SEVERANCE TAX ON OIL OR GAS
Act 48 of 1929

AN ACT levying a specific tax to be known as the severance tax upon all producers engaged in the business of severing oil and gas from the soil; prescribing the method of collecting the tax; requiring all producers of such products or purchasers thereof to make reports; to provide penalties; to provide exemptions and refunds; to prescribe the disposition of the funds so collected; and to exempt those paying such specific tax from certain other taxes.

History: 1929, Act 48, Eff. Aug. 28, 1929;—Am. 1965, Act 299, Imd. Eff. July 22, 1965.

The People of the State of Michigan enact:

205.301 Severance tax on oil or gas.

Sec. 1. There is hereby levied upon each producer engaged in the business of severing from the soil, oil or gas, a specific tax to be known as the severance tax.

History: 1929, Act 48, Eff. Aug. 28, 1929;—CL 1929, 3604;—CL 1948, 205.301;—Am. 1965, Act 299, Imd. Eff. July 22, 1965.

205.302 Monthly reports; contents, form.

Sec. 2. (1) Every corporation, association, person, common carrier, pipe line company or common purchaser, who shall receive or purchase or transport any such oil or gas, shall make a report on or before the twenty-fifth day of each month in the form and manner required by the department of revenue, showing the total amount of such oil and gas received, purchased, stored or transported during the preceding month, and the actual market value thereof at the time it is received, purchased, stored or transported, and such other information as may be required by the department.

(2) Each producer, when requested by the department, shall file such report in the form and manner required by the department.

History: 1929, Act 48, Eff. Aug. 28, 1929;—CL 1929, 3605;—CL 1948, 205.302;—Am. 1965, Act 299, Imd. Eff. July 22, 1965.

205.303 Severance tax; rate; computing value of production; payment; lien; withholding; deduction; reimbursement; exception; carbon dioxide secondary or enhanced recovery projects.

Sec. 3. (1) Except as provided in subsections (2), (3), and (4), the severance tax required to be paid by each producer at the time of rendering each monthly report, or by a pipeline company, common carrier, or common purchaser, for and on behalf of a producer, shall be in the amount of 5% of the gross cash market value of the total production of gas or 6.6% of the gross cash market value of the total production of oil during the preceding monthly period, exclusive of the production or proceeds from the production attributable to this state, the government of the United States, or a political subdivision of this state or government of the United States. The value of all production shall be computed as of the time when and at the place where the production was severed or taken from the soil immediately after the severance. Except as otherwise provided in this section, the payment of the severance tax shall be required of each producer. If the production is sold or delivered to a pipeline company and is transported by the pipeline company through lines connected with the oil or gas well of the owner, or of a common purchaser, the pipeline company, or common purchaser shall receive and accept all the oil and gas, subject to a lien, and the pipeline company shall withhold out of the proceeds or price to be paid for the products severed, the proportionate parts of the tax due by the respective owners of the oil and gas at the time of severance and, at the time required for the filing of the monthly reports required in section 2, shall pay to the department of treasury all the tax money collected or withheld. Each pipeline company, common carrier, or common purchaser shall deduct from the purchase price paid to a producer from whom it may receive the oil or gas the amount of the severance tax levied in this section before making the payment. If under the terms of a contract the pipeline company, common carrier, or common purchaser is required to reimburse a producer of oil or gas for the amount of the severance tax or a part of the severance tax, the tax reimbursement shall not be considered a part of the gross cash market value of the total production of the oil or gas.

(2) The severance tax required to be paid by each producer at the time of rendering each monthly report, or by a pipeline company, common carrier, or common purchaser, for and on behalf of a producer, on stripper well crude oil, as defined in former section 8 of the emergency petroleum allocation act of 1973, 15 USC 757 and on crude oil from marginal properties as defined in former part 212, subpart D, of chapter II of title 10 of the code of federal regulations 10 CFR 212.72 to 212.77, shall be in the amount of 4% of the gross cash market value of the total production of the oil, during the preceding monthly period, exclusive of the

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production or proceeds from the production attributable to this state, the government of the United States, or a political subdivision of this state or government of the United States. The value of all production shall be computed as of the time when and at the place where the production was severed or taken from the soil immediately after the severance.

(3) A producer is not required to pay a severance tax on income received from the hydrocarbons produced from devonian or antrim shale qualifying for the nonconventional fuel credit contained in section 45k of the internal revenue code, 26 USC 45k and acquired pursuant to a royalty interest sold by this state under section 503 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503.

(4) For carbon dioxide secondary or enhanced recovery projects approved after March 30, 2014, the severance tax required to be paid by each producer at the time of rendering each monthly report, on oil or gas produced from a carbon dioxide secondary or enhanced recovery project, shall be 4.0% of the gross cash market value for oil and 4.0% of the gross cash market value for gas. This subsection does not apply to a producer convicted of an antitrust violation or conspiracy to commit an antitrust violation that is a crime under the laws of this state.

History: 1929, Act 48, Eff. Aug. 28, 1929;—CL 1929, 3606;—CL 1948, 205.303;—Am. 1965, Act 299, Imd. Eff. July 22, 1965;—Am. 1975, Act 5, Imd. Eff. Mar. 25, 1975;—Am. 1979, Act 198, Eff. Jan. 1, 1980;—Am. 1996, Act 135, Imd. Eff. Mar. 19, 1996;—Am. 2014, Act 82, Imd. Eff. Apr. 1, 2014.

205.304 Production record, keeping, open to inspection; penalty.

Sec. 4. Each corporation, association or person mentioned and included in sections 1 and 2 of this act shall make, keep and preserve a full and complete record of all such oil produced in this state during the time so engaged in its production, and said record shall be open at all times to the inspection of the Michigan tax commission. Any corporation, association or person failing to comply with this requirement shall be subject to a penalty of not less than 500 and not more than 1,500 dollars payable to the state of Michigan, and such penalty shall accrue for each 20 days of failure to comply with this section with reference to each separate oil or gas well.

History: 1929, Act 48, Eff. Aug. 28, 1929;—CL 1929, 3607;—CL 1948, 205.304.

205.305 Report, contents.

Sec. 5. In each report required to be made by this act, such corporation, association or person making the same shall show in detail the disposition made of any such oil or gas. Said report shall show to whom any such oil or gas was sold or delivered to each, and shall show the name and location of the person, refinery, pipe line establishment, plant, factory, railroad, institution or place to which or to whom delivery was made.

History: 1929, Act 48, Eff. Aug. 28, 1929;—CL 1929, 3608;—CL 1948, 205.305.

205.306 Administration of tax; conflicting provisions; rules; statute of limitations; assignment of claim against state prohibited.

Sec. 6. (1) The tax imposed by this act shall be administered by the revenue commissioner of the department of treasury, under Act No. 122 of the Public Acts of 1941, as amended, being sections 205.1 to 205.19 of the Michigan Compiled Laws, and this act. In case of conflict between Act No. 122 of the Public Acts of 1941, as amended, and this act, the provisions of this act shall prevail.

(2) Rules shall be promulgated under this act pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(3) A deficiency, interest, or penalty shall not be assessed after the expiration of 4 years after the date set for the filing of the required return or the date the return was filed, whichever is later. The taxpayer shall not claim refund of any amount paid to the department after the expiration of 4 years after the date of the payment. A taxpayer shall not assign a claim against the state to any other person. If a person subject to tax under this act fraudulently conceals any liability for the tax or a part of the tax, the commissioner, upon discovery of the fraud and within 2 years thereafter, shall proceed to assess the tax with penalties and interest as provided, computed from the date on which the tax liability originally accrued and the tax, penalties, and interest shall become due and payable after notice and hearing as provided.

(4) The running of the statute of limitations shall be suspended for:

(a) The period pending a final determination of tax after issuance of a notice of intent.

(b) A period which the taxpayer and the commissioner consent to in writing.

History: 1929, Act 48, Eff. Aug. 28, 1929;—CL 1929, 3609;—CL 1948, 205.306;—Am. 1975, Act 5, Imd. Eff. Mar. 25, 1975;—Am. 1980, Act 166, Eff. Sept. 17, 1980.

205.307-205.309 Repealed. 1980, Act 166, Eff. Sept. 17, 1980.

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Compiler's note: The repealed sections pertained to failure to file return, report, or remittance, and to liens.

205.310 Injunction.

Sec. 10. Upon a bill being filed under the direction of the attorney general in the circuit court for the county of Ingham, that court shall have power to restrain by injunction, any corporation, association or person who has failed to comply with any of the provisions of this act and in the same manner to restrain any corporation, association or person from continuing to produce oil or gas while delinquent in the filing of any report or the paying of any tax, penalty or cost required under the provisions of this act.

History: 1929, Act 48, Eff. Aug. 28, 1929;—CL 1929, 3613;—CL 1948, 205.310.

205.311 “Oil” and “gas” defined.

Sec. 11. (1) The word "oil" as used in this act means petroleum oil, mineral oil, or other oil taken from the earth.

(2) "Gas" as used in this act does not include methane gas extracted from a landfill.

History: 1929, Act 48, Eff. Aug. 28, 1929;—CL 1929, 3614;—CL 1948, 205.311;—Am. 1989, Act 126, Imd. Eff. June 28, 1989.

205.311a "Carbon dioxide secondary or enhanced recovery project" defined.

Sec. 11a. As used in this act, "carbon dioxide secondary or enhanced recovery project" means operations designed to increase the amount of oil or gas recoverable from a reservoir by injection of carbon dioxide, either alone or as a primary component of a mixture with other substances, provided the project has been approved as a secondary or enhanced recovery project by order of the supervisor of wells under the authority of part 615 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.61501 to 324.61527, or part 617 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.61701 to 324.61738.

History: Add. 2014, Act 82, Imd. Eff. Apr. 1, 2014.

205.312 “Person” and “producer” defined.

Sec. 12. (1) "Person" as used in this act shall include any person, firm, concern, receiver, receivers, trustee, executor, administrator, agent, institution, association, partnership, company, corporations, and persons acting under declarations of trust.

(2) "Producer" as used in this act means a person who owns, or is entitled to delivery of a share in kind or a share of the monetary proceeds from the sale of, gas or oil as of the time of its production or severance.

History: 1929, Act 48, Eff. Aug. 28, 1929;—CL 1929, 3615;—CL 1948, 205.312;—Am. 1965, Act 299, Imd. Eff. July 22, 1965.

205.313 Receipt; contents.

Sec. 13. Any corporation, association or person paying any tax, penalty or cost under the provisions of this act, to the state tax commission shall be entitled to a receipt for the same, showing the time of payment and the purpose for which paid.

History: 1929, Act 48, Eff. Aug. 28, 1929;—CL 1929, 3616;—CL 1948, 205.313.

205.314 Taxes to accompany report; disposition of taxes, penalties, and costs; payment of credits for heating fuel costs.

Sec. 14. (1) All taxes shall accompany the report provided for in section 2. Except as provided in subsection (2), all taxes, penalties, or costs paid to the state treasurer under this act shall be paid into the state treasury and shall be credited as follows:

(a) Two percent of the revenue received during each fiscal year, but not less than $1,000,000.00 shall be credited to the orphan well fund created in the orphan well fund act. However, whenever the unexpended balance of the orphan well fund exceeds $3,000,000.00, further revenues shall not be credited to the orphan well fund under this subdivision until the unexpended balance of the orphan well fund becomes less than $3,000,000.00.

(b) The remaining revenue received during each fiscal year that is not allocated pursuant to subdivision (a) shall be credited to the general fund of the state and shall be available for any purpose for which the general fund is made available by law.

(2) The revenue collected under subsection (1) in excess of $16,000,000.00, shall be deposited in the general fund and shall be allocated for the payment of credits for heating fuel costs provided under section 527a of Act No. 281 of the Public Acts of 1967, being section 206.527a of the Michigan Compiled Laws, for the fiscal year ending September 30, 1980 only.

History: 1929, Act 48, Eff. Aug. 28, 1929;—CL 1929, 3617;—Am. 1939, Act 124, Imd. Eff. May 23, 1939;—Am. 1941, Act 301,

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Eff. Jan. 10, 1942;—Am. 1947, Act 321, Imd. Eff. July 1, 1947;—CL 1948, 205.314;—Am. 1979, Act 198, Eff. Jan. 1, 1980;—Am. 1994, Act 307, Eff. Oct. 1, 1994.

205.315 In lieu of other taxes; exceptions.

Sec. 15. The severance tax herein provided for shall be in lieu of all other taxes, state or local, upon the oil or gas, the property rights attached thereto or inherent therein, or the values created thereby; upon all leases or the rights to develop and operate any lands of this state for oil or gas, the values created thereby and the property rights attached to or inherent therein: Provided, however, Nothing herein contained shall in anywise exempt the machinery, appliances, pipe lines, tanks and other equipment used in the development or operation of said leases, or used to transmit or transport the said oil or gas: And provided further, That nothing herein contained shall in anywise relieve any corporation or association from the payment of any franchise or privilege taxes required by the provisions of the state corporation laws.

History: 1929, Act 48, Eff. Aug. 28, 1929;—CL 1929, 3618;—CL 1948, 205.315.

205.316 Repealed. 1980, Act 166, Eff. Sept. 17, 1980.

Compiler's note: The repealed section pertained to overpayments.

205.317 Information as to production; availability, conditions.

Sec. 17. The department of revenue may provide information to any person as to the quantities of oil or gas purchased or reported when the department is satisfied that the information will be used for public or petroleum industry educational or research purposes.

History: Add. 1965, Act 299, Imd. Eff. July 22, 1965.

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