



# **KANSAS STATUTES AND REGULATIONS FOR MINERALS SEVERANCE TAX**

KANSAS DEPARTMENT OF REVENUE  
DIVISION OF TAX OPERATIONS  
MINERAL TAX SECTION  
TOPEKA, KANSAS 66625-0680

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## Chapter 79: TAXATION

### Article 42.—MINERAL SEVERANCE TAX

**79-4216. Mineral severance tax; definitions.** As used in this act, unless the context clearly requires otherwise, the following words and phrases shall have the meanings ascribed to them herein:

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

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

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

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

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

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"Oil" means petroleum, or other crude oil, condensate, casinghead gasoline, or other mineral oil which is severed or withdrawn from below the surface of the soil or water in this state.

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

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

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

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

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

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

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

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

**History:** L. 1983, ch. 313, § 1; L. 1987, ch. 393, § 2; L. 1992, ch. 10, § 1; L. 1997, ch. 126, § 50; L. 2004, ch. 173, § 17; L. 2013, ch. 135, § 13; June 20.

**79-4217. Mineral severance tax; imposition of tax; rate; measurement of production; exemptions.** (a) There is hereby imposed an excise tax upon the severance and production of coal, oil or gas from the earth or water in this state for sale, transport, storage, profit or commercial use, subject to the following provisions of this section. Such tax shall be borne ratably by all persons within the term "producer" as such term is defined in K.S.A. 79-4216, and amendments thereto, in proportion to their respective beneficial interest in the coal, oil or gas severed. Such tax shall be applied equally to all portions of the gross value of each barrel of oil severed and subject to such tax and to the gross value of the gas severed and subject to such tax. The rate of such tax shall be 8% of the gross value of all oil or gas severed from the earth or water in this state and subject to the tax imposed under this act. The rate of such tax with respect to coal shall be \$1 per ton. For the purposes of the tax imposed hereunder the amount of oil or gas produced shall be measured or determined: (1) In the case of oil, by tank tables compiled to show 100% of the full capacity of tanks without deduction for overage or losses in handling; allowance for any reasonable and bona fide deduction for basic sediment and water, and for correction of temperature to 60 degrees Fahrenheit will be allowed; and if the amount of oil severed has been measured or determined by tank tables compiled to show less than 100% of the full

capacity of tanks, such amount shall be raised to a basis of 100% for the purpose of the tax imposed by this act; and (2) in the case of gas, by meter readings showing 100% of the full volume expressed in cubic feet at a standard base and flowing temperature of 60 degrees Fahrenheit, and at the absolute pressure at which the gas is sold and purchased; correction to be made for pressure according to Boyle's law, and used for specific gravity according to the gravity at which the gas is sold and purchased, or if not so specified, according to the test made by the balance method.

(b) The following shall be exempt from the tax imposed under this section:

(1) The severance and production of gas which is: (A) Injected into the earth for the purpose of lifting oil, recycling or repressuring; (B) used for fuel in connection with the operation and development for, or production of, oil or gas in the lease or production unit where severed; (C) lawfully vented or flared; (D) severed from a well having an average daily production during a calendar month having a gross value of not more than \$87 per day, which well has not been significantly curtailed by reason of mechanical failure or other disruption of production; in the event that the production of gas from more than one well is gauged by a common meter, eligibility for exemption hereunder shall be determined by computing the gross value of the average daily combined production from all such wells and dividing the same by the number of wells gauged by such meter; (E) inadvertently lost on the lease or production unit by reason of leaks, blowouts or other accidental losses; (F) used or consumed for domestic or agricultural purposes on the lease or production unit from which it is severed; or (G) placed in underground storage for recovery at a later date and which was either originally severed outside of the state of Kansas, or as to which the tax levied pursuant to this act has been paid;

(2) the severance and production of oil which is: (A) From a lease or production unit whose average daily production is five barrels or less per producing well, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (B) from a lease or production unit, the producing well or wells upon which have a completion depth of 2,000 feet or more, and whose average daily production is six barrels or less per producing well or, if the price of oil as determined pursuant to subsection (d) is \$16 or less, whose average daily production is seven barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is \$15 or less, whose average daily production is eight barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is \$14 or less, whose average daily production is nine barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is \$13 or less, whose average daily production is 10 barrels or less per producing well, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (C) from a lease or production unit, whose production results from a tertiary recovery process. "Tertiary recovery process" means the process or processes described in subparagraphs (1) through (9) of 10 C.F.R. § 212.78(c) as in effect on June 1, 1979; (D) from a lease or production unit, the producing well or wells upon which have a completion depth of less than 2,000 feet and whose average daily production resulting from a water flood process, is six barrels or less per producing well, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (E) from a lease or production unit, the producing well or wells upon which have a completion depth of 2,000 feet or more, and whose average daily production resulting from a water flood process, is seven barrels or less per producing well or, if the price of oil as determined pursuant to subsection (d) is \$16 or less, whose average daily production is eight barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is \$15 or less, whose average daily production is nine barrels or less per producing well, or, if the price of oil as determined pursuant to subsection (d) is \$14 or less, whose average daily production is 10 barrels or less per producing well, which well or wells have not been significantly curtailed by reason of mechanical failure or other disruption of production; (F) test, frac or swab oil which is sold or exchanged for value; or (G) inadvertently lost on the lease or production unit by reason of leaks or other accidental means;

(3) (A) any taxpayer applying for an exemption pursuant to subsections (b)(2)(A) and (B) shall make application biennially to the director of taxation therefor. Exemptions granted pursuant to subsections (b)(2)(A) and (B) shall be valid for a period of two years following the date of certification thereof by the director of taxation; (B) any taxpayer applying for an exemption pursuant to subsections (b)(2)(D) or (E) shall make application biennially to the director of taxation therefor. Such application shall be accompanied by proof of the approval of an application for the utilization of a water flood process therefor by the corporation commission pursuant to rules and regulations adopted under the authority of K.S.A. 55-152, and amendments thereto, and proof that the oil produced therefrom is kept in a separate tank battery and that separate books and records are maintained therefor. Such exemption shall be valid for a period of two years following the date of certification thereof by the director of taxation; (C) any exemption granted pursuant to subsections (b)(2)(A), (B), (D) or (E) with an odd lease number and an exemption termination date between June 1, 2004, and May 31, 2005, inclusive, shall be valid for a period of one year following the date of certification; and (D) notwithstanding the provisions of paragraph (A) or (B), any exemption in effect on the effective date of this act affected by the amendments to subsection (b)(2) by this act shall be redetermined in accordance with such amendments. Any such exemption, and any new exemption established by such amendments and applied for after the effective date of this act shall be valid for a period commencing with May 1, 1998, and ending on April 30, 1999;

(4) the severance and production of gas or oil from any pool from which oil or gas was first produced on or after April 1, 1983, and prior to July 1, 2012, as determined by the state corporation commission and certified to the director of taxation, and continuing for a period of 24 months from the month in which oil or gas was first produced from such pool as evidenced by an affidavit of completion of a well, filed with the state corporation commission and certified to the director of taxation. Exemptions granted for production from any well pursuant to this paragraph shall be valid for a period of 24 months following the month in which oil or gas was first produced from such pool. The term "pool" means an underground accumulation of oil or gas in a single and separate natural reservoir characterized by a single pressure system so that production from one part of the pool affects the reservoir pressure throughout its extent;

(5) the severance and production of oil from any well within a pool from which oil was first produced on or after July 1, 2012, as certified by the state corporation commission to the director of taxation, and from which the average daily severance and production of oil during the initial six months of production from the date of first production from such producing well, which

well has not been significantly curtailed by reason of mechanical failure or other disruption of production, does not exceed 50 barrels per day, and continuing for a period of 24 months from the month in which oil was first produced from such pool as evidenced by an affidavit of completion of a well, filed with the state corporation commission and certified to the director of taxation. Exemptions granted for production from any well pursuant to this subsection shall be valid for a period of 24 months following the month in which oil was first produced from such pool. The term "pool" means an underground accumulation of oil in a single and separate natural reservoir characterized by a single pressure system so that production from one part of the pool affects the reservoir pressure throughout its extent. For any such well that has qualified for exemption, if the average daily severance and production of oil from such well exceeds 50 barrels per day within any qualifying one-month production period after the initial qualifying production period, the exemption for such well shall be terminated as of the commencement of such one-month production period;

(6) the severance and production of oil or gas from a three-year inactive well, as determined by the state corporation commission and certified to the director of taxation, for a period of 10 years after the date of receipt of such certification. As used in this paragraph, "three-year inactive well" means any well that has not produced oil or gas in more than one month in the three years prior to the date of application to the state corporation commission for certification as a three-year inactive well. An application for certification as a three-year inactive well shall be in such form and contain such information as required by the state corporation commission, and shall be made prior to July 1, 1996. The commission may revoke a certification if information indicates that a certified well was not a three-year inactive well or if other lease production is credited to the certified well. Upon notice to the operator that the certification for a well has been revoked, the exemption shall not be applied to the production from that well from the date of revocation;

(7) (A) The incremental severance and production of oil or gas which results from a production enhancement project begun on or after July 1, 1998, shall be exempt for a period of seven years from the start-up date of such project. As used in this paragraph:

(1) "Incremental severance and production" means the amount of oil or natural gas which is produced as the result of a production enhancement project which is in excess of the base production of oil or natural gas, and is determined by subtracting the base production from the total monthly production after the production enhancement project is completed.

(2) "Base production" means the average monthly amount of production for the twelve-month period immediately prior to the production enhancement project beginning date, minus the monthly rate of production decline for the well or project for each month beginning 180 days prior to the project beginning date. The monthly rate of production decline shall be equal to the average extrapolated monthly decline rate for the well or project for the twelve-month period immediately prior to the production enhancement project beginning date, except that the monthly rate of production decline shall be equal to zero in the case where the well or project has experienced no monthly decline during the twelve-month period immediately prior to the production enhancement project beginning date. Such monthly rate of production decline shall be continued as the decline that would have occurred except for the enhancement project. Any well or project which may have produced during the twelve-month period immediately prior to the production enhancement project beginning date but is not capable of production on the project beginning date shall have a base production equal to zero. The calculation of the base production amount shall be evidenced by an affidavit and supporting documentation filed by the applying taxpayer with the state corporation commission.

(3) "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 of oil or gas, including, but not limited to, acidizing, reperforation, fracture treatment, sand/paraffin/scale removal or other wellbore cleanouts, casing repair, squeeze cementing, initial installation, or enhancement of artificial lifts including plunger lifts, rods, pumps, submersible pumps and coiled tubing velocity strings, downsizing existing tubing to reduce well loading, downhole commingling, bacteria treatments, polymer treatments, upgrading the size of pumping unit equipment, setting bridge plugs to isolate water production zones, or any combination of the aforementioned operations; "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 device.

(4) "Production enhancement project" means performing or causing to be performed the following:

(i) Workover;

(ii) recompletion to a different producing zone in the same well bore, except recompletions in formations and zones subject to a state corporation commission proration order;

(iii) secondary recovery projects;

(iv) addition of mechanical devices to dewater a gas or oil well;

(v) replacement or enhancement of surface equipment;

(vi) installation or enhancement of compression equipment, line looping or other techniques or equipment which increases production from a well or a group of wells in a project; or

(vii) new discoveries of oil or gas which are discovered as a result of the use of new technology, including, but not limited to, three dimensional seismic studies.

(B) The state corporation commission shall adopt rules and regulations necessary to efficiently and properly administer the provisions of this paragraph including rules and regulations for the qualification of production enhancement projects, the procedures for determining the monthly rate of production decline, criteria for determining the share of incremental production attributable to each well when a production enhancement project includes a group of wells, criteria for determining the start-up date for any project for which an exemption is claimed, and determining new qualifying technologies for the purposes of subsection (b)(7)(A)(4)(vii).

(C) Any taxpayer applying for an exemption pursuant to this paragraph shall make application to the director of taxation. Such application shall be accompanied by a state corporation commission certification that the production for which an exemption is sought results from a qualified production enhancement project and certification of the base production for the enhanced

wells or group of wells, and the rate of decline to be applied to that base production. The secretary of revenue shall provide credit for any taxes paid between the project start-up date and the certification of qualifications by the commission.

(D) The exemptions provided for in this paragraph shall not apply for 12 months beginning July 1 of the year subsequent to any calendar year during which: (1) In the case of oil, the secretary of revenue determines that the weighted average price of Kansas oil at the wellhead has exceeded \$20.00 per barrel; or (2) in the case of natural gas the secretary of revenue determines that the weighted average price of Kansas gas at the wellhead has exceeded \$2.50 per Mcf.

(E) The provisions of this paragraph shall not affect any other exemption allowable pursuant to this section; and (7) for the calendar year 1988, and any year thereafter, the severance or production of the first 350,000 tons of coal from any mine as certified by the state geological survey.

(c) No exemption shall be granted pursuant to subsection (b)(3) or (4) to any person who does not have a valid operator's license issued by the state corporation commission, and no refund of tax shall be made to any taxpayer attributable to any production in a period when such taxpayer did not hold a valid operator's license issued by the state corporation commission.

(d) On April 15, 1988, and on April 15 of each year thereafter, the secretary of revenue shall determine from statistics compiled and provided by the United States department of energy, the average price per barrel paid by the first purchaser of crude oil in this state for the six-month period ending on December 31 of the preceding year. Such price shall be used for the purpose of determining exemptions allowed by subsection (b)(2)(B) or (E) for the twelve-month period commencing on May 1 of such year and ending on April 30 of the next succeeding year.

**History:** L. 1983, ch. 313, § 2; L. 1984, ch. 364, § 1; L. 1986, ch. 204, § 1; L. 1987, ch. 393, § 1; L. 1992, ch. 10, § 2; L. 1994, ch. 210, § 1; L. 1998, ch. 130, § 28; L. 2000, ch. 184, § 31; L. 2004, ch. 173, § 18; L. 2012, ch. 135, § 29; L. 2013, ch. 87, § 7; Apr. 25.

### **Revisor's Note:**

For guidance on interpretation of subsection (b)(5), see Kansas Department of Revenue Notice 12-02 [at [www.ksrevenue.org](http://www.ksrevenue.org)].

### **Law Review and Bar Journal References:**

"Sustaining the Unsustainable: Oil and Gas Development in the 21<sup>st</sup> Century," David E. Pierce, 23 Kan. J. L. & Pub. Pol'y, No. 3, 362 (Spring 2014).

"The Revolutionary 2012 Kansas Tax Act," Martin B. Dickinson, et al., 61 K.L.R. 295 (2012).

### **Attorney General's Opinions:**

Constitutionality of mineral severance tax act. 83-44.

Oil and gas property as personalty; property held by federal land bank exempt from taxation. 86-16.

Home rule powers; charter resolutions; severance tax on quarried rock. 95-30.

## **CASE ANNOTATIONS**

1. Oil contained in BS&W not exempt; BOTA may not create exemption not included in statute. *Director of Taxation v. Kansas Krude Oil Reclaiming Co.*, 236 K. 450, 451, 458, 691 P.2d 1303 (1984).

2. Cited; KCC order amending basic proration order for Kansas Hugoton gas field to allow infill drilling examined. *Southwest Kan. Royalty Owners Ass'n v. Kansas Corporation Comm'n*, 244 K. 157, 169, 769 P.2d 1 (1989).

3. Helium is subject to the severance tax. *Hockett v. The Trees Oil Co.*, 292 K. 213, 251 P.3d 65 (2011).

**79-4218. Mineral severance tax; tax in addition to property tax.** Except as otherwise provided in this act, the tax imposed by K.S.A. 79-4217 shall be upon the severing and producing of coal, oil or gas in this state, regardless of the place of sale of such coal, oil or gas or to whom sold or by whom used, or the fact that the delivery thereof may be made to points outside the state. The taxes imposed by this act shall be in addition to all taxes imposed upon real or personal property by the state of Kansas or by any taxing subdivision thereof.

**History:** L. 1983, ch. 313, § 3; L. 1987, ch. 393, § 3; July 1.

**79-4219. Mineral severance tax; credit against tax.** (a) There shall be allowed to each taxpayer who is liable for ad valorem property taxes upon oil property as defined by K.S.A. 79-329, and amendments thereto, a credit against the tax levied under K.S.A. 79-4217, and amendments thereto, upon the severance and production of oil, in an amount equal to 3.67% of the gross value of oil severed and taxable under this act, and in which the taxpayer has a beneficial interest.

(b) There shall be allowed to each taxpayer who is liable for ad valorem property taxes upon gas property as defined by K.S.A. 79-329, and amendments thereto, a credit against the tax levied under K.S.A. 79-4217, and amendments thereto, upon the severance and production of gas, in an amount equal to the following amounts: (1) 2% of the gross value of gas severed and taxable under this act, and in which the taxpayer has a beneficial interest for the fiscal year commencing on July 1, 1994, and ending on June 30, 1995; (2) 3% of the gross value of gas severed and taxable under this act, and in which the taxpayer has a beneficial interest for the fiscal year commencing on July 1, 1995, and ending on June 30, 1996; and (3) 3.67% of the gross value of gas severed and taxable under this act, and in which the taxpayer has a beneficial interest for the fiscal year commencing on July 1, 1996, and all fiscal years thereafter.

**History:** L. 1983, ch. 313, § 4; L. 1994, ch. 304, § 1; July 1.

### **Law Review and Bar Journal References:**

"Sustaining the Unsustainable: Oil and Gas Development in the 21<sup>st</sup> Century," David E. Pierce, 23 Kan. J. L. & Pub. Pol'y, No. 3, 362 (Spring 2014).

**79-4220. Mineral severance tax; tax due and payable, when; persons liable for payment and collection; withholding by first purchaser; state lien on production, when.** (a) The tax imposed under the provisions of K.S.A. 79-4217, and amendments thereto, shall be due and payable on or before the 20th day of the second month following the end of the month in which oil, gas or coal is removed from the lease or production unit or mine.

(1) The first purchaser of any oil or gas sold shall collect the amount of the tax due from the producers, as defined by K.S.A. 79-4216, and amendments thereto, by deducting and withholding such amount from any payments made by such purchaser to the operator, or such producers where payment is made to same directly, and shall remit the same as provided in this act, unless the operator of the lease or production unit, upon written notice to the first purchaser and the director, elects to remit the tax. In no event shall a producer be relieved of responsibility for the tax until the same has been paid.

In the event the tax shall be withheld by a purchaser from payments due an operator or producer and such purchaser fails to make payment of the tax to the director as required herein, the operator or producer shall be entitled to bring an action against such purchaser to recover the amount of tax so withheld together with penalties and interest which may have accrued by failure to make such payment. The operator or producer shall be entitled to reasonable attorney fees and court costs incurred in such action.

(2) An operator of an oil or gas lease or production unit, upon having given written notice to the first purchaser and the director, may elect to collect and remit the tax due under this act. If an operator of an oil or gas lease or production unit makes this election, such operator shall collect the total amount of tax due and shall remit the same to the director.

(3) The operator of a coal mine shall collect the total amount of tax due and shall remit the same to the director. (4) If the oil, gas or coal has not been sold by the time the tax is due, the operator shall remit the full amount of the tax due upon certification of the amount thereof by the director. The amount of tax to be remitted shall be determined in the same manner prescribed for remittances by purchasers or operators.

(b) The state shall have a lien on all the oil, gas or coal severed in this state in the hands of the operator, any producer or the first or any subsequent purchaser thereof to secure the payment of the tax. In the event any person required herein to pay the tax fails to do so, the director shall proceed against such person to collect the tax in the manner provided by K.S.A. 79-3235, and amendments thereto.

(c) Penalty and interest for late payment of tax shall be imposed in accordance with K.S.A. 79-4225, and amendments thereto.

**History:** L. 1983, ch. 313, § 5; L. 1984, ch. 364, § 2; L. 1987, ch. 393, § 4; L. 2014, ch. 132, § 7; July 1.

## CASE ANNOTATIONS

1. Cited; oil contained in BS&W not exempt; BOTA may not create exemption not included in statute. *Director of Taxation v. Kansas Krude Oil Reclaiming Co.*, 236 K. 450, 451, 458, 691 P.2d 1303 (1984).

**79-4221. Mineral severance tax; filing of returns and remittance of tax, when, by whom; extension of return filing time, when; interest.** (a) A return shall be made to the director upon forms prescribed and furnished by the director, on or before the 20th day of the second month following the end of every calendar month in which oil, gas or coal is removed from a lease or production unit or mine.

(1) If the oil, gas or coal is sold to a purchaser, every purchaser or operator responsible for remitting the tax imposed under the provisions of K.S.A. 79-4217, and amendments thereto, shall make the return showing the gross quantity of oil, gas or coal purchased during the month for which the return is filed, the price paid therefor, the correct name and address of the operator or other person from whom the same was purchased, a full description of the property from which such oil, gas or coal was severed and the amount of tax due.

(2) If oil, gas or coal is not sold to a purchaser, or if the operator elects to remit the tax as authorized under K.S.A. 79-4220, and amendments thereto, or if the operator is required to remit the tax pursuant to K.S.A. 79-4220, and amendments thereto, the operator shall make the return showing the gross quantity of oil, gas or coal removed during such month for which the return is filed and a full description of the property from which the same was severed.

(b) Each monthly return shall be filed on separate forms as to product and county and lease, production unit or mine. All such monthly returns shall be signed by the purchaser or operator, as the case may be, or a duly authorized agent thereof.

(c) The reporting requirements of this section shall be applicable to the severance and production in this state of all gas which is metered and all coal and oil regardless of whether the severance and production thereof is subject to or exempt from the tax imposed by K.S.A. 79-4217, and amendments thereto.

(d) A penalty for late filing a return shall be imposed in accordance with K.S.A. 79-4225, and amendments thereto. **History:** L. 1983, ch. 313, § 6; L. 1984, ch. 364, § 3; L. 1985, ch. 333, § 2; L. 1986, ch. 204, § 2; L. 1987, ch. 393, § 5; L. 2014, ch. 132, § 8; July 1.

## Cross References to Related Sections:

Filing by electronic means of returns prepared by paid preparers, see 75-5151a.

**79-4222. Mineral severance tax; tax withholding and remittance when title to minerals disputed.** When the title to any coal, oil or gas severed from the earth or water is in dispute and the purchaser of such coal, oil or gas is withholding payments on account of litigation, or for any other reason, such purchaser is hereby authorized, empowered and required to deduct from the gross amount thus held the amount of the tax imposed less the amount of any credit to which the taxpayer is entitled and to make remittance thereof to the director as provided in this act.

**History:** L. 1983, ch. 313, § 7; L. 1987, ch. 393, § 6; July 1.

**79-4223. Mineral severance tax; records required of mineral transporters.** When requested by the director, all transporters of coal, oil or gas out of, within or across the state of Kansas shall be required to furnish the director such information relative to the transportation of such coal, oil or gas as the director may require. The director shall have authority to inspect bills of lading, waybills, meter or other charts, documents, books and records as may relate to the transportation of coal, oil or gas in the hands of each transporter herein referred to. The director shall further be empowered to demand the production of such bills of lading, waybills, charts, documents, books and records relating to the transportation of coal, oil or gas at any point in the state of Kansas which may be designated, except that in the case of common carriers using bills of lading or waybills prescribed or approved by the interstate commerce commission, such common carrier shall only be required to keep the usual records at offices in the state where such records are usually kept.

**History:** L. 1983, ch. 313, § 8; L. 1987, ch. 393, § 7; July 1.

**79-4224. Mineral severance tax; inspection of records by director, when; subpoena power, contempt.** The director shall have the power to require any operator, producer or person purchasing any coal, oil or gas severed from the earth or water to furnish any additional information deemed to be necessary for the purpose of computing the amount of the tax, and for such purpose to examine the meter and other charts, books, records and all files of such person, and for such purpose the director shall have the power to issue subpoenas and examine witnesses under oath, and if any witness shall fail or refuse to appear at the request of the director, or refuses access to books, records and files, the district court of the proper county, or the judge thereof, on application of the director, shall compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

**History:** L. 1983, ch. 313, § 9; L. 1987, ch. 393, § 8; July 1.

**79-4225. Same; penalties and interest for nonpayment of tax, and failure or refusal to file returns.** (a) If any taxes imposed under this act and determined and assessed by the director are unpaid: (1) Not due to negligence or to intentional disregard of this act or rules and regulations promulgated by the secretary, interest on such taxes shall be added at the rate per month prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was due until paid; (2) due to negligence or to intentional disregard of this act or rules and regulations promulgated by the secretary, but without intent to defraud, a penalty of 10% of the amount of such taxes shall be added, together with interest at the rate per month prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was due until paid; (3) due to fraud with intent to evade the tax imposed by this act, there shall be added thereto a penalty of 50% of the amount of such tax, together with interest at the rate per month prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was due until paid.

(b) If any person fails or refuses to make any return, when required to do so under the provisions of this act, such person shall be subject to a penalty of \$25 per day for each return which such person fails or refuses to file.

(c) Whenever, in the judgment of the director, the failure of any person to comply with the provisions of subsection (a)(1), (a)(2), and (b) of this section, was due to reasonable cause, the director may, in the exercise of discretion, waive or reduce any of the penalties upon making a record of the reason therefor.

(d) In addition to all other penalties herein provided, any person who fails to make a return, or to pay any tax herein provided, or who makes a false or fraudulent return, or fails to keep any books or records prescribed by this act, or who willfully violates any rules and regulations promulgated by the secretary for the enforcement and administration of this act, or who aids and abets another in attempting to evade the payment of any tax imposed by this act, or who violates any other provisions of this act, shall, upon conviction thereof, be guilty of a class C misdemeanor.

(e) The director of taxation shall examine all returns filed under the provision of this act, and shall issue notices and final determinations of tax liability hereunder in the manner prescribed by K.S.A. 79-3226, and amendments thereto, relating to income taxes.

**History:** L. 1983, ch. 313, § 10; L. 1997, ch. 126, § 51; July 1.

**79-4226. Mineral severance tax; recordkeeping requirements; time limitation for tax assessment, extensions.** (a) Every operator shall make and keep a complete and accurate record in the form required by the director showing the gross quantity of coal, oil or gas severed and removed from each lease, production unit or mine, the names of the purchasers of such products, the price paid therefor and the date of purchase. Every purchaser of coal, oil or gas severed in this state who is required to collect and remit the tax on the same shall make and keep a complete and accurate record in the form required by the director showing the gross quantity of coal, oil or gas purchased from each lease, production unit or mine, the price paid therefor, the name of the operator and the date of purchase. Such records shall at all times during business hours of the day be available for and subject to inspection by the director, or the director's duly authorized agents and employees, for a period of three years from the last day of the calendar year to which the records pertain. Such records shall be preserved during the entire period during which they are subject to inspection by the director, unless the director in writing previously authorized their disposal.

(b) The amount of taxes imposed by this act is to be assessed within three years after the return is filed. In the case of a false or fraudulent return with intent to evade tax, the tax may be assessed or a proceeding in court for collection of such tax may be begun at any time, within two years from the discovery of such fraud. The provisions of K.S.A. 79-3226, and amendments thereto, relating to procedures for contesting a proposed assessment of additional tax or the denial of a refund shall apply as if set forth in this section. No refund shall be allowed by the director after three years from the date the return was filed, or one year after the assessment is made, whichever is the later date unless before the expiration of such period a claim therefor



is filed by the taxpayer. No suit or action to recover on any claim for refund shall be commenced until after the expiration of six months from the date of filing a claim therefor with the director.

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

(d) No refund of mineral severance tax shall be allowed by the director or by any court of this state based on any administrative or judicial claim, petition, pleading, cause of action or request for relief that has been or may be filed on or after July 1, 1983, alleging that any constituent part of gas and any refined products derived from any such gas are not taxable pursuant to the provisions of K.S.A. 79-4216 et seq., and amendments thereto.

**History:** L. 1983, ch. 313, § 11; L. 1987, ch. 393, § 9; L. 1992, ch. 10, § 3; L. 1997, ch. 126, § 13; L. 2013, ch. 135, § 14; June 20.

**79-4227. Mineral severance tax; disposition of revenue; mineral production tax refund fund; special county mineral production tax fund; mineral production education fund; distribution of revenue to counties and school districts, procedure.**

(a) All revenue collected or received by the director from the tax imposed by this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. The state treasurer shall first credit such amount as the director shall order to the mineral production tax refund fund created under subsection (b) of this section. Second, the state treasurer shall credit 7% of the remainder of such amounts to the special county mineral production tax fund created in subsection (c). Finally, the state treasurer shall credit the remainder of such amounts collected or received from the tax imposed by this act during fiscal years 2013, 2014 and 2015 for oil and gas for any county which had \$100,000 or more in receipts of the excise tax upon the severance and production of oil and gas as follows: (1) 12.41% to the oil and gas valuation depletion trust fund; and (2) the remainder shall be credited to the state general fund. The state treasurer shall credit the remainder of such amounts collected or received from the tax imposed by this act during fiscal year 2016, and thereafter, and distributed during fiscal year 2017, and thereafter, for oil and gas for any county which had \$100,000 or more in receipts of the excise tax upon the severance and production of oil and gas as follows: (1) 20% to the mineral production education fund created in K.S.A. 2014 Supp. 72-6462, and amendments thereto; and (2) the remainder shall be credited to the state general fund.

(b) A refund fund designated as "mineral production tax refund fund" not to exceed \$50,000 is hereby created for the prompt payment of all tax refunds. The mineral production tax refund fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act.

(c) There is hereby created a special county mineral production tax fund. On December 1, 1983, and quarterly thereafter, the director of taxation shall distribute all moneys credited to such fund to the county treasurers of all counties in which taxes were levied under K.S.A. 79-4217, and amendments thereto, for the severing and producing of coal, oil or gas from property within the county, in the proportion that the taxes levied upon production in each county bears to the total of all of such taxes levied in all of such counties. Such distribution shall be based on returns filed, with any adjustments or corrections thereto made by the director of taxation.

(d) The secretary of revenue shall make provision for the determination of the counties within which taxes are levied under K.S.A. 79-4217, and amendments thereto, for the severance of coal, oil or gas and shall certify the same to the director of accounts and reports.

(e) The director of accounts and reports shall draw warrants on the state treasurer payable to the county treasurer of each county entitled to payment from the special county mineral production tax fund upon vouchers approved by the director of taxation. Upon receipt of such warrant, each county treasurer shall credit 50% of the amount thereof to the county general fund and shall distribute the remaining 50% thereof to the treasurer of each school district all or any portion of which is located within the county in the proportion that the assessed value of coal, oil and gas properties within each district bears to the total of the assessed value of all coal, oil and gas properties within the county. Such assessed valuation shall be determined upon the basis of the most recent November 1 tax roll. The treasurer of each school district shall credit the entire amount of the moneys so received to the general fund of the school district.

**History:** L. 1983, ch. 313, § 12; L. 1987, ch. 393, § 10; L. 2001, ch. 5, § 464; L. 2005, ch. 173, § 2; L. 2012, ch. 175, § 167; L. 2013, ch. 136, § 279; L. 2014, ch. 127, § 8; May 22.

\* Section reference should be to 72-5130.

**Law Review and Bar Journal References:**

"Sustaining the Unsustainable: Oil and Gas Development in the 21st Century," David E. Pierce, 23 Kan. J. L. & Pub. Pol'y, No. 3, 362 (Spring 2014).

**79-4228. Same; rules and regulations.** The secretary is hereby authorized to adopt such rules and regulations as may be necessary to administer and enforce the provisions of this act.

**History:** L. 1983, ch. 313, § 13; April 28.

**79-4229. Same; severability clause.** If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

**History:** L. 1983, ch. 313, § 14; April 28.

**79-4230. Reporting and payment of fees assessed by corporation commission on oil or gas production; time of payment.** An oil or gas mineral severance tax return required to be submitted pursuant to K.S.A. 79-4221 and amendments thereto, in addition to the provisions therein, shall be utilized to report those fees assessed by the state corporation commission pursuant to subsection (c) of K.S.A. 55-609 and amendments thereto or subsection (c) of K.S.A. 55-711 and amendments thereto and such other information pertaining to the production on which such fees are assessed as determined necessary pursuant to a memorandum of agreement executed on behalf of the state corporation commission and the departments of revenue and health and environment. Such fees shall be payable to the state at the same time the tax is payable under the provisions of K.S.A. 79-4220 and amendments thereto and they shall be remitted at the same time the tax is remitted by the purchaser or operator responsible for remitting the tax.

**History:** L. 1986, ch. 204, § 3; L. 1995, ch. 204, § 20; July 1.

**79-4231.**

**History:** L. 2005, ch. 173, § 3; L. 2008, ch. 100, § 6; L. 2012, ch. 170, § 4; L. 2014, ch. 127, § 9; Repealed, L. 2014, ch. 127, § 12; July 1, 2016.

**Law Review and Bar Journal References:**

"Sustaining the Unsustainable: Oil and Gas Development in the 21st Century," David E. Pierce, 23 Kan. J. L. & Pub. Pol'y, No. 3, 362 (Spring 2014).

**NOTE: Be advised this statute has a repeal date of 7/1/2016.**

**79-4232. Same; abolish fund on July 1, 2016. On July 1, 2016, the director of accounts and reports shall transfer all moneys in the oil and gas valuation depletion trust fund to the state general fund.** On July 1, 2016, all liabilities of the oil and gas valuation depletion trust fund are hereby transferred to and imposed on the state general fund, and the oil and gas valuation depletion trust fund is hereby abolished.

**History:** L. 2014, ch. 127, § 3; May 22.

## Agency 92:—KANSAS DEPARTMENT OF REVENUE

### Article 9.—Minerals and Natural Products Leases on Navigable Stream Beds

**92-9-1. Bidders; notice; form of bids.** (a) Legal notice to bidders for oil and gas lease land in navigable streambeds shall be published by the director of taxation in a paper of general circulation in the county in which the lands subject to oil and gas leases are situated once each week for a period of four consecutive weeks.

(b) The highest and best bid from a responsible bidder shall be accepted by the director of taxation, reserving the right to reject any bid and republish. Separate sealed bids accompanied by a certified check or bank draft in the amount of the bid payable to the director of taxation for each tract shall be submitted on forms supplied by the department of revenue and filed with the director of taxation, in accordance with the publication notice concerning the bids.

(c) Each bidder shall have the right to bid on all or any portion of the lands set forth in the publication notice, and the successful bidder shall reimburse the director of taxation for the publication costs. However, this regulation shall apply only to the removal of oil and gas from navigable streambeds.

(Authorized by K.S.A. 70a-103; implementing K.S.A. 2001 Supp. 70a-102, K.S.A. 70a-103; effective Jan. 1, 1966; amended March 29, 2002.)

**92-9-2 Cash bonus; rental.** Bids for the leasing of oil and gas rights in navigable streams will be considered on the basis of a cash bonus, annual delay rental, and the amount of royalty to be paid shall not be less than 12 1/2% of the gross proceeds at the prevailing market rate. Leases will be executed on a standard Kansas lease form. No lease shall be for a period longer than five years and the lessee shall agree to pay an annual rent in advance on land so long as drilling is delayed.

(Authorized by K.S.A. 71-102, 71-103; effective Jan. 1, 1966.)

**92-9-3. Survey; expense of.** If the lessee of oil and gas rights requests a survey to determine acreage, a survey may be authorized by the director of taxation, if the lessee agrees to pay the cost. In lieu of this survey, the United States government survey or other official survey of the tract may be used.

(Authorized by K.S.A. 70a-103; implementing K.S.A. 70a-106; effective Jan. 1, 1966; amended March 29, 2002.)

**92-9-4. Wells; operation and management.** Each oil lessee and gas lessee leasing wells pursuant to K.S.A. 70-101, and amendments thereto, shall furnish the director of taxation on demand accurate and reliable information concerning wells situated in Kansas. On demand, each lessee shall furnish certified copies of pipeline runs and gas balancing statements to the director of taxation. Title requirements and leases shall be without covenants of warranty.

(Authorized by K.S.A. 70a-103; implementing K.S.A. 2001 Supp. 70a-102, K.S.A. 70a-103; effective Jan. 1, 1966; amended March 29, 2002.)

**92-9-5. Location of operations.** The lessee shall notify the director of taxation before commencing operations on any navigable streambed.

(Authorized by K.S.A. 70a-103; implementing K.S.A. 2001 Supp. 70a-102, K.S.A. 70a-103; effective Jan. 1, 1966; amended March 29, 2002.)

**92-9-6 (Authorized by K.S.A. 70a-102, 70a-103; effective Jan. 1, 1966; amended Jan. 1, 1974; revoked July 3, 1989.)**

**92-9-6a Returns; rates and restrictions.** (a) On or before the 15th day of each month, each lessee shall file a return with the director stating the amount of material withdrawn, returned, stored and sold, and the name of the person(s) to whom the material was sold during the preceding month. The lessee shall remit with the return 15¢ per ton for all river sand sold during the preceding month. Each lessee shall maintain this information for a period of two years.

(b) Each lessee shall not take, move or remove material from any navigable stream within:

(1) 500 feet of any bridge pier or abutment;

(2) 200 feet of any stabilized bank or structure built or authorized by the United States government.

A lessee shall not remove sand from any stream bed or channel within a distance of 1,500 feet of the nearest tipple erected and maintained and used for the purpose of taking sand from the river. The distances of 500 and 200 feet are to be construed as minimum distances with greater distances required as necessary to preserve stream bed and bank stability.

(Authorized by and implementing K.S.A. 70a-102, 70a-103; effective July 3, 1989.)

**92-9-7. (Authorized by K.S.A. 71-102, 71-103; effective Jan. 1, 1966; revoked March 29, 2002.)**

**92-9-8. (Authorized by K.S.A. 71-102, 71-103; effective Jan. 1, 1966; revoked July 27, 2001.)**