Session of 2014

HOUSE BILL No. 2735

By Committee on Taxation

2-20

AN ACT concerning income taxation; relating to credits; crude oil production, horizontal and vertical well drilling, definitions.

Be it enacted by the Legislature of the State of Kansas:

Section 1. As used in sections 1 and 2, and amendments thereto:

(a) "Commission" means the state corporation commission.

(b) "Completion" means the performance of all activities required for a well to be completed, and notification thereof, to the state corporation commission, prior to the first commercial production of crude oil.

(c) "Crude oil production areas" means the following listed Kansas counties:

(1) Crude oil production area 1: Cheyenne, Rawlins, Sherman, Thomas, Sheridan, Decatur, Norton, Graham, Rooks and Phillips counties;

(2) crude oil production area 2: Wallace, Logan, Gove, Trego, Greely, Wichita, Scott, Lane and Ness counties;

(3) crude oil production area 3: Ellis, Russell, Lincoln, Ottawa, Rush, Barton, Rice, Ellsworth, Saline and McPherson counties;

(4) crude oil production area 4: Hamilton, Kearny, Finney, Stanton, Grant, Haskell, Gray, Morton, Stevens, Seward and Meade counties;

(5) crude oil production area 5: Hodgeman, Pawnee, Stafford, Ford, Edwards, Pratt, Kiowa, Clark and Comanche counties;

(6) crude oil production area 6: Reno, Harvey, Marion, Kingman, Sedgwick, Butler, Barber, Harper, Sumner and Cowley counties; or

(7) crude oil production area 7: Lyon, Osage, Greenwood, Coffey, Woodson, Elk, Wilson, Chautauqua and Montgomery counties.

(d) "Crude oil production zones" means the following listed Kansas counties:

(1) Crude oil production zone 1: Cheyenne, Rawlins, Decatur, Norton, Phillips, Smith, Sherman, Thomas, Sheridan, Graham, Rooks, Osborne and Mitchell counties;

(2) crude oil production zone 2: Wallace, Logan, Gove, Trego, Ellis, Russell, Lincoln, Greely, Wichita, Scott, Lane, Ness, Rush, Barton and Ellsworth counties;

(3) crude oil production zone 3: Hamilton, Kearney, Finney, Hodgeman, Stanton, Grant, Haskell, Gray, Ford, Morton, Stevens, Seward, Mead and Clark counties; or

(4) crude oil production zone 4: Rice, McPherson, Pawnee, Stafford, Harvey, Edwards, Butler, Marion, Kiowa, Pratt, Kingman, Sedgwick and Cowley counties.

(e) "Direct and indirect costs" means all costs, both direct and indirect, that the internal revenue service permits to be assigned to a particular well for purposes of calculating either depreciation or amortization of such costs.

(f) "Qualifying entity" means an individual, partnership, corporation or other legal entity that drills one or more qualifying horizontal wells to completion in at least one crude oil production zone or qualifying vertical wells to completion in at least one crude oil production area. A qualifying entity must designate a single applicant for purposes of section 2, and amendments thereto. A qualifying entity must spud at least 50% of its total qualifying horizontal wells or qualifying vertical wells prior to December 31, 2014. Any remaining qualifying horizontal wells or qualifying vertical wells must be spud prior to July 31, 2015. A qualifying entity must complete all qualifying horizontal wells or qualifying vertical wells on or before December 31, 2015.

(g) "Qualifying horizontal well" means a new oil well which is drilled vertically at least 1,500 feet into a target geologic formation and at the terminus of the vertical depth is drilled horizontally for a minimum of 500 feet. Such qualifying horizontal well must be spud on or after July 1, 2014, but no later than July 31, 2015.

(h) "Qualifying vertical well" means a new oil well spud on or after July 1, 2014, but no later than February 1, 2015, and drilled to completion in a crude oil production area and into one or more of the following geologic units: Pennsylvanian system, middle Pennsylvanian series, Marmaton group, Cherokee group, Shawnee group, Douglas group, Lansing group, Kansas City group, Pawnee limestone formation, Morrow formation, St. Louis formation and Ste. Genevieve formation.

(i) "Spud date" means the date reported to the state corporation commission as the date on which the ground was first penetrated for the purposes of drilling a crude oil well.

Sec. 2. (a) For taxable years commencing after December 31, 2014, and before January 1, 2017, any taxpayer who is eligible for a credit under this section and complies with the conditions set forth herein shall be allowed a credit against the taxpayer's tax liability under the Kansas income tax act as provided in subsection (b). The credit shall be available until February 1, 2015, or until all credits in either the crude oil production zone or crude oil production area as set forth in subsection (d)(3) are used. In the event that 300 qualifying vertical wells are spud prior to February 1, 2015, the tax credit for qualifying vertical wells allowed pursuant to subsection (b) shall be made available for an additional 300 qualifying vertical wells in the same amount as set forth in subsection (d)(3), except any additional qualifying vertical wells must have been spud prior to February 1, 2016, in order to be eligible for the tax credit. Expenditures used to qualify for this credit shall not be used to qualify for any other type of Kansas income tax credit.

(b) The amount of the credit to which a taxpayer is entitled shall be equal to 10% of the taxpayer's direct and indirect costs reasonably incurred for the completion of a qualifying horizontal well or qualifying vertical well. The direct and indirect costs shall be calculated using good and accepted accounting practices. In no event shall the total amount of credit allowed under this section exceed $200,000 per qualifying horizontal well or $50,000 per qualifying vertical well.

(c) If the amount of tax credit allowed pursuant to this section exceeds the qualifying entity's income tax liability for the tax year in which the credit is allowed, the amount of the credit that exceeds such tax liability shall be refunded to the qualifying entity, pursuant to a properly filed claim for refund.

(d) (1) Before a qualifying entity applies to the department of revenue for the tax credit, the qualifying entity must receive from the commission a letter stating that the qualifying entity is in compliance with all applicable statutes and rules and regulations of the commission with regard to operating authority, licensing and any and all required bonding or financial assurances related to the drilling, operation and clean-up of crude oil well sites.

(2) After the qualifying entity receives the letter from the commission set forth in subsection (d)(1), the qualified entity shall submit to the secretary of revenue the location of the qualifying horizontal well or qualifying vertical well along with the letter issued by the commission. The secretary of revenue shall determine whether the qualifying entity is eligible for the tax credit based on the location of the qualifying horizontal well or qualifying vertical well and whether available credits remain unused for a qualifying horizontal well in the crude oil production zone in which the qualifying horizontal well was dug or for a qualifying vertical well in the crude oil production area in which the qualifying vertical well was dug.

(3) The number of tax credits available for each crude oil production zone and crude oil production area shall be set forth as follows:

(A) The number of tax credits available for qualifying horizontal wells for each crude oil production zone shall be set forth as follows:

(i) Crude oil production zone 1: The first 30 qualifying horizontal wells, determined according to spud date, that are completed in crude oil production zone 1;

(ii) crude oil production zone 2: The first 40 qualifying horizontal wells, determined according to spud date, that are completed in crude oil production zone 2;

(iii) crude oil production zone 3: The first 15 qualifying horizontal wells, determined according to spud date, that are completed in crude oil production zone 3; or

(iv) crude oil production zone 4: The first 20 qualifying horizontal wells, determined according to spud date, that are completed in crude oil production zone 4.

(B) The number of tax credits available for qualifying vertical wells in each crude oil production area shall be set forth as follows:

(i) Crude oil production area 1: The first 43 qualifying vertical wells, determined according to spud date, that are completed in crude oil production area 1;

(ii) crude oil production area 2: The first 43 qualifying vertical wells, determined according to spud date, that are completed in crude oil production area 2;

(iii) crude oil production area 3: The first 54 qualifying vertical wells, determined according to spud date, that are completed in crude oil production area 3;

(iv) crude oil production area 4: The first 43 qualifying vertical wells, determined according to spud date, that are completed in crude oil production area 4;

(v) crude oil production area 5: The first 43 qualifying vertical wells, determined according to spud date, that are completed in crude oil production area 5;

(vi) crude oil production area 6: The first 30 qualifying vertical wells, determined according to spud date, that are completed in crude oil production area 6; or

(vii) crude oil production area 7: The first 34 qualifying vertical wells, determined according to spud date, that are completed in crude oil production area 7.

(e) The provisions of K.S.A. 79-4221 and 79-4227, and amendments thereto, shall not apply to the production of any qualifying horizontal well or qualifying vertical well that receives a refundable tax credit pursuant to subsection (b). Any and all applicable Kansas mineral severance tax revenue paid from the production of a qualifying horizontal well or a qualifying vertical well that receives a refundable tax credit shall be deposited in the state general fund.

(f) The commission shall publish the number of qualifying horizontal wells and qualifying vertical wells that remain available and eligible for the credit in each crude oil production zone and crude oil production area no later than the 15th of each month. Publication shall be made on the commission's website.

(g) The commission may adopt rules and regulations to administer the provisions of this section.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.