

OIL AND GAS SEVERANCE TAX REGULATIONS

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1.301. TITLE

This chapter is called the Oil and Gas Severance Tax Regulations.

1.302. TAX IMPOSED

A tax is imposed for each period on the severance of products within the Navajo Nation.

1.303. ADMINISTRATION

The Navajo Tax Commission is empowered to administer this tax, see the Tax Administration Regulations for general administrative provisions and procedures.

1.304. TERMS AND USAGE

Subject to the definitions contained in the Tax Administration Regulations and subsequent paragraphs of this chapter, and unless the context otherwise requires, in this chapter the following terms are used for the meaning given.

A. "Chapter" means these regulations, and 24 N. N. C. §§301 - 345.

B. "Period" means one calendar month.

C. "Tax" means the Oil and Gas Severance Tax.

D. "Taxes" means the tax and any interest, penalty, or costs imposed under this chapter.

E. "Taxpayer" means an operator, owner, or purchaser.

1.305. RATE OF TAX

The tax is imposed at the rate of 4%.

1.310. RESERVED

1.311. PRODUCTION UNIT

The production unit is the property designated by the Navajo Tax Commission for purposes of reporting the severance of products and payment of taxes. Production unit shall mean the smallest identifiable area from which production and severance of products is measured or measurable.

1.312. PRODUCTS

Products are oil, natural gas, or other liquid hydrocarbons, individually or in any combination, severed from the soil within the Navajo Nation in any manner.

1.320. RESERVED

1.321. RESERVED

1.322. RESERVED

1.323. EXEMPTIONS

A. Navajo Nation. No tax is imposed on the government of the Navajo Nation, or on any wholly-owned subdivision or enterprise of that government.

B. Federal government. No tax prohibited by Federal law is imposed on the Federal government.

C. Royalty. No tax is imposed on that portion of products severed which is attributable to a royalty interest. Royalties will be shown as an exemption on the Severance Tax Return. Royalties are Navajo Nation Royalty, State Royalty, Federal Government Royalty, and a royalty paid to any other land owner within the Navajo

Nation. Overriding royalties are not exempt and for reporting purposes are considered part of the interest that they are carved from.

1.330. RESERVED

1.331. VALUE

In the absence of other facts, value is first deemed to be the actual price received at the production unit. If an actual sale does not occur at the production unit then value is deemed to be the highest price paid or offered for the major portion of the products severed from the field or the price established by a governmental regulatory authority, for example the Federal Energy Regulatory Commission. Price will include any tax reimbursements received. No deductions, other than as allowed under Paragraph 1.323, are to be taken to arrive at the value. The exemptions under Paragraph 1.323 are to be shown on the return. Any products used on the lease or flared are considered severed and tax is due in full as if sold.

1.332. DETERMINATION BY THE OFFICE OF NAVAJO TAX COMMISSION

The Office of the Navajo Tax Commission may determine the value of products severed from a production unit in accordance with Section 305(A). Taxpayers must obtain approval of the Office of the Navajo Tax Commission if a method other than the highest posted price is used to determine value. The value determined by the Office of the Navajo Tax Commission shall be commensurate with the actual price paid for products of like quality, character and use which are severed in the same field or area or a reasonable value based on the best information available.

1.340. RESERVED

1.341. FILING OF RETURNS

The return required to be filed under this chapter is the Oil and Gas Severance Tax Report, Form 301.

- A. Return required. The return will report the severance or purchase of products and the tax due for the period. The first purchaser has the primary responsibility to report all purchases. If the purchaser does not report and pay the tax, the owner is still liable. The purchaser may be relieved of the reporting responsibility, if the Office of the Navajo Tax Commission has given permission in writing for the owner or operator to report and pay the tax due. If products are taken-in-kind the owner must report and pay the tax.
- B. Forms and instructions. Forms and instructions will be mailed to any person making a written request. A return may be filed on a clear copy of the official form.
- C. Time and place for filing. The return is due on or before the fifteenth day of the second month after the end of a period. It must be filed with the Office of the Navajo Tax Commission.

1.342. PAYMENT OF TAX DUE

The tax is due and payable at the time and place for filing the return.

1.343. RESERVED

1.344. RESERVED

1.345. RESERVED

1.346. RECORDING REQUIREMENTS

Each taxpayer must keep full and true records with respect to its interest in a production unit and appropriate records that are normally kept by the taxpayer, including, for instance, well data, and value, volume, and kind of production under an oil and gas lease.

- A. Production unit records. Separate records must be maintained by a taxpayer, which is a part of a corporation, partnership, association, or other person. Failure of a taxpayer to keep separate records is *prima facie* evidence that the taxpayer will allow inspection of all its records pertaining to oil and gas production.
- B. Retention. Records required to be kept must be preserved for four years after the assessment date to which they relate or the time payment of the tax was made whichever is later.
- C. Form and information requirements. The form of the records, information to be recorded in or maintained with them, supplemental information, which must be retained, and the requisite preservation intact of records and related documents, may be prescribed in general rules and advice.

1.347. RESERVED

1.348. RESERVED

1.349. RESERVED

1.360. RESERVED

1.361. EFFECTIVE DATE

This chapter is effective in accordance with the Tax Administration Regulations.