

CHAPTER SIX
OIL & GAS SEVERANCE TAX

Section 601-Definitions:

(a) "Gas" means all gas, natural gas, casinghead gas, and other valuable gaseous substances except vaporized water.

(b) "Gross Well Value" means the total of the Oil and /or Gas sales for an individual well during a Report Period.

(c) "Lease" means an instrument approved by the United States conveying a possessory interest in land, and/or mineral estate thereof, held in trust by the United States for an Indian or tribe within the jurisdiction of the tribe.

(d) "Lessee" means any person holding a possessory interest in or owning mineral production operating rights in a Lease or record title to the mineral estate of lands within the tribe's jurisdiction.

(e) "Lessor" means any person holding legal or beneficial title to the mineral estate of lands within the Wichita and Affiliated Tribes' jurisdiction

(f) "Oil" means petroleum, crude or mineral oil, and other valuable liquid substances except water.

(g) "Operator" means any person or entity who holds a right to mineral production or is responsible for mineral production from land held in trust by the United States within Wichita and Affiliated Tribes' jurisdiction and includes an operator for the purposes of 43 C.F.R. Part 3160 (i.e., any person, including but not limited to the lessee, who has stated in writing to the authorized officer that it is responsible under the terms and conditions of the lease for the operations conducted on the leased lands or a portion thereof).

(h) "Percentage of Indian Interest" means the percentage of the lease (or pooling agreement or order) that falls within the Wichita and Affiliated Tribes' jurisdiction.

(i) "Person" means any individual, firm, corporation, association, partnership, consortium, joint venture, trust, or estate.

(j) "Production Period" is the calendar month in which production occurred, inclusive of the first and last day of the month.

(k) "Purchaser" means any person who is the first purchaser of products after severance from a production unit.

(l) "Reporting Period" means the calendar month immediately following the Production Period.

(m) "Stripper Well" means the final state in the life of a producing well.

(n) "Taxable Value" means the value of Indian interest less the value of exempt Indian interest.

(o) "Value of Exempt Indian Interest" means the value of the royalties paid on the Indian interest. The exempt Indian interest is derived by multiplying the royalty rate paid under the Lease by the Value of Indian interest.

(p) "Value of Indian Interest" means the percentage of Gross Well Value attributable to leases within the Wichita and Affiliated Tribes' jurisdiction. The Value of Indian Interest is derived by multiplying the percentage of Indian Interest by the Gross Well Value.

(q) "Tax Commission" means Wichita and Affiliated Tribes' Tax Commission.

Section 602-Tax Levied on Oil:

There is hereby levied a tax equal to eight percent (8%) of the taxable value of all Oil (including condensate) produced, severed, saved, or removed from any land within the jurisdiction of the Wichita and Affiliated Tribes.

Section 603-Tax Levied on Gas:

There is hereby levied a tax equal to eight percent (8%) of the taxable value of all gas, (including associated natural gas liquids), produced, severed, saved, or removed from any land within the jurisdiction of the Wichita and Affiliated Tribes.

Section 604-Liability of Taxpayer:

The Lessee, including Lessee's successors in interest, shall be liable for all taxes herein imposed. The Lessee shall be ultimately responsible for the remittance of said taxes and for the filing of a monthly Remittance Report as set forth in Section 608. As set forth in Section 605, the Tax Commission may, in its sole discretion, authorize a substitute taxpayer (e.g., an unaffiliated Operator); provided, that such authorization shall not relieve the Lessee of the ultimate responsibility of ensuring that the monthly reporting obligation is met and that the monthly taxes are paid in the correct amount and in a timely fashion.

Section 605-Substitute Taxpayer:

Upon written approval of the agreement by the Tax Commission, the Lessee may enter into an agreement with a third party, including but not limited to the Operator, the Purchaser, or sub-lessee, whereby the third party agrees to file the Remittance Report and remit taxes due.

Section 606--Due Date of Tax:

The taxes imposed by this Part are levied at the time the taxed substances are produced, severed, saved or removed from the land and shall be due and payable monthly as provided by Section 607.

Section 607--Payment of Tax:

(a) Payment of severance taxes herein imposed shall be made monthly on or before the last business day of the Reporting Period.

(b) Any payment not made when payable as provided herein shall be considered late and incur a late penalty as set forth in the rules and regulations of the Tax Commission.

(c) In addition to any penalty incurred, any payment not made when payable as provided herein shall be considered late and interest shall accrue on the amount of tax due as set forth in the rules and regulations of the Tax Commission.

(d) A payment may be made late without incurring a penalty or accruing interest only if the Tax Commission has provided a written extension of time for payment.

Section 608 --Required Reporting:

(a) Taxpayers are required to submit a monthly Remittance Report on a form authorized by the Tax Commission and available from the Tax Commission.

(b) All information requested on the form must be completed and accurate for the form to be regarded as properly filed.

(c) Remittance Reports are to be filed monthly on or before the last business day of the reporting period and are to be filed in conjunction with the taxes due as set forth in Section 607.

(d) Any Remittance Report not properly and timely filed shall be considered late and incur a late penalty as set forth in the rules and regulations of the Tax Commission.

(e) A Remittance Report may be filed late without incurring a penalty only if the Tax Commission has provided a written extension of time for payment.

Section 609--Incidence of Tax: Forfeiture for Nonpayment:

(a) The incidence of the tax herein imposed shall be upon the Lessee and Lessee's successors in interest, and the taxes herein imposed shall be a lien upon the interest of such Lessee and Lessee's successor in interest in the lease from which the taxable substances were produced. Such lien may be foreclosed and the interest of the Lessee (of successor) may be forfeited and sold for nonpayment of taxes when such taxes remain unpaid in excess of sixty (60) days after the due date for filing of the taxes as required in this Part.

(b) At least thirty (30) days prior to commencement of any forfeiture proceedings, the Tax Commission will serve notice to all persons known from Tribal, Bureau of Indian Affairs, Bureau of Land Management, Minerals Management Service, or United States Geological Survey records to have an interest in such leasehold of the amount of the taxes due and unpaid, the intent of the Tax Commission to institute forfeiture proceedings, and the right of any of such persons to pay the taxes due on behalf of the Lessee and recover such payment from him by civil suit. Such notice will be served personally by the Tribal or Bureau of Indian Affairs police, or by certified United States mail, deliverable to addressee only, return receipt requested, or in any other manner in which a summons may be served. Publication notice may be held upon order of the Tribal Court for good cause shown. Publication notice will be published at least once each full calendar week during the thirty (30) day waiting period in a newspaper in general circulation in Caddo County, Oklahoma and as may be further ordered by the Tribal Court.

Section 610-Payment Bonds:

(a) The Tax Commission may require any person responsible for remitting taxes under this Part to post a cash or surety bond with the Tax Commission, or pledge other cash equivalent security to the Tax Commission to guarantee payment of taxes due. Such deposit, bond, or other security does not negate the taxpayer's responsibility for timely payment of taxes due or operate as an extension of time for payment of the taxpayer's taxes in order to avoid penalty or interest. In the event that the Tax Commission has authorized a taxpayer other than the Lessee as set forth in Section 605, such authorization shall not relieve the Lessee of the ultimate responsibility of ensuring that the payment bond is posted.

(b) Such bond shall be in an amount determined by the Tax Commission, provided that the amount of such bond shall not exceed the total estimated taxes that will be due in the twelve (12) month period immediately following the giving of such deposit, bond or surety.

Section 611-Tax Commission May Determine Value of Products:

(a) The Tax Commission may determine the value of products herein subject to taxation under the following circumstances:

- (1) Lessee or Operator fails to report;
- (2) Lessee or Operator files any report containing misrepresentations, or inaccurate or fraudulent information;
- (3) Lessee or Operator and purchaser are affiliated or related persons;
- (4) The sale and purchase of Oil or Gas is not an arm's length transaction; or
- (5) Oil or Gas is severed and removed from the Lease site and a price is not established for such products (e.g., taken in-kind or for storage).

(b) The Tax Commission may estimate the value of Oil or Gas severed during a Production Period under subsection (a) above by reference to reliable sources of market value for Oil or Gas with similar quality and character or by any method utilized by any federal minerals management agency for determining the market value of Oil or Gas produced from federal lands in Oklahoma.

Section 612-Tax Commission May Audit, Correct and File Reports:

(a) The Tax Commission shall have the power and authority to ascertain and determine whether or not any report herein required to be filed is a true and correct report of any and all information contained therein.

(b) If any person has made a false or incorrect report of any information, or has failed or refused to make a required report, the Tax Commission shall, under rules and regulations prescribed by it, ascertain the correct information and compute said tax.

(c) The Tax Commission is specifically authorized to:

(1) Conduct an on-site audit of the Lessee's or Operator's facilities or offices, wherever located,

(2) Obtain such records as may be available from the Lessee or Operator; or

(3) Obtain such records as may be available from the Bureau of Land Management, the Bureau of Indian Affairs, the United States Geological Survey, the Oklahoma Tax Commission, and/or the Oklahoma Corporation Commission or consider other reputable information.

Section 613-Requirement to Provide Information:

(a) Every Operator must file with the Tax Commission copies of those forms filed with the designated federal agencies as specified by the Tax Commission in its rules and regulations.

(b) The Lessee/and or Operator shall notify the Tax Commission of any change in name, address, or interest holder within thirty (30) days of such event.

(c) The Lessee or Operator shall not be relieved of liability for taxes due hereunder, not entitled to release of any deposit, bond, or security until the Lessee or Operator notifies the Tax Commission in writing of the name and address of any successor in interest and such successor shall post any security required by Section 610.

(d) The Tax Commission may impose a civil penalty of up to \$5,000 upon any Lessee or Operator for the failure to abide by the provisions of this Section.

Section 614- Requirement to Obtain A License:

(a) Every person desiring to obtain the right to produce minerals, or any Lessee having obtained the right to produce minerals, from an Indian or tribal landowner within the Wichita and

Affiliated Tribes' jurisdiction must apply for and receive from the Wichita Tax Commission a "Leasing License" prior to entering into or continuing any agreement for such rights, which shall be required regardless of other business-specific licensure requirements. Forms for such application and license shall be provided by the Tax Commission.

(b) Every Operator, if different from Lessee, desiring or having obtained the right to engage in oil and gas production within the Wichita and Affiliated Tribes' jurisdiction must apply for and receive from the Wichita Tax Commission an "Oil and Gas Production License" prior to establishing or continuing any oil and gas production, which shall be required regardless of other business-specific licensure requirements. Forms for such application and license shall be provided by the Tax Commission,

Section 615-Application for License:

(a) The Tax Administrator shall determine whether to grant or renew an application for a Leasing License or for and Oil and Gas Production License.

(b) Failure of the Tax Administrator to grant or renew a license within ten (10) business days of an application's submission to the Tax Commission shall be considered a denial of the application. The Tax Administrator's denial of a license, whether by action or inaction, shall entitle the applicant to the appeal process provided by Chapter 1, Section 26 of the General Revenue and Taxation Act.

Section 616-License Fee:

A license fee of one hundred dollars (\$100.00) shall be paid for each new or renewal license issued. In the event that the application for a license is denied, the applicant shall receive a full refund of the license fee unless he or she is delinquent on any outstanding taxes in which case the license fee shall be applied to those taxes.

Section 617-License Duration; License Non-Transferable and Non-Assignable:

A Leasing License and an Oil and Gas Production License shall each be valid for one calendar year from the date of issuance and shall not be transferable or refundable.

Section 618 -Requirement to Permit Inspection:

(a) Every Lessee and/or Operator shall permit properly identified Tax Commission representatives to enter upon, travel across and inspect the production sites and records normally kept on the leased premises pertinent thereto without advance notice and shall include access to secured facilities on such production sites for the purpose of making any inspection, determination, or audit for determining whether there is compliance with this Part, the regulations related thereto, and/or any applicable orders, notices, or directives of the Tax Commission.

(b) Inspections may be made during the daylight hours or conducted during those hours when responsible persons are expected to be present at the production site being inspected.

Section 619-- Requirement to Maintain Records:

Any records generated under this Part shall be maintained for a period of five (5) years from the date they were generated or, if notified by the Tax Commission that such records are involved in an audit or investigation, the records shall be maintained until the record holder is released by the Tax Commission from the obligation to maintain them.

Section 620-- Severance in Lieu of Other Taxes:

The taxes levied by Sections 602 and 603 on oil and gas, respectively, shall be in lieu of all sales taxes on the first sale of such oil and gas imposed by law, and of any possessory interest taxes on said leasehold attributable to the period during which the oil and gas lease is in production.

Section 621--Exclusion from Taxation:

(a) The royalty interest of an Indian or Tribal Lessor of trust or restricted mineral estate shall be exempted from taxes imposed by this Part and such interest shall be known as the "Exempt Indian Interest."

(b) The value of the Oil and Gas Production attributable to the Exempt Indian Interest shall be accounted for in all Remittance Reports.

Section 622- Refunds and Appeals:

Refunds of the taxes imposed herein and appeals of decisions of the Tax Commission shall be governed by Chapter One of the General Revenue and Taxation Act and by the Rules and Regulations of the Wichita Tax Commission.

Section 623--Stripper Well Exemption:

There will be no exemption for stripper well production.