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E. C. ANDERSON

Director

Circular 13

COMPILATION OF STATE TAX LAW RELATING TO MINERAL PROPERTIES
IN NEW MEXICO

By

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FOREWORD

The New Mexico Bureau of Mines and Mineral Resources has frequently been called upon for information regarding the State's tax laws relating to mineral properties. The requests have come principally from out-of-state persons or corporations that are interested in acquiring mineral interests within New Mexico.

In order to answer these inquiries accurately, we requested Mr. E. P. Ripley, Special Tax Attorney for the State Tax Commission, to make a compilation of all tax laws relating to this subject that appeared on the State statute books as of September 1946. To keep the compilation up to date, it is planned to issue supplements from time to time containing any new tax legislation pertaining to the mineral industry.

We hope this circular will serve the purpose for which it is intended. We wish to express our thanks to Mr. Ripley for his cooperation and for a job well done.

E. C. Anderson,
Director.

October 24, 1946

COMPILATION OF STATE TAX LAW RELATING TO MINERAL PROPERTIES IN NET MEXICO

By E. P. Ripley
Special Tax Attorney
State Tax Commission

The numerous inquiries received by the New Mexico School of Mines and the State Bureau of Mines and Mineral Resources have indicated the need for a compilation of the tax law relating to taxation of mineral properties within this State.

Broadly speaking, there are three classes of taxes levied on mineral properties: (1) Ad Valorem Taxes and Production Taxes; (2) Severance Taxes, and (3) Sales Taxes. Such division is followed and, in an effort to make this compilation of maximum benefit, the forms currently in use by both the Tax Commission and the Bureau of Revenue are appended. Decisions of the Supreme Court on the subject are also referred to. Although no attempt is made to cover court decisions in detail, their inclusion in abbreviated head-note form makes their full text readily available to interested persons. This compilation does not deal with corporate taxes nor the state income taxes.

Citations are to 1941 New Mexico Compilation in most instances. (Bobbs-Merrill Company, 1942.)

I

AD VALOREM AND PRODUCTION
TAXATION OF MINERAL PROPERTIES

A. Properties Other Than Oil

Assessment of mineral properties other than oil is made annually by the State Tax Commission under authority of Laws 1921, Ch. 133, Sec. 502.

"76-502. Assessment by Commission - At its regular meeting beginning on the first Monday in March of each year, the commission:

- (1) shall determine the actual value: ...
- (c) of mineral property in the state as hereafter defined, ..."

The method of valuing mineral property is set out in Laws 1921, Ch. 133, Sec. 502, as amended by Ch. 118, Sec. 1, Laws 1945.

"76-505. Method of Valuing Mineral Property - 1. "Mineral property" as used in this act shall mean and include all mineral property in this state, any interest therein, and any products thereof, and all improvements, equipment, materials, supplies, and personal property held or used in connection therewith, and the surface value of all mineral lands for grazing, timber, agricultural or other purposes when held in the same ownership as the mineral rights therein.

"2. Mineral property, any interest therein, and any products thereof, for the purposes of taxation, shall be divided into the three following classes:

Class One: Mineral lands held in fee in private ownership and mineral rights and interests therein.

Class Two: The severed mineral products from mineral lands held by possessory title under the laws of the United States.

Class Three: The severed mineral products from leasehold and contract mineral rights in lands, the fee of which is in the United States or the State of New Mexico.

"3. Mineral properties falling in Class One shall be subclassified into either productive or nonproductive.

Productive properties shall be such as are mined or operated in good faith for the mineral values therein, with a reasonable degree of continuity during the year for which the return, hereinafter required, is made and to an extent in keeping with the market demand and conditions affecting the extraction and disposition of the product.

Nonproductive properties shall be such as are known to contain minerals in commercially workable quantities, of such character as add present value to the land in addition to its value for other purposes, and are not operated so as to fall in the class of productive properties as above defined.

"4. The word "person" as used in this chapter shall mean and include any individual, corporation, copartnership, trust, or association of persons.

"5. Every person owning or holding any mineral property, subject to valuation by the commission, shall make a return to the commission on or before February 1st of each year, showing such facts and in such form as the commission may determine and prescribe.

In addition thereto, every owner or operator of any productive mineral property, and every owner or operator of any mineral property falling in classes Two and Three shall, between the first day of January and the first day of February in each year, make and forward to the commission at its office in Santa Fe, New Mexico, a sworn return or statement showing, in such form and detail as the commission shall prescribe, the total quantities and kinds of ores, metals, coal, coke, petroleum, natural gas, and other valuable minerals or metals produced and sold during, and on hand at the end of, the next preceding calendar year, together with the name and post-office address of the owner and operator, and such information as to the description, location and area of such mineral property and the cost of production, value and amount realized from such output, and such other facts as may be required by the commission. Every person engaged in mining or operating any such property shall keep and preserve at such mine, mineral property, or at the principal office of such person in this state, accurate books and accounts showing in such detail as may be prescribed by the commission, all facts relating to the quantities and kinds of minerals and metals produced, the cost of production, milling, reduction, treatment, transportation and sale thereof, the quantities sold, the amount realized therefrom and the quantities and value of such mineral and metal produced and not disposed of.

"6. From such returns and statements, and such other information as may be available, the commission shall ascertain and determine the market value of the average annual output of such productive mineral property, including any bonus or subsidy payments, less the actual cost of producing and bringing the output to the surface and of milling, treating, reducing, transporting and selling the same, over the period of five (5) years (or so much of such period

as the property has been in operation) next preceding the year in which such return is required to be made. Provided, however, that any person may elect to have his output valuation computed on an annual basis instead of on a five-year average basis. If such election is exercised, such person may not change from the one-year basis except with the approval of the commission.

But there shall not be included as part of such cost any amounts paid for salaries of any persons not actually engaged in the operation of such property or the milling, treatment, reduction, transportation, or selling such output, or in the immediate management or superintendence of such operations; nor shall there be included as part of such cost any amounts paid for improvements or the purchase of machinery, equipment, appliances, or for construction of mills, reduction works, transportation facilities or other buildings or structures.'

"7. The commission shall determine a reasonable quantity or area of reserves of ores or minerals in lands owned or held by each person operating a productive property, to be operated by the same works, based upon the estimated life of such mine or mineral property, its average annual production, the market demand for the output, and other conditions surrounding such property, and shall allocate such reserves to each productive mineral property.

"8. For the purpose of the exercise of the option hereinafter provided for, as to the method of determining the ad valorem value of productive properties, such properties are hereby divided into the following two classes:

1. Gas and oil wells,
2. All other properties.

The commission shall, between the date when this act takes effect and the third Monday in February, 1922, cause an appraisal of the productive mineral properties falling within class 2 of this subsection, for the purpose of comparison with the result of using the output method mentioned in subsection 10 hereof. The data, facts, and figures gathered by the commission in making the above appraisal shall be a public record open to inspection at all reasonable times.

"9. The commission may, in any particular year, determine the ad valorem value of the mineral in all productive mineral properties falling in any one of two classes enumerated in subsection 2 hereof, with the respective allocated reserves, by appraisal thereof. In such case the commission shall use all factors and elements which reasonably enter in and are necessary to determine such value, and the commission shall make specific findings of facts in writing, setting out in detail the factors, elements and method of calculation used in determining the value of each specific productive mineral property. Such findings shall be preserved in the official records of the commission and certified copies thereof shall be furnished to the taxpayer on request.

"10. The commission may, in any particular year, determine such average annual output value, being the market value of such average annual output, including any bonus or subsidy payments, less the deductions provided for in subsection 6 hereof, to be the ad valorem value of the mineral in all productive mineral properties, and the respective reserves allocated thereto, falling in any one of the two classes enumerated in subsection 8 hereof for the purpose of taxation for such year.

"11. The commission shall determine the ad valorem value of mineral in nonproductive mineral property by appraisal thereof. In determining the value of such properties the commission shall take into consideration the distance from railroad, the condition for extracting and disposing of the minerals and the probable length of time before transportation facilities and market demand will warrant production and sale thereof.

"12. The commission shall, in each year, determine the average annual output value, being the market value of such average annual output, including any bonus or subsidy payments, less the deductions provided for in subsection 6 hereof, to be taxable value of such year of all properties falling in classes (2) and (3) enumerated in subsection (2) hereof. In calculating the average annual output value of the severed product falling in class 3, the commission shall first deduct from the gross product any royalties belonging to the state or United States.

"13. In case any productive mineral property shall, for the period for which market value of average annual output, including any bonus or subsidy payments, is being calculated in a given year, fail to produce an average annual output of a value above actual cost, as defined in this act, commensurate with the opportunities and difficulty of producing and disposing of the same, the commission may, in its discretion, determine the taxable valuation of such property for the taxing year on the same basis as for nonproductive property.

"14. All improvements, equipment, materials, supplies and personal property held or used in connection with, and the surface value for grazing, timber, agricultural or other purposes, when held in the same ownership as the mineral rights, of all mineral property falling within class 1 enumerated in subsection (2) hereof shall be valued and assessed by an appraisal thereof in addition to the valuation of the mineral therein.

"15. All improvements, equipment, materials, supplies and personal property held or used in connection with all mineral property falling within classes numbered two and three enumerated in subsection (2) hereof shall be valued and assessed by the commission by an appraisal thereof in addition to the values provided to be determined in subsection 12 hereof.

"16. The taxes upon mineral property, other than upon classes two and three as defined in subsection (2) hereof are hereby made a lien upon such mineral property, from the first day of January of the year in which the same are levied and assessed.

In case of a mining claim not patented or entered for patent, such lien shall be upon the right of possession and the improvements, and if such mining claim be sold for taxes, such sale shall pass to the purchaser the title and right of possession, together with the improvements.

In any case where the minerals or mineral rights in land belong to a person or persons other than the owner of the land, taxes upon such minerals or mineral rights shall not be a lien upon the separately owned land, and taxes upon such separately owned land shall not be a lien upon the separately owned mineral or mineral rights."

The foregoing section covers ad valorem and production taxation of mineral properties other than oil. Forms M-1 to M-14 currently in use for making the reports called for in this section are appended. As a practical matter the Tax Commission prefers to assess productive mineral properties under the provisions of Sub-Section 10 rather than by appraisal as provided for in Sub-Section 9.

Non-productive mineral properties other than oil are assessed under the provisions of Sub-Section 11 at a nominal valuation because of the practical difficulties involved in attempting actual appraisals of such properties. Property used in connection with producing oil wells is properly assessable under this section. See State ex rel. Attorney General vs. State Tax Commission 40 N.M. 299, 58 Pac (2) 1204.

B. Oil Properties

Assessment of producing Oil Properties is made pursuant to the provisions of Laws 1925, Ch. 83, to the following effect:

'76-1001. Owner or operator of producing well--Report to tax commission required - Every owner or operator of any oil well or gas well that shall have produced oil or gas during any three (3) months period, as hereinafter specified, shall on or before the tenth day of February, May, August and November of each year make and forward to the state tax commission a verified return in such form as said commission shall prescribe and covering the operations of each oil well and gas well during the three (3) months' period expiring on the last day of January, April, July and October, stating the name and address of such owner or operator, the location and description of the property, the total quantities of oil and gas produced during and on hand at the end of each of such periods, the current market value of such oil or gas at the place of production, any royalty paid or due on account of such production and to whom payable, and such other facts as may be required by the commission. The commission shall have all powers given it by existing law to enforce the making of such reports or to ascertain the facts relative thereto."

"76-1002. Tax commission to determine net value and certify to county assessor - From such return and such other information as may be available, the commission shall determine the net value of such quarterly output, being the market value thereof at such well, less any royalties on such quarterly output paid or owing the United States, or to any Indian tribe or Indian, being wards of the United States, or the state of New Mexico, less a further deduction of fifty (50) per cent as allowance for production costs and amortization, and said commission shall certify such net value to the assessor of the county in which such well is located as the taxable valuation of the output of such well."

"76-1003. Assessment - Within five (5) days after the receipt of such certificate, the assessor shall enter such valuation upon a special tax roll and assess and extend the taxes thereon at the rates levied and assessed upon the last tax filed with the county treasurer upon other property in the county and district in which such well is located, and deliver such tax roll to the county treasurer, and forward a copy thereof to the state tax commission."

"76-1004. Notice of taxes - When delinquent - Interest and penalties-Collection. - Immediately upon the receipt of such tax roll, the county treasurer shall send by registered letter to the owner or operator at the address stated in said return, a notice giving the amount of such taxes and that the same are due and payable. If said taxes be not paid within thirty (30) days from the date of such notice, such taxes shall become delinquent at the expiration of such period and shall thereafter bear interest at the same rate and be subject to the same penalties as delinquent taxes upon real and personal property and shall be collected in the manner provided by law for the collection of such delinquent taxes.

"76-1005. Distribution of taxes collected - Taxes in lieu of all others. - Taxes so collected shall be distributed in proportion to the various levies applicable to the district in which said oil or gas well is located. The tax provided herein shall be in lieu of all other taxes on such oil wells or gas wells or on their production."

"76-1006. Returns - Application of Tax. - The first return required for the year 1925 shall be made on or before the tenth day of August, 1925, and shall cover the period from January 1, 1925, to July 1, 1925, and thereafter returns shall be made quarterly as above specified. Taxes on the output of such oil wells or gas wells for the period up to December 31, 1924, shall be covered by existing laws and not in any manner affected by this act, and the equipment belonging to such owner or operator used in the operation of such well."

Forms currently in use in making the reports called for by Ch. 76-1001 are appended hereto.

It is to be noted that the foregoing sections make no provision for taxation property and equipment used in operating oil wells. This section provides for a production tax on the oil itself. The property and equipment used in connection therewith are taxable separately under the provisions of Laws 1921, Ch. 133, as amended (supra.). See State ex rel. Attorney General vs. State Tax Commission 40 N. M. 299, 58 Pac (2) 1204.

C. Oil Conservation Tax

In addition to the foregoing conservation tax of 1/8% is assessed against the proceeds of all oil and gas produced. This tax is levied and collected under authority of Laws 1935, Ch. 72, Sec. 25, to the following effects

"69-231. Tax on oil and gas production--Use of proceeds--
Employees of commission - There is hereby levied a tax of one-eighth of one per cent on the proceeds of all oil and gas produced in this state, except royalties payable to the United States or to this state. Such tax shall be reported and collected at the same time and in the same manner as the emergency school tax now, or hereafter provided by law, is returned and collected. Such tax when collected shall be paid to the state treasurer and by him covered into a fund designated as the oil conservation fund. Such fund, or so much thereof as may be necessary, is hereby appropriated to the oil conservation commission to be by it expended in the enforcement of this act (69-202 - 69-217, 69-219 - 69-232). The Commission is hereby authorized, within the limits of the fund available, to employ a secretary and such other employees and agents as may be necessary to enforce the provisions of this act (69-202-69-217, 69-219 - 69-232.)"

Since this tax is by its terms collected at the same time and in the same manner as the School or Sales Tax , the Form used in connection therewith will be referred to under the School Tax Division hereof.

D. Non-Producing Oil Properties

The question has been raised as to assessment of severed non-productive oil properties. These have been held to be taxable where they have an actual as distinguished from a purely speculative value. Assessment of such properties is usually made by the different county assessors apparently upon the assumption that the provisions of Laws 1921, Ch. 133, Sec. 502, do not apply to non-productive oil properties. In connection with the assessment of such properties see Sims vs. Vosburg 45 N.M. 255, 91 Pac (2) 434.

II

SEVERANCE TAX ON MINERAL PROPERTIES

Subsequent to March 1, 1937, oil, gas, coal, copper, gold, lead, silver, stone, asphalt, zinc, potash and timber severed from the soil have been subject to a severance tax. This tax is assessed and collected under the provisions of Laws 1937, Ch. 103, to the following effect:

"76-1301. Taxes levied on natural resource products--Lien tax - For the year 1937, commencing Larch 1, 1937, and for each subsequent year, taxes are hereby levied on the following natural resource products: Oil, gas, coal, copper, gold, lead, silver, stone, asphalt, zinc, potash, and timber severed from the soil of this state.

Such taxes shall be paid by the owner or proportionately by the owners thereof at the time of severance, and shall become due and payable monthly as herein provided, and shall operate as a first lien on all such products, which lien shall follow such products into the hands of third persons, whether in good or bad faith, and whether same shall be found in a manufactured or unmanufactured state."

"76-1302. Tax on value at severance--Rates - Taxes as levied by section 1 (76-1301) of this act shall be predicated upon the value of such products severed and saved from the soil of this state and shall be paid at the following rates:

On oil	2%
On natural gas	2%
On coal	1/8 of 1%
On gold	1/8 of 1%
On lead	1/8 of 1%
On stone	1/8 of 1%
On timber	1/8 of 1%
On zinc	1/8 of 1%
On silver	1/8 of 1%
On copper	1/8 of 1%
On potash	1%
On asphalt	1/8 of 1%

The value of all such production shall be computed as of the time when and the place where the same have been severed or taken from the soil immediately after such severance."

"76-1303. When due and payable--Filing return--Contents-- Deduction-- Extension - All taxes levied hereunder shall be due and payable in monthly installments on or before the 15th day of the month next succeeding the month in which said products were severed or taken from the soil of this state. The taxpayer on or before the 15th day of the month next succeeding the month in which the tax accrues shall make out and file with the bureau of revenue a return for the preceding month in such form as may be prescribed by the said bureau, showing the business conducted by the taxpayer during the preceding month showing the kind and gross quantity and value of said products so severed, the names of the owner or owners at the time of severance, the portion owned by each, the location of each place or places where the same were severed from the soil, and such other information as the commissioner of revenue may require.

The commissioner of revenue may, in his discretion, require the first purchaser of said products to pay the tax hereunder, rather than the owner, or said commissioner may grant permission for the tax to be paid by the first purchaser of said products rather than by the owner thereof.

The taxpayer shall accompany the return with a remittance of the amount of the tax due. In computing the amount of said tax there shall be deducted from the gross value of said products, the value of said products due or paid to the United States of America or the state of New Mexico, as the case may be, for and as rental or royalty payments.

The commissioner of revenue, if he deems it necessary in order to insure the payment of any tax imposed by this act, (76-1301 - 76-1325), may require returns and the payment of the tax to be made for other than monthly periods.

The commissioner of revenue for good cause may extend not to exceed thirty (30) days the time for making any return required under the provisions of this act (76-1301 - 76-1325), and may by general order extend the time for making returns for any class of products subject to taxation hereunder."

"76-1304. Collection--Creation of severance tax administrative fund--Appropriation - All taxes levied under this act (76-1301 - 76-1325) shall be collected by the bureau of revenue of the state of New Mexico and by it paid over to the state treasurer immediately after receiving same. The state treasurer shall cover all such taxes into the general funds of the state treasury, after deducting three per centum (3%) of the amount thereof for administrative purposes, which shall be placed by the state treasurer in the severance tax administrative fund hereby created. There is hereby appropriated an amount equal to three per centum (3%) of all moneys collected under this act (76-1301 - 76-1325), or so much thereof as may be necessary for the enforcement of this act, the same to be expended only with the approval of the state board of finance."

"76-1305. Security may be required--Sale--Return of surplus - The bureau of revenue, whenever it deems it necessary to insure compliance with the provisions of this act (76-1301 - 76-1325), may require any person subject to tax hereunder to deposit with it such security as the commissioner of revenue may determine. The same may be sold by the bureau of revenue at public sale if it becomes necessary to do so, in order to recover any tax, interest, or penalty due. Notice of such sale shall be made by publication once a week for two (2) successive weeks in some newspaper published at the city of Santa Fe, and shall be served upon the person who deposited such securities personally or by mail addressed to such person at his address as the same appears upon the records of the said bureau. Upon any such sale the surplus, if any, above the amounts due under this act (76-1301 - 76-1325), and the cost of advertising and making the sale, shall be returned to the persons who deposited the security."

"76-1306. Payments and returns must be by those actually engaged in severing - Except as otherwise provided in this act (76-1301 - 76-1325), the making of the reports required herein and the payment of said taxes shall be by those actually engaged in the operation of severing, whether it be the owner of the soil or another severing from the soil of another, or the owner of any of said products severing the same from the soil of another.

The reporting taxpayer shall collect and withhold out of the value of said products so severed, the proportionate parts of the total tax due by the respective owners of the severed products at the time of severance."

"76-1307. Deducting amount of tax by person severing - Every person actually engaged in the severing of any of said products mentioned herein from the soil or actually operating the properties from which said products are severed under contracts or agreements requiring royalty interest, excess royalty, or working interest, either in money or in kind, is hereby authorized, empowered, and required to deduct from any amount due or from anything due, the amount of tax herein levied before making such payments; Provided, however, no such deductions shall be made from any amount or amounts due the United States of America or the state of New Mexico as royalty or rental payments."

"76-1308. Deducting amount of tax by purchaser - When any person actually engaged in severing said products from the soil under contracts or agreements requiring payments direct to any owner of the proportionate share of such products, as set out in preceding section, shall sell such products to any person under contracts or agreements requiring such purchasers to pay all owners of said products direct, then the person actually severing such products from the soil or actually operating the properties from which said products are severed, may not be required to deduct the tax herein levied, but in such event such deductions shall be made by the purchaser before making payments to each owner of such products; Provided, that nothing herein shall be construed as releasing the person severing the products from liability for the payment of said taxes."

"76-1309. Deductions by purchasers--Filing reports--Payment of tax deducted - Every person purchasing said products severed from the soil under contracts or agreements requiring such purchasers to make payments direct to the owners of said products is hereby authorized, empowered, and required, to deduct from any amount due any owner of such products the amount of the tax levied by the provisions of this act (76-1301 - 76-1325) before making such payments.

All persons required to deduct from amounts due to others the tax herein levied shall file with the bureau of revenue the reports herein required and shall at the same time pay to said bureau the amount of the tax so deducted or withheld under the provisions of this act (76-1301 - 76-1325); Provided, that nothing herein shall be construed as releasing the person severing the products from the liability of payment of said taxes."

"76-1310. Withholding payments--Deducting tax from gross amount - Whenever the title to any said products is in dispute or whenever any person, either the purchaser of such products or the person engaged in the severance of such products or operating the properties from which said products are severed, shall be withholding payments on account of litigation or for any other reason, such purchaser or person is hereby authorized, empowered, and required to deduct from the gross amount thus held the amount of the tax herein levied, and to make remittance thereof to the bureau of revenue as hereinbefore provided."

"76-1311. Owners proportionately responsible--Filing statement of amount due--Lien - The owners of said products severed from the soil are hereby made proportionately responsible for the payment of the tax herein levied, and if the reports provided for herein are not made and the tax due on such products is not paid by the purchaser thereof or by the person actually engaged in severing such products from the soil or operating the properties from which said products are severed, then the commissioner of revenue shall make from any information in his possession and cause to be recorded in the mortgage records of the county where such products are severed from the soil, a statement under oath showing the proportionate amount of the tax due by each said owner of the product severed from the soil, which statement, when filed for record, shall operate as a first lien and mortgage on all property from which said natural products were severed and on all property of the affected tax debtors as the case may be, and said property shall be subject to distraint and sale for the payment of the taxes due; Provided, nothing herein shall be construed as waiving or releasing the lien upon such products severed wherever same may be found."

"76-1312. Notice of recording of statement--Return--Payment-Distraint and sale on nonpayment - Whenever the commissioner of revenue shall have caused the statement provided for in the preceding section to be recorded, he shall give notice to the taxpayer by registered mail of the recording of such statement. The said taxpayer may thereafter within thirty (30) days make a correct return of the amount of tax due and pay the same together with interest as provided in this act (76-1301 - 76-1325). If no return is made thereon within said thirty (30) days and the amount of the tax determined by the commissioner to be due together with any interest is not paid within said period, the sheriff of the county wherein said products were severed shall forthwith distraint and sell for the payment of such taxes and interest any property belonging to the tax debtor or debtors, as provided above, which may be found within the county of said sheriff."

"76-1313. Distraint and sale of property for enforcement -The sheriff of any county, when ordered by the bureau of revenue, is hereby required to distraint and sell any property, assets, and effects belonging to any person owing the tax herein levied, after recordation of the statement required in this act (76-1301 - 76-1325), and after the notice required herein has been given; and all such distraint and sales shall be controlled and governed by the laws of the state respecting distraint and sale of personal property for the enforcement of collection of taxes, and penalties shall be imposed and collected as prescribed herein."

"76-1314. Properties subject to distraint and sale--Priorify - All leases, interests, including royalty interests, contracts, and rights of any kind to the ownership of any of the said products severed from the soil, and all and every kind of right of ownership in the properties from which same are severed, are hereby declared to be subject to distraint and sale for the payment of the tax herein levied, in preference and prior to all other claims and liens."

"76-1315. Delinquency--Interest--Relation to other taxes - The tax provided by this act (76-1301-76-1325) shall be and become delinquent after the date fixed for making payment as herein provided, and from such time shall be subject to interest for such delinquency at 1% of the tax per month until paid.

The payment of the severance tax levied by this act (761301 - 76-1325) shall be in addition to and shall not affect the liability of the party or parties so taxed for the payment of all state, county, municipal, district and special taxes levied upon their real estate and other corporeal property, including the emergency school tax, production, and other special taxes. No severance tax shall be levied by any county or other political subdivision of the state."

"76-1316. Securing additional information--Subpoenas--Examining documents--Correction of returns - The commissioner of revenue shall have the power to require any person engaged in severing said products from the soil, to furnish any additional information by him deemed necessary for the purpose of computing the amount of such tax and for said purpose to examine the books, records, and files of any such person, and to that end may require all wells and pipe-lines producing oil and natural gas taxed herein to be properly measured. The bureau of revenue shall have the further power in carrying out its duties in the administration of this act (76-1301-76-1325) to subpoena and examine witnesses, and if such witnesses shall fail or refuse to appear at the request of the commissioner of revenue or other person designated by him, or refuse access to the books, records, and files, the commissioner of revenue shall certify the facts and the name or names of the witness or witnesses so failing or refusing to appear or refusing access to the books or papers, to the

district court within and for the proper county, and the said court shall thereupon issue a summons to the said party to appear before the said bureau of revenue at a place designated within the jurisdiction of said court on a day fixed, and give such evidence and open for inspection such books, records, and files, as may be required, and failure or refusal to obey the summons as aforesaid shall by said court be punished as a contempt of said court. And whenever it shall appear to the commissioner of revenue that any such person has made an untrue or incorrect return, as hereinabove provided, said commissioner shall correct such return and compute the tax on same and shall take the steps required by law to collect such tax."

"76-1317. False oath—Penalty - Any person who shall intentionally make any false oath to any return or report required by this act (76-1301 - 76-1325) shall be deemed guilty of perjury and shall be subject to all the penalties prescribed for said crime."

"76-7318. Statements showing names of vendors and quantity required - It is hereby made the duty of all purchasers and others dealing in any said products severed from the soil of this state to file monthly with the bureau of revenue, a statement, under oath, showing the names and addresses of all persons from whom said purchaser or dealer has purchased any of said products in its natural state severed from the soil of this state during the preceding month, together with the total quantity of each such product purchased. Said reports shall be filed within fifteen (15) days after the expiration of each month and shall be upon such forms as prescribed by said bureau of revenue."

"76-1319. Bureau of revenue to enforce collection - It is hereby made the duty of the bureau of revenue to supervise and enforce collection of all taxes that may be due under the provisions of this act (76-1301 - 76-1325), and to that end the bureau of revenue is hereby vested with all power and authority conferred by this act (76-1301 - 76-1325)."

"76-1320. Penalties prescribed - Any person failing or refusing to make the reports as required by this act (76-1301 - 76-1325) and remaining in default thereof for more than thirty (30) days after notice to him by the commissioner of revenue, or failing to comply with any other requirement in this act (76-1301 - 76-1325) contained, shall be subject to a penalty of not less than five hundred (\$500) dollars nor more than fifteen hundred (\$1500) dollars payable to the state of New Mexico, and such penalty shall accrue for each ten (10) days failure to comply with this act (76-1301 - 76-1325), and such penalty shall accrue for failure to comply with this act with reference to each separate oil or gas well, mines or mineral operation, or timber operation."

"76-1321. Reports of amounts handled - Every corporation, association, person, commons carrier, or pipe-line company who shall receive or purchase or transport any of said products shall make reports in the form and manner required by the bureau of revenue, showing the total amount of such products received, purchased, stored or transported during any prescribed period, and such other information as may be required by the commissioner."

"76-1322. Terms defined - The word "oil" as used in this law (76-1301 - 76-1325) means petroleum oil, mineral oil, or other oil taken from the earth, and the words "natural gas" mean any gas taken from the earth, including carbon dioxide gas. The word "severed" as used in this act (76-1301 - 76-1325) shall be construed to mean the taking from the soil any of the products mentioned herein in any manner whatsoever, and shall include the cutting of timber. The term "owner" when used in connection with the severing of any of the natural resource products covered by this act (76-1301 - 76-1325) under any lease or contract with the state or United States, shall include any person having the right to sever such products."

"76-1323. Production may be restrained during delinquency. -Upon complaint being filed under the direction of the attorney general in the district court for the county in which said natural products are located, the said court shall have the power to restrain by injunction, any person from continuing to produce said products while delinquent in the filing of any report or the paying of any tax, penalty or cost required under the provisions of this act.

"76-1321. "Person" defined - The word "person" as used in this act (76-1301 - 76-1325) shall include any person, firm, concern, receiver, receivers, trustee, executor, administrator, agent, institution, association, partnership, company, corporations and persons acting under declarations of trust."

"76-1325. Receipts - Any person paying any tax, penalty or cost under the provisions of this act (76-1301 - 76-1325), shall be entitled to a receipt for the same, showing the time of payment and the purpose for which paid."

"76-1326. Installing measuring devices on pipe-lines - The commissioner of revenue is hereby empowered to install meters, gauges, or other measuring devices on any or all pipe-lines through which oil or gas is transported from points within this state and destined to points without this state whenever in his discretion such installation is advisable or necessary for the best interests of the state or any department thereof."

Oil and Gas Form No. 2 currently in use by the Bureau of Revenue in making the returns called for by Ch. 76-1303 is appended hereto. For convenience this form has been consolidated with School or Privilege Tax Form. See "Instructions" on Oil and Gas Form No. 2.

Severance taxes upon oil and gas have been held to be constitutional and excise taxes as distinguished from property taxes required to be in proportion to the value of the property taxed. In this connection see *Flynn, Welch and Yates, Inc. vs. State Tax Commission* 35 N.M. 131 25 Pac (2) 889 in which Laws 1933, Ch. 76, was under consideration by the court.

III

SALES OR PRIVILEGE TAX ON PRODUCTIVE MINERAL PROPERTIES

Since 1935 a sales or privilege tax has been collected on the gross receipts of operating mine and oil enterprises. This tax, commonly referred to as the Emergency School Tax, is not set out in full because of its length.

Sections deemed relevant to mineral operations follow:

"76-1404. Privilege taxes levied--Measured by amount of business- There is hereby levied, and shall be collected by the bureau of revenue, privilege taxes, measured by the amount or volume of business done, against the persons, on account of their business activities, engaging or continuing, within the state of New Mexico, in any business as herein defined, and in the amounts determined by the application of rates against gross receipts, as follows:

A. At the amount equal to the percentages hereinafter in this paragraph specified, of the gross receipts of the business of every person engaging or continuing in the business of mining, quarrying or extracting from the natural resources of this state, for sale, profit or commercial use, any oil, natural gas, carbon dioxide gas, potash, copper, gold, silver, limestone, sand, gravel, or other metalliferous or non-metalliferous mineral products or combination, or compound of mineral products, or felling or producing timber for sale, profit or commercial use; providing that coal shall not be subject to the provisions of this paragraph (A).

Upon oil, natural gas, carbon dioxide gas and potash, at the rate of two (2) per cent of the gross receipts, and upon all other businesses specified in this paragraph, at the rate of one-half of one percent of the gross receipts.

The measure of the tax imposed by this paragraph is the value of the entire production in this state, regardless of the place of sale or the fact that delivery may be made to points outside of the state.

Any person engaging or continuing in any of the businesses taxed by this paragraph (A) who shall refine, smelt, reduce, compound, manufacture or otherwise prepare for sale or use as manufactured or partly manufactured products, any minerals, timber or other natural resource products so that the character or condition thereof is materially changed, in mills or plants located in this state and taxable under paragraph (B) of this section shall not be required to pay the tax levied by this paragraph (A), on account of the production of such minerals, timber or other natural resource products, where the value of such products is included in the measure of the tax levied upon and collected from the taxpayer under paragraph (B) of this section; but such person may be required by the bureau of revenue to make reports to it covering his business. Any person engaging or continuing in any of the businesses taxed by this paragraph (A) who shall sell such minerals, timber or other natural resource products to a person engaged in the business of refining, smelting, reducing, compounding, manufacturing or otherwise preparing for sale or use as manufactured or partly manufactured products, such minerals, timber, or other natural resource products, so that the character or condition thereof is materially changed, in mills or plants located in this state, and taxable under paragraph (B) of this section, shall not be required to include in the amount of tax imposed by this section any gross receipts derived from such sales of minerals, timber or other natural resource products to such persons; but such persons must make report on forms to be prescribed by the bureau of revenue showing the gross receipts of such sales and the person to whom such products were sold.

Any person engaging or continuing in any business taxable under any other paragraph in this section, or any other section of this act, who produced minerals, timber or other natural resource products, the production of which is taxable under this paragraph (A), and who uses or consumes same in his business, so that the gross receipts of such business does not include the value of such natural resource product so used or consumed, shall be deemed to be engaged in the business of mining and producing minerals, timber, or other natural resource products for sale, profit, or commercial use, and shall be required to make returns on account of the production of such minerals, timber or natural resource products, so used or consumed, and to pay the tax imposed by this paragraph (A) for the privilege of engaging in the business of producing such natural resource products, and such tax shall be measured by the value of the product thus produced determined under uniform and equitable rules for ascertaining such value, to be prescribed by the bureau of revenue.

Where any person conducts a business taxable under this paragraph (A) under any lease, or other contract express or implied, whereby any royalty or similar interest of any nature,

whether payable in cash or in kind, is held or owned by another, any holder or owner of such royalty or other similar interest, shall, for the purpose of this act, be considered as also engaged in the business of producing the mineral, timber or other natural resource product involved, and shall be taxable under this act. If the royalty, or other similar interest, is paid in cash by the person conducting the business of extracting the minerals or other natural resource product, such person shall pay the tax on such royalty or other similar interest, and shall deduct the amount thereof from the payments due on account of such royalty or other similar interest, and shall be allowed by the owner thereof credit for all such payments. If the royalty or other similar interest is paid by the delivery of a part of the mineral or other natural resource product to another, the tax on such royalty or other similar interest shall be paid by the person conducting the business of extracting any minerals or other natural resource product, and such person shall have a first and prior lien on any future production on account of such royalty or similar interest, for all amounts so paid, and shall have the right to reimburse himself out of any such future production for the amounts so paid, and such right shall not be defeated by any transfer of such royalty or other similar interest.

The tax hereby imposed on the owner or holder of any royalty or other similar interest shall be the personal obligation of the owner or holder of such interest, and if the tax is not paid by the producer, as herein provided, it may be enforced against such owner or holder, and shall become a lien on the royalty or other similar interest, as hereinafter provided. Royalties or rentals paid the United States or the state of New Mexico shall be deducted from the gross receipts of the business, and shall not be subject to the tax hereby imposed. Royalties payable to any Indian or Indian tribe shall be taxable hereunder to the extent authorized by Congress, and any person engaged in any business taxable under this paragraph (A) upon any Indian land shall report to the bureau of revenue the amount of any such royalties, and the bureau of revenue shall collect from the department of the interior of the United States the amount of the tax imposed by this paragraph (A) on such royalty interest. Nothing herein contained shall be construed as imposing any lien on the royalty interest of any such Indian or Indian tribe.

Every person conducting the business of extracting the minerals, timber or other natural resource products shall report on forms prescribed by the bureau of revenue, the amount of any natural resource product produced and the amount of taxes due thereon, including all royalty and similar interest. The bureau of revenue may require any purchaser of minerals, timber or natural resource products produced in this state to make a report of all

such purchases on forms to be prescribed by it, and to pay the tax on such products, and may accept such reports as showing the amounts due from the owner or holder of any interest in the product so produced. If any such purchaser pays any tax imposed hereby, he shall have the right to deduct it from the amount due the owner or holder of taxable interest in any mineral, timber or natural resource product.

B. At an amount equal to one-fourth of one per cent of the gross receipts of the business of every person engaging or continuing in each or any or all of the businesses of manufacturing, smelting, refining, reducing, processing, compounding, fabricating, packing, preserving, distilling, preparing for sale or commercial use, or the making of wares, commodities or material products by hand or machinery, including the generation of electricity; provided that the tax provided by this paragraph shall be at the rate of one-half of one per cent of the gross receipts of the business of every person engaging or continuing in the business of smelting, leaching, refining, reducing, or processing oil, natural gas, carbon dioxide gas, potash, copper, gold, silver, limestone, sand, gravel or other metalliferous or non-metalliferous products or combinations, or compound of mineral products.

The measure of the tax imposed by this paragraph is the value of the entire production in this state, regardless of the place of sale or the fact that delivery may be made to points outside of the state.

C. At an amount equal to one-eighth of one per cent of the gross receipts of the business of every person engaged in the business of wholesale merchandising of any goods, wares, materials and commodities, including the sale of alcohol and alcoholic liquors and beverages, and electricity, to others for resale.

D. At an amount equal to two (2) per cent of the gross receipts of the business of every person engaging or continuing in the business of selling at retail of goods, wares, materials, equipment, machinery, and commodities, including alcohol and all alcoholic liquors and beverages, for consumption and not for resale, and including receipts from rentals or leasing of tangible personal property; provided that the gross receipts of all live stock, feeds for live stock or poultry; all seeds, roots, bulbs and plants; all fertilizer applied to land; all agricultural implements, not including tractors used in planting, cultivating, harvesting or processing agricultural products upon the ranch or farm where grown shall be deductible before computing the tax due under this section; and provided that sales of coal in car-load lots shall, for the purposes of this act, be considered as wholesale sales. Provided that coal sold to a retail coal dealer duly licensed under this act and hauled from the mine by truck for the purpose of resale shall be considered as in car-load lots for the purpose of this section; provided that a person engaged in selling

at retail, new or second-hand automobiles, trucks or tractors, shall pay a tax of one (1) per cent upon the gross receipts of sales of such commodities; and further provided that allowances for trade-ins on the purchase of tangible personal property shall be deductible before computing the tax due under this section. No person, firm or corporation shall hereafter charge or collect in excess of two (2) per centum for the purposes of this act. ”

"76-1405. Exemption of governmental transactions--
Constitutional exemptions - None of the taxes levied by this act shall be construed to apply to sales made to the government of the United States or any agency or instrumentality thereof, except a corporate agency or corporate instrumentality, nor to sales to the state of New Mexico or any of its political subdivisions; provided that deposits of gold and silver with the United States' mint shall not be considered as sales to the government of the United States and shall not be exempt hereunder; nor shall such taxes apply to any businesses or transactions exempted from taxation under the Constitution of the United States or the state of New Mexico."

"76-1406. Charge and time sales - A. In the case of charge and time sales, or transactions, the amount thereof may, at the taxpayer's option, be included in the gross proceeds of sales or gross receipts only as and when payments are received by the seller. Conditional sales and lease contracts shall be treated as time sales, and, if the taxpayer so elects, the tax shall be paid only upon the amounts received under such contract; provided, that in the event the seller or leaser, who has so elected, transfers his interest in any such contract to some third person he shall pay the tax upon the full sale price of the commodity involved, unless a record is kept of payments thereafter made on such contracts in such manner that the bureau of revenue can at all times ascertain from the records of the seller the amount paid thereon by the purchaser. The taxpayer shall indicate his election hereunder in such form as the bureau of revenue shall prescribe.

B. It shall be unlawful for any person engaged in any business or profession to directly advertise that any tax imposed by this act is not considered as an element of the price of property sold or service rendered."

"76-1408. Rate applied to certain businesses - In the case of businesses classified under paragraphs A, B, K, and I, section 201 (76-1404, A, B, K, I) of this act, the rate shall be applied to the entire business of the taxpayer, regardless of the fact that deliveries may be made outside the state. In the case of persons engaged in the businesses classified under paragraphs B or I of section 201 (76-1404, B, I) of this act, whose gross receipts, in whole or in part, are derived from service or manufacturing charge instead of from sales of the product manufactured, or otherwise handled, the rate applicable shall be applied to the gross receipts of such persons derived from such manufacturing or service charge."

"76-1409. Assessing property shipped out of state - If any person engaged in any business subject to tax under this act shall ship, transmit, or transport his products, or any part thereof, out of the state without making sale of such products, or shall ship his products outside of the state in an unfinished condition, or make a sale of the same which is exempt from tax under the provisions of this act, the value of the products or articles in the condition or form in which they existed when transmitted or transported out of the state and before they enter interstate commerce or before such exempt sale shall be the basis for the assessment of the tax on such business, and the tax commission (bureau of revenue) shall prescribe equitable and uniform rules for ascertaining such value."

"76-1410. Actual freight charges deductible - In the case of businesses classified under A, B, C, or F of section 201 (76-1404, A, B, C, F) of this act, actual freight charges prepaid by the taxpayer or included in the invoice price for the shipping of the product of said business shall be deducted in determining the gross receipts of such taxpayer."

"76-1411. Determining gross receipts where sale price not indicative of true value - In determining the gross receipts from sales as regards sales from one to another of affiliated companies or persons, or under such circumstances where the relation between buyer and seller is such that the amount of the sale price is not indicative of the true value of the subject-matter of the sale, the state tax commission (bureau of revenue) shall prescribe uniform rules and regulations for determining the gross receipts of such sales upon which the taxes imposed by this act, under the appropriate classification, shall be levied, which value shall correspond as nearly as possible to the gross proceeds from the sale of similar products of like quality or character by other businesses where no common interest exists between the buyer and seller, but otherwise under similar circumstances and conditions."

"76-1412. Additional tax—Exceptions - Any person exercising any privilege taxable under paragraphs A, B, or C of section 201 (76-1404, A, B, C) of this act and engaging in the business of selling his product at retail in this state shall be required to make returns of the gross proceeds of such retail sales, and shall pay at the rate of two per cent (2%) upon such gross proceeds, in addition to the tax imposed upon him by paragraphs A, B, or C of section 201 (76-1404, A, B, C) of this act; provided, that if any such person sells his products either produced as extractions of natural resources or by the manufacturing process to another for resale, he shall not be required to pay the additional tax provided for in this section; and provided further, that no such person shall be required to pay the additional tax provided for in this section if such person sells his products either produced as extractions of natural resources or by manufacturing process to a manufacturer or other persons classified under section 201B (76-1404, B) where the product so sold becomes an ingredient or component part of the product produced by the

manufacturer or other person classified under such section 201B (76-1404, B)."

"76-1413. Sums paid to United States as taxes excepted from gross receipts - In all computations of the tax levied by this act, there shall be excepted from the gross receipts or gross proceeds of soles of any business all sums paid by the taxpayer to the United States as taxes on the product produced or sold, or on such business; provided that this exception shall not include any stamp or income tax in any form. The word stamp as used in this section shall mean any impression made by order of the state or federal government, on paper, which must be affixed to any article or commodity produced or sold, which is subject to the provisions of this act to signify payment of a tax thereon."

"76-1416. Application for license--Fee--Exemption - No person shall engage or continue in any business within this state, subject to taxation under this act, unless he shall file with the tax commission (bureau of revenue) an application for a license. Every such application shall be made upon a form prescribed by the tax commission (bureau of revenue), shall set forth the name in which applicant transacts or intends to transact business, the location of his place or places of business, the character of the business to be transacted, and such other information as the tax commission (bureau of revenue) may require. The application shall be signed by the owner of the business, if a natural person, and in the case of an association or partnership, by a member or partner thereof; in the case of a corporation, by an executive officer thereof or some person specifically authorized by the corporation to sign the application. Such application shall be accompanied by a license fee of \$1.00 for each place of business of the applicant, in charge of the owner, any agent or employee, excluding telephone toll and pay station. Provided, that a person who has heretofore registered under chapter 7 of the Laws of the Special Session of 1934 and whose license has not been revoked shall not be required to register or to pay an additional fee under the terms of this section."

"76-1418. Misdemeanor for failure to get license - Any person who engages in any business on which a tax is imposed by this act without a license from the tax commission (bureau of revenue), and any officer, agent, member or employee of any corporation, partnership or association of any kind who engages in such business, shall be guilty of a misdemeanor and punished as hereinafter provided."

"76-1419. Due date--Filing return--Payment - All taxes levied hereunder shall be due and payable in monthly installments on or before the fifteenth day of the month next succeeding the month in which the taxes accrue, or on such day other than the fifteenth as the bureau of revenue upon due cause therefore being shown may prescribe. The

taxpayer, on or before the fifteenth day (or such other day as the bureau of revenue may have prescribed) of the month next succeeding the month in which the tax accrues, shall make out and file with the bureau of revenue a return for the preceding month in such form as may be prescribed by the bureau of revenue, showing the nature of the business engaged in by the taxpayer, the gross receipts of the taxpayer for the period covered by the return, and amount of the tax for such period, and such additional information as the bureau of revenue may deem necessary for the proper administration of this act. The taxpayer shall accompany the return with a remittance of the amount of the tax due. The bureau of revenue, if it deems it necessary in order to insure the payment of any tax imposed by this act, may require returns and the payment of the tax to be made for other than monthly periods. The return shall be signed by the taxpayer or his duly authorized agent, but need not be verified by him. The bureau of revenue may require cash and credit sales to be reported separately in such manner as it may deem necessary for the proper administration of this act."

"76-1420. Extensions for making returns - The tax commission (bureau of revenue), for good cause, may extend, for not to exceed thirty (30) days, the time for making any return required under the provisions of this act, and may, by general order, extend the time for making returns for any class of business subject to taxation hereunder."

"76-1435. Remittances - All remittances of taxes imposed by this act shall be made by draft, check, cashier's check, money order payable to the state treasurer, or money. No remittance other than cash shall be final discharge of liability for the tax herein assessed and levied unless and until it has been paid in cash."

"76-1436. Address of notices - All notices required or authorized by this act to be given by mail to any taxpayer shall be addressed to him at the address shown in his application for a license under the provisions of this act."

"76-1437. Information from returns not to be divulged-Exception--
Preservation of reports and returns--Penalties -Except in accordance with judicial order or as otherwise herein provided, the tax commission (bureau of revenue), its agents, clerks and employees shall not divulge any information gained by it from any return filed under the provisions of this act. The officials charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the tax commission (bureau of revenue) in an action or proceeding under the provisions of this act to which it is a party, or on behalf of any party to any action or proceeding under the provisions of this act when the report of facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of and may admit in evidence so much of said reports or of the facts

shown thereby as are pertinent to the action or proceeding and no more. Nothing herein contained shall be construed to prohibit the delivery to a person or his duly authorized representative of a copy of any return or report filed in connection with his tax nor to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the attorney-general or other legal representative of the state of the report or return of any person by or against whom an action or proceeding is contemplated or has been instituted under this act. Reports and returns shall be preserved for three (3) years and thereafter until the tax commission (bureau of revenue) orders them destroyed. Any person violating any of the provisions of this section shall be punished by a fine of not exceeding one thousand dollars (\$1,000) or by imprisonment not exceeding one (1) year, or both, at the discretion of the court; and if the offender be an officer or employee of the state he shall be dismissed from office and be incapable of holding any public office in this state for a period of five (5) years thereafter."

"76-1435. Tax information before corporate dissolution or withdrawal -
The corporation commission shall withhold the issuance of any certificate of dissolution or withdrawal from this state of any corporation until the receipt of a written notice from the tax commission (bureau of revenue) that all taxes, penalties and interest levied under this act against any such corporation have been fully paid, or that no tax under this act is due from such corporation."

Comment: Sections 76-1421 to 76-1435 deal with penalties, lien of tax, and methods of enforcement.

Sections 76-1439 to 76-1446 inclusive deal with penalties, administration of Act, disposition of moneys, bureau expense, employees, refunds, suspense fund and transfer of powers and duties from the State Tax Commission to the Bureau of Revenue.

Oil and Gas Forms No. 1 and No. 2, green and white respectively, are identical and have been consolidated so that the Reports for Severance Tax, Emergency School Tax (Sales Tax) and Conservation Tax are made on the same form. See instructions on Oil and Gas Form No. 2 appended hereto.

The constitutionality of this Act was passed on in Langer vs. Bureau of Revenue 42 N.M. 115, 76 Pac (2) 6 and in State ex rel. Attorney General vs. Tittman, 42 N.M. 76, 75 Pac (2) 701.

Taxes levied against receipts on contracts with persons outside of state were held not to violate Interstate Commerce Provision of Federal Constitution since performance was found to be in New Mexico. See *Western Live Stock vs. Bureau of Revenue*, 303 US 250, 82 L. ed. 823.

Sales to a consumer held not to be sales to a manufacturer, although consumer processed material before use. See *Ider vs. Bureau of Revenue*, 43 N.M. 205, 89 Pac (2) 519.

ANNUAL REPORT

For the Year Ending December 31, 194..

of

.....
(Name of Company)

PRODUCING PATENTED AND UNPATENTED MINES

to the

Tex Commission of the State of New Mexico

The "Oath" on this page must be administered by an officer authorized by law to administer oaths, to the President, Secretary, Treasurer, Superintendent or Chief Officer of the Company making this report.

OATH

STATE OF

SS.

COUNTY OF

I, the undersigned,

(Name of Officer)

(Official Title)

of the Company,

on oath do say that the return as shown on the accompanying schedules numbered

1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and.....

(List Numbers of Additional Schedules Here)

has been prepared, under my direction, from the original books, papers, maps and records of said company, and that I have carefully examined the same, and declare the same to be a complete and correct statement of the business and affairs of said company in respect to each and every matter and thing therein set forth, and that the accounts and figures contained in said return embrace all the financial operations of said Company during the period for which said return is made; that the items and the actual value, as listed in Schedules 4, 5, 6, 7, & 8, is a true, complete and correct list of all the physical property owned by this company in the State of New Mexico, as of Dec. 31, 194

.....

.....

Official Title

Subscribed and sworn to before me at this day of

....., 194

My Commission Expires.....

Notary Public

GENERAL INSTRUCTIONS : This report must be completed and returned to the office of the State Tax Commission, Santa Fe, New Mexico, on or before February 1st, after that date a penalty of 25 per cent, as provided by law, will be added unless extension of time is granted by the State Tax Commission. To facilitate the work of this office the Tax Commission will appreciate any effort made to complete and return the report prior to that date.

Every question should be answered fully and accurately, without reference to former reports. Do not leave the space for any answer blank. The word "None" may be used where same applies. Where specific data called for cannot be returned exactly as requested, or when the answers reported do not reflect a true condition of affairs, full explanation should be given under "Explanations and Remarks" headings. Specific instructions and suggestions regarding the information required on each schedule will be found heading each schedule.

Do not permanently bind the various schedules comprising this report.

Be sure that all schedules are listed in the "Oath" and that all schedules so listed are returned therewith.

Please forward copy of your annual report to stockholders, for the previous year with this statement, also, maps, plats or sketches showing location and-or operation of property.

HISTORY AND ORGANIZATION of RESPONDENT COMPANY

Name of Company or Owner :

Organized under the Laws of :
(State or Country)

Principal Office:
(Street and No.) (City) (State)

Directors:			
NAME	ADDRESS	TERM OF OFFICE EXPIRES	

Officers:	NAME	ADDRESS	TERM OF OFFICE EXPIRES
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President

Vice-President •

Secretary

Treasurer •

Auditor:

General Counsel :

Counsel in New Mexico

General Manager:

General Superintendent:

Principal Office in New Mexico:

Chief Officer or Managing Agent of Company in New Mexico:

(Name)	(Title)	(Address)
--------	---------	-----------

Officer to whom correspondence regarding this report should be addressed :

(Name)	(Title)	(Address)
--------	---------	-----------

When will your next annual meeting be held? 194

Use back of this schedule for explanations and remarks.

.....

CONTROL OF PROPERTY
(As of Dec. 31. 194. . .)

Total Number of Stockholders:

Names, Addresses and Holdings of Five Largest Stockholders:

NAME	ADDRESS	NO. OF SHARES
------	---------	---------------

Is Stock fully paid and Non-assessable?

If not, state terms:

Is property controlled by another through lease, contract or other agreement?

If so, does the same cover all the property in this report?
If only part of the property contained in the report is covered by lease, contract or agreement, show on the back of each schedule under Explanations and Remarks that part that is covered by such lease, contract and agreement on which a separate assessment is to be made: Give name of contracting party, date effective, period covered, consideration, and a concise though full explanation of the

other terms thereof :

Valuation of Capital Stock Outstanding

Is Stock listed on Exchange? Where?

Give high and low quotations for the year - - - High: Low:

Number of shares transferred during the year:

Largest single transfer during the year:
(No. of Shares) (Consideration)

If no transfers have been made during the year, *give date*, number of shares and consideration of last transfer made:

Use back of this sheet for Explanations and Remarks.

..... 

CAPITAL STOCK
(As of Dec. 31, 194)

DESCRIPTION	NO. OF SHARES AUTHORIZED	PAR VALUE AUTHORIZED	PAR VALUE ISSUED	PAR VALUE IN TREASURY	PAR VALUE OUTSTANDING

FUNDED AND MORTGAGE INDEBTEDNESS

CLASS AND INTEREST RATE	DATE ISSUED	DATE DUE	AMOUNT AUTHORIZED	AMOUNT ISSUED	CASH REALIZED ON AMT. ISSUED	AMOUNT OUTSTANDING

INVESTMENTS—OUTSIDE NEW MEXICO

DESCRIPTION	PAR VALUE	INT. RATE	INCOME RECD. DURING YEAR	BOOK VALUATION	MARKET VALUATION	EST. ACTUAL VALUATION

INVESTMENTS—IN NEW MEXICO

DESCRIPTION	PAR VALUE	INT. RATE	INCOME RECD. DURING YEAR	BOOK VALUATION	MARKET VALUATION	EST. ACTUAL VALUATION

How have you arrived at the estimated Actual Valuation of the Investments listed above?

Note: Use back of this sheet for Explanations and Remarks.

..... **COMPANY**

**PRODUCTIVE PATENTED AND UNPATENTED MINES, AND ALL CLAIMS
IN A GROUP CONTIGUOUS THERETO
(Under Ownership of Respondent Dec. 31, 193__)**

List separately each productive contiguous group, and indicate claims from which production for the year 193_ was taken. Head each group with the name of Mining District, School District and County wherein located.

Should additional space be required for listing these claims, use blank schedules for that purpose, showing the name of the company reporting, marking subsequent schedules A, B, C, D, etc. on the lower right hand corner of each sheet and inserting such additional schedule numbers in the "Oath."

Mill sites should not be included with Mining claims. See schedule No.

Use back of this sheet for Explanations and Remarks.

NAME OF CLAIM	SURVEY NO.	ACRES	NAME OF CLAIM	SURVEY NO.	ACRES
No. Acres Forward					
Total No. Acres					

..... COMPANY

NON-PRODUCTIVE PATENTED AND UNPATENTED MINING CLAIMS

(Under Ownership of Respondent Dec. 31, **194 .**)

List contiguous mining claims by groups. If not patented, so state. Head each group with names of Mining District, School District and County wherein located. Use back of this sheet for Explanations and Remarks.

NAME OF CLAIM	SURVEY NO.	ACRES	BOOK VALUE	MINERAL CONTENT	FOR USE OF TAX COMM.
Total Number Acres					

What comprises the Book Value shown?

..... **COMPANY**

PATENTED AND UNPATENTED MILL SITES (Under Ownership of Respondent Dec. 31, 194)

If not patented, so state. Indicate Mining District, School District and County wherein located, Use back of this sheet for Explanations and Remarks.

NAME OF MILL SITE:	SURVEY NO.	ACRES	HOW USED	ACTUAL VALUE	FOR USE OF ST. TAX COMM.

REAL ESTATE—INDUSTRIAL (For Reduction Plant, Tailings Disposal and Like Purposes)

LEGAL DESCRIPTION	SEC.	TWP	RGE.	ACRES	COUNTY	ACTUAL VALUE	FOR USE OF ST. TAX COMM.
Total							

How do you arrive at the Actual Value?

NOTICE: Attach Blueprint or drawing showing location and use of buildings, etc., on above mill sites and real estate.

..... COMPANY

ALL OTHER REAL ESTATE WITH IMPROVEMENTS THEREON (Under Ownership of Respondent Dec. 31, 194..)

List all Real Estate, Mill Sites and Mining Claims where surfaces are used for purposes other than mining.

Under "Cost" of improvements show first cost plus betterments and additions, unless the latter items are large, in which event list betterments and additions on a separate line. If purchased second hand, so state. Use bade of this sheet for Explanations and Remarks.

LEGAL DESCRIPTION	SEC.	TWP.	RGE.	ACRES	COUNTY	ACTUAL VALUE	FOR USE OF ST. TAX COMM.

IMPROVEMENTS

DISTRIBUTION & LOCATION	YR. AC- QUIRED	COST	DEPRECIATION CHG'D.		ACTUAL VALUE	FOR USE OF ST. TAX COMM.
			PAST YRS.	DURING 19		

How do you arrive at the Actual Value?

..... **COMPANY**

PERSONAL. PROPERTY (Under Ownership of Respondent Dec. 31, 194 .)

List on this schedule, in detail, ALL Personal Property, including plant, equipment, machinery, material, and supplies, merchandise, furniture and fixtures, etc., using additional blank schedules, if required, marking subsequent schedules A, B, C, D, etc., and inserting such numbers in the "Oath."

Under "Cost" show purchase price and installation, plus additions and betterments, unless the latter items are large, in which event list additions and betterments on a separate line.

Any second hand items purchased should be so noted, while full explanation should be made of any exceptional depreciation charged, as for scrapped and obsolete machinery, etc.

Use back of this sheet for Explanations and Remarks.

ITEMS	YR. AC- QUIRED	COST	DEPRECIATION CHGD.		ACTUAL VALUE	FOR USE OF ST. TAX COMM.
			PAST YRS.	DURING 19		
Total						

.....COMPANY

GROSS INCOME FROM PRODUCTIVE COAL MINES

(Year Ending Dec. 31, 193-)

The "Average per Ton" for Products Sold should be the gross quotation used in making settlement, WITHOUT ANY DEDUCTIONS. Any Deductions made from the quotations by the purchaser should be considered as part of the treatment charges and included under EXPENDITURES on Schedule No. 10-M.

Use back of this sheet for Explanations and Remarks.

STATEMENT OF PRODUCTION

CLASS:	T O N S			T O N S			TOTAL TONS ON BAND—UNSOLD Year Ended Dec. 31, 193__
	On Hand Beginning of Year	Produced During Year Ended	Total	Sold During Year	Consumed During Year	Total	
LUMP							
MINE RUN							
NUT							
PEA							
EGG							
STEAM							
SLACK							
COKE							
TOTAL							

S T A T E M E N T
SHOWING SALES AND ON HAND

CLASS:	PRODUCTS SOLD			PRODUCTS ON HAND			TOTAL SALES AND PRODUCTS ON HAND
	Tons	Average Per Ton	Amount Realised from Grows Sales	Tons	Average Per Ton	Value Products On Hand	
LUMP							
MINE RUN							
NUT							
PEA							
EGG							
STEAM							
SLACK							
COKE							
BY-PRODUCTS							
TOTAL DEDUCT AWL Beginning Year							
TOTAL							

*Use the same "Average Per Ton" for PRODUCTS ON HAND as used for PRODUCTS SOLD.

-----COMPANY

SUMMARY OF INCOME AND EXPENDITURES OF PRODUCTIVE MINES OF RESPONDENT

The net income shown on this schedule is for the producing mines of Respondent only.

Every expenditure item shown on this schedule must be detailed in full on additional schedules. Use schedules and show names of company reporting and schedule number, marking subsequent schedules A, B, C, D, etc., on lower right hand corner of each sheet, and insert such additional numbers in the "Oath". Detail ALL Expenditures, then deduct expenditures disallowed on Schedule 12, before entering on this schedule.

Items should not be bunched on schedules showing detail of expenditures, and all large "Miscellaneous Expense" accounts must be segregated and the nature of the items making up same fully explained.

Use back of this sheet for Explanations and Remarks.

<p>GROSS INCOME:</p> <p>Gross Value of Products Sold, Excluding Custom (Schedule 9)</p> <p>Increase OR Decrease in value of Metal Stocks (Schedule 9)</p> <p>TOTAL GROSS INCOME FROM PRODUCTIVE MINES</p>	
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

EXPENDITURES:
AS DETAILED IN FULL ON SCHEDULES FOLLOWING

SUMMARY OF ACCOUNTS:	TOTAL EXPENDITURES	COST OF TREATING CUSTOM MATERIAL	NET EXPENDITURES:
Exploration			
Development			
Extraction			
Transportation of Ore			
(Cost per Wet Ton Mile:)			
Milling			
Transportation of Concentrates			
(Cost per Wet Ton Mile:)			
Smelting			
Converting			
Transportation of Bullion			
Refining Bullion			
Cost (Paid Shipper) of Custom Material Treated			
TOTAL EXPENDITURES			
NET INCOME FROM PRODUCTIVE MINES			

NOTICE: Under Explanations and Remarks on back of this sheet explain fully method used in arriving at Cost of Treating Custom Material.

..... COMPANY

GENERAL BALANCE SHEET

(As of Dec. 31, 193__)

Supply the information required exactly as called for. The blank spaces under Assets and Liabilities may be used for inserting special accounts not covered by the form. The Total Assets and Liabilities must check, and the Balance Sheet in general should *agree* with the Balance Sheet furnished your Officers, Directors and Stockholders as of December 31st, *except as* to arrangement and Segregation of items.

ASSETS:		
Property—Original Investment: (Date Purchased: _____) -----		
Mining Claims (No. of Claims: _____) _____		
Equipment and Improvements of Mines _____		
Real Estate—Industrial, and Mill Sites _____		
Reduction Plant -----		
All Other Real Estate and Improvements thereon* -----		
Property—Acquired since Original Investment -----		
Mining Claims (No. of Claims: _____) -----		
Development of Mines (Not absorbed in Expenses)		
Equipment and Improvements of Mines -----		
Real Estate—Industrial, and Mill Sites _____		
Reduction Plant -----		
All Other Real Estate and Improvements thereon* -----		
Investments -----		
Metal Stocks -----		
Custom Ores, Concentrates, etc., on Hand Untreated		
Material and Supplies, for Mine, Mill and Smelter, per Inventory -----		
Store Merchandise, per Inventory -----		
Furniture and Fixture (Household, Office, etc.) -----		
Livestock, Wagons and Motor Vehicles		
Cash, Bills Receivable and Accounts Receivable -----		
Prepaid Insurance and Other Expenses		
TOTAL ASSETS		
LIABILITIES		
Capital Stock—Outstanding -----		
Bonds—Outstanding -----		
Reserve for Depreciation—Mine Orebodies _____		
Reserve for Depreciation—All Other -----		
Bills Payable and Accounts Payable -----		
Surplus (Earned) -----		
TOTAL LIABILITIES ..		

*Including Surface Value of Claims and Mill Sites when used for purposes other than Mining.

----- COMPANY

RECONCILEMENT OF NET INCOME FROM PRODUCTIVE MINES WITH EARNED SURPLUS SHOWN ON GENERAL BALANCE SHEET

Net Income from Productive Mines, per Schedule 10-M Add: Income from Other Sources: All Interest Received..... Income from Investment Net Profit on Custom Material Treated Net Profit on Merchandise Sold..... Rentals Telephones Water and Lights TOTAL INCOME		
DEDUCT: Expenditures Disallowed and NOT TO BE INCLUDED IN EXPENDITURES SHOWN ON SCHEDULE 10-M All Interest Paid (Including Interest paid on advance a-c Bul- lion Shipments) New Construction., New Equipment, Addition, Improvements, etc., Charged by Respondent to Operating Expenses (These items should be listed in detail on Schedule 7-M or 8-M) Depreciation of Mine Orebodies All Other Depreciation All Expenditures (including proportion of Administrative expense, Taxes, etc.) properly chargeable to "Income from Other Sources" (shown above): (List below showing expense chargeable to each item of income).....		
TOTAL EXPENDITURES		
Entire net Income of Respondent..... Less: Dividends Paid During Year..... Earned Surplus for Year Earned Surplus—Balance brought forward from Previous Year TOTAL EARNED SURPLUS DECEMBER 31, 194...., PER GENERAL BALANCE	SHEET	

NOTICE : Explain fully, under Explanations and Remarks on back of this sheet, your method of charging Depreciation.

..... COMPANY

METALLURGICAL DATA

DRY TONS OF	CUSTOM	RESPONDENT'S ORE	RESPONDENT'S CONCENTRATES	COPPER BLISTER
In Stock, in Transit and Unsold Jan. 1, 193... - - - -				
Received, Extracted and Produced During Yr _____				
Total --				
Less: Milled During Year				
Smelted During Year				
Sold During Year				
Sold During Year				
Total Deductions				
In Stock, in Transit and Unsold Dec. 1, 1933				

NOTICE: Detail all Custom Material Received during the Year on Form Provided

ESTIMATED ORE RESERVES IN MINES, DEC, 31, 193-----

CLASSIFICATION	ORE PROSPECTIVE	ORE DEVELOPED	ORE BROBEN
Dry Tons			
Gold Ozs			
Silver Ozs.			
Copper %			
Lead % --			
Zinc %			
Gross Value—per Ton (Use same quotations as for Products Sold)			
Metal Losses—per Ton			
Recovery Value—per Ton			
Treatment, etc.,—per Ton			
Net Value—per Ton			
TOTAL NET VALUE—Entire Tonnage.....			

State period (give dates) property was NOT operated during the year 193.....

NOTICE: Reports of Geologists and Mining Engineers may be returned with this Statement, if Respondent so desires.

EXPLANATIONS AND REMARKS:

COMPANY

CUSTOM MATERIAL RECEIVED

(During Year Ending Dec. 31, 193__)

Indicate by an asterisk (*) after the name when freight was prepaid by shipper.

NAME OF SHIPPER:	P. O. ADDRESS:	DRY TONS:	PAID SHIPPER:
TOTAL			

.....COMPANY

QUARTERLY REPORT
OF
OIL AND GAS PRODUCTION
T O T H E
STATE TAX COMMISSION OF NEW MEXICO
FOR THE PERIOD

Commencing the first day of _____ 19__

Ending the last day of _____ 19__

Name of Owner _____

Address _____

Name of Operator _____

Address _____

NAME AND LOCATION OF WELL

Name of Lease _____

County of _____

School District No _____

NAME OF WELL	LEGAL DESCRIPTION	SEC.	TWP.	ROE.

STATEMENT OF PRODUCTION

MONTH	BBLs. OIL	WC GAS
Production for first month of period		
Production for second month of period		
Production for third month of period		
Total production for period		
Balance on hand at beginning of period		
Total at the end of this period		
Less sales during this period		
Balance to be reported next period		

STATEMENT OF SALES

WHEN SOLD	BBLs. OIL	0	AMOUNT	MCF GAS		AMOUNT	TOTAL
Total Sales for period			\$			\$	\$

STATEMENT OF ROYALTIES

PAID OR DUE TO	AMOUNT
U. S. Government	
Indian Agencies	
State of New Mexico	
Total Royalties	
Per cent of Total Sold	

FOR USE OF STATE TAX COMMISSION

Names of pipe lines serving same:

Name _____

Address

Name _____

Address

OATH

State of _____ SS.

County of _____

_____ of the _____
do hereby certify that the foregoing is a true and correct statement of the production and market value to the State Tax Commission as required by law.

(Name of Officer)

(Official Title)

Subscribed and sworn to before me this _____ day of _____ 19---

My commission expires _____

Notary Public

The State Tax Commission will require a separate report for each producing well when the same can be made conveniently. When more than one producing well is located on the same lease, one report may cover all wells, but no report will be accepted for more than one lease. The State Tax Commission will require all owners, producers, operators or reporting companies to file their reports within the time prescribed by laws. Incomplete and incorrect reports will be returned for correction and will not be considered as having been received.

The following is a copy of the law governing the assessment of oil and gas production in the State of New Mexico.

76.1001 1941 Compilation. "OR and Gas Wells—Time for Making Returns On. That every owner or operator of any oil or gas well that shall have produced oil or gas during any three months' period, as hereinafter specified, shall on or before the tenth day of February, May, August and November of each year make and forward to the State Tax Commission a verified return in such form as said Commission shall prescribe and covering the operations of any oil well and gas well during the three months' period, expiring on the last day of January, April, July and October, stating the name and address of such owner or operator, the location and description of the property, the total quantities of oil and gas produced during and on hand at the end of each such periods, the current market value of such oil or gas at the place of production, and the royalty paid or due on account of such production and to whom payable, and such other facts as may be required by the Commission. The Commission shall have all powers given it by existing law to enforce the making of such reports or to ascertain the facts relative thereto."

The State Tax Commission also calls the attention of the reporting company to 76-510, 1941 Compilation, especially to sub-sections 5 and 6 thereof, and to 76-50, 1941 compilation, which governs the penalty to be added to delinquent tax reports. Your attention is also called to an order issued from the State Tax Commission, changing the reporting periods to calendar-quarters and allowing 30 days for the filing of reports.

Wells acquired through purchase, etc., during 194__.						(To be listed on Reverse of this Report)			
...	o. 0 Z (")°	a X I	I	LEASE NAME	DESCRIPTION			Date Purchased or Acquired	FROM WHOM PURCHASED OR ACQUIRED
					Subdivision	S	T		
			I						

Wells sold or Abandoned during calendar year 194__.						(Do Not List on Reverse of this Report)		
=P, (../0	c. 12	"	LEASE NAME	DESCRIPTION			Date Sold or Abandoned	ABANDONED OR TO WHOM SOLD
				Subdivision	S	T		

OATH

State of _____

County of _____

_____ of the

do hereby certify that the foregoing is a true and correct statement of all Oil and/or Gas Wells completed or acquired in any other manner, abandoned or sold during the calendar year 194-.-.

(Name of Officer)

(Official Title)

Subscribed and sworn to before me this _____ day of _____, 194__.

My Commission expires _____

(Notary Public)

GENERAL INSTRUCTIONS: This report must be completed and returned to the office of the State Tax Commission, Santa Fe, New Mexico, on or before February 1st, after that date a penalty, as provided by law, will be added unless extension of time is granted by the State Tax Commission. To facilitate the work of this office the Tax Commission will appreciate any effort made to complete and return the report prior to that date.