

## CHAPTER 15

### CHAPTER 15, LAWS 2002

#### AN ACT

RELATING TO TAXATION; PROVIDING AN INTERGOVERNMENTAL TAX CREDIT WITH RESPECT TO OIL AND GAS PRODUCTION; CREATING THE JICARILLA APACHE TRIBAL CAPITAL IMPROVEMENTS TAX CREDIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. JICARILLA APACHE TRIBAL CAPITAL IMPROVEMENTS TAX CREDIT.--

A. A person who is liable for the payment of the oil and gas emergency school tax imposed on products severed from Jicarilla Apache tribal land or imposed on the privilege of severing products from Jicarilla Apache tribal land shall be entitled to a credit to be computed pursuant to this section and to be deducted from the payment of those taxes with respect to products from qualifying wells. The credit provided by this section may be referred to as the "Jicarilla Apache tribal capital improvements tax credit".

B. As used in this section:

(1) "Jicarilla Apache tribal land" means land within the state of New Mexico that on March 1, 2002 was within the exterior boundaries of a Jicarilla Apache reservation or was held in trust by the United States for the Jicarilla Apache Nation;

(2) "product" means oil, natural gas or liquid hydrocarbon, individually or in combination, or carbon dioxide;

(3) "qualifying well" means a well on Jicarilla Apache tribal land; and

(4) "Jicarilla Apache tribal capital improvements tax" means a tax imposed after the effective date of this section by the Jicarilla Apache Nation that is exclusively dedicated to fund capital improvement projects on Jicarilla Apache tribal land and that is not available to finance the construction of buildings used for commercial activity.

C. The Jicarilla Apache tribal capital improvements tax credit shall be determined separately for each calendar month and shall be equal to the lesser of:

(1) the amount of the Jicarilla Apache tribal capital improvements tax imposed by the Jicarilla Apache Nation upon the products severed from qualifying

wells or upon the privilege of severing products from qualifying wells; or

(2) seven-tenths of one percent of the taxable value of the products severed from qualifying wells as determined by applicable state law.

D. A credit pursuant to this section shall be allowed by the taxation and revenue department only if the Jicarilla Apache Nation has entered into a cooperative agreement with the secretary of taxation and revenue for the exchange of information necessary for the administration of the Jicarilla Apache tribal capital improvements tax credit.

E. Notwithstanding any other provision of law to the contrary, the amount of credit taken and allowed shall be applied against the amount of the oil and gas emergency school tax due with respect to the products or severance of products taxed.

F. The credit provided by this section shall be in addition to any credit claimed by the taxpayer or allowed by the taxation and revenue department pursuant to Section 7-29C-1 NMSA 1978 with respect to the same products or the severance of the same products. A Jicarilla Apache tribal capital improvements tax that qualifies for the credit provided by this section shall constitute an increase in tribal taxes for purposes of Subsection F of Section 7-29C-1 NMSA 1978 only to the extent that it exceeds the amount identified in Paragraph (2) of Subsection C of this section.

G. The taxation and revenue department shall administer and interpret the provisions of this section in accordance with the provisions of the Tax Administration Act.

H. The burden of showing entitlement to a credit authorized by this section is on the taxpayer claiming it, and the taxpayer shall furnish to the appropriate tax collecting agency, in a manner determined by the taxation and revenue department, proof of payment of the Jicarilla Apache tribal capital improvements tax on which the credit is based.

Section 2. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2003.