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Fifty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1107

Introduced by

Natural Resources Committee

(At the request of the Tax Commissioner)

1   A BILL for an Act to create and enact a new section to chapter 57-51 of the North Dakota

2   Century Code, relating to the payment and refund of oil and gas gross production tax that is five

3   dollars or less; and to amend and reenact sections 57-51-05 and 57-51-19 of the North Dakota

4   Century Code, relating to when the oil and gas gross production tax on oil is due and payable

5   and the procedure for providing refunds.

6   **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7   **SECTION 1.** A new section to chapter 57-51 of the North Dakota Century Code is

8   created and enacted as follows:

9   **Minimum refunds and collections.**

10   1.   A refund may not be made by the tax commissioner to any taxpayer unless the

11   amount to be refunded, including interest, is at least five dollars. The tax

12   commissioner shall transfer any amount that is not refunded to a taxpayer under

13   this subsection to the state treasurer for deposit in the same manner as other

14   revenue under this chapter.

15   2.   A remittance of tax need not be made and any assessment or collection of tax may

16   not be made unless the amount is at least five dollars, including penalties and

17   interest.

18   **SECTION 2. AMENDMENT.** Section 57-51-05 of the North Dakota Century Code is

19   amended and reenacted as follows:

20   **57-51-05. Payment of tax on ~~quarterly~~ monthly basis - When tax due - When**

21   **delinquent - Payment by purchaser - By producer - How casinghead gas taxed.**

22   1.   The gross production tax on oil or gas, as herein provided, must be paid on a

23   monthly basis. The tax on oil is due and payable on the twenty-fifth day of the

24   month succeeding the month of production. The tax on gas is due and payable on

1   the fifteenth day of the second month succeeding the month of production. If the

2   tax is not paid as required by this section, it becomes delinquent and must be

3   collected as provided in this chapter. The penalty does not apply if ninety percent

4   of the tax due has been paid with the monthly return and the taxpayer files an

5   amended monthly return and pays the total tax due within sixty days from the

6   original due date. The commissioner, upon request and a proper showing of the

7   necessity therefor, may grant an extension of time, not to exceed fifteen days, for

8   paying the tax and when ~~such a~~ the request is granted the tax is not delinquent

9   until the extended period has expired. Any taxpayer who requests and is granted

10   an extension of time for filing a return shall pay, with the tax, interest at the rate of

11   twelve percent per annum from the date the tax was due to the date the tax is paid.

12 2. On oil or gas sold at the time of production, the gross production tax thereon must

13   be paid by the purchaser, and ~~such~~ the purchaser shall and is hereby authorized to

14   deduct in making settlement with the producer or royalty owner, the amount of tax

15   ~~so~~ paid; provided, that in the event oil on which ~~such~~ the gross production tax

16   becomes due is not sold at the time of production but is retained by the producer,

17   the tax on ~~such~~ the oil not ~~so~~ sold must be paid by the producer ~~for himself~~

18   including the tax due on royalty oil not sold; provided further, that in settlement with

19   the royalty owner ~~such~~ the producer has the right to deduct the amount of ~~such~~ the

20   tax ~~so~~ paid on royalty oil or to deduct therefrom royalty oil equivalent in value at the

21   time ~~such~~ the tax becomes due with the amount of the tax paid.

22 3. Gas when produced and utilized in any manner, except when used for fuel or

23   otherwise used in the operation of any lease or premises in the drilling for or

24   production of oil or gas therefrom, or for repressuring thereon, must be considered

25   for the purpose of this chapter, as to the amount utilized, as gas actually produced

26   and saved.

27   **SECTION 3. AMENDMENT.** Section 57-51-19 of the North Dakota Century Code is

28 amended and reenacted as follows:

29   **57-51-19. Claim for credit or refund.** In all cases of overpayment, duplicate payment,

30 or payment made in error, the commissioner may issue a certificate stating therein the facts and

31 the amount of the refund to which the taxpayer may be entitled. Upon presentation of the

1   certificate to the ~~state auditor~~ <u>office of management and budget</u>, ~~the state auditor shall issue~~ a

2   warrant <u>shall be issued to the taxpayer</u> for the purpose of refunding any overpayment,

3   duplicate payment, or payment made in error out of the unapportioned gross production tax in

4   the state treasury and a pro rata share thereof must be charged against the county entitled to

5   share in the tax. Interest arising from refunds of overpayments, duplicate payments, and

6   erroneous payments must be allowed and paid at the rate of ten percent per annum and

7   accrues for payment from sixty days after the due date of the return or after the return was filed

8   or after the tax was fully paid, whichever comes later.

9   A taxpayer may file a claim for credit or refund of an overpayment of tax. For taxable

10   periods beginning before January 1, 1991, the claim must be filed within six years of the due

11   date of the return or six years after the return was filed. For taxable periods beginning after

12   December 31, 1990, and before January 1, 1993, the taxpayer must file a claim within five

13   years. For taxable periods beginning after December 31, 1992, and before January 1, 1995,

14   the taxpayer must file a claim within four years. For taxable periods beginning after

15   December 31, 1994, the taxpayer must file the claim within three years. However, if there is a

16   change in tax liability on any return by an amount in excess of twenty-five percent of the amount

17   of tax liability reported on a return, a claim for refund of tax may be filed within six years after

18   the due date of the return or six years after the return was filed, whichever period expires last.