

Amend CSHB 2425 as follows:

(1) Insert the following appropriately numbered sections to read as follows and renumber subsequent sections accordingly:

SECTION __. Section 151.011(a), Tax Code, is amended to read as follows:

(a) Except as provided by Subsection (c) of this section, "use" means the exercise of a right or power incidental to the ownership of tangible personal property over tangible personal property, including tangible personal property that has been processed, fabricated, or manufactured into other property or attached to or incorporated into other property transported into this state, and, except as provided by Section 151.056(b) of this code, includes the incorporation of tangible personal property into real estate or into improvements of real estate whether or not the real estate is subsequently sold.

SECTION __. Section 153.119(d), Tax Code, is amended to read as follows:

(d) If the quantity of gasoline used in Texas by auxiliary power units or power take-off equipment on any motor vehicle can be accurately measured while the motor vehicle is stationary by any metering or other measuring device or method designed to measure the fuel separately from fuel used to propel the motor vehicle, the comptroller may approve and adopt the use of any device as a basis for determining the quantity of gasoline consumed in those operations for tax credit or tax refund. The climate-control air conditioning or heating system of a motor vehicle that has a primary purpose of providing for the convenience or comfort of the operator or passengers is not a power take-off system, and a refund may not be allowed for the tax paid on any portion of the gasoline that is used for that purpose.

SECTION __. Section 153.222(d), Tax Code, is amended to read as follows:

(d) If the quantity of diesel fuel used in Texas by auxiliary power units or power take-off equipment on any motor vehicle can be accurately measured while the motor vehicle is stationary by any metering or other measuring device or method designed to measure the fuel separately from fuel used to propel the

motor vehicle, the comptroller may approve and adopt the use of any device as a basis for determining the quantity of diesel fuel consumed in those operations for tax credit or tax refund. If no separate metering device or other approved measuring method is provided, the following credit or refund procedures are authorized. A permitted supplier, a dyed diesel fuel bonded user, or an agricultural bonded user who operates diesel-powered motor vehicles equipped with a power take-off or a diesel-powered auxiliary power unit mounted on the motor vehicle and using the fuel supply tank of the motor vehicle may be allowed a deduction from the taxable gallons used in this state in each motor vehicle so equipped. The comptroller shall determine the percentage of the deduction. A user who is required to pay the tax on diesel fuel used in motor vehicles so equipped may file a claim for a refund not to exceed the percentage allowed by the comptroller of the total taxable fuel used in this state in each motor vehicle so equipped. The climate-control air conditioning or heating system of a motor vehicle that has a primary purpose of providing for the convenience or comfort of the operator or passengers is not a power take-off system, and a refund may not be allowed for the tax paid on any portion of the diesel fuel that is used for that purpose.

SECTION __. Section 201.057, Tax Code, is amended by amending Subsections (e) and (f) and adding Subsection (k) to read as follows:

(e) The operator of a proposed or existing gas well, including a gas well that has not been completed, or the operator of any proposed or existing oil or gas well within a commission approved co-production project, may apply to the commission for certification that the well produces or will produce high-cost gas. Such application, if seeking certification as high-cost gas according to Subsection (a)(2)(A), must be in writing and must be made not later than the first anniversary of ~~[may be made at any time after]~~ the first day of production. The application may be made but is not required to be made concurrently with a request for a determination that gas produced from the well is high-cost natural gas for purposes of the Natural Gas Policy Act of 1978 (15 U.S.C. Section 3301 et seq.) or with a request for commission

approval of a co-production project. The commission may require an applicant to provide the commission with any relevant information required to administer this section. For purposes of this section, a determination that gas is high-cost natural gas according to Subsection (a)(2)(A) or a determination that gas is produced from within a commission approved co-production project is a certification that the gas is high-cost gas for purposes of this section, and in that event additional certification is not required to qualify for the exemption or tax reduction provided by this section.

(f) To qualify for the exemption or tax reduction provided by this section, the person responsible for paying the tax must apply to the comptroller. The application must contain the certification of the commission that the well produces high-cost gas and, if the application is for a well spudded or completed after September 1, 1995, must contain a report of drilling and completion costs incurred for each well on a form and in the detail as determined by the comptroller. Drilling and completion costs for a recompletion shall only include current and contemporaneous costs associated with the recompletion. Notwithstanding any other provision of this section, to obtain the maximum tax exemption or tax deduction, an application to the comptroller for certification according to Subsection (a)(2)(A) must be filed with the comptroller not later than the first anniversary of the first day of production [~~at the later of the 180th day after the date of first production or the 45th day after the date of approval by the commission. If the application is not filed by the applicable deadline, the tax exemption or tax deduction is reduced by 10 percent for the period beginning on the 180th day after the first day of production and ending on the date on which the application is filed with the comptroller. An application to the comptroller for certification according to Subsection (a)(2)(B) may not be filed before January 1, 1990, or after December 31, 1998~~]. The comptroller shall approve the application of a person who demonstrates that the gas is eligible for the exemption or tax reduction. The comptroller may require a person applying for the exemption or tax reduction to provide any relevant information in

the person's monthly report that the comptroller considers necessary to administer this section. The commission shall notify the comptroller in writing immediately if it determines that an oil or gas well previously certified as producing high-cost gas does not produce high-cost gas or if it takes any action or discovers any information that affects the eligibility of gas for an exemption or tax reduction under this section.

(k) A person who, on September 1, 2003, otherwise meets the requirements necessary to file an application with the commission and the comptroller for certification, except for the requirement that the application be made not later than the first anniversary of the first day of production, must submit the application for certification before March 1, 2004, to be eligible for the tax exemption or tax deduction provided by this section. This subsection expires March 1, 2004.

SECTION __. Section 201.101, Tax Code, is amended to read as follows:

Sec. 201.101. MARKET VALUE. (a) In this section:

(1) "Allowable marketing costs" means direct costs for:

(A) compressing the gas sold;

(B) dehydrating the gas sold;

(C) sweetening the gas sold; and

(D) delivering the gas to the purchaser.

(2) "Direct costs" means the cost of equipment that physically performs the activity and the direct labor associated with the activity.

(b) The market value of gas is its value at the mouth of the well from which it is produced. The value of the gas is computed by taking the producer's gross receipts for the gas and deducting allowable marketing costs incurred by the producer to transport the gas from the outlet of a lease separator to the market.

SECTION __. Section 201.102, Tax Code, is amended to read as follows:

Sec. 201.102. CASH SALES. If gas is sold for cash only, the tax shall be computed on the producer's gross cash receipts. Payments from a purchaser of gas to a producer for the purpose of

reimbursing the producer for taxes due under this chapter or for the purpose of reimbursing the producer for costs incurred are [~~not~~] part of the gross cash receipts unless the reimbursement amount for taxes due under this chapter is separately stated in the sales contract.

(2) On page 67, between lines 11 and 12, insert the following:

(i) The changes in law made by this Act to Sections 153.119(d) and 153.222(d), Tax Code, apply only to fuel used on or after September 1, 2003, for climate-control air conditioning or heating in a motor vehicle. Fuel used before that date is governed by the law in effect on the date the fuel is used, and that law is continued in effect for that purpose.

(3) On page 68, line 5, strike "and".

(4) On page 68, between lines 5 and 6, insert the following:

(11) Section 153.119(d), Tax Code;

(12) Section 153.222(d), Tax Code;

(13) Sections 201.057(e), (f), and (k), Tax Code;

(14) Section 201.101, Tax Code;

(15) Section 201.102, Tax Code; and

(5) On page 68, line 6, strike "(11)" and substitute "(16)".

(6) On page 68, after line 13, add the following:

(f) The amendment by this Act to Section 151.011(a), Tax Code, takes effect October 1, 2003.