

Louisiana **Tax Topics**

Department of Revenue and Taxation



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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.

Severance tax guidelines explained

The following is an explanation of the severance tax filing requirements for receiving reduced tax rates on production from incapable and stripper wells. Severance taxpayers should follow these guidelines in order to be eligible for the reduced rates and avoid being billed for additional taxes on their production.

Definitions

Incapable oil is oil produced from a well classified by the Office of Conservation as an oil well and determined by the Department of Revenue and Taxation as incapable of producing an average of more than 25 barrels of oil per producing day during the entire taxable month. An incapable well also produces at least 50 percent salt water per producing day and is not on the same lease as a capable (full rate) well. The severance tax rate for incapable oil is one-half the capable (full) rate.

Stripper oil is oil produced from a well classified by the Office of Conservation as an oil well and determined by the Department of Revenue and Taxation as incapable of producing an average of more than ten barrels of oil per producing day during the entire taxable month. The severance tax rate for stripper oil is one-fourth the capable (full) rate. As of June 1994, certified stripper production is exempt from the severance tax in any month in which the gross taxable value is less than \$20 per barrel.

Certification

Before the severance tax on the production from a well can be paid at the stripper or

incapable tax rate, the well must be certified as such to the Department of Revenue and Taxation on Form SEV O-10 or Form SEV O-25, Application for Certification of Stripper or Incapable Wells, respectively. It is important that all information requested on the application be completed. 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, as provided for by Revised Statutes 47:633(7)(b) and (c).

The Department will not retroactively certify wells beyond the statutory date of

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 oil, 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.

The closing stock (i.e. the oil in the storage tank prior to a well's certification) is not eligible for the reduced tax rate. Severance tax is due on the closing stock at the rate in effect when it was produced.

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United States Supreme Court denies writ application by Columbia Gulf

The United States Supreme Court on October 2, 1995, denied the Writ Application of Columbia Gulf Transmission Company (No. 95-53) which affirms the decision of the Louisiana State Supreme Court (No. 94-C-1650).

Columbia Gulf Transmission Company (Columbia Gulf) transports natural gas from offshore Louisiana to Kentucky through underground interstate pipelines. The gas loses pressure during the journey and is recompressed at four Louisiana compressor stations. The Department sought to impose a use tax on the gas that was diverted from the pipelines for consumption at the four compressor stations.

The Louisiana Supreme Court held that the sales and use tax statute clearly intends to tax property consumed in the state. "When natural gas compressor fuel is consumed," the court stated, "it comes to rest and becomes a part of the state's property. Fuel must necessarily come to rest as it is consumed. It ceases to exist; it is terminated; it is used in Louisiana; it cannot be taxed by another state." The Court also held that the taxation of this fuel is not barred by the Commerce Clause of the United States Constitution. ■

Severance update (continued)

Approved incapable wells will be given a certification code of "P." Approved stripper wells will be given a certification code of either "A" or "B." The "B" certification code applies only to stripper wells certified in the producing fields of Caddo Pine Island, Rodessa, and Tullos Urania.

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 paying the reduced rate on production from the well. The Department will certify any qualifying well that was certified by the previous owner back to the date of the ownership change, provided that the new owner has continued to timely file Form SEV O-3, Monthly Incapable and Stripper Oil Well Report, for the well. This is the only exception to retroactively certifying wells.

SEV O-3 filing

Form SEV O-3 serves as a continuing certification of a well's reduced rate status.

Stripper wells with the certification code of "B" are not required to be included on this form. The initial approved certification allows the severance tax on the well to be paid at the reduced rate for the first month of certification. After a producer has been notified that a well qualifies for the reduced rate, Form SEV O-3 must be filed for all months subsequent to the effective date of certification in order for the well to be eligible for the reduced rate for these months. Form SEV O-3 must continue to be filed monthly on or before the fifteenth day of the second month following the month of production, as provided for by R.S. 47:633 (7)(b) and (c). The producer of the well is also required to submit a copy of Form SEV O-3 to the purchaser of the oil, if the purchaser is remitting the severance tax on the well.

The postmark date on the envelope is used to determine the timely filing of Form SEV O-3. If the fifteenth of the month falls on a weekend or holiday, the form must be filed by the next business day. The filing of

a delinquent Form SEV O-3 for an incapable well requires the taxpayer to make payment at the full rate of 12½ percent of the value. Severance tax on all other incapable wells on the same lease is also due at the full rate for that same production period. The filing of a delinquent Form SEV O-3 for a stripper well does not affect the status of the stripper well. This form must still be filed for the "A" coded certified stripper wells for the periods in which they are exempt from the severance tax when the gross value per barrel is less than \$20.

If no Form SEV O-3 is filed with the Department for a given well, the tax is due at the full tax rate of 12½ percent of the value. If the well is an incapable well, it will lose its incapable status for this period, as will all other incapable wells on the lease. Any remaining stripper wells will retain their stripper status. If the well is a stripper well, no refund will be issued or any assessment reduced based on the missing form, until such time as the reports are filed.

The total disposition volume reported on Form SEV O-3 each month for a particular lease should equal the reduced tax rate volume reported on Form SEV O-1d for the same month and lease.

Nonproduction month

When the status of a certified well is changed by the Office of Conservation to a nonproducing well, it should be reported on Form SEV O-3 for the month of the status change and have the certification canceled at that time. If and when the well returns to production, the producer must re-apply for certification. A well must be included on this form showing the actual production, even if the production is low enough that a report to the Office of Conservation is not required. Otherwise, the well will be considered off production. A certified well that has gone off production, but has inventory remaining in the tank to be run at a later date, must be reported on Form SEV O-3 for the month the actual disposition takes place. This should be denoted on this form by an

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Individual income tax forms to be electronically scanned

The 1996 tax processing season will be the third year that Louisiana individual income tax forms will be electronically scanned.

Processing forms by scanning is a faster, more accurate method of processing. It reduces department processing costs and reduces the inconvenience caused to some taxpayers through keypunch errors.

The official form will again make use of "dropout inks" that are invisible to the electronic eye of the scanning machine. The scanner can read and record both handprinted and typed data within the special handprint boxes on the tax form. However, the dropout ink becomes black on a photocopy, which interferes with reading the data, so it is important that photocopies not be submitted for processing. Taxpayers may retain

photocopies for their records, but the copies are not scannable and will delay processing if submitted to the Department.

Substitute individual income tax returns that are also scannable can be produced from approved software. Photocopies of these substitute forms cannot be submitted to the Department for processing because the originals are laser generated forms with precise positioning of data. Although photocopies may appear identical to the originals, the data positions are changed slightly in the photocopy process, which makes the copies unacceptable for processing. In order to avoid the accidental submission of a photocopy to the Department for processing, preparers providing photocopies of a tax return for the taxpayer should stamp the copy with the words "Taxpayer Copy" in red ink. ■

Severance update (continued)

asterisk and an explanation that states the actual production month and the date of certification.

Overproduction month

When a well produces in excess of the maximum allowed for a stripper well (ten barrels a day) or an incapable well (25 barrels a day), the production from that well must be paid at the full rate for that production period. If a stripper or an incapable well loses its reduced rate status for any period, all other incapable wells on the same lease must also pay severance tax at the full rate for that same production period. The other stripper wells will retain their stripper status.

Audit adjustments

Assessments are made on a month-to-month basis. The Department is allowing each month of production and filing requirements to stand on their own. It is the responsibility of the producer to meet the reduced rate requirements when paying at the reduced rate. If an audit reveals that a well does not meet the criteria for paying at the reduced rate, additional tax will be assessed for the nonqualifying production periods. Since the Department is not able to immediately identify all areas of noncom-

pliance, 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. Form SEV O-3 was not filed or was filed late. Late filing of this form does not apply to stripper wells except to the extent that no refund will be issued or any assessment reduced until such time as the delinquent Form SEV O-3 is filed. **The timely filing of Form SEV O-3 is required for all incapable wells in order for the reduced rate to apply.**
3. A well has overproduced.
4. Tax was paid at the wrong rate. A well must be certified before a reduced rate can be taken. **Changes in production require a well to be certified for that rate before a different reduced rate can be taken.**
5. A reduced rate was taken on closing stock before certification. Tax on closing stock must be paid at the tax rate in effect when it is produced. The Department uses the first-in, first-out (FIFO) method when making this calculation.

6. An incapable well produced less than 50 percent salt water. The salt water content must be at least 50 percent to qualify for the incapable rate.
7. A capable (full rate) well was on the same lease as incapable wells. Changes to a stripper or incapable well that make a well capable (full rate) also make all other incapable wells on the lease capable (full rate).

Producer/taxpayer responsibility

It is the producer's responsibility to ensure that wells are properly certified and that reports are completed correctly and timely filed. Purchasers of oil on which a reduced rate of tax was paid are urged to ensure that the producers are properly certified and 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 concerning these guidelines should be directed to the Severance Tax Division at (504) 925-7500. ■

Small town doctor credit available

A tax credit equal to the lesser of the tax due, or \$5,000, is available to certified medical doctors who relocate their primary office after July 1, 1991, to certain locations and agree to certain conditions for a period of three years. The tax credit is available for each of the three years and may be claimed for up to an additional two years if the conditions for the credit continue to be met. Therefore, the credit is available for up to five years. If the doctor violates the conditions of the credit during the first three-year period, the credit is not available for the year of violation. In addition, all credit taken in prior years is recaptured and added to the tax liability for the year of violation. If the violation occurs in the fourth or fifth year,

no credit is available for that year or a subsequent year, but there is no recapture.

The credit is claimed on Schedule A of the Louisiana individual income tax return under "Other Credits" and a statement that the terms of R.S. 47:297(H) have been met and will be met for a period of at least three years must be attached.

The credit is limited to the tax due. There will be no unused credit.

The specific requirements are as follows:

- The taxpayer must be a certified medical doctor possessing an unrestricted license from this state to practice medicine.

- The doctor must move and maintain his primary office after July 1, 1991, to within 20 miles of a community hospital not owned predominantly by other physicians. The primary office cannot have been so located prior to July 1, 1991.
- Both the office and the hospital must be located more than 20 miles from the nearest incorporated city with a population in excess of 30,000 persons.
- The doctor must accept Medicaid and Medicare payments.

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

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Writs refused in severance tax case

The U.S. Supreme Court refused to hear a severance tax case involving minerals extracted from federally owned Barksdale Air Force Base property in the Shreveport-Bossier area. The decision leaves the lower court's ruling intact allowing the Department to impose a severance tax upon the minerals severed from the federal property. Barksdale is the only federal property immediately affected. However, the decision would also allow the severance tax to be applied to production on any other federal property in Louisiana. (MRT Corp. et al., U.S. Supreme Court, Docket No. 95-286, petition for certiorari denied October 2, 1995.) ■

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