

HOUSE BILL No. 2775

By Committee on Taxation

Requested by Jason Watkins on behalf of the Kansas Independent Oil and Gas Association

2-12

1 AN ACT concerning taxation; relating to severance tax; providing for a
2 three-year exemption from severance tax for oil and gas wells;
3 amending K.S.A. 79-4217 and repealing the existing section.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 79-4217 is hereby amended to read as follows: 79-
7 4217. (a) There is hereby imposed an excise tax upon the severance and
8 production of coal, oil or gas from the earth or water in this state for sale,
9 transport, storage, profit or commercial use, subject to the following
10 provisions of this section. Such tax shall be borne ratably by all persons
11 within the term "producer" as such term is defined in K.S.A. 79-4216, and
12 amendments thereto, in proportion to their respective beneficial interest in
13 the coal, oil or gas severed. Such tax shall be applied equally to all
14 portions of the gross value of each barrel of oil severed and subject to such
15 tax and to the gross value of the gas severed and subject to such tax. The
16 rate of such tax shall be 8% of the gross value of all oil or gas severed
17 from the earth or water in this state and subject to the tax imposed under
18 this act. The rate of such tax with respect to coal shall be \$1 per ton. For
19 the purposes of the tax imposed hereunder the amount of oil or gas
20 produced shall be measured or determined:

21 (1) In the case of oil, by tank tables compiled to show 100% of the
22 full capacity of tanks without deduction for overage or losses in handling;
23 allowance for any reasonable and bona fide deduction for basic sediment
24 and water, and for correction of temperature to 60 degrees Fahrenheit will
25 be allowed; and if the amount of oil severed has been measured or
26 determined by tank tables compiled to show less than 100% of the full
27 capacity of tanks, such amount shall be raised to a basis of 100% for the
28 purpose of the tax imposed by this act; and

29 (2) in the case of gas, by meter readings showing 100% of the full
30 volume expressed in cubic feet at a standard base and flowing temperature
31 of 60 degrees Fahrenheit, and at the absolute pressure at which the gas is
32 sold and purchased; correction to be made for pressure according to
33 Boyle's law, and used for specific gravity according to the gravity at which
34 the gas is sold and purchased, or if not so specified, according to the test

1 made by the balance method.

2 (b) The following shall be exempt from the tax imposed under this
3 section:

4 (1) The severance and production of gas ~~which~~ *that* is:

5 (A) Injected into the earth for the purpose of lifting oil, recycling or
6 repressuring;

7 (B) used for fuel in connection with the operation and development
8 for, or production of, oil or gas in the lease or production unit where
9 severed;

10 (C) lawfully vented or flared;

11 (D) severed from a well having an average daily production during a
12 calendar month having a gross value of not more than \$87 per day, which
13 well has not been significantly curtailed by reason of mechanical failure or
14 other disruption of production; in the event that the production of gas from
15 more than one well is gauged by a common meter, eligibility for
16 exemption hereunder shall be determined by computing the gross value of
17 the average daily combined production from all such wells and dividing
18 the same by the number of wells gauged by such meter;

19 (E) inadvertently lost on the lease or production unit by reason of
20 leaks, blowouts or other accidental losses;

21 (F) used or consumed for domestic or agricultural purposes on the
22 lease or production unit from which it is severed; or

23 (G) placed in underground storage for recovery at a later date and
24 which was either originally severed outside of the state of Kansas, or as to
25 which the tax levied pursuant to this act has been paid;

26 (2) the severance and production of oil ~~which~~ *that* is:

27 (A) From a lease or production unit whose average daily production
28 is five barrels or less per producing well, which well or wells have not
29 been significantly curtailed by reason of mechanical failure or other
30 disruption of production;

31 (B) from a lease or production unit, the producing well or wells upon
32 which have a completion depth of 2,000 feet or more, and whose average
33 daily production is six barrels or less per producing well or, if the price of
34 oil as determined pursuant to subsection (d) is \$16 or less, whose average
35 daily production is seven barrels or less per producing well, or, if the price
36 of oil as determined pursuant to subsection (d) is \$15 or less, whose
37 average daily production is eight barrels or less per producing well, or, if
38 the price of oil as determined pursuant to subsection (d) is \$14 or less,
39 whose average daily production is nine barrels or less per producing well,
40 or, if the price of oil as determined pursuant to subsection (d) is \$13 or
41 less, whose average daily production is 10 barrels or less per producing
42 well, which well or wells have not been significantly curtailed by reason of
43 mechanical failure or other disruption of production;

1 (C) from a lease or production unit, whose production results from a
2 tertiary recovery process. "Tertiary recovery process" means the process or
3 processes described in subparagraphs (1) through (9) of 10 C.F.R. §
4 212.78(c) as in effect on June 1, 1979;

5 (D) from a lease or production unit, the producing well or wells upon
6 which have a completion depth of less than 2,000 feet and whose average
7 daily production resulting from a water flood process, is six barrels or less
8 per producing well, which well or wells have not been significantly
9 curtailed by reason of mechanical failure or other disruption of production;

10 (E) from a lease or production unit, the producing well or wells upon
11 which have a completion depth of 2,000 feet or more, and whose average
12 daily production resulting from a water flood process, is seven barrels or
13 less per producing well or, if the price of oil as determined pursuant to
14 subsection (d) is \$16 or less, whose average daily production is eight
15 barrels or less per producing well, or, if the price of oil as determined
16 pursuant to subsection (d) is \$15 or less, whose average daily production is
17 nine barrels or less per producing well, or, if the price of oil as determined
18 pursuant to subsection (d) is \$14 or less, whose average daily production is
19 10 barrels or less per producing well, which well or wells have not been
20 significantly curtailed by reason of mechanical failure or other disruption
21 of production;

22 (F) test, frac or swab oil ~~which~~ that is sold or exchanged for value; or

23 (G) inadvertently lost on the lease or production unit by reason of
24 leaks or other accidental means;

25 (3) (A) any taxpayer applying for an exemption pursuant to
26 subsections (b)(2)(A) and (B) shall make application biennially to the
27 director of taxation therefor. Exemptions granted pursuant to subsections
28 (b)(2)(A) and (B) shall be valid for a period of two years following the
29 date of certification thereof by the director of taxation;

30 (B) any taxpayer applying for an exemption pursuant to subsections
31 (b)(2)(D) or (E) shall make application biennially to the director of
32 taxation therefor. Such application shall be accompanied by proof of the
33 approval of an application for the utilization of a water flood process
34 therefor by the corporation commission pursuant to rules and regulations
35 adopted under the authority of K.S.A. 55-152, and amendments thereto,
36 and proof that the oil produced therefrom is kept in a separate tank battery
37 and that separate books and records are maintained therefor. Such
38 exemption shall be valid for a period of two years following the date of
39 certification thereof by the director of taxation;

40 (C) any exemption granted pursuant to subsections (b)(2)(A), (B), (D)
41 or (E) with an odd lease number and an exemption termination date
42 between June 1, 2004, and May 31, 2005, inclusive, shall be valid for a
43 period of one year following the date of certification; and

1 (D) notwithstanding the provisions of paragraph (A) or (B), any
2 exemption in effect on the effective date of this act affected by the
3 amendments to subsection (b)(2) by this act shall be redetermined in
4 accordance with such amendments. Any such exemption, and any new
5 exemption established by such amendments and applied for after the
6 effective date of this act shall be valid for a period commencing with May
7 1, 1998, and ending on April 30, 1999;

8 (4) the severance and production of gas or oil from any pool from
9 which oil or gas was first produced on or after April 1, 1983, and prior to
10 July 1, 2012, as determined by the state corporation commission and
11 certified to the director of taxation, and continuing for a period of 24
12 months from the month in which oil or gas was first produced from such
13 pool as evidenced by an affidavit of completion of a well, filed with the
14 state corporation commission and certified to the director of taxation.
15 Exemptions granted for production from any well pursuant to this
16 paragraph shall be valid for a period of 24 months following the month in
17 which oil or gas was first produced from such pool. The term "pool"
18 means an underground accumulation of oil or gas in a single and separate
19 natural reservoir characterized by a single pressure system so that
20 production from one part of the pool affects the reservoir pressure
21 throughout its extent;

22 (5) the severance and production of oil from any well within a pool
23 from which oil was first produced on or after July 1, 2012, as certified by
24 the state corporation commission to the director of taxation, and from
25 which the average daily severance and production of oil during the initial
26 six months of production from the date of first production from such
27 producing well, which well has not been significantly curtailed by reason
28 of mechanical failure or other disruption of production, does not exceed 50
29 barrels per day, and continuing for a period of 24 months from the month
30 in which oil was first produced from such pool as evidenced by an
31 affidavit of completion of a well, filed with the state corporation
32 commission and certified to the director of taxation. Exemptions granted
33 for production from any well pursuant to this subsection shall be valid for
34 a period of 24 months following the month in which oil was first produced
35 from such pool. The term "pool" means an underground accumulation of
36 oil in a single and separate natural reservoir characterized by a single
37 pressure system so that production from one part of the pool affects the
38 reservoir pressure throughout its extent. For any such well that has
39 qualified for exemption, if the average daily severance and production of
40 oil from such well exceeds 50 barrels per day within any qualifying one-
41 month production period after the initial qualifying production period, the
42 exemption for such well shall be terminated as of the commencement of
43 such one-month production period;

1 (6) the severance and production of oil or gas from a three-year
2 inactive well, as determined by the state corporation commission and
3 certified to the director of taxation, for a period of 10 years after the date
4 of receipt of such certification. As used in this paragraph, "three-year
5 inactive well" means any well that has not produced oil or gas in more
6 than one month in the three years prior to the date of application to the
7 state corporation commission for certification as a three-year inactive well.
8 An application for certification as a three-year inactive well shall be in
9 such form and contain such information as required by the state
10 corporation commission, and shall be made prior to July 1, 1996. The
11 commission may revoke a certification if information indicates that a
12 certified well was not a three-year inactive well or if other lease
13 production is credited to the certified well. Upon notice to the operator that
14 the certification for a well has been revoked, the exemption shall not be
15 applied to the production from that well from the date of revocation;

16 (7) (A) the incremental severance and production of oil or gas ~~which~~
17 *that* results from a production enhancement project begun on or after July
18 1, 1998, shall be exempt for a period of seven years from the start-up date
19 of such project. As used in this paragraph:

20 ~~(1)~~(i) "Incremental severance and production" means the amount of
21 oil or natural gas ~~which~~ *that* is produced as the result of a production
22 enhancement project ~~which~~ *that* is in excess of the base production of oil
23 or natural gas, and is determined by subtracting the base production from
24 the total monthly production after the production enhancement project is
25 completed.

26 ~~(2)~~(ii) "Base production" means the average monthly amount of
27 production for the ~~twelve-month~~ *12-month* period immediately prior to the
28 production enhancement project beginning date, minus the monthly rate of
29 production decline for the well or project for each month beginning 180
30 days prior to the project beginning date. The monthly rate of production
31 decline shall be equal to the average extrapolated monthly decline rate for
32 the well or project for the ~~twelve-month~~ *12-month* period immediately
33 prior to the production enhancement project beginning date, except that the
34 monthly rate of production decline shall be equal to zero in the case where
35 the well or project has experienced no monthly decline during the ~~twelve-~~
36 ~~month~~ *12-month* period immediately prior to the production enhancement
37 project beginning date. Such monthly rate of production decline shall be
38 continued as the decline that would have occurred except for the
39 enhancement project. Any well or project ~~which~~ *that* may have produced
40 during the ~~twelve-month~~ *12-month* period immediately prior to the
41 production enhancement project beginning date but is not capable of
42 production on the project beginning date shall have a base production
43 equal to zero. The calculation of the base production amount shall be

1 evidenced by an affidavit and supporting documentation filed by the
2 applying taxpayer with the state corporation commission.

3 ~~(3)~~(iii) "Workover" means any downhole operation in an existing oil
4 or gas well that is designed to sustain, restore or increase the production
5 rate or ultimate recovery of oil or gas, including, but not limited to,
6 acidizing, reperforation, fracture treatment, sand/paraffin/scale removal or
7 other wellbore cleanouts, casing repair, squeeze cementing, initial
8 installation, or enhancement of artificial lifts including plunger lifts, rods,
9 pumps, submersible pumps and coiled tubing velocity strings, downsizing
10 existing tubing to reduce well loading, downhole commingling, bacteria
11 treatments, polymer treatments, upgrading the size of pumping unit
12 equipment, setting bridge plugs to isolate water production zones, or any
13 combination of the aforementioned operations; "Workover" ~~shall~~ *does* not
14 mean the routine maintenance, routine repair, or like-for-like replacement
15 of downhole equipment such as rods, pumps, tubing packers or other
16 mechanical device.

17 ~~(4)~~(iv) "Production enhancement project" means performing or
18 causing to be performed the following:

- 19 ~~(i)~~(a) Workover;
- 20 ~~(ii)~~(b) recompletion to a different producing zone in the same well
21 bore, except recompletions in formations and zones subject to a state
22 corporation commission proration order;
- 23 ~~(iii)~~(c) secondary recovery projects;
- 24 ~~(iv)~~(d) addition of mechanical devices to dewater a gas or oil well;
- 25 ~~(v)~~(e) replacement or enhancement of surface equipment;
- 26 ~~(vi)~~(f) installation or enhancement of compression equipment, line
27 looping or other techniques or equipment ~~which~~ *that* increases production
28 from a well or a group of wells in a project; or
- 29 ~~(vii)~~(g) new discoveries of oil or gas ~~which~~ *that* are discovered as a
30 result of the use of new technology, including, but not limited to, three
31 dimensional seismic studies.

32 (B) The state corporation commission shall adopt rules and
33 regulations necessary to efficiently and properly administer the provisions
34 of this paragraph including rules and regulations for the qualification of
35 production enhancement projects, the procedures for determining the
36 monthly rate of production decline, criteria for determining the share of
37 incremental production attributable to each well when a production
38 enhancement project includes a group of wells, criteria for determining the
39 start-up date for any project for which an exemption is claimed, and
40 determining new qualifying technologies for the purposes of ~~subsection (b)~~
41 ~~(7)(A)(4)(vii)~~ *subparagraph (A)(iv)(g)*.

42 (C) Any taxpayer applying for an exemption pursuant to this
43 paragraph shall make application to the director of taxation. Such

1 application shall be accompanied by a state corporation commission
 2 certification that the production for which an exemption is sought results
 3 from a qualified production enhancement project and certification of the
 4 base production for the enhanced wells or group of wells, and the rate of
 5 decline to be applied to that base production. The secretary of revenue
 6 shall provide credit for any taxes paid between the project start-up date
 7 and the certification of qualifications by the commission.

8 (D) The exemptions provided for in this paragraph shall not apply for
 9 12 months beginning July 1 of the year subsequent to any calendar year
 10 during which:

11 ~~(1)~~(i) In the case of oil, the secretary of revenue determines that the
 12 weighted average price of Kansas oil at the wellhead has exceeded \$20.00
 13 per barrel; or

14 ~~(2)~~(ii) in the case of natural gas the secretary of revenue determines
 15 that the weighted average price of Kansas gas at the wellhead has
 16 exceeded \$2.50 per Mcf.

17 (E) The provisions of this paragraph shall not affect any other
 18 exemption allowable pursuant to this section; ~~and~~

19 ~~(7)~~(8) for the calendar year 1988, and any year thereafter, the
 20 severance or production of the first 350,000 tons of coal from any mine as
 21 certified by the state geological survey; *and*

22 *(9) the severance and production of oil or gas from a new oil or gas*
 23 *well shall be exempt from the tax imposed pursuant to this section for a*
 24 *period of three years beginning on the date that the well first produces oil*
 25 *or gas.*

26 (c) No exemption shall be granted pursuant to subsection (b)(3) or (4)
 27 to any person who does not have a valid operator's license issued by the
 28 state corporation commission, and no refund of tax shall be made to any
 29 taxpayer attributable to any production in a period when such taxpayer did
 30 not hold a valid operator's license issued by the state corporation
 31 commission.

32 (d) On April 15, 1988, ~~and on April 15~~ of each year ~~thereafter~~, the
 33 secretary of revenue shall determine from statistics compiled and provided
 34 by the United States department of energy, the average price per barrel
 35 paid by the first purchaser of crude oil in this state for the six-month
 36 period ending on December 31 of the preceding year. Such price shall be
 37 used for the purpose of determining exemptions allowed by subsection (b)
 38 ~~(2)(B) or (E) for the twelve-month~~ 12-month period commencing on May
 39 1 of such year and ending on April 30 of the next succeeding year.

40 Sec. 2. K.S.A. 79-4217 is hereby repealed.

41 Sec. 3. This act shall take effect and be in force from and after its
 42 publication in the statute book.