

The Freehold Oil and Gas Production Tax Act

Repealed

by Chapter F-22.11 of *The Statutes of Saskatchewan, 2010*.

Formerly

Chapter F-22.1 of the *Statutes of Saskatchewan, 1982-83* (consult Table of Saskatchewan Statutes for effective date) as amended by the *Statutes of Saskatchewan, 1984-85-86, c.45; 1993, c.25; 1995, c.21; 2000, c.L-5.1 and 50; 2001, c.15 and 2007, c.26*.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER F-22.1

An Act to provide for the Taxation of Freehold Oil and Gas Production

PART I Short Title

Short title

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

PART II Freehold Oil and Gas Production

INTERPRETATION

Interpretation

2(1) In this Part:

- (a) **“Crown”** means Her Majesty the Queen in right of Saskatchewan;
- (b) **Repealed.** 2007, c.26, s2.
- (c) **“department”** means the department over which the minister presides;
- (d) **“drainage unit”** means the area established as a drainage unit for a zone of a well pursuant to *The Oil and Gas Conservation Act* and regulations made pursuant to that Act;
- (e) **“freehold lands”** means all lands in Saskatchewan, and all rights to and interests in those lands, other than:
 - (i) Crown mineral lands within the meaning of *The Crown Minerals Act*; and
 - (ii) any lands, and all rights to and interests in any lands, that were acquired by the Crown pursuant to or by virtue of Part III of *The Oil and Gas Conservation, Stabilization and Development Act*;
- (f) **“freehold oil”** and **“freehold gas”** mean respectively all oil and all gas:
 - (i) produced from freehold lands; or
 - (ii) allocated to freehold lands, or to the holder of any right thereto or interest therein, under a voluntary pooling arrangement, a pooling order, an agreement for unit operation or a unit operation order made pursuant to *The Oil and Gas Conservation Act* and the regulations thereunder;
- (g) **“gas”** means natural gas and includes casing-head gas and all hydrocarbons not defined as oil;

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FREEHOLD OIL AND GAS PRODUCTION TAX

(h) “**minister**” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(i) “**oil**” means crude petroleum oil and any other hydrocarbon, regardless of density, that is produced from a well and that is in liquid form when measured or estimated for the purposes of section 99 of *The Oil and Gas Conservation Regulations, 1985*;

(j) “**operator**” includes:

(i) the person who has the right to operate a well; or

(ii) the person designated by the minister as operator of the well for the purposes of this Part;

whether he does so himself or through any other person;

(k) “**person**” includes an individual, corporation, company, syndicate, trust, firm, partnership, co-owner or party, and includes the successors, heirs, executors, administrators or other legal representatives of any such person;

(l) “**prescribed**” means prescribed by regulation from time to time by the Lieutenant Governor in Council;

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

(m) “**taxpayer**” means any person who is liable to pay any of the taxes imposed by this Part;

(n) “**well**” means any opening in the ground within the province, except a seismic shot hole or structure test hole, from which oil, gas, or oil and gas are, have been or are capable of being produced from a reservoir, and includes the lands upon, in or under which the well is located and all reserves in that reservoir, and all rights thereto and interests therein;

(o) “**working interest**” means an interest in a well, or in any freehold oil or freehold gas produced therefrom or allocated thereto, that is subject to any part of the costs of producing freehold oil or freehold gas or that requires the holder thereof to bear or contribute to the payment of any part of those costs;

(p) “**zone**” means an interval approved by the minister that is definable in relation to a geological formation or geological unit.

(2) For the purposes of this Part:

(a) related persons, as determined in accordance with the *Income Tax Act* (Canada), shall be deemed not to deal with each other at arm’s length; and

(b) it is a question of fact whether persons not related to each other, as determined in accordance with the *Income Tax Act* (Canada), were at a particular time dealing with each other at arm’s length.

(3) In this Part, any reference to any other statute or to an enactment of the Parliament of Canada includes a reference to any regulations, orders or other statutory instruments made pursuant thereto, and any reference to any enactment of the Parliament of Canada shall be deemed to be a reference thereto as re-enacted, amended, revised or consolidated as at July 1, 1982.

1982-83, c.F-22.1, s.2; 1984-85-86, c.45, s.3;
1995, c.21, s.3; 2001, c.15, s.5 and s.7; 2007,
c.26, s.2.

FREEHOLD OIL AND GAS PRODUCTION TAXES

Freehold production taxes

3(1) A tax shall be imposed on all freehold oil produced in Saskatchewan.

(2) A tax shall be imposed on all freehold gas produced in Saskatchewan.

1993, c.25, s.3

Calculation and payment

4 The taxes imposed by this Part shall be calculated and paid in the manner and at the time or times provided in this Act and in the regulations.

1982-83, c.F-22.1, s.4; 2001, c.15, s.7.

Time of payment

5 Except as otherwise provided in the regulations, the taxes imposed by this Part upon any freehold oil or freehold gas shall be paid within one month after the end of the month in which that freehold oil or freehold gas is produced.

1982-83, c.F-22.1, s.5; 2001, c.15, s.7.

By whom to be paid

6 The taxes imposed by this Part upon any freehold oil or freehold gas shall be paid by the holders of the working interests in the well from which that freehold oil or freehold gas is produced, or to which it is allocated, in accordance with their respective proportionate shares of the aggregate of the working interests in the well, and except as otherwise provided in the regulations such taxes shall be remitted to and collected by the operator of the well in the manner and at the time or times provided in section 7.

1982-83, c.F-22.1, s.6; 2001, c.15, s.7.

Operator to collect and remit to minister

7(1) Every operator of a well from which any freehold oil or freehold gas is produced is hereby designated an agent of the Crown for the purposes of collecting the taxes imposed by this Part from the taxpayers holding working interests in the well who are liable to pay those taxes under section 6, and of remitting those taxes to the minister in the manner and at the time or times provided in this section and in the regulations.

(2) Every operator of a well shall deduct from all amounts payable by him to each taxpayer in respect of any freehold oil or freehold gas produced from or allocated to the well for each month an amount equal to the lesser of:

- (a) the aggregate of such amounts so payable; and
- (b) the taxes imposed by this Part upon that freehold oil or freehold gas that the taxpayer is liable to pay under section 6, to the extent that they have not previously been so deducted for that month.

(3) All amounts deducted by an operator pursuant to subsection (2) shall be deemed to have been received by the taxpayer at the time they were so deducted by the operator.

c. F-22.1**FREEHOLD OIL AND GAS PRODUCTION TAX**

(4) Where, on or before the last day of the month following the month in which any freehold oil or freehold gas is produced, the operator of the well from which it is produced or to which it is allocated has not deducted under subsection (2) from amounts payable by him to a taxpayer an amount equal to the full amount of the taxes imposed by this Part upon that freehold oil or freehold gas that the taxpayer is liable to pay under section 6, the taxpayer shall forthwith remit to the operator the full amount of those taxes less any amount that the operator has deducted under subsection (2) from amounts payable to the taxpayer in respect of that freehold oil or freehold gas.

(5) Except as otherwise provided in the regulations, every operator of a well shall remit to the minister, on or before the last day of each month, all of the amounts deducted by him under subsection (2) or remitted to him under subsection (4) in respect of the taxes imposed by this Part upon the freehold oil or freehold gas produced from or allocated to the well during the preceding month.

(6) All amounts deducted by an operator under subsection (2) and all amounts remitted to an operator under subsection (4) shall be deemed to be held in trust by the operator for the Crown until such amounts are remitted to the minister pursuant to subsection (5), and any such amount so held in trust by an operator shall not form part of his estate or property for any purpose but shall be and remain the property of the Crown, whether or not such amount is in fact kept separate and apart by the operator from his own estate or property.

(7) Without limiting the liability of any taxpayer for any of the taxes imposed by this Act, and in addition to any other liability under this Part, any operator of a well who fails to deduct, to remit, or to deduct and remit any amount as required by this section or the regulations is personally liable for and shall pay to the minister an amount equal to the aggregate of all amounts that he failed so to deduct, to remit, or to deduct and remit, or such lesser amount as the minister may demand, and such amount shall be remitted forthwith to the minister in the manner provided in the regulations.

1982-83, c.F-22.1, s.7; 2001, c.15, s.7.

Limitation on deductions

8 Except as or to the extent expressly permitted from time to time by the regulations, no allowance, credit or other deduction shall be made or taken in calculating, paying or remitting any of the taxes imposed by this Part.

1982-83, c.F-22.1, s.8; 2001, c.15, s.7.

Interest

9(1) Where any amount in respect of the taxes imposed by this Part is not remitted by an operator to the minister as and when required by subsection 7(5) or 7(7) or the regulations, interest thereon shall be paid by the operator to the minister at the prescribed rate or rates from the day upon which that amount should have been so remitted to the day upon which it is so remitted.

(2) Where any amount in respect of the taxes imposed by this Part is not remitted by a taxpayer to an operator as and when required by subsection 7(4) or the regulations, interest thereon shall be paid by the taxpayer to the minister at the prescribed rate or rates from the day upon which that amount should have been so remitted to the day upon which it is so remitted, and the taxpayer shall remit such interest to the operator of the well to which that amount relates in the manner required by subsection 7(4) and the regulations.

(3) Where any interest has been remitted to an operator under subsection (2), the operator shall remit such interest to the minister on or before the last day of the month in which such interest is so remitted to him, and the provisions of section 7 apply, *mutatis mutandis*, to such interest and to the remittance thereof except as otherwise provided in the regulations.

1982-83, c.F-22.1, s.9; 2001, c.15, s.7.

Debt due to Crown

10 All amounts required by or under this Part to be paid or remitted to the minister are a debt due to the Crown and may be recovered in any manner provided in this Act or the regulations.

1982-83, c.F-22.1, s.10; 2001, c.15, s.7.

Collection of taxes

10.1(1) Where a taxpayer owes any tax, penalty or interest imposed pursuant to this Part or the regulations and no appeal is commenced pursuant to section 26.1 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 or interest in an amount specified in the return or other document and that amount has remained unpaid for at least 30 days since the acknowledgement, the minister may:

- (a) certify the amount due in a certificate in the prescribed form; 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 of 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.

1995, c.21, s.4; 2001, c.15, s.7.

Collection from third parties

10.2(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 or penalty pursuant to this Part or the regulations.

c. F-22.1**FREEHOLD OIL AND GAS PRODUCTION TAX**

(2) Where a certificate has been filed pursuant to section 10.1, the minister may serve a notice of intention in the prescribed form on the person liable to pay or remit any tax, interest or penalty advising that person of the minister's intention to serve a demand on a third party.

(3) No sooner than seven days after serving the notice of intention, the minister may serve a demand in the prescribed form 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 does not apply to any amount payable by a third party where that amount is payable:

- (a) after 30 days following the day on which the demand is served; or
- (b) after a period not greater than six months following the day on which the demand is served 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.

1995, c.21, s.4; 2001, c.15, s.7.

Service of demand

10.3(1) A certificate mentioned in section 10.1 or a demand or notice mentioned in section 10.2 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.

1995, c.21, s.4.

RETURNS AND RECORDS**Notices of active operation**

11(1) Upon the commencement of production of freehold oil or freehold gas from a well, the operator of the well shall deliver written notice of active operation to the department, in the form and at the time required by the regulations, setting forth his name and address for service, the name and address for service of each holder of a working interest in the well and the interest held by each such person (expressed as a percentage of the aggregate of the working interests in the well), and any additional information that may be prescribed.

(2) The operator of every well shall deliver written notice to the department, in the form and at the time or times required by the regulations, of any change in any of the information set forth in any notice previously delivered pursuant to subsection (1).

(3) Where freehold oil is being produced from a well on January 1, 1983, a notice in respect of that well in the form required by subsection (1) shall be delivered to the department on or before January 31, 1983.

(4) Where freehold gas is being produced from a well on the day subsection 3(2) comes into force, a notice in respect of that well in the form required by subsection (1) shall be delivered to the department within 30 days after subsection 3(2) comes into force.

1982-83, c.F-22.1, s.11.

Books of account

12(1) Every operator of a well shall keep in the province proper books of account with respect to the operation of the well and all freehold oil or freehold gas produced from or allocated to the well, together with any further books, records, information and particulars that may be prescribed.

(2) Every taxpayer shall keep in the province proper books of account with respect to his working interest in all wells and in all freehold oil and freehold gas produced from or allocated to all wells, together with any further books, records, information and particulars that may be prescribed.

(3) Notwithstanding subsections (1) and (2), the minister may, upon application by an operator or a taxpayer, permit books and records to be kept at a location outside the province, provided that the operator or taxpayer undertakes to make those books and records available to the minister upon terms and conditions satisfactory to the minister.

1982-83, c.F-22.1, s.12.

Returns

13(1) All amounts remitted by an operator to the minister in respect of any of the taxes imposed by this Part shall be accompanied by a return in prescribed form.

(2) The minister may demand in writing, from any taxpayer or from any other person believed to have knowledge relevant to the imposition, calculation or payment of any of the taxes imposed by this Act, that such taxpayer or other person make a return to the minister containing any information necessary to enable the minister to make a full and complete determination of the amount of any of the taxes imposed by this Act or of the liability of any person to pay any of the taxes imposed by this Part, and every such taxpayer or other person, upon receipt of the demand, shall immediately make and deliver the return to the minister.

1982-83, c.F-22.1, s.13; 2001, c.15, s.7.

c. F-22.1**FREEHOLD OIL AND GAS PRODUCTION TAX****ADMINISTRATION AND ENFORCEMENT****Investigation**

14(1) At any reasonable time the minister or any officer of the department authorized by the minister, for the purposes of making enquiries, obtaining information and performing any duties pursuant to this Part, may:

- (a) enter any building or structure used in connection with the operation of any well or any plant or work at which the production from any well is treated or processed and take from that well, plant or work any samples or specimens to determine the quantity or quality of the production from that well;
 - (b) enter any building, structure or office containing any books of account, records, ledgers and other documents required to be kept pursuant to this Part or the regulations and examine and make copies of any of those books of account, records, ledgers and other documents; and
 - (c) use any machinery, equipment, appliances or things that the minister or the officer considers necessary while at any place mentioned in clause (a) or (b).
- (2) Any information acquired by the minister or an officer authorized by the minister must not be communicated or disclosed by the minister or officer to anyone in any manner except as is necessary for the purposes of this Part or any other Act administered by the department.

1993, c.25, s.4; 2001, c.15, s.7.

Penalties

15(1) Every person who fails to deliver any return, notice or other document that he is required to deliver under this Part is liable for and shall pay to the minister a penalty of:

- (a) in the case of any return required by section 13, \$50 for each day after the day upon which he was required to deliver the return; or
- (b) in any other case, \$10 for each day after the day upon which he was required to deliver the return, notice or other document;

unless the minister has waived the penalty or fixed a lesser amount in respect of any particular failure.

(2) Every person who has failed to complete any information required on any return, notice or other document that he is required to deliver under this Part is liable for and shall pay to the minister a penalty of:

- (a) in the case of any return required by section 13, \$50 for each day after the day upon which he delivered the return until the day upon which complete information is delivered to the minister; or
- (b) in any other case, \$10 for each day after the day upon which he delivered the return, notice or other document until the day upon which complete information is delivered to the minister;

unless the minister has waived the penalty or fixed a lesser amount in respect of any particular failure.

1982-83, c.F-22.1, s.15; 2001, c.15, s.7.

Idem

16 Every person who wilfully attempts to evade payment of any of the taxes imposed by this Part is, in addition to any other penalty that may be imposed under this Part, liable for and shall pay to the minister a penalty in an amount equal to 50 per cent of the amount of the tax sought to be evaded or such lesser amount as the minister may demand.

1982-83, c.F-22.1, s.16; 2001, c.15, s.7.

Idem

17 Except as otherwise expressly provided in this Part or the regulations, any penalty provided for in this Act may be imposed notwithstanding that some other penalty may also be imposed in the same or similar circumstances.

1982-83, c.F-22.1, s.17.

Offences

18(1) Every person who knowingly fails to deliver any return, notice or other document that he is required to deliver under this Part, or who knowingly fails to complete any information required on any such return, notice or other document, is guilty of an offence and, in addition to any penalty otherwise provided for in this Part, is liable on summary conviction:

(a) in the case of any return required by section 13, to a fine of not less than \$1,000 nor more than \$10,000, or to imprisonment for a term of six months, or to both such fine and imprisonment, and, in default of payment of any such fine, to imprisonment for a term, or additional term, of six months; or

(b) in any other case, to a fine of not less than \$100 nor more than \$5,000.

(2) Every person who knowingly makes or signs any false statement or furnishes any false or incorrect information to the minister or to any officer of the department with respect to any matter or thing with respect to which information is required under this Part, or who keeps or causes or permits to be kept any false or incorrect books of account or other records regarding anything required under this Part, is, in addition to any other liability under this Part, guilty of an offence and, in addition to any penalty provided for in this Part, is liable on summary conviction to a fine of not less than \$1,000 nor more than \$10,000, or to imprisonment for a term of six months, or to both such fine and imprisonment, and, in default of payment of any such fine, to imprisonment for a term, or additional term, of six months.

(3) Every person who, in any manner whatever, wilfully attempts to evade payment of any of the taxes imposed by this Part, or who conspires with any other person to evade payment of any such taxes, is guilty of an offence, and, in addition to any penalty provided for in this Part, is liable on summary conviction to a fine of not less than 25 per cent nor more than double the amount of tax sought to be evaded or to imprisonment for a term of six months, or to both such fine and imprisonment, and, in default of payment of any such fine, to imprisonment for a term, or additional term, of six months.

(4) Where a corporation is guilty of an offence under this Part, any director, officer or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence, and is liable on summary conviction to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted.

1982-83, c.F-22.1, s.18; 2001, c.15, s.7.

c. F-22.1**FREEHOLD OIL AND GAS PRODUCTION TAX****Lien**

19 Notwithstanding the provisions of any other statute, all taxes imposed by this Part upon any freehold oil or freehold gas, and all interest and penalties payable under this Part in respect of those taxes, constitute a first lien, charge and encumbrance in favour of the Crown upon the entire estate, real and personal, of the person who is liable to pay those taxes, interest or penalties, including without limitation his interest in the well from which that freehold oil or freehold gas was produced, in priority to every claim, privilege, lien or encumbrance of any other person, whether the right or title of such other person has accrued before or accrues after the attaching of the first lien, charge and encumbrance, and the priority of the first lien, charge and encumbrance shall not be lost or impaired by any neglect, omission or error of any official, officer or person, or by want of registration, or by the tender or acceptance of any partial payment of those taxes, interest or penalties, and the first lien, charge and encumbrance may be realized by the seizure or the seizure and sale of such estate or any part or parts thereof.

1982-83, c.F-22.1, s.19; 2001, c.15, s.7.

Injunctions and receivers

20 In addition to any other remedy for the recovery of any tax, interest or penalty due and owing under this Part, or where the payment of any accrued or future tax, interest or penalty appears to the minister to be in danger, an application for an injunction or an order in the nature of an injunction, or for the appointment of a receiver with all necessary powers, or for such other relief or remedy as seems necessary or expedient for securing payment thereof, may be made *ex parte* to a judge of Her Majesty's Court of Queen's Bench for Saskatchewan at the instance and in the name of the minister, and, upon the application, the judge may grant an injunction or make such an order upon any terms and conditions that he considers proper.

1982-83, c.F-22.1, s.20; 2001, c.15, s.7.

Order for production

21 Where, contrary to this Part, any person refuses or neglects to permit the minister or any authorized officer of the department to examine, inspect or make copies of any books, records or documents mentioned in section 14 in the custody or under the control of that person, or where any person obstructs the minister or any officer of the department in the performance of any of his duties under section 14 or otherwise under this Part, the minister may apply *ex parte* to a judge of Her Majesty's Court of Queen's Bench for Saskatchewan, and the judge may order the production and delivery of any books, records or documents for inspection and copying or enjoin that person from such obstruction.

1982-83, c.F-22.1, s.21; 2001, c.15, s.7.

Distress

22 Where default is made in the payment of any taxes, interest or penalties due and owing under this Part, the taxes, interest and penalties may be levied and collected by distress, together with all costs of distress, upon the goods and chattels, wherever found, of the taxpayer under a warrant signed by the minister directed to the sheriff having jurisdiction in the area in which the taxpayer may have any goods or chattels, and the sheriff shall realize the amount directed to be realized by the warrant, together with all incidental costs, by the sale of the goods and chattels distrained or of so much thereof as may be necessary to satisfy the amount directed to be levied by the warrant together with the costs of the distress and sale.

1982-83, c.F-22.1, s.22; 2001, c.15, s.7.

Deduction or set-off

23 Where any taxes, interest or penalties under this Part are not paid when due, the minister may require the retention by way of deduction or set-off of such amount as he may specify from or out of any amount that is or may become payable by the Crown to the taxpayer or to any other person on behalf or for the benefit of the taxpayer.

1982-83, c.F-22.1, s.23; 2001, c.15, s.7.

Action for recovery

24(1) If any tax, interest or penalty due and owing under this Part is not paid, the same may be recovered with costs from any person liable for payment thereof by an action to be tried without a jury at the suit of the minister in any court of competent jurisdiction.

(2) Any action that may be brought under this Part may be brought by the minister as plaintiff, and it is not necessary to name the minister, and the action does not abate by reason of a change in the person of the minister or by reason of the office being vacant at any time, but the action may proceed as if no change has been made or no vacancy exists.

(3) The remedies and the rights of action provided in subsections (1) and (2) are in addition to all other rights and remedies that may be exercised under this Part.

1982-83, c.F-22.1, s.24; 2001, c.15, s.7.

Offence

25 Every person who knowingly contravenes any provision of this Part or the regulations is guilty of an offence punishable on summary conviction and, unless otherwise specifically provided, is liable to a fine of not less than \$100 nor more than \$5,000, or to imprisonment for a term of six months, or to both such fine and imprisonment, and, in default of payment of any such fine, to imprisonment for a term, or additional term, of six months.

1982-83, c.F-22.1, s.25; 2001, c.15, s.7.

c. F-22.1**FREEHOLD OIL AND GAS PRODUCTION TAX****Improper avoidance or reduction of taxes**

26(1) Where the minister has determined that one of the main purposes for a transaction or transactions effected before or after the coming into force of this Part was improper avoidance or reduction of taxes that might otherwise have become payable under this Part, the minister may give such directions as he considers appropriate to counteract the avoidance or reduction.

(2) An avoidance or reduction of taxes may be regarded as improper for the purposes of this Part although not otherwise illegal or unlawful.

(3) A direction of the minister under this section may relate to any taxes, interest or penalties payable under this Part by one or more persons and for one or more periods.

(4) Where a direction of the minister has been given under this section, tax shall be paid and collected, notwithstanding any other provision of this Part or any provision of any other statute, in accordance with such direction.

(5) Written notice of a direction by the minister under this section shall be mailed or delivered immediately to the person or persons affected thereby.

1982-83, c.F-22.1, s.26; 2001, c.15, s.7.

Appeals

26.1(1) A taxpayer who objects to any act or thing done by the minister pursuant to clause 32(1)(b.6), other than a determination respecting a price made pursuant to the regulations made pursuant to clause 32(1)(b.5), may appeal that act or thing to the Board of Revenue Commissioners.

(2) Before commencing an appeal the taxpayer must pay to the minister any amount required to be paid as a result of the act or thing done by the minister pursuant to clause 32(1)(b.6).

(3) A taxpayer who wishes to commence an appeal shall, within 90 days of receiving notice of the act or thing done by the minister pursuant to clause 32(1)(b.6), 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 that objection.

(4) On an appeal pursuant to this section, the Board of Revenue Commissioners may confirm, reduce, increase or vary any act or thing done by the minister pursuant to clause 32(1)(b.6) or may refer the matter back to the minister for further consideration.

(5) In any appeal by a taxpayer pursuant to this section, the onus of proof of the allegations of fact and law on which the taxpayer relies to support the objection is on the taxpayer.

(6) In any appeal pursuant to this section, any person or any officer, director or agent of any corporation, whether or not the person or corporation is a party to the appeal:

- (a) may be examined on oath; and

- (b) shall make production on oath of any documents, records or things that may be in the possession or under the control of the person or corporation and may be required to attend for examination and to make production in the same manner as a party to an action in Her Majesty's Court of Queen's Bench for Saskatchewan may be required to attend for examination and to make production.
- (7) 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*.
- (8) The Lieutenant Governor in Council may prescribe rules and procedures for appeals made pursuant to this section.
- (9) No appeal lies from an order of the minister made pursuant to clause 32(1)(b.3).

1993, c.25, s.5; 1995, c.21, s.5.

Associated persons

27(1) Where the minister is satisfied that, notwithstanding the separate existence of any two or more persons:

- (a) their separate existence in any period is not solely for the purpose of carrying out the business of the separate persons in the most effective manner; and
- (b) one of the reasons for their separate existence is to reduce the amount of taxes otherwise payable under this Part;

the two or more separate persons, if the minister so directs, shall be deemed to be associated persons for the purposes of this Part.

(2) Written notice of a direction by the minister under subsection (1) shall be mailed or delivered immediately to the persons deemed to be associated persons.

1982-83, c.F-22.1, s.27; 2001, c.15, s.7.

GENERAL

Exemption

28(1) In this section:

- (a) **“beneficial owner”** of oil and gas rights means a person beneficially entitled thereto, whether or not he is also the registered owner thereof, and the area beneficially owned by him refers to his net interest therein expressed as a unit of area;
- (b) **“nominal section”** means 259 hectares or 640 acres depending on the measurement shown on the plan approved by the Controller of Surveys for that parcel of land;
- (c) **“oil and gas rights”** means an estate in fee simple in any or all oil, petroleum, natural gas, all other hydrocarbons, except coal and valuable stone, all other gases and minerals and substances, whether liquid or solid and whether hydrocarbon or not, occurring in association with any of the foregoing and the spaces or formations occupied or formerly occupied thereby in all producing tracts in the province;

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- (d) **“producing tract”** means a drainage unit:
- (i) in which or in respect of which is situate a well from which oil, gas or oil and gas:
 - (A) is being produced or is capable of being produced; or
 - (B) is, by virtue of an order of the Lieutenant Governor in Council, deemed to be produced; or
 - (ii) the whole or a portion of which is included in an area in respect of which there is exists:
 - (A) a plan;
 - (B) a unit operation agreement; or
 - (C) any other arrangement or agreement for the production of oil, gas or oil and gas or for the allocation of royalty on that production;
 under which oil, gas or oil and gas is being produced or is capable of being produced from the drainage unit.

(2) For the purposes of this section, a person shall be considered to be an exempt owner in respect of a producing tract for any month if, throughout that month, he is a beneficial owner of all or any part of the oil and gas rights in the producing tract and if, throughout that month, the aggregate of:

- (a) the area of oil and gas rights beneficially owned by him in the producing tract;
- (b) the area of oil and gas rights beneficially owned by him in all other producing tracts; and
- (c) the area of oil and gas rights in all producing tracts beneficially owned by all persons with whom he does not deal at arm's length or with whom he is deemed to be an associated person under section 27;

does not exceed two nominal sections.

(3) For the purposes of this section, an exempt owner's share of the freehold oil or freehold gas produced from or allocated to the producing tract in respect of which he is an exempt owner for any month shall be considered to be the lesser of:

- (a) his share of the freehold oil or freehold gas produced from or allocated to the producing tract during that month, as otherwise determined; and
- (b) that proportion of the freehold oil or freehold gas produced from or allocated to the producing tract during that month that:
 - (i) the area of oil and gas rights in the producing tract beneficially owned by him throughout that month;

is of:

- (ii) the total area of oil and gas rights in such producing tract.

(4) Notwithstanding section 3 or any other provision of this Part, the taxes imposed by this Act shall not be imposed upon an exempt owner's share of the freehold oil or freehold gas produced from or allocated to the producing tract in respect of which he is an exempt owner for any month.

Other exemptions

29 The Lieutenant Governor in Council may, from time to time, by regulation exempt, in whole or in part and on such terms or conditions as he may impose:

- (a) any freehold oil or freehold gas or any class of freehold oil or freehold gas from any of the taxes imposed by this Part; or
- (b) any person or class of persons from liability to pay or remit any of the taxes imposed by this Part;

and may authorize, in connection therewith, a refund or partial refund of any taxes paid before the exemption is ordered.

1982-83, c.F-22.1, s.29; 2001, c.15, s.7.

Compromise and settlement

30 Where it is considered by the Lieutenant Governor in Council to be in the public interest not to demand payment of the whole amount of any taxes, interest or penalties imposed under this Part, the Lieutenant Governor in Council may compromise and settle the matter by accepting such amount as he considers proper and, where the taxes, interest or penalties have been paid, he may refund them or part of them to the person or persons entitled thereto.

1982-83, c.F-22.1, s.30; 2001, c.15, s.7.

Enlargement of time

31 The Lieutenant Governor in Council may, from time to time, by regulation enlarge the time for the payment of any tax, interest or penalty under this Part or for doing any other act or thing required to be done under this Part or for filing or delivering any return, notice or other document the filing or delivery of which is required or provided for by this Part.

1982-83, c.F-22.1, s.31; 2001, c.15, s.7.

Regulations

32(1) For the purpose of carrying out the provisions of this Part according to their intent, the Lieutenant Governor in Council may make regulations that are not inconsistent with this Part, and every regulation made under this section has the force of law and, without restricting the generality of the foregoing, the Lieutenant Governor in Council may make regulations:

- (a) defining any word or expression used in this Part;
- (b) prescribing anything that is, by this Act, to be prescribed by regulation or is to be determined or regulated by regulation;
 - (b.1) respecting the amount and payment of taxes on freehold oil and freehold gas produced in Saskatchewan;
 - (b.2) prescribing formulas to determine the tax rates applicable to and amount of taxes payable on freehold oil and freehold gas produced in Saskatchewan;
 - (b.3) authorizing the minister to, by prescribed methods, estimate and set, by order, average prices for freehold oil and freehold gas to be used in formulas to determine tax rates pursuant to clause (b.2), including average prices to be used in those formulas applicable to freehold oil and freehold gas produced up to 30 days after the order;

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- (b.4) prescribing the manner in which the minister shall notify taxpayers of orders made pursuant to clause (b.3);
 - (b.5) providing that the price to be used in calculating the taxes on freehold oil and freehold gas may be a price other than the price that has been or will be received for the oil or gas, including:
 - (i) a price equal to a fair market value or another fair value that is less than a fair market value;
 - (ii) where the price is respecting gas, an average price;
 - (iii) a price determined by including other amounts that have been or will be received;
 - (iv) a price determined by deducting fees, charges or other factors specified in the regulations;
 - (b.6) authorizing the minister to estimate, determine, establish, approve or authorize factors, allowances, fees, charges, credits, deductions, exemptions, methods of payment, time periods, the applicable prescribed tax rate, values and prices to be used in the assessment, calculation and payment of tax by a taxpayer;
 - (b.7) prescribing the manner in which the minister shall notify taxpayers of acts or things done pursuant to clause (b.6);
 - (c) prescribing the form and contents of any return, notice or other document the filing or delivery of which is required or provided for by this Part;
 - (d) **Repealed.** 2000, c.50, s.10.
 - (e) prescribing allowances, credits or other deductions that may be made or taken in calculating, paying or remitting any of the taxes imposed by this Part;
 - (f) respecting any other matter that he considers necessary or advisable to carry out effectively the intent and purpose of this Part.
- (2) Any regulation made from time to time under this Part may be made retroactive to, and in such case shall have full force and effect on, from and after, January 1, 1983 or such later date as is specified in the regulation.

1982-83, c.F-22.1, s.32; 1993, c.25, s.6; 1995,
c.21, s.6; 2000, c.50, s.10; 2001, c.15, s.7.

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.

2001, c.15, s.6.

Recovered crude oil tax

32.11 A tax is imposed on all recovered crude oil.

2001, c.15, s.6.

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.

2001, c.15, s.6.

c. F-22.1**FREEHOLD OIL AND GAS PRODUCTION TAX****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.

2001, c.15, s.6.

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.

2001, c.15, s.6.

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.

2001, c.15, s.6.

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*.

2001, c.15, s.6.

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.

2001, c.15, s.6.

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

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- (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.

2001, c.15, s.6.

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.

2001, c.15, s.6.

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.

2001, c.15, s.6.

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.

2001, c.15, s.6.

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.

2001, c.15, s.6.

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;

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- (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.

2001, c.15, s.6.

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.

2001, c.15, s.6.

