

TAX CODE

TITLE 2. STATE TAXATION

SUBTITLE I. SEVERANCE TAXES

CHAPTER 202. OIL PRODUCTION TAX

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 202.001. DEFINITIONS. In this chapter:

(1) "Carrier" means a person who owns, operates, or manages a means of transporting oil.

(2) "First purchaser" means a person who purchases crude oil from a producer.

(3) "Oil" means crude oil or other oil taken from the earth, regardless of the gravity of the oil.

(4) "Producer" means a person who takes oil from the earth or water in any manner, a person who owns, controls, manages, or leases an oil well, or a person who owns an interest, including a royalty interest, in oil or its value, whether the oil is produced by the person owning the interest or by another on his behalf by lease, contract, or any other arrangement.

(5) "Royalty interest" means an interest in mineral rights in a producing leasehold in the state, but does not include the interest of a person having the management and operation of a well.

(6) "Subsequent purchaser" means a person who purchases oil from a person other than the producer of the oil, or a person operating a reclamation plant, topping plant, treating plant, refinery, or processing plant.

Acts 1981, 67th Leg., p. 1736, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.002. PRODUCTION AND MEASUREMENT OF OIL. (a) "Production" means the total gross amount of oil produced, including royalty and other interests.

(b) The amount of production shall be measured or determined by:

(1) tank tables compiled to show 100 percent of the capacity of the tanks without deduction for overage or losses in

handling; or

(2) meter or other measuring devices that accurately determine the amount of production.

(c) If the amount of production has been measured or determined by a tank table compiled to show less than 100 percent of the full capacity of a tank, the amount must be raised to a basis of 100 percent.

(d) When measuring or determining the amount of production, a reasonable deduction may be made for basic sediment and water and a reasonable allowance may be made for correction of the temperature to 60 degrees Fahrenheit.

(e) This section does not authorize the use of metering devices for the measurement of oil on a well without the express permission of the operator of the well.

Acts 1981, 67th Leg., p. 1736, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.003. AGREEMENT TO PAY TAX NOT IMPAIRED. This code does not impair a contract in which any person has agreed to pay any part of the tax imposed by this chapter. This code does not relieve any person of any contractual liability.

Acts 1981, 67th Leg., p. 1737, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.004. INSPECTION OF RECORDS AND REPORTS. A person required by this chapter to make and keep a record shall keep the record open for inspection by the comptroller or the attorney general at all times. Reports filed under this chapter are open to inspection by the attorney general.

Acts 1981, 67th Leg., p. 1737, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.005. EMPLOYMENT OF AUDITORS. The comptroller may employ auditors and supervisors to verify reports and investigate the affairs of producers and purchasers to determine whether the tax imposed by this chapter is being properly reported and paid.

Acts 1981, 67th Leg., p. 1737, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.006. TAXPAYER IDENTIFICATION NUMBER. (a) Except as otherwise provided by Subsection (b), each producer must obtain

a taxpayer identification number from the comptroller.

(b) A producer whose only ownership interest in the oil is a royalty interest must obtain a tax identification number from the comptroller only if the producer has elected to take the producer's share of production in kind or if the comptroller determines that the producer's activity or interest requires that a number be assigned to protect the state's interest in the tax attributable to the producer.

Added by Acts 1993, 73rd Leg., ch. 587, Sec. 33, eff. Jan. 1, 1994.

SUBCHAPTER B. TAX IMPOSED

Sec. 202.051. TAX IMPOSED. There is imposed a tax on the production of oil.

Acts 1981, 67th Leg., p. 1737, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.052. RATE OF TAX. (a) The tax imposed by this chapter is at the rate of 4.6 percent of the market value of oil produced in this state or 4.6 cents for each barrel of 42 standard gallons of oil produced in this state, whichever rate results in the greater amount of tax.

(b) For oil produced in this state from a new or expanded enhanced recovery project that qualifies under Section 202.054 of this code, the rate of the tax imposed by this chapter is 2.3 percent of the market value of the oil.

(c) The exemptions described by Sections 202.056, 202.059, and 202.060 apply to oil produced in this state from a well that qualifies under Section 202.056, 202.059, or 202.060, subject to the certifications and approvals required by those sections.

Acts 1981, 67th Leg., p. 1737, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1989, 71st Leg., ch. 795, Sec. 1, eff. Sept. 1,

1989; Acts 1991, 72nd Leg., ch. 604, Sec. 1, eff. Sept. 1, 1991;

Acts 1993, 73rd Leg., ch. 1015, Sec. 1, eff. Sept. 1, 1993; Acts

1995, 74th Leg., ch. 989, Sec. 4, eff. Jan. 1, 1996.

Amended by:

Acts 2005, 79th Leg., Ch. 267 (H.B. 2161), Sec. 11, eff. January 1, 2006.

Sec. 202.053. MARKET VALUE. The market value of oil is the actual market value plus any bonus, premium, or other thing of value paid for the oil or that the oil will reasonably bring if lawfully produced.

Acts 1981, 67th Leg., p. 1737, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.054. QUALIFICATION OF OIL FROM NEW OR EXPANDED ENHANCED RECOVERY PROJECT FOR SPECIAL TAX RATE. (a) In this section:

(1) "Active operation" means the start and continuation of a fluid injection program for a secondary or tertiary recovery project to enhance the displacement process in the reservoir.

(2) "Commission" means the Railroad Commission of Texas.

(3) "Enhanced recovery project" means the use of any process for the displacement of oil from the earth other than primary recovery and includes the use of an immiscible, miscible, chemical, thermal, or biological process and any co-production project.

(4) "Existing enhanced recovery project" means an enhanced recovery project that began active operations before September 1, 1989.

(5) "Expanded enhanced recovery project" or "expansion" means the addition of injection and producing wells, the change of injection pattern, or other operating changes to an existing enhanced oil recovery project that will result in the recovery of oil that would not otherwise be recovered.

(6) "Incremental production" means the volume of oil produced by an expanded enhanced recovery project in excess of the production decline rate established under conditions before expansion for an existing enhanced recovery project.

(7) "Operator" means the person responsible for the actual physical operation of an enhanced recovery project.

(8) "Positive production response" means that the rate of oil production from the wells affected by an enhanced recovery

project is greater than the rate that would have occurred without the project.

(9) "Primary recovery" means the displacement of oil from the earth into the well bore by means of the natural pressure of the oil reservoir, including artificial lift.

(10) "Production decline rate" means the projected future oil production from a project area as extrapolated by a method approved by the commission.

(11) "Recovered oil tax rate" means the tax rate provided by Section 202.052(b) of this code.

(12) "Secondary recovery project" means an enhanced recovery project that is not a tertiary recovery project.

(13) "Tertiary recovery project" means an enhanced recovery project using a tertiary recovery method listed in the federal June 1979 energy regulations referred to in Section 4993, Internal Revenue Code of 1986, or approved by the United States secretary of the treasury for purposes of administering Section 4993, Internal Revenue Code of 1986, without regard to whether that section remains in effect.

(14) "Co-production project" means an enhanced recovery project in which water is permanently removed from an oil and/or gas reservoir in an effort to lower the gas-water or oil-water contact in the reservoir or to reduce reservoir pressure to recover entrained hydrocarbons from the reservoir that would not be produced by conventional primary or secondary production methods.

(15) "Commission approved co-production project" means a reservoir development project in which the commission has recognized that water withdrawals from an oil or gas reservoir in excess of specified minimum volumes will result in recovery of additional oil and/or gas from the reservoir that would not be produced by conventional production methods and where operators in the field have begun to implement commission requirements to withdraw such volumes of water and dispose of such water outside the subject reservoir. Reservoirs potentially eligible for this designation shall be limited to those reservoirs in which oil and/or gas has been bypassed by water encroachment caused by

production from the reservoir and such bypassed oil and/or gas may be produced as a result of fieldwide high-volume water withdrawals of natural formation water.

(16) "High-volume water withdrawals" means the withdrawal of water from a reservoir in an amount sufficient to dewater portions of the reservoir containing oil and/or gas previously bypassed by water encroachment.

(b) Oil produced from an enhanced recovery project other than a co-production project qualifies for the recovered oil tax rate if, before the project begins active operation, the commission approves the project and designates the area to be affected by the project. The incremental production from an expanded enhanced recovery project other than a co-production project qualifies for the recovered oil tax rate if, before the expansion begins, the commission approves the expansion and designates the area to be affected by the expansion. For a new or expanded enhanced recovery project, other than a co-production project, for which an application for approval under this section is filed with the commission on or after January 1, 1994, severance tax for all oil produced during the period from January 1, 1994, through August 31, 1995, to which the recovered tax rate is applicable, must be paid when due at the rate provided by Section 202.052(a) of this code. On or after January 1, 1996, the payor may apply to the comptroller for and shall be entitled to receive a tax credit equal to the difference between the tax paid and the tax which would have been due at the recovered oil tax rate for all production to which the recovered tax rate is applicable during the period from January 1, 1994, through August 31, 1995. The tax credit may be applied to either oil or gas severance taxes regardless of the field from which the production originates. Oil produced from a commission approved co-production project, whether a new enhanced recovery project or an expanded enhanced recovery project, qualifies for the recovered oil tax rate following commission certification of a positive production response without regard to whether the commission approval is before or after the project began active operations; provided, however, tax must be paid when due at the rate provided in Section 202.052(a) of this code for all oil produced on or before

July 31, 1995. On or after September 1, 1995, the operator may apply to the comptroller for a refund and shall be entitled to receive a refund equal to the difference between the tax paid on all oil produced from a commission approved co-production project after commission certification of a positive production response and the tax due at the recovered oil tax rate for all oil produced after commission certification of a positive production response from such co-production project. The operator of a proposed project or a proposed expansion may apply to the commission for approval of the project or expansion under this section. The commission may require an applicant to provide the commission with any relevant information required to administer this section. If approval by the commission of a unitization agreement under Subchapter B, Chapter 101, Natural Resources Code, is required for purposes of carrying out the project or expansion, the commission may not approve the project or expansion unless it approves the unitization agreement. A person may apply for approval of a proposed enhanced recovery project or a proposed expansion under this subsection concurrently with an application for approval of a unitization agreement for purposes of carrying out the enhanced recovery project or expansion under Section 101.011, Natural Resources Code, or with an application for certification of the project or expansion as a tertiary recovery project for purposes of Section 4993, Internal Revenue Code of 1986, or may make a separate application for approval.

(c) This section applies to an enhanced recovery project that begins active operation on or after September 1, 1989, and to an expansion that the commission approves on or after September 1, 1991. An application for approval under this section must be filed on or after September 1, 1989, for a new enhanced recovery project. An application for approval under this section must be filed on or after September 1, 1991, for an expansion of an existing enhanced recovery project. A project may not qualify as an expansion if the project has qualified as a new enhanced recovery project under this section. An application may be filed on or after September 1, 1989, even if a separate application for approval of the project or expansion has already been filed under Subchapter B, Chapter 101,

Natural Resources Code, or for approval as a tertiary recovery project for purposes of Section 4993, Internal Revenue Code of 1986, if the operation of a new project or the expansion of an existing project, other than a co-production project, does not begin before the application for approval under this section is approved by the commission; provided, however, nothing herein shall require commission approval of a co-production project prior to commencing active operations on such project in order for such project to be eligible for the recovered oil tax rate.

(d) An applicant for commission approval of a co-production project shall submit a written application for approval to the commission. Such application must be filed before January 1, 1994. The applicant shall provide the commission with any relevant information required to administer this section, including evidence demonstrating that the reservoir is eligible for the designation and demonstrating the minimum volumes of high-volume water withdrawal required to recover oil and/or gas from the reservoir that would not be produced by conventional production methods. A commission representative may administratively approve the application. If the commission representative denies administrative approval, the applicant shall have the right to a hearing upon request.

(e) If the commission approves an enhanced recovery project or an expansion under this section, it shall issue a certification of approval for an approved project designating the area to be affected by the project.

(f) The recovered oil tax rate applies only to oil produced from a new enhanced oil recovery project, any co-production project, or the incremental production caused by the expansion of an existing enhanced recovery project from the area the commission certifies to be affected by the project.

(g) Subject to the provisions of Subsections (b) and (h) of this section, the recovered oil tax rate applies to oil on which a tax is imposed by this chapter for the 10 years beginning the first day of the month following the date the commission certifies that, in the case of an enhanced recovery project including a co-production project, a positive production response has occurred

or, in the case of an expansion, other than related to a co-production project, incremental production has occurred, if the application for certification is filed:

(1) not later than three years from the date the commission approves the project if the project is designated as a new or existing project other than a co-production project that uses a secondary recovery process; or

(2) not later than five years from the date the commission approves the project if the project is designated as a new or existing project that uses a tertiary recovery process or is a co-production project.

(h) The operator may designate the certification date, subject to commission approval. If the commission determines that the project has caused a positive production response or incremental production, the commission shall certify that fact.

(i) Notwithstanding Subsection (g) of this section, qualification for the recovered oil tax rate ends on the first day of the first calendar month that begins on or after the 91st day following the date of termination of the active operation of the enhanced recovery project or of termination of an approved expansion.

(j) If the active operation of an approved enhanced recovery project or expansion is terminated, the person who immediately before the termination is the operator of the project shall notify the commission and the comptroller in writing not later than the 30th day after the last day of active operation. Any person who violates this subsection is liable to the state for a civil penalty if the person pays or attempts to pay the tax imposed by this chapter on oil from the project at the recovered oil tax rate after qualification for that rate ends under Subsection (g) or (i) of this section. The amount of the penalty may not exceed the sum of:

(1) \$10,000; and

(2) the difference between the amount of taxes paid or attempted to be paid and the amount of taxes due.

(k) The attorney general may recover a penalty under Subsection (j) of this section in a suit brought on behalf of the state. Venue for the suit is in Travis County.

(l) The commission has broad discretion in administering this section and shall adopt and enforce any appropriate rules or orders that the commission finds necessary to administer this section concerning the designation, operation, and termination of enhanced recovery projects and expansions. The commission shall notify the comptroller of any action taken under this subsection. The comptroller shall have the power to establish procedures in order to comply with this Act.

(m) Subject to the provisions of Subsection (b) of this section, if , before the comptroller approves an application for taxation at the recovered oil tax rate, the tax imposed by this chapter is paid at the rate provided by Section 202.052(a) of this code on oil that qualifies under this section for the recovered oil tax rate, the producer or producers of the oil are entitled to a credit against taxes imposed by this chapter in an amount equal to the difference between the tax paid on the oil and the tax due on the oil at the recovered oil tax rate. The credit is allocated to each producer according to the producer's proportionate share in the oil. To receive a credit, one or more of the producers of the oil must apply to the comptroller for the credit not later than the first anniversary after the date the commission certifies that a positive production response has occurred.

(n) To qualify for the taxation of oil at the recovered oil tax rate, a person responsible for paying the tax must apply to the comptroller. The application must include the certification of the commission that the project or expansion has been approved and that the project has resulted in a positive production response or that the expansion has resulted in incremental production. The comptroller shall approve the application of a person who demonstrates that the oil is eligible for taxation at the recovered oil tax rate. The comptroller may require a person applying for the recovered oil tax rate to provide any relevant information in the person's monthly report and internal records that the comptroller considers necessary to administer this section. The commission shall notify the comptroller in writing immediately if it determines that active operation of an approved enhanced recovery project or an approved expansion has been terminated or if it takes

any action or discovers any information that affects the taxation of oil at the recovered oil tax rate.

Added by Acts 1989, 71st Leg., ch. 795, Sec. 2, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 604, Sec. 2, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 335, Sec. 1, 2, eff. Jan. 1, 1994; Acts 1993, 73rd Leg., ch. 958, Sec. 2, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 931, Sec. 1, 2, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 209, Sec. 53, eff. Oct. 1, 2003.

Sec. 202.0545. TAX EXEMPTION FOR ENHANCED RECOVERY PROJECTS USING ANTHROPOGENIC CARBON DIOXIDE. (a) Subject to the limitations provided by this section, until the 30th anniversary of the date that the comptroller first approves an application for a tax rate reduction under this section, the producer of oil recovered through an enhanced oil recovery project that qualifies under Section 202.054 for the recovered oil tax rate provided by Section 202.052(b) is entitled to an additional 50 percent reduction in that tax rate if in the recovery of the oil the enhanced oil recovery project uses carbon dioxide that:

(1) is captured from an anthropogenic source in this state;

(2) would otherwise be released into the atmosphere as industrial emissions;

(3) is measurable at the source of capture; and

(4) is sequestered in one or more geological formations in this state following the enhanced oil recovery process.

(b) In the event that a portion of the carbon dioxide used in the enhanced oil recovery project is anthropogenic carbon dioxide that satisfies the criteria of Subsection (a) and a portion of the carbon dioxide used in the project fails to satisfy the criteria of Subsection (a) because it is not anthropogenic, the tax reduction provided by Subsection (a) shall be reduced to reflect the proportion of the carbon dioxide used in the project that satisfies the criteria of Subsection (a).

(c) To qualify for the tax rate reduction under this section, the operator must:

(1) apply to the comptroller for the reduction and include with the application any information and documentation that the comptroller may require; and

(2) apply for a certification from:

(A) the Railroad Commission of Texas, if carbon dioxide used in the project is to be sequestered in an oil or natural gas reservoir;

(B) the Texas Commission on Environmental Quality, if carbon dioxide used in the project is to be sequestered in a geological formation other than an oil or natural gas reservoir; or

(C) both the Railroad Commission of Texas and the Texas Commission on Environmental Quality if both Paragraphs (A) and (B) apply.

(d) An agency to which an operator applies for a certification under Subsection (c)(2) may issue the certification only if the agency finds that, based on substantial evidence, there is a reasonable expectation that:

(1) at least 99 percent of the carbon dioxide sequestered as required by Subsection (a)(4) will remain sequestered for at least 1,000 years; and

(2) the operator's planned sequestration program will include appropriately designed monitoring and verification measures that will be employed for a period sufficient to demonstrate whether the sequestration program is performing as expected.

(e) The tax rate reduction does not apply if the operator's sequestration program or the operator's monitoring and verification measures differ substantially from the planned program described by Subsection (d), and the operator shall refund the difference between the amount of the tax paid under this section and the amount that would have been imposed in the absence of this section.

(f) The comptroller shall approve the application if the operator submits the certification or certifications required by Subsection (c)(2) and if the comptroller determines that the oil is otherwise eligible under this section.

(g) If, before the comptroller approves an application for the tax rate reduction under this section, the tax imposed by this chapter is paid at the rate provided by Section 202.052(a) or (b) on oil that qualifies under this section, the producer or producers of the oil are entitled to a credit against taxes imposed by this chapter in an amount equal to the difference between the tax paid on the oil and the tax due on the oil after the rate reduction under this section is applied. The credit is allowed to each producer according to the producer's proportionate share in the oil. To receive a credit, one or more of the producers of the oil must apply to the comptroller for the credit not later than the first anniversary of the date the oil is produced.

(h) The comptroller, the Railroad Commission of Texas, and the Texas Commission on Environmental Quality may adopt rules and establish procedures to implement and administer this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1277 (H.B. 3732), Sec. 9, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1109 (H.B. 469), Sec. 5, eff. September 1, 2009.

Sec. 202.056. EXEMPTION FOR OIL AND GAS FROM WELLS PREVIOUSLY INACTIVE. (a) In this section:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Hydrocarbons" means any oil or gas produced from a well, including hydrocarbon production.

(3) "Three-year inactive well" means any well that has not produced in more than one month in the three years prior to the date of application for severance tax exemption under this section.

(4) "Two-year inactive well" means a well that has not produced oil or gas in more than one month in the two years preceding the date of application for severance tax exemption under this section.

(b) Hydrocarbons produced from a well qualify for a 10-year severance tax exemption if the commission designates the well as a three-year inactive well or a two-year inactive well. The

commission may require an applicant to provide the commission with any relevant information required to administer this section. The commission may require additional well tests to determine well capability as it deems necessary. The commission shall notify the comptroller in writing immediately if it determines that the operation of the three-year inactive well or two-year inactive well has been terminated or if it discovers any information that affects the taxation of the production from the designated well.

(c) If the commission designates a three-year inactive well under this section, it shall issue a certificate designating the well as a three-year inactive well as defined by Subsection (a)(3) of this section. The commission may not designate a three-year inactive well under this section after February 29, 1996. If the commission designates a two-year inactive well under this section, it shall issue a certificate designating the well as a two-year inactive well as defined by Subsection (a)(4) of this section. The commission may not designate a two-year inactive well under this section after February 28, 2010.

(d) An application for three-year inactive well certification shall be made during the period of September 1, 1993, through August 31, 1995, to qualify for the tax exemption under this section. An application for two-year inactive well certification shall be made during the period September 1, 1997, through August 31, 2009, to qualify for the tax exemption under this section. Hydrocarbons sold after the date of certification are eligible for the tax exemption.

(e) The commission may revoke a certificate if information indicates that a certified well was not a three-year inactive well or a two-year inactive well, as appropriate, or if other lease production is credited to the certified well. Upon notice to the operator from the commission that the certificate for tax exemption under this section has been revoked, the tax exemption may not be applied to hydrocarbons sold from that well from the date of revocation.

(f) The commission shall adopt all necessary rules to administer this section.

(g) To qualify for the tax exemption provided by this

section, the person responsible for paying the tax must apply to the comptroller. The comptroller shall approve the application of a person who demonstrates that the hydrocarbon production is eligible for a tax exemption. The comptroller may require a person applying for the tax exemption to provide any relevant information necessary to administer this section. The comptroller shall have the power to establish procedures in order to comply with this section.

(h) If the tax is paid at the full rate provided by Section 201.052(a), 201.052(b), 202.052(a), or 202.052(b) before the comptroller approves an application for an exemption provided for in this chapter, the operator is entitled to a credit against taxes imposed by this chapter in an amount equal to the tax paid. To receive a credit, the operator must apply to the comptroller for the credit before the expiration of the applicable period for filing a tax refund claim under Section 111.104.

(i) Penalties

(1) Any person who makes or subscribes any application, report, or other document and submits it to the commission to form the basis for an application for a tax exemption under this section, knowing that the application, report, or other document is false or untrue in a material fact, may be subject to the penalties imposed by Chapters 85 and 91, Natural Resources Code.

(2) Upon notice from the commission that the certification for a three-year inactive well or a two-year inactive well has been revoked, the tax exemption shall not apply to oil or gas production sold after the date of notification. Any person who violates this subsection is liable to the state for a civil penalty if the person applies or attempts to apply the tax exemption allowed by this chapter after the certification for a three-year inactive well or a two-year inactive well is revoked. The amount of the penalty may not exceed the sum of:

(A) \$10,000; and

(B) the difference between the amount of taxes paid or attempted to be paid and the amount of taxes due.

(3) The attorney general may recover a penalty under Subdivision (2) of this subsection in a suit brought on behalf of

the state. Venue for the suit is in Travis County.

Added by Acts 1993, 73rd Leg., ch. 1015, Sec. 3, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 208, Sec. 1 to 3, eff. Sept. 1,

1997; Acts 1999, 76th Leg., ch. 365, Sec. 2, eff. Aug. 30, 1999;

Acts 1999, 76th Leg., ch. 893, Sec. 1, eff. June 18, 1999.

Sec. 202.057. TAX CREDIT FOR INCREMENTAL PRODUCTION TECHNIQUES. (a) In this section:

(1) "Baseline production" means a lease's average monthly production during the four highest months of production in the time period from January 1, 1996, through December 31, 1996.

(2) "Commission" means the Railroad Commission of Texas.

(3) "Incremental production" means production from a qualifying lease in excess of the baseline production.

(4) "Incremental production technique" means any secondary or tertiary production enhancement technique. For wells in primary production, the use of incremental production techniques means that an expenditure of at least \$5,000 must have been made to cause increased production. Operators must certify to the commission that such expenditure has been made to qualify for the tax exemption. The incremental production techniques listed in this subdivision must cause incremental production from an existing oil lease or from a newly drilled single-completion well on an existing lease.

(5) "Incremental ratio" means the amount of a qualifying lease's average monthly incremental production during the four-month period used to meet the definition of a qualifying lease divided by its average monthly total production during the same four-month period.

(6) "Qualifying lease" means a commission-designated oil lease whose production during the four-month period used in computing the baseline is no more than seven barrels of oil equivalents per day per well, excluding gas flared pursuant to the rules of the commission, and which has shown incremental production for four of five consecutive months on or after September 1, 1997, and after performing an incremental production technique within the

lease. For purposes of qualifying a lease, production per well per day is measured by dividing the sum of lease production during the four highest months of production in the baseline period by the sum of the number of well-days, where a well-day is one well producing for one day.

(7) "Qualified incremental production" means the lease's monthly total production multiplied by the incremental ratio.

(b) An operator of a qualifying lease is entitled to a 50 percent tax exemption on that lease's qualified incremental production for five years provided that:

(1) the incremental production required to define a qualifying lease occurred after September 1, 1997, and before December 31, 1998;

(2) the operator of a qualifying lease applies to the commission for a determination of a lease's incremental ratio before February 11, 1999; and

(3) the operator provides to the comptroller a commission-certified incremental ratio.

(c) If the comptroller's average taxable price of crude oil reaches \$25 per barrel, adjusted to 1997 dollars, for three consecutive months, the tax credit under this section shall be suspended until the price drops below \$25 per barrel, adjusted to 1997 dollars, for three consecutive months.

(d) If the tax is paid at the full rate provided by Section 201.052(a) or (b) or Section 202.052(a) or (b) before the comptroller approves an application for an exemption provided in this chapter, the operator is entitled to a credit against taxes imposed by this chapter in an amount equal to 50 percent of the tax paid on the incremental production. To receive the credit, the operator must apply to the comptroller for the credit not later than the first anniversary after the date the commission certifies the incremental ratio for a qualifying lease.

(e) The commission may enact rules necessary to administer the provisions of this section.

Added by Acts 1997, 75th Leg., ch. 1060, Sec. 2, eff. Sept. 1, 1997.

Subsec. (h) of this section provided for the expiration of the section on Sept. 1, 2007. Subsec. (h) was repealed by Acts 2007, 80th Leg., R.S., Ch. 911 (H.B. 2982), Sec. 4, which was effective January 1, 2008, after the section had expired.

Sec. 202.058. CREDITS FOR QUALIFYING LOW-PRODUCING OIL LEASES. (a) In this section:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Qualifying low-producing oil lease" means a well classified as an oil well that is part of a lease whose production during a 90-day period is less than:

(A) 15 barrels of oil per day of production; or

(B) five percent recoverable oil per barrel of produced water.

(b) For purposes of qualifying a lease, production per well per day is determined by computing the average daily per well production from the lease using the monthly lease production report made to the commission. For purposes of qualifying a lease, production per well per day is measured by dividing the sum of lease production during the three-month period by the sum of the number of well-days, where a well-day is one well producing for one day. The operator of a lease that is eligible for a credit under this section only on the basis of Subsection (a)(2)(B) must pay to the comptroller a filing fee of \$100 before the comptroller may authorize the credit.

(c) Each month, the comptroller shall certify the average taxable price of oil, adjusted to 2005 dollars, during the previous three months based on various price indices available to producers, including the reported Texas Panhandle Spot Price, West Texas Intermediate Crude Spot Price, New York Mercantile Exchange, or other spot prices, as applicable. The comptroller shall publish certifications under this subsection in the Texas Register.

(d) An operator of a qualifying low-producing lease is entitled to a 25 percent credit on the tax otherwise due on oil produced from that lease during a month if the average taxable price of oil certified by the comptroller under Subsection (c) for the previous three-month period is more than \$25 per barrel but not more

than \$30 per barrel.

(e) An operator of a qualifying low-producing lease is entitled to a 50 percent credit on the tax otherwise due on oil produced from that lease during a month if the average taxable price of oil certified by the comptroller under Subsection (c) for the previous three-month period is more than \$22 per barrel but not more than \$25 per barrel.

(f) An operator of a qualifying low-producing lease is entitled to a 100 percent credit on the tax otherwise due on oil produced from that lease during a month if the average taxable price of oil certified by the comptroller under Subsection (c) for the previous three-month period is not more than \$22 per barrel.

(g) If the tax is paid on oil at the full rate provided by Section 202.052, the person paying the tax is entitled to a credit against taxes imposed by this chapter or Chapter 201 on the amount overpaid. To receive the credit, the person must apply to the comptroller for the credit not later than the expiration of the applicable period for filing a tax refund under Section 111.104.

Subsec. (h) was repealed by Acts 2007, 80th Leg., R.S., Ch. 911 (H.B. 2982), Sec. 4. The effective date of the repeal was January 1, 2008, which was after the expiration of the section.

(h) This section expires September 1, 2007.

(h) Repealed by Acts 2007, 80th Leg., R.S., Ch. 911, Sec. 4, eff. January 1, 2008.

Added by Acts 2005, 79th Leg., Ch. 267 (H.B. 2161), Sec. 12, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 911 (H.B. 2982), Sec. 4, eff. January 1, 2008.

Sec. 202.059. EXEMPTION FOR HYDROCARBONS FROM TERRA WELLS.

(a) Hydrocarbons produced from a well subject to an agreement under Chapter 93, Natural Resources Code, and under a license issued under that chapter qualify for an exemption from the taxes imposed by this chapter and Chapter 201 if the comptroller approves the tax

exemption under Subsection (g).

(b) Hydrocarbons produced from a well formerly subject to an agreement under Chapter 93, Natural Resources Code, and a license issued under that chapter resuming production after participation in TERRA for two years qualify for an exemption from the taxes imposed by this chapter and Chapter 201 if the comptroller approves the tax exemption under Subsection (g).

(c) The commission may certify a well eligible for a tax exemption or an application may be made to the commission for certification under this section. The commission may require an applicant to provide the commission with any relevant information required to administer this section. The commission shall issue a certificate to each operator of the well. The certificate must:

(1) include identification of the well; and

(2) state the date on which the tax exemption takes effect, subject to the comptroller's approval of the exemption under Subsection (g).

(d) The commission shall furnish to the comptroller a copy of a certificate of exemption for each well qualifying under this section.

(e) The commission may revoke a certificate for a tax exemption if information indicates that a well was not eligible for that designation at the time of certification or if a license issued under Chapter 93, Natural Resources Code, is revoked by the commission. The commission shall notify the operator and the comptroller that a certificate has been revoked. A tax exemption granted under this section is automatically revoked on the date the certificate is revoked, and hydrocarbons produced from the well after the date of revocation are not eligible for the tax exemption.

(f) The commission may adopt and enforce any rules or orders that the commission finds necessary to administer this section.

(g) To qualify for the tax exemption, the person responsible for paying the tax must apply to the comptroller for the exemption and include with the application the certificate issued by the commission under Subsection (c). The comptroller shall approve the application of a person if the hydrocarbons are eligible for the tax exemption. The comptroller may require a person applying for the

tax exemption to provide any relevant information necessary to administer this section. The comptroller may establish procedures to comply with this subsection and Subsection (h).

(h) If the tax is paid at the full rate provided by this chapter and Chapter 201 on hydrocarbons produced on or after the effective date of the tax exemption but before the date the comptroller approves an application for the tax exemption, the operator is entitled to a credit on taxes due under Chapter 201 or this chapter in the amount equal to the tax paid during that period. To receive a credit, the operator must apply to the comptroller for the credit not later than one year after the date the commission certifies the well for a tax exemption.

(i) A person is subject to the penalties that may be imposed under Chapters 85 and 91, Natural Resources Code, if the person makes and submits to the commission or comptroller an application, report, or other document used or intended to be used for a certification, tax exemption, or tax credit under this section and the person knows that the application, report, or other document contains a false or untrue material fact.

(j) A person is liable to the state for a civil penalty if the person, after receiving notice from the commission that the person's tax exemption certificate for a TERRA well or a former TERRA well has been revoked, applies or attempts to apply for a tax exemption for hydrocarbons produced from the well under the revoked certificate. The amount of the penalty may not exceed the sum of:

(1) \$10,000; and

(2) the difference between the amount of taxes paid or attempted to be paid and the amount of taxes due.

(k) The attorney general may recover a penalty under Subsection (j) in a suit brought on behalf of the state. Venue for the suit is in Travis County.

(1) In this section:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Hydrocarbons" means any oil, gas, condensate, and other liquid hydrocarbons produced from a well.

(3) "TERRA" means the Texas Experimental Research and

Recovery Activity under Chapter 93, Natural Resources Code.

Added by Acts 1995, 74th Leg., ch. 989, Sec. 5, eff. Jan. 1, 1996.

Sec. 202.060. EXEMPTION FOR OIL AND GAS FROM REACTIVATED ORPHANED WELLS. (a) In this section:

(1) "Commission" means the Railroad Commission of Texas.

(2) "Orphaned well" has the meaning assigned by Section 89.047, Natural Resources Code.

(b) The commission shall issue a certificate to a person who is designated by the commission under Section 89.047, Natural Resources Code, as the operator of an orphaned well. The certificate must identify the operator to whom and the well for which the certificate is issued.

(c) Hydrocarbons produced from the well identified in the certificate qualify for a severance tax exemption.

(d) The commission shall adopt all rules necessary to administer this section.

(e) To qualify for the tax exemption provided by this section, the person responsible for paying the tax must apply to the comptroller. The application must include a copy of the certificate issued by the commission. The comptroller shall approve the application if the person demonstrates that the hydrocarbon production is eligible for a tax exemption. The comptroller may require a person applying for the tax exemption to provide any relevant information necessary to administer this section. The comptroller may establish procedures to comply with this section.

(f) The exemption takes effect on the first day of the month following the month in which the comptroller approves the application.

(g) If the person to whom the certificate is issued ceases to be the operator of the well as shown by the records of the commission, the commission shall notify the comptroller. The exemption expires on the date the notice is received.

(h) A person who makes or subscribes an application, report, or other document and submits it to the commission to form the basis

for an application for a tax exemption under this section, knowing that the application, report, or other document is untrue in a material fact, is subject to the penalties imposed by Chapters 85 and 91, Natural Resources Code.

(i) A person is liable to the state for a civil penalty if the person applies or attempts to apply the tax exemption authorized by this section for a well after the person to whom the certificate for the well was issued ceases to be the operator of the well as shown by the records of the commission. The amount of the penalty may not exceed the sum of:

(1) \$10,000; and

(2) the difference between the amount of taxes paid or attempted to be paid and the amount of taxes due.

(j) The attorney general may recover a penalty under Subsection (i) in a suit brought on behalf of the state. Venue for the suit is in Travis County.

Added by Acts 2005, 79th Leg., Ch. 267 (H.B. 2161), Sec. 12, eff. January 1, 2006.

Sec. 202.061. TAX CREDIT FOR ENHANCED EFFICIENCY EQUIPMENT.

(a) In this section:

(1) "Enhanced efficiency equipment" means equipment used in the production of oil that reduces the energy used to produce a barrel of fluid by 10 percent or more when compared to commonly available alternative equipment. The term does not include a motor or downhole pump. Equipment does not qualify as enhanced efficiency equipment unless an institution of higher education approved by the comptroller that is located in this state and that has an accredited petroleum engineering program evaluated the equipment and determined that the equipment does produce the required energy reduction.

(2) "Marginal well" means an oil well that produces 10 barrels of oil or less per day on average during a month.

(b) The taxpayer responsible for the payment of severance taxes on the production from a marginal well in this state on which enhanced efficiency equipment is installed and used is entitled to a credit in an amount equal to 10 percent of the cost of the

equipment, provided that:

(1) the cumulative total of all severance tax credits authorized by this section may not exceed \$1,000 for any marginal well;

(2) the enhanced efficiency equipment installed in a qualifying marginal well must have been purchased and installed not earlier than September 1, 2005, or later than September 1, 2013;

(3) the taxpayer must file an application with the comptroller for the credit and must demonstrate to the comptroller that the enhanced efficiency equipment has been purchased and installed in the marginal well within the period prescribed by Subdivision (2);

(4) the number of applications the comptroller may approve each state fiscal year may not exceed a number equal to one percent of the producing marginal wells in this state on September 1 of that state fiscal year, as determined by the comptroller; and

(5) the manufacturer of the enhanced efficiency equipment must obtain an evaluation of the product under Subsection (a).

(c) The taxpayer may carry any unused credit forward until the credit is used.

Added by Acts 2005, 79th Leg., Ch. 267 (H.B. [2161](#)), Sec. 12, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. [3314](#)), Sec. 19, eff. September 1, 2007.

Sec. 202.063. EXEMPTION OF OIL INCIDENTALLY PRODUCED IN ASSOCIATION WITH THE PRODUCTION OF GEOTHERMAL ENERGY. Oil incidentally produced in association with the production of geothermal energy is not subject to the tax imposed by this chapter. Added by Acts 2009, 81st Leg., R.S., Ch. 1036 (H.B. [4433](#)), Sec. 2, eff. September 1, 2009.

SUBCHAPTER C. RECORDS

Sec. 202.101. PRODUCER'S RECORDS. A producer shall keep

accurate records in the state. The records must show:

- (1) the counties in which the producer produces oil;
- (2) the names of the leases from which the producer produces oil;
- (3) the total number of barrels of oil produced from each lease;
- (4) for each sale or delivery to a first purchaser, the name and address of the first purchaser, the number of barrels sold or delivered, and the price received for the oil;
- (5) the amount and disposition of oil refined, processed, or used on the lease where it is produced;
- (6) the location and number of barrels in storage that the producer owns and has not sold; and
- (7) the name and address of each pipeline or refinery that is storing oil that the producer has not sold.

Acts 1981, 67th Leg., p. 1737, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.102. FIRST PURCHASER'S RECORDS. A first purchaser shall keep accurate records in the state. The records must show:

- (1) the name and address of each producer from which the first purchaser buys oil;
- (2) for each producer, the counties where the oil is produced;
- (3) for each producer, the name of the lease from which the oil is produced;
- (4) the number of barrels of oil purchased from each producer and the price paid each producer for the oil;
- (5) the number of barrels purchased and used, refined, or processed by the first purchaser; and
- (6) for each sale to a subsequent purchaser, the name and address of the subsequent purchaser, the number of barrels sold, and the price received for the oil.

Acts 1981, 67th Leg., p. 1738, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.103. SUBSEQUENT PURCHASER'S RECORDS. A subsequent purchaser shall keep accurate records in the state. The records must show:

(1) the name and address of each person who sells oil to the subsequent purchaser, the number of barrels sold, the price paid to each seller, and the date of each sale;

(2) the disposition of all oil purchased by the subsequent purchaser;

(3) the number of barrels of oil used, refined, or processed by the subsequent purchaser; and

(4) the name and address of each person who buys oil from the subsequent purchaser, the number of barrels sold or delivered to each buyer, the price received for the oil from each buyer, and the date of the sale or delivery.

Acts 1981, 67th Leg., p. 1738, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.104. ROYALTY OWNER'S RECORDS. The owner of a royalty interest shall keep:

(1) a record of all money received as royalty from each producing leasehold in the state; and

(2) a copy of all settlement sheets furnished by a purchaser or operator or other statement showing the number of barrels of oil for which a royalty was received and the amount of tax deducted.

Acts 1981, 67th Leg., p. 1738, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.105. CARRIER'S RECORDS. A carrier shall keep accurate monthly records of oil the carrier transports for hire, for itself or for its owners. The records shall be kept within the state and must show, for each shipment:

(1) the date the oil was received;

(2) the number of barrels of oil received;

(3) the person from whom the oil was received;

(4) the point of delivery;

(5) the person to whom the oil was delivered; and

(6) the manner of transportation.

Acts 1981, 67th Leg., p. 1738, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER D. PAYMENTS

Sec. 202.151. TAX DUE. The tax imposed by this chapter is due at the office of the comptroller on the 25th day of each calendar month for oil produced during the preceding calendar month.

Acts 1981, 67th Leg., p. 1739, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.152. PAYMENT OF TAX. The tax imposed by this chapter must be paid by legal tender or cashier's check payable to the comptroller.

Acts 1981, 67th Leg., p. 1739, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 19.121, eff. Sept. 1, 1997.

Sec. 202.153. FIRST PURCHASER TO PAY TAX. (a) A first purchaser shall pay the tax imposed by this chapter on oil that the first purchaser purchases from a producer and takes delivery on the premises where the oil is produced.

(b) A first purchaser shall withhold from payments to the producer the amount of tax that the first purchaser is required by Subsection (a) of this section to pay. This subsection does not affect a lease or contract between the state or a political subdivision of the state and a producer.

Acts 1981, 67th Leg., p. 1739, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.154. PRODUCER TO PAY TAX ON OIL NOT SOLD. If the producer does not sell oil produced in the same month it is produced, the producer shall pay the tax imposed by this chapter as if the oil were sold that month. In such a case, the working interest operator may pay the tax and deduct it from the interest of other interest holders.

Acts 1981, 67th Leg., p. 1739, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.155. PURCHASER TO PAY TAX ON OIL FROM PROPERTY UNDER LEGAL CONSTRAINT. (a) A purchaser shall pay the tax imposed by this chapter on oil purchased from property in bankruptcy, receivership, covered by an assignment, or subject to a legal proceeding.

(b) The purchaser shall withhold the amount of tax required to be paid by Subsection (a) of this section from payments to the producer, trustee, assignee, or other person claiming the payments and from payments the purchaser impounds or places in escrow.

(c) The purchaser is not liable for the amount of tax paid as required by this section to any claimant of payments for the purchase of oil.

Acts 1981, 67th Leg., p. 1739, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.156. TAX BORNE RATABLY. The tax shall be borne ratably by all interested parties, including royalty interests. Producers or purchasers of oil, or both, are authorized and required to withhold from any payment due interested parties the proportionate amount of tax due.

Acts 1981, 67th Leg., p. 1739, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER E. REPORTS

Sec. 202.201. PRODUCER'S REPORT. (a) A producer authorized by the comptroller to remit the tax due shall file with the comptroller, on or before the 25th day of each calendar month, the report under this subsection and, as applicable, the report under Subsection (d) showing the total oil produced, used, lost or stolen, or possessed and otherwise unaccounted for by the producer during the preceding calendar month. The report under this subsection must show:

(1) the number of barrels of oil produced from each lease;

(2) each county in which each lease from which oil was produced is located;

(3) the name, address, and taxpayer identification number assigned by the comptroller of each first purchaser of oil and for each the amount of oil purchased from each lease;

(4) the payment received for the oil from each first purchaser from each lease from which oil was produced;

(5) the name and lease identification number of each lease from which the oil was produced; and

(6) other information the comptroller may reasonably require.

(b) If the report the producer is required to file shows additional tax due, the producer must pay the additional tax when he files the report.

(c) A producer whose only sales are to a purchaser who remits the tax due under Section 202.153 is not required to file a report on the oil sold.

(d) A producer shall file a crude oil special tax report with the comptroller and pay the applicable tax imposed under this chapter if any oil has been used, lost or stolen, or possessed and otherwise unaccounted for by the producer after it has been produced and measured. The producer must file the report on or before the 25th day of the month following the month in which the oil is used, lost or stolen, or possessed and otherwise unaccounted for. The report must show:

(1) the total number of barrels of oil used, lost or stolen, or possessed and otherwise unaccounted for by the producer;

(2) where the oil was used, lost or stolen, or possessed and otherwise unaccounted for; and

(3) other information the comptroller may reasonably require.

(e) A producer that is no longer in business shall notify the comptroller of this fact on or before the 25th day of the first month following the producer's last day of business.

Acts 1981, 67th Leg., p. 1740, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1375, ch. 284, Sec. 2, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 587, Sec. 34, eff. Jan. 1, 1994; Acts 1997, 75th Leg., ch. 1040, Sec. 55, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 1183, Sec. 4, eff. Sept. 1, 2001.

Sec. 202.202. FIRST PURCHASER'S REPORT. (a) On or before the 25th day of each calendar month, each first purchaser or his authorized agent shall file a report with the comptroller. The report must contain the following information concerning oil purchased from a producer during the preceding calendar month:

(1) the number of barrels of oil purchased from each

lease for each producer;

(2) the amount paid to each producer for each lease from which oil was purchased;

(3) the name and address of each producer;

(4) each county in which each lease from which the purchased oil was produced is located;

(5) the name and lease identification number of each lease from which the purchased oil was produced; and

(6) other information the comptroller may reasonably require.

(b) If the report the first purchaser is required to file shows additional tax due, the first purchaser must pay the additional tax when he files the report.

Acts 1981, 67th Leg., p. 1740, ch. 389, Sec. 1, eff. Jan. 1, 1982. Amended by Acts 1983, 68th Leg., p. 1376, ch. 284, Sec. 3, eff. Sept. 1, 1983; Acts 1997, 75th Leg., ch. 1040, Sec. 56, eff. Jan. 1, 1998; Acts 1999, 76th Leg., ch. 1183, Sec. 5, eff. Sept. 1, 2001.

Sec. 202.204. REPORTS OF CARRIER. A carrier shall provide information and file reports on the movements of oil if requested by the comptroller as often as required by the comptroller.

Acts 1981, 67th Leg., p. 1740, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.205. TRANSFER OF OWNERSHIP. (a) If an oil-producing lease is transferred, or is to be transferred, the producer transferring the lease shall note the name and address of the producer acquiring the lease and the date of the transfer on the last report covering the lease that he is required by Section [202.201](#) of this code to file.

(b) If an oil-producing lease is transferred, the producer acquiring the lease shall note the date of the transfer and the name and address of the person from whom the lease was acquired on the first report covering the lease that he is required by Section [202.201](#) of this code to file.

Acts 1981, 67th Leg., p. 1740, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER F. LIABILITY FOR TAX

Sec. 202.251. LIABILITY OF PRODUCER AND PURCHASER. The tax imposed by this chapter is the primary liability of the producer and is a liability of the first purchaser and each subsequent purchaser. Failure of the first purchaser to pay the tax does not relieve the producer or a subsequent purchaser from liability for the tax. A purchaser of oil produced in the state shall satisfy himself that the tax on that oil has been or will be paid by the person liable for the tax.

Acts 1981, 67th Leg., p. 1741, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.252. PRODUCER'S REMEDY. If a purchaser withholds the amount of the tax imposed by this chapter from payments to a producer for the sale of oil and fails to pay the tax as provided by this chapter, the producer may sue the purchaser to recover the amount of the tax withheld, penalties and interest that have accrued from failure to pay the tax, court costs, and reasonable attorney's fees.

Acts 1981, 67th Leg., p. 1741, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER G. ENFORCEMENT

Sec. 202.301. DELINQUENT TAXES: PENALTY. (a) A person who fails to pay the tax imposed by this chapter when due forfeits five percent of the amount due as a penalty, and if the person fails to pay the tax within 30 days after the day on which the tax is due, the person forfeits an additional five percent.

(b) The minimum penalty under this section is \$1.

Acts 1981, 67th Leg., p. 1741, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1983, 68th Leg., p. 453, ch. 93, Sec. 8, eff. Sept. 1, 1983.

Sec. 202.302. TAX LIEN. The state has a prior and preferred lien for the amount of the taxes, penalties, and interest imposed by this chapter on:

(1) the oil to which the tax applies that is possessed by the producer, first purchaser, or subsequent purchaser;

(2) the leasehold interest, oil rights, the value of oil rights, and other interests, including oil produced and oil runs, owned by a person liable for the tax;

(3) equipment, tools, tanks, and other implements used on the lease from which the oil is produced; and

(4) any other property not exempt from forced sale owned by the person liable for the tax.

Acts 1981, 67th Leg., p. 1741, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.303. FORCED SALE BY OFFICER. (a) A peace officer may levy on oil for which the tax imposed by this chapter is due and unpaid by notice to the owner or person in charge of the oil.

(b) After notice to the owner or person in charge, the peace officer shall post a notice at the site of the oil that the oil will be sold to the highest bidder 10 days after the notice has been posted.

(c) After the notice has been posted for 10 days, the peace officer shall sell the oil to the highest bidder.

(d) The peace officer, except a ranger, may deduct 10 percent of the proceeds of the sale of the oil as his commission. The officer shall forward the balance, up to the amount of tax due, to the comptroller. The officer shall deliver any proceeds in excess of the tax due and the officer's commission, if any, to the owner of the oil.

Acts 1981, 67th Leg., p. 1742, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.304. SUIT FOR TAXES; SWORN DENIAL. Rule 185, Texas Rules of Civil Procedure, applies to a suit by the attorney general for taxes imposed by this chapter if:

(1) the attorney general files as an exhibit a report or audit of the taxpayer; and

(2) the exhibit is supported by the comptroller's affidavit that the taxes shown to be due are past due and unpaid and that all payments and credits have been allowed.

Acts 1981, 67th Leg., p. 1742, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.305. UNLAWFUL REMOVAL OF OIL. On notice from the

comptroller, no person may remove oil from a lease in this state if the owner or operator of the lease has failed to file a report or pay a tax as required by this chapter.

Acts 1981, 67th Leg., p. 1742, ch. 389, Sec. 1, eff. Jan. 1, 1982.
Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 1, Sec. 12, eff. July 21, 1987.

Sec. 202.306. INSPECTOR HAS FREE ACCESS. A person appointed by the Railroad Commission of Texas and holding the commission's certificate authorizing him to inspect oil wells, oil leases, pipelines, or railroad cars or tanks has the right of free access at all times to the wells, leases, pipelines, railroad cars and tanks, and motortruck tanks for the purpose of inspecting the production or transportation of oil.

Acts 1981, 67th Leg., p. 1742, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.307. INCOMPLETE RECORDS OR REPORTS; CONCEALING PROPERTY UNDER LIEN; PENALTY. (a) A person commits an offense if the person:

(1) with intent to defraud the state, knowingly fails to keep a complete record that he is required by this chapter to keep;

(2) knowingly fails to file a complete report that he is required by this chapter to file;

(3) with intent to defraud the state, conceals property or equipment that is under a lien authorized by Section [202.302](#) of this code; or

(4) fails or refuses to permit the comptroller or attorney general to inspect a record or report required by this chapter.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than \$25 nor more than \$5,000;

(2) confinement in county jail for not less than one month nor more than six months; or

(3) both a fine and confinement.

Acts 1981, 67th Leg., p. 1742, ch. 389, Sec. 1, eff. Jan. 1, 1982.

SUBCHAPTER H. CLASSIFICATION OF TAX AND ALLOCATION OF REVENUE

Sec. 202.351. OCCUPATION TAX. The tax imposed by this chapter is an occupation tax.

Acts 1981, 67th Leg., p. 1743, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.352. TAX SET ASIDE. One-half of one percent of the tax collected under this chapter shall be deposited in the state treasury for the use of the comptroller to administer and enforce the provisions of this chapter, to be expended in the amounts and for the purposes prescribed in the General Appropriations Act. Money deposited under this section that is not spent at the end of a fiscal year reverts proportionally to the other funds to which the tax imposed by this chapter is paid.

Acts 1981, 67th Leg., p. 1743, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Sec. 202.353. ALLOCATION OF REVENUE. After deducting the amount required to be deposited by Section 202.352 of this code, the comptroller shall deposit one-fourth of the revenue collected from the tax imposed by this chapter to the credit of the foundation school fund and three-fourths to the general revenue fund.

Acts 1981, 67th Leg., p. 1743, ch. 389, Sec. 1, eff. Jan. 1, 1982.

Amended by Acts 1981, 67th Leg., p. 2778, ch. 752, Sec. 9(h), eff. Jan. 1, 1982; Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. II, part B, Sec. 8, eff. Sept. 1, 1984.

Sec. 202.354. DEDICATION TO TEXAS TUITION ASSISTANCE GRANT PROGRAM. The revenue collected from any incremental production from a qualifying lease, as those terms are defined by Section 202.057, and deposited to the general revenue fund may only be spent to fund the Texas tuition assistance grant program under Subchapter G, Chapter 56, Education Code.

Added by Acts 1997, 75th Leg., ch. 1060, Sec. 3, eff. Sept. 1, 1997.