

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 332

By: Mazzei of the Senate

and

Sears of the House

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10 COMMITTEE SUBSTITUTE

11 An Act relating to gross production tax; amending 68
12 O.S. 2011, Sections 1010 and 1024, which relate to
13 tax administration procedures; eliminating specified
14 reporting requirements; eliminating certain
15 procedures related to release of information on
16 production; conforming language related to review of
17 records; and providing an effective date.

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

19 SECTION 1. AMENDATORY 68 O.S. 2011, Section 1010, is
20 amended to read as follows:

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

23 B. Except as otherwise provided in subsection G of this
24 section, every person responsible for paying or remitting the tax
levied by Section 1001 et seq. of this title on the production from

1 any lease shall file with the Tax Commission a monthly report on
2 each lease, ~~regardless of sales or purchases of production from the~~
3 ~~lease during the report period~~, under oath, on forms prescribed by
4 the Tax Commission, giving, with other information required, the
5 following:

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

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

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

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

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

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

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

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

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

22 1. Every producer and purchaser shall make application, upon
23 forms prescribed by the Tax Commission, for a Tax Commission
24 assigned producer or purchaser reporting number prior to producing

1 or purchasing production. Every producer shall obtain, by making
2 application upon forms prescribed by the Tax Commission, a Tax
3 Commission assigned production unit number, subnumber and merge
4 number for each lease from which lease production will be sold or
5 disposed before disposing of production from any lease in the state.

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

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

18 3. Gross production tax reports from either the purchaser or
19 producer shall become due on the first day of each calendar month on
20 all products subject to the tax levied by Section 1001 et seq. of
21 this title produced in and saved during the preceding monthly
22 period. If such reports are not received by the Tax Commission on
23 or before the twenty-fifth day of the second calendar month
24 following the month of production, the reports shall become

1 delinquent. Any requested or required amended report or any
2 requested information submitted in response to written demand for
3 information which is not received by the Tax Commission on or before
4 thirty (30) days after the mailing of the request or demand by the
5 Tax Commission or any of its employees shall be delinquent.

6 D. Every person required to file such forms or reports or who
7 has been requested to file an amended report to provide information
8 by written demand, or who has purchased oil or gas from a lease
9 prior to being authorized by the Tax Commission to purchase
10 production from such lease, will be subject to and may be assessed
11 the following penalties for each delinquency:

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

23 2. If within twelve (12) months after a previous assessment of
24 penalties as provided for by this section a subsequent delinquency

1 occurs, penalties may be assessed at the rate of Ten Dollars
2 (\$10.00) per day for each Tax Commission assigned production unit
3 number or subnumber or merge number, or product code; provided such
4 penalty shall not be assessed for an amount in excess of One
5 Thousand Five Hundred Dollars (\$1,500.00). The penalty thereon may
6 be waived, in whole or in part, by the Tax Commission, for good
7 cause shown.

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

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

23 F. In the event a person required to remit the tax levied by
24 the provisions of Section 1001 et seq. of this title becomes

1 delinquent in reporting or remitting the tax, or upon a
2 determination by the Tax Commission that the state may lose tax
3 revenues due to the difficulty of collecting same, the Tax
4 Commission may require any person required to remit the tax to
5 furnish a sufficient cash deposit, bond, or other security in an
6 amount as will protect the tax revenues of this state.

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

15 SECTION 2. AMENDATORY 68 O.S. 2011, Section 1024, is
16 amended to read as follows:

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

23 B. The Tax Commission may, ~~upon oral or written request,~~
24 release the lease name, legal description, Oklahoma Tax Commission

1 assigned production unit number for any lease or unit in this state
2 and the Oklahoma Tax Commission assigned purchaser or producer
3 reporting number and purchaser or producer name to any person.

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

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

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

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

20 2. The lease name, legal description, industry or company well
21 or lease unique number, Oklahoma Tax Commission assigned production
22 unit number for any lease or unit in this state and the Oklahoma Tax
23 Commission assigned purchaser or producer reporting number and
24 purchaser or producer name.

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

5 F. It is specifically provided that:

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

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

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

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

21 G. A In addition to the information which may be released
22 pursuant to subsections A, B and C of this section, a duly
23 authorized agent of the Oklahoma Corporation Commission Oil and Gas
24 Conservation Division or Energy Conservation Services Division or of

1 the Oklahoma Geological Survey may examine necessary records and
2 files of the Tax Commission relating to the gross production tax for
3 the purpose of estimating or forecasting reserves or production of
4 oil or gas. Such examination shall be limited to information of
5 volume of production, producing formation and well classification,
6 active or inactive, on a lease by lease basis.

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

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

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

20 SECTION 3. This act shall become effective November 1, 2013.

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22 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
23 04/08/2013 - DO PASS, As Amended.

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