

2001

CHAPTER 15

An Act to amend *The Freehold Oil and Gas Production Tax Act*

(Assented to June 28, 2001)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

Short title

1 This Act may be cited as *The Freehold Oil and Gas Production Tax Amendment Act, 2001*.

S.S. 1982-83, c.F-22.1 amended

2 *The Freehold Oil and Gas Production Tax Act* is amended in the manner set forth in this Act.

New heading

3 The following heading is added before section 1:

“PART I
Short Title”.

New heading

4 The following heading is added after section 1:

“PART II
Freehold Oil and Gas Production”.

Section 2 amended

5 The following clause is added after 2(1)(l):

“(l.1) ‘**regulations**’ means regulations made pursuant to this Part”.

New Part III

6 The following Part is added after section 32:

“PART III
Recovered Crude Oil

“Interpretation

32.1(1) In this Part:

(a) ‘**Crown**’ means the Crown in right of Saskatchewan;

(b) **‘crude oil recovery facility’** means any of the following that are located in Saskatchewan, that are designated by the minister and that oil is recovered from:

- (i) a cavern disposal facility;
- (ii) a waste processing facility;
- (iii) a water disposal facility;
- (iv) a water injection facility;
- (v) any other facility or site;

(c) **‘department’** means the department over which the minister presides;

(d) **‘minister’** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(e) **‘oil’** means crude petroleum oil and any other hydrocarbon that is in liquid form;

(f) **‘recovered crude oil’** means oil:

- (i) that is recovered from a crude oil recovery facility;
- (ii) that originated from a well that, in the minister’s opinion, is located in Saskatchewan;
- (iii) to which, in the minister’s opinion, the royalty provisions of *The Crown Minerals Act*, or the tax provisions of Part II of this Act, would apply if the oil had been measured for the purposes of determining the royalty or tax payable; and
- (iv) that, in the minister’s opinion, has not been measured, and could not be measured in the ordinary course of producing the oil from the well, for the purposes of determining the royalty or tax payable;

(g) **‘regulations’** means regulations made pursuant to this Part;

(h) **‘taxpayer’** means a person who is liable to pay the tax imposed pursuant to this Part;

(i) **‘well’** means any opening in the ground in Saskatchewan, except a seismic shot hole or structure test hole, from which oil is, has been or is capable of being produced from a reservoir, and includes the lands on, in or under which the well is located and all reserves in that reservoir and all rights and interests in that reservoir.

(2) The provisions of *The Crown Minerals Act* respecting a royalty and Part II of this Act respecting a tax do not apply to recovered crude oil.

“Recovered crude oil tax

32.11 A tax is imposed on all recovered crude oil.

“Calculation and payment

32.2 The tax imposed pursuant to this Part shall be calculated and paid by a taxpayer in the manner and at the time or times provided for in this Part and the regulations.

“Tax, etc., debt due to Crown

32.21 Any amount required to be paid or remitted to the minister pursuant to this Part and the regulations is a debt due to the Crown and may be recovered by an action to be tried in any court of competent jurisdiction or in any manner provided for in this Part and the regulations.

“Assessments

32.3(1) The minister shall assess, in accordance with this Part and the regulations, the amount of tax and interest, penalties or other amounts, if any, to be paid by a taxpayer.

(2) The minister may, from time to time, in accordance with this Part and the regulations, reassess the amount of tax and interest, penalties or other amounts, if any, to be paid by a taxpayer.

(3) An assessment or reassessment by the minister is to take place:

(a) within four years after the day on which the tax became due and payable pursuant to this Part and the regulations; or

(b) at any time, if the taxpayer:

(i) has made any misrepresentation that is attributable to neglect, carelessness or wilful default or has committed any fraud in connection with the calculation or payment of the tax; or

(ii) has filed with the minister a waiver in a form acceptable to the minister within four years after the day on which the tax became due and payable pursuant to this Part and the regulations.

(4) The minister shall send written notice of any assessment or reassessment to the taxpayer, and any amount that is assessed or reassessed by the minister to be payable by the taxpayer is to be paid within 30 days after the assessment or reassessment by the minister is sent, whether or not an appeal of the assessment or reassessment is taken.

(5) Liability for the tax imposed by this Part and any interest, penalties or other amounts that may be payable pursuant to this Part or the regulations with respect to the tax are not affected by an incorrect or incomplete assessment or reassessment pursuant to this section or by the fact that no assessment or reassessment has been made pursuant to this section.

“Appeals

32.31(1) A taxpayer who objects to an assessment, reassessment or any act or thing done by the minister pursuant to any regulation made pursuant to clause 32.8(1)(k), other than a determination respecting the price to be used in valuing recovered crude oil, may appeal that act or thing to the Board of Revenue Commissioners.

(2) Before appealing, a taxpayer shall pay to the minister any amount required to be paid as a result of the matter that is the subject of the appeal.

(3) A taxpayer who wishes to appeal shall, within 90 days after receiving notice of the assessment, reassessment, act or thing done by the minister, serve the Board of Revenue Commissioners with a written notice of appeal, either personally or by registered mail, setting out the reasons for the taxpayer's objection and the allegations of fact and law on which the taxpayer relies to support the objection.

“Conduct of appeals

32.4(1) In any appeal by a taxpayer pursuant to section 32.31:

(a) the onus of proof of the allegations of fact and law on which the taxpayer relies to support the objection is on the taxpayer; and

(b) any person, whether or not the person is a party to the appeal:

(i) may be examined under oath;

(ii) shall produce, under oath, any documents, records or things that may be in the possession or under the control of the person; and

(iii) may be required to attend for examination and to produce any documents, records or things in the same manner as a party in an action in the Court of Queen's Bench may be required to.

(2) The Board of Revenue Commissioners may, when determining an appeal, confirm, reduce, increase or vary any act or thing done by the minister or may refer the matter back to the minister for further consideration.

(3) A taxpayer or the minister may appeal a decision of the Board of Revenue Commissioners in accordance with sections 21 to 23 of *The Revenue and Financial Services Act*.

“Interest

32.41 Every taxpayer shall pay interest to the minister on any amount that is not paid or remitted as and when required by this Part or the regulations at the prescribed rate, calculated from the day on which that amount should have been paid or remitted to the day on which it is paid or remitted.

“Collection of taxes

32.5(1) Where a taxpayer owes any tax, penalty, interest or other amount imposed pursuant to this Part or the regulations and no appeal is commenced pursuant to section 32.31 within the appeal period, or a taxpayer has acknowledged in a return or any other document filed with the minister or the department that he or she is required to pay any tax, penalty, interest or other amount in an amount specified in the return or other document and that the amount has remained unpaid for at least 30 days after the acknowledgement, the minister may:

(a) certify the amount due in a certificate; and

(b) file that certificate at any judicial centre with the local registrar of the Court of Queen's Bench.

- (2) A certificate filed pursuant to subsection (1):
- (a) is to be served, within 30 days after filing, on the person who is the subject of the certificate, but failure to serve the certificate within 30 days does not affect the validity of the certificate; and
 - (b) has the same force and effect as if it were a judgment obtained in the Court of Queen's Bench for the recovery of a debt in the amount specified in the certificate, together with any reasonable costs and charges respecting its filing.

“Collection from third parties

32.51(1) In this section, **‘third party’** means a person who is, or is about to become, indebted to or liable to pay money to a person liable to pay or remit any tax, interest, penalty or other amount pursuant to this Part or the regulations.

(2) Where a certificate has been filed pursuant to section 32.5, the minister may serve a written notice of intention on the person liable to pay or remit any tax, interest, penalty or other amount advising that person of the minister's intention to serve a demand on a third party.

(3) Not sooner than seven days after serving the notice of intention, the minister may serve a written demand on a person who is a third party in relation to the person who is the subject of the certificate requiring that all or any part of the money payable by the third party to that person be paid to the minister immediately on it becoming payable to that person.

(4) A demand remains in force for:

- (a) one month after the day on which the demand is served; or
- (b) any longer period that the minister may specify in the demand.

(5) Payment to the minister by a third party of an amount pursuant to this section discharges the liability of the third party to the person who is the subject of the certificate to the extent of that amount.

(6) Where a third party is served with a demand pursuant to this section and subsequently discharges any liability to the person who is the subject of the certificate or fails to comply with the demand, that third party is liable to the Crown to the extent of the lesser of:

- (a) the amount of liability discharged to the person who is the subject of the certificate; and
- (b) the amount specified in the demand.

“Service of demand

32.6(1) A certificate mentioned in section 32.5 or a demand or notice mentioned in section 32.51 may be served personally or by registered mail sent to the last known address of the person being served.

(2) A certificate, demand or notice served by registered mail is deemed to have been received on the seventh day following the day of its mailing unless the person to whom it was mailed establishes that, through no fault of his or her own, it was not received or was received on a later date.

“Requiring facility to be shut-in

32.61 Where a taxpayer has not paid the tax on recovered crude oil that the taxpayer owes, the minister may make an order directing that the crude oil recovery facility from which that oil was recovered, or any other crude oil recovery facility operated by the taxpayer, be shut-in and that any person be prohibited from recovering crude oil from the facility if:

- (a) the taxpayer did not appeal pursuant to section 32.31 within the appeal period; or
- (b) the taxpayer has acknowledged in a return or any other document filed with the minister or the department that the taxpayer is required to pay an amount of tax specified in that return or other document and that amount has remained unpaid for at least 30 days after the acknowledgement.

“Offences and penalties

32.7(1) No person shall fail to comply with:

- (a) an order made by the minister pursuant to section 32.61; or
 - (b) any other provision of this Part or the regulations.
- (2) Every person who contravenes any provision of subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding \$10,000 and, in the case of a continuing offence, to a fine not exceeding \$10,000 for each day or part of a day during which the offence continues.

“Regulations

32.8(1) For the purposes of this Part, the Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Part but not defined in this Part;
- (b) prescribing persons who are required to pay or remit the tax payable pursuant to this Part;
- (c) respecting the basis of calculation of the tax, including any allowances, credits or other deductions that may be made or taken in calculating or paying the tax;
- (d) respecting the price to be used in valuing recovered crude oil for the purposes of the tax;
- (e) respecting the amount of recovered crude oil associated with oil and gas operations in Saskatchewan;
- (f) respecting the times at which the tax is to be assessed, calculated and paid;
- (g) respecting the manner of payment of the tax;
- (h) prescribing the interest rate for the purposes of section 32.41;

- (i) respecting any requirement with respect to the administration, enforcement, collection or assessment of the tax;
 - (j) requiring the submission of information, respecting the form and manner in which information is to be submitted and respecting penalties for failure to comply with those requirements, including the manner in which the penalties are to be determined or assessed and authorizing the minister to determine or assess the penalties and to waive all or any portion of a penalty;
 - (k) authorizing the minister to estimate, determine, establish, approve or authorize factors, allowances, allocations, charges, credits, deductions, exemptions, fees, methods of payment, time periods, values and prices to be used in the assessment, calculation and payment of tax imposed pursuant to this Part;
 - (l) providing for exemptions or waivers from the tax, interest, penalties or other amounts imposed pursuant to this Part or the regulations;
 - (m) prescribing any matter or thing that is required or authorized by this Part to be prescribed in the regulations;
 - (n) respecting any other matter that the minister considers necessary or advisable to carry out the intent of this Part.
- (2) Any regulations made pursuant to this section may be made retroactive to a date specified in the regulations that is not earlier than three years before the date on which the regulations are made, and in that case the regulations are deemed to have been in force on and from the date specified in the regulations.

“Royalties paid on recovered crude oil

32.9 Subject to the regulations, where, before the date of the proclamation of this Part, a person was required or purportedly required to pay an amount characterized as a royalty on recovered crude oil pursuant to the regulations made pursuant to *The Crown Minerals Act* or *The Mineral Resources Act*:

- (a) the amount of tax payable on that recovered crude oil is equal to the amount of the royalty that the person was required or purportedly required to pay;
- (b) that person is deemed to be the person required to pay the tax on the recovered crude oil;
- (c) any amount paid by that person respecting the requirement to pay the royalty is deemed to be payment towards the tax the person is required to pay on that recovered crude oil;
- (d) any portion of the royalty that the person failed to pay is deemed to be an amount of tax owing by that person; and
- (e) any determination or assessment made by the minister of the amount of royalty payable by that person on that recovered crude oil is deemed to be an assessment made by the minister of the amount of tax owing pursuant to section 32.3”.

References amended

7 Each provision listed in the Schedule is amended by striking out “Act” wherever it appears, unless stated otherwise, and in each case substituting “Part”

Coming into force

8 This Act comes into force on proclamation but is retroactive and is deemed to have been in force on and from January 1, 1983.

Schedule
[Section 7]

Subsection 2(1) in the portion preceding clause (a)

Subclause 2(1)(j)(ii)

Clause 2(1)(m)

Subsection 2(2) in the portion preceding clause (a)

Subsection 2(3)

Section 4

Section 5

Section 6

Subsection 7(1)

Clause 7(2)(b)

Subsection 7(4)

Subsection 7(5)

Subsection 7(7)

Section 8

Subsection 9(1)

Subsection 9(2)

Section 10

Subsection 10.1(1)

Subsection 10.2(1)

Subsection 13(1)

Subsection 13(2)

Subsection 14(1) in the portion preceding clause (a)

Clause 14(1)(b)

Subsection 14(2) where it appears for the first time

Subsection 15(1) in the portion preceding clause (a)

Subsection 15(2) in the portion preceding clause (a)

Section 16

Section 17
Subsection 18(1) in the portion preceding clause (a)
Subsection 18(2)
Subsection 18(3)
Subsection 18(4)
Section 19
Section 20
Section 21
Section 22
Section 23
Subsection 24(1)
Subsection 24(2)
Subsection 24(3)
Section 25
Subsection 26(1)
Subsection 26(2)
Subsection 26(3)
Subsection 26(4)
Subsection 27(1)
Subsection 28(4)
Clause 29(a)
Clause 29(b)
Section 30
Section 31
Subsection 32(1)
Subsection 32(2)

