STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 2025 By: Rader

COMMITTEE SUBSTITUTE

An Act relating to gross production tax; amending 68 O.S. 2021, Section 1009, which relates to tax liability; eliminating requirement that producer pay tax on oil produced but not sold; authorizing producer to elect to report and pay tax on oil produced but not sold; requiring certain notification and report; prohibiting tax liability for certain purchaser; prohibiting certain contractual obligation; making language gender neutral; updating statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2021, 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 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.

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. 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;~~ producers may elect to report and pay the gross production tax on such oil in accordance with the provisions of this section. This election shall require prior written notice

<u>to the Oklahoma Tax Commission and producers may be required to submit reports to the Commission that reconcile production transferred off the lease. The purchaser of such oil shall not be liable for the gross production tax and shall not be required to obtain a purchaser's reporting number for such oil. The obligations outlined in this subsection shall not be controlled by any contractual provisions between the producer and the purchaser;</u> 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 <u>or herself</u>, 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. 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. 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. 1. 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 for sales in ~~said~~ the field for oil or gas of like kind, quality and character and on no other basis.

2. In the case where the sale of oil or gas is between related entities, the taxpayer shall have the burden of proving with evidence of arm's-length sales between unrelated parties that the sales price represents the cash price prevailing for oil or gas of like kind, character or quality for sales in the field from which such product is produced. In the absence of such proof, the prevailing price shall be presumed to be the average price of oil or gas produced for sales in the county from which the product is produced, as determined by the Tax Commission from monthly tax reports filed pursuant to Section 1010 of this title. In determining the average price, the Tax Commission shall not include the sales of oil or gas under review and shall not include prices from other sales that have been previously adjusted by the Tax Commission pursuant to this subsection.

3. For the purposes of this subsection, an entity is related to another entity if:

a. the two entities have significant common purposes and substantial common membership,

b. the two entities have direct or indirect substantial common direction or control, or

c. either entity owns, directly or through one or more entities, a fifty percent (50%) or greater interest in the capital or profits of the other entity.

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~~ such purchaser to take gas, ~~said~~ such payments, for purposes of this article, are hereby deemed to be part of the gross value of gas taken according to ~~said~~ such contract or agreement. The gross production tax shall be calculated upon the gross value, including ~~said~~ such 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~~ the purchaser shall be reported as gas on which ~~said~~ the tax has been paid. If ~~said~~ such gas, which corresponds to such payments, is not taken but payments therefor are retained by the producer, then ~~said~~ such payments are hereby deemed to be a premium on gas which was taken under ~~said~~ such contract or agreement.

SECTION 2. This act shall become effective November 1, 2024.

59-2-3451 QD 2/1/2024 3:49:42 PM