

# DRAFT

## SUMMARY

Creates severance tax on minerals, applicable to gold and uranium oxide, computed on gross value at mine or other point of extraction.  
Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

Relating to taxation of extractive resources; creating new provisions; amending ORS 324.050, 324.070, 324.090, 324.110, 324.120, 324.130, 324.140, 324.240, 324.310, 324.340, 324.510 and 324.520; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

## Be It Enacted by the People of the State of Oregon:

### SECTION 1. ORS 324.050 is amended to read:

324.050. As used in this chapter, unless the context requires otherwise:

(1) “Department” means the Department of Revenue.

(2) “Gas” means natural gas and casinghead gas.

**(3)(a) “Gross production” means the total volume of:**

**(A) Oil or gas extracted from a well, including oil or gas extracted but not sold.**

**(B) Minerals extracted from a mine or from the earth by any process, including minerals extracted but not sold.**

**(b) “Gross production” does not include the extraction from a well of any oil or gas reinjected into the well for storage.**

**[(3)] (4) [“Gross value” or] “Gross sales value” or “gross value” means the actual cash price prevailing for [oil or gas] a taxable extractive re-**

**source** of the kind, character and quality of the [*oil or gas*] **extractive resource** subject to [*the*] **a** tax imposed under this chapter at the time [*such oil or gas*] **the taxable extractive resource** is produced, as determined by the department.

[(4) "*Gross production*" means the total volume of oil or gas extracted from a well, including oil or gas extracted but not sold. "*Gross production*" does not include the extraction from a well of any oil or gas reinjected therein for storage.]

**(5) "Mineral" means a naturally occurring inorganic substance. A mineral may be metallic or nonmetallic.**

[(5) "*Produced and saved*" means extracted and sold, extracted and used or extracted and retained for later sale or use.]

**(6) "Oil"** means petroleum, crude oil, mineral oil and casinghead gas.

**(7) "Person"** includes **a** partnership, corporation, association, fiduciary, trustee and any combination of individuals.

**(8) "Produced and saved" means extracted and sold, extracted and used or extracted and retained for later sale or use.**

[(8)] **(9) "Quarter"** and "*quarterly*" [*mean*] **refer to** calendar quarters.

**(10) "Taxable extractive resource" means oil, gas and minerals subject to taxation under this chapter.**

**SECTION 2.** ORS 324.070 is amended to read:

324.070. (1) A [*privilege*] **severance** tax of six percent of the gross value at the well is levied upon the production of oil and gas within the State of Oregon. The gross value at the well shall be reduced by the value of any part [*thereof,*] **of the gross value** the ownership or right to which is exempt from taxation.

(2) The tax [*levied*] shall be [*measured by*] **computed on** the value of [*the whole production*] **all oil and gas extracted**, including what is commonly known as the royalty interest.

**SECTION 3.** **Section 4 of this 2013 Act is added to and made a part of ORS chapter 324.**

**SECTION 4. (1)(a) A severance tax of one-tenth of one percent of the gross value at the mine or other point of extraction is levied upon the production within the State of Oregon of minerals listed in subsection (2) of this section. The gross value at the mine or other point of extraction shall be reduced by the value of any part of the gross value the ownership or right to which is exempt from taxation.**

**(b) The tax shall be computed on the value of all minerals extracted, including what is commonly known as the royalty interest.**

**(2) The following minerals are subject to the severance tax imposed under this section:**

**(a) Gold.**

**(b) Uranium oxide.**

**SECTION 5.** ORS 324.090 is amended to read:

324.090. (1) Any royalty or other interest in *[oil or gas]* **a taxable extractive resource** owned by the state, counties, cities, towns, school districts or other municipal corporations or political subdivisions, is exempt from *[the gross production tax imposed by ORS 324.070]* **taxation under this chapter.**

(2) There shall be allowed as a credit against taxes imposed *[by]* **under** this chapter all ad valorem taxes imposed by the state, counties, cities, towns, school districts and other municipal corporations and political subdivisions upon any property rights attached to or inherent in the right to produce *[oil and gas]* **taxable extractive resources**, upon producing *[oil and gas]* **taxable extractive resource** leases, upon machinery, appliances and equipment used in and around any well, **mine or other point of extraction** producing *[oil or gas]* **a taxable extractive resource** and actually used in the operation of the well, **mine or other point of extraction**, upon *[oil and gas]* **taxable extractive resources** produced in the state and upon any investment in any property *[mentioned or]* described in this subsection.

**SECTION 6.** ORS 324.110 is amended to read:

324.110. (1) *[The gross production tax on oil or gas]* **A tax** imposed *[by]*

**under** this chapter shall be paid on a quarterly basis. The tax shall become due on the 45th day following the preceding quarterly period on all *[oil or gas]* **taxable extractive resources** produced in and saved during the preceding quarterly period, and, if the tax is not paid on or before the end of the 45th day, it shall become delinquent and shall be collected as provided in this chapter. The Department of Revenue, upon request and a proper showing of *[the]* necessity *[therefor]*, may grant an extension of time, not to exceed 30 days, for paying the tax and when such a request is granted the tax shall not be delinquent until the *[extended]* **extension** period has expired.

(2) *[On oil or gas]* **With respect to taxable extractive resources** sold at the time of production, the *[gross production]* tax shall be paid by the purchaser, and the purchaser *[shall and is authorized to deduct]*, in making settlements with the producer or royalty owner, **may deduct** the amount of tax *[so]* paid.

(3) *[In the event oil]* **If a taxable extractive resource** on which the *[gross production]* tax becomes due is not sold at the time of production but is retained or used by the producer, the tax on the *[oil]* **taxable extractive resource** not *[so]* sold shall be paid by the producer, including the tax due on *[royalty oil]* **the taxable extractive resource subject to royalty that is** not sold. In settlement with the royalty owner, the producer shall have the right to deduct the amount of the tax *[so]* paid on **the taxable extractive resource subject to royalty** *[oil]* or to deduct *[royalty oil]* **the** equivalent in value at the time the tax becomes due with the amount of the tax paid.

*[(3)]* (4) The amount of gas produced and used for fuel or otherwise used in the operation of any lease or premises in the drilling for or production of oil or gas, or for repressuring, shall not be considered for the purpose of this chapter as gas actually produced and saved.

*[(4)]* (5) When *[oil or gas]* **a taxable extractive resource** is sold at a sale price that does not represent the cash price prevailing for *[oil or gas]*

**extractive resources** of like kind, character [*or*] **and** quality [*in the field*]  
**at the well, mine or other point of extraction** from which [*such*] **the**  
product is produced, the department may require the tax to be paid upon the  
basis of the prevailing cash price [*then*] being paid at the time of production  
[*in the field for oil, or gas*] **at the well, mine or other point of extraction**  
**for extractive resources** of like kind, [*quality and*] character **and quality**.

**SECTION 7.** ORS 324.120 is amended to read:

324.120. (1) [*The*] **A** tax imposed [*by*] **under** this chapter shall be paid to  
the Department of Revenue and the person paying the tax shall file with the  
department at the time the tax is required to be paid, a statement, under  
oath, on forms prescribed by the department, giving, with other information  
required, the following:

(a) Full description of the property by lease name, subdivision of quarter  
section, section, township and range from which the [*oil or gas*] **taxable**  
**extractive resource** was produced;

(b) The name of the producer;

(c) The gross amount of the [*oil or gas*] **taxable extractive resource**  
purchased;

(d) The total value of the [*oil or gas*] **taxable extractive resource** at the  
price paid, if purchased at time of production;

(e) The formation from which the [*oil or gas*] **taxable extractive re-**  
**source** is produced; and

(f) The prevailing market price of [*oil or gas*] **the taxable extractive**  
**resource** sold at time of production.

(2) If a purchaser of [*oil or gas*] **the taxable extractive resource** pays  
the tax, the producer of the [*oil or gas*] **taxable extractive resource** for  
which the tax is being paid shall make available to the purchaser all infor-  
mation required under subsection (1) of this section. In lieu of the statement,  
a purchaser, at time of production, may furnish a true verified copy of the  
regular settlement sheet in use by such purchaser, if the sheet contains all  
the information required.

**SECTION 8.** ORS 324.130 is amended to read:

324.130. (1) Any person engaged in the production within this state of [*oil or gas*] **a taxable extractive resource** shall, on or before the 45th day following the preceding quarterly period, file with the Department of Revenue a statement under oath, upon forms prescribed by the department, giving, along with other information required, the following:

(a) [*The name*] **Full description** of the property [*and the description*] by **lease name**, subdivision of quarter section, section, township and range **from which the taxable extractive resource was produced**;

(b) The gross amount of [*oil or gas*] **the taxable extractive resource** produced and saved;

(c) The name of the purchaser and the price paid by the purchaser; and

(d) The formation from which the [*oil or gas*] **taxable extractive resource** is produced.

(2) Each report required [*by*] **under** this section shall be filed on separate forms as to product and county.

**SECTION 9.** ORS 324.140 is amended to read:

324.140. (1) Reports required under ORS 324.120 and 324.130 from either the purchaser or producer[, *as the case may be, shall be*] **are** delinquent after the last day fixed for filing, and every person required to file a report shall be subject to penalty of \$25 per day for each property upon which the person fails or refuses to file a report. The penalties prescribed [*by*] **under** this section shall be for failure to file reports and shall be in addition to the interest and penalty imposed for delinquent tax, and shall likewise constitute a lien against the assets of the person failing or refusing to file a report. The penalties prescribed under this section shall be collected in the same manner as [*gross production*] **the taxes imposed under this chapter** and shall be deposited in the suspense account referred to in ORS 324.340.

(2) When royalty is claimed to be exempt from taxation by law, the facts on which claims of exemption are based and other information as the Department of Revenue may require shall be furnished in the report.

1     **SECTION 10.** ORS 324.240 is amended to read:

2     324.240. When [*oil or gas*] **a taxable extractive resource** subject to  
3 [*gross production*] tax under this chapter is in litigation or dispute involving  
4 ownership of the [*oil or gas*] **taxable extractive resource**, and the [*oil or*  
5 *gas*] **taxable extractive resource** is sold, the [*usual gross production tax,*  
6 *as provided by law,*] **taxes imposed under this chapter** shall be paid from  
7 the proceeds or funds in the hands of the purchaser of the [*oil or gas*] **tax-**  
8 **able extractive resource** and in lieu of payment for the production, to the  
9 extent of the tax. The receipt of the Department of Revenue therefor shall  
10 be accepted in lieu of money in settlement of the purchase price of the pro-  
11 duction. If [*oil or gas*] **a taxable extractive resource** is assigned as security  
12 for debt or otherwise, the tax shall be likewise paid by the assignee, and the  
13 tax shall constitute a lien upon the interest assigned, which shall be para-  
14 mount to the indebtedness for which the assignment is made, and if the tax  
15 becomes delinquent, the usual penalty shall apply.

16     **SECTION 11.** ORS 324.310 is amended to read:

17     324.310. The Department of Revenue may:

18     (1) Require any producer of [*oil or gas*] **a taxable extractive resource**,  
19 purchaser of [*oil or gas*] **a taxable extractive resource**, agent or employee  
20 of any producer or purchaser or the owner of any royalty interest in [*oil or*  
21 *gas*] **a taxable extractive resource** to furnish any additional information  
22 considered by the department to be necessary for the purpose of correctly  
23 computing the amount of tax imposed [*by*] **under** this chapter;

24     (2) Examine the books, records and files of any producer, purchaser or  
25 royalty owner;

26     (3) Administer oaths and compel the attendance of witnesses and the  
27 production of books, records and papers of any person by subpoena; and

28     (4) Make any investigation considered necessary to a full and complete  
29 determination as to the amount of production from any [*oil or gas*] **taxable**  
30 **extractive resource** location, or of any producer of [*oil or gas*] **a taxable**  
31 **extractive resource**, and as to the correct determination of taxes due under

this chapter.

**SECTION 12.** ORS 324.340 is amended to read:

324.340. (1) The revenues derived from the *[tax]* **taxes** imposed *[by]* **under** this chapter, including interest and penalties, shall be deposited in a suspense account created pursuant to ORS 293.445. After payment of refunds and the expenses of the Department of Revenue incurred in the administration of this chapter, the remaining revenues shall be paid into the Common School Fund and are continuously appropriated to the Department of State Lands for the purposes for which other moneys in the Common School Fund may be used.

(2) The amount of moneys necessary to pay refunds and expenses of the Department of Revenue incurred in the administration of this chapter are continuously appropriated to the Department of Revenue from the suspense account referred to in subsection (1) of this section.

**SECTION 13.** ORS 324.510 is amended to read:

324.510. All statements or settlement sheets for *[oil or gas]* **taxable extractive resources** shall have stamped or written thereon the following words: “[*Gross production*] **Severance** tax deducted and paid, and payee accepts such deduction and authorizes payment to the State of Oregon.”

**SECTION 14.** ORS 324.520 is amended to read:

324.520. (1) It shall be the duty of every person engaged in the production of *[oil and gas]* **taxable extractive resources** in this state to furnish to the Department of Revenue, upon forms prescribed by the department, any and all information relative to the production of *[oil or gas]* **a taxable extractive resource** subject to *[gross production]* **the severance** tax that may be required to properly enforce the provisions of this chapter. The department may require any person to install suitable measuring devices to enable the person to include in the reports the quantity of *[oil or gas produced]* **taxable extractive resources produced by the person** in the State of Oregon.

(2) It shall be the duty of every person engaged in *[the operation of a re-*



*finery for the processing of oil or gas*] **refining or otherwise processing a taxable extractive resource** in the State of Oregon to furnish quarterly to the department, upon forms prescribed by the department, any and all information relative to the amount of *[oil or gas]* **taxable extractive resources** subject to *[gross production]* **the severance** tax that has been **refined or otherwise** processed by *[it]* **the person** during the quarterly period, and *[oil]* **the amount of taxable extractive resources** on hand at the close of the period, that may be required to properly enforce the provisions of this chapter.

(3) It shall be the duty of every person engaged in the purchase or storing of *[oil]* **taxable extractive resources** subject to *[gross production]* **the severance** tax in the State of Oregon to furnish quarterly a report to the department, upon forms prescribed by the department, showing the amount of *[oil]* **taxable extractive resources** in storage, giving, along with other information required, the location, identity, character and capacity of the storage receptacle in which the *[oil]* **taxable extractive resource** is stored.

(4) All reports required under this section, shall be filed for each quarter and shall be delinquent if not filed on or before the 45th day following the preceding quarterly period. The failure of any person to comply with the provisions of this section shall make the person liable to a penalty of \$25 for each day the person fails or refuses to furnish a statement or comply with the provisions of this chapter. The penalty may be recovered at the suit of the state, on relation of the department. Any penalty so collected shall be deposited in the suspense account referred to in ORS 324.340.

**SECTION 15. Section 16 of this 2013 Act is added to and made a part of ORS chapter 324.**

**SECTION 16. (1)(a) A person may not extract or cause to be extracted any taxable extractive resource from land in this state unless the person first notifies the State Department of Geology and Mineral Industries in writing, with a copy to the Department of Revenue, of the intent to extract a taxable extractive resource.**

1       **(b) The notice required under this subsection must:**

2       **(A) Be on forms prepared by the State Department of Geology and**  
3       **Mineral Industries and the Department of Revenue;**

4       **(B) Specify the kind of taxable extractive resource to be extracted,**  
5       **where and when the extraction will take place and the method of ex-**  
6       **traction; and**

7       **(C) Include maps and other information as required by the State**  
8       **Department of Geology and Mineral Industries and the Department**  
9       **of Revenue.**

10       **(2) The Department of Revenue shall conduct field and office audits**  
11       **to determine the accuracy of notices required under this section.**

12       **(3)(a) If a person fails to file a written notice required under sub-**  
13       **section (1) of this section with respect to any extraction of a taxable**  
14       **extractive resource, the Department of Revenue shall notify the per-**  
15       **son of the failure.**

16       **(b) If, after the person has been notified under paragraph (a) of this**  
17       **subsection, the person fails to file a written notice with respect to any**  
18       **subsequent extraction of a taxable extractive resource, there shall be**  
19       **added to the amount of the severance tax payable by the person as a**  
20       **result of the subsequent extraction a delinquency penalty of \$250 for**  
21       **each violation occurring within a calendar year.**

22       **(c) The Department of Revenue shall collect the penalty in the same**  
23       **manner as the severance taxes imposed under this chapter are col-**  
24       **lected.**

25       **(4) The Department of Revenue may adopt rules under this section,**  
26       **including rules that index the penalty amount under subsection (3) of**  
27       **this section.**

28       **SECTION 17.** **Sections 4 and 16 of this 2013 Act and the amendments**  
29       **to ORS 324.050, 324.070, 324.090, 324.110, 324.120, 324.130, 324.140, 324.240,**  
30       **324.310, 324.340, 324.510 and 324.520 by sections 1, 2 and 5 to 14 of this**  
31       **2013 Act apply to taxable extractive resources extracted on or after the**

1 **effective date of this 2013 Act.**

2 **SECTION 18. This 2013 Act takes effect on the 91st day after the**  
3 **date on which the 2013 regular session of the Seventy-seventh Legis-**  
4 **lative Assembly adjourns sine die.**

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