

## **ANNOTATIONS**

**Repeals.** — Laws 1985, ch. 65, § 46 repealed 7-33-20 NMSA 1978, as enacted by Laws 1963, ch. 179, § 20, relating to payment of taxes to release lien, effective July 1, 1985.

### **7-33-21. Repealed.**

## **ANNOTATIONS**

**Repeals.** — Laws 1985, ch. 65, § 46 repealed 7-33-21 NMSA 1978, as enacted by Laws 1963, ch. 179, § 21, relating to remedies cumulative, effective July 1, 1985.

### **7-33-22. Repealed.**

## **ANNOTATIONS**

**Repeals.** — Laws 1985, ch. 65, § 46 repealed 7-33-22 NMSA 1978, as enacted by Laws 1963, ch. 179, § 22, relating to limitation of action, effective July 1, 1985.

## **ARTICLE 34**

# **Oil and Gas Production Equipment Ad Valorem Tax**

### **7-34-1. Short title.**

Chapter 7, Article 34 NMSA 1978 may be cited as the "Oil and Gas Production Equipment Ad Valorem Tax Act".

**History:** 1953 Comp., § 72-24-1, enacted by Laws 1969, ch. 119, § 1; 1985, ch. 65, § 43.

## **ANNOTATIONS**

**Law reviews.** — For article, "New Mexico's Effort at Rational Taxation of Hard-Minerals Extraction," see 10 Nat. Resources J. 415 (1970).

For note, "Tribal Severance Taxes - Outside the Purview of the Commerce Clause," see 21 Nat. Resources J. 405 (1981).

### **7-34-2. Definitions.**

As used in the Oil and Gas Production Equipment Ad Valorem Tax Act:

A. "commission", "department" or "division" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "person" means any individual, estate, trust, receiver, business trust, corporation, firm, copartnership, cooperative, joint venture, association or other group or combination acting as a unit;

C. "operator" means any person engaged in the severance of products from a production unit;

D. "product" means oil, natural gas or liquid hydrocarbon, individually or any combination thereof, carbon dioxide, helium or a non-hydrocarbon gas;

E. "severance" means taking any product from the soil in any manner;

F. "production unit" means a unit of property designated by the department from which products of common ownership are severed;

G. "equipment" means wells and nonmobile equipment used at a production unit in connection with severance, treatment or storage of production unit products;

H. "value" means the actual price received for products at the production unit as established under the Oil and Gas Ad Valorem Production Tax Act [Chapter 7, Article 32 NMSA 1978];

I. "assessed value" means the value against which tax rates are applied; and

J. "tax" means the oil and gas production equipment ad valorem tax.

**History:** 1953 Comp., § 72-24-2, enacted by Laws 1969, ch. 119, § 2; 1977, ch. 249, § 58; 1980, ch. 97, § 8; 1986, ch. 20, § 103; 2005, ch. 130, § 10.

## **ANNOTATIONS**

**The 2005 amendment**, effective July 1, 2005, in Subsection D, defined "product" to include helium or non-hydrocarbon gas; and in Subsection J, defined "tax" to mean the oil and gas production equipment ad valorem tax.

### **7-34-3. Method of determining assessed value.**

A. Annually the commission shall compute the value of products of each production unit for the previous calendar year.

B. The taxable value of equipment of each production unit is an amount equal to twenty-seven percent of the value of products of each production unit.

C. The assessed value of equipment of each production unit shall be determined by applying the uniform assessment ratio to the taxable value of equipment of each production unit.

**History:** 1953 Comp., § 72-24-3, enacted by Laws 1969, ch. 119, § 3; 1972, ch. 60, § 1.

#### **ANNOTATIONS**

**Cross references.** — For meaning of "commission", see 7-34-2A NMSA 1978.

### **7-34-4. Ad valorem tax levied.**

An ad valorem tax is levied on the assessed value of the equipment at each production unit. The tax shall be at the rate certified to the division by the department of finance and administration under the provisions of Section 7-37-7 NMSA 1978.

**History:** 1953 Comp., § 72-24-4, enacted by Laws 1969, ch. 119, § 4; 1981, ch. 37, § 59.

#### **ANNOTATIONS**

**Cross references.** — For meaning of "commission", see 7-34-2A NMSA 1978.

**Indian right to tax oil production not preempted by congress.** — Although it granted to the states the right to tax the production of oil and gas on Indian reservations, congress did not preempt similar tribal taxation. *Merrion v. Jicarilla Apache Tribe*, 617 F.2d 537 (10th Cir. 1980), *aff'd*, 455 U.S. 130, 102 S. Ct. 894, 71 L. Ed. 2d 21 (1982).

### **7-34-5. Oil and gas production equipment ad valorem tax to be exclusive measure of ad valorem tax liability.**

The tax levied by Section 7-34-4 NMSA 1978 shall be the full and exclusive measure of ad valorem tax liability for equipment used at a production unit for the calendar year 1969 and all subsequent years. Any other ad valorem tax on equipment used at a production unit is void.

**History:** 1953 Comp., § 72-24-5, enacted by Laws 1969, ch. 119, § 5; 1985, ch. 65, § 44.

#### **ANNOTATIONS**

**Cross references.** — For taxes being exclusive of any other ad valorem taxes, see 7-32-5 NMSA 1978.

### **7-34-6. Tax statement; tax due date.**

Annually the commission shall compute the assessed value of equipment for each production unit and extend the applicable rates against the assessed value to determine the amount of tax due. The commission shall prepare a tax statement for each production unit showing the production unit identification, the taxing district in which it is located, calendar-year value, assessed value, district rates and the amount of tax due. The tax statement shall be sent to the operator on or before October 15th and payment shall be made to the commission on or before November 30.

**History:** 1953 Comp., § 72-24-6, enacted by Laws 1969, ch. 119, § 6.

#### **ANNOTATIONS**

**Cross references.** — For meaning of "commission", see 7-34-2A NMSA 1978.

### **7-34-7. Commission shall report to county; tax roll.**

On or before December 30, the commission shall deliver a report to each county in which production units are located, identifying each production unit, the taxing district in which it is located, the value, assessed value, district rates and the amount of tax paid.

**History:** 1953 Comp., § 72-24-7, enacted by Laws 1969, ch. 119, § 7.

#### **ANNOTATIONS**

**Cross references.** — For meaning of "commission", see 7-34-2A NMSA 1978.

### **7-34-8. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 1985, ch. 65, § 46 repealed 7-34-8 NMSA 1978, as enacted by Laws 1969, ch. 119, § 8, relating to the oil and gas accounting commission ad valorem equipment tax fund, effective July 1, 1985.

### **7-34-9. Monthly report to department of finance and administration; remittances to state and county treasurers; state and county treasurers may distribute funds.**

A. By the last day of each month, the department shall prepare and certify a report to the secretary of finance and administration. The report shall be for the preceding month and shall show the amount of taxes distributed to the oil and gas equipment tax fund, the amount due the state and each taxing district imposing a tax and any other information required by the secretary of finance and administration. The secretary of finance and administration shall forthwith remit the appropriate amounts from the oil and

gas equipment tax fund to the state treasurer and the county treasurers who shall make the appropriate distribution, except as provided in Subsection B of this section.

B. If the board of county commissioners notifies the secretary of finance and administration that the county elects not to distribute the proceeds of the oil and gas ad valorem production equipment tax due the municipalities, community college districts and school districts in the county, the secretary of finance and administration shall pay amounts due directly to municipalities, community college districts and school districts within the county.

**History:** 1953 Comp., § 72-24-9, enacted by Laws 1969, ch. 119, § 9; 1977, ch. 247, § 188; 1983, ch. 221, § 2; 1985, ch. 65, § 45; 1993, ch. 131, § 2.

#### **ANNOTATIONS**

**Cross references.** — For the oil and gas equipment tax fund, see 7-1-6.22 NMSA 1978.

**The 1993 amendment,** effective March 31, 1993, substituted "department" for "division" in Subsection A and inserted "community college districts" twice in Subsection B.

#### **7-34-10. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 1985, ch. 65, § 46 repealed 7-34-10 NMSA 1978, as enacted by Laws 1969, ch. 119, § 10, relating to tax paid erroneously, refund, effective July 1, 1985.

#### **7-34-11. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 1985, ch. 65, § 46 repealed 7-34-11 NMSA 1978, as enacted by Laws 1969, ch. 119, § 11, relating to tax payment under protest, suit authorized, effective July 1, 1985.

#### **7-34-12. Repealed.**

#### **ANNOTATIONS**

**Repeals.** — Laws 1985, ch. 65, § 46 repealed 7-34-12 NMSA 1978, as enacted by Laws 1969, ch. 119, § 12, relating to interest and penalties, restraint from severing products, effective July 1, 1985.

## **7-34-13. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1985, ch. 65, § 46 repealed 7-34-13 NMSA 1978, as enacted by Laws 1969, ch. 119, § 13, relating to subpoena power, misdemeanor, fine, effective July 1, 1985.

## **7-34-14. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1985, ch. 65, § 46 repealed 7-34-14 NMSA 1978, as enacted by Laws 1969, ch. 119, § 14, relating to retraining order, injunction, effective July 1, 1985.

## **7-34-15. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1985, ch. 65, § 46 repealed 7-34-15 NMSA 1978, as enacted by Laws 1969, ch. 119, § 15, relating to personal debt, action in any district court, effective July 1, 1985.

## **7-34-16. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1985, ch. 65, § 46 repealed 7-34-16 NMSA 1978, as enacted by Laws 1969, ch. 119, § 16, relating to lien against property, notice to be filed, notice to debtor, effective July 1, 1985.

## **7-34-17. Repealed.**

### **ANNOTATIONS**

**Repeals.** — Laws 1985, ch. 65, § 46 repealed 7-34-17 NMSA 1978, as enacted by Laws 1969, ch. 119, § 17, relating to sale of property to satisfy lien, effective July 1, 1985.

## **7-34-18. Repealed.**

### **ANNOTATIONS**