

**Sixty-third Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1134  
(Representatives Porter, Carlson, Drovdal)  
(Senators Armstrong, Lyson, Wardner)

AN ACT to create and enact sections 57-51-02.6 and 57-51.1-02.1 of the North Dakota Century Code, relating to oil and gas gross production tax exemption for natural gas and an oil extraction tax exemption for liquids produced from natural gas extracted to encourage use of gas that might otherwise be flared; to amend and reenact sections 38-08-06.4 and 57-39.2-04.5 of the North Dakota Century Code, relating to flaring restrictions for natural gas and sales tax exemption for property used to process natural gas to encourage use of gas that might otherwise be flared; and to provide an effective date.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 38-08-06.4 of the North Dakota Century Code is amended and reenacted as follows:

**38-08-06.4. Flaring of gas restricted - Imposition of tax - Payment of royalties - Industrial commission authority.**

1. As permitted under rules of the industrial commission, gas produced with crude oil from an oil well may be flared during a one-year period from the date of first production from the well. Thereafter,
2. ~~After the time period in subsection 1, flaring of gas from the well must cease and the well must be capped, connected to a gas gathering line, or equipped with an electrical generator that consumes at least seventy five percent of the gas from the well.:~~
  - a. Capped;
  - b. Connected to a gas gathering line;
  - c. Equipped with an electrical generator that consumes at least seventy-five percent of the gas from the well;
  - d. Equipped with a system that intakes at least seventy-five percent of the gas and natural gas liquids volume from the well for beneficial consumption by means of compression to liquid for use as fuel, transport to a processing facility, production of petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting over fifty percent of the propane and heavier hydrocarbons; or
  - e. Equipped with other value-added processes as approved by the industrial commission which reduce the volume or intensity of the flare by more than sixty percent.
3. An electrical generator and its attachment units to produce electricity from gas and a collection system described in subdivision d of subsection 2 must be considered to be personal property for all purposes.
4. For a well operated in violation of this section, the producer shall pay royalties to royalty owners upon the value of the flared gas and shall also pay gross production tax on the flared gas at the rate imposed under section 57-51-02.2.

5. The industrial commission may enforce this section and, for each well operator found to be in violation of this section, may determine the value of flared gas for purposes of payment of royalties under this section and its determination is final.
6. A producer may obtain an exemption from this section from the industrial commission upon application ~~and a showing that shows to the satisfaction of the industrial commission~~ that connection of the well to a natural gas gathering line is economically infeasible at the time of the application or in the foreseeable future or that a market for the gas is not available and that equipping the well with an electrical generator to produce electricity from gas or employing a collection system described in subdivision d of subsection 2 is economically infeasible.

**SECTION 2. AMENDMENT.** Section 57-39.2-04.5 of the North Dakota Century Code is amended and reenacted as follows:

**57-39.2-04.5. Sales and use tax exemption for materials used in compressing, processing, gathering, collecting, or refining of gas.**

1. Gross receipts from sales of tangible personal property used to construct or expand a system used to compress, process, gather, collect, or refine gas recovered from an oil or gas well in this state or used to expand or build a gas processing facility in this state are exempt from taxes under this chapter. To be exempt, the tangible personal property must be incorporated into a system used to compress, process, gather, collect, or refine gas. Tangible personal property used to replace an existing system to compress, process, gather, collect, or refine gas does not qualify for exemption under this section unless the replacement creates an expansion of the system.
2. To receive the exemption under this section at the time of purchase, the owner of the gas compressing, processing, gathering, collecting, or refining system must receive from the tax commissioner a certificate that the tangible personal property used to construct or expand a system used to compress, process, gather, collect, or refine gas recovered from an oil or gas well in this state or used to expand or build a gas processing facility in this state which the owner intends to purchase qualifies for exemption. If a certificate is not received before the purchase, the owner shall pay the applicable tax imposed by this chapter and apply to the tax commissioner for a refund.
3. If the tangible personal property is purchased or installed by a contractor subject to the tax imposed by this chapter, the owner of the gas compressing, processing, gathering, collecting, or refining system may apply to the tax commissioner for a refund of the difference between the amount remitted by the contractor and the exemption imposed or allowed by this section. Application for a refund must be made at the times and in the manner directed by the tax commissioner and must include sufficient information to permit the tax commissioner to verify the sales and use taxes paid and the exempt status of the sale or use.
4. For purposes of this section, a gas collecting system means a collection system described in subdivision d of subsection 2 of section 38-08-06.4.

**SECTION 3.** Section 57-51-02.6 of the North Dakota Century Code is created and enacted as follows:

**57-51-02.6. Temporary exemption for oil and gas wells employing a system to avoid flaring.**

Gas is exempt from the tax under section 57-51-02.2 for a period of two years and thirty days from the time of first production if the gas is:

1. Collected and used at the well site to power an electrical generator that consumes at least seventy-five percent of the gas from the well; or

2. Collected at the well site by a system that intakes at least seventy-five percent of the gas and natural gas liquids volume from the well for beneficial consumption by means of compression to liquid for use as fuel, transport to a processing facility, production of petrochemicals or fertilizer, conversion to liquid fuels, separating and collecting over fifty percent of the propane and heavier hydrocarbons, or other value-added processes as approved by the industrial commission.

**SECTION 4.** Section 57-51.1-02.1 of the North Dakota Century Code is created and enacted as follows:

**57-51.1-02.1. Temporary exemption for oil and gas wells employing a system to avoid flaring.**

Liquids produced from a collection system described in subdivision d of subsection 2 of section 38-08-06.4 utilizing absorption, adsorption, or refrigeration are exempt from the tax under section 57-51.1-02 for a period of two years and thirty days from the time of first production.

**SECTION 5. EFFECTIVE DATE.** This Act becomes effective July 1, 2013.

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1134.

House Vote:      Yeas 84              Nays 7              Absent 3

Senate Vote:    Yeas 46              Nays 0              Absent 1

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2013.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2013.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2013,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State