

As Amended by House Committee

Session of 2012

HOUSE BILL No. 2481

By Committee on Taxation

1-19

1 AN ACT concerning mineral severance tax; relating to taxation of helium
2 and other gases; prohibiting certain refunds related thereto; amending
3 K.S.A. 79-4226 and K.S.A. 2011 Supp. 79-4216 and repealing the
4 existing sections.
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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2011 Supp. 79-4216 is hereby amended to read as
8 follows: 79-4216. As used in this act, unless the context clearly requires
9 otherwise, the following words and phrases shall have the meanings
10 ascribed to them herein:

11 (a) "Barrel" for oil measurement means a barrel of 42 U.S. gallons of
12 231 cubic inches per gallon, computed at a temperature of 60 degrees
13 Fahrenheit.

14 (b) "Director" means the director of taxation.

15 (c) "Gas" means natural gas, *and all other raw, unrefined gas or*
16 *gases, all constituent parts of any such gas or gases and refined products*
17 *derived from any such gas or gases, including, but not limited to, methane,*
18 *ethane, propane, butane and helium,* taken from below the surface of the
19 earth or water in this state, regardless of whether from a gas well or from a
20 well also productive of oil or any other product.

21 (d) "Gross value" means the sale price of oil or gas at the time of
22 removal of the oil or gas from the lease or production unit and if oil or gas
23 is exchanged for something other than cash, or if no sale occurs at the time
24 of removal or if the director determines that the relationship between the
25 buyer and the seller is such that the consideration paid, if any, is not
26 indicative of the true value or market price, then the director shall
27 determine the value of the oil or gas subject to tax based on the cash price
28 paid to one or more producers for the oil or gas or based on the cash price
29 paid to producers for like quality oil or gas in the vicinity of the lease or
30 production unit at the time of the removal of the oil or gas from the lease
31 or production unit.

32 (e) "Lease number" means the number assigned by the director of
33 taxation to identify each well, lease or combination of wells within a lease.

34 (f) "Oil" means petroleum, or other crude oil, condensate, casinghead
35 gasoline, or other mineral oil which is severed or withdrawn from below
36 the surface of the soil or water in this state.

1 (g) "Operator" means the person primarily responsible for the
2 management and operation of coal, oil or gas productions from a lease,
3 production unit or mine.

4 (h) "Person" means any natural person, firm, copartnership, joint
5 venture, association, corporation, estate, trust or any other group or
6 combination acting as a unit, and the plural as well as the singular number.

7 (i) "Producer" means any person owning, controlling, managing or
8 leasing any coal, oil or gas property or oil or gas well or coal or salt mine,
9 and any person who serves in any manner any coal, oil or gas in this state,
10 and shall include any person owning any direct and beneficial interest in
11 any coal, oil or gas produced, whether severed by such person or some
12 other person on their behalf, either by lease, contract or otherwise,
13 including a royalty owner.

14 (j) "Remove" or "removal" means the physical transportation of coal,
15 oil or gas off of the lease or production unit or from the mine where
16 severed; and if the manufacture or conversion of crude oil or natural gas
17 into refined products occurs on the premises where severed, oil or gas shall
18 be deemed to have been removed on the date such manufacture or
19 conversion begins.

20 (k) "Secretary" means the secretary of revenue.

21 (l) "Severed" or "severing" means: (1) The production of oil through
22 extraction or withdrawal of the same from below the surface of the soil or
23 water, whether such extraction or withdrawal shall be by natural flow,
24 mechanical flow, forced flow, pumping or any other means employed to
25 get the oil from below the surface of the soil or water and shall include the
26 withdrawal by any means whatsoever of oil upon which the tax has not
27 been paid, from any surface reservoir, natural or artificial, or from a water
28 surface; (2) the production of gas through the extraction or withdrawal of
29 the same by any means whatsoever, from below the surface of the earth or
30 water; and (3) the physical removal of coal from the earth.

31 (m) "Taxpayer" means any person liable for the taxes imposed by this
32 act.

33 (n) "Disruption of production" means, in the case of oil, a continuous
34 24-hour period during which a well is not producing. Circulating and
35 missed production days shall be considered production days if the operator
36 can demonstrate that any lost production is subsequently recovered during
37 a later production day. In the case of gas, a continuous one-hour period
38 during which a well is not open to the pipeline shall be deemed to be a
39 disruption of production. Missed production hours shall be considered
40 production hours if the operator can demonstrate that any lost production
41 is subsequently recovered during later production hours.

42 Sec. 2. K.S.A. 79-4226 is hereby amended to read as follows: 79-
43 4226. (a) Every operator shall make and keep a complete and accurate

1 record in the form required by the director showing the gross quantity of
2 coal, oil or gas severed and removed from each lease, production unit or
3 mine, the names of the purchasers of such products, the price paid therefor
4 and the date of purchase. Every purchaser of coal, oil or gas severed in this
5 state who is required to collect and remit the tax on the same shall make
6 and keep a complete and accurate record in the form required by the
7 director showing the gross quantity of coal, oil or gas purchased from each
8 lease, production unit or mine, the price paid therefor, the name of the
9 operator and the date of purchase. Such records shall at all times during
10 business hours of the day be available for and subject to inspection by the
11 director, or the director's duly authorized agents and employees, for a
12 period of three years from the last day of the calendar year to which the
13 records pertain. Such records shall be preserved during the entire period
14 during which they are subject to inspection by the director, unless the
15 director in writing previously authorized their disposal.

16 (b) The amount of taxes imposed by this act is to be assessed within
17 three years after the return is filed. In the case of a false or fraudulent
18 return with intent to evade tax, the tax may be assessed or a proceeding in
19 court for collection of such tax may be begun at any time, within two years
20 from the discovery of such fraud. The provisions of K.S.A. 79-3226, and
21 amendments thereto, relating to procedures for contesting a proposed
22 assessment of additional tax or the denial of a refund shall apply as if set
23 forth in this section. No refund shall be allowed by the director after three
24 years from the date the return was filed, or one year after the assessment is
25 made, whichever is the later date unless before the expiration of such
26 period a claim therefor is filed by the taxpayer. No suit or action to recover
27 on any claim for refund shall be commenced until after the expiration of
28 six months from the date of filing a claim therefor with the director.

29 (c) Before the expiration of time prescribed in this section for the
30 assessment of additional tax or the filing of a claim for refund, the director
31 is hereby authorized to enter into an agreement in writing with the
32 taxpayer consenting to the extension of the periods of limitations for the
33 assessment of tax or for the filing of a claim for refund, at any time prior to
34 the expiration of the periods of limitations. The periods so agreed upon
35 may be extended by subsequent agreements in writing made before the
36 expiration of the periods previously agreed upon. In consideration of such
37 agreement or agreements, interest due in excess of 48 months on any
38 additional tax shall be waived.

39 (d) *No refund of mineral severance tax shall be allowed by the*
40 *director or by any court of this state based on any administrative or*
41 *judicial claim, petition, pleading, cause of action or request for relief that*
42 **has been or may be filed on or after July 1, 1983, alleging that any**
43 *constituent part of gas and any refined products derived from any such gas*

1 *is not taxable pursuant to the provisions of K.S.A. 79-4216 et seq., and*
2 *amendments thereto.*

3 Sec. 3. K.S.A. 79-4226 and K.S.A. 2011 Supp. 79-4216 are hereby
4 repealed.

5 Sec. 4. This act shall take effect and be in force from and after its
6 publication in the statute book.

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