

CHAPTER 7

RULES OF THE COMANCHE TAX COMMISSION

RULES GOVERNING THE LICENSURE OF OIL AND GAS PRODUCERS AND THE TAXATION OF OIL AND GAS TAKEN FROM COMANCHE NATION JURISDICTION

[History approved by CNTC, Resolution 01-09-05, on 9-29-05]

Rule 7.1 Definitions

The definitions contained in Section 701 of the Tax Act shall be applicable to this Chapter.

Rule 7.2 Tax Imposed

A tax imposed at the statutory rate on oil and gas production within the jurisdiction of the Comanche Nation is due at the time taxed substances are produced, severed, saved, or removed from the land, and shall be payable as provided in Rule 7.5.

Rule 7.3 Liability of Taxpayer

The Lessee is liable for all taxes assessed and is responsible for the remittance of said taxes and for the filing of a Remittance Report, Form 700.

Rule 7.4 Substitute Taxpayers

The Lessee may enter into an agreement with a third party, including but not limited to the Operator, Purchaser, or sublessee, whereby such third party agrees to file the monthly Remittance Report and remit taxes due. Such agreement must be submitted to the Tax Commission with a request that the Tax Commission approve the third-party as the Lessee's substitute taxpayer. Approval of the agreement authorizes the substitute taxpayer to remit taxes and file a monthly Remittance Report, but does not relieve the Lessee of the ultimate liability and responsibility for reports or taxes. Approval or disapproval of such agreement is within the discretion of the Tax Commission and is not subject to appeal. The Tax Commission may place conditions upon its approval of such agreements.

Rule 7.5 Payment of Tax and Filing of Remittance Report

Severance taxes shall be paid and Remittance Reports shall be filed monthly on or before the last business day of the reporting period. A tax shall be considered paid and a Remittance Report shall be considered filed on date either is received at the Comanche Nation Tax Commission or two (2) days after either is post-marked, whichever is earlier.

Rule 7.6 Remittance and Form of Reports

- (a) The Remittance Report shall be submitted by the taxpayer for each lease on Form 700, which is available upon written request to the address set forth in subsection (b) of this

Section. The Tax Commission shall provide the taxpayer with one (1) Remittance Report Form at no charge. The taxpayer must reproduce at its own expense the appropriate form in order to submit reports to the Tax Commission.

(b) The Remittance Report shall be submitted by the taxpayer for each lease to:

Comanche Nation Tax Commission
P.O. Box 908
Lawton, Oklahoma 73502.

(c) All severance tax payments shall be submitted to the address set forth in subsection (b) of this Section and checks shall be made payable to "Comanche Nation Tax Commission."

Rule 7.7 Measurement of Oil and Gas

(a) All crude oil and liquid hydrocarbon substances normally measured in liquid form shall be measured and reported in units either of barrels of 42 U.S. gallons (231 cubic inches per gallon) corrected to standard temperature of 60°F, regardless of the temperature at which the oil is actually measured.

(b) All natural gas and other vaporous hydrocarbon substances normally measured in gaseous form shall be measured and reported in units of one thousand cubic feet (MCF) corrected to standard pressure and temperature of 14.73 psi and 60°F, regardless of the pressure and temperature at which the gas is actually measured.

Rule 7.8 Extension of Time for Payment of Taxes or Filing Reports

A payment may be made and/or a Remittance Report may be filed late without incurring a penalty and accruing interest only if the Tax Commission provides written approval of a request for an extension of time. A request for extension of time must be received by the Tax Commission at least ten (10) days prior to the last day of the reporting period and the Tax Commission shall issue a decision on the request no later than five (5) days after receipt thereof. An extension of time for the payment of taxes or filing of a Remittance Report shall not exceed sixty (60) days. Approval or disapproval of a request for extension of time is within the discretion of the Tax Commission and is not subject to appeal.

Rule 7.9 Late Payment and Reports

(a) The Tax Commission will assess a penalty for late payment of taxes in the event that a taxpayer is late remitting taxes due; is late filing a Remittance Report; submits an inaccurate or incomplete Remittance Report; or fails to submit a Remittance Form. The late penalty shall be five percent (5%) of the total amount of taxes due. In the event the amount of taxes paid is incorrect and it is necessary for the Tax Commission to ascertain the correct amount of taxes due, the Tax Commission may add to the five percent (5%) penalty all accrued costs and expenses of ascertaining the correct tax amount.

(b) Daily interest will accrue in the event that a taxpayer is late remitting taxes due; is late filing a Remittance Report; submits an inaccurate or incomplete Remittance Report; or

fails to submit a Remittance Form. The daily interest will accrue on the total amount of taxes due at a rate of twenty-one percent (21%) per annum and will begin accruing the first day the payment or Remittance Report is late and will cease accruing on the date the payment is received at the Comanche Nation Tax Commission or two days after the payment is post-marked, whichever is earlier.

- (c) The Tax Commission shall calculate and issue an invoice to the taxpayer for late penalties and/or interest due.

Rule 7.10 Amended Reports

- (a) A taxpayer may file an amended Remittance Report anytime within three (3) years of filing the original report. An amended Remittance Report shall be filed on Form 700 and the taxpayer shall indicate that such report is “amended” and identify the original report effected.
- (b) In the event that an originally-filed Remittance Report indicated a greater amount of tax due than the amended Remittance Report, the taxpayer may either seek a refund or credit from the Tax Commission. In order to apply for a refund or credit of taxes remitted, the taxpayer must petition in writing for such refund or credit, explaining the basis for the refund request and providing documentation in support of such request. The Tax Commission shall sustain or deny such request in writing within sixty (60) days from receipt.

Rule 7.11 Forfeiture for Nonpayment

- (a) The incidence of tax is upon the Lessee and the taxes shall be a lien upon the property interest of the Lessee in the lease from which the taxable substances were produced. Such lien may be foreclosed in any court of competent jurisdiction. The Tax Commission may seek to have the property interest of the Lessee forfeited and sold for nonpayment of taxes when such taxes remain unpaid in excess of sixty (60) days after the due date for filing of such taxes.
- (b) Prior to the commencement of forfeiture proceedings, the Tax Commission may serve notice to any persons known from tribal, Bureau of Indian Affairs, Bureau of Land Management, Minerals Management Service, or United States Geological Survey records to have an interest in such leasehold of the amount of the taxes due and unpaid, the fact that the Tax Commission is intending to institute forfeiture proceedings, and the right of any of such persons to pay the taxes due on behalf of the Lessee and recover such payment from said Lessee by civil suit. Such notice may be served by first class mail or any other means likely to provide such persons written notice of pending action.
- (c) After the commencement of forfeiture proceedings, the Tax Commission shall serve notice to all persons known from tribal, Bureau of Indian Affairs, Bureau of Land Management, Minerals Management Service, or United States Geological Survey records to have an interest in such leasehold. The notice shall state the amount of the taxes due and unpaid, the fact that the Tax Commission has instituted forfeiture proceedings, the

right of any of such persons to pay the taxes due on behalf of the Lessee and recover such payment from said Lessee by civil suit, and the right to intervene in said action. At least thirty (30) days prior to the first scheduled hearing on the merits for any forfeiture proceedings such notice may be served by the tribal or Bureau of Indian Affairs police on such person, or by certified United States mail, deliverable to addressee only, return receipt requested, or in any other manner in which a summons may be served in said court. The Tax Commission may substitute notice by publication upon order of the court for good cause shown. Such notice shall be published at least once each full calendar week for two (2) consecutive weeks provided the last publication occurs at least ten (10) days prior to said hearing. Publication notice shall appear in a newspaper having general circulation in the county of Oklahoma where the property interest is located, or as may be further ordered by the court. The notice provided for in this subsection shall only be required one time during the course of any cause of action for forfeiture or enforcement of tax liability.

Rule 7.12 Tax Commission Process for Auditing, Correcting and Filing of Reports

- (a) When the Tax Commission suspects that an incorrect amount of tax has been paid or that a Remittance Report does not include all necessary information, has not reported correct or complete information, or has not been filed, the Tax Commission has the authority to request and review records from the Bureau of Indian Affairs, the Bureau of Land Management, the Minerals Management Service, the United States Geological Survey, the Oklahoma Tax Commission, and the Oklahoma Corporation Commission. The Tax Commission also has the authority to conduct an on-site audit of the Lessee's or Operator's facilities and records.
- (b) Based on information gathered from the above-named sources, the Tax Commission may determine the amount of oil and gas production for a lease. If the Tax Commission is unable to obtain such records, or to determine the amount of oil and gas production based on the information gathered, from the above-named sources, the Tax Commission may rely on the oil and gas production reported during the preceding four months by the Lessee to determine the appropriate level of produced substances for purposes of assessing taxes for any production period. In determining the amount of oil and gas production for a lease, the Tax Commission may also rely on other information regardless of its source.
- (c) The Tax Commission may determine the amount of the oil and gas production for the production period and may ascertain the value of that oil and gas production. The value determined by the Tax Commission shall be commensurate with the actual price received for products of like quality, character, and use which are severed in the same area. If there are no sales of products of like quality, character, or use severed in the same area, then the Tax Commission shall establish a value based upon the best information available.

- (d) The Tax Commission shall calculate the amount of tax owed and shall then send an invoice to the taxpayer of the amount of tax due after the foregoing calculation is completed. The invoice shall indicate late penalties and accrued interest as appropriate.
- (e) Payment of interest and penalties shall be calculated for a due date thirty (30) days from the date the bill is issued. Additional interest and penalties shall continue to accrue beyond the due date for the tax remaining unpaid. In the event that the tax, interest, and penalties are paid prior to the thirtieth (30th) day, the taxpayer may deduct the amount of interest and penalties calculated for the remainder of the thirty-day period, provided that the taxpayer includes a clear showing of such calculation and deduction with its payment.
- (f) The determination of production and valuation by the Tax Commission in accordance with the preceding subsections shall be deemed correct unless otherwise rebutted by clear and convincing evidence presented in writing by the taxpayer.

Rule 7.13 Tax Commission May Determine Value of Products

- (a) The Tax Commission may determine the value of products herein subject to taxation when:
 - (1) the Operator and Purchaser are affiliated or related persons;
 - (2) the sale and purchase of products is not an arm's length transaction between Lessee and Purchaser; or
 - (3) products are severed and removed from the lease site and a price is not established for such products.
- (b) The value determined by the Tax Commission shall be commensurate with the actual price received for products of like quality, character, and use which are severed in the same area. If there are no sales of products of like quality, character, or use which are severed in the same area, then the Tax Commission shall establish a value based upon the best information available.
- (c) Utilizing the value of products that it has determined, the Tax Commission may calculate the amount of tax owed and shall then send an invoice to the taxpayer of the amount of tax due after this calculation is completed.
- (d) The determination of value by the Tax Commission in accordance with the preceding subsections shall be considered correct unless otherwise rebutted by clear and convincing evidence submitted in writing by the taxpayer.

Rule 7.14 Disputes, Refunds and Appeals

Disputes of tax liability and refunds of the taxes imposed by Part 7 of the Tax Act and appeals of decisions of the Tax Commission shall be governed by Part 2 of the Tax Act and by Chapter 1 of the Rules of the Comanche Tax Commission, Administrative Appeals.

Rule 7.15 Posting of Cash or Surety Bond

- (a) The Tax Commission shall require any person responsible for remitting taxes under this Part to post a cash or surety bond to guarantee payment of taxes due. The posting of such bond does not negate the taxpayer's responsibility for timely payment of taxes due or operate as an extension of time for payment of the taxpayer's taxes.
- (b) Such bond shall be in an amount determined by the Tax Commission, provided that the amount of such bond shall not exceed the total estimated taxes that will be due in the twelve (12) month period immediately following the giving of such bond.
- (c) If the total estimated taxes that will be due in the twelve (12) month period immediately following the giving of such bond is less than \$1,000.00, the taxpayer may request a waiver from the Tax Commission for the required bond payment. Approval or disapproval of a request for waiver shall be within the discretion of the Tax Commission and shall not be subject to appeal.

Rule 7.16 Forms to Be Filed

Every Operator must file with the Tax Commission copies of the following forms (or successor forms) at the time they are filed with the Bureau of Land Management or the Minerals Management Service, or their respective successor:

- (1) Bureau of Land Management Form 3160-3 and required attachments (Application for Permit to Drill or Reenter);
- (2) Bureau of Land Management Form 3160-4 (Well Completion or Recompletion Report and Log);
- (3) Bureau of Land Management Form 3160-5 (Sundry Notices and Reports on Wells);
- (4) Minerals Management Service Oil and Gas Operations Report (all parts);
- (5) Bureau of Land Management site security plan as described in 43 C.F.R. § 3162.7-5(c);
- (6) Bureau of Land Management Form 3000-3 (Assignment of Record Title Interest in a Lease for Oil and Gas or Geothermal Resources); and
- (7) Bureau of Land Management Form 3000-3a (Transfer of Operating Rights (Sublease) in a Lease for Oil and Gas or Geothermal Resources).

Rule 7.17 Change in Operator/Lessee or Address

Whenever a change in Operator or Lessee occurs, the former Operator or Lessee shall notify the Tax Commission in writing of such transaction at least thirty (30) days prior to any change and provide contact information of the new Operator or Lessee. Such new Operator or Lessee must

apply for and obtain a license from the Tax Commission prior to receiving any assignment of rights to operate said lease. The Operator or Lessee shall notify the Tax Commission within thirty (30) days of any change of address.

Rule 7.18 Requirement to Obtain License:

- (a) Every Lessee desiring to lease mineral rights from an Indian or tribal lessor within the Comanche Nation's jurisdiction must apply for and receive from the Comanche Tax Commission a "Leasing License" prior to entering into or continuing any such lease. A Leasing License shall be required for all leases of mineral rights from an Indian or tribal lessor occurring within the Comanche Nation's jurisdiction, regardless of other business-specific licensure requirements.
- (b) Every Operator desiring to engage in oil and gas production within the Comanche Nation's jurisdiction must apply for and receive from the Comanche Tax Commission an "Oil and Gas Production License" prior to establishing or continuing any oil and gas production. An Oil and Gas Production License shall be required for all oil and gas production occurring within the Comanche Nation's jurisdiction, regardless of other business-specific licensure requirements.

Rule 7.19 Requirement to Permit Inspection:

Every Lessor, Lessee and/or Operator shall permit properly identified and authorized Tax Commission representatives to enter upon, travel across, and inspect the lease sites and records normally kept on the lease pertinent thereto without advance notice. Inspections normally will be conducted during those hours when responsible persons are expected to be present at the operation being inspected. Such permission shall include access to secured facilities on such lease sites for the purpose of making any inspection, determination, or audit for determining whether there is compliance with this Part, the regulations related thereto, and/or any applicable orders, notices, or directives.

Rule 7.20 Requirement to Maintain Records:

The taxpayer shall maintain any records generated under this Part a period of five (5) years from the date they were generated or, if notified by the Tax Commission that such records are involved in an audit or investigation, such records shall be maintained until the record holder is released in writing by the Tax Commission from such obligation to maintain them.

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