

CHAPTER 81-09-03 OIL EXTRACTION TAX

Section

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81-09-03-01. Application of oil and gas gross production tax rules to the oil extraction tax.

All rules and regulations adopted in chapter 81-09-02 for the administration of the oil and gas gross production tax law, not in conflict with the provisions of the oil extraction tax law, shall apply to and govern the administration of the oil extraction tax law.

History: Effective July 1, 1982.

General Authority: NDCC 57-51-21

Law Implemented: NDCC 57-51.1-05

81-09-03-02. Definitions.

As used in these sections and for the administration of North Dakota Century Code chapter 57-51.1, unless the context requires otherwise, the following definitions apply:

1. "Completion" or "completed" means an oil well will be considered completed when the first oil is produced through wellhead equipment after production casing has been run.
2. "Drilled" means the spudding of a well.
3. "Incremental production" means the oil which has been classified as incremental by the industrial commission under subsections 5 and 6 of North Dakota Century Code section 57-51.1-03.
4. "New well" means a well initially drilled and originally completed after April 27, 1987, to a separate and distinct reservoir as recognized by the industrial commission.
5. "Nonincremental production" means the oil which has not been classified as incremental by the industrial commission.
6. "Reservoir" means a common source of supply as defined by the industrial commission.
7. "Test oil" means oil recovered during and after drilling but before normal completion of a well.
8. "Unit" means the total area of land that results from the combining of interests in all or parts of two or more leases or fee interests in order to operate the reservoir as a single production unit

subject to a single operating interest. A unit may be formed by an agreement between the mineral interest owners (voluntary unitization) or by order of an agency of the state or federal government (compulsory unitization). A unit does not include "poolings" resulting from the enforcement of spacing requirements. This definition is only effective for periods prior to April 27, 1987.

History: Effective August 1, 1986; amended effective October 1, 1987; March 1, 1990; June 1, 1992; April 1, 1996; April 1, 2006; July 1, 2016.

General Authority: NDCC 57-51-21, 57-51.1-05

Law Implemented: NDCC 57-51.1-01(3)(4)(5)(8), 57-51.1-03(3)

81-09-03-03. Determination of a property - Operator's election to designate individual wells as separate properties.

Repealed effective September 1, 1997.

81-09-03-04. Designation of a property on an individual well basis - Notification by operator.

Repealed effective September 1, 1997.

81-09-03-05. Rate reduction for qualifying secondary and tertiary recovery projects.

Repealed effective June 1, 2002.

81-09-03-05.1. Tax incentives for qualifying secondary recovery projects.

The exemption for incremental production from a qualifying secondary recovery project starts with the first day of the first month in which incremental oil is produced from the project.

History: Effective June 1, 1992; amended effective June 1, 2002; July 1, 2016.

General Authority: NDCC 57-51-21, 57-51.1-05

Law Implemented: NDCC 57-51.1-01(5)(6)

81-09-03-05.2. Tax incentives for qualifying tertiary recovery projects.

1. The exemption for incremental production from a qualifying tertiary recovery project starts with the first day of the first month in which incremental oil is produced from the project.
2. The exemption and rate reduction may be eliminated as of the first day of the first month in which the unit ceased to be operated as a qualified project if the industrial commission determines that the unit operator is not continuing to operate the unit as a qualifying tertiary recovery project.

History: Effective June 1, 1992; amended effective June 1, 2002; July 1, 2016.

General Authority: NDCC 57-51-21, 57-51.1-05

Law Implemented: NDCC 57-51.1-01(5)(6)

81-09-03-05.3. Reporting requirements for secondary and tertiary recovery projects.

1. **Categorization and taxation of production.** The unit operator must report on a form prescribed by the commissioner all of the oil produced from the project. The aforementioned production is categorized and taxed in the following manner:
 - a. If the five-year or ten-year exemption is in effect, any incremental production is exempt from the oil extraction tax.

- b. If the applicable exemption period has expired, any incremental production is subject to extraction tax at a rate of four percent.
 - c. Any nonincremental production attributable to stripper wells, new wells, and worked-over wells is exempt from the oil extraction tax. The volume of this exempt nonincremental production must be calculated by multiplying the actual production from any stripper wells, new wells, and worked-over wells by a fraction the numerator of which is the lesser of the volume of oil projected pursuant to the production decline curve or the total volume of oil produced from the project and the denominator of which is the total volume of oil produced from the project.
 - d. If a project has been certified as qualifying for a reduced extraction tax rate, any nonincremental production which is not otherwise exempt is subject to extraction tax at a rate of four percent.
 - e. If a project has not been certified as qualifying for a reduced extraction tax rate, any nonincremental production which is not otherwise exempt is subject to extraction tax at a rate of six and one-half percent.
 - f. If a project has not been certified as qualifying for a reduced extraction tax rate, any nonincremental production attributable to new wells that are no longer exempt is subject to extraction tax at a rate of four percent. The volume of nonincremental production subject to this reduced rate must be calculated by multiplying the actual production from any new wells that are no longer exempt by a fraction the numerator of which is the lesser of the volume of oil projected pursuant to the production decline curve or the total volume of oil produced from the project and the denominator of which is the total volume of oil produced from the project.
2. **Payment of tax.** Tax must be paid on all nonexempt oil produced from the project during each month of production. For reporting purposes, oil produced but not sold in the month of production should be valued based on the taxpayer's average sales price for any oil that was sold during the month.
 3. **Remittance of tax.** Tax may be remitted by the unit operator or the unit's working interest owners. However, if tax will be remitted by any working interest owner, the unit operator must provide on a form prescribed by the commissioner the name and address of each working interest owner that will be remitting tax along with the percentage of ownership interest on which the tax will be remitted. In addition, the tax remitted by any working interest owner must be calculated based on the production reported by the unit operator.

History: Effective June 1, 1992.

General Authority: NDCC 57-51-21, 57-51.1-05

Law Implemented: NDCC 57-51.1-01(5)(6)

81-09-03-06. New well exemption for vertical and horizontal wells.

Repealed effective July 1, 2016.

81-09-03-07. Stripper well exemption.

Oil produced from a stripper well property is exempt from the oil extraction tax.

To be eligible for the stripper well exemption, a producer must have its property certified as a stripper well property by the industrial commission and must submit a copy of the certification received from the industrial commission to the tax commissioner.

History: Effective October 1, 1987; amended effective June 1, 1992.

General Authority: NDCC 57-51-21, 57-51.1-05

Law Implemented: NDCC 57-51.1-03(2), 57-51-19

81-09-03-08. Work-over exemption.

Repealed effective July 1, 2016.

81-09-03-09. Trigger provision applicable to oil extraction tax rate.

Repealed effective July 1, 2016.

81-09-03-10. Horizontal reentry well exemption.

Repealed effective July 1, 2016.

81-09-03-11. Two-year inactive well exemption.

Repealed effective July 1, 2016.