

CHAPTER 1015

H.B. No. 1975

AN ACT

relating to tax exemption for oil and gas wells returned to productive status after three years of inactivity.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 202.052, Tax Code, is amended to read as follows:

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) *For oil produced in this state from a well that qualifies under Section 202.056, the rate of tax imposed by this chapter shall be reduced to zero.*

SECTION 2. Section 201.053, Tax Code, is amended to read as follows:

Sec. 201.053. GAS NOT TAXED. The tax imposed by this chapter does not apply to gas:

- (1) injected into the earth in this state, unless sold for that purpose;
- (2) produced from oil wells with oil and lawfully vented or flared; ~~or~~
- (3) used for lifting oil, unless sold for that purpose~~];~~ *or*
- (4) *produced in this state from a well that qualifies under Section 202.056.*

SECTION 3. Subchapter B, Chapter 202, Tax Code, is amended by adding Section 202.056 to read as follows:

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.

(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.

(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. The commission may designate a well without an application, or an application may be made to the commission for approval under this section. 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 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 well under this section after February 29, 1996.

(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. 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 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 not later than the first anniversary after the date the commission certifies that the well is a three-year inactive well.

(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 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 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.

SECTION 4. This Act takes effect September 1, 1993.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on April 15, 1993, by a non-record vote; passed by the Senate on May 30, 1993: Yeas 29, Nays 0, 2 present, not voting.

Approved June 19, 1993.

Effective Sept. 1, 1993.