



# INSTRUCTIONS FOR REPORTING SEVERANCE TAX - COAL

## TYPE OF COAL

(1) "Surface Coal" means all coal which is severed using surface mining methods.

(2) "Underground Coal" means all coal that is not surface coal.

(3) "Intergovernmental Tax Credit" (ITC) for coal severed and saved from tribal lands. Refer to Section 7-29C-2 NMSA 1978. Complete ITC worksheet.

**Price Per Unit** - Sales Price

**Quantity** - Number of short tons (two-thousand pounds) of coal severed and saved.

**Gross Value** - Price per unit multiplied by the quantity.

## 7-26-6.2 NMSA 1978

The following coal is exempt from the surtax imposed on coal under the provisions of section 7-26-6 NMSA 1978.

Coal sold and delivered pursuant to coal sales contracts that are entered into on or after July 1, 1990, under which deliveries start after July 1, 1990.

Coal sold and delivered pursuant to a contract in effect on July 1, 1990, that exceeds the average calendar year deliveries under the contract during production years 1987, 1988 and 1989 or the highest contract minimum during 1987, 1988 or 1989 whichever is greater.

If a contract existing on July 1, 1990 is renegotiated between a producer and a purchaser after May 20, 1992 and if that renegotiated contract requires the purchaser to take annual coal deliveries in excess of the greater of the average calendar year deliveries under the contract during production years 1987, 1988 and 1989 or the highest contract minimum during 1987, 1988 and 1989, the surtax imposed by Subsection B of Section 7-26-6 NMSA 1978 shall not apply to such excess deliveries for the remaining term of the renegotiated contract.

The taxpayer, prior to taking the exemption provided by this section, shall register any contract for the sale of coal that qualifies for the exemption from the surtax on forms provided by the Secretary.

If your company qualifies for the lower tax rate imposed by the above legislative change, under the first column of Form SEV-5 place the wording "Exempt Surface" or "Exempt Underground" on separate lines and calculate severance tax in accordance with applicable tax rates.

**Tax Rate** - upon each short ton of coal severed and saved there shall be imposed on the severer a severance tax, plus surtax pursuant to Section 7-26-9 NMSA 1978 or severance tax only pursuant to Section 7-26-6.2 NMSA 1978. The total severance surtax and severance tax if applicable on coal effective July 1, 2016 is as follows:

	<b>Surface</b>	<b>Underground</b>
<b>Base Tax Rate</b> .....	<b>\$ 0.570</b>	<b>\$ 0.550</b>
<b>Surtax Rate</b> .....	<b>\$ 1.28</b>	<b>\$ 1.23</b>
<b>Total Tax Rate</b> .....	<b>\$ 1.85</b>	<b>\$ 1.78</b>

	<b>Surface</b>	<b>Underground</b>
<b>Exempt Coal</b> .....	<b>\$ 0.570</b>	<b>\$ 0.550</b>

See 7-26-6.2 NMSA 1978

**Total Severance Tax Due** - (1) Total short tons multiplied by the tax rate. (2) Total Intergovernmental Tax Credit from ITC worksheet.

**Date Payment of Tax Due, Section 7-1-13 NMSA 1978** - The severance tax is to be paid on or before the twenty-fifth day of the month following the month in which the taxable event occurs.

Each form must be submitted in its entirety so that it can be processed properly.

Copies of applicable tax acts may be obtained from the Taxation and Revenue Department.

## PENALTY AND INTEREST PROVISIONS OF THE TAX ADMINISTRATION ACT

"SECTION 7-1-67. INTEREST ON DEFICIENCIES.

A. If any tax imposed is not paid on or before the day on which it becomes due, interest shall be paid to the state on such amount from the first day following the day on which the tax becomes due, without regard to any extension of time or installment agreement, until it is paid.

B. Interest shall be due to the state based upon Section 7-1-67 NMSA 1978.

"SECTION 7-1-69. CIVIL PENALTY FOR FAILURE TO PAY TAX OR FILE A RETURN.

A. In the case of failure, due to negligence or disregard of rules and regulations, but without intent to defraud, to pay when due any amount of tax required to be paid or to file a return regardless of whether any tax is due, there shall be added to the amount two percent per month or a fraction thereof from the date the tax was due or from the date the return was required to be filed, not to exceed twenty percent thereof, or a minimum of five (\$5.00), whichever is greater, as penalty, but the five dollar (\$5.00) minimum penalty shall not apply to taxes levied under the Income Tax Act [Chapter 7, Article 2 NMSA 1978] or the Corporate Income and Franchise Tax Act [Chapter 7, Article 2A NMSA 1978] or taxes administered by the department pursuant to Subsection B of Section 7-1-2 NMSA 1978.

B. In the case of failure, with intent to defraud the state, to pay when due any amount of tax required to be paid, there shall be added to the amount fifty percent thereof or a minimum of twenty-five dollars (\$25.00), whichever is greater, as penalty."

Recovery of excess tax and corrections for erroneous reports are prepared in identical manner. Amended reports must be prepared, consisting of a separate report for each reporting month. Only those entries being corrected are to be included and must show these entries:

- (1) Original entry. Use parentheses to indicate a credit entry or the word "none" if there was no original entry.
- (2) Corrected entry. This entry will show the corrections being made.