

OKLAHOMA TAX COMMISSION

**REVENUE IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT
SECOND REGULAR SESSION, FIFTY-EIGHTH OKLAHOMA LEGISLATURE**

DATE OF IMPACT STATEMENT: 3/29/2022

BILL NUMBER: HB3568 **STATUS AND DATE OF BILL:** Engrossed 3/22/2021

AUTHORS: House McBride and Fetgatter Senate Allen

TAX TYPE (S): Gross Production **SUBJECT:** Exemption

PROPOSAL: Amendatory.

The measure proposes amending 68 O.S. § 1001, which relates to gross production tax (“GPT”) by creating exemption for certain secondary recovery projects, limiting exemption under certain circumstances, defining terms, authorizing Corporation Commission to promulgate rules, providing procedures to qualify for such exemptions. Further, this measure proposes creating exemption for certain production enhancement projects, defining terms, allowing refunds for certain projects, and prescribing refunds procedure.

EFFECTIVE DATE: July 1, 2022 - Emergency

REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY23: \$1,266,000 decrease in GPT collections from Secondary/Tertiary Recovery Exemption. No impact of the Production Enhancement Project Exemption on GPT collections. See attached for further analysis.

ADMINISTRATIVE COST:

FY 23: Increase of \$7,000 in administrative costs.

Mar. 29, 2022
DATE

Rick Miller
DIVISION DIRECTOR

mg

3/29/2022
DATE

Huan Gong
HUAN GONG, ECONOMIST

3/30/2022
DATE

[Signature]
FOR THE COMMISSION

The revenue impact provided herein is an estimate of the potential impact on the collection or apportionment of tax revenues affected by the proposed legislation. It is not intended to be an estimate of the overall fiscal impact on the state budget if the proposed legislation is enacted.

ATTACHMENT TO FISCAL IMPACT-HB3568 [Engrossed] prepared: 3/29/2022

The measure proposes amending 68 O.S. § 1001, which relates to gross production tax (“GPT”) by creating exemption for certain secondary recovery projects, limiting exemption under certain circumstances, defining terms, authorizing Corporation Commission (“OCC”) to promulgate rules, providing procedures to qualify for such exemptions. Further, this measure proposes creating exemption for certain production enhancement projects, defining terms, allowing refunds for certain projects, and prescribing refunds procedure.

This measure proposes:

- Any incremental production attributable to the working interest owners from secondary recovery projects shall be exempt from the GPT levied not to exceed 5 years from the initial project start date or for a period ending upon the termination of the secondary recovery process, whichever occurs first.
- Any incremental production attributable to the working interest owners from tertiary recovery projects shall be exempt from the GPT levied from the project start date until project payback (“PP”) is achieved, but not to exceed 10 years. Project payback shall be determined by appropriate payback indicators which provide for the recovery of capital expenses and operating expenses, excluding administrative expenses. The capital expenses of pipelines constructed to transport carbon dioxide to a tertiary recovery project shall not be included in determining PP.
- The provisions shall not apply to any enhanced recovery project using fresh water as the primary injectant, except when using steam.
- Define terms:
 - Incremental Production: The amount of crude oil or other liquid hydrocarbons which is produced during an enhanced recovery project and which is in excess of the base production amount of crude oil or other liquid hydrocarbons.
 - The base production amount shall be the average monthly amount of production for the 12 month period immediately prior to the project start date minus the monthly rate of production decline for the project for each month beginning 180 days prior to the project start date. The monthly rate of production decline shall be equal to the average extrapolated monthly decline rate for the twelve-month period immediately prior to the project start date as determined by the OCC based on the production history of the field, its current status, and sound reservoir engineering principles.
 - Project Start Date: The date on which the injection of liquids, gases, or other matter begins on an enhanced recovery project.
- The OCC shall promulgate rules for the qualification for this exemption which shall include, but not be limited to, procedures for determining incremental production and the establishment of appropriate payback indicators as approved by the Oklahoma Tax Commission (“OTC”) for the determination of project payback for each of the exemptions authorized.
- For new secondary recovery projects and tertiary recovery projects approved by the OCC on or after July 1, 2022, such approval shall constitute qualification for an exemption.
- Any person seeking an exemption shall file an application for such exemption with the OTC which, upon determination of qualification by the OCC, shall approve the application for such exemption.
- The OTC may require any person requesting such exemption to furnish information or records concerning the exemption as is deemed necessary by the OTC.
- Upon the expiration of the exemption granted, the OTC shall collect the GPT levied.

- Any incremental production which results from a production enhancement project shall be exempt from the GPT levied for 28 months from the date of first sale after project completion of the production enhancement project. This exemption shall take effect July 1, 2022, and shall apply to production enhancement projects having a project start date on or after July 1, 2022. For all such production, a refund against GPT shall be issued.

Define terms for production enhancement projects:

- Production enhancement project means any workover, recompletion, reentry of plugged and abandoned wellbores, or addition of a well or field compression.
- Base production means the average monthly amount of production for the 12 month period immediately prior to the commencement of the project or the monthly amount of production for the 12 month period immediately prior to the commencement of the project less the monthly rate of production decline for the project for each month beginning 180 days prior to the commencement of the project. The monthly rate of production decline shall be equal to the average extrapolated monthly decline rate for the 12 month period immediately prior to the commencement of the project based on the production history of the well. If the well or wells covered in the application had production for less than the full 12 month period prior to the filing of the application for the production enhancement project, the base production shall be the average monthly production for the months during that period that the well or wells produced.
- Recompletion means any downhole operation in an existing oil or gas well that is conducted to establish production of oil or gas from any geologic interval not currently completed or producing in such existing oil or gas well within the same or a different geologic formation.
- Workover means any downhole operation in an existing oil or gas well that is designed to sustain, restore, or increase the production rate or ultimate recovery in a geologic interval currently completed or producing in the existing oil or gas well. For production enhancement projects having a project start date on or after July 1, 2022, workover includes, but is not limited to:
 - (1) acidizing,
 - (2) reperforating,
 - (3) fracture treating,
 - (4) sand, paraffin, or scale removal or other wellbore cleanouts,
 - (5) casing repair,
 - (6) squeeze cementing,
 - (7) installation of compression on a well or group of wells or initial installation of artificial lifts on gas wells, including plunger lifts, rod pumps, submersible pumps, and coiled tubing velocity strings,
 - (8) downsizing existing tubing to reduce well loading,
 - (9) downhole commingling,
 - (10) bacteria treatments,
 - (11) upgrading the size of pumping unit equipment,
 - (12) setting bridge plugs to isolate water production zones, or
 - (13) any combination thereof.
- Workover shall not mean the routine maintenance, routine repair, or like-for-like replacement of downhole equipment such as rods, pumps, tubing, packers, or other mechanical devices.

- For all oil and gas production exempt from GPT during a given fiscal year, a refund of GPT shall be issued to the well operator or a designee in the amount of such GPT paid during such period, subject to the following provisions:
 - A refund shall not be claimed until after the end of such fiscal year.
 - Unless otherwise specified, no claims for refunds shall be filed more than 18 months after the first day of the fiscal year in which the refund is first available.
 - No claims for refunds shall be filed by or on behalf of persons other than the operator or a working interest owner of record at the time of production.
 - No refund shall be paid unless the person making the claim for refund demonstrates by affidavit or other means prescribed by the OTC that an amount equal to or greater than the amount of the refund has been invested in the exploration for or production of crude oil or natural gas in this state by such person not more than 3 years prior to the date of the claim. No amount of investment used to qualify for a refund may be used to qualify for another refund mentioned in this paragraph.
 - If there are insufficient funds collected from the production of oil or gas to satisfy the refunds claimed for oil or gas production, the OTC shall pay the balance of the refund claims out of the GPT collected from either the production of oil or gas, as necessary.
- All persons shall only be entitled to either the exemption granted for each oil, gas, or oil and gas well drilled or recompleted in this state. However, any person who qualifies for the exemption granted for production enhancement projects shall not be prohibited from qualification for the exemption granted for secondary recovery project if the exemption granted has expired.

Under this measure,

Based on the average amount of approved claims for Secondary/Tertiary Recovery Projects from FY12 to FY17 and assuming that there shall be comparable amount of approved claims for Secondary/Tertiary Recovery Projects for FY23 following decline in GPT collection is expected from Secondary/Tertiary Recovery Projects:

Secondary/Tertiary Recovery Exemption= \$1,266,000

Similarly, based on the average amount of approved claims for Production Enhancement Projects from FY12 to FY17 and approximately 14.29% increase due to the proposed measure being for the full tax paid, the following decline in GPT collection shall be expected from Production Enhancement Projects. Previously taxpayers effectively got a refund that was 6/7th of the tax exempt. Under this measure, they will be getting the full 7/7th, an additional 1/7th (~14.29%).

Production Enhancement Projects = \$16,537,000+14%*\$16,537,000 =\$18,852,000

For FY23: There shall be approximately \$1,266,000 decline in GPT collections from Secondary/Tertiary Recovery Exemptions. No impact of Production Enhancement Projects will be observed in FY23.

Production Enhancement Project exemptions are granted as refunds which shall be claimed after the end of the fiscal year, and no later than 18 months unless specified otherwise. Therefore, the amount of refunds granted in FY24 is unknown for such Projects.