

## HOUSE BILL No. 2046

By Committee on Taxation

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9 AN ACT concerning the mineral severance tax; relating to time of pay-  
10 ment and making a return; amending K.S.A. 79-4220 and 79-4221 and  
11 repealing the existing sections.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 79-4220 is hereby amended to read as follows: 79-  
15 4220. (a) The amount of the tax payable each month under the provisions  
16 of K.S.A. 79-4221, and amendments thereto, shall be due and payable on  
17 or before the 20th day of the ~~second~~ *first* month following the end of the  
18 month in which the coal, oil or gas is removed from the lease or produc-  
19 tion unit or mine. The tax is upon the producers, as defined in K.S.A. 79-  
20 4216, *and amendments thereto*, of such coal, oil or gas in the proportion  
21 to their respective beneficial interests at the time of severance, but unless  
22 the operator of the lease or production unit, upon written notice to the  
23 first purchaser and the director, elects to remit the tax, the first purchaser  
24 of any oil or gas sold shall collect the amount of the tax due from the  
25 producers, as defined by K.S.A. 79-4216, *and amendments thereto*, by  
26 deducting and withholding such amount from any payments made by such  
27 purchaser to the operator, or such producers where payment is made ~~to~~  
28 ~~same~~ *directly to such producers*, and shall remit the ~~same~~ *tax* as provided  
29 in this act. An operator of an oil or gas lease or production unit, upon  
30 having given written notice to the first purchaser and the director, may  
31 elect to collect and remit the tax due under this act. If an operator of an  
32 oil or gas lease or production unit makes this election, such operator shall  
33 collect the total amount of tax due and shall remit the ~~same~~ *tax* to the  
34 director. The operator of a coal mine shall collect the total amount of tax  
35 due and shall remit the ~~same~~ *tax* to the director.

36 In no event shall a producer be relieved of responsibility for the tax  
37 until the same has been paid. In the event the tax shall be withheld by a  
38 purchaser from payments due an operator or producer and such pur-  
39 chaser fails to make payment of the tax to the state as required herein,  
40 the operator or producer shall be entitled to bring an action against such  
41 purchaser to recover the amount of tax so withheld together with pen-  
42 alties and interest which may have accrued by failure to make such pay-  
43 ment. The operator or producer shall be entitled to reasonable attorney

1 fees and court costs incurred in such action.

2 (b) The state shall have a lien on all the coal, oil or gas severed in  
3 this state in the hands of the operator, any producer or the first or any  
4 subsequent purchaser thereof to secure the payment of the tax. In the  
5 event any person required ~~herein~~ *pursuant to this section* to pay the tax  
6 fails to do so, the director shall proceed against such person to collect the  
7 tax in the manner provided by K.S.A. 79-3235, and amendments thereto.

8 Sec. 2. K.S.A. 79-4221 is hereby amended to read as follows: 79-  
9 4221. (a) Every purchaser or operator responsible for remitting the tax  
10 imposed under the provisions of K.S.A. 79-4217, and amendments  
11 thereto, on or before the ~~last 20th~~ day of the first month following the  
12 end of every calendar month in which oil or gas is removed from the lease  
13 or production unit, shall make a return to the director upon forms pre-  
14 scribed and furnished by the director showing the gross quantity of oil or  
15 gas purchased during the month for which the return is filed, the price  
16 paid therefor, the correct name and address of the operator or other  
17 person from whom the same was purchased, a full description of the  
18 property in the manner prescribed by the director from which such oil  
19 or gas was severed and ~~the amount of tax due on or before the 20th day~~  
20 ~~of the following month, such return shall be accompanied by a remittance~~  
21 ~~of the full amount of tax due.~~ In the case of coal the return shall be made  
22 on or before the 20th day of the ~~second~~ *first* month following the end of  
23 the calendar month in which the coal is removed from the mine, and such  
24 return shall be accompanied by a remittance of the full amount of the tax  
25 due. For the purposes of determining the amount of tax to be remitted,  
26 such purchaser or operator shall compute the full amount of the tax due  
27 under K.S.A. 79-4217, and amendments thereto, upon all coal, oil or gas  
28 severed and removed from the lease or production unit or mine during  
29 such month and shall deduct an amount equal to the full amount of the  
30 tax credit allowed pursuant to K.S.A. 79-4219, and amendments thereto.

31 (b) If oil or gas is removed from the lease or production unit but not  
32 sold to a purchaser or if the operator elects to remit the tax as authorized  
33 under K.S.A. 79-4220, and amendments thereto, or the operator is re-  
34 quired to remit the tax pursuant to K.S.A. 79-4220, and amendments  
35 thereto, the operator shall on or before the ~~last 20th~~ day of the first month  
36 following the end of every calendar month in which oil or gas is removed  
37 from the lease or production unit make a return to the director upon  
38 forms prescribed and furnished by the director showing the gross quantity  
39 of oil or gas removed during such month and a full description of the  
40 property in the manner prescribed by the director from which the same  
41 was severed. In the case of coal the return shall be made on or before  
42 the 20th day of the ~~second~~ *first* month following the end of the calendar  
43 month in which the coal is removed from the mine. If the coal, oil or gas

1 has not been sold by the time prescribed by K.S.A. 79-4220, and amend-  
2 ments thereto, for the payment of the tax, the operator shall remit the  
3 full amount of the tax due upon certification of the amount thereof by  
4 the director. The amount of taxes to be remitted shall be determined in  
5 the same manner prescribed for remittances by purchasers or operators  
6 under subsection (a) of this section.

7 (c) Each monthly return required hereunder shall be filed on sepa-  
8 rate forms as to product and county and lease, production unit or mine.  
9 All such monthly returns shall be signed by the purchaser or operator, as  
10 the case may be, or a duly authorized agent thereof.

11 (d) The director may grant a reasonable extension of time for filing  
12 any return and remittance of taxes due under this act upon good cause  
13 shown therefor. Interest shall be charged at the rate prescribed by sub-  
14 section (a) of K.S.A. 79-2968, and amendments thereto, for the period of  
15 such extension for the remittance of taxes.

16 (e) The reporting requirements of this section shall be applicable to  
17 the severance and production in this state of all gas which is metered and  
18 all coal and oil regardless of whether the severance and production  
19 thereof is subject to or exempt from the tax imposed by K.S.A. 79-4217,  
20 and amendments thereto.

21 Sec. 3. K.S.A. 79-4220 and 79-4221 are hereby repealed.

22 Sec. 4. This act shall take effect and be in force from and after its  
23 publication in the statute book.