



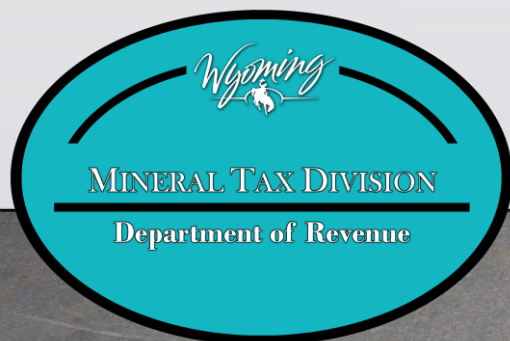
Department of Revenue

Wyoming Mineral Taxation

Presented to

Joint Minerals, Business & Economic Development Committee

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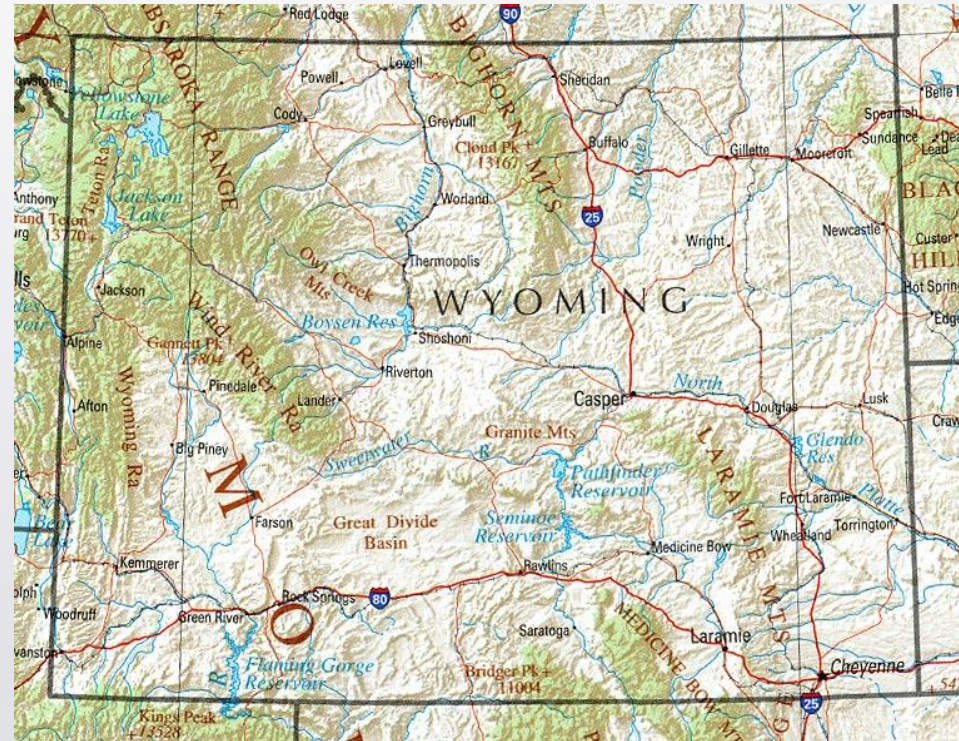
Production of oil and natural gas in the State of Wyoming initiates two different production taxes

Severance and
Ad Valorem (Gross Products)

COMPARE SEVERANCE & AD VALOREM TAXES

Severance Tax

- *State tax
- *Excise tax for the ongoing privilege of producing oil and natural gas
- *Tax rate is dictated by statute
- *Administered & invoiced by Department of Revenue
- *Monthly reporting requirement (Due the 25th of the second month following the month of production)



COMPARE SEVERANCE & AD VALOREM TAXES



Ad Valorem Tax

- *County tax
- *In Lieu of property tax
- *Rate is set by County Commissioners (Mill Levy)
- *Administered the Department of Revenue but invoiced by the County Assessor based on tax district
- * Yearly reporting requirement (February 25th following the year of production)

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Mineral Taxation Timeline



Statute of Limitations

- Taxpayers have 3 years from due date to amend
- No consequences due to over-reporting
 - High interest rates may cause some conservative reporting leading to credit amendments later
- Audits are conducted up to five+ years from reporting due date
- Assessments must be appealed within 30 days

Mineral Valuation

The Mineral Tax Divisions task when valuing various minerals is to determine the fair market value of the mineral at the point of valuation.

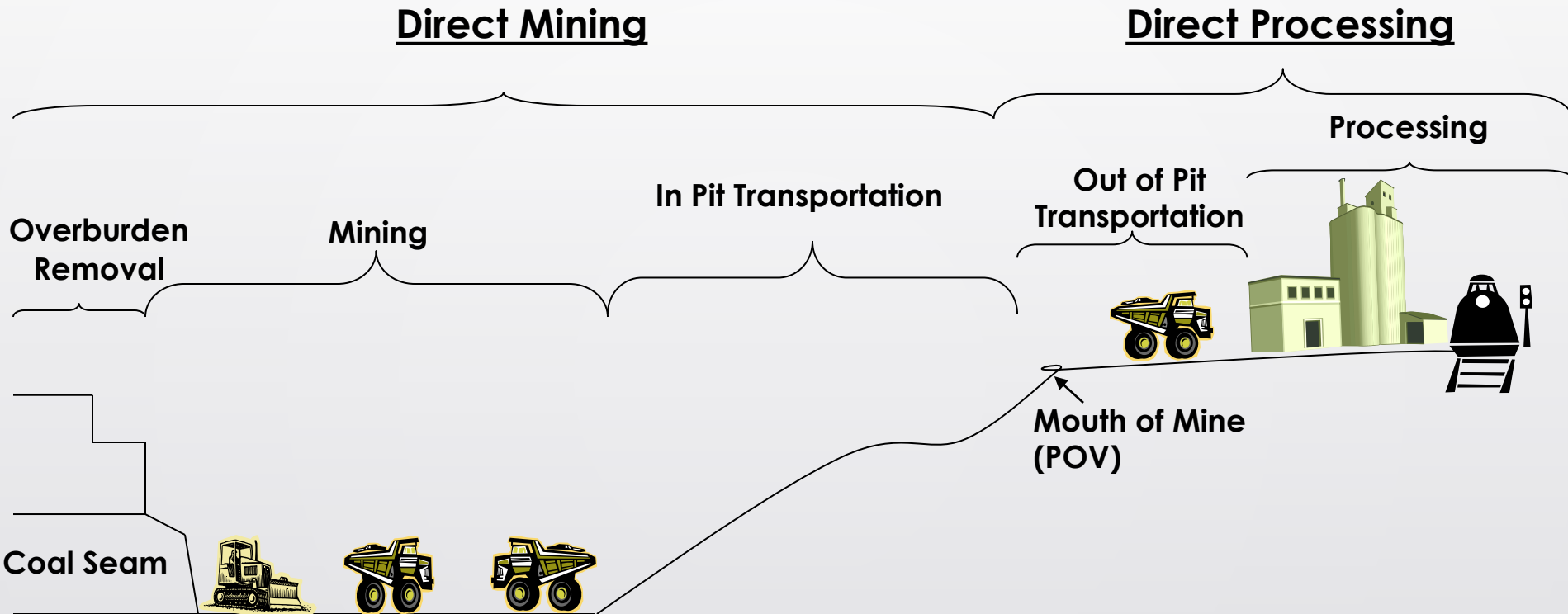
- Point of Valuation (POV)
 - The location in the production process identified by the Legislature as the point in which production ends and transportation and/or processing begins
 - Expenses associated with production of mineral are not deductible
 - Value added by transportation and processing is deductible
- POV for Various Minerals
 - Oil – POV is the outlet of the initial tank battery or the LACT meter
 - Natural Gas - Outlet of dehydrator or if there is no dehydrator then the inlet of custody transfer meter, transportation related compressor, or processing facility
 - Coal – Top of the ramp where the coal reaches the surface.

Mineral Valuation

The Mineral Tax Divisions task when valuing various minerals is to determine the fair market value of the mineral at the point of valuation.

- Point of Valuation (POV)
 - Trona – Mouth of the mine where the mineral comes leaves the shaft at the surface or at the wellhead for in situ production
 - Bentonite – Mouth of the mine where mineral leaves the pit
 - Uranium – Mouth of the mine where the mineral leaves the pit or wellhead for in situ production
- Sales Value
 - Arms-Length
 - The starting point in the valuation process
 - Commonly questioned due to internal sales calculations, marketing subsidiaries, and midstream service providers
 - Non Arms-Length
 - Does the Non Arms-Length sale reach fair market value

Diagram of Taxation Components



Note: In addition to the noted functions, reclamation currently being undertaken is also a direct mining expense.

Structural Causes of Amendments

- Self- Reporting System
 - Unlike the mass appraisal process in property tax, mineral tax relies on taxpayers self-reporting by mineral group (property).
 - As of 2022, there were 477 taxpayers and 25,745 mineral groups
 - Confidentiality statutes limit the use of industry wide valuation
 - Dates for reporting and certification leave very little time for analysis
 - Detail/Backup Information is not available to DOR
 - Industry Evolves
 - Both physical layout and contractual arrangements regularly change
 - Each individual contract and its provisions must be examined and applied against the applicable statutes

Methodology Related Causes of Amendments

Wyoming statutes provides multiple methods in which to value minerals.

- Netback
 - Used in oil & gas
 - Nets actual transportation and processing fees
- Comparable Value
 - Used in oil and gas
 - Nets transportation and processing fees charged to others
- Comparable Sales
 - Rarely used
 - Requires the arms length price charged to others at the POV
- Proportionate Profits
 - Used in coal and as a floor in Modified Netback
 - A ratio of production costs to processing costs
- Modified Netback
 - Used for natural gas
 - Sales less a calculated processing deduction

Methodology Related Causes of Amendments

Wyoming statutes provides multiple methods in which to value minerals.

- Cost Buildup
 - Used in bentonite
 - Builds value from production expenses and calculated profit
- Calculated Industry Factor
 - Used in uranium
 - A calculated fair market value based on a ratio of all uranium producers production and processing costs
- Statutory Industry Factor
 - Used in trona
 - Industry factor used to calculate the fair market value is et in statute

Methodology Related Causes of Amendments

- Multiple Methods
 - Each method has limitations and requirements
- Complexity of Methods
 - Identifying deductible and non deductible expense is complicated
 - Most commonly gathering (not deductible) v transportation (deductible)
 - Calculating ratios like those in coal and uranium valuations require a level of knowledge that many tax personnel do not have.
- Deductions
 - Transportation
 - Processing
- Exemptions
 - Federal, State, Tribal, County?

Reconciliation Related Causes of Amendments

Wyoming has a self-reporting system that allows for very little up-front verification. Therefore a number of reconciliations are performed to gain a greater confidence in the reported numbers and assessed value

- WOGCC Comparison
 - Review of the volumes reported to the Wyoming Oil and Gas Conservation Commission and those reported the MTD
 - Many larger taxpayers have production departments that report to WOGCC and tax departments that report to MTD. This is a source of many discrepancies that lead to amendments.
- TIK Review
 - Wyoming is one of very few States that allow Take In-Kind interest owners to report on their own behalf. The MTD compares the volumes reported as “taken” by the Operator and those reported by the TIK owner.
 - Lack of communication between the Operator and TIK owner lead to many discrepancies that lead to amendments

Reconciliation Related Causes of Amendments

Wyoming has a self-reporting system that allows for very little up-front verification. Therefore a number of reconciliations are performed to gain a greater confidence in the reported numbers and assessed value

- Severance/Gross Products Comparison
 - Severance and ad valorem taxable values are required to match. MTD compares the ad valorem reporting with the twelve months of severance reporting.
 - Though the reason for these discrepancies isn't entirely clear severance/gross products comparisons generate hundreds of amendments annually.
- Crude Oil/Stripper Oil Verification
 - The reduced "Stripper Oil" rate must be qualified for every year. MTD reviews the calculation for stripper oil.
 - The calculation is quite complex leading to many errors that require amendments

Formal audits are performed on Wyoming's mineral taxes by the Department of Audit.

Audit Related Causes of Amendments

- Department of Audit – Minerals Division
 - This agency performs the formal audits of mineral production
 - Audits require review of many source documents such as contracts, sales invoices, production statements, general ledgers, transportation and/or processing invoices, etc.
 - Audits are often quite detailed and complex
 - Substantially more analysis than MTD reconciliations

Audit Related Causes of Amendments

- Common Audit Issues
 - Value based assessments
 - Complex valuation scenarios
 - Multiple valuation scenarios within a single company
 - Valuation scenarios for a given group change over time
 - Multiple POV's within a single mineral group
 - A field with multiple mineral groups can have multiple POV's
 - Prior period adjustment (PPA's)
 - Transportation deductions
 - Processing deductions
 - A single processing or transportation contract can contain both production (non-deductible) and post POV (deductible) expenses.
 - Contract has to be allocated
 - Calculation of exemptions
 - Allocations to wells
 - Operator & TIK reporting
 - Lease fuel exemption
 - Valuation of downstream products

Audit Related Causes of Amendments

- Common Audit Issues
 - 25,000+ mineral groups creates a lot of opportunity for error
 - Decentralization of critical knowledge
 - Use of Tax Agents
 - Agents don't have direct access to information
 - Failure of companies to act on audit findings going forward
 - Royalty exemptions are inconsistent with tax reporting.
 - Royalties volumes and values are reported on a completely different basis than tax reporting.
 - Purchase and sales of mineral properties
 - Nature of natural gas markets
 - PPA's, nominations, etc.
 - Takes vs entitlements
 - Gas balancing
 - Pool pricing
 - Contract & contract revisions

Taxpayer Related Causes of Amendments

- Pricing Adjustments
 - Many contracts include pricing adjustments based on various indices
 - The indices can be as varied as the Consumer Price Index to a futures price during the strike month.
 - The indices tend to be published after the mineral production transfer and therefore require amendments
- Prior Period Adjustments
 - Producers contract for particular quality and quantity
 - Periodic reviews of volume meters identify volume calculation issues. Volumes are recalculated and invoices reissued. These changes require amendments.
 - Mole analysis are undertaken to ensure quality. The results are then used to make quality adjustments. Some of these adjustments result in a change to the sales price and an amendment is required.
- Transportation
 - Many transportation contracts for movement of gas are a combination of non-deductible “gathering” and deductible transportation expenses.
 - Contracts may be all encompassing.
 - These contracts may contain production, gathering, transportation, processing, and marketing provisions
 - In those instances a contract must be parsed into its components to allow for allowable deduction and disallow other deductions.
 - Nominations vs actual transportation
 - The pipeline or purchaser may need to know the volume being produced in a given month.
 - The producer “nominates” a volume to the pipeline or purchaser
 - This is a hypothetical volume and may be met or exceeded in a given month
 - The producer is paid on its nomination at the time of production
 - At a later time the purchaser or pipeline balances the nomination with the actual physical delivery
 - This change requires an amendment.

Taxpayer Related Causes of Amendments

- Exemptions
 - Federal royalties are calculated completely different from taxes.
 - Volumes for federal royalties are calculated on a “lease” basis.
 - While taxes are reported on volumes physically taken, federal royalties may be reported on the volumes they were entitled to take. This is the “Takes v Entitlements” issue.
 - Royalties use a “Marketable Condition” doctrine to calculate value.
 - Due to this, the deductions for royalties are substantially different. This often leads to a much larger exempt royalty deduction.
 - The feds may allow an extraordinary processing allowance up to 99% in calculating royalties.
 - Previously, the royalty value was calculated in a similar manner to the taxable value. However, over the years, royalty value and taxable value have diverged substantially.
 - MTD has to regularly look into the royalty calculation. In many cases their analysis requires corrections and amendments.
 - While conducting audits, the Department of Audit has begun to audit the federal royalty before auditing the taxes. This ensures that the exempt royalty deduction is as accurate as possible. However, this also lengthens the tax audits.
 - The timelines for federal royalties and state taxes are vastly different.
 - The royalty payors have seven years in which to amend their filings
 - Federal appeals times take much longer than State appeal times

Thank You

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