

CHAPTER 202

**TAXATION**

**HOUSE BILL 95-1108**

BY REPRESENTATIVES May, Lamborn, Martin, Musgrave, Schauer, and Schwarz;  
also SENATORS Ament, Norton, and R. Powers.

**AN ACT**

**CONCERNING TAXATION OF OIL AND GAS, INCLUDING NATURAL GAS, OTHER HYDROCARBON GASES, AND CARBON DIOXIDE, AND, IN CONNECTION THEREWITH, CLARIFYING THE TERM "TRANSPORTATION" AS USED IN DETERMINING GROSS INCOME FOR PURPOSES OF IMPOSING SEVERANCE TAXES ON OIL AND GAS.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** The general assembly hereby finds and declares that it is in the public interest to clarify existing law by specifying that certain costs of doing business are deductible when calculating the state severance tax on oil and gas. To that end, it is the intent of section 39-29-102 (3) (a), Colorado Revised Statutes, to continue to allow a deduction for all costs borne by the taxpayer between the point of initial separation into identifiable oil, gas, or free water and the point of sale, including gathering and compression. Nothing in this act shall be construed to affect the legal relationship between royalty owners and lessees.

**SECTION 2.** 39-29-102 (3) (a), Colorado Revised Statutes, 1994 Repl. Vol., is amended, and the said 39-29-102 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**39-29-102. Definitions.** As used in this article, unless the context otherwise requires:

(3) "Gross income" means:

(a) For oil and gas, the net amount realized by the taxpayer for sale of the oil or gas, whether ~~such~~ THE sale occurs at the wellhead or after transportation, manufacturing, and processing of the product. Net amount shall be calculated on the basis of the gross lease revenues, less deductions for any transportation,

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

manufacturing, and processing costs borne by the taxpayer. Where the parties to the sale are related parties and the sales price is lower than the price for which that oil or gas could otherwise have been sold to a ready, willing, and able buyer and where the taxpayer was legally able to sell the oil or gas to such a buyer, gross income shall be determined by reference to comparable arms-length sales of like kind, quality, and quantity in the same field or area, less deductions for transportation, manufacturing, and processing done prior to ~~such~~ THE sale. For purposes of this paragraph (a), "related parties" shall be defined by the department of revenue pursuant to rules and regulations.

(7) "TRANSPORTATION" MEANS THE COST OF MOVING IDENTIFIABLE, MEASURABLE OIL OR GAS, INCLUDING GAS THAT IS NOT IN NEED OF INITIAL SEPARATION, FROM THE POINT AT WHICH IT IS FIRST IDENTIFIABLE AND MEASURABLE TO THE SALES POINT OR OTHER POINT WHERE VALUE IS ESTABLISHED. ANY COMPRESSION DOWNSTREAM OF THE METER OR MEASUREMENT POINT IS DEDUCTIBLE AS A COMPONENT OF TRANSPORTATION. "GATHERING" MEANS THE MOVEMENT OF AN UNSEPARATED, BULK PRODUCTION STREAM TO A POINT, ON OR OFF THE LEASE, WHERE THE PRODUCTION STREAM UNDERGOES INITIAL SEPARATION INTO IDENTIFIABLE OIL, GAS, OR FREE WATER AND IS NOT DEDUCTIBLE AS TRANSPORTATION. THIS DEFINITION SHALL NOT BE CONSTRUED TO AFFECT THE LEGAL RELATIONSHIP BETWEEN ROYALTY OWNERS AND LESSEES.

**SECTION 3.** 39-29-108, Colorado Revised Statutes, 1994 Repl. Vol., is amended BY THE ADDITION OF A NEW SUBSECTION to read:

**39-29-108. Allocation of severance tax revenues.** (2.5) (a) FOR FISCAL YEARS BEGINNING ON OR AFTER JUNE 30, 1995, IF THE PERCENTAGE CHANGE FROM THE PREVIOUS FISCAL YEAR IN NET SEVERANCE TAX REVENUE RECEIVED FROM OIL, GAS, AND CO<sub>2</sub> IS LESS THAN THE PERCENTAGE CHANGE IN A PRODUCTION VALUE INDEX CALCULATED BY THE COLORADO OIL AND GAS CONSERVATION COMMISSION FROM STATE TOTAL PRODUCTION AND PRICE DATA IN THE PREVIOUS CALENDAR YEAR, THEN THE LOCAL GOVERNMENT SEVERANCE TAX FUND SHALL RECEIVE A PERCENT OF THE NET SEVERANCE REVENUES FROM OIL, GAS, AND CO<sub>2</sub> WHICH BRINGS THE AMOUNT OF REVENUE TO THAT FUND UP TO THE LEVEL OF THE PREVIOUS FISCAL YEAR. THE SEVERANCE TAX TRUST FUND SHALL RECEIVE AN EQUIVALENT REDUCTION IN PERCENT RECEIVED FROM NET SEVERANCE TAX REVENUES FROM OIL, GAS, AND CO<sub>2</sub>.

(b) THIS SUBSECTION (2.5) IS REPEALED, EFFECTIVE JUNE 30, 1999.

**SECTION 4. Applicability.** This act shall apply to severance tax years beginning on or after January 1, 1995.

**SECTION 5. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 25, 1995