

HOUSE BILL No. 2592

AN ACT relating to mineral severance tax; concerning the time of payment thereof; amending K.S.A. 79-4220 and 79-4221 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 79-4220 is hereby amended to read as follows: 79-4220. (a) The amount of the tax payable each month under the provisions of K.S.A. 79-4221, and amendments thereto, shall be due and payable on or before the 20th day of the ~~second~~ *first* month following the end of the month in which the coal, oil or gas is removed from the lease or production unit or mine. The tax is upon the producers, as defined in K.S.A. 79-4216, *and amendments thereto*, of such coal, oil or gas in the proportion to their respective beneficial interests at the time of severance, but unless the operator of the lease or production unit, upon written notice to the first purchaser and the director, elects to remit the tax, 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. 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. The operator of a coal mine shall collect the total amount of tax due and shall remit the same to the director.

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 state 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.

(b) The state shall have a lien on all the coal, oil or gas 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.

Sec. 2. K.S.A. 79-4221 is hereby amended to read as follows: 79-4221. (a) Every purchaser or operator responsible for remitting the tax imposed under the provisions of K.S.A. 79-4217, and amendments thereto, on or before the ~~last 20th~~ *20th* day of the first month following the end of every calendar month in which oil or gas is removed from the lease or production unit, shall make a return to the director upon forms prescribed and furnished by the director showing the gross quantity of oil or gas 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 in the manner prescribed by the director from which such oil or gas was severed and ~~the amount of tax due on or before the 20th day of the following month~~ *such return shall be accompanied by a remittance of the full amount of tax due*. In the case of coal the return shall be made on or before the 20th day of the second month following the end of the calendar month in which the coal is removed from the mine, and such return shall be accompanied by a remittance of the full amount of the tax due. For the purposes of determining the amount of tax to be remitted, such purchaser or operator shall compute the full amount of the tax due under K.S.A. 79-4217, and amendments thereto, upon all coal, oil or gas severed and removed from the lease or production unit or mine during such month and shall deduct an amount equal to the full amount of the tax credit allowed pursuant to K.S.A. 79-4219, and amendments thereto.

(b) If oil or gas is removed from the lease or production unit but 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 the operator is required to remit the tax pursuant to K.S.A. 79-4220, and amendments

thereto, the operator shall on or before the ~~last~~ 20th day of the first month following the end of every calendar month in which oil or gas is removed from the lease or production unit make a return to the director upon forms prescribed and furnished by the director showing the gross quantity of oil or gas removed during such month and a full description of the property in the manner prescribed by the director from which the same was severed. In the case of coal the return shall be made on or before the 20th day of the second month following the end of the calendar month in which the coal is removed from the mine. If the coal, oil or gas has not been sold by the time prescribed by K.S.A. 79-4220, and amendments thereto, for the payment of the tax, the operator shall remit the full amount of the tax due upon certification of the amount thereof by the director. The amount of taxes to be remitted shall be determined in the same manner prescribed for remittances by purchasers or operators under subsection (a) of this section.

(c) Each monthly return required hereunder 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.

(d) The director may grant a reasonable extension of time for filing any return and remittance of taxes due under this act upon good cause shown therefor. Interest shall be charged at the rate prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, for the period of such extension for the remittance of taxes.

(e) 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.

Sec. 3. K.S.A. 79-4220 and 79-4221 are hereby repealed.

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

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.