

**Illinois Department of Revenue
Regulations**

Title 86 Part 475 Section 120	Exemptions from Tax
--------------------------------------	----------------------------

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 475
ILLINOIS HYDRAULIC FRACTURING TAX ACT

Section 475.120 Exemptions from Tax

- a) *All oil and gas removed from the premises where severed is subject to tax imposed by the Tax Act unless exempt under the terms of the Tax Act [35 ILCS 450/2-15]. The following severance and production of oil is not exempt from the tax imposed by the Tax Act:*
 - 1) oil manufactured and converted into refined products on the production unit where severed; and
 - 2) oil used on the production unit where severed.

- b) *Oil produced from a well whose average daily production is 15 barrels or less for the 12-month period immediately preceding the month of production is exempt from the tax imposed by the Tax Act [35 ILCS 450/2-15(b)].*
 - 1) The Tax Act imposes a tax at the rate of 3% for the first 24 months of production. The first 12-month period for purposes of the exemption begins on the first day of the 13th month after oil is first removed from an oil well or production unit. After the first 24 months of production, a calculation can be made to determine if a well or production unit is exempt.
 - 2) To determine whether oil production is exempt from tax imposed by the Tax Act, the average daily production is determined in accordance with Section 475.115.
 - 3) When a well or production unit qualifies for the exemption based on the average daily production, the operator is responsible for notifying the purchaser of the exemption. The operator has 30 days from the end of the 12-month period to notify the first purchaser that a well or production unit no longer qualifies for the exemption. The first purchaser has 30 days to make the change to its records after it receives notice from the operator. The exemption begins on the first of a month. Once a well or production unit qualifies for the exemption, the operator annually shall determine whether oil production from a well or production unit remains exempt and shall notify the purchaser when the exempt status of a well or production unit changes.
 - A) **EXAMPLE:** An operator determines that the average daily production of oil from a well for the immediately preceding 12-month period May

through April is 15 barrels. The operator notifies the first purchaser on or before May 31. Oil removed from the well or production unit beginning June 1 is exempt. The operator must calculate the average daily production the following year and each year thereafter using the period May through April.

- B) EXAMPLE: On May 20, the operator determines the annual average daily production of oil from a well for the period May through April is 16 barrels. The operator notifies the first purchaser on June 20. The first purchaser has 30 days to make the change on its records. The exemption ends on the first of the month. Oil removed on and after August 1 is no longer exempt from tax.
- C) EXAMPLE: In May the operator determines the annual average daily production of oil from May through April is less than 15 barrels. The operator notifies the purchaser on July 2. The purchaser has 30 days to make the change. The purchaser should discontinue withholding and remitting tax on oil produced from the well beginning September 1.
- D) EXAMPLE: On May 21, the operator determines the annual average daily production of oil from May through April is 25 barrels. The operator does not notify the first purchaser until December 15. The purchaser starts withholding and remitting tax on February 1. Oil removed from the well or production unit beginning July 1 was no longer exempt from tax. The operator and producers are liable for tax, penalties and interest for oil produced in the months of July through January. When the purchaser is notified that the proper tax was not withheld, the purchaser must calculate the tax that should have been collected for the months of July through January and notify the Department. The purchaser must suspend payments to the producers on the well until the tax is collected from the producers. The Department will notify the purchaser of the amount of penalties and interest the producers owe for the period. The purchaser should suspend, or continue to suspend, payment to the producers on the well until the Department notifies the purchaser that penalties and interest, as well as any unpaid tax, has been collected from the producers.

c) *The following severance and production of gas shall be exempt from the tax imposed by the Tax Act:*

- 1) *gas injected into the earth for the purpose of lifting oil, recycling, or repressuring;*
- 2) *gas used for fuel in connection with the operation and development for, or production of, oil or gas in the production unit where severed;*
- 3) *gas lawfully vented or flared; and*
- 4) *gas inadvertently lost on the production unit by reason of leaks, blowouts, or other accidental losses. [35 ILCS 450/2-15(d)]*

d) If a purchaser and its employees have no actual knowledge that the average daily production reported to it by the operator for the purpose of withholding and remitting the tax imposed by the Tax Act is incorrect and the Department later determines the

operator provided to the purchaser an incorrect figure to use for purposes of withholding and remitting the tax imposed by the Tax Act resulting in an underpayment of tax, the Department will collect any underpayment from the operator and producers. Prior to the purchaser and its employees obtaining actual knowledge that the average daily production reported to it by the operator for the purpose of withholding and remitting the tax imposed by the Tax Act is incorrect, a first purchaser has no obligation to calculate the average daily production on a well or production unit to verify an operator's certification. If the Department provides a purchaser or an operator required to withhold and remit the tax and file a return with a lien in the amount of any assessment for underpayment of tax, penalty and interest, the purchaser or operator shall suspend payment of oil proceeds from the well to the producers until such time as the purchaser or operator receives a release of lien. A purchaser and an operator shall also honor any levy issued to it to collect amounts withheld pursuant to a lien. The Department retains all other legal remedies to collect the underpayment from the producers.