

PART FOUR

DELAWARE NATION OIL AND GAS SEVERANCE TAX

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PART 4

OIL AND GAS SEVERANCE TAX

Section 401 – Tax Levied on Oil:

There is hereby levied a tax equal to eight percent (8%) of the gross market value of all petroleum or other crude, condensate, or mineral oil produced, severed, saved, and removed from any land within the jurisdiction of the Delaware Nation.

Section 402 – Tax Levied on Gas:

There is hereby levied a tax equal to eight percent (8%) of the gross market value of all gas, natural gas, casing head gas, and other valuable hydrocarbon substances produced, severed, saved, and removed from any land with the jurisdiction of the Delaware Nation.

Section 403 – Due Date of Tax:

The taxes imposed by this Part shall be due at the time the taxed substances are produced, severed, saved, or removed from the land and shall be payable monthly as provided by Section 404 of this Part.

Section 404 – Payment of Tax:

Payment of severance taxes herein imposed shall be made monthly on or before the last day of the calendar month following the calendar month for which payment is to be made. Any payment not made when payable as provided herein shall incur a penalty of five percent (5%) of the amount of the tax due and shall bear interest at the statutory rate until paid.

Section 405 – Payment Bonds:

(A) Whenever any operator shall habitually fail or refuse to file any required report or pay the tax due on or before the last lawful date for payment, the Tax Commission, upon notice and hearing, may require the operator to post a cash or surety bond to guarantee payment of taxes due.

(B) Such bond may be in an amount determined by the Commission to be sufficient to guarantee timely payment of the taxes imposed by this Part, **provided**, that the amount of such bond shall not exceed the total estimated taxes which will be due in the twelve (12) month period immediately following the giving of such bond.

(C) An order of the Commission requiring a bond pursuant to this section may be reviewed by the tribal court in the same manner that an assessment of taxes may be reviewed.

Section 406 – Incidence of Tax-Forfeiture for Nonpayment:

(A) The incidence of the tax herein imposed shall be upon the lessee and his successors in interest, hereinafter referred to as the operator, and the taxes herein imposed shall be a lien upon the interest of such operator in the lease from which the taxable substances were produced. Such lien may be foreclosed and the interest of the operator may be forfeited and sold as possessory interest or interest may be forfeited and sold for nonpayment of taxes, subject to subsection (B) of this Section when such taxes remain unpaid in excess of sixty (60) days after the due date for filing of the returns required in this Part.

(B) At least thirty (30) days prior to commencement of any forfeiture proceedings, the Tax Commission shall serve notice to all persons known from Tribal, Bureau of Indian Affairs, or United States Geological Survey records to be interested in such leasehold of the amount of the taxes due and unpaid, the intent of the Tax Commission to institute for forfeiture proceedings, and the right of any of such persons to pay the taxes due on behalf of the operator and recover such payment from him by civil suit. Such notice shall be served personally by the Tribal or Bureau of Indian Affairs police, or by certified United States mail, deliverable to addressee only, return receipt requested, or in any other manner in which a summons may be served. Publication service may be held upon order of the Tribal Court for good cause shown. Publication notice shall be published at least once each full calendar week during the thirty (30) day waiting period in a newspaper in general circulation in Caddo County, Oklahoma and as may be further ordered by the Court.

Section 407 – Purchaser May Remit Taxes:

Pursuant to the terms of a division order or agreement between an operator and a purchaser of oil or gas approved by the Commission, the purchaser may withhold and pay directly to the Commission the severance taxes due.

Section 408 – Unit Operator May Remit Taxes:

The production operator of any unitized pool or producing field within which the trust or restricted Tribal Member interest has been included under any unit operating agreement approved by the Secretary of the Interior may withhold and pay the severance taxes due on that portion of the production from the units attributable to lands and interests, subject to the jurisdiction of the Delaware Nation with the express or implied consent of the lessee.

Section 409 – Measurement of Oil and Gas:

(A) All crude oil and liquid hydrocarbon substances normally measured in liquid form shall be measured and reported in units either of barrels of 42 US gallons of 231 cubic inches per gallon corrected to standard temperature and other variables pursuant to the regulations of the United States Geological Survey.

(B) All natural gas and other vaporous hydrocarbon substances normally measured in gaseous form shall be measured and reported in units of one thousand cubic feet (MCF) corrected to standard temperature and pressure pursuant to the regulations of the United States Geological Survey.

Section 410 – Determination of Market Value:

The actual sales price of any substances herein subject to taxation may in the discretion of the Tax Commission be considered as mere evidence of or conclusive evidence of the market value of such substances. The Tax Commission shall have the authority to determine the minimum fair market value regardless of the actual sales price of such substances and in doing so may consider actual sales prices prevailing for like or substantially similar substances produced and sold in the area and prevailing market prices published in reputable trade journals of the oil and gas industry, provided, that any person, firm, corporation, or association against whom additional taxes are assessed due to establishment of such minimum fair market values shall be entitled to a full and fair hearing before the Tax Commission and an appeal to the Tribal Court as is provided by law.

Section 411 – Tax Commission May Audit, Correct, and File Reports:

The Tax Commission shall have the power and authority to ascertain and determine whether or not any report herein required to be filed with it is a true and correct report of the gross products, and of the value thereof, of such person, firm, corporation, or association engaged in the mining or production of petroleum or other crude condensate or mineral oil and gas, natural gas, casing head gas, or other valuable hydrocarbon substances. If any person, firm, corporation or association has made an untrue or incorrect report of the gross production or value or volume thereof, or shall have failed or refused to make a required report, the Tax Commission shall, under rules and regulations prescribed by it, ascertain the correct amount of either, and compute said tax. In exercise of this authority, the Tax Commission is specifically authorized to obtain such records as may be available from the Bureau of Indian Affairs, the United States Geological Survey, the Oklahoma Tax Commission and the Oklahoma Corporation Commission necessary for the purposes and to consider recognized trade journals in determining the market value of produced substances.

Section 412 – Form of Reports:

The operator severance tax remittance report shall be in substantially the following form:

OPERATORS MONTHLY REMITTANCE REPORT-OIL AND GAS SEVERANCE TAX

**DELAWARE NATION
TAX COMMISSION
P. O. BOX 825
ANADARKO, OK 73005**

**ON OR BEFORE THE LAST DAY OF THE CALENDAR MONTH
FOLLOWING MONTH OF PRODUCTION**

1. BIA LEASE NUMBER: _____
2. Reporting Period _____ DN ALLOT # _____
3. Legal Description: _____
4. Lessee Name and Address: _____
5. Date of Lease or Assignment to Lessee: _____
Operator Lessee Name: _____
6. Unit Operator Name and Address (if unitized) and date of Unitization Agreement:

7. Reporting Company Name and Address (if tax to be paid by other than Lessee or Unit Operator). _____
8. Explain relationship to Lessee or Unit Operator: _____

9. OIL AND GAS SEVERANCE TAX COMPUTATION:

LINE	WELL NAME & NUMBER	PRODUCT	PRODUCTION VOLUME	VALUE PER UNIT	GROSS WELL VALUE	PERCENTAGE		VALUE OF		TAX RATE
						MEMBER INTEREST	EXEMPT INTEREST	TRIBAL MEMBER PRODUCTION	TRIBAL MEMBER TAXABLE	

- A _____
- B _____
- C _____
- D _____
- E _____
- F _____

(Use supplemental sheets where necessary)

(CONTINUED ON NEXT PAGE)

10. **PENALTY AND INTEREST CHARGES** (If reported and paid after due date)

Tax Amount Due: \$ _____
X 1.66 per month 20% per annum \$ _____
TOTAL TAX REMITTED \$ _____

Penalty for each late payment is computed at 5% of the amount of taxes due. All taxes, fees, or other charges not paid when due shall bear interest at the rate of 20% per annum.

11. This report, consisting of _____ pages, is submitted on behalf of _____ and has been examined by me, and under penalty of law, I hereby affirm, that to the best of my information, knowledge, and belief, it is a true and accurate, and complete report of the severance taxes due to the Delaware Nation for this reporting period.

_____	_____
DATE	(SIGNATURE)
_____	_____
TITLE	(TYPED NAME)

Section 413 – Instructions:

The following instructions shall be printed on each operator’s severance tax remittance report.

A) GENERAL INSTRUCTIONS

1) Reporting Period:

Each calendar month is a reporting and remitting period.

2) Who Must Report:

The Lessee or his duly qualified successor in interest must report monthly the Operator’s Remittance Report and remains responsible for appropriate reporting and remittance of taxes. However, a unit operator or purchaser may make reports and remit taxes upon application to and acceptance of the arrangement by the Tax Commission. The Tax Commission’s approval of such arrangements does not relieve the Lessee or his successor from his liability for the taxes due.

3) What Wells Are Included In the Report:

Each lease must be reported on a separate form. However, all wells within a lease should, where practical, be included on the same report. Any well which is not in production during the reporting period should carry a notation explaining the status of the

well, such as “shut in”, “injection well”, “salt water disposal”, or “capped and abandoned”.

4) Due Date of Report and Remittance:

Severance Tax reports and accompanying remittances are due in the Tax Commission office, on the last day of the first calendar month following the reporting period covered by the report. There is no provision for an extension of time in which to file reports. Late payments will result in a five percent (5%) penalty. Interest on past due amounts is computed at the rate of 1.66 percent per month (20% per annum). Habitual failure to file timely reports may result in a requirement for a payment bond. **FALSE OR FRAUDULENT REPORTS OR REFUSAL TO FILE REPORTS WITH THE INTENT TO EVADE TAXES MAY RESULT IN SEVERE PENALTIES INCLUDING FORFEITURE OF THE COMPANIES PRIVILEGE OF DOING BUSINESS WITHIN THE JURISDICTION OF THE DELAWARE NATION.**

5) Objections and Claims for Refunds:

Every taxpayer has the right to a full hearing before the Tax Commission to challenge the amount of taxes, penalties, or interest assessed or to demand a refund of taxes paid under protest and to appeal the determination of the Tax Commission to the Tribal Court if he is aggrieved thereby. To apply for a refund or credit the taxpayer should file an amended report and a petition for a refund with the Tax Commission, explaining the basis for the refund request. For more information, refer to Part Two of the Taxation Ordinance.

B) REPORTING FORM INSTRUCTIONS

1-2) Lease Number, Reporting Period:

The lease number is the number assigned by the Bureau of Indian Affairs to the original lease from the Tribal Member owners. Other identifying information may be included as appropriate. The reporting period is a calendar month from its first to last day inclusive. Insert the name of the month reported and the applicable year.

3) Lessee Name and Address:

Insert the full name and address of the lessee or his successor in interest (assignee). If the lease is held by a duly approved assignment that information shall be in the margin.

4) Date of Lease or Assignment to Lessee:

Insert the date of approval of the lease or assignment to your company by the Bureau of Indian Affairs. If your company holds its interest by virtue of an assignment, insert the name of the original lessee.

5) Unit Operator:

If the Leasehold is included in any approved common production unit or pool, insert the name and address of the unit operator and the date of approval of the unitization agreement by the Bureau of Indian Affairs.

6) Reporting Company:

If the report is filed by someone other than the Lessee or Unit Operator report that person or company's name and address. If the report is made by a purchaser pursuant to an approved agreement or some other party interested in the lease, include all relevant information.

7) Report Table:

Part 1 Well Number:

Indicate the well number used for completion, production, or other reports to the Bureau of Indian Affairs and the United States Geological Survey. Describe each well as clearly as possible.

Part 2 Product:

Indicate either oil, gas, or other substance produced.

Part 3 Production Volume:

Production volume is hereby deemed to be the gross well production of barrels of oil or MCF of gas at standard reporting parameters.

Part 4 Value:

Value is hereby deemed to be the actual sales price for all sales for each product in each reporting period. It is understood that not all gas or oil is sold in one transaction or

at one price. The report shall reflect all sales for each product.

Part 5 Gross Value:

Gross Value is hereby deemed to be gross well value. Gross sales value for each transaction will be reflected in the listing of individual sales and gross well value will be the total of the individual sales.

Part 6 Tax Rate:

The tax rate for both oil and gas is eight percent (8%) of the gross value of the substance produced, severed, saved, or removed from the land.

Part 7 Amount Remitted:

To determine the amount of tax to be remitted and paid with the return, multiply the gross well value times the lease allocation factor (lease acres divided by unit acres).

Part 8 – 9:

Insert all required information. An authorized officer or employee of the reporting company must sign the report. Any report not signed shall not be considered as timely filed and will be returned for signature. Any penalties and interest incurred due to any delay will be assessed as provided by law.

Section 414 – Severance in Lieu of Other Taxes:

The taxes levied by Sections 401 and 402 of this title on oil and gas respectively, shall be in lieu of all sales taxes on the first sale of such oil and gas imposed by law, and of any possessory interest taxes on said leasehold attributable to the period during which the oil and gas lease was in production.

Section 415 – Exclusion from Taxation:

There shall be excluded from the provisions of this Part the production attributable to the Tribal Member trust royalty interest of all individually owned and tribally owned lands.

The production attributable to the Tribal Member trust royalty interest need not be included in any of the reports submitted by any oil or gas operators within the tribal jurisdiction and, pursuant to federal law and the Tribal Constitution; no taxes shall be due or imposed on that portion of the production attributable to the Tribal Member Royalty Interest.

Section 416 – Remittance and Form of Reports:

(A) The Reporting and Remittance Form required by Section 412 of this Part shall be submitted by the operators and purchasers for each lease to:

**Delaware Nation Tax Commission
P.O. Box 825
Anadarko, Ok 73005**

(B) All severance tax payments required by this Part shall be submitted to the address contained in subsection (A) of this Section and checks shall be made payable to: **“Delaware Nation Tax Commission”**.

(C) The Reporting and Remittance Form required by Section 412 of this Part shall be submitted by the operators and purchasers for each lease in the form prescribed by the Tax Commission and available upon written request to the address set forth in Section 416 (A).

Section 417 – Stripper Well Exemption:

There may be an exemption granted on stripper well production under this code. Operators must make application to the Delaware Nation Tax Commission. The exemption will be based on definitions below. The exemption will be on taxes imposed by the Oil and Gas Severance Tax under Sections 401 and 402 of this chapter.

(A) Stripper well natural gas is defined as production from a well which does not exceed an average of 60 MCF of gas per day.

(B) Stripper well oil is defined as production from a well which does not exceed 10 barrels of crude oil or condensate per day.

[History: Added by PUBLIC LAW #00-13, February 24, 2000]