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MEMORANDUM

TO: MINERALS, BUSINESS, & ECONOMIC DEVELOPMENT COMMITTEE

FROM: MATT SACHSE, MINERAL TAX DIVISION

DATE: MAY 9, 2024

SUBJECT: MINERAL TAX PROCESS OVERVIEW

The Mineral Tax Division (MTD) was requested to provide a summary of the mineral tax process. The information below provides the timeline, and an overview of the mineral taxation process.

The MTD administers severance and ad valorem mineral taxation in compliance with Wyoming Title 39 Chapters 13 and 14; Wyoming Constitution Article 15; and the Department of Revenue Rules Chapter 6.

During the last few years the MTD has processed ad valorem and severance returns for the following number of taxpayers and values:

Production Year	Mineral Taxpayers	Severance Taxes Assessed	Ad Valorem Taxes Assessed
2020	468	\$463,471,121	\$449,575,104
2021	479	\$719,503,794	\$759,524,865
2022	477	\$1,092,942,314	\$1,046,668,603

Severance & Ad Valorem Tax Process

The State of Wyoming levies two (2) separate taxes on mineral production in the state. A severance tax and an ad valorem tax. The severance tax is imposed at the state level for the “continuing privilege” of producing minerals; while the ad valorem taxes are county taxes impose “in lieu of” property taxes.

1. Severance taxes are due monthly, on or before the twenty-fifth (25) day of the second month following the month of production. For example, severance taxes for January production are due on March 25. Severance tax returns include sales volume and value, and a single combined deduction.

2. In addition to the monthly severance tax returns, ad valorem taxes are reported yearly on or before February 25. On the yearly ad valorem return, the taxpayer identifies the production volumes as well as sales volumes, individual deductions, and the allocation of value between tax districts. An extension for submitting yearly ad valorem returns may be requested by the taxpayer.
3. Due to the large amount of time between the production months and the ad valorem reporting requirements, a monthly estimate of the yearly ad valorem taxes is created and billed by MTD using the initial severance reporting as a basis for the invoice.
4. Both the ad valorem and severance taxes are imposed based on the same taxable value. The difference between the ad valorem and severance taxes is a result of applying different tax rates. The severance tax rates are based in statute while the ad valorem tax rates are based on the mill levy of the tax district from which the production occurred.
 - a. The monthly estimated ad valorem payment is calculated at the same time the severance taxes are filed. The monthly estimated ad valorem payment is due from the taxpayer on the 25th of the following month. The monthly estimated ad valorem payment is then distributed to the counties on the last day of the month.
 - b. No later than June 1st, MTD certifies assessed values for the prior year production to the county assessor for inclusion to the tax roll. When mill levies are established in August, county treasurers reconcile the estimated amount of tax paid by each producer with the actual amount of tax owed. County treasurers must reconcile any overpayment or bill additional tax owed to the taxpayer no later than September 20th. County treasurers will refund any overpayment and the taxpayer must remit any shortage no later than December 20th.

Following the ad valorem certification, the taxpayers have three (3) years in which to amend their initial severance and ad valorem reporting.

1. The majority of amendments come from the taxpayers on their own initiative, however amendments also come from prompting by MTD concerning discrepancies that have been identified in the taxpayer reporting.
2. The reasons for the large number of amendments are varied and at times attributable to the industry practices and the system the State of Wyoming uses for severance and ad valorem taxes.
 - a. Wyoming utilizes a self-reporting, fair market value, based system for severance and ad valorem taxation.
 - b. Timing of severance reporting requirements allow little time to solidify value before it is required to be reported. For example, minerals have quantity and quality requirements that are not verified at the time of severance reporting. As such, "Prior Period Adjustments" come through to the producers and end up as amendments to MTD
 - c. The number of severance tax returns required increases the number of amended returns received by the MTD. For example, if a pricing calculation adjustment is required in a particular year, thirteen (13) returns need to be filed to correct the error; one severance return for each month and one ad valorem return for the year.

- d. Discrepancies identified by Department Reviews and during audit. Many amendments are as a result of a review conducted by the MTD. For example, the MTD compares sales volumes reported to the Wyoming Oil and Gas Commission with sales volumes reported to MTD. In many instances, ad valorem underreporting is identified and amendments are required.

3. For reference, the MTD has processed the following number of amended returns:

Production Year	Processed Ad Valorem Amendments	Processed Severance Amendments
2021	11,908	155,128
2022	12,852	192,045
2023	9,955	149,737

Following the three (3) year limitation for filing amendments, the Department of Audit (DOA) has six (6) additional months in which to engage the taxpayer for an audit. Once engaged, the audit has two (2) years in which to be completed, though the audit may be extended if mutually agreed upon by DOA and the taxpayer.

During this process any final administrative decision by MTD may be appealed by the taxpayer. The litigation process may add two, three or more years the tax process.

Mineral Tax Valuation

The statutes require that mineral valuation occur at a specific location in the mineral production process. This is because sales of minerals, in most circumstances, occur downstream of the well or mine. As such, value added for transportation or processing is not included in the taxable value of the mineral production.

A number of valuation methods have been prescribed in the statutes to be used to value the mineral at its proper location:

Mineral	Point of Valuation	Valuation Methods
Oil	Outlet of the initial tank battery or; Lease Automated Custody Transfer Meter (LACT)	Comparable Sales, Comparable Value, Netback, Mutually Agreed Upon Alternative
Gas	Outlet of dehydrator or; Inlet of custody transfer meter, transportation related compressor, or processing facility	Comparable Sales, Comparable Value, Netback, Modified Netback, Proportionate Profits, Mutually Agreed Upon Alternative
Coal	Top of the ramp for a surface mine	Proportionate Profits
Trona	Mouth of the mine	Statutory Industry Factor
Bentonite	Mouth of the mine	Cost Build-Up
Uranium	Mouth of the mine	Calculated Industry Factor

In addition to deductions for transportation and processing, deductions for federal and state royalties are also included in valuation.

Handling of Liabilities and Credits

For severance, the MTD issues invoices, calculates interest and penalties, and collects payments. Credits that are created are applied in compliance with MTD business rules with the remainder being refunded to the taxpayer.

For monthly estimated ad valorem, the MTD issues an invoice based on the original severance tax reporting. Upon payment, the MTD distributes the estimate to the appropriate County Treasurer. The County treasurer, then distributes to the taxing entities with authority to levy property tax where the production occurred. Since the estimated ad valorem is calculated solely on the original severance returns, the estimate is not affected by future amendments.

For ad valorem returns, the MTD certifies the mineral taxable value to the appropriate counties based on the taxpayers yearly reporting. The county then balances the funds they have received from the monthly estimate with those certified and bills any shortages or refunds any excess. When amendments are received or created, the MTD notifies the counties of the changes through a Notice of Valuation Change (NOVC). The county completes the above balancing process for any NOVC's they may receive. Any ad valorem tax refund may, at the discretion of the board of county commissioners, be made in the form of credit against future tax payments for a period not to exceed five (5) years.

Tax Credits and Incentives

When the Legislature wishes to reduce the severance tax burden on mineral producers it does so by lowering the effective severance tax rate or by implementing a credit. In lowering the severance tax rate on the mineral valuation, the legislature incentivizes an act by exempting one or more of the statutes dictating the severance tax rate. For example, surface coal transported to market outside of North America using a coal export terminal located in Canada or Mexico is exempt from the severance taxes imposed by W.S. 39-14-104(a)(iii) and (v). Effectively the Legislature created a 3.5% severance tax rate for that specific coal production. In another example, the Legislature created an exemption for natural gas that is vented or flared stating that it has no value and is exempt from taxation. A third method for lowering the severance tax rate is being used in uranium taxation. Uranium uses a sliding scale severance tax rate based on certain spot prices. The scale adjusts the severance tax rate from 0% to 5% based on the market price.

The second way the legislature has reduced the severance tax burden is by implementing direct tax credits. For example, producers reinjecting CO2 for purposes of stimulating oil production may take the taxes paid by the CO2 producer as a direct credit from the taxes on the oil being produced as a result of that reinjection.

There are currently ten (10) mineral credits, incentives, or exemptions currently within the statute though not all of them are being used at this time:

Wyo. Stat. 39-14-105(a) - Consumed Coal
 Wyo. Stat. 39-14-205(a) – Stripper Oil
 Wyo. Stat. 39-14-205(h) - Shut-in Wells Prod.
 Wyo. Stat. 39-14-205(m) - Water Treating Gas
 Wyo. Stat. 39-14-205(p) - Gas Consumed

Wyo. Stat. 39-14-105(e) - Export Coal
 Wyo. Stat. 39-14-205(d) - CO2 Reinjection
 Wyo. Stat. 39-14-205(j) - Flared or Vented Gas
 Wyo. Stat. 39-14-205(n) - New Well
 Wyo. Stat. 39-14-504(c) - Uranium Tax Rate