

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED  
5 SENATE BILL NO. 1882

By: Bingman, Gumm, Sparks and  
Branan of the Senate

6 and

7 Thompson of the House  
8  
9

10 COMMITTEE SUBSTITUTE

11 An Act relating to revenue and taxation; amending 68  
12 O.S. 2001, Section 1001, as last amended by Section  
13 1, Chapter 312, O.S.L. 2009 (68 O.S. Supp. 2009,  
14 Section 1001), which relates to gross production tax;  
15 modifying expiration date for certain tax rate on  
16 oil; modifying effective date for certain tax rate on  
17 oil; modifying expiration dates for certain method of  
18 computation of average price of oil and gas;  
19 modifying effective dates for certain tax rates on  
20 gas; amending Section 1, Chapter 436, O.S.L. 2005, as  
21 amended by Section 2, Chapter 260, O.S.L. 2007 (68  
22 O.S. Supp. 2009, Section 1001.3a), which relates to  
23 gross production tax exemptions for economically at-  
24 risk wells; extending duration of exemptions; and  
declaring an emergency.

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, Chapter 312, O.S.L. 2009 (68 O.S. Supp.  
2009, Section 1001), is amended to read as follows:

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

5 B. 1. Effective January 1, 1999, through June 30, ~~2010~~ 2013,  
6 except as otherwise exempted pursuant to subsections D, E, F, G, H,  
7 I and J of this section, there is hereby levied upon the production  
8 of oil a tax as set forth in this subsection on the gross value of  
9 the production of oil based on a per barrel measurement of forty-two  
10 (42) U.S. gallons of two hundred thirty-one (231) cubic inches per  
11 gallon, computed at a temperature of sixty (60) degrees Fahrenheit.  
12 If the average price of Oklahoma oil as determined by the Oklahoma  
13 Tax Commission pursuant to the provisions of paragraph 3 of this  
14 subsection equals or exceeds Seventeen Dollars (\$17.00) per barrel,  
15 then the tax shall be seven percent (7%). If the average price of  
16 Oklahoma oil as determined by the Tax Commission pursuant to  
17 paragraph 3 of this subsection is less than Seventeen Dollars  
18 (\$17.00) but is equal to or exceeds Fourteen Dollars (\$14.00) per  
19 barrel, then the tax shall be four percent (4%). If the average  
20 price of Oklahoma oil as determined by the Tax Commission pursuant  
21 to paragraph 3 of this subsection is less than Fourteen Dollars  
22 (\$14.00) per barrel, then the tax shall be one percent (1%).

23 2. Effective July 1, ~~2010~~ 2013, except as otherwise exempted  
24 pursuant to subsections D, E, F, G, H, I and J of this section,

1 there shall be levied upon the production of oil a tax equal to  
2 seven percent (7%) of the gross value of the production of oil based  
3 on a per barrel measurement of forty-two (42) U.S. gallons of two  
4 hundred thirty-one (231) cubic inches per gallon, computed at a  
5 temperature of sixty (60) degrees Fahrenheit.

6 3. Effective January 1, 1999, through June 30, ~~2010~~ 2013, the  
7 average price of Oklahoma oil for purposes of this section shall be  
8 computed by the Tax Commission based on the total value of oil  
9 reported each month that is subject to the tax levied under this  
10 section. At the first of each month, the Tax Commission shall  
11 compute the average price paid per barrel of oil reported on the  
12 monthly tax report for the most current production month on file.  
13 The average price as computed by the Tax Commission shall be used to  
14 determine the applicable tax rate for the third month following  
15 production. Effective July 1, 2002, through June 30, ~~2010~~ 2013, the  
16 average price of gas for purposes of this section shall be computed  
17 by the Tax Commission based on the total value of gas reported each  
18 month that is subject to the tax levied by this section. At the  
19 first of each month, the Tax Commission shall compute the average  
20 price paid per thousand cubic feet (mcf) of gas as reported on the  
21 monthly tax report for the most current production month on file.  
22 The average price as computed by the Tax Commission shall be used to  
23 determine the applicable tax rate for the third month following  
24 production.

1           4. Effective July 1, 2002, through June 30, ~~2010~~ 2013, except  
2 as otherwise exempted pursuant to subsections D, E, F, G, H, I and J  
3 of this section, there is hereby levied upon the production of gas a  
4 tax as set forth in this subsection on the gross value of the  
5 production of gas. If the average price of gas as determined by the  
6 Tax Commission pursuant to the provisions of paragraph 3 of this  
7 subsection equals or exceeds Two Dollars and ten cents (\$2.10) per  
8 thousand cubic feet (mcf), then the tax shall be seven percent (7%).  
9 If the average price of gas as determined by the Tax Commission  
10 pursuant to the provisions of paragraph 3 of this subsection is less  
11 than Two Dollars and ten cents (\$2.10) per thousand cubic feet (mcf)  
12 but is equal to or exceeds One Dollar and seventy-five cents (\$1.75)  
13 per thousand cubic feet (mcf), then the tax shall be four percent  
14 (4%). If the average price of gas as determined by the Tax  
15 Commission pursuant to the provisions of paragraph 3 of this  
16 subsection is less than One Dollar and seventy-five cents (\$1.75)  
17 per thousand cubic feet (mcf), then the tax shall be one percent  
18 (1%).

19           5. Effective July 1, ~~2010~~ 2013, except as otherwise exempted  
20 pursuant to subsections D, E, F, G, H, I and J of this section,  
21 there shall be levied a tax equal to seven percent (7%) of the gross  
22 value of the production of gas.

23  
24

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

4 D. 1. Except as otherwise provided in this section, any  
5 incremental production attributable to the working interest owners  
6 which results from an enhanced recovery project shall be exempt from  
7 the gross production tax levied pursuant to this section from the  
8 project beginning date until project payback is achieved for new  
9 enhanced recovery projects or until project payback is achieved but  
10 not to exceed a period of thirty-six (36) months for tertiary  
11 enhanced recovery projects existing on July 1, 1988. This exemption  
12 shall take effect July 1, 1988, and shall apply to enhanced recovery  
13 projects approved or having a project beginning date prior to July  
14 1, 1993. Project payback pursuant to this paragraph for enhanced  
15 recovery projects qualifying for this exemption on or after July 1,  
16 1990, and on or before June 30, 1993, shall be determined by  
17 appropriate payback indicators which will not include any expenses  
18 beyond the completion date of the well. Project payback pursuant to  
19 this paragraph for enhanced recovery projects qualifying for this  
20 exemption on or after October 17, 1987, and on or before June 30,  
21 1990, shall be determined by appropriate payback indicators as  
22 previously established and allowed by the Tax Commission for  
23 projects qualifying during such period.

24

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

12           3. Except as otherwise provided in this section, for secondary  
13 recovery projects approved or having an initial project beginning  
14 date on or after July 1, 2000, and before July 1, 2012, any  
15 incremental production attributable to the working interest owners  
16 which results from such secondary recovery projects shall be exempt  
17 from the gross production tax levied pursuant to this section for a  
18 period not to exceed five (5) years from the initial project  
19 beginning date or for a period ending upon the termination of the  
20 secondary recovery process, whichever occurs first.

21           4. Except as otherwise provided in this section, for tertiary  
22 recovery projects approved and having a project beginning date on or  
23 after July 1, 1993, and before July 1, 2012, any incremental  
24 production attributable to the working interest owners which results

1 from such tertiary recovery projects shall be exempt from the gross  
2 production tax levied pursuant to this section from the project  
3 beginning date until project payback is achieved, but not to exceed  
4 a period of ten (10) years. Project payback pursuant to this  
5 paragraph shall be determined by appropriate payback indicators  
6 which will provide for the recovery of capital expenses and  
7 operating expenses, excluding administrative expenses, in  
8 determining project payback. The capital expenses of pipelines  
9 constructed to transport carbon dioxide to a tertiary recovery  
10 project shall not be included in determining project payback  
11 pursuant to this paragraph.

12 5. The provisions of this subsection shall also not apply to  
13 any enhanced recovery project using fresh water as the primary  
14 injectant, except when using steam.

15 6. For purposes of this subsection:

16 a. "incremental production" means the amount of crude oil  
17 or other liquid hydrocarbons which is produced during  
18 an enhanced recovery project and which is in excess of  
19 the base production amount of crude oil or other  
20 liquid hydrocarbons. The base production amount shall  
21 be the average monthly amount of production for the  
22 twelve-month period immediately prior to the project  
23 beginning date minus the monthly rate of production  
24 decline for the project for each month beginning one

1 hundred eighty (180) days prior to the project  
2 beginning date. The monthly rate of production  
3 decline shall be equal to the average extrapolated  
4 monthly decline rate for the twelve-month period  
5 immediately prior to the project beginning date as  
6 determined by the Corporation Commission based on the  
7 production history of the field, its current status,  
8 and sound reservoir engineering principles, and

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

12 7. The Corporation Commission shall promulgate rules for the  
13 qualification for this exemption which shall include, but not be  
14 limited to, procedures for determining incremental production as  
15 defined in subparagraph a of paragraph 6 of this subsection, and the  
16 establishment of appropriate payback indicators as approved by the  
17 Tax Commission for the determination of project payback for each of  
18 the exemptions authorized by this subsection.

19 8. For new secondary recovery projects and tertiary recovery  
20 projects approved by the Corporation Commission on or after July 1,  
21 1993, and before July 1, 2012, such approval shall constitute  
22 qualification for an exemption.

23 9. Any person seeking an exemption shall file an application  
24 for such exemption with the Tax Commission which, upon determination

1 of qualification by the Corporation Commission, shall approve the  
2 application for such exemption.

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

6 11. Upon the expiration of the exemption granted pursuant to  
7 this subsection, the Tax Commission shall collect the gross  
8 production tax levied pursuant to this section.

9 E. 1. Except as otherwise provided in this section, the  
10 production of oil, gas or oil and gas from a horizontally drilled  
11 well producing prior to July 1, 2002, which production commenced  
12 after July 1, 1995, shall be exempt from the gross production tax  
13 levied pursuant to subsection B of this section from the project  
14 beginning date until project payback is achieved but not to exceed a  
15 period of twenty-four (24) months commencing with the month of  
16 initial production from the horizontally drilled well. Except as  
17 otherwise provided in this section, the production of oil, gas or  
18 oil and gas from a horizontally drilled well producing prior to July  
19 1, 2012, which production commenced after July 1, 2002, shall be  
20 exempt from the gross production tax levied pursuant to subsection B  
21 of this section from the project beginning date until project  
22 payback is achieved but not to exceed a period of forty-eight (48)  
23 months commencing with the month of initial production from the  
24 horizontally drilled well. Provided, any incremental production

1 which results from a horizontally drilled well producing prior to  
2 July 1, 1994, shall be exempt from the gross production tax levied  
3 pursuant to subsection B of this section from the project beginning  
4 date until project payback is achieved but not to exceed a period of  
5 twenty-four (24) months commencing with the month of initial  
6 production from the horizontally drilled well. For purposes of  
7 subsection D of this section and this subsection, project payback  
8 shall be determined as of the date of the completion of the well and  
9 shall not include any expenses beyond the completion date of the  
10 well, and subject to the approval of the Tax Commission.

11 2. As used in this subsection, "horizontally drilled well"  
12 shall mean an oil, gas or oil and gas well drilled or recompleted in  
13 a manner which encounters and subsequently produces from a  
14 geological formation at an angle in excess of seventy (70) degrees  
15 from vertical and which laterally penetrates a minimum of one  
16 hundred fifty (150) feet into the pay zone of the formation.

17 F. 1. Except as otherwise provided by this section, the  
18 severance or production of oil, gas or oil and gas from an inactive  
19 well shall be exempt from the gross production tax levied pursuant  
20 to subsection B of this section for a period of twenty-eight (28)  
21 months from the date upon which production is reestablished. This  
22 exemption shall take effect July 1, 1994, and shall apply to wells  
23 for which work to reestablish or enhance production began on or  
24 after July 1, 1994, and for which production is reestablished prior

1 to July 1, 2012. For all such production, a refund against gross  
2 production taxes shall be issued as provided in subsection L of this  
3 section.

4 2. As used in this subsection, for wells for which production  
5 is reestablished prior to July 1, 1997, "inactive well" means any  
6 well that has not produced oil, gas or oil and gas for a period of  
7 not less than two (2) years as evidenced by the appropriate forms on  
8 file with the Corporation Commission reflecting the well's status.  
9 As used in this subsection, for wells for which production is  
10 reestablished on or after July 1, 1997, and prior to July 1, 2012,  
11 "inactive well" means any well that has not produced oil, gas or oil  
12 and gas for a period of not less than one (1) year as evidenced by  
13 the appropriate forms on file with the Corporation Commission  
14 reflecting the well's status. Wells which experience mechanical  
15 failure or loss of mechanical integrity, as defined by the  
16 Corporation Commission, including but not limited to, casing leaks,  
17 collapse of casing or loss of equipment in a wellbore, or any  
18 similar event which causes cessation of production, shall also be  
19 considered inactive wells.

20 G. 1. Except as otherwise provided by this section, any  
21 incremental production which results from a production enhancement  
22 project shall be exempt from the gross production tax levied  
23 pursuant to subsection B of this section for a period of twenty-  
24 eight (28) months from the date of first sale after project

1 completion of the production enhancement project. This exemption  
2 shall take effect July 1, 1994, and shall apply to production  
3 enhancement projects having a project beginning date on or after  
4 July 1, 1994, and prior to July 1, 2012. For all such production, a  
5 refund against gross production taxes shall be issued as provided in  
6 subsection L of this section.

7 2. As used in this subsection:

8 a. (1) for production enhancement projects having a  
9 project beginning date prior to July 1, 1997,  
10 "production enhancement project" means any  
11 workover as defined in this paragraph,  
12 recompletion as defined in this paragraph, or  
13 fracturing of a producing well, and

14 (2) for production enhancement projects having a  
15 project beginning date on or after July 1, 1997,  
16 and prior to July 1, 2012, "production  
17 enhancement project" means any workover as  
18 defined in this paragraph, recompletion as  
19 defined in this paragraph, reentry of plugged and  
20 abandoned wellbores, or addition of a well or  
21 field compression,

22 b. "incremental production" means the amount of crude  
23 oil, natural gas or other hydrocarbons which are  
24

1 produced as a result of the production enhancement  
2 project in excess of the base production,

3 c. "base production" means the average monthly amount of  
4 production for the twelve-month period immediately  
5 prior to the commencement of the project or the  
6 average monthly amount of production for the twelve-  
7 month period immediately prior to the commencement of  
8 the project less the monthly rate of production  
9 decline for the project for each month beginning one  
10 hundred eighty (180) days prior to the commencement of  
11 the project. The monthly rate of production decline  
12 shall be equal to the average extrapolated monthly  
13 decline rate for the twelve-month period immediately  
14 prior to the commencement of the project based on the  
15 production history of the well. If the well or wells  
16 covered in the application had production for less  
17 than the full twelve-month period prior to the filing  
18 of the application for the production enhancement  
19 project, the base production shall be the average  
20 monthly production for the months during that period  
21 that the well or wells produced,

22 d. (1) for production enhancement projects having a  
23 project beginning date prior to July 1, 1997,  
24 "recompletion" means any downhole operation in an

1 existing oil or gas well that is conducted to  
2 establish production of oil or gas from any  
3 geological interval not currently completed or  
4 producing in such existing oil or gas well, and  
5 (2) for production enhancement projects having a  
6 project beginning date on or after July 1, 1997,  
7 and prior to July 1, 2012, "recompletion" means  
8 any downhole operation in an existing oil or gas  
9 well that is conducted to establish production of  
10 oil or gas from any geologic interval not  
11 currently completed or producing in such existing  
12 oil or gas well within the same or a different  
13 geologic formation, and

14 e. "workover" means any downhole operation in an existing  
15 oil or gas well that is designed to sustain, restore  
16 or increase the production rate or ultimate recovery  
17 in a geologic interval currently completed or  
18 producing in the existing oil or gas well. For  
19 production enhancement projects having a project  
20 beginning date prior to July 1, 1997, "workover"  
21 includes, but is not limited to, acidizing,  
22 reperforating, fracture treating, sand/paraffin  
23 removal, casing repair, squeeze cementing, or setting  
24 bridge plugs to isolate water productive zones from

1 oil or gas productive zones, or any combination  
2 thereof. For production enhancement projects having a  
3 project beginning date on or after July 1, 1997, and  
4 prior to July 1, 2012, "workover" includes, but is not  
5 limited to:

- 6 (1) acidizing,
- 7 (2) reperforating,
- 8 (3) fracture treating,
- 9 (4) sand/paraffin/scale removal or other wellbore  
10 cleanouts,
- 11 (5) casing repair,
- 12 (6) squeeze cementing,
- 13 (7) installation of compression on a well or group of  
14 wells or initial installation of artificial lifts  
15 on gas wells, including plunger lifts, rod pumps,  
16 submersible pumps and coiled tubing velocity  
17 strings,
- 18 (8) downsizing existing tubing to reduce well  
19 loading,
- 20 (9) downhole commingling,
- 21 (10) bacteria treatments,
- 22 (11) upgrading the size of pumping unit equipment,
- 23 (12) setting bridge plugs to isolate water production  
24 zones, or

1 (13) any combination thereof.

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

6 H. 1. For purposes of this subsection, "depth" means the  
7 length of the maximum continuous string of drill pipe utilized  
8 between the drill bit face and the drilling rig's kelly bushing.

9 2. Except as otherwise provided in subsection K of this  
10 section:

11 a. the production of oil, gas or oil and gas from wells  
12 spudded between July 1, 1997, and July 1, 2005, and  
13 drilled to a depth of twelve thousand five hundred  
14 (12,500) feet or greater and wells spudded between  
15 July 1, 2005, and July 1, 2012, and drilled to a depth  
16 between twelve thousand five hundred (12,500) feet and  
17 fourteen thousand nine hundred ninety-nine (14,999)  
18 feet shall be exempt from the gross production tax  
19 levied pursuant to subsection B of this section from  
20 the date of first sales for a period of twenty-eight  
21 (28) months;

22 b. the production of oil, gas or oil and gas from wells  
23 spudded between July 1, 2002, and July 1, 2005, and  
24 drilled to a depth of fifteen thousand (15,000) feet

1 or greater and wells spudded between July 1, 2005, and  
2 July 1, 2011, and drilled to a depth between fifteen  
3 thousand (15,000) feet and seventeen thousand four  
4 hundred ninety-nine (17,499) feet shall be exempt from  
5 the gross production tax levied pursuant to subsection  
6 B of this section from the date of first sales for a  
7 period of forty-eight (48) months; and

8 c. the production of oil, gas or oil and gas from wells  
9 spudded between July 1, 2002, and July 1, 2011, and  
10 drilled to a depth of seventeen thousand five hundred  
11 (17,500) feet or greater shall be exempt from the  
12 gross production tax levied pursuant to subsection B  
13 of this section from the date of first sales for a  
14 period of sixty (60) months.

15 3. Except as otherwise provided for in this subsection, for all  
16 such wells spudded, a refund against gross production taxes shall be  
17 issued as provided in subsection L of this section.

18 4. For all wells spudded after July 1, 2005, and which are  
19 exempt from gross production tax pursuant to subparagraphs b and c  
20 of paragraph 2 of this subsection, the amount of refunds paid by the  
21 Tax Commission shall be limited as follows:

22 a. for the fiscal year ending June 30, 2006, no claims  
23 for refunds shall be paid,  
24

- 1           b.    for the fiscal year ending June 30, 2007, the total  
2                   amount of refunds paid shall be equal to or less than  
3                   Seventeen Million Dollars (\$17,000,000.00),  
4           c.    for the fiscal year ending June 30, 2008, the total  
5                   amount of refunds paid shall be equal to or less than  
6                   Twenty Million Dollars (\$20,000,000.00), and  
7           d.    for the fiscal year ending June 30, 2009, and any  
8                   fiscal year thereafter, the total amount of refunds  
9                   paid each fiscal year shall be equal to or less than  
10                  Twenty-five Million Dollars (\$25,000,000.00).

11           5.    Except as otherwise provided for in paragraph 7 of this  
12 subsection and paragraph 2 of subsection L of this section, for the  
13 fiscal year ending June 30, 2006, and each fiscal year thereafter,  
14 in order to qualify for a refund of gross production tax on wells  
15 which are exempt pursuant to subparagraphs b and c of paragraph 2 of  
16 this subsection, claims for refunds shall be filed within six (6)  
17 months after the first day of the fiscal year in which the refund is  
18 first available pursuant to subsection L of this section. When  
19 processing applications for qualification for an exemption as  
20 provided for in paragraph 2 of subsection M of this section, the  
21 Corporation Commission shall give priority to those applications  
22 filed for an exemption pursuant to subparagraphs b and c of  
23 paragraph 2 of this subsection in order for applicants to comply  
24 with the six-month filing period as provided for in this paragraph.

1           6. If the total amount of claims for refunds made during any  
2 fiscal year are greater than the total amount of refunds allowed for  
3 that fiscal year as provided for in paragraph 4 of this subsection,  
4 the Tax Commission shall proportionately reduce the amount of each  
5 claim so that the total amount of claims equal the total amount  
6 allowed for refunds.

7           7. If the total amount of claims for a refund filed within the  
8 six-month filing period for a fiscal year is less than the total  
9 amount of refunds allowed for that fiscal year as provided for in  
10 paragraph 4 of this subsection, the Tax Commission shall pay the  
11 claims that have been filed. Then for any remaining funds, the Tax  
12 Commission shall extend the claims-filing period for three (3)  
13 months and shall pay any claims filed during the extended filing  
14 period up to the total amount of remaining funds. If the amount of  
15 claims for refunds filed during the extended filing period is  
16 greater than the total amount of remaining funds, the Tax Commission  
17 shall proportionately reduce the amount of each claim as provided  
18 for in paragraph 6 of this subsection.

19           I. 1. Except as otherwise provided by this section, the  
20 production of oil, gas or oil and gas from wells spudded or  
21 reentered between July 1, 1995, and July 1, 2012, which qualify as a  
22 new discovery pursuant to this subsection shall be exempt from the  
23 gross production tax levied pursuant to subsection B of this section  
24 from the date of first sales for a period of twenty-eight (28)

1 months. For all such wells spudded or reentered, a refund against  
2 gross production taxes shall be issued as provided in subsection L  
3 of this section. As used in this subsection, "new discovery" means  
4 production of oil, gas or oil and gas from:

5 a. (1) for wells spudded or reentered on or after July  
6 1, 1997, a well that discovers crude oil in  
7 paying quantities that is more than one (1) mile  
8 from the nearest oil well producing from the same  
9 producing formation, and

10 (2) for wells spudded or reentered on or after July  
11 1, 1997, and prior to July 1, 2012, a well that  
12 discovers crude oil in paying quantities that is  
13 more than one (1) mile from the nearest oil well  
14 producing from the same producing interval of the  
15 same formation,

16 b. (1) for wells spudded or reentered prior to July 1,  
17 1997, a well that discovers crude oil in paying  
18 quantities beneath current production in a deeper  
19 producing formation that is more than one (1)  
20 mile from the nearest oil well producing from the  
21 same deeper producing formation, and

22 (2) for wells spudded or reentered on or after July  
23 1, 1997, and prior to July 1, 2012, a well that  
24 discovers crude oil in paying quantities beneath

1 current production in a deeper producing interval  
2 that is more than one (1) mile from the nearest  
3 oil well producing from the same deeper producing  
4 interval,

5 c. (1) for wells spudded or reentered prior to July 1,  
6 1997, a well that discovers natural gas in paying  
7 quantities that is more than two (2) miles from  
8 the nearest gas well producing from the same  
9 producing formation, and

10 (2) for wells spudded or reentered on or after July  
11 1, 1997, and prior to July 1, 2012, a well that  
12 discovers natural gas in paying quantities that  
13 is more than two (2) miles from the nearest gas  
14 well producing from the same producing interval,  
15 or

16 d. (1) for wells spudded or reentered prior to July 1,  
17 1997, a well that discovers natural gas in paying  
18 quantities beneath current production in a deeper  
19 producing formation that is more than two (2)  
20 miles from the nearest gas well producing from  
21 the same deeper producing formation, and

22 (2) for wells spudded or reentered on and after July  
23 1, 1997, and prior to July 1, 2012, a well that  
24 discovers natural gas in paying quantities

1           beneath current production in a deeper producing  
2           interval that is more than two (2) miles from the  
3           nearest gas well producing from the same deeper  
4           producing interval.

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

11           J. Except as otherwise provided by this section, the production  
12 of oil, gas or oil and gas from any well, drilling of which is  
13 commenced after July 1, 2000, and prior to July 1, 2012, located  
14 within the boundaries of a three-dimensional seismic shoot and  
15 drilled based on three-dimensional seismic technology, shall be  
16 exempt from the gross production tax levied pursuant to subsection B  
17 of this section from the date of first sales as follows:

18           1. If the three-dimensional seismic shoot is shot prior to July  
19 1, 2000, for a period of eighteen (18) months; and

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

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

1 K. 1. The exemptions provided for in subsections F, G, I and J  
2 of this section, the exemption provided for in subparagraph a of  
3 paragraph 2 of subsection H of this section, and the exemptions  
4 provided for in subparagraphs b and c of paragraph 2 of subsection H  
5 of this section for production from wells spudded before July 1,  
6 2005, shall not apply:

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

12 (1) The "average annual index price" will be  
13 calculated by multiplying the West Texas  
14 Intermediate closing price by the "index price  
15 ratio". The index price ratio is defined as the  
16 immediate preceding three-year historical average  
17 ratio of the actual weighted average wellhead  
18 price to the West Texas Intermediate close price  
19 published on the last business day of each month.

20 (2) The average annual index price will be updated  
21 annually by the Oklahoma Tax Commission no later  
22 than March 31 of each year.

23 (3) If the West Texas Intermediate Crude price is  
24 unavailable for any reason, an industry benchmark

1 price may be substituted and used for the  
2 calculation of the index price as determined by  
3 the Oklahoma Tax Commission,

4 b. to the severance or production of oil or gas upon  
5 which gross production taxes are paid at a rate of one  
6 percent (1%) pursuant to the provisions of subsection  
7 B of this section, and

8 c. to the severance or production of gas, upon  
9 determination by the Tax Commission that the average  
10 annual index price of Oklahoma gas exceeds Five  
11 Dollars (\$5.00) per thousand cubic feet (mcf)  
12 calculated on an annual calendar year basis.

13 (1) The "average annual index price" will be  
14 calculated by multiplying the Henry Hub 3-Day  
15 Average Close price by the "index price ratio".  
16 The index price ratio is defined as the immediate  
17 preceding three-year historical average ratio of  
18 the actual weighted average wellhead price to the  
19 Henry Hub 3-Day Average Close price published on  
20 the last business day of each month.

21 (2) The average annual index price will be updated  
22 annually by the Oklahoma Tax Commission no later  
23 than March 31 of each year.

24

1 (3) If the Henry Hub 3-Day Average Close price is  
2 unavailable for any reason, an industry benchmark  
3 price may be substituted and used for the  
4 calculation of the index price as determined by  
5 the Oklahoma Tax Commission.

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

- 15 a. fifty percent (50%) of the sum collected shall be  
16 apportioned to the County Highway Fund as provided in  
17 subparagraph b of paragraph 1 of Section 1004 of this  
18 title, and  
19 b. fifty percent (50%) of the sum collected shall be  
20 apportioned to the appropriate school district as  
21 provided in subparagraph c of paragraph 1 of Section  
22 1004 of this title.

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

4       L. For all oil and gas production exempt from gross production  
5 taxes pursuant to subsections E, F, G, H, I and J of this section  
6 during a given fiscal year, a refund of gross production taxes shall  
7 be issued to the well operator or a designee in the amount of such  
8 gross production taxes paid during such period, subject to the  
9 following provisions:

10       1. A refund shall not be claimed until after the end of such  
11 fiscal year. As used in this subsection, a fiscal year shall be  
12 deemed to begin on July 1 of one calendar year and shall end on June  
13 30 of the subsequent calendar year;

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

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

21       4. No refunds shall be claimed or paid pursuant to the  
22 provisions of this subsection for oil or gas production upon which a  
23 tax is paid at a rate of one percent (1%) as specified in subsection  
24 B of this section; and

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

10           If there are insufficient funds collected from the production of  
11 oil to satisfy the refunds claimed for oil production pursuant to  
12 subsection E, F, G, H, I or J of this section, the Tax Commission  
13 shall pay the balance of the refund claims out of the gross  
14 production taxes collected from the production of gas.

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

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

1        3. Any person seeking an exemption shall:

2            a. file an application for the exemption with the Tax  
3            Commission which, upon determination of qualification  
4            by the Corporation Commission, shall approve the  
5            application for an exemption, and

6            b. provide a copy of the approved application to the  
7            remitter of the gross production tax.

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

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

21       N. All persons shall only be entitled to either the exemption  
22       granted pursuant to subsection D of this section or the exemption  
23       granted pursuant to subsection E, F, G, H, I or J of this section  
24       for each oil, gas or oil and gas well drilled or recompleted in this

1 state. However, any person who qualifies for the exemption granted  
2 pursuant to subsection E, F, G, H, I or J of this section shall not  
3 be prohibited from qualification for the exemption granted pursuant  
4 to subsection D of this section, if the exemption granted pursuant  
5 to subsection E, F, G, H, I or J of this section has expired.

6 O. The Tax Commission shall have the power to require any such  
7 person engaged in mining or the production or the purchase of such  
8 asphalt, mineral ores aforesaid, oil, or gas, or the owner of any  
9 royalty interest therein to furnish any additional information by it  
10 deemed to be necessary for the purpose of correctly computing the  
11 amount of the tax; and to examine the books, records and files of  
12 such person; and shall have power to conduct hearings and compel the  
13 attendance of witnesses, and the production of books, records and  
14 papers of any person.

15 P. Any person or any member of any firm or association, or any  
16 officer, official, agent or employee of any corporation who shall  
17 fail or refuse to testify; or who shall fail or refuse to produce  
18 any books, records or papers which the Tax Commission shall require;  
19 or who shall fail or refuse to furnish any other evidence or  
20 information which the Tax Commission may require; or who shall fail  
21 or refuse to answer any competent questions which may be put to him  
22 or her by the Tax Commission, touching the business, property,  
23 assets or effects of any such person relating to the gross  
24 production tax imposed by this article or exemption authorized

1 pursuant to this section or other laws, shall be guilty of a  
2 misdemeanor, and, upon conviction thereof, shall be punished by a  
3 fine of not more than Five Hundred Dollars (\$500.00), or  
4 imprisonment in the jail of the county where such offense shall have  
5 been committed, for not more than one (1) year, or by both such fine  
6 and imprisonment; and each day of such refusal on the part of such  
7 person shall constitute a separate and distinct offense.

8 Q. The Tax Commission shall have the power and authority to  
9 ascertain and determine whether or not any report herein required to  
10 be filed with it is a true and correct report of the gross products,  
11 and of the value thereof, of such person engaged in the mining or  
12 production or purchase of asphalt and ores bearing minerals  
13 aforesaid and of oil and gas. If any person has made an untrue or  
14 incorrect report of the gross production or value or volume thereof,  
15 or shall have failed or refused to make such report, the Tax  
16 Commission shall, under the rules prescribed by it, ascertain the  
17 correct amount of either, and compute the tax.

18 R. The payment of the taxes herein levied shall be in full, and  
19 in lieu of all taxes by the state, counties, cities, towns, school  
20 districts and other municipalities upon any property rights attached  
21 to or inherent in the right to the minerals, upon producing leases  
22 for the mining of asphalt and ores bearing lead, zinc, jack, gold,  
23 silver or copper, or for oil, or for gas, upon the mineral rights  
24 and privileges for the minerals aforesaid belonging or appertaining

1 to land, upon the machinery, appliances and equipment used in and  
2 around any well producing oil, or gas, or any mine producing asphalt  
3 or any of the mineral ores aforesaid and actually used in the  
4 operation of such well or mine. The payment of gross production tax  
5 shall also be in lieu of all taxes upon the oil, gas, asphalt or  
6 ores bearing minerals hereinbefore mentioned during the tax year in  
7 which the same is produced, and upon any investment in any of the  
8 leases, rights, privileges, minerals or other property described  
9 herein. Any interest in the land, other than that herein  
10 enumerated, and oil in storage, asphalt and ores bearing minerals  
11 hereinbefore named, mined, produced and on hand at the date as of  
12 which property is assessed for general and ad valorem taxation for  
13 any subsequent tax year, shall be assessed and taxed as other  
14 property within the taxing district in which such property is  
15 situated at the time.

16 S. No equipment, material or property shall be exempt from the  
17 payment of ad valorem tax by reason of the payment of the gross  
18 production tax except such equipment, machinery, tools, material or  
19 property as is actually necessary and being used and in use in the  
20 production of asphalt or of ores bearing lead, zinc, jack, gold,  
21 silver or copper or of oil or gas. It is expressly declared that no  
22 ice plants, hospitals, office buildings, garages, residences,  
23 gasoline extraction or absorption plants, water systems, fuel  
24 systems, rooming houses and other buildings, nor any equipment or

1 material used in connection therewith, shall be exempt from ad  
2 valorem tax.

3 T. The exemption from ad valorem tax set forth in subsections R  
4 and S of this section shall continue to apply to all property from  
5 which production of oil, gas or oil and gas is exempt from gross  
6 production tax pursuant to subsection D, E, F, G, H, I or J of this  
7 section.

8 SECTION 2. AMENDATORY Section 1, Chapter 436, O.S.L.  
9 2005, as amended by Section 2, Chapter 260, O.S.L. 2007 (68 O.S.  
10 Supp. 2009, Section 1001.3a), is amended to read as follows:

11 Section 1001.3a A. As used in this section:

12 1. "Economically at-risk oil or gas lease" means any oil or gas  
13 lease operated at a net loss or at a net profit which is less than  
14 the total gross production tax remitted for such lease during the  
15 previous calendar year; and

16 2. "Lease" shall be defined as in Section 1001.2 of this title.

17 B. When certified as such pursuant to the provisions of this  
18 section, production from an economically at-risk oil or gas lease  
19 shall be eligible for an exemption from the gross production tax  
20 levied pursuant to subsection B of Section 1001 of this title for  
21 production on such lease during the previous calendar year in the  
22 following amounts:

23 1. If the gross production tax rate levied pursuant to  
24 subsection B of Section 1001 of this title was seven percent (7%),

1 then the exemption shall equal six-sevenths (6/7) of the gross  
2 production tax levied;

3 2. If the gross production tax rate levied pursuant to  
4 subsection B of Section 1001 of this title was four percent (4%),  
5 then the exemption shall equal three-fourths (3/4) of the gross  
6 production tax levied; and

7 3. If the gross production tax rate levied pursuant to  
8 subsection B of Section 1001 of this title was one percent (1%), no  
9 exemption shall apply.

10 C. For all production exempt from gross production taxes  
11 pursuant to this section, a refund of gross production taxes paid  
12 for production in the previous calendar year in the amounts  
13 specified in this subsection shall be issued to the well operator or  
14 a designee. The refund shall not be claimed until after July 1 of  
15 the year subsequent to the year of production.

16 D. Any operator making application for an economically at-risk  
17 oil or gas lease status under the provisions of this section shall  
18 submit documentation to the Tax Commission, as determined by the Tax  
19 Commission to be appropriate and necessary including, but not  
20 limited to, the operator's federal income tax return for the  
21 previous year for such lease.

22 E. For the purposes of this section, determination of the  
23 economically at-risk oil or gas lease status shall be made by  
24 subtracting from the gross revenue of that lease for the previous

1 calendar year severance taxes, if any, royalty, operating expenses  
2 of the lease to include expendable workover and recompletion costs  
3 for the previous calendar year, and including overhead costs up to  
4 the maximum overhead percentage allowed by the Council of Petroleum  
5 Accountants Societies (COPAS) guidelines. For the purposes of this  
6 calculation, depreciation, depletion or intangible drilling costs  
7 shall not be included as lease operating expenses.

8 F. The Tax Commission shall have sole authority to determine if  
9 an oil or gas lease qualifies for certification as an economically  
10 at-risk oil or gas lease and shall make the determination within  
11 sixty (60) days after an application is filed for economically at-  
12 risk oil or gas lease status. The Tax Commission shall promulgate  
13 rules governing the certification process.

14 G. Gross production tax exemptions under the provisions of  
15 this section shall be limited to production from calendar years  
16 2005, 2006, 2007, 2008, 2009, ~~and~~ 2010, 2011, 2012 and 2013.

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

21

22 52-2-10633 CJB 04/09/10

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