

THREE AFFILIATED TRIBES - OIL AND GAS AGREEMENT AND OIL TAX ALLOCATIONS

This memorandum provides information on the Three Affiliated Tribes oil and gas agreement as well as oil tax allocations to the Three Affiliated Tribes.

THREE AFFILIATED TRIBES OIL AND GAS AGREEMENT - 2013 LEGISLATIVE CHANGES

Under the agreement between the Governor and the Three Affiliated Tribes of the Fort Berthold Reservation pursuant to North Dakota Century Code Chapter 57-51.2, wells located within the boundaries of the reservation are subject to both the oil and gas gross production tax and the oil extraction tax. The gross production tax on oil is 5 percent of the value of oil produced at the well excluding tribal, federal, state, and local municipality mineral interests. The gross production tax on gas, excluding tribal, federal, state, and local municipality mineral interests, is an adjusted tax rate multiplied by the volume of gas produced at the well. The oil extraction tax rate is 6.5 percent of the gross value of the oil produced at the well.

In 2013 House Bill No. 1198, the Legislative Assembly removed a 5-year exemption from the oil extraction tax related to new oil wells and increased the allocation of oil tax collections to the Three Affiliated Tribes. Oil production from wells drilled and completed before July 1, 2013, on trust lands located within the boundaries of the reservation continues to be exempt from the oil extraction tax for 5 years. Oil production from wells drilled and completed after June 30, 2013, on trust lands located within the boundaries of the reservation is not exempt and is subject to the oil extraction tax rate of 6.5 percent. The Legislative Assembly did not change the allocation of oil tax collections on trust lands, which is allocated 50 percent to the tribe and 50 percent to the state. For oil production on nontrust lands located within the boundaries of the reservation, the Legislative Assembly increased the allocation of oil and gas gross production tax collections to the Three Affiliated Tribes from 20 percent to 50 percent and decreased the state's share from 80 percent to 50 percent. The Legislative Assembly also increased the allocation of oil extraction tax collections to the Three Affiliated Tribes, for production on nontrust lands located within the boundaries of the reservation, from 0 percent to 50 percent and decreased the state's share from 100 percent to 50 percent. The Legislative Assembly also increased the allocation of oil extraction tax collections to the Three Affiliated Tribes, for production on nontrust lands located within the boundaries of the reservation, from 0 percent to 50 percent and decreased the state's share from 100 percent to 50 percent.

As a result of the 2013 Legislative Assembly changes, oil and gas gross production tax collections and oil extraction tax collections on trust lands and nontrust lands are allocated 50 percent to the state and 50 percent to the Three Affiliated Tribes. In addition to the oil tax allocations, the Three Affiliated Tribes also receives revenue from tribal mineral interests and the Tribal Employment Rights Office (TERO) fee and the tribal application fee. The oil and gas agreement provides the Three Affiliated Tribes may collect a one-time fee of \$100,000 to offset the costs of oil and gas regulation and impacts.

THREE AFFILIATED TRIBES OIL TAX ALLOCATIONS - COMPARSION OF 2011-13 BIENNIUM TO 2013-15 BIENNIUM

The schedule below provides information on oil and gas gross production tax and oil extraction tax allocations to the Three Affiliated Tribes on trust lands and nontrust lands for the first six months of the 2011-13 and 2013-15 bienniums.

	September	October	November	December	January	February	Total
First six months of the 2011-13 biennium							
Trust lands	\$3,668,821	\$3,532,449	\$3,659,768	\$3,526,256	\$5,437,795	\$6,114,930	\$25,940,019
Nontrust lands	1,041,313	909,041	948,153	1,077,961	1,040,596	1,082,822	6,099,886
Total	\$4,710,134	\$4,441,490	\$4,607,921	\$4,604,217	\$6,478,391	\$7,197,752	\$32,039,905
First six months of the 2013-15 biennium							
Trust lands	\$14,480,147	\$15,865,938	\$15,073,095	\$14,374,567	\$12,953,719	\$12,359,867	\$85,107,333
Nontrust lands	4,838,032	5,337,696	5,940,405	6,208,396	6,715,067	6,086,634	35,126,230
Total	\$19,318,179	\$21,203,634	\$21,013,500	\$20,582,963	\$19,668,786	\$18,446,501	\$120,233,563

Increase (Decrease)							
Trust lands	\$10,811,326	\$12,333,489	\$11,413,327	\$10,848,311	\$7,515,924	\$6,244,937	\$59,167,314
Nontrust lands	3,796,719	4,428,655	4,992,252	5,130,435	5,674,471	5,003,812	29,026,344
Total	\$14,608,045	\$16,762,144	\$16,405,579	\$15,978,746	\$13,190,395	\$11,248,749	\$88,193,658
Percentage	310.1%	377.4%	356.0%	347.0%	203.6%	156.3%	275.3%

**THREE AFFILIATED TRIBES OIL TAX ALLOCATIONS -
COMPARISON OF 2013-15 BIENNIUM ACTUAL TO 2013-15 BIENNIUM 20 PERCENT ON NONTRUST LANDS**

The schedule below compares actual oil and gas gross production tax and oil extraction tax allocations to the Three Affiliated Tribes on trust lands and nontrust lands for the first six months of the 2013-15 biennium to oil and gas gross production tax and oil extraction tax allocations to the Three Affiliated Tribes on trust lands and nontrust lands for the first six months of the 2013-15 biennium if the amount allocated to the tribes related to oil and gas gross production tax collections from nontrust lands had remained at 20 percent instead of increasing to 50 percent and if the amount allocated to the tribes related to oil extraction tax collections had remained at 0 percent instead of increasing to 50 percent.

	September	October	November	December	January	February	Total
First six months of the 2013-15 biennium - Actual allocations							
Trust lands	\$14,480,147	\$15,865,938	\$15,073,095	\$14,374,567	\$12,953,719	\$12,359,867	\$85,107,333
Nontrust lands	4,838,032	5,337,696	5,940,405	6,208,396	6,715,067	6,086,634	35,126,230
Total	\$19,318,179	\$21,203,634	\$21,013,500	\$20,582,963	\$19,668,786	\$18,446,501	\$120,233,563
First six months of the 2013-15 biennium - 20 percent allocation of gross production taxes and 0 percent allocation of oil extraction taxes on nontrust lands							
Trust lands	\$14,480,147	\$15,865,938	\$15,073,095	\$14,374,567	\$12,953,719	\$12,359,867	\$85,107,333
Nontrust lands	1,806,594	1,810,482	1,817,650	1,631,100	1,736,627	1,613,284	10,415,737
Total	\$16,286,741	\$17,676,420	\$16,890,745	\$16,005,667	\$14,690,346	\$13,973,151	\$95,523,070
Increase (decrease) in tribal share resulting from 2013 legislative changes							
Trust lands	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Nontrust lands	3,031,438	3,527,214	4,122,755	4,577,296	4,978,440	4,473,350	24,710,493
Total	\$3,031,438	\$3,527,214	\$4,122,755	\$4,577,296	\$4,978,440	\$4,473,350	\$24,710,493
Percentage	18.6%	20.0%	24.4%	28.6%	33.9%	32.0%	25.9%