

Part 1 Oil and Gas Severance Tax

59-5-101 Definitions.

As used in this part:

- (1) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.
- (2) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.
- (3) "Condensate" means those hydrocarbons, regardless of gravity, that occur naturally in the gaseous phase in the reservoir that are separated from the natural gas as liquids through the process of condensation either in the reservoir, in the wellbore, or at the surface in field separators.
- (4) "Crude oil" means those hydrocarbons, regardless of gravity, that occur naturally in the liquid phase in the reservoir and are produced and recovered at the wellhead in liquid form.
- (5) "Development well" means any oil and gas producing well other than a wildcat well.
- (6) "Division" means the Division of Oil, Gas, and Mining established under Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining.
- (7) "Enhanced recovery project" means:
 - (a) the injection of liquids or hydrocarbon or nonhydrocarbon gases directly into a reservoir for the purpose of:
 - (i) augmenting reservoir energy;
 - (ii) modifying the properties of the fluids or gases in a reservoir; or
 - (iii) changing the reservoir conditions to increase the recoverable oil, gas, or oil and gas through the joint use of two or more well bores; and
 - (b) a project initially approved by the board as a new or expanded enhanced recovery project on or after January 1, 1996.
- (8)
 - (a) "Gas" means:
 - (i) natural gas;
 - (ii) natural gas liquids; or
 - (iii) any mixture of natural gas and natural gas liquids.
 - (b) "Gas" does not include solid hydrocarbons.
- (9) "Incremental production" means that part of production, certified by the Division of Oil, Gas, and Mining, which is achieved from an enhanced recovery project that would not have economically occurred under the reservoir conditions existing before the project and that has been approved by the division as incremental production.
- (10) "Natural gas" means those hydrocarbons, other than oil and other than natural gas liquids separated from natural gas, that occur naturally in the gaseous phase in the reservoir and are produced and recovered at the wellhead in gaseous form.
- (11) "Natural gas liquids" means those hydrocarbons initially in reservoir natural gas, regardless of gravity, that are separated in gas processing plants from the natural gas as liquids at the surface through the process of condensation, absorption, adsorption, or other methods.
- (12)
 - (a) "Oil" means:
 - (i) crude oil;
 - (ii) condensate; or
 - (iii) any mixture of crude oil and condensate.
 - (b) "Oil" does not include solid hydrocarbons.

- (13) "Oil or gas field" means a geographical area overlying oil or gas structures. The boundaries of oil or gas fields shall conform with the boundaries as fixed by the Board and Division of Oil, Gas, and Mining under Title 40, Chapter 6, Board and Division of Oil, Gas, and Mining.
- (14) "Oil shale" means a group of fine black to dark brown shales containing bituminous material that yields petroleum upon distillation.
- (15) "Operator" means any person engaged in the business of operating an oil or gas well, regardless of whether the person is:
- (a) a working interest owner;
 - (b) an independent contractor; or
 - (c) acting in a capacity similar to Subsection (15)(a) or (b) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (16) "Owner" means any person having a working interest, royalty interest, payment out of production, or any other interest in the oil or gas produced or extracted from an oil or gas well in the state, or in the proceeds of this production.
- (17)
- (a) Subject to Subsections (17)(b) and (c), "processing costs" means the reasonable actual costs of processing oil or gas to remove:
 - (i) natural gas liquids; or
 - (ii) contaminants.
 - (b) If processing costs are determined on the basis of an arm's-length contract, processing costs are the actual costs.
 - (c)
 - (i) If processing costs are determined on a basis other than an arm's-length contract, processing costs are those reasonable costs associated with:
 - (A) actual operating and maintenance expenses, including oil or gas used or consumed in processing;
 - (B) overhead directly attributable and allocable to the operation and maintenance; and
 - (C)
 - (I) depreciation and a return on undepreciated capital investment; or
 - (II) a cost equal to a return on the investment in the processing facilities as determined by the commission.
 - (ii) Subsection (17)(c)(i) includes situations where the producer performs the processing for the producer's product.
- (18) "Producer" means any working interest owner in any lands in any oil or gas field from which gas or oil is produced.
- (19) "Recompletion" means any downhole operation that is:
- (a) conducted to reestablish the producibility or serviceability of a well in any geologic interval; and
 - (b) approved by the division as a recompletion.
- (20) "Research and development" means the process of inquiry or experimentation aimed at the discovery of facts, devices, technologies, or applications and the process of preparing those devices, technologies, or applications for marketing.
- (21) "Royalty interest owner" means the owner of an interest in oil or gas, or in the proceeds of production from the oil or gas who does not have the obligation to share in the expenses of developing and operating the property.
- (22) "Solid hydrocarbons" means:
- (a) coal;
 - (b) gilsonite;

- (c) ozocerite;
 - (d) elaterite;
 - (e) oil shale;
 - (f) tar sands; and
 - (g) all other hydrocarbon substances that occur naturally in solid form.
- (23) "Stripper well" means:
- (a) an oil well whose average daily production for the days the well has produced has been 20 barrels or less of crude oil a day during any consecutive 12-month period; or
 - (b) a gas well whose average daily production for the days the well has produced has been 60 MCF or less of natural gas a day during any consecutive 90-day period.
- (24) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon and require further processing other than mechanical blending before becoming finished petroleum products.
- (25)
- (a) Subject to Subsections (25)(b) and (c), "transportation costs" means the reasonable actual costs of transporting oil or gas products from the well to the point of sale.
 - (b) If transportation costs are determined on the basis of an arm's-length contract, transportation costs are the actual costs.
 - (c)
 - (i) If transportation costs are determined on a basis other than an arm's-length contract, transportation costs are those reasonable costs associated with:
 - (A) actual operating and maintenance expenses, including fuel used or consumed in transporting the oil or gas;
 - (B) overhead costs directly attributable and allocable to the operation and maintenance; and
 - (C) depreciation and a return on undepreciated capital investment.
 - (ii) Subsection (25)(c)(i) includes situations where the producer performs the transportation for the producer's product.
 - (d) Regardless of whether transportation costs are determined on the basis of an arm's-length contract or a basis other than an arm's-length contract, transportation costs include:
 - (i) carbon dioxide removal;
 - (ii) compression;
 - (iii) dehydration;
 - (iv) gathering;
 - (v) separating;
 - (vi) treating; or
 - (vii) a process similar to Subsections (25)(d)(i) through (vi), as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (26) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.
- (27) "Well or wells" means any extractive means from which oil or gas is produced or extracted, located within an oil or gas field, and operated by one person.
- (28) "Wildcat well" means an oil and gas producing well which is drilled and completed in a pool, as defined under Section 40-6-2, in which a well has not been previously completed as a well capable of producing in commercial quantities.
- (29) "Working interest owner" means the owner of an interest in oil or gas burdened with a share of the expenses of developing and operating the property.
- (30)
- (a) "Workover" means any downhole operation that is:

- (i) conducted to sustain, restore, or increase the producibility or serviceability of a well in the geologic intervals in which the well is currently completed; and
- (ii) approved by the division as a workover.
- (b) "Workover" does not include operations that are conducted primarily as routine maintenance or to replace worn or damaged equipment.

Amended by Chapter 344, 2009 General Session

59-5-102 Definitions -- Severance tax -- Computation -- Rate -- Annual exemption -- Tax credits -- Tax rate reduction.

(1) As used in this section:

- (a) "Division" means the Division of Oil, Gas, and Mining created in Section 40-6-15.
- (b) "Office" means the Office of Energy Development created in Section 79-6-401.
- (c) "Royalty rate" means the percentage of the interests described in Subsection (2)(b)(i) as defined by a contract between the United States, the state, an Indian, or an Indian tribe and the oil or gas producer.
- (d) "Taxable value" means the total value of the oil or gas minus:
 - (i) any royalties paid to, or the value of oil or gas taken in kind by, the interest holders described in Subsection (2)(b)(i); and
 - (ii) the total value of oil or gas exempt from severance tax under Subsection (2)(b)(ii).
- (e) "Taxable volume" means:
 - (i) for oil, the total volume of barrels minus:
 - (A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and the total volume of barrels; and
 - (B) the number of barrels that are exempt under Subsection (2)(b)(ii); and
 - (ii) for natural gas, the total volume of MCFs minus:
 - (A) for an interest described in Subsection (2)(b)(i), the product of the royalty rate and the total volume of MCFs; and
 - (B) the number of MCFs that are exempt under Subsection (2)(b)(ii).
- (f) "Total value" means the value, as determined by Section 59-5-103.1, of all oil or gas that is:
 - (i) produced; and
 - (ii)
 - (A) saved;
 - (B) sold; or
 - (C) transported from the field where the oil or gas was produced.
- (g) "Total volume" means:
 - (i) for oil, the number of barrels:
 - (A) produced; and
 - (B)
 - (I) saved;
 - (II) sold; or
 - (III) transported from the field where the oil was produced; and
 - (ii) for natural gas, the number of MCFs:
 - (A) produced; and
 - (B)
 - (I) saved;
 - (II) sold; or
 - (III) transported from the field where the natural gas was produced.

(h) "Value of oil or gas taken in kind" means the volume of oil or gas taken in kind multiplied by the market price for oil or gas at the location where the oil or gas was produced on the date the oil or gas was taken in kind.

- (2)
- (a) Except as provided in Subsection (2)(b), a person owning an interest in oil or gas produced from a well in the state, including a working interest, royalty interest, payment out of production, or any other interest, or in the proceeds of the production of oil or gas, shall pay to the state a severance tax on the owner's interest in the taxable value of the oil or gas:
 - (i) produced; and
 - (ii)
 - (A) saved;
 - (B) sold; or
 - (C) transported from the field where the substance was produced.
 - (b) The severance tax imposed by Subsection (2)(a) does not apply to:
 - (i) an interest of:
 - (A) the United States in oil or gas or in the proceeds of the production of oil or gas;
 - (B) the state or a political subdivision of the state in oil or gas or in the proceeds of the production of oil or gas; and
 - (C) an Indian or Indian tribe as defined in Section 9-9-101 in oil or gas or in the proceeds of the production of oil or gas produced from land under the jurisdiction of the United States; and
 - (ii) the value of:
 - (A) oil or gas produced from stripper wells, unless the exemption prevents the severance tax from being treated as a deduction for federal tax purposes;
 - (B) oil or gas produced in the first 12 months of production for wildcat wells started after January 1, 1990; and
 - (C) oil or gas produced in the first six months of production for development wells started after January 1, 1990.
- (3)
- (a) The severance tax on oil shall be calculated as follows:
 - (i) dividing the taxable value by the taxable volume;
 - (ii)
 - (A) multiplying the rate described in Subsection (4)(a)(i) by the portion of the figure calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection (4)(a)(i); and
 - (B) multiplying the rate described in Subsection (4)(a)(ii) by the portion of the figure calculated in Subsection (3)(a)(i) that is subject to the rate described in Subsection (4)(a)(ii);
 - (iii) adding together the figures calculated in Subsections (3)(a)(ii)(A) and (B); and
 - (iv) multiplying the figure calculated in Subsection (3)(a)(iii) by the taxable volume.
 - (b) The severance tax on natural gas shall be calculated as follows:
 - (i) dividing the taxable value by the taxable volume;
 - (ii)
 - (A) multiplying the rate described in Subsection (4)(b)(i) by the portion of the figure calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection (4)(b)(i); and
 - (B) multiplying the rate described in Subsection (4)(b)(ii) by the portion of the figure calculated in Subsection (3)(b)(i) that is subject to the rate described in Subsection (4)(b)(ii);
 - (iii) adding together the figures calculated in Subsections (3)(b)(ii)(A) and (B); and
 - (iv) multiplying the figure calculated in Subsection (3)(b)(iii) by the taxable volume.

- (c) The severance tax on natural gas liquids shall be calculated by multiplying the taxable value of the natural gas liquids by the severance tax rate in Subsection (4)(c).
- (4) Subject to Subsection (9):
 - (a) the severance tax rate for oil is as follows:
 - (i) 3% of the taxable value of the oil up to and including the first \$13 per barrel for oil; and
 - (ii) 5% of the taxable value of the oil from \$13.01 and above per barrel for oil;
 - (b) the severance tax rate for natural gas is as follows:
 - (i) 3% of the taxable value of the natural gas up to and including the first \$1.50 per MCF for gas; and
 - (ii) 5% of the taxable value of the natural gas from \$1.51 and above per MCF for gas; and
 - (c) the severance tax rate for natural gas liquids is 4% of the taxable value of the natural gas liquids.
- (5) If oil or gas is shipped outside the state:
 - (a) the shipment constitutes a sale; and
 - (b) the oil or gas is subject to the tax imposed by this section.
- (6)
 - (a) Except as provided in Subsection (6)(b), if the oil or gas is stockpiled, the tax is not imposed until the oil or gas is:
 - (i) sold;
 - (ii) transported; or
 - (iii) delivered.
 - (b) If oil or gas is stockpiled for more than two years, the oil or gas is subject to the tax imposed by this section.
- (7)
 - (a) Subject to other provisions of this Subsection (7), a taxpayer that pays for all or part of the expenses of a recompletion or workover may claim a nonrefundable tax credit equal to the amount stated on a tax credit certificate that the office issues to the taxpayer.
 - (b) The maximum tax credit per taxpayer per well in a calendar year is the lesser of:
 - (i) 20% of the taxpayer's payment of expenses of a well recompletion or workover during the calendar year; and
 - (ii) \$30,000.
 - (c) A taxpayer may carry forward a tax credit allowed under this Subsection (7) for the next three calendar years if the tax credit exceeds the taxpayer's tax liability under this part for the calendar year in which the taxpayer claims the tax credit.
 - (d)
 - (i) To claim a tax credit under this Subsection (7), a taxpayer shall follow the procedures and requirements of this Subsection (7)(d).
 - (ii) The taxpayer shall prepare a summary of the taxpayer's expenses of a well recompletion or workover during the calendar year that the well recompletion or workover is completed.
 - (iii) An independent certified public accountant shall:
 - (A) review the summary from the taxpayer; and
 - (B) provide a report on the accuracy and validity of the amount of expenses of a well recompletion or workover that the taxpayer included in the summary, in accordance with the agreed upon procedures.
 - (iv) The taxpayer shall submit the taxpayer's summary and the independent certified public accountant's report to the division to verify that the expenses certified by the independent certified public accountant are well recompletion or workover expenses.
 - (v) The division shall return to the taxpayer:

- (A) the taxpayer's summary;
 - (B) the report by the independent certified public accountant; and
 - (C) a report by the division that includes the amount of approved well recompletion or workover expenses.
- (vi) The taxpayer shall apply to the office for a tax credit certificate to receive a written certification, on a form approved by the commission, that includes:
- (A) the amount of the taxpayer's payments of expenses of a well recompletion or workover during the calendar year; and
 - (B) the amount of the taxpayer's tax credit.
- (vii) A taxpayer that receives a tax credit certificate shall retain the tax credit certificate for the same time period that a person is required to keep books and records under Section 59-1-1406.
- (e) The office shall submit to the commission an electronic list that includes:
- (i) the name and identifying information of each taxpayer to which the office issues a tax credit certificate; and
 - (ii) for each taxpayer, the amount of the tax credit listed on the tax credit certificate.
- (f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
- (i) the office may make rules to govern the application process for receiving a tax credit certificate under this Subsection (7); and
 - (ii) the division shall make rules to establish the agreed upon procedures described in Subsection (7)(d)(iii).
- (8)
- (a) Subject to the other provisions of this Subsection (8), a taxpayer may claim a tax credit against a severance tax owing on natural gas under this section if:
- (i) the taxpayer is required to pay a severance tax on natural gas under this section;
 - (ii) the taxpayer owns or operates a plant in the state that converts natural gas to hydrogen fuel; and
 - (iii) all of the natural gas for which the taxpayer owes a severance tax under this section is used for the production in the state of hydrogen fuel for use in zero emission motor vehicles.
- (b) The taxpayer may claim a tax credit equal to the lesser of:
- (i) the amount of tax that the taxpayer owes under this section; and
 - (ii) \$5,000,000.
- (c)
- (i) To claim a tax credit under this Subsection (8), a taxpayer shall follow the procedures and requirements of this Subsection (8)(c).
 - (ii) The taxpayer shall request that the division verify that the taxpayer owns or operates a plant in this state:
 - (A) that converts natural gas to hydrogen fuel; and
 - (B) at which all natural gas is converted to hydrogen fuel for use in zero emission motor vehicles.
- (d) The division shall submit to the commission an electronic list that includes the name and identifying information of each taxpayer for which the division completed the verification described in Subsection (8)(c).
- (9) A 50% reduction in the tax rate is imposed upon the incremental production achieved from an enhanced recovery project.
- (10) The taxes imposed by this section are:
- (a) in addition to all other taxes provided by law; and

- (b) delinquent, unless otherwise deferred, on June 1 following the calendar year when the oil or gas is:
 - (i) produced; and
 - (ii)
 - (A) saved;
 - (B) sold; or
 - (C) transported from the field.
- (11) With respect to the tax imposed by this section on each owner of an interest in the production of oil or gas or in the proceeds of the production of oil or gas in the state, each owner is liable for the tax in proportion to the owner's interest in the production or in the proceeds of the production.
- (12) The tax imposed by this section shall be reported and paid by each producer that takes oil or gas in kind pursuant to an agreement on behalf of the producer and on behalf of each owner entitled to participate in the oil or gas sold by the producer or transported by the producer from the field where the oil or gas is produced.
- (13) Each producer shall deduct the tax imposed by this section from the amounts due to other owners for the production or the proceeds of the production.

Amended by Chapter 280, 2021 General Session

59-5-103.1 Valuation of oil or gas -- Deductions.

- (1)
 - (a) For purposes of the tax imposed under Section 59-5-102 and subject to Subsection (2), the value of oil or gas shall be determined at the first point closest to the well at which the fair market value for the oil or gas may be determined by:
 - (i) a sale pursuant to an arm's-length contract; or
 - (ii) for a sale other than a sale described in Subsection (1)(a)(i), comparison to other sales of oil or gas.
 - (b) For purposes of determining the fair market value of oil or gas under this Subsection (1), a person subject to a tax under Section 59-5-102 may deduct:
 - (i) all processing costs from the value of oil or gas, including processing costs attributable to the value of oil and gas that is exempt from taxation under Section 59-5-102; and
 - (ii) except as provided in Subsection (1)(c), all transportation costs from the value of oil or gas, including transportation costs attributable to the value of oil and gas that is exempt from taxation under Section 59-5-102.
 - (c) The deduction for transportation costs may not exceed 50% of the value of the oil or gas.
- (2) Subsection (1)(a)(ii) applies to a sale of oil or gas between:
 - (a) a parent company and a subsidiary company;
 - (b) companies wholly owned or partially owned by a common parent company; or
 - (c) companies otherwise affiliated.

Amended by Chapter 324, 2016 General Session

59-5-104 Statements filed -- Contents -- Falsification as perjury.

- (1)
 - (a) Every producer engaged in the production of oil or gas from any well or wells in the state shall file with the commission, on or before June 1 of each year, on forms furnished by the

commission, a statement containing the information required by Subsection (1)(b) relating to the oil or gas:

- (i) produced; and
- (ii)
 - (A) saved;
 - (B) sold; or
 - (C) transported from the field where the oil or gas was produced during the preceding calendar year.
- (b) The statement required in Subsection (1)(a) shall include:
 - (i) the name, description, and location of:
 - (A) every well or wells; and
 - (B) every field in which the well or wells are located;
 - (ii) the number of barrels of oil, the cubic feet of gas, and quantity of other hydrocarbon substances produced, including the percentage of production from lands held in trust by the United States for any federally recognized Indian tribe or its members;
 - (iii) the value of the oil or gas; and
 - (iv) any other reasonable and necessary information required by the commission.
- (2) The statements or reports required to be filed with the commission shall be signed and sworn to by the producer or a designee.
- (3) Any willful false swearing as to the purported material facts set out in this report constitutes the crime of perjury and shall be punished as such under Title 76, Utah Criminal Code.

Amended by Chapter 244, 2004 General Session

59-5-106 Interest and penalty -- Overpayments.

- (1) In case of any failure to make or file a return required by this chapter, the penalty provided in Section 59-1-401 and interest at the rate and in the manner prescribed in Section 59-1-402 shall be charged and added to the tax. The amount so added to any tax, whether as a penalty, interest, or both, shall be collected at the same time and in the same manner and as a part of the tax.
- (2) An overpayment of a tax imposed by this chapter shall accrue interest at the rate and in the manner prescribed in Section 59-1-402.

Amended by Chapter 1, 1993 Special Session 2

Amended by Chapter 1, 1993 Special Session 2

59-5-107 Date tax due -- Extensions -- Installment payments -- Penalty on delinquencies -- Audit.

- (1) Except as provided in Subsections (2) and (3), the tax imposed by this part is due and payable on or before June 1 of the year next succeeding the calendar year when the oil or gas is:
 - (a)
 - (i) produced;
 - (ii) saved; and
 - (iii) sold; or
 - (b) transported from the field where produced.
- (2)

- (a) Notwithstanding Subsection (1), the commission may, for good cause shown upon a written application by the taxpayer, extend the time of payment of the whole or any part of the tax for a period not to exceed six months.
 - (b) If the commission allows an extension under Subsection (2)(a), interest at the rate and in the manner prescribed in Section 59-1-402 shall be charged and added to the amount of the tax allowed the extension.
- (3)
- (a) A taxpayer subject to this part whose total tax obligation for the current calendar year will be \$3,000 or more shall pay the taxes assessed under this part in quarterly installments as provided in Subsections (3)(b) and (4).
 - (b) For purposes of Subsection (3)(a), each quarterly installment shall be based on the estimated gross value received by the taxpayer during the quarter preceding the date on which the installment is due.
- (4) For purposes of Subsection (3), the quarterly installments are due as follows:
- (a) for the quarter beginning on January 1 and ending on March 31, on or before June 1;
 - (b) for the quarter beginning on April 1 and ending on June 30, on or before September 1;
 - (c) for the quarter beginning on July 1 and ending on September 30, on or before December 1; and
 - (d) for the quarter beginning on October 1 and ending on December 31, on or before March 1 of the next year.
- (5)
- (a) Subject to Subsection (5)(b) and except as provided in Subsection (6), if the tax imposed by Section 59-5-102 is not paid when due or is underpaid, the taxpayer is subject to the penalty provided under Section 59-1-401.
 - (b) For purposes of Subsection (5)(a), an underpayment exists if less than 80% of the tax due for a quarter is paid.
- (6) Notwithstanding Subsection (5)(a), the penalty for failure to pay a tax due or for underpayment of a tax may not be assessed if the taxpayer's total quarterly tax installment payments equal 25% or more of the tax reported and paid by the taxpayer for the preceding calendar year.
- (7) The commission may not add interest to any quarterly installment subject to a penalty under this section.
- (8) The commission may conduct audits to determine whether any tax is owed under this part.

Amended by Chapter 274, 2003 General Session

59-5-108 Tax as lien on property or oil and gas production interests.

- (1) The severance tax imposed by this chapter, together with penalties and interest, is and shall remain a lien upon the owner's interest in the oil or gas well or rights in the well from which the oil or gas is extracted, until the tax is paid.
- (2) In the case of an owner who has no interest in the oil or gas well, but only in the proceeds of production from it, the lien is upon the oil or gas production rights or royalty interests in the well.

Amended by Chapter 4, 1988 General Session

59-5-109 Adjudicative proceedings for correction of amount of tax.

If any person feels aggrieved because of the amount of the severance tax determined by the commission, the person may file a request for agency action with the commission within 30 days

after notice is mailed to the person, requesting an adjudicative proceeding and the correction of the assessed tax.

Repealed and Re-enacted by Chapter 4, 1988 General Session

59-5-110 Decisions of commission.

Every decision of the commission shall be in writing and notice of the decision shall be mailed to the taxpayer within 10 days. All decisions become final upon the expiration of 30 days after notice has been mailed to the taxpayer, unless proceedings are taken within such time for a review in accordance with Title 63G, Chapter 4, Administrative Procedures Act, in which case it becomes final as specified in the Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session

59-5-111 Condition precedent to judicial review.

- (1) Before seeking judicial review, the taxpayer shall deposit with the commission the full amount of taxes, interest, and other charges audited and stated in the decision of the commission.
- (2)
 - (a) If the party appealing executes an undertaking meeting the requirements of Subsection (2)(b), the party is not required to pay the taxes, interest, and other charges as a condition precedent to obtaining judicial review.
 - (b) The taxpayer shall file an undertaking with the commission in the amount and with the surety approved by the commission.
 - (c) The undertaking shall provide that, if the appeal is dismissed or the decision of the commission is affirmed, the party appealing will pay all costs and charges that may accrue against the party in the prosecution of the case.
 - (d) At the option of the party appealing, the undertaking may be in a sum sufficient to cover the taxes, interest, and other charges, audited or stated in the decision, plus the costs or charges that may accrue against the party appealing in the prosecution of the case.

Repealed and Re-enacted by Chapter 4, 1988 General Session

59-5-114 Limitation of actions.

- (1)
 - (a) Except as provided in Subsections (1)(c) through (f), the commission shall assess the amount of taxes imposed under this part, and any penalties and interest, within six years after a taxpayer files a return.
 - (b) Except as provided in Subsections (1)(c) through (f), if the commission does not make an assessment under Subsection (1)(a) within six years, the commission may not commence a proceeding for the collection of the taxes after the expiration of the six-year period.
 - (c) Notwithstanding Subsections (1)(a) and (b), the commission may make an assessment or commence a proceeding to collect a tax at any time if a deficiency is due to:
 - (i) fraud; or
 - (ii) failure to file a return.
 - (d) Notwithstanding Subsections (1)(a) and (b), beginning on July 1, 1998, the commission may extend the period to make an assessment or to commence a proceeding to collect the tax under this part if:
 - (i) the six-year period under this Subsection (1) has not expired; and

- (ii) the commission and the taxpayer sign a written agreement:
 - (A) authorizing the extension; and
 - (B) providing for the length of the extension.
- (e) If the commission delays an audit at the request of a taxpayer, the commission may make an assessment as provided in Subsection (1)(f) if:
 - (i) the taxpayer subsequently refuses to agree to an extension request by the commission; and
 - (ii) the six-year period under this Subsection (1) expires before the commission completes the audit.
- (f) An assessment under Subsection (1)(e) shall be:
 - (i) for the time period for which the commission could not make an assessment because of the expiration of the six-year period; and
 - (ii) in an amount equal to the difference between:
 - (A) the commission's estimate of the amount of taxes the taxpayer would have been assessed for the time period described in Subsection (1)(f)(i); and
 - (B) the amount of taxes the taxpayer actually paid for the time period described in Subsection (1)(f)(i).
- (2)
 - (a) Except as provided in Subsection (2)(b), the commission may not make a credit or refund unless the taxpayer files a claim with the commission within six years of the date of overpayment.
 - (b) Notwithstanding Subsection (2)(a), beginning on July 1, 1998, the commission shall extend the period for a taxpayer to file a claim under Subsection (2)(a) if:
 - (i) the six-year period under Subsection (2)(a) has not expired; and
 - (ii) the commission and the taxpayer sign a written agreement:
 - (A) authorizing the extension; and
 - (B) providing for the length of the extension.

Amended by Chapter 299, 1998 General Session

59-5-115 Disposition of taxes collected -- Credit to General Fund.

- (1) As used in this section, "above-trend revenue" means the amount by which the actual revenue from the oil and gas severance tax deposited into the General Fund under Subsection (2) exceeds the long-term trend of oil and gas severance tax revenue to the General Fund as determined by the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget.
- (2) Except as provided in Section 51-9-305, 51-9-306, 51-9-307, 59-5-116, 59-5-119, or 59-5-121, a tax imposed and collected under Section 59-5-102 shall be paid to the commission, promptly remitted to the state treasurer, and credited to the General Fund.
- (3) The Division of Finance shall transfer above-trend revenue up to \$20 million from the General Fund into the Transportation Investment Fund each year beginning in the fiscal year beginning July 1, 2023, until the amount deposited into the Transportation Investment Fund totals \$88.5 million.

Amended by Chapter 446, 2023 General Session

Amended by Chapter 537, 2023 General Session

59-5-116 Disposition of certain taxes collected on Ute Indian land.

- (1) Except as provided in Subsection (2), there shall be deposited into the Uintah Basin Revitalization Fund established in Section 35A-8-1602:
 - (a) for taxes imposed under this part, 33% of the taxes collected on oil, gas, or other hydrocarbon substances produced from a well:
 - (i) for which production began on or before June 30, 1995; and
 - (ii) attributable to interests:
 - (A) held in trust by the United States for the Tribe and its members; or
 - (B) on lands identified in Pub. L. No. 440, 62 Stat. 72 (1948);
 - (b) for taxes imposed under this part, 80% of taxes collected on oil, gas, or other hydrocarbon substances produced from a well:
 - (i) for which production began on or after July 1, 1995; and
 - (ii) attributable to interests:
 - (A) held in trust by the United States for the Tribe and its members; or
 - (B) on lands identified in Pub. L. No. 440, 62 Stat. 72 (1948); and
 - (c) for taxes imposed under this part, 80% of taxes collected on oil, gas, or other hydrocarbon substances produced from a well:
 - (i) for which production began on or after January 1, 2001; and
 - (ii) attributable to interests on lands conveyed to the tribe under the Ute-Moab Land Restoration Act, Pub. L. No. 106-398, Sec. 3303.
- (2)
 - (a) The maximum amount deposited in the Uintah Basin Revitalization Fund may not exceed:
 - (i) \$3,000,000 in fiscal year 2005-06;
 - (ii) \$5,000,000 in fiscal year 2006-07;
 - (iii) \$6,000,000 in fiscal years 2007-08 and 2008-09; and
 - (iv) for fiscal years beginning with fiscal year 2009-10, the amount determined by the commission as described in Subsection (2)(b).
 - (b)
 - (i) The commission shall increase or decrease the dollar amount described in Subsection (2)(a)(iii) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2008; and
 - (ii) after making an increase or decrease under Subsection (2)(b)(i), round the dollar amount to the nearest whole dollar.
 - (c) For purposes of this Subsection (2), "consumer price index" is as described in Section 1(f)(4), Internal Revenue Code, and defined in Section (1)(f)(5), Internal Revenue Code.
 - (d) Any amounts in excess of the maximum described in Subsection (2)(a) shall be credited as provided in Sections 51-9-305, 51-9-306, 51-9-307, and 59-5-115.

Amended by Chapter 401, 2021 General Session

59-5-119 Disposition of certain taxes collected on Navajo Nation land located in Utah.

- (1) Except as provided in Subsection (2), there shall be deposited into the Navajo Revitalization Fund established in Section 35A-8-1704 for taxes imposed under this part beginning on July 1, 1997:
 - (a) 33% of the taxes collected on oil, gas, or other hydrocarbon substances produced from a well:
 - (i) for which production began on or before June 30, 1996; and
 - (ii) attributable to interests in Utah held in trust by the United States for the Navajo Nation and its members; and
 - (b) 80% of the taxes collected on oil, gas, or other hydrocarbon substances produced from a well:

- (i) for which production began on or after July 1, 1996; and
 - (ii) attributable to interests in Utah held in trust by the United States for the Navajo Nation and its members.
- (2)
- (a) The maximum amount deposited in the Navajo Revitalization Fund may not exceed:
 - (i) \$2,000,000 in fiscal year 2006-07; and
 - (ii) \$3,000,000 for fiscal years beginning with fiscal year 2007-08.
 - (b) Any amounts in excess of the maximum described in Subsection (2)(a) shall be credited as provided in Sections 51-9-305, 51-9-306, 51-9-307, and 59-5-115.

Amended by Chapter 401, 2021 General Session

59-5-120 Exemption.

Beginning on January 1, 2006, and ending on June 30, 2026, no severance tax required by this chapter is imposed on oil and gas produced, saved, sold, or transported if the oil or gas produced, saved, sold, or transported is derived from:

- (1) coal-to-liquids technology;
- (2) oil shale; or
- (3) oil sands.

Amended by Chapter 352, 2016 General Session

59-5-121 Severance tax revenue for aviation fuel incentive account.

- (1) As used in this section:
- (a) "Base revenue year" means the fiscal year designated by the port authority under Subsection (3).
 - (b) "Incentive account" means the same as that term is defined in Section 11-58-208.
 - (c) "Incremental revenue" means the amount that is calculated by subtracting the net severance revenue for the base revenue year from the net severance revenue for the applicable incremental revenue year.
 - (d) "Incremental revenue year" means any of the first 10 consecutive fiscal years immediately following the base revenue year.
 - (e) "Net severance revenue" means the amount of severance tax revenue collected during a fiscal year under Section 59-5-102, after deducting the amount of severance tax revenue required to be distributed under Sections 51-9-305, 51-9-306, 59-5-116, and 59-5-119.
 - (f) "Port authority" means the Utah Inland Port Authority created in Section 11-58-201.
- (2) Subject to Subsections (3) and (4), for each of the 10 consecutive fiscal years beginning the first incremental revenue year, the Division of Finance shall deposit incremental revenue into the incentive account.
- (3)
- (a) The port authority shall designate as the base revenue year the fiscal year that:
 - (i) begins on or after July 1, 2023; and
 - (ii) the port authority determines will precede the first fiscal year during which the effects of the aviation fuel incentive program under Section 11-58-208 on the amount of severance tax revenue under Section 59-5-102 are expected to begin to occur.
 - (b) No later than September 30 of the first incremental revenue year, the port authority shall provide written notification to the Division of Finance of the fiscal year that the port authority designates as the base revenue year.

- (4)
- (a) The Division of Finance may not deposit incremental revenue under Subsection (2) that exceeds \$1,000,000 per fiscal year.
 - (b) The maximum cumulative amount of incremental revenue that the Division of Finance may deposit into the incentive account is \$10,000,000.
 - (c) If the amount of incremental revenue for any incentive year is less than \$1,000,000, the Division of Finance shall deposit into the incentive account the amount of incremental revenue available.

Enacted by Chapter 537, 2023 General Session