

**EHB 1711**

**THE STATE SENATE**  
**Wednesday, April 13, 2005**

**ENGROSSED**

**House Bill No. 1711**

**As Amended**

ENGROSSED HOUSE BILL NO. 1711 - By: CALVEY of the House and GUMM of the Senate.

[ revenue and taxation - amending 68 O.S., Sections 1009, 1010 and 1022 - gross production tax - definition - effective date - emergency ]

SECTION 1. AMENDATORY 68 O.S. 2001, Section 1009, as amended by Section 2, Chapter 444, O.S.L. 2004 (68 O.S. Supp. 2004, Section 1009), is amended to read as follows:

Section 1009. 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. 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 twenty-fifth

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

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

11 D. On oil and gas sold at the time and place of production, the  
12 gross production tax shall be paid by the purchaser of such  
13 products, and such purchaser shall, and is hereby authorized to  
14 deduct in making settlements with the producer and/or royalty owner,  
15 the amount of tax so paid. In the event oil is not sold at the time  
16 and place of production but is retained by the producer, the tax on  
17 such oil not so sold shall be paid by the producer for himself  
18 including the tax due on royalty oil not sold; provided, that in  
19 settlement with the royalty owner such producer shall have the right  
20 to deduct the amount of such tax so paid on royalty oil or to deduct  
21 therefrom royalty oil equivalent in value at the time such tax  
22 becomes due with the amount of the tax paid. The gross production  
23 tax upon asphalt, or on ores bearing lead, zinc, jack, gold, silver

1 or copper shall be paid by the producer for himself, including the  
2 royalty interest; provided, that in settlement with the royalty  
3 owner such producer shall have the right to deduct the amount of  
4 such tax so paid on royalty asphalt, or on ores bearing lead, zinc,  
5 jack, gold, silver or copper, or to deduct therefrom royalty  
6 asphalt, or ores bearing lead, zinc, jack, gold, silver or copper,  
7 equivalent in value at the time such tax became due, to the amount  
8 of tax paid.

9 E. 1. Producers, either as operators of producing wells or as  
10 nonoperating working interest owners who take gas in kind at the  
11 wellhead at the time and place of production, may elect to report  
12 and pay the gross production tax on such gas in accordance with the  
13 provisions of this section, if the first sale of such gas by the  
14 producer is to a final consumer or user of the gas. This election  
15 shall not be available to a producer if the first sale of such gas  
16 is to a purchaser who is approved and bonded to remit gross  
17 production taxes or unless prior approval of the Oklahoma Tax  
18 Commission is obtained by the producer. This election shall not be  
19 controlled by any contractual provisions between the producer and  
20 the purchaser. This election shall be made only by the producer  
21 upon forms prescribed therefor.

22 Upon exercise of the election to report and pay the gross  
23 production tax by a producer, the purchaser of such gas shall not be

1 liable for the gross production tax and shall not be required to  
2 obtain a purchaser's reporting number for such gas.

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

8 F. In case oil or gas is sold under circumstances where the  
9 sale price does not represent the wellhead cash price prevailing for  
10 oil or gas of like kind, character or quality in the field from  
11 which such product is produced, the Tax Commission may require the  
12 said tax to be paid upon the basis of the prevailing price then  
13 being paid at the time and place of production in said field for oil  
14 or gas of like kind, quality and character.

15 G. Pursuant to the provisions of a gas purchase contract or  
16 agreement, if the first purchaser makes payments to the producer as  
17 a result of the failure or refusal of said purchaser to take gas,  
18 said payments, for purposes of this article, are hereby deemed to be  
19 part of the gross value of gas taken according to said contract or  
20 agreement. The gross production tax shall be calculated upon the  
21 gross value, including said payments, in accordance with the  
22 provisions of this article. Gas on which the gross production tax  
23 has been paid in this manner when taken by said purchaser shall be

1 reported as gas on which said tax has been paid. If said gas, which  
2 corresponds to such payments, is not taken but payments therefor are  
3 retained by the producer, then said payments are hereby deemed to be  
4 a premium on gas which was taken under said contract or agreement.

5 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1010, as  
6 amended by Section 3, Chapter 444, O.S.L. 2004 (68 O.S. Supp. 2004,  
7 Section 1010), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

13 1. Every producer and purchaser shall make application, upon  
14 forms prescribed by the Tax Commission, for a Tax Commission  
15 assigned producer or purchaser reporting number prior to producing  
16 or purchasing production. Every producer shall obtain, by making  
17 application upon forms prescribed by the Tax Commission, a Tax  
18 Commission assigned production unit number, subnumber and merge  
19 number for each lease from which lease production will be sold or  
20 disposed before disposing of production from any lease in the state.

21 Provided, however, the Tax Commission shall not approve any  
22 application for a Tax Commission assigned producer or purchaser  
23 reporting number without proper confirmation that the applicant has

1 posted the requisite surety documents with the Corporation  
2 Commission pursuant to Section 318.1 of Title 52 of the Oklahoma  
3 Statutes.

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

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

22 D. Every person required to file such forms or reports or who  
23 has been requested to file an amended report to provide information

1 by written demand, or who has purchased oil or gas from a lease  
2 prior to being authorized by the Tax Commission to purchase  
3 production from such lease, will be subject to and may be assessed  
4 the following penalties for each delinquency:

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

16 2. If within twelve (12) months after a previous assessment of  
17 penalties as provided for by this section a subsequent delinquency  
18 occurs, penalties may be assessed at the rate of Ten Dollars  
19 (\$10.00) per day for each Tax Commission assigned production unit  
20 number or subnumber or merge number, or product code; provided such  
21 penalty shall not be assessed for an amount in excess of One  
22 Thousand Five Hundred Dollars (\$1,500.00). The penalty thereon may

1 be waived, in whole or in part, by the Tax Commission, for good  
2 cause shown.

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

7 E. Gross production tax forms reports, amended reports, or  
8 requested information in response to written demands which are  
9 received by the Tax Commission on or after the time fixed for  
10 delinquency, but which were mailed prior to the time fixed for  
11 delinquency, shall be deemed to have been received by the Tax  
12 Commission before becoming delinquent. Postmark or registry or  
13 certified receipt showing deposit in the U.S. mails shall be  
14 conclusive evidence of the date of mailing. Provided all  
15 remittances due under such reports or amended reports must be  
16 received by the Tax Commission on or before the date specified by  
17 law regardless of when mailed.

18 F. In the event a person required to remit the tax levied by  
19 the provisions of Section 1001 et seq. of this title becomes  
20 delinquent in reporting or remitting the tax, or upon a  
21 determination by the Tax Commission that the state may lose tax  
22 revenues due to the difficulty of collecting same, the Tax  
23 Commission may require any person required to remit the tax to

1 furnish a sufficient cash deposit, bond, or other security in an  
2 amount as will protect the tax revenues of this state.

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

11 SECTION 3. AMENDATORY 68 O.S. 2001, Section 1022, is  
12 amended to read as follows:

13 Section 1022. When an increase in the gross value of petroleum  
14 or other crude or mineral oil, natural gas, casinghead gas or  
15 liquids extracted therefrom sold by a producer is subject to the  
16 approval of an agency of the United States of America or a court of  
17 competent jurisdiction adjudicating an appeal from said agency, the  
18 gross production tax provided for in this article on any such  
19 proposed increase in gross value when collected by a producer shall  
20 be separately reported and conditionally paid, subject to and  
21 pending the final outcome of any proceeding by such agency or court  
22 relating to a determination of the amount of such increase in gross  
23 value; provided, however that nothing herein shall be construed to

1 impose any duty upon a producer to collect any proposed increase in  
2 gross value; and provided further, that "gross value" or "increase  
3 in gross value" as used in this section shall mean the amount a  
4 producer is collecting for the wellhead sale of any petroleum or  
5 other crude or mineral oil, natural gas, casinghead gas or liquids  
6 extracted therefrom sold which is subject to the jurisdiction of  
7 such agency or court. All monies so conditionally collected by the  
8 Tax Commission under the provisions of this section shall be  
9 accounted for in the following manner:

10 ~~(a)~~ 1. At least once each month the Tax Commission shall  
11 deposit such collections in a special account in a bank or banks  
12 approved as a depository for monies of the State of Oklahoma. Each  
13 bank in which such monies are deposited shall credit the account at  
14 the end of each calendar quarter with the highest rate of interest  
15 then being paid by such bank for deposited monies of the State of  
16 Oklahoma, calculated on the total daily average balance on deposit  
17 during such calendar quarter.

18 ~~(b)~~ 2. When a producer or purchaser gives written notice to the  
19 Tax Commission that such agency or court has, by final order,  
20 disapproved, in whole or in part, the proposed increase in gross  
21 value, then the Tax Commission shall, within thirty (30) days after  
22 receipt of such notice, withdraw from the bank holding such monies  
23 an amount of money equal to the tax conditionally paid on the

1 proposed increase in gross value which has been disapproved,  
2 together with the interest earned on such money, and remit it to the  
3 person, firm, association or corporation which conditionally paid  
4 such tax.

5 ~~(e)~~ 3. When such agency or court approves, by final order, the  
6 proposed increase in gross value, in whole or in part, the producer  
7 or purchaser involved having paid the tax conditionally shall  
8 immediately give written notice of such approval to the Tax  
9 Commission and it shall promptly withdraw from the bank holding such  
10 monies an amount of money equal to said tax conditionally paid on  
11 the proposed increase in gross value which has been approved,  
12 together with the interest earned on such money, and shall  
13 distribute the same as provided by the law then in force for the  
14 distribution of gross production taxes.

15 SECTION 4. This act shall become effective July 1, 2005.

16 SECTION 5. It being immediately necessary for the preservation  
17 of the public peace, health and safety, an emergency is hereby  
18 declared to exist, by reason whereof this act shall take effect and  
19 be in full force from and after its passage and approval.

20 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 4-5-05 - DO PASS,  
21 As Amended.