

Taxation and Revenue Department
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INTERGOVERNMENTAL TAX CREDITS ACT
Sections 7-29C-1 to 7-29C-2 NMSA 1978

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Table of Contents

7-29C-1.	INTERGOVERNMENTAL TAX CREDITS
7-29C-2.	INTERGOVERNMENTAL TAX CREDIT; SEVERANCE TAX ON COAL

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7-29C-1. INTERGOVERNMENTAL TAX CREDITS.--

A. Any person who is liable for the payment of the oil and gas severance tax, the oil and gas conservation tax, the oil and gas emergency school tax or the oil and gas ad valorem production tax imposed on products severed from Indian tribal land or imposed on the privilege of severing products from Indian tribal land shall be entitled to a credit to be computed under this section and to be deducted from the payment of the indicated taxes with respect to products from qualifying wells. The credit provided by this subsection may be referred to as the "intergovernmental production tax credit".

B. Any person who is liable for the payment of the oil and gas production equipment ad valorem tax imposed on equipment located on Indian tribal land shall be entitled to a credit to be computed under this section and to be deducted from the payment of the indicated taxes with respect to equipment at qualifying wells. The credit provided by this subsection may be referred to as the "intergovernmental production equipment tax credit".

C. For the purposes of this section:

(1) "equipment" means wells and nonmobile equipment used at a well in connection with severance, treatment or storage of well products;

(2) "Indian tribal land" means all land that on March 1, 1995 was within the exterior boundaries of an Indian reservation or pueblo grant or held in trust by the United States for an Indian person, nation, tribe or pueblo;

(3) "product" means oil, natural gas or liquid hydrocarbon, individually or in combination, or carbon dioxide; and

(4) "qualifying well" means a well on Indian tribal land, the actual drilling of which commenced on or after July 1, 1995.

D. The intergovernmental production tax credit shall be determined separately for each calendar month and shall be equal to seventy-five percent of the lesser of:

(1) the aggregate amount of severance, privilege, ad valorem or similar tax in effect on March 1, 1995 that is imposed by the Indian nation, tribe or pueblo upon the products severed from qualifying wells or upon the privilege of severing products from qualifying wells; or

(2) the aggregate amount of the oil and gas severance tax, the oil and gas conservation tax, the oil and gas emergency school tax and the oil and gas ad valorem production tax imposed by this state upon the products severed from qualifying wells or upon the privilege of severing products from qualifying wells.

E. The intergovernmental production equipment tax credit shall be determined annually for the equipment at qualifying wells and shall be equal to seventy-five percent of the lesser of:

(1) the amount of ad valorem or similar tax in effect on March 1, 1995 that is imposed by the Indian nation, tribe or pueblo upon the equipment for the calendar year; or

(2) the amount of the oil and gas production equipment ad valorem tax imposed by this state upon the equipment for the calendar year.

F. If, after March 1, 1995, an Indian nation, tribe or pueblo increases any severance, privilege, ad valorem or similar tax applicable to products or equipment to which the tax credits provided by this section apply, the amount of the intergovernmental production tax credit for any month to which the increase applies shall be reduced by the difference between the aggregate amount of tax due to the Indian nation, tribe or pueblo for the production month and the aggregate amount of tax that would have been imposed by the terms of the tax or taxes in effect on March 1, 1995, and the intergovernmental production equipment tax credit shall be reduced by the difference between the aggregate amount of tax due to the Indian nation, tribe or pueblo for the year and the aggregate amount of tax that would have been imposed for the year by the terms of the tax or taxes in effect on March 1, 1995.

G. Notwithstanding any other provision of law to the contrary, the amount of credit taken and allowed shall be applied proportionately against the amount of oil and gas severance tax, oil and gas conservation tax, oil and gas emergency school tax, oil and gas ad valorem production tax and oil and gas production equipment ad valorem tax due with respect to the products, severance of products or equipment taxed.

H. The taxation and revenue department shall administer and interpret the provisions of this section in accordance with the provisions of the Tax Administration Act.

I. The burden of showing entitlement to a credit authorized by this section is on the taxpayer claiming it, and he shall furnish to the appropriate tax collecting agency, in the manner determined by the taxation and revenue department, proof of payment of any tribal tax on which the credit is based.

7-29C-2. INTERGOVERNMENTAL TAX CREDIT; SEVERANCE TAX ON COAL.--

A. Any person who is liable pursuant to Section 7-26-6 NMSA 1978 for the payment of the severance tax on coal severed and saved from tribal land is entitled to a credit to be computed under this section and to be deducted from the payment of the indicated tax. The credit provided by this section may be referred to as the "intergovernmental coal severance tax credit".

B. For the purposes of this section, "tribal land" means all land in New Mexico that, on March 1, 2001, was within the exterior boundaries of the reservation or pueblo grant of an Indian nation, tribe or pueblo, was within a dependent Indian community of the Indian nation, tribe or pueblo or was held in trust by the United States for the Indian nation, tribe or pueblo.

C. The intergovernmental coal severance tax credit shall be determined separately for each calendar month and shall be equal to seventy-five percent of the lesser of:

(1) the aggregate amount of tax due under one or more taxes in effect on March 1, 2001 imposed by the Indian nation, tribe or pueblo upon coal severed and saved from the tribal land of that Indian nation, tribe or pueblo, the value of coal severed and saved, the privilege of severing coal or the value of the leasehold interest; or

(2) the aggregate amount of severance tax and surtax due the state pursuant to Section 7-26-6 NMSA 1978 upon coal severed and saved from the tribal land of the Indian nation, tribe or pueblo.

D. If, after March 1, 2001, an Indian nation, tribe or pueblo increases any severance, privilege, possessory interest or similar tax applicable to coal to which the tax credits provided by this section apply, the amount of the intergovernmental coal severance tax credit for any month to which the increase applies shall be reduced by the difference between the aggregate amount of tax due to the Indian nation, tribe or pueblo for the month and the aggregate amount of tax that would have been imposed by the terms of the tax or taxes in effect on March 1, 2001. The expiration of a partial or total waiver from the tribal tax granted prior to March 1, 2001 does not constitute an increase in the tribal tax.

E. Notwithstanding any other provision of law to the contrary, the amount of credit taken and allowed shall be applied proportionately against the amount of severance tax and the amount of surtax due.

F. The burden of showing entitlement to a credit authorized by this section is on the taxpayer claiming it, and the taxpayer shall furnish to the appropriate tax collecting agency, in the manner determined by the taxation and revenue department, proof of payment of any tribal tax on which the credit is based.

G. The taxation and revenue department is authorized to promulgate rules or instructions prescribing the method by which a taxpayer may allocate credit for a tax imposed by the Indian nation, tribe or pueblo on a

**basis other than monthly against the monthly amounts of severance tax and
surtax due.**
