TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 475
ILLINOIS HYDRAULIC FRACTURING TAX ACT

Section 475.100 Nature of the Tax

a) The Illinois Hydraulic Fracturing Tax Act (Tax Act) imposes a tax on the severance and production of oil and gas removed from oil and gas wells in this State that are permitted, or required to be permitted, under the Hydraulic Fracturing Regulatory Act (Regulatory Act) [225 ILCS 732]. The Tax Act does not impose a tax on the severance and production of oil and gas from oil and gas wells that commenced production prior to July 1, 2013, unless the wells are subsequently required to be permitted under the Regulatory Act, or were completed on and after July 1, 2013, and were not permitted, or required to be permitted under the Illinois Hydraulic Fracturing Regulatory Act. Purchasers and operators are not required to withhold and remit tax for oil and gas severed or produced from these latter two classes of wells.

b) *If a well is required to be permitted under the Regulatory Act, the tax imposed by the Tax Act applies, whether or not a permit was obtained* [35 ILCS 450/2-15(a)]. The failure of an operator to obtain a permit for a well subject to the tax imposed by that Tax Act does not change a producer's liability for the tax imposed by the Tax Act.

c) The tax is imposed upon the producers of oil or gas severed from a well subject to the tax imposed by the Tax Act. The purchaser of any oil or gas sold from these wells must collect the tax from the producers by deducting and withholding the tax from any payments made by the purchaser to the producers for oil or gas removed from the well. The first purchaser is responsible for remitting the tax to the Department. (See Section 2-30(a) of the Tax Act.) If oil or gas is transported off the production unit by the operator, used on the production unit, or refined on the production unit, the operator is responsible for registering with the Department, withholding the tax from any payments made by the operator to the producers and remitting the tax to the Department. (See Section 2-50(a) of the Tax Act.)

d) For wells that commenced production prior to July 1, 2013 that are not subject to the tax imposed by the Tax Act, the obligation to obtain the exemption certificate required by Section 475.130(b) only applies when a first purchaser enters into a new contract with an operator to purchase oil or gas from those wells on or after January 1, 2019. If the first purchaser meets this obligation for wells that commenced production prior to July 1, 2013, no further obligations are imposed on the first purchaser or the operator with respect to those wells.

e) First purchasers shall not be required to obtain exemption certificates from the operator pursuant to Section 475.130(b)(2) until the first high volume horizontal hydraulic fracturing permit has been approved by the Department of Natural Resources on or after January 1, 2019.

f) The first purchaser is required to obtain an exemption certificate required by Section 475.130(b):

1) when subsection (d) applies; and

2) for wells the first purchaser begins purchasing oil or gas on or after January 1, 2019.