FYI General 4

Severance Tax Information for Owners of any Interest in any Oil and Gas Produced in Colorado

WHAT IS THE COLORADO SEVERANCE TAX AND WHO MUST PAY IT?
Colorado severance tax is a tax imposed upon nonrenewable natural resources that are removed from the earth in Colorado. The tax is calculated on the gross income from "crude oil, natural gas, carbon dioxide, oil (including shale oil), and gas severed from the earth in this state. [§39-29-105, C.R.S.]

If you are a producer or own a working interest, or a royalty interest in any oil and gas (including carbon dioxide) produced in Colorado, or if you receive royalties on Colorado oil shale, you must pay severance tax to the State of Colorado. Severance tax is due on the gross income, so the tax might be due be due even though you do not realize a net profit on your investment.

Oil and gas production from "stripper wells" is exempt from severance tax. Stripper wells are wells that produce 15 barrels or less of crude oil per day or gas from a well that produces 90,000 cubic feet or less of gas per day, for the average of all producing days during the taxable year.

Exception - NEW
It is not necessary to file a severance tax return if you meet both of the following conditions:

1. the total gross oil and gas withholding on form(s) DR 21W for the calendar year is less than $250; and
2. the producer has withheld sufficient severance tax from your royalty or production payments to cover your severance tax liability.

WHAT FORMS ARE NEEDED TO PAY SEVERANCE TAX ON OIL AND GAS INCOME AND WHERE CAN THEY BE OBTAINED?
You must file a Colorado Severance Tax Oil and Gas Return (DR 0021) annually. The return and your payment are due on the 15th day of the fourth month after the close of the taxable year. For example, if your taxable year ends on Dec. 31, your severance tax return is due April 15 of the following year.

You must also complete a Colorado Oil and Gas Severance Tax Schedule (DR 0021D) and attach it to your severance tax return. For tax years beginning on or after January 1, 2007, oil and gas producers must also complete and attach the Detail Information for Producers Schedule (DR 21PD). If you need to amend your severance tax return, you must use the Amended Colorado Oil and Gas Severance Tax Return (DR 0021X).

HOW WILL I KNOW HOW MUCH HAS BEEN WITHHELD FROM MY OIL AND GAS INCOME PAYMENTS?
Producers or first purchasers who disburse funds must withhold 1% of the gross income owed to a person who has a working interest, royalty interest, production payment, or any other interest in such production. There is no withholding requirement for funds disbursed to an interest owner of oil shale production. This can include royalty, working interest or any other interest owner. [§39-29-111, C.R.S.]

The producer or first purchaser will send you an Oil and Gas Withholding Statement (DR 0021W), by March 1 of each year. This form lists your gross income on which you must calculate your severance tax and the amount the producer has withheld and paid to the state from your royalty or production payments. If you own an interest in more than one well or field, you should receive a separate withholding statement from each producer or first purchaser. A copy of each withholding statement must be attached to your severance tax return (DR 0021).

The producer or first purchaser also will list your share of “ad valorem” taxes, if any, on the withholding statement. Ad valorem taxes are paid by the producer to local governments (cities and counties). You are allowed to deduct 87.5% of your share of ad valorem taxes paid or assessed on actual oil or gas production (not the tax on facilities or equipment). However, ad valorem taxes paid on production from “stripper wells” should not be included in the credit. [§39-29-105, C.R.S.] Specific instructions for this deduction are on the Colorado Oil and Gas Severance Tax Schedule (DR 0021D).

In summary, calculate the amount of severance tax based on your share of gross income from production. Then deduct 87.5 percent of your share of any ad valorem taxes paid to local governments on production. Finally, deduct the amount withheld from your royalty or interest payments to determine whether you owe the State of Colorado additional severance tax or whether Colorado owes you a refund.

NONFILERS

If your severance tax account is open, or if you have severance income that is reported to the Colorado Department of Revenue and you do not file a return for the tax period, the Department may file a return on your behalf. See Exception above. Any severance tax assessed will remain due and payable until you file your return or close your account. If you are no longer doing business in the State of Colorado, you are required to close your account by filing an Account Change or Closure Form (DR 1102).

DO I ALSO HAVE TO PAY COLORADO STATE INCOME TAXES ON MY OIL AND GAS INCOME?

Yes. Severance tax is different from income tax. If you receive oil, gas or carbon dioxide income from Colorado sources you must also complete and file a Colorado state income tax return (Form 104). You may, however, claim a deduction for severance taxes paid on the Federal Schedule E, Supplemental Income and Loss. The deduction is accounted for in your federal taxable income, which is the basis of your Colorado income tax. The Colorado state income tax Form 104 is available on the Taxation Web site.

NOTE: A Colorado severance tax refund must be reported as income on your federal return if it was used as a deduction on the Schedule E for the previous tax year.
