

HOUSE BILL 548

**57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

INTRODUCED BY

Nathan P. Small and Meredith A. Dixon

AN ACT

RELATING TO TAXATION; ENACTING THE OIL AND GAS EQUALIZATION TAX ACT.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 11 of this act may be cited as the "Oil and Gas Equalization Tax Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Oil and Gas Equalization Tax Act:

A. "department" 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. "production unit" means a unit of property designated by the department from which products of common

.230764.1

underscoring material = new  
[bracketed material] = delete

1 ownership are severed;

2 C. "severance" means the taking from the soil of  
3 any product in any manner whatsoever;

4 D. "value" means the actual price received from  
5 products at the production unit, except as otherwise provided  
6 in the Oil and Gas Equalization Tax Act;

7 E. "product" or "products" means oil, including  
8 crude, slop or skim oil and condensate; liquid hydrocarbon,  
9 including ethane, propane, isobutene, normal butane and  
10 pentanes plus, individually or any combination thereof; and  
11 non-hydrocarbon gases, including carbon dioxide and helium;

12 F. "operator" means any person:

13 (1) engaged in the severance of products from  
14 a production unit; or

15 (2) owning an interest in any product at the  
16 time of severance who receives a portion or all of such product  
17 for the person's interest;

18 G. "purchaser" means a person who is the first  
19 purchaser of a product after severance from a production unit,  
20 except as otherwise provided in the Oil and Gas Equalization  
21 Tax Act;

22 H. "person" means any individual, estate, trust,  
23 receiver, business trust, corporation, firm, copartnership,  
24 cooperative, joint venture, association, limited liability  
25 company or other group or combination acting as a unit, and the

.230764.1

underscoring material = new  
[bracketed material] = delete

1 plural as well as the singular number;

2 I. "interest owner" means a person owning an entire  
3 or fractional interest of whatsoever kind or nature in the  
4 products at the time of severance from a production unit or who  
5 has a right to a monetary payment that is determined by the  
6 value of such products;

7 J. "taxable value" means the average of the taxable  
8 value per barrel, determined pursuant to Section 4 of the Oil  
9 and Gas Equalization Tax Act, of all oil produced in New Mexico  
10 for the specified calendar year as determined by the  
11 department;

12 K. "tax" means the oil and gas equalization tax;  
13 and

14 L. "volume" means the quantity of product severed  
15 reported using:

16 (1) oil, condensate and slop oil in barrels;  
17 and

18 (2) liquid hydrocarbons, helium and carbon  
19 dioxide in thousand cubic feet at a pressure base of fifteen  
20 and twenty-five thousandths pounds per square inch.

21 SECTION 3. [NEW MATERIAL] PRIVILEGE TAX LEVIED--COLLECTED  
22 BY DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--  
23 INDIAN LIABILITY.--

24 A. There is imposed and shall be collected by the  
25 department a privilege tax on all products that are severed and

.230764.1

underscored material = new  
[bracketed material] = delete

1 sold. The measure of the tax is eighty-five hundredths percent  
2 of the taxable value of oil and on oil and other liquid  
3 hydrocarbons removed from natural gas at or near the wellhead.

4 B. Every interest owner, for the purpose of levying  
5 this tax, is deemed to be in the business of severing products  
6 and is liable for the tax to the extent of the owner's interest  
7 in the value of the products or to the extent of the owner's  
8 interest as may be measured by the value of the products.

9 C. Any Indian tribe, Indian pueblo or Indian is  
10 liable for the tax to the extent authorized or permitted by  
11 law.

12 SECTION 4. [NEW MATERIAL] TAXABLE VALUE--METHOD OF  
13 DETERMINING.--To determine the taxable value, there shall be  
14 deducted from the value of products:

15 A. royalties paid or due to the United States or  
16 the state of New Mexico;

17 B. royalties paid or due to any Indian tribe,  
18 Indian pueblo or Indian that is a ward of the United States of  
19 America; and

20 C. the reasonable expense of trucking any product  
21 from the production unit to the first place of market.

22 SECTION 5. [NEW MATERIAL] VALUE MAY BE DETERMINED BY  
23 DEPARTMENT--STANDARD.--

24 A. The department may determine the value of  
25 products severed from a production unit when:

.230764.1

underscored material = new  
[bracketed material] = delete

1 (1) the operator and purchaser are affiliated  
2 persons;

3 (2) the sale and purchase of products are not  
4 an arm's length transaction; or

5 (3) products are severed and removed from a  
6 production unit and a value as defined in the Oil and Gas  
7 Equalization Tax Act is not established for such products.

8 B. The value determined by the department shall be  
9 commensurate with the actual price received for products of  
10 like quality, character and use that are severed in the same  
11 field or area.

12 SECTION 6. [NEW MATERIAL] PRICE INCREASE SUBJECT TO  
13 APPROVAL OF AGENCY OF UNITED STATES OF AMERICA, STATE OF NEW  
14 MEXICO OR COURT--REFUND.--When an increase in the value of any  
15 product is subject to the approval of any agency of the United  
16 States of America or the state of New Mexico or any court, the  
17 increased value shall be subject to the tax. In the event the  
18 increase in value is disapproved, either in whole or in part,  
19 then the amount of tax that has been paid on the disapproved  
20 part of the value shall be considered excess tax. A person who  
21 has paid excess tax may apply for a refund of that excess tax  
22 in accordance with the provisions of Section 7-1-26 NMSA 1978.

23 SECTION 7. [NEW MATERIAL] PRODUCTS ON WHICH TAX HAS BEEN  
24 LEVIED--DEPARTMENT RULE.--The tax shall not be levied more than  
25 once on the same product. Reporting of products on which the

.230764.1

underscoring material = new  
[bracketed material] = delete

1 tax has been paid is subject to department rule.

2 SECTION 8. [NEW MATERIAL] OPERATOR OR PURCHASER TO  
3 WITHHOLD INTEREST OWNER'S TAX--DEPARTMENT MAY REQUIRE  
4 WITHHOLDING OF TAX--TAX WITHHELD TO BE REMITTED TO THE STATE--  
5 OPERATOR OR PURCHASER TO BE REIMBURSED.--

6 A. A operator making a monetary payment to an  
7 interest owner for the operator's portion of the value of  
8 products from a production unit shall withhold from the payment  
9 the amount of tax due from the interest owner.

10 B. A purchaser who, by express or implied agreement  
11 with the operator, makes a monetary payment to an interest  
12 owner for the purchaser's portion of the value of products from  
13 a production unit shall withhold from the payment the amount of  
14 tax due from the interest owner.

15 C. The department may require a purchaser making a  
16 monetary payment to an interest owner for the purchaser's  
17 portion of the value of products from a production unit to  
18 withhold from the payment the amount of tax due from the  
19 interest owner.

20 D. An operator or purchaser who pays tax due from  
21 an interest owner shall be entitled to reimbursement from the  
22 interest owner for the tax paid and may take credit for the  
23 amount from any monetary payment to the interest owner for the  
24 value of products.

25 SECTION 9. [NEW MATERIAL] OPERATOR'S REPORT--TAX

.230764.1

underscoring material = new  
[bracketed material] = delete

1 REMITTANCE--ADDITIONAL INFORMATION.--Each operator shall, in  
2 the form and manner required by the department, file a return  
3 with the department showing the total value, volume and kind of  
4 products sold from each production unit for each calendar  
5 month. All taxes due or to be remitted by the operator shall  
6 accompany the return. The return shall be filed on or before  
7 the twenty-fifth day of the second month after the calendar  
8 month for which the return is required. Any additional report  
9 or information the department may deem necessary for the proper  
10 administration of the Oil and Gas Equalization Tax Act may be  
11 required.

12 SECTION 10. [NEW MATERIAL] PURCHASER'S REPORT--TAX

13 REMITTANCE--ADDITIONAL INFORMATION.--Each purchaser shall, in  
14 the form and manner required by the department, file a return  
15 with the department showing the total value, volume and kind of  
16 products purchased by the purchaser from each production unit  
17 for each calendar month. All taxes due or to be remitted by  
18 the purchaser shall accompany the return. The return shall be  
19 filed on or before the twenty-fifth day of the second month  
20 after the calendar month for which the return is required. Any  
21 additional reports or information the department may deem  
22 necessary for the proper administration of the Oil and Gas  
23 Equalization Tax Act may be required.

24 SECTION 11. [NEW MATERIAL] ADVANCE PAYMENT REQUIRED.--

25 A. A person required to make payment of tax

.230764.1

underscored material = new  
~~[bracketed material] = delete~~

1 pursuant to Section 9 of the Oil and Gas Equalization Tax Act  
2 shall make the advance payment required by this section.

3 B. For the purposes of this section:

4 (1) "advance payment" means the payment  
5 required to be made by this section in addition to any oil and  
6 gas equalization tax, penalty or interest due; and

7 (2) "average tax" means the aggregate amount  
8 of tax, less any refunds or credits, paid by a person for the  
9 twelve-month period ending the last day of February pursuant to  
10 the Oil and Gas Equalization Tax Act divided by the number of  
11 months during that period for which the person made payment.

12 C. Each year, prior to July 1, the department shall  
13 compute the advance payment required to be made pursuant to  
14 this section, compute the average tax for the filing periods  
15 February through January of the subsequent year for each person  
16 required to pay tax pursuant to the Oil and Gas Equalization  
17 Tax Act and provide a tax statement to each person required to  
18 pay tax pursuant to the Oil and Gas Equalization Tax Act. The  
19 average tax calculated for a year shall be used during the  
20 twelve-month period beginning in July of that year and ending  
21 in June of the following year as the basis for making the  
22 advance payments required by Subsection D of this section.

23 D. Annually, by the twenty-fifth day of the month  
24 in which a person files or amends that person's first return  
25 pursuant to the Oil and Gas Equalization Tax Act and after

.230764.1



underscoring material = new  
~~[bracketed material] = delete~~

1 receiving the tax statement provided by the department, a  
2 person required to pay tax in a month pursuant to the Oil and  
3 Gas Equalization Tax Act shall pay, in addition to any amount  
4 of tax, interest or penalty due, an advance payment in an  
5 amount equal to the applicable average tax, except:

6 (1) if the person is making a final return  
7 under the Oil and Gas Equalization Tax Act, no advance payment  
8 pursuant to this subsection is due for that return; and

9 (2) as provided in Subsection F of this  
10 section.

11 E. Annually, by the twenty-fifth day of the month  
12 in which a person files or amends that person's first return  
13 pursuant to the Oil and Gas Equalization Tax Act and after  
14 receiving the tax statement provided by the department, a  
15 person required to pay tax pursuant to the Oil and Gas  
16 Equalization Tax Act may claim a credit equal to the amount of  
17 advance payment made in the previous year, except as provided  
18 in Subsection F of this section.

19 F. If, in a year, a person is not required to pay  
20 tax pursuant to the Oil and Gas Equalization Tax Act, that  
21 person is not required to pay the advance payment and shall not  
22 claim a credit pursuant to Subsection E of this section;  
23 provided that, in any succeeding month when the person has  
24 liability under the Oil and Gas Equalization Tax Act, the  
25 person may claim a credit for any advance payment made and not

.230764.1

underscoring material = new  
[bracketed material] = delete

1 credited.

2 G. In the event that the date by which a person is  
3 required to pay the tax pursuant to the Oil and Gas  
4 Equalization Tax Act is accelerated to a date earlier than the  
5 twenty-fifth day of the second month following the month of  
6 production, the advance payment provision contained in this  
7 section is void and any money held as advance payments shall be  
8 credited to the taxpayers' accounts.

9 SECTION 12. Section 7-1-2 NMSA 1978 (being Laws 1965,  
10 Chapter 248, Section 2, as amended) is amended to read:

11 "7-1-2. APPLICABILITY.--The Tax Administration Act  
12 applies to and governs:

13 A. the administration and enforcement of the  
14 following taxes or tax acts as they now exist or may hereafter  
15 be amended:

- 16 (1) Income Tax Act;
- 17 (2) Withholding Tax Act;
- 18 (3) Oil and Gas Proceeds and Pass-Through  
19 Entity Withholding Tax Act;
- 20 (4) Gross Receipts and Compensating Tax Act,  
21 Interstate Telecommunications Gross Receipts Tax Act and Leased  
22 Vehicle Gross Receipts Tax Act;
- 23 (5) Liquor Excise Tax Act;
- 24 (6) Local Liquor Excise Tax Act;
- 25 (7) any municipal local option gross receipts

.230764.1

underscoring material = new  
~~[bracketed material] = delete~~

1 tax or municipal compensating tax;

2 (8) any county local option gross receipts tax  
3 or county compensating tax;

4 (9) Special Fuels Supplier Tax Act;

5 (10) Gasoline Tax Act;

6 (11) petroleum products loading fee, which fee  
7 shall be considered a tax for the purpose of the Tax  
8 Administration Act;

9 (12) Alternative Fuel Tax Act;

10 (13) Cigarette Tax Act;

11 (14) Estate Tax Act;

12 (15) Railroad Car Company Tax Act;

13 (16) Investment Credit Act, rural job tax  
14 credit, Laboratory Partnership with Small Business Tax Credit  
15 Act, Technology Jobs and Research and Development Tax Credit  
16 Act, Film Production Tax Credit Act, Affordable Housing Tax  
17 Credit Act and high-wage jobs tax credit;

18 (17) Corporate Income and Franchise Tax Act;

19 (18) Uniform Division of Income for Tax  
20 Purposes Act;

21 (19) Multistate Tax Compact;

22 (20) Tobacco Products Tax Act;

23 (21) the telecommunications relay service  
24 surcharge imposed by Section 63-9F-11 NMSA 1978, which  
25 surcharge shall be considered a tax for the purposes of the Tax

.230764.1

underscoring material = new  
[bracketed material] = delete

1 Administration Act;

2 (22) the Insurance Premium Tax Act;

3 (23) the Health Care Quality Surcharge Act;

4 (24) the Cannabis Tax Act; and

5 (25) the Health Care Delivery and Access Act;

6 B. the administration and enforcement of the  
7 following taxes, surtaxes, advanced payments or tax acts as  
8 they now exist or may hereafter be amended:

9 (1) Resources Excise Tax Act;

10 (2) Severance Tax Act;

11 (3) any severance surtax;

12 (4) Oil and Gas Severance Tax Act;

13 (5) Oil and Gas Conservation Tax Act;

14 (6) Oil and Gas Emergency School Tax Act and  
15 the Oil and Gas Equalization Tax Act;

16 (7) Oil and Gas Ad Valorem Production Tax Act;

17 (8) Natural Gas Processors Tax Act;

18 (9) Oil and Gas Production Equipment Ad  
19 Valorem Tax Act;

20 (10) Copper Production Ad Valorem Tax Act;

21 (11) any advance payment required to be made  
22 by any act specified in this subsection, which advance payment  
23 shall be considered a tax for the purposes of the Tax

24 Administration Act;

25 (12) Enhanced Oil Recovery Act;

.230764.1

1 (13) Natural Gas and Crude Oil Production  
2 Incentive Act; and

3 (14) intergovernmental production tax credit  
4 and intergovernmental production equipment tax credit;

5 C. the administration and enforcement of the  
6 following taxes, surcharges, fees or acts as they now exist or  
7 may hereafter be amended:

8 (1) Weight Distance Tax Act;

9 (2) the workers' compensation fee authorized  
10 by Section 52-5-19 NMSA 1978, which fee shall be considered a  
11 tax for purposes of the Tax Administration Act;

12 (3) Uniform Unclaimed Property Act (1995);

13 (4) 911 emergency surcharge and the network  
14 and database surcharge, which surcharges shall be considered  
15 taxes for purposes of the Tax Administration Act;

16 (5) the solid waste assessment fee authorized  
17 by the Solid Waste Act, which fee shall be considered a tax for  
18 purposes of the Tax Administration Act;

19 (6) the water conservation fee imposed by  
20 Section 74-1-13 NMSA 1978, which fee shall be considered a tax  
21 for the purposes of the Tax Administration Act; and

22 (7) the gaming tax imposed pursuant to the  
23 Gaming Control Act; and

24 D. the administration and enforcement of all other  
25 laws, with respect to which the department is charged with

.230764.1

underscoring material = new  
~~[bracketed material] = delete~~

1 responsibilities pursuant to the Tax Administration Act, but  
2 only to the extent that the other laws do not conflict with the  
3 Tax Administration Act."

4 SECTION 13. EFFECTIVE DATE.--The effective date of the  
5 provisions of this act is July 1, 2025.

6 - 14 -  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25