assigned production unit number, subnumber and merge number, of the lease from which the production is to be purchased.

1. Every producer and purchaser shall make application, upon forms prescribed by the Tax Commission, for a Tax Commission assigned producer or purchaser reporting number prior to producing or purchasing production. Every producer shall obtain, by making application upon forms prescribed by the Tax Commission, a Tax

Commission assigned production unit number, subnumber and merge number for each lease from which lease production will be sold or disposed before disposing of production from any lease in the state.

Provided, however, the Tax Commission shall not approve any application for a Tax Commission assigned producer or purchaser reporting number without proper confirmation that the applicant has posted the requisite surety documents with the Corporation Commission pursuant to Section 318.1 of Title 52 of the Oklahoma Statutes.

2. Every producer or purchaser shall notify the Tax Commission within thirty (30) days of any changes of any producing lease in the state as may be required by the Tax Commission. Provided, the Tax Commission may relieve producers and purchasers of their duty to file the notification required by this paragraph if the Tax Commission determines that the notification is not necessary.

3. Gross production tax reports from either the purchaser or producer shall become due on the first day of each calendar month on all products subject to the tax levied by Section 1001 et seq. of this title produced in and saved during the preceding monthly period. If such reports are not received by the Tax Commission on or before the ~~tenth~~ twenty-fifth day of the second calendar month following the month of production, the reports shall become delinquent. Any requested or required amended report or any requested information submitted in response to written demand for information which is not received by the Tax Commission on or before thirty (30) days after the mailing of the request or demand by the Tax Commission or any of its employees shall be delinquent.

D. Every person required to file such forms or reports or who has been requested to file an amended report to provide information by written demand, or who has purchased oil or gas from a lease prior to being authorized by the Tax Commission to purchase

production from such lease, will be subject to and may be assessed the following penalties for each delinquency:

1. Five Dollars (\$5.00) per day for each Tax Commission assigned production unit number or subnumber or merge number or product code, upon which a form, report, amended report, or for which requested information in response to written demand is delinquent and for each day from the date a purchaser buys production from a lease from which it is not authorized to purchase to the date the Tax Commission approves the purchaser to buy from such lease; provided, such penalty shall not be assessed for an amount in excess of One Thousand Five Hundred Dollars (\$1,500.00). The penalties may be waived by the Tax Commission or its designee for good cause shown; and

2. If within twelve (12) months after a previous assessment of penalties as provided for by this section a subsequent delinquency occurs, penalties may be assessed at the rate of Ten Dollars (\$10.00) per day for each Tax Commission assigned production unit number or subnumber or merge number, or product code; provided such penalty shall not be assessed for an amount in excess of One Thousand Five Hundred Dollars (\$1,500.00). The penalty thereon may be waived, in whole or in part, by the Tax Commission, for good cause shown.

The penalties prescribed herein shall be in addition to other penalties assessable by the Tax Commission pursuant to the laws of this state. The penalties prescribed by this section may be collected and shall be apportioned to the General Revenue Fund.

E. Gross production tax forms reports, amended reports, or requested information in response to written demands which are received by the Tax Commission on or after the time fixed for delinquency, but which were mailed prior to the time fixed for delinquency, shall be deemed to have been received by the Tax Commission before becoming delinquent. Postmark or registry or

certified receipt showing deposit in the U.S. mails shall be conclusive evidence of the date of mailing. Provided all remittances due under such reports or amended reports must be received by the Tax Commission on or before the date specified by law regardless of when mailed.

F. In the event a person required to remit the tax levied by the provisions of Section 1001 et seq. of this title becomes delinquent in reporting or remitting the tax, or upon a determination by the Tax Commission that the state may lose tax revenues due to the difficulty of collecting same, the Tax Commission may require any person required to remit the tax to furnish a sufficient cash deposit, bond, or other security in an amount as will protect the tax revenues of this state.

G. In lieu of monthly reporting, a royalty owner taking gas in kind for the royalty owner's own consumption who is responsible for remitting the tax levied by Section 1001 et seq. of this title may file semiannual reports and remit taxes due thereunder to the Tax Commission on or before the first day of January and July of each year for the preceding six-month period. If not received on or before the last day of such month, the report and tax shall be delinquent.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1010a of Title 68, unless there is created a duplication in numbering, reads as follows:

A. On or before November 25, 2004, all persons who have received a gross production tax purchaser reporting number or have otherwise been approved to remit gross production taxes, shall remit a one-time payment of gross production tax in an amount equal to the lesser of the average monthly remittance due from the tax remitter for the period from September 1, 2003, through August 31, 2004, or the average monthly remittance for the period from March 1, 2004, through August 31, 2004. Provided, a tax remitter may apply to the

Oklahoma Tax Commission to reduce its remittance because the average monthly remittance computed under this paragraph is not reflective of the current volumes of production reported by the tax remitter. The application to remit a lesser amount must be filed with the Tax Commission on or before October 1, 2004. The decision of the Tax Commission on the application shall be final and no right of appeal to any court may be taken from such decision.

B. The Tax Commission shall reduce the amount of the bond required by the Tax Commission by the amount of the one-time payment. If the bond posted is equal to or less than the amount of the payment, the tax remitter shall be relieved from the bond requirement, upon request. The tax remitter shall neither deduct nor otherwise collect all or any portion of the one-time payment from any person or entity entitled to the proceeds of production from an oil or gas lease in the State of Oklahoma.

C. If the tax is not paid on or before November 25, 2004, the tax shall become delinquent and shall be collected in the manner provided by law for the collection of delinquent gross production taxes.

D. The amount of tax due on the final return of a tax remitter shall be reduced by the amount of the payment made pursuant to this section. If the amount due is less than the amount of the payment required by this section, the Tax Commission shall refund the balance of the payment to the tax remitter.

SECTION 5. Sections 1 through 3 of this act shall become effective November 1, 2004.

SECTION 6. Section 4 of this act shall become effective September 1, 2004.