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NOTICE 13-15

2013 MINERAL SEVERANCE TAX LEGISLATIVE UPDATE
(July 1, 2013)

During the 2013 Legislative Session House Substitute for Senate Bill 83 and House Bill 2059 were passed and signed into law. Changes made by these Bills affect the mineral severance tax in Kansas.

HB 2059 Changes

Definitions that affect the mineral severance tax are found in K.S.A. 79-4216. Section 13 of HB 2059 amended the definition of "gas" found in K.S.A. 79-4216(c) to provide additional clarification. The amended language provides:

> (c) "Gas" means natural gas*, and all other raw, unrefined gas or gases, all constituent parts of any such gas or gases and refined products derived from any such gas or gases, including, but not limited to, methane, ethane, propane, butane and helium,* taken from below the surface of the earth or water in this state, regardless of whether from a gas well or from a well also productive of oil or any other product.

A related amendment is found in Section 14 of HB 2059. This provision amends K.S.A. 79-4226 to add subsection (d), which prohibits certain refunds. The new language provides:

> *(d) No refund of mineral severance tax shall be allowed by the director or by any court of this state based on any administrative or judicial claim, petition, pleading, cause of action or request for relief that has been or may be filed on or after July 1, 1983, alleging that any constituent part of gas and any refined products derived from any such gas are not taxable pursuant to the provisions of K.S.A. 79-4216 et seq., and amendments thereto.*

House Sub for SB 83 Changes

The mineral severance tax is imposed by K.S.A. 79-4217. During the 2012 Legislative Session K.S.A. 79-4217(b)(4) was amended to limit an exemption for the first 24 months of production of oil or gas from a "pool" to "the severance of gas or oil from any pool from which oil or gas was first produced on or after April 1, 1983, *and prior to July 1, 2012* . . ." As a result of this language, gas or oil first produced on or after July 1, 2012 is not exempt from the mineral severance tax. There is, however, an exception for new oil pools, in which case the 24 month exemption is available for initial production occurring on or after July 1, 2012, but only if production from the pool does not exceed 50 barrels per day. [See Notice 12-02]

Section 7 of House Sub for SB83 further clarifies the new oil pool exemption. It provides that the 50-barrel-per-day threshold enacted in 2012 will be determined based on the initial six months of production from each well, assuming the well has not been significantly curtailed by reason of mechanical failure or other disruption of production. It also provides that, for any well that has qualified for exemption, if the average daily severance and production of oil exceeds 50 barrels per day within any qualifying one-month production period after the initial qualifying production period (i.e. during months 7 through 24 of the exemption period), the exemption for the well shall be terminated as of the commencement of the month.

Taxpayer Assistance

Additional copies of this notice, forms or publications are available from our web site, **www.ksrevenue.org**. If you have questions about this Notice, please contact:

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