



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
Cory Fong, Commissioner

**OIL EXTRACTION TAX INCENTIVE
BECOMES INEFFECTIVE NOVEMBER 1, 2009**

TO: North Dakota Oil Producers and Purchasers
FROM: Office of State Tax Commissioner
SUBJECT: Horizontal New Well 2% Oil Extraction Tax Incentive Rate
DATE: November 3, 2009

Effective November 1, 2009, the 2% extraction tax incentive rate, which was created during the 2009 Legislative Session, became "ineffective" with October 2009's computed average price exceeding \$70. Therefore, well completions made after October 31, 2009 *will not* be eligible for the 2% extraction tax incentive rate.

The 2009 Legislature created the new horizontal well incentive to encourage drilling and development in North Dakota. House Bill 1235 amended subsection (9) in North Dakota Century Code (N.D.C.C.) § 57-51.1-03 to provide that:

The first seventy-five thousand barrels or the first four million five hundred thousand dollars of gross value at the well, whichever is less, of oil produced during the first eighteen months after completion, from a horizontal well drilled and completed after April 30, 2009, is subject to a reduced tax rate of two percent of the gross value at the well of the oil extracted under this chapter.

A well eligible for a reduced tax rate under this subsection is eligible for the exemption for horizontal wells under subsection 3, if the exemption under subsection 3 is effective during all or part of the first twenty-four months after completion.

The rate reduction under this subsection becomes effective on the first day of the month following a month for which the average price of a barrel of crude oil is less than fifty-five dollars.

The rate reduction under this subsection becomes ineffective on the first day of the month following a month in which the average price of a barrel of crude oil exceeds seventy dollars.

If the rate reduction under this subsection is effective on the date of completion of a well, the rate reduction applies to production from that well for up to eighteen months after completion, subject to the other limitations of this subsection.

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

For purposes of this incentive, the “average price of a barrel of crude oil,” means the monthly average of the daily closing price for a barrel of west Texas intermediate cushing crude oil, as those prices appear in the Wall Street Journal, midwest edition, minus two dollars and fifty cents.

The 2% extraction tax incentive rate for horizontal wells provided for in HB 1235 became “effective” May 1, 2009 with April 2009’s average price computing below \$55. Wells that qualified for this reduced rate through October 2009 must have been both drilled (spudded) after April 30, 2009 and completed as a horizontal well during May 2009, June 2009, July 2009, August 2009, September 2009, or October 2009.

The 2% extraction tax incentive rate may become “effective” for future completions if the “average price of a barrel of crude oil” falls back below \$55. In the event the 2% extraction tax incentive rate becomes “effective” for future completions, the Tax Commissioner will issue an additional notice. Please note that this incentive is set to expire on June 30, 2012.

Additional information is available on our website at <http://www.nd.gov/tax/oilgas/>. A complete listing of links to the North Dakota Century and Administrative Codes are located on our website at <http://www.nd.gov/tax/centurycode/>. If you have any questions, please contact the Oil and Gas Tax Section at 701.328.2705 or by email at oiltax@nd.gov.