

Introduced by

Representatives S. Meyer, Onstad

1 A BILL for an Act to amend and reenact sections 57-51.1-01, 57-51.1-02, 57-51.1-03, and
2 57-51.1-03.1 of the North Dakota Century Code, relating to oil extraction tax rates and
3 exemptions; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-51.1-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-51.1-01. Definitions for oil extraction tax.**

8 For the purposes of the oil extraction tax law, the following words and terms shall have the
9 meaning ascribed to them in this section:

- 10 1. "Average daily production" of a well means the qualified maximum total production of
11 oil from the well during a calendar month period divided by the number of calendar
12 days in that period, and "qualified maximum total production" of a well means that the
13 well must have been maintained at the maximum efficient rate of production as
14 defined and determined by rule adopted by the industrial commission in furtherance of
15 its authority under chapter 38-08.
- 16 2. ~~"Average price" of a barrel of crude oil means the monthly average of the daily closing~~
17 ~~price for a barrel of west Texas intermediate cushing crude oil, as those prices appear~~
18 ~~in the Wall Street Journal, midwest edition, minus two dollars and fifty cents. When~~
19 ~~computing the monthly average price, the most recent previous daily closing price~~
20 ~~must be considered the daily closing price for the days on which the market is closed.~~
- 21 3. ~~"Horizontal reentry well" means a well that was not initially drilled and completed as a~~
22 ~~horizontal well, including any well initially plugged and abandoned as a dry hole, which~~
23 ~~is reentered and recompleted as a horizontal well.~~

- 1 4. ~~"Horizontal well" means a well with a horizontal displacement of the well bore drilled at~~
2 ~~an angle of at least eighty degrees within the productive formation of at least three~~
3 ~~hundred feet [91.44 meters].~~
- 4 5. "Oil" means petroleum, crude oil, mineral oil, casinghead gasoline, and all liquid
5 hydrocarbons that are recovered from gas on the lease incidental to the production of
6 the gas.
- 7 6-3. "Property" means the right which arises from a lease or fee interest, as a whole or any
8 designated portion thereof, to produce oil. A producer shall treat as a separate
9 property each separate and distinct producing reservoir subject to the same right to
10 produce crude oil; provided, that such reservoir is recognized by the industrial
11 commission as a producing formation that is separate and distinct from, and not in
12 communication with, any other producing formation.
- 13 7-4. "Qualifying secondary recovery project" means a project employing water flooding. To
14 be eligible for the tax reduction provided under section 57-51.1-02, a secondary
15 recovery project must be certified as qualifying by the industrial commission and the
16 project operator must have achieved for six consecutive months an average
17 production level of at least twenty-five percent above the level that would have been
18 recovered under normal recovery operations. To be eligible for the tax exemption
19 provided under section 57-51.1-03 and subsequent thereto the rate reduction provided
20 under section 57-51.1-02, a secondary recovery project must be certified as qualifying
21 by the industrial commission and the project operator must have obtained incremental
22 production as defined in subsection ~~53~~ of section 57-51.1-03.
- 23 8-5. "Qualifying tertiary recovery project" means a project for enhancing recovery of oil
24 which meets the requirements of section 4993(c), Internal Revenue Code of 1954, as
25 amended through December 31, 1986, and includes the following methods for
26 recovery:
- 27 a. Miscible fluid displacement.
- 28 b. Steam drive injection.
- 29 c. Microemulsion.
- 30 d. In situ combustion.
- 31 e. Polymer augmented water flooding.

- 1 f. Cyclic steam injection.
- 2 g. Alkaline flooding.
- 3 h. Carbonated water flooding.
- 4 i. Immiscible carbon dioxide displacement.
- 5 j. New tertiary recovery methods certified by the industrial commission.

6 It does not include water flooding, unless the water flooding is used as an element of
7 one of the qualifying tertiary recovery techniques described in this subsection, or
8 immiscible natural gas injection. To be eligible for the tax reduction provided under
9 section 57-51.1-02, a tertiary recovery project must be certified as qualifying by the
10 industrial commission, the project operator must continue to operate the unit as a
11 qualifying tertiary recovery project, and the project operator must have achieved for at
12 least one month a production level of at least fifteen percent above the level that would
13 have been recovered under normal recovery operations. To be eligible for the tax
14 exemption provided under section 57-51.1-03 and subsequent thereto the rate
15 reduction provided under section 57-51.1-02, a tertiary recovery project must be
16 certified as qualifying by the industrial commission, the project operator must continue
17 to operate the unit as a qualifying tertiary recovery project, and the project operator
18 must have obtained incremental production as defined in subsection 53 of section
19 57-51.1-03.

20 9-6. "Royalty owner" means an owner of what is commonly known as the royalty interest
21 and shall not include the owner of any overriding royalty or other payment carved out
22 of the working interest.

23 10-7. "Stripper well property" means a "property" whose average daily production of oil,
24 excluding condensate recovered in nonassociated production, per well did not exceed
25 ten barrels per day for wells of a depth of six thousand feet [1828.80 meters] or less,
26 fifteen barrels per day for wells of a depth of more than six thousand feet [1828.80
27 meters] but not more than ten thousand feet [3048 meters], and thirty barrels per day
28 for wells of a depth of more than ten thousand feet [3048 meters] during any
29 preceding consecutive twelve-month period. Wells which did not actually yield or
30 produce oil during the qualifying twelve-month period, including disposal wells, dry

1 wells, spent wells, and shut-in wells, are not production wells for the purpose of
2 determining whether the stripper well property exemption applies.

3 11. ~~"Trigger price" means thirty-five dollars and fifty cents, as indexed for inflation. By~~
4 ~~December thirty-first of each year, the tax commissioner shall compute an indexed~~
5 ~~trigger price by applying to the current trigger price the rate of change of the producer-~~
6 ~~price index for industrial commodities as calculated and published by the United~~
7 ~~States department of labor, bureau of labor statistics, for the twelve months ending~~
8 ~~June thirtieth of that year and the indexed trigger price so determined is the trigger~~
9 ~~price for the following calendar year.~~

10 12. ~~"Two-year inactive well" means any well certified by the industrial commission that did~~
11 ~~not produce oil in more than one month in any consecutive twenty-four month period~~
12 ~~before being recompleted or otherwise returned to production after July 31, 1995. A~~
13 ~~well that has never produced oil, a dry hole, and a plugged and abandoned well are~~
14 ~~eligible for status as a two-year inactive well.~~

15 **SECTION 2. AMENDMENT.** Section 57-51.1-02 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **57-51.1-02. Imposition of oil extraction tax.**

18 There is hereby imposed an excise tax, to be known as the "oil extraction tax", upon the
19 activity in this state of extracting oil from the earth, and every owner, including any royalty
20 owner, of any part of the oil extracted is deemed for the purposes of this chapter to be engaged
21 in the activity of extracting that oil.

22 The rate of tax is six and one-half percent of the gross value at the well of the oil extracted,
23 except that the rate of tax is four and one-half percent of the gross value at the well of the oil
24 extracted in the following situations:

- 25 1. For oil produced from new wells drilled and completed after ~~April 27, 1987, commonly~~
26 ~~referred to as new wells, and not otherwise exempt under section 57-51.1-03~~June 30,
27 2011;
- 28 2. For oil produced from a secondary or tertiary recovery project ~~that was certified as~~
29 ~~qualifying by the industrial commission before July 1, 1991~~not otherwise exempt under
30 section 57-51.1-03;

- 1 3. For oil that does not qualify as incremental oil but is produced from a secondary or
2 tertiary recovery project that is ~~certified as qualifying by the industrial commission after~~
3 ~~June 30, 1994; or~~
- 4 4. For incremental oil produced from a secondary or tertiary recovery project that is
5 ~~certified as qualifying by the industrial commission after June 30, 1991, and which~~
6 ~~production is not otherwise exempt under section 57-51.1-03; or.~~
- 7 5. For oil produced from a well that receives an exemption pursuant to subsection 4 of
8 ~~section 57-51.1-03 after June 30, 1993, and which production is not otherwise exempt~~
9 ~~under section 57-51.1-03.~~

10 However, if the average price of a barrel of crude oil exceeds the trigger price for each month in
11 any consecutive five-month period, then the rate of tax on oil extracted from all taxable wells is
12 six and one-half percent of the gross value at the well of the oil extracted until the average price
13 of a barrel of crude oil is less than the trigger price for each month in any consecutive
14 five-month period, in which case the rate of tax reverts to four percent of the gross value at the
15 well of the oil extracted for any wells subject to a reduced rate under subsections 1 through 5.

16 **SECTION 3. AMENDMENT.** Section 57-51.1-03 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **57-51.1-03. (Effective through June 30, 2012) Exemptions from oil extraction tax.**

19 The following activities are specifically exempted from the oil extraction tax:

- 20 1. The activity of extracting from the earth any oil that is exempt from the gross
21 production tax imposed by chapter 57-51.
- 22 2. The activity of extracting from the earth any oil from a stripper well property.
- 23 3. For a well drilled and completed as a vertical well, the initial production of oil from the
24 well is exempt from any taxes imposed under this chapter for a period of fifteen
25 months, except that oil produced from any well drilled and completed as a horizontal
26 well is exempt from any taxes imposed under this chapter for a period of twenty-four
27 months. Oil recovered during testing prior to well completion is exempt from the oil
28 extraction tax. The exemption under this subsection becomes ineffective if the average
29 price of a barrel of crude oil exceeds the trigger price for each month in any
30 consecutive five-month period. However, the exemption is reinstated if, after the

1 ~~trigger provision becomes effective, the average price of a barrel of crude oil is less-~~
2 ~~than the trigger price for each month in any consecutive five-month period.~~

- 3 4. ~~The production of oil from a qualifying well that was worked over is exempt from any~~
4 ~~taxes imposed under this chapter for a period of twelve months, beginning with the~~
5 ~~first day of the third calendar month after the completion of the work-over project. The~~
6 ~~exemption provided by this subsection is only effective if the well operator establishes~~
7 ~~to the satisfaction of the industrial commission upon completion of the project that the~~
8 ~~cost of the project exceeded sixty-five thousand dollars or production is increased at~~
9 ~~least fifty percent during the first two months after completion of the project. A~~
10 ~~qualifying well under this subsection is a well with an average daily production of no~~
11 ~~more than fifty barrels of oil during the latest six calendar months of continuous~~
12 ~~production. A work-over project under this subsection means the continuous~~
13 ~~employment of a work-over rig, including recompletions and reentries. The exemption~~
14 ~~provided by this subsection becomes ineffective if the average price of a barrel of~~
15 ~~crude oil exceeds the trigger price for each month in any consecutive five-month~~
16 ~~period. However, the exemption is reinstated if, after the trigger provision becomes~~
17 ~~effective, the average price of a barrel of crude oil is less than the trigger price for~~
18 ~~each month in any consecutive five-month period.~~

- 19 5. a. ~~The incremental production from a secondary recovery project which has been~~
20 ~~certified as a qualified project by the industrial commission after July 1, 1991, is~~
21 ~~exempt from any taxes imposed under this chapter for a period of five years from~~
22 ~~the date the incremental production begins.~~
- 23 b. ~~The incremental production from a tertiary recovery project that does not use~~
24 ~~carbon dioxide and which has been certified as a qualified project by the~~
25 ~~industrial commission is exempt from any taxes imposed under this chapter for a~~
26 ~~period of ten years from the date the incremental production begins. Incremental~~
27 ~~production from a tertiary recovery project that uses carbon dioxide and which~~
28 ~~has been certified as a qualified project by the industrial commission is exempt~~
29 ~~from any taxes imposed under this chapter from the date the incremental~~
30 ~~production begins.~~

1 c. For purposes of this subsection, incremental production is defined in the following
2 manner:

3 (1) For purposes of determining the exemption provided for in subdivision a and
4 with respect to a unit where there has not been a secondary recovery
5 project, incremental production means the difference between the total
6 amount of oil produced from the unit during the secondary recovery project
7 and the amount of primary production from the unit. For purposes of this
8 paragraph, primary production means the amount of oil which would have
9 been produced from the unit if the secondary recovery project had not been
10 commenced. The industrial commission shall determine the amount of
11 primary production in a manner which conforms to the practice and
12 procedure used by the commission at the time the project is certified.

13 (2) For purposes of determining the exemption provided for in subdivision a and
14 with respect to a unit where a secondary recovery project was in existence
15 prior to July 1, 1991, and where the industrial commission cannot establish
16 an accurate production decline curve, incremental production means the
17 difference between the total amount of oil produced from the unit during a
18 new secondary recovery project and the amount of production which would
19 be equivalent to the average monthly production from the unit during the
20 most recent twelve months of normal production reduced by a production
21 decline rate of ten percent for each year. The industrial commission shall
22 determine the average monthly production from the unit during the most
23 recent twelve months of normal production and must upon request or upon
24 its own motion hold a hearing to make this determination. For purposes of
25 this paragraph, when determining the most recent twelve months of normal
26 production the industrial commission is not required to use twelve
27 consecutive months. In addition, the production decline rate of ten percent
28 must be applied from the last month in the twelve-month period of time.

29 (3) For purposes of determining the exemption provided for in subdivision a and
30 with respect to a unit where a secondary recovery project was in existence
31 before July 1, 1991, and where the industrial commission can establish an

1 accurate production decline curve, incremental production means the
2 difference between the total amount of oil produced from the unit during the
3 new secondary recovery project and the total amount of oil that would have
4 been produced from the unit if the new secondary recovery project had not
5 been commenced. For purposes of this paragraph, the total amount of oil
6 that would have been produced from the unit if the new secondary recovery
7 project had not been commenced includes both primary production and
8 production that occurred as a result of the secondary recovery project that
9 was in existence before July 1, 1991. The industrial commission shall
10 determine the amount of oil that would have been produced from the unit if
11 the new secondary recovery project had not been commenced in a manner
12 that conforms to the practice and procedure used by the commission at the
13 time the new secondary recovery project is certified.

14 (4) For purposes of determining the exemption provided for in subdivision b and
15 with respect to a unit where there has not been a secondary recovery
16 project, incremental production means the difference between the total
17 amount of oil produced from the unit during the tertiary recovery project and
18 the amount of primary production from the unit. For purposes of this
19 paragraph, primary production means the amount of oil which would have
20 been produced from the unit if the tertiary recovery project had not been
21 commenced. The industrial commission shall determine the amount of
22 primary production in a manner which conforms to the practice and
23 procedure used by the commission at the time the project is certified.

24 (5) For purposes of determining the exemption provided for in subdivision b and
25 with respect to a unit where there is or has been a secondary recovery
26 project, incremental production means the difference between the total
27 amount of oil produced during the tertiary recovery project and the amount
28 of production which would be equivalent to the average monthly production
29 from the unit during the most recent twelve months of normal production
30 reduced by a production decline rate of ten percent for each year. The
31 industrial commission shall determine the average monthly production from

1 the unit during the most recent twelve months of normal production and
2 must upon request or upon its own motion hold a hearing to make this
3 determination. For purposes of this paragraph, when determining the most
4 recent twelve months of normal production the industrial commission is not
5 required to use twelve consecutive months. In addition, the production
6 decline rate of ten percent must be applied from the last month in the
7 twelve-month period of time.

8 (6) For purposes of determining the exemption provided for in subdivision b and
9 with respect to a unit where there is or has been a secondary recovery
10 project and where the industrial commission can establish an accurate
11 production decline curve, incremental production means the difference
12 between the total amount of oil produced from the unit during the tertiary
13 recovery project and the total amount of oil that would have been produced
14 from the unit if the tertiary recovery project had not been commenced. For
15 purposes of this paragraph, the total amount of oil that would have been
16 produced from the unit if the tertiary recovery project had not been
17 commenced includes both primary production and production that occurred
18 as a result of any secondary recovery project. The industrial commission
19 shall determine the amount of oil that would have been produced from the
20 unit if the tertiary recovery project had not been commenced in a manner
21 that conforms to the practice and procedure used by the commission at the
22 time the tertiary recovery project is certified.

23 d. The industrial commission shall adopt rules relating to this exemption that must
24 include procedures for determining incremental production as defined in
25 subdivision c.

26 ~~6. The production of oil from a two-year inactive well, as determined by the industrial~~
27 ~~commission and certified to the state tax commissioner, for a period of ten years after~~
28 ~~the date of receipt of the certification. The exemption under this subsection becomes~~
29 ~~ineffective if the average price of a barrel of crude oil exceeds the trigger price for~~
30 ~~each month in any consecutive five-month period. However, the exemption is~~
31 ~~reinstated if, after the trigger provision becomes effective, the average price of a barrel~~

1 of crude oil is less than the trigger price for each month in any consecutive five-month
2 period.

3 7. ~~The production of oil from a horizontal reentry well, as determined by the industrial~~
4 ~~commission and certified to the state tax commissioner, for a period of nine months~~
5 ~~after the date the well is completed as a horizontal well. The exemption under this~~
6 ~~subsection becomes ineffective if the average price of a barrel of crude oil exceeds the~~
7 ~~trigger price for each month in any consecutive five-month period. However, the~~
8 ~~exemption is reinstated if, after the trigger provision becomes effective, the average~~
9 ~~price of a barrel of crude oil is less than the trigger price for each month in any~~
10 ~~consecutive five-month period.~~

11 8.4. The initial production of oil from a well is exempt from any taxes imposed under this
12 chapter for a period of sixty months if:

- 13 a. The well is located within the boundaries of an Indian reservation;
- 14 b. The well is drilled and completed on lands held in trust by the United States for
15 an Indian tribe or individual Indian; or
- 16 c. The well is drilled and completed on lands held by an Indian tribe if the interest is
17 in existence on August 1, 1997.

18 9. ~~The first seventy-five thousand barrels or the first four million five hundred thousand~~
19 ~~dollars of gross value at the well, whichever is less, of oil produced during the first~~
20 ~~eighteen months after completion, from a horizontal well drilled and completed after~~
21 ~~April 30, 2009, is subject to a reduced tax rate of two percent of the gross value at the~~
22 ~~well of the oil extracted under this chapter. A well eligible for a reduced tax rate under~~
23 ~~this subsection is eligible for the exemption for horizontal wells under subsection 3, if~~
24 ~~the exemption under subsection 3 is effective during all or part of the first twenty-four~~
25 ~~months after completion. The rate reduction under this subsection becomes effective~~
26 ~~on the first day of the month following a month for which the average price of a barrel~~
27 ~~of crude oil is less than fifty-five dollars. The rate reduction under this subsection~~
28 ~~becomes ineffective on the first day of the month following a month in which the~~
29 ~~average price of a barrel of crude oil exceeds seventy dollars. If the rate reduction~~
30 ~~under this subsection is effective on the date of completion of a well, the rate reduction~~
31 ~~applies to production from that well for up to eighteen months after completion, subject~~

1 to the other limitations of this subsection. If the rate reduction under this subsection is
2 ineffective on the date of completion of a well, the rate reduction under this subsection
3 does not apply to production from that well at any time.

4 **(Effective after June 30, 2012) Exemptions from oil extraction tax.** The following
5 activities are specifically exempted from the oil extraction tax:

- 6 1. The activity of extracting from the earth any oil that is exempt from the gross
7 production tax imposed by chapter 57-51.
- 8 2. The activity of extracting from the earth any oil from a stripper well property.
- 9 3. For a well drilled and completed as a vertical well, the initial production of oil from the
10 well is exempt from any taxes imposed under this chapter for a period of fifteen
11 months, except that oil produced from any well drilled and completed as a horizontal
12 well is exempt from any taxes imposed under this chapter for a period of twenty-four
13 months. Oil recovered during testing prior to well completion is exempt from the oil
14 extraction tax. The exemption under this subsection becomes ineffective if the average
15 price of a barrel of crude oil exceeds the trigger price for each month in any
16 consecutive five-month period. However, the exemption is reinstated if, after the
17 trigger provision becomes effective, the average price of a barrel of crude oil is less
18 than the trigger price for each month in any consecutive five-month period.
- 19 4. The production of oil from a qualifying well that was worked over is exempt from any
20 taxes imposed under this chapter for a period of twelve months, beginning with the
21 first day of the third calendar month after the completion of the work-over project. The
22 exemption provided by this subsection is only effective if the well operator establishes
23 to the satisfaction of the industrial commission upon completion of the project that the
24 cost of the project exceeded sixty-five thousand dollars or production is increased at
25 least fifty percent during the first two months after completion of the project. A
26 qualifying well under this subsection is a well with an average daily production of no
27 more than fifty barrels of oil during the latest six calendar months of continuous
28 production. A work-over project under this subsection means the continuous
29 employment of a work-over rig, including recompletions and reentries. The exemption
30 provided by this subsection becomes ineffective if the average price of a barrel of
31 crude oil exceeds the trigger price for each month in any consecutive five-month

1 period. However, the exemption is reinstated if, after the trigger provision becomes
2 effective, the average price of a barrel of crude oil is less than the trigger price for
3 each month in any consecutive five-month period.

- 4 5. a. The incremental production from a secondary recovery project which has been
5 certified as a qualified project by the industrial commission after July 1, 1991, is
6 exempt from any taxes imposed under this chapter for a period of five years from
7 the date the incremental production begins.
- 8 b. The incremental production from a tertiary recovery project that does not use
9 carbon dioxide and which has been certified as a qualified project by the
10 industrial commission is exempt from any taxes imposed under this chapter for a
11 period of ten years from the date the incremental production begins. Incremental
12 production from a tertiary recovery project that uses carbon dioxide and which
13 has been certified as a qualified project by the industrial commission is exempt
14 from any taxes imposed under this chapter from the date the incremental
15 production begins.
- 16 e. For purposes of this subsection, incremental production is defined in the following
17 manner:
- 18 (1) For purposes of determining the exemption provided for in subdivision a and
19 with respect to a unit where there has not been a secondary recovery
20 project, incremental production means the difference between the total
21 amount of oil produced from the unit during the secondary recovery project
22 and the amount of primary production from the unit. For purposes of this
23 paragraph, primary production means the amount of oil which would have
24 been produced from the unit if the secondary recovery project had not been
25 commenced. The industrial commission shall determine the amount of
26 primary production in a manner which conforms to the practice and
27 procedure used by the commission at the time the project is certified.
- 28 (2) For purposes of determining the exemption provided for in subdivision a and
29 with respect to a unit where a secondary recovery project was in existence
30 prior to July 1, 1991, and where the industrial commission cannot establish
31 an accurate production decline curve, incremental production means the

1 difference between the total amount of oil produced from the unit during a
2 new secondary recovery project and the amount of production which would
3 be equivalent to the average monthly production from the unit during the
4 most recent twelve months of normal production reduced by a production
5 decline rate of ten percent for each year. The industrial commission shall
6 determine the average monthly production from the unit during the most
7 recent twelve months of normal production and must upon request or upon
8 its own motion hold a hearing to make this determination. For purposes of
9 this paragraph, when determining the most recent twelve months of normal
10 production the industrial commission is not required to use twelve
11 consecutive months. In addition, the production decline rate of ten percent
12 must be applied from the last month in the twelve-month period of time.

13 (3) For purposes of determining the exemption provided for in subdivision a and
14 with respect to a unit where a secondary recovery project was in existence
15 before July 1, 1991, and where the industrial commission can establish an
16 accurate production decline curve, incremental production means the
17 difference between the total amount of oil produced from the unit during the
18 new secondary recovery project and the total amount of oil that would have
19 been produced from the unit if the new secondary recovery project had not
20 been commenced. For purposes of this paragraph, the total amount of oil
21 that would have been produced from the unit if the new secondary recovery
22 project had not been commenced includes both primary production and
23 production that occurred as a result of the secondary recovery project that
24 was in existence before July 1, 1991. The industrial commission shall
25 determine the amount of oil that would have been produced from the unit if
26 the new secondary recovery project had not been commenced in a manner
27 that conforms to the practice and procedure used by the commission at the
28 time the new secondary recovery project is certified.

29 (4) For purposes of determining the exemption provided for in subdivision b and
30 with respect to a unit where there has not been a secondary recovery
31 project, incremental production means the difference between the total

1 amount of oil produced from the unit during the tertiary recovery project and
2 the amount of primary production from the unit. For purposes of this
3 paragraph, primary production means the amount of oil which would have
4 been produced from the unit if the tertiary recovery project had not been
5 commenced. The industrial commission shall determine the amount of
6 primary production in a manner which conforms to the practice and
7 procedure used by the commission at the time the project is certified.

8 (5) For purposes of determining the exemption provided for in subdivision b and
9 with respect to a unit where there is or has been a secondary recovery
10 project, incremental production means the difference between the total
11 amount of oil produced during the tertiary recovery project and the amount
12 of production which would be equivalent to the average monthly production
13 from the unit during the most recent twelve months of normal production
14 reduced by a production decline rate of ten percent for each year. The
15 industrial commission shall determine the average monthly production from
16 the unit during the most recent twelve months of normal production and
17 must upon request or upon its own motion hold a hearing to make this
18 determination. For purposes of this paragraph, when determining the most
19 recent twelve months of normal production the industrial commission is not
20 required to use twelve consecutive months. In addition, the production
21 decline rate of ten percent must be applied from the last month in the
22 twelve-month period of time.

23 (6) For purposes of determining the exemption provided for in subdivision b and
24 with respect to a unit where there is or has been a secondary recovery
25 project and where the industrial commission can establish an accurate
26 production decline curve, incremental production means the difference
27 between the total amount of oil produced from the unit during the tertiary
28 recovery project and the total amount of oil that would have been produced
29 from the unit if the tertiary recovery project had not been commenced. For
30 purposes of this paragraph, the total amount of oil that would have been
31 produced from the unit if the tertiary recovery project had not been

1 commenced includes both primary production and production that occurred
2 as a result of any secondary recovery project. The industrial commission
3 shall determine the amount of oil that would have been produced from the
4 unit if the tertiary recovery project had not been commenced in a manner
5 that conforms to the practice and procedure used by the commission at the
6 time the tertiary recovery project is certified.

7 d. The industrial commission shall adopt rules relating to this exemption that must
8 include procedures for determining incremental production as defined in
9 subdivision c.

10 6. The production of oil from a two-year inactive well, as determined by the industrial
11 commission and certified to the state tax commissioner, for a period of ten years after
12 the date of receipt of the certification. The exemption under this subsection becomes
13 ineffective if the average price of a barrel of crude oil exceeds the trigger price for
14 each month in any consecutive five-month period. However, the exemption is
15 reinstated if, after the trigger provision becomes effective, the average price of a barrel
16 of crude oil is less than the trigger price for each month in any consecutive five-month
17 period.

18 7. The production of oil from a horizontal reentry well, as determined by the industrial
19 commission and certified to the state tax commissioner, for a period of nine months
20 after the date the well is completed as a horizontal well. The exemption under this
21 subsection becomes ineffective if the average price of a barrel of crude oil exceeds the
22 trigger price for each month in any consecutive five-month period. However, the
23 exemption is reinstated if, after the trigger provision becomes effective, the average
24 price of a barrel of crude oil is less than the trigger price for each month in any
25 consecutive five-month period.

26 8. The initial production of oil from a well is exempt from any taxes imposed under this
27 chapter for a period of sixty months if:

28 a. The well is located within the boundaries of an Indian reservation;

29 b. The well is drilled and completed on lands held in trust by the United States for
30 an Indian tribe or individual Indian; or

1 e. ~~The well is drilled and completed on lands held by an Indian tribe if the interest is~~
2 ~~in existence on August 1, 1997.~~

3 9. ~~The first seventy five thousand barrels of oil produced during the first eighteen months~~
4 ~~after completion, from a horizontal well drilled and completed in the Bakken formation~~
5 ~~after June 30, 2007, and before July 1, 2008, is subject to a reduced tax rate of two~~
6 ~~percent of the gross value at the well of the oil extracted under this chapter. A well~~
7 ~~eligible for a reduced tax rate under this subsection is eligible for the exemption for~~
8 ~~horizontal wells under subsection 3, if the exemption under subsection 3 is effective~~
9 ~~during all or part of the first twenty four months after completion.~~

10 **SECTION 4. AMENDMENT.** Section 57-51.1-03.1 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **57-51.1-03.1. Stripper well, new well, work-over, and secondary or tertiary project**
13 **certification for tax exemption or rate reduction - Filing requirement.**

14 To receive the benefits of a tax exemption or tax rate reduction, a certification of qualifying
15 well status prepared by the industrial commission must be submitted to the tax commissioner as
16 follows:

- 17 1. To receive, from the first day of eligibility, a tax exemption on production from a
18 stripper well property under subsection 2 of section 57-51.1-03, the industrial
19 commission's certification must be submitted to the tax commissioner within eighteen
20 months after the end of the stripper well property's qualification period.
- 21 2. To receive, from the first day of eligibility, a ~~tax exemption under subsection 3 of~~
22 ~~section 57-51.1-03 and a~~ rate reduction on production from a new well under section
23 57-51.1-02, the industrial commission's certification must be submitted to the tax
24 commissioner within eighteen months after a new well is completed.
- 25 3. ~~To receive, from the first day of eligibility, a tax exemption under subsection 4 of~~
26 ~~section 57-51.1-03 and a rate reduction for a work-over well under section 57-51.1-02,~~
27 ~~the industrial commission's certification must be submitted to the tax commissioner~~
28 ~~within eighteen months after the work-over project is completed.~~
- 29 4. To receive, from the first day of eligibility, a tax exemption under subsection 5 of
30 section 57-51.1-03 and a tax rate reduction under section 57-51.1-02 on production

1 from a secondary or tertiary recovery project, the industrial commission's certification
2 must be submitted to the tax commissioner within the following time periods:

3 a. For a tax exemption, within eighteen months after the month in which the first
4 incremental oil was produced.

5 b. For a tax rate reduction, within eighteen months after the end of the period
6 qualifying the project for the rate reduction.

7 ~~5. To receive, from the first day of eligibility, a tax exemption or the reduction on~~
8 ~~production for which any other tax exemption or rate reduction may apply, the~~
9 ~~industrial commission's certification must be submitted to the tax commissioner within~~
10 ~~eighteen months of the completion, recompletion, or other qualifying date.~~

11 ~~6. To receive, from the first day of eligibility, a tax exemption under subsection 6 of~~
12 ~~section 57-51.1-03 on production from a two-year inactive well, the industrial~~
13 ~~commission's certification must be submitted to the tax commissioner within eighteen~~
14 ~~months after the end of the two-year inactive well's qualification period.~~

15 If the industrial commission's certification is not submitted to the tax commissioner within the
16 eighteen-month period provided in this section, then the exemption or rate reduction does not
17 apply for the production periods in which the certification is not on file with the tax
18 commissioner. When the industrial commission's certification is submitted to the tax
19 commissioner after the eighteen-month period, the tax exemption or rate reduction applies to
20 prospective production periods only and the exemption or rate reduction is effective the first day
21 of the month in which the certification is received by the tax commissioner.

22 **SECTION 5. EFFECTIVE DATE.** This Act is effective for taxable events occurring after
23 June 30, 2011.