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HOUSE BILL 142

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Brian F. Egolf

AN ACT

RELATING TO TAXATION; PROVIDING A DEDUCTION FROM GROSS RECEIPTS FOR CERTAIN SMALL BUSINESSES; ADJUSTING THE RATES OF CERTAIN SEVERANCE AND NATURAL RESOURCES TAXES; CONVERTING CERTAIN EXEMPTIONS TO DEDUCTIONS.

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

SECTION 1. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"[NEW MATERIAL] DEDUCTION--GROSS RECEIPTS--SMALL BUSINESSES.--

A. Receipts from the sale of tangible personal property or services by a small business may be deducted by the small business from gross receipts.

B. The purpose of the deduction provided in this section is to support and encourage the creation and continued

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1 success of small businesses in New Mexico.

2 C. Deductions for sales of tangible personal
3 property or services by a small business shall be stated
4 separately by the taxpayer on forms provided by the department.

5 D. The department shall annually report to the
6 revenue stabilization and tax policy committee aggregate
7 amounts of deductions taken pursuant to this section, the
8 number of taxpayers claiming the deductions and any other
9 information that is necessary to determine that the deduction
10 is performing the purpose for which it is enacted.

11 E. As used in this section, "small business" means
12 a business whose gross receipts tax liability for the month
13 does not exceed two hundred dollars (\$200)."

14 SECTION 2. Section 7-25-4 NMSA 1978 (being Laws 1999,
15 Chapter 177, Section 2) is amended to read:

16 "7-25-4. RATE AND MEASURE OF TAX--DENOMINATION AS
17 "RESOURCES TAX".--

18 A. For the privilege of severing natural resources,
19 there is imposed on ~~[any]~~ a severer of natural resources in New
20 Mexico an excise tax ~~[at the following rates]~~ on the taxable
21 value of the natural resources

22 ~~[(1) all natural resources except potash and~~
23 ~~molybdenum, three fourths of one percent;~~

24 ~~(2) potash, one half of one percent; and~~

25 ~~(3) molybdenum, one eighth of one] of three-~~

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1 fourths percent.

2 B. The tax imposed by this section shall be
3 referred to as the "resources tax".

4 SECTION 3. Section 7-25-5 NMSA 1978 (being Laws 1999,
5 Chapter 177, Section 4) is amended to read:

6 "7-25-5. RATE AND MEASURE OF TAX--DENOMINATION AS
7 "PROCESSORS TAX".--

8 A. For the privilege of processing natural
9 resources, there is imposed on [~~any~~] a processor of natural
10 resources in New Mexico an excise tax at the following rates on
11 the taxable value of the natural resources:

- 12 (1) all natural resources except timber,
13 [~~potash and molybdenum~~] three-fourths [~~of one~~] percent; and
14 (2) timber, three-eighths [~~of one~~] percent
15 [~~(3) potash, one-eighth of one percent; and~~
16 [~~(4) molybdenum, one-eighth of one percent~~].

17 B. The tax imposed by this section shall be
18 referred to as the "processors tax".

19 SECTION 4. Section 7-29-4.2 NMSA 1978 (being Laws 1980,
20 Chapter 62, Section 7, as amended) is amended to read:

21 "7-29-4.2. VALUE MAY BE DETERMINED BY DEPARTMENT--
22 STANDARD.--

23 A. The department may determine the value of
24 products severed from a production unit when [~~A.~~] the:

- 25 (1) operator and purchaser are affiliated

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1 persons;

2 [B.—the] (2) sale and purchase of products is
3 not an arm's length transaction; or [when

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

7 B. The value determined by the department shall be
8 commensurate with the actual price received for products of
9 like quality, character and use [which] that are severed in the
10 same field or area. If there are no sales of products of like
11 quality, character and use severed in the same field or area,
12 then the department shall establish a reasonable value.

13 C. In determining the value of products pursuant to
14 this section, the department may deduct an amount equal to no
15 more than twenty-five percent of the value of transportation or
16 processing of products severed from the production unit."

17 SECTION 5. Section 7-31-4 NMSA 1978 (being Laws 1959,
18 Chapter 54, Section 4, as amended) is amended to read:

19 "7-31-4. PRIVILEGE TAX LEVIED--COLLECTED BY
20 DEPARTMENT--RATE--INTEREST OWNER'S LIABILITY TO STATE--INDIAN
21 LIABILITY.--

22 A. There is levied and shall be collected by the
23 department a privilege tax on the business of every person
24 severing products in this state. The measure of the tax shall
25 be:

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1 (1) on oil and on oil and other liquid
2 hydrocarbons removed from natural gas at or near the wellhead,
3 ~~[except as provided in Paragraphs (4) and (5) of this~~
4 ~~subsection, three and fifteen hundredths]~~ four percent of the
5 taxable value determined pursuant to Section 7-31-5 NMSA 1978;

6 (2) on carbon dioxide, helium and non-
7 hydrocarbon gases, ~~[three and fifteen hundredths]~~ four percent
8 of the taxable value determined pursuant to Section 7-31-5 NMSA
9 1978; and

10 (3) on natural gas, ~~[except as provided in~~
11 ~~Paragraphs (6) and (7) of this subsection]~~ four percent of the
12 taxable value determined pursuant to Section 7-31-5 NMSA 1978.

13 ~~[(4) on the oil and on other liquid~~
14 ~~hydrocarbons removed from natural gas at or near the wellhead~~
15 ~~from a stripper well property, one and fifty-eight hundredths~~
16 ~~percent of the taxable value determined pursuant to Section~~
17 ~~7-31-5 NMSA 1978, provided that the average annual taxable~~
18 ~~value of oil was equal to or less than fifteen dollars (\$15.00)~~
19 ~~per barrel in the calendar year preceding July 1 of the fiscal~~
20 ~~year in which the tax rate is to be imposed;~~

21 ~~(5) on the oil and on other liquid~~
22 ~~hydrocarbons removed from natural gas at or near the wellhead~~
23 ~~from a stripper well property, two and thirty-six hundredths~~
24 ~~percent of the taxable value determined pursuant to Section~~
25 ~~7-31-5 NMSA 1978, provided that the average annual taxable~~

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1 ~~value of oil was greater than fifteen dollars (\$15.00) per~~
2 ~~barrel but not more than eighteen dollars (\$18.00) per barrel~~
3 ~~in the calendar year preceding July 1 of the fiscal year in~~
4 ~~which the tax rate is to be imposed;~~

5 ~~(6) on the natural gas removed from a stripper~~
6 ~~well property, two percent of the taxable value determined~~
7 ~~pursuant to Section 7-31-5 NMSA 1978, provided that the average~~
8 ~~annual taxable value of natural gas was equal to or less than~~
9 ~~one dollar fifteen cents (\$1.15) per thousand cubic feet in the~~
10 ~~calendar year preceding July 1 of the fiscal year in which the~~
11 ~~tax rate is to be imposed; and~~

12 ~~(7) on the natural gas removed from a stripper~~
13 ~~well property, three percent of the taxable value determined~~
14 ~~pursuant to Section 7-31-5 NMSA 1978, provided that the average~~
15 ~~annual taxable value of natural gas was greater than one dollar~~
16 ~~fifteen cents (\$1.15) per thousand cubic feet but not more than~~
17 ~~one dollar thirty-five cents (\$1.35) per thousand cubic feet in~~
18 ~~the calendar year preceding July 1 of the fiscal year in which~~
19 ~~the tax rate is to be imposed.]~~

20 B. Every interest owner, for the purpose of levying
21 this tax, is deemed to be in the business of severing products
22 and is liable for this tax to the extent of ~~[his]~~ the owner's
23 interest in the value of the products or to the extent of ~~[his]~~
24 the owner's interest as may be measured by the value of the
25 products.

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1 C. Any Indian tribe, Indian pueblo or Indian is
2 liable for this tax to the extent authorized or permitted by
3 law."

4 SECTION 6. Section 7-31-6 NMSA 1978 (being Laws 1959,
5 Chapter 54, Section 6) is amended to read:

6 "7-31-6. VALUE MAY BE DETERMINED BY [~~COMMISSION~~]
7 DEPARTMENT--STANDARD.--

8 A. The [~~commission~~] department may determine the
9 value of products severed from a production unit when [~~A.~~]
10 the:

11 (1) operator and purchaser are affiliated
12 persons; [~~or when~~

13 ~~B. the~~] (2) sale and purchase of products is
14 not an arm's length transaction; or [~~when~~

15 ~~C.~~] (3) products are severed and removed from
16 a production unit and a value as defined in [~~this~~] the Oil and
17 Gas Emergency School Tax Act is not established for such
18 products.

19 B. The value determined by the [~~commission~~]
20 department shall be commensurate with the actual price received
21 for products of like quality, character and use [~~which~~] that
22 are severed in the same field or area.

23 C. In determining the value of products pursuant to
24 this section, the department may deduct an amount equal to no
25 more than twenty-five percent of the value of transportation or

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1 processing of products severed from the production unit."

2 SECTION 7. Section 7-32-5 NMSA 1978 (being Laws 1959,
3 Chapter 55, Section 5, as amended) is amended to read:

4 "7-32-5. ASSESSED VALUE--METHOD OF DETERMINING.--

5 A. The taxable value of products is an amount equal
6 to one hundred fifty percent of the value of products after
7 deducting:

8 (1) royalties paid or due the United States or
9 the state of New Mexico;

10 (2) royalties paid or due any [~~Indian tribe,~~
11 ~~Indian pueblo or Indian that is a ward of the United States]~~
12 federally recognized Indian nation, tribe or pueblo or a member
13 of a federally recognized Indian nation, tribe or pueblo; and

14 (3) the reasonable expense of trucking any
15 product from the production unit to the first place of market.

16 B. The assessed value of products shall be
17 determined by applying the uniform assessment ratio to the
18 taxable value of products. The method prescribed by this
19 section shall be the exclusive method for determining the
20 assessed value of products. The tax imposed by Section
21 [~~72-22-4 NMSA 1953 of the Oil and Gas Ad Valorem Production Tax~~
22 ~~Act]~~ 7-32-4 NMSA 1978, together with the tax imposed by Section
23 [~~72-24-4 NMSA 1953 of the Oil and Gas Production Equipment Ad~~
24 ~~Valorem Tax Act]~~ 7-34-4 NMSA 1978, shall be the full and
25 exclusive measure of ad valorem tax liability on the interests

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1 of all persons, including the operator and interest owners, in
2 the production unit. Any other ad valorem tax on the
3 production unit or on products severed therefrom is void.

4 C. In determining the taxable value of products
5 pursuant to this section, the department may deduct an amount
6 equal to no more than twenty-five percent of the value of
7 transportation or processing of products severed from the
8 production unit."

9 SECTION 8. REPEAL.--Section 7-26-6.2 NMSA 1978 (being
10 Laws 1990, Chapter 83, Section 1 and Laws 1990, Chapter 84,
11 Section 1, as amended) is repealed.

12 SECTION 9. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2012.