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"The mission of the Louisiana Department of Revenue and Taxation is to serve the citizens of Louisiana by efficiently collecting the state's tax revenue in a manner that will generate the highest degree of public confidence in our integrity and fairness."
John Kennedy, Secretary

Natural gas guidelines explained

The following is an explanation of the severance tax filing requirements for receiving reduced rates on the production of natural gas produced from oil wells and natural gas wells.

Definitions

Incapable Oil Well Gas - Gas produced from a well classified by the Office of Conservation as an oil well that has been determined by the Secretary to have a wellhead pressure of 50 pounds per square inch or less by gauge (under operating conditions-whether it be tubing flow or casing flow) throughout the entire taxable month. An oil well being produced by the methods known as gas lift, pumping, or hydraulic lift shall be presumed, in the absence of a determination to the contrary by the Secretary, to have a wellhead pressure of 50 pounds per square inch or less under operating conditions. The reduced severance tax rate is $.03 per MCF.

Incapable Gas Well Gas - Gas produced from a well classified by the Office of Conservation as a gas well that has been determined by the Secretary to be incapable of producing an average of 250,000 cubic feet of gas per day, under operating conditions, throughout the entire taxable month. The reduced severance tax rate is $.013 per MCF.

Certification

Before the production from a well can be paid at either of the incapable tax rates, the well must be certified as such to the Department of Revenue and Taxation on Form SEV G-2, *Application for Certification of Incapable Wells, Gas Severance Tax*. It is important that all the information requested on the application be completed as accurately as possible. Incorrect or missing information will cause a delay and/or rejection of the certification. The application must be filed on or before the fifteenth day of the second month following the month of production. The Department will not retroactively certify wells beyond the fifteenth day of the second month following the month of production, with the exception of a change in ownership. The approved application will be sent to the producer of the well and to the purchaser of the gas, if the purchaser remits the severance taxes for the well. Taxes may be paid at the applicable reduced rate from the date stamped on the approved application. Approved incapable wells will be given a certification code of "E" or "F".

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Soldiers granted filing extension

U. S. soldiers participating in Operation Joint Endeavor in Bosnia are being granted an extension of time to file their 1995 State individual income tax return.

The Department is following the lead of the Internal Revenue Service and granting this special consideration. Any member of the armed services from Louisiana who departed for Operation Joint Endeavor on or after March 1 of this year will have until December 15, 1996 to file their State tax return without having to pay delinquent or late payment penalties. Payment of interest due on unpaid taxes is mandated by law and cannot be waived without legislative action.

In order to take advantage of the extension and the waiving of delinquent and late payment penalties, Louisiana service members only need to write "Operation Joint Endeavor" at the top of their 1995 return when it is filed.

Questions about the extension should be directed to the Income and Corporation Franchise Taxes Division at (504) 925-4611. ■

Houma satellite office opened

The Department has now opened a new satellite office with limited hours in Houma.

The new office is a part of the Thibodaux Region's Outreach Program and is located with the Terrebonne Parish Sales and Use Tax Department at the Premier Bank Building, 720 East Main St., Suite 401. The office will be open only on Thursdays from 8:30 a.m. to 12:30 p.m.

Services provided include State tax registration, assistance with tax returns, receipt of payments, and help with general tax questions. ■

Guidelines *(continued)*

The certification of a well is canceled when a change in ownership of the well occurs. A new application for certification must be filed with the Department by the new owner in order to continue the reduced rate on production from the well. The Department will certify a qualifying well by the new owner that was certified by the previous owner back to the date of the ownership change, as long as the period has not prescribed for tax purposes. This is the only exception for retroactively certifying wells.

The postmark date is used to determine the timely filing of Form SEV G-2. If the fifteenth of the month falls on a weekend or holiday, the form must be mailed and postmarked by the next business day to be considered timely.

Nonproduction month

A certified well that has its well status changed by the Office of Conservation to a nonproducing status should notify the Department and have the certification canceled at that time. If and when the well returns to production, the producer must reapply for certification.

Overproduction month

When a gas well produces in excess of the maximum allowed average of 250 million cubic feet per day, the production from that well must be paid at the full rate for that production period.

Audit adjustments

It is the responsibility of the producer to meet the reduced rate requirements when paying at the reduced rate. For audit purposes, each month stands on its own. If an audit reveals that a well is not meeting the criteria for maintaining certification, additional tax will be assessed, but only for the producing periods in which the well does not qualify. Since the Department is not able to identify all areas of noncompliance immediately, assessments may be issued for up to three years after the end of the calendar year during which the liability was incurred.

Audit adjustments are made for the following reasons:

1. A well has not been certified.
2. A well has overproduced.
3. Tax was paid at the wrong rate.
4. A flowing oil well has casinghead pressure greater than 50 pounds per square inch by gauge.
5. A well has a change in well classification from oil well to gas well, or gas well to oil well (requires the certification of the well to its current well classification, if it qualifies).

Producer/taxpayer responsibility

It is the producer's responsibility to ensure that wells are properly certified and that reports are completed correctly and filed timely. Purchasers of reduced rate gas are urged to ensure that the producers have properly certified the wells and they continue to meet requirements. Taxes may be assessed against the purchaser if it is determined that the well was not eligible for the reduced rate.

Questions should be directed to the Severance Tax Division at (504) 925-7500. ■

Deferred federal income tax subject to franchise tax

On April 4, 1996, the 19th Judicial District Court, Division D, offered reasons for judgement in the case of *BellSouth Telecommunications, Inc. v. Ralph Slaughter, Secretary of the Department of Revenue and Taxation, State of Louisiana, No. 357.232*. The District Court upheld the Department's long-standing position that amounts labeled "deferred federal income tax" must be included in the franchise tax base.

In 1991, the Louisiana Supreme Court ruled that the deferred federal income tax account of Goudchaux/Maison Blanche, Inc. must be included in the franchise tax base. In the April 1992 issue of *Louisiana Tax Topics*, taxpayers were advised to file amended returns to include any deferred federal income tax amounts not included in original franchise tax filings. Taxpayers are again urged to file amended returns if their returns as filed excluded deferred federal income taxes from the franchise tax base.

The 1992 *Tax Topics* article also stated that while the deferred federal income tax account of Goudchaux/Maison Blanche was caused by use of the installment sales method, the legal principles upon which the Court based its decision were applicable to all deferred federal income tax amounts. In the BellSouth case, the deferred federal income tax resulted from use of accelerated depreciation for federal income tax purposes. In ruling BellSouth's deferred federal income tax is subject to franchise tax, the Court stated in part, "Applying the holding in Goudchaux/Maison Blanche v. Broussard, supra to the facts in this case, this Court is of the opinion that BellSouth's reserves for future tax liabilities, or 'deferred income taxes,' are not accrued taxes because they are not liabilities ('indebtedness') and can only constitute 'surplus and undivided profits.'"

Taxpayers are again advised that all net credit deferred federal income tax amounts must be included in the franchise tax base. The specific cause of the timing difference between financial accounting and federal income tax accounting, which creates the deferred federal tax, is of no importance.

Questions concerning franchise tax provisions should be directed to the Income and Corporation Franchise Taxes Division at (504) 925-4611. ■

This is the second of a three-part series on Louisiana's inheritance tax provisions. The first article (April 1996) gave an overview of the inheritance tax statutes and discussed succession and classification of heirs and legatees.

Part two in a three-part series

Inheritance tax laws

Exemptions

Exemptions for inheritance tax purposes have been established on the basis of the relationship that an heir or legatee had with the decedent. Louisiana Revised Statute 47:2406 of the Inheritance Tax Law places the burden for proving the facts that establish an exemption upon the person claiming the exemption.

In addition to the relationship, exemptions allowed to direct descendants, ascendants, and surviving spouses are dependent upon the year in which death occurred. The year of death and corresponding exemption for these classifications are as follows:

Calendar Year	Exemption
1983 & prior years	$ 5,000 each
1984	$10,000 each
1985	$15,000 each
1986	$20,000 each
1987 and thereafter	$25,000 each
1992 and thereafter	surviving spouse totally exempt

Therefore, according to the classification of each heir or legatee (and the year of death, where applicable), the exemption allowed and the tax rates imposed will be as follows:

For direct descendants by blood or affinity, ascendant or surviving spouse of decedent (including relationships by adoption), the tax is 2 percent of the first $20,000 of taxable value, plus 3 percent of the value in excess of $20,000. The exemptions are shown above.

For collateral relations (including brothers or sisters by affinity and their descendants), the tax is 5 percent of the first $20,000 of taxable value, plus 7 percent of the value in excess of $20,000. The exemptions are $1,000 each.

For strangers or nonrelated persons, the tax is 5 percent of the first $5,000 of taxable value, plus 10 percent of the value in excess of $5,000. The exemptions are $500 each.

For deaths occurring on January 1, 1992, and thereafter, any inheritance received by the surviving spouse of a decedent will be totally exempt. Also, an outright renunciation by the descendants of a decedent will cause the community property to devolve to the surviving spouse totally exempt from inheritance tax [C.C. Art. 889 and R.S. 47:2402 (1)(e)].

Other exemptions and exclusions

In addition to the foregoing, other exemptions and exclusions from inheritance tax are as follows:

Charitable, Religious or Educational Institutions (located within the State of Louisiana) - R.S. 47:2402(4) exempts from inheritance: "All legacies and donations to charitable, religious or educational institutions located within the State of Louisiana."

State of Louisiana and Political Subdivisions - R.S. 47:2402(5) exempts from inheritance tax: "All legacies and donations to the State of Louisiana or to any incorporated municipality or other political subdivision thereof, for exclusively public purposes."

Charitable, Religious, or Educational Institutions (located outside of Louisiana) - R.S. 47:2402(6) exempts from inheritance tax: "Donations and legacies to charitable, religious, or educational institutions which are located in another state or territory of the United States, to the extent that the laws of the state or territory wherein such institutions are located contain reciprocal provisions allowing similar exemptions in respect to donations and legacies made to charitable, religious, or educational institutions located in other states or territories of the United States."

Life Insurance, Retirement, and Pension Plans - R.S. 47:2404C excludes from the property subject to tax: "...any proceeds receivable by any beneficiary, other than the estate of the decedent, under any life insurance policy, or any retirement or pension plan, ..."

Annuity Contracts - R.S. 47:2404C provides that the proceeds of any annuity contract payable to a named beneficiary, other than the estate of the decedent, are excluded from the property subject to tax provided the contract is a qualified retirement or pension plan under the Internal Revenue Code.

Cemetery Property - R.S. 8:814 provides: "Cemetery property passing to an individual by reason of the death of the owner is exempt from all inheritance taxes."

Usufruct will be the subject of the third and final article in this series. ■

Sales tax due on cold storage space

The Department collects a sales tax that is levied on the charge for furnishing cold storage space and on charges for preparing movable property for cold storage.

In order for sales tax to apply to charges for furnishing cold storage space, the provider of the cold storage space must guarantee that the temperature of the cold storage facility will be maintained at a temperature suitable for the preservation and storage of perishable items to be maintained in the facility. Generally, the owner of the facility must guarantee that the temperature will be maintained below the normal building temperature.

The taxability of charges for the use of climate-controlled, self-service storage facilities depends upon the terms of the contract. Charges for the use of a climate-controlled, self-service storage unit will only be taxable if the contract between the owner of the unit and the lessee of the unit guarantees that the temperature of the unit will be maintained below the normal building temperature and at a level necessary to maintain or preserve perishable items. In the alternative, charges are not taxable where the contractee receives a key to a specific unit and may place or remove items at their own discretion, and where there is no guarantee to maintain the temperature of the unit below the normal building temperature.

Questions should be directed to the Sales Tax Division at (504) 925-7335. ■

Copies of succession pleadings must be signed

Under Louisiana Revised Statute 47:2425(A), copies of the succession pleadings must be filed with the Secretary of the Department of Revenue and Taxation, together with a duplicate original of the inheritance tax return. The statute further provides that the return must be verified by a written declaration that all copies of accompanying documents are true and correct.

Unsigned copies of succession pleadings will no longer be accepted. Pleadings that must be signed include the petition for possession, affidavit of death and heirship, and inventory or sworn detailed descriptive list. Unsigned pleadings do not constitute "true and correct" copies.

Questions concerning the inheritance tax provisions should be directed to the Inheritance Tax Section at (504) 925-7424. ■

Gas base rate determined

Under the authority of Revised Statute 47:633(9)(d)(i), the Department of Natural Resources has determined that the "gas base rate adjustment" for the twelve-month period ending March 31, 1996, is $1.0938.

Accordingly, the Department of Revenue and Taxation has determined that effective July 1, 1996 the severance tax rate on natural gas and related products described in R.S. 47:633 (9)(a) is 7.7 cents per thousand cubic feet measured at a base pressure of 15.025 pounds per square inch absolute and at a temperature base of sixty degrees Fahrenheit. The reduced rates provided for in Revised Statute 47:633(9)(b) and (c) remain the same.

Revised reporting forms will be distributed as soon as they are available. Questions should be directed to the Severance Tax Division at (504) 925-7500. ■

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