

HOUSE BILL NO. HB0022

Mineral tax-audit interest rate.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

1 AN ACT relating to revenue and taxation; providing for
2 interest for delinquent taxes determined from mineral
3 audits as specified; removing conflicting language
4 regarding the time of the audit; providing applicability;
5 and providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 39-14-108(b)(viii), (c)(i), (iii) and
10 (iv), 39-14-208(b)(viii), (c)(i), (iii) and (iv),
11 39-14-308(b)(viii), (c)(i), (iii) and (iv),
12 39-14-408(b)(viii), (c)(i), (iii) and (iv),
13 39-14-508(b)(viii), (c)(i), (iii) and (iv),
14 39-14-608(b)(viii), (c)(i), (iii) and (iv) and
15 39-14-708(b)(viii), (c)(i), (iii) and (iv) are amended to
16 read:

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1 **39-14-108. Enforcement.**

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3 (b) Audits. The following shall apply:

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5 (viii) In order to examine relevant books or
6 records of a taxpayer subject to a tax imposed by this
7 article or to secure any information related to enforcement
8 of this article, authorized representatives of the
9 department may at any time during normal business hours
10 enter premises of a taxpayer liable for a tax imposed by
11 this article or the premises of any third party having
12 information regarding that taxpayer's liability. Prior to
13 entering the premises of a taxpayer or third party, the
14 department shall provide fourteen (14) days written notice
15 to the taxpayer and third party; ~~Such examinations shall~~
16 ~~be completed and the written results thereof provided to~~
17 ~~the taxpayer by the end of the third calendar year~~
18 ~~following the calendar year in which the audit was~~
19 ~~commenced;~~

20

21 (c) Interest. The following shall apply:

22

23 (i) The taxpayer is entitled to receive an
24 offsetting credit for any overpaid gross product or

1 severance tax identified by an audit that is within the
2 scope of the audit period, without regard to the limitation
3 period for requesting refunds. In calculating interest,
4 the department, ~~or~~ following consultation with the board of
5 county commissioners and the county treasurer, shall first
6 compute a net deficiency amount after subtracting any
7 offsetting credit and then calculate any interest due. The
8 board of county commissioners shall be bound by any
9 decision made by the department of revenue in the course of
10 an audit conducted under subsection (b) of this section
11 concerning the time period during which interest shall
12 accrue and be due and payable;

13
14 (iii) Except for any delinquent taxes determined
15 to be due and owing as a result of an audit conducted under
16 subsection (b) of this section, the balance of any ad
17 valorem tax not paid as provided by W.S. 39-14-107(b)(ii)
18 is delinquent after the day on which it is payable and
19 shall bear interest at eighteen percent (18%) per annum.
20 Effective January 15, 2015, for delinquent taxes determined
21 to be due and owing as a result of an audit conducted under
22 subsection (b) of this section, the balance of any ad
23 valorem tax not paid as provided by W.S. 39-14-107(b) shall
24 be delinquent following the day on which it is payable and

1 shall bear interest at the rate set forth in paragraph (iv)
2 of this subsection until paid or collected;

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4 (iv) Effective January 1, ~~1994~~2015, interest at
5 an annual rate equal to the average prime interest rate as
6 determined by the state treasurer during the preceding
7 fiscal year plus four percent (4%) shall be added to all
8 delinquent severance taxes and ad valorem taxes determined
9 to be due and owing as a result of an audit conducted under
10 subsection (b) of this section on any mineral produced on
11 or after January 1, ~~1994~~2015. To determine the average
12 prime interest rate, the state treasurer shall average the
13 prime interest rate for at least seventy-five percent (75%)
14 of the thirty (30) largest banks in the United States. The
15 interest rate on delinquent severance taxes and ad valorem
16 taxes shall be adjusted on January 1 of each year following
17 the year in which the taxes first became delinquent. In no
18 instance shall the delinquent tax rate be less than twelve
19 percent (12%) nor greater than eighteen percent (18%) from
20 any mineral produced on or after January 1, ~~1994~~2015. The
21 interest rate on any delinquent ~~mineral~~severance and ad
22 valorem tax from any mineral produced before January 1,
23 ~~1994~~2015, shall be ~~eighteen percent (18%) per annum~~as

1 provided by the statutes in effect at the time the mineral
2 was produced.

3
4 **39-14-208. Enforcement.**

5
6 (b) Audits. The following shall apply:

7
8 (viii) In order to examine relevant books or
9 records of a taxpayer subject to severance taxes imposed by
10 this article or to secure any information related to
11 enforcement of this article, authorized representatives of
12 the department may at any time during normal business hours
13 enter premises of a taxpayer liable for a severance tax
14 imposed by this article or the premises of any third party
15 having information regarding that taxpayer's liability.
16 Prior to entering the premises of a taxpayer or third
17 party, the department shall provide fourteen (14) days
18 written notice to the taxpayer and third party~~;~~. ~~Such~~
19 ~~examinations shall be completed and the written results~~
20 ~~thereof provided to the taxpayer by the end of the third~~
21 ~~calendar year following the calendar year in which the~~
22 ~~audit was commenced;~~

23
24 (c) Interest. The following shall apply:

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(i) The taxpayer is entitled to receive an offsetting credit for any overpaid gross product or severance tax identified by an audit that is within the scope of the audit period, without regard to the limitation period for requesting refunds. In calculating interest, the department, ~~or~~ following consultation with the board of county commissioners and the county treasurer, shall first compute a net deficiency amount after subtracting any offsetting credit and then calculate any interest due. The board of county commissioners shall be bound by any decision made by the department of revenue in the course of an audit conducted under subsection (b) of this section concerning the time period during which interest shall accrue and be due and payable;

(iii) Except for any delinquent taxes determined to be due and owing as a result of an audit conducted under subsection (b) of this section, the balance of any ad valorem tax not paid as provided by W.S. 39-14-207(b)(ii) is delinquent after the day on which it is payable and shall bear interest at eighteen percent (18%) per annum. Effective January 15, 2015, for delinquent taxes determined to be due and owing as a result of an audit conducted under

1 subsection (b) of this section, the balance of any ad
2 valorem tax not paid as provided by W.S. 39-14-207(b) shall
3 be delinquent following the day on which it is payable and
4 shall bear interest at the rate set forth in paragraph (iv)
5 of this subsection until paid or collected;

6
7 (iv) Effective January 1, ~~1994~~2015, interest at
8 an annual rate equal to the average prime interest rate as
9 determined by the state treasurer during the preceding
10 fiscal year plus four percent (4%) shall be added to all
11 delinquent severance taxes and ad valorem taxes determined
12 to be due and owing as a result of an audit conducted under
13 subsection (b) of this section on any mineral produced on
14 or after January 1, ~~1994~~2015. To determine the average
15 prime interest rate, the state treasurer shall average the
16 prime interest rate for at least seventy-five percent (75%)
17 of the thirty (30) largest banks in the United States. The
18 interest rate on delinquent severance and ad valorem taxes
19 shall be adjusted on January 1 of each year following the
20 year in which the taxes first became delinquent. In no
21 instance shall the delinquent tax rate be less than twelve
22 percent (12%) nor greater than eighteen percent (18%) from
23 any mineral produced on or after January 1, ~~1994~~2015. The
24 interest rate on any delinquent crude oil, lease condensate

1 or natural gas severance and ad valorem tax from any crude
2 oil, lease condensate or natural gas produced before
3 January 1, ~~1994~~ 2015, shall be ~~eighteen percent (18%) per~~
4 ~~annum~~ as provided by the statutes in effect at the time the
5 mineral was produced.

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7 **39-14-308. Enforcement.**

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9 (b) Audits. The following shall apply:

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11 (viii) In order to examine relevant books or
12 records of a taxpayer subject to a tax imposed by this
13 article or to secure any information related to enforcement
14 of this article, authorized representatives of the
15 department may at any time during normal business hours
16 enter premises of a taxpayer liable for a tax imposed by
17 this article or the premises of any third party having
18 information regarding that taxpayer's liability. Prior to
19 entering the premises of a taxpayer or third party, the
20 department shall provide fourteen (14) days written notice
21 to the taxpayer and third party; ~~Such examinations shall~~
22 ~~be completed and the written results thereof provided to~~
23 ~~the taxpayer by the end of the third calendar year~~

1 ~~following the calendar year in which the audit was~~
2 ~~commenced,~~

3
4 (c) Interest. The following shall apply:

5
6 (i) The taxpayer is entitled to receive an
7 offsetting credit for any overpaid gross product or
8 severance tax identified by an audit that is within the
9 scope of the audit period, without regard to the limitation
10 period for requesting refunds. In calculating interest,
11 the department, ~~or~~ following consultation with the board of
12 county commissioners and the county treasurers, shall first
13 compute a net deficiency amount after subtracting any
14 offsetting credit and then calculate any interest due. The
15 board of county commissioners shall be bound by any
16 decision made by the department of revenue in the course of
17 an audit conducted under subsection (b) of this section
18 concerning the time period during which interest shall
19 accrue and be due and payable;

20
21 (iii) Except for any delinquent taxes determined
22 to be due and owing as a result of an audit conducted under
23 subsection (b) of this section, the balance of any ad
24 valorem tax not paid as provided by W.S. 39-14-307(b)(ii)

1 is delinquent after the day on which it is payable and
2 shall bear interest at eighteen percent (18%) per annum.
3 Effective January 15, 2015, for delinquent taxes determined
4 to be due and owing as a result of an audit conducted under
5 subsection (b) of this section, the balance of any ad
6 valorem tax not paid as provided by W.S. 39-14-307(b) shall
7 be delinquent following the day on which it is payable and
8 shall bear interest at the rate set forth in paragraph (iv)
9 of this subsection until paid or collected;

10
11 (iv) Effective January 1, ~~1994~~2015, interest at
12 an annual rate equal to the average prime interest rate as
13 determined by the state treasurer during the preceding
14 fiscal year plus four percent (4%) shall be added to all
15 delinquent severance taxes and ad valorem taxes determined
16 to be due and owing as a result of an audit conducted under
17 subsection (b) of this section on any mineral produced on
18 or after January 1, ~~1994~~2015. To determine the average
19 prime interest rate, the state treasurer shall average the
20 prime interest rate for at least seventy-five percent (75%)
21 of the thirty (30) largest banks in the United States. The
22 interest rate on delinquent severance taxes and ad valorem
23 taxes shall be adjusted on January 1 of each year following
24 the year in which the taxes first became delinquent. In no

1 instance shall the delinquent tax rate be less than twelve
2 percent (12%) nor greater than eighteen percent (18%) from
3 any mineral produced on or after January 1, ~~1994~~2015. The
4 interest rate on any delinquent ~~mineral~~severance and ad
5 valorem tax from any mineral produced before January 1,
6 ~~1994~~2015, shall be ~~eighteen percent (18%) per annum~~as
7 provided by the statutes in effect at the time the mineral
8 was produced.

9
10 **39-14-408. Enforcement.**

11
12 (b) Audits. The following shall apply:

13
14 (viii) In order to examine relevant books or
15 records of a taxpayer subject to a tax imposed by this
16 article or to secure any information related to enforcement
17 of this article, authorized representatives of the
18 department may at any time during normal business hours
19 enter premises of a taxpayer liable for a tax imposed by
20 this article or the premises of any third party having
21 information regarding that taxpayer's liability. Prior to
22 entering the premises of a taxpayer or third party, the
23 department shall provide fourteen (14) days written notice
24 to the taxpayer and third party~~;~~. Such examinations shall

1 ~~be completed and the written results thereof provided to~~
2 ~~the taxpayer by the end of the third calendar year~~
3 ~~following the calendar year in which the audit was~~
4 ~~commenced;~~

5
6 (c) Interest. The following shall apply:

7
8 (i) The taxpayer is entitled to receive an
9 offsetting credit for any overpaid gross product or
10 severance tax identified by an audit that is within the
11 scope of the audit period, without regard to the limitation
12 period for requesting refunds. In calculating interest,
13 the department, or following consultation with the board of
14 county commissioners and the county treasurer, shall first
15 compute a net deficiency amount after subtracting any
16 offsetting credit and then calculate any interest due. The
17 board of county commissioners shall be bound by any
18 decision made by the department of revenue in the course of
19 an audit conducted under subsection (b) of this section
20 concerning the time period during which interest shall
21 accrue and be due and payable;

22
23 (iii) Except for any delinquent taxes determined
24 to be due and owing as a result of an audit conducted under

1 subsection (b) of this section, the balance of any ad
2 valorem tax not paid as provided by W.S. 39-14-407(b)(ii)
3 is delinquent after the day on which it is payable and
4 shall bear interest at eighteen percent (18%) per annum.
5 Effective January 15, 2015, for delinquent taxes determined
6 to be due and owing as a result of an audit conducted under
7 subsection (b) of this section, the balance of any ad
8 valorem tax not paid as provided by W.S. 39-14-407(b) shall
9 be delinquent following the day on which it is payable and
10 shall bear interest at the rate set forth in paragraph (iv)
11 of this subsection until paid or collected;

12

13 (iv) Effective January 1, ~~1994~~2015, interest at
14 an annual rate equal to the average prime interest rate as
15 determined by the state treasurer during the preceding
16 fiscal year plus four percent (4%) shall be added to all
17 delinquent severance taxes and ad valorem taxes determined
18 to be due and owing as a result of an audit conducted under
19 subsection (b) of this section on any mineral produced on
20 or after January 1, ~~1994~~2015. To determine the average
21 prime interest rate, the state treasurer shall average the
22 prime interest rate for at least seventy-five percent (75%)
23 of the thirty (30) largest banks in the United States. The
24 interest rate on delinquent severance taxes and ad valorem

1 taxes shall be adjusted on January 1 of each year following
2 the year in which the taxes first became delinquent. In no
3 instance shall the delinquent tax rate be less than twelve
4 percent (12%) nor greater than eighteen percent (18%) from
5 any mineral produced on or after January 1, ~~1994-2015~~. The
6 interest rate on any delinquent ~~mineral~~ severance and ad
7 valorem tax from any mineral produced before January 1,
8 ~~1994-2015~~, shall be ~~eighteen percent (18%) per annum~~ as
9 provided by the statutes in effect at the time the mineral
10 was produced.

11
12 **39-14-508. Enforcement.**

13
14 (b) Audits. The following shall apply:

15
16 (viii) In order to examine relevant books or
17 records of a taxpayer subject to a tax imposed by this
18 article or to secure any information related to enforcement
19 of this article, authorized representatives of the
20 department may at any time during normal business hours
21 enter premises of a taxpayer liable for a tax imposed by
22 this article or the premises of any third party having
23 information regarding that taxpayer's liability. Prior to
24 entering the premises of a taxpayer or third party, the

1 department shall provide fourteen (14) days written notice
2 to the taxpayer and third party; ~~Such examinations shall~~
3 ~~be completed and the written results thereof provided to~~
4 ~~the taxpayer by the end of the third calendar year~~
5 ~~following the calendar year in which the audit was~~
6 ~~commenced;~~

7
8 (c) Interest. The following shall apply:

9
10 (i) The taxpayer is entitled to receive an
11 offsetting credit for any overpaid gross product or
12 severance tax identified by an audit that is within the
13 scope of the audit period, without regard to the limitation
14 period for requesting refunds. In calculating interest,
15 the department, ~~or~~ following consultation with the board of
16 county commissioners and the county treasurer, shall first
17 compute a net deficiency amount after subtracting any
18 offsetting credit and then calculate any interest due. The
19 board of county commissioners shall be bound by any
20 decision made by the department of revenue in the course of
21 an audit conducted under subsection (b) of this section
22 concerning the time period during which interest shall
23 accrue and be due and payable;

1 (iii) Except for any delinquent taxes determined
2 to be due and owing as a result of an audit conducted under
3 subsection (b) of this section, the balance of any ad
4 valorem tax not paid as provided by W.S. 39-14-507(b)(ii)
5 is delinquent after the day on which it is payable and
6 shall bear interest at eighteen percent (18%) per annum.
7 Effective January 15, 2015, for delinquent taxes determined
8 to be due and owing as a result of an audit conducted under
9 subsection (b) of this section, the balance of any ad
10 valorem tax not paid as provided by W.S. 39-14-507(b) shall
11 be delinquent following the day on which it is payable and
12 shall bear interest at the rate set forth in paragraph (iv)
13 of this subsection until paid or collected;

14
15 (iv) Effective January 1, ~~1994~~2015, interest at
16 an annual rate equal to the average prime interest rate as
17 determined by the state treasurer during the preceding
18 fiscal year plus four percent (4%) shall be added to all
19 delinquent severance taxes and ad valorem taxes determined
20 to be due and owing as a result of an audit conducted under
21 subsection (b) of this section on any mineral produced on
22 or after January 1, ~~1994~~2015. To determine the average
23 prime interest rate, the state treasurer shall average the
24 prime interest rate for at least seventy-five percent (75%)

1 of the thirty (30) largest banks in the United States. The
2 interest rate on delinquent severance taxes and ad valorem
3 taxes shall be adjusted on January 1 of each year following
4 the year in which the taxes first became delinquent. In no
5 instance shall the delinquent tax rate be less than twelve
6 percent (12%) nor greater than eighteen percent (18%) from
7 any mineral produced on or after January 1, ~~1994-2015~~. The
8 interest rate on any delinquent ~~mineral~~ severance and ad
9 valorem tax from any mineral produced before January 1,
10 ~~1994-2015~~, shall be ~~eighteen percent (18%) per annum~~ as
11 provided by the statutes in effect at the time the mineral
12 was produced.

13

14 **39-14-608. Enforcement.**

15

16 (b) Audits. The following shall apply:

17

18 (viii) In order to examine relevant books or
19 records of a taxpayer subject to a tax imposed by this
20 article or to secure any information related to enforcement
21 of this article, authorized representatives of the
22 department may at any time during normal business hours
23 enter premises of a taxpayer liable for a tax imposed by
24 this article or the premises of any third party having

1 information regarding that taxpayer's liability. Prior to
2 entering the premises of a taxpayer or third party, the
3 department shall provide fourteen (14) days written notice
4 to the taxpayer and third party; ~~Such examinations shall~~
5 ~~be completed and the written results thereof provided to~~
6 ~~the taxpayer by the end of the third calendar year~~
7 ~~following the calendar year in which the audit was~~
8 ~~commenced;~~

9
10 (c) Interest. The following shall apply:

11
12 (i) The taxpayer is entitled to receive an
13 offsetting credit for any overpaid gross product or
14 severance tax identified by an audit that is within the
15 scope of the audit period, without regard to the limitation
16 period for requesting refunds. In calculating interest,
17 the department, ~~or~~ following consultation with the board of
18 county commissioners and the county treasurer, shall first
19 compute a net deficiency amount after subtracting any
20 offsetting credit and then calculate any interest due. The
21 board of county commissioners shall be bound by any
22 decision made by the department of revenue in the course of
23 an audit conducted under subsection (b) of this section

1 concerning the time period during which interest shall
2 accrue and be due and payable;

3
4 (iii) Except for any delinquent taxes determined
5 to be due and owing as a result of an audit conducted under
6 subsection (b) of this section, the balance of any ad
7 valorem tax not paid as provided by W.S. 39-14-607(b)(ii)
8 is delinquent after the day on which it is payable and
9 shall bear interest at eighteen percent (18%) per annum.
10 Effective January 15, 2015, for delinquent taxes determined
11 to be due and owing as a result of an audit conducted under
12 subsection (b) of this section, the balance of any ad
13 valorem tax not paid as provided by W.S. 39-14-607(b) shall
14 be delinquent following the day on which it is payable and
15 shall bear interest at the rate set forth in paragraph (iv)
16 of this subsection until paid or collected;

17
18 (iv) Effective January 1, ~~1994~~2015, interest at
19 an annual rate equal to the average prime interest rate as
20 determined by the state treasurer during the preceding
21 fiscal year plus four percent (4%) shall be added to all
22 delinquent severance taxes and ad valorem taxes determined
23 to be due and owing as a result of an audit conducted under
24 subsection (b) of this section on any mineral produced on

1 or after January 1, ~~1994~~2015. To determine the average
2 prime interest rate, the state treasurer shall average the
3 prime interest rate for at least seventy-five percent (75%)
4 of the thirty (30) largest banks in the United States. The
5 interest rate on delinquent severance taxes and ad valorem
6 taxes shall be adjusted on January 1 of each year following
7 the year in which the taxes first became delinquent. In no
8 instance shall the delinquent tax rate be less than twelve
9 percent (12%) nor greater than eighteen percent (18%) from
10 any mineral produced on or after January 1, ~~1994~~2015. The
11 interest rate on any delinquent ~~mineral~~severance and ad
12 valorem tax from any mineral produced before January 1,
13 ~~1994~~2015, shall be ~~eighteen percent (18%) per annum~~as
14 provided by the statutes in effect at the time the mineral
15 was produced.

16

17 **39-14-708. Enforcement.**

18

19 (b) Audits. The following shall apply:

20

21 (viii) In order to examine relevant books or
22 records of a taxpayer subject to a tax imposed by this
23 article or to secure any information related to enforcement
24 of this article, authorized representatives of the

1 department may at any time during normal business hours
2 enter premises of a taxpayer liable for a tax imposed by
3 this article or the premises of any third party having
4 information regarding that taxpayer's liability. Prior to
5 entering the premises of a taxpayer or third party, the
6 department shall provide fourteen (14) days written notice
7 to the taxpayer and third party~~;~~. ~~Such examinations shall~~
8 ~~be completed and the written results thereof provided to~~
9 ~~the taxpayer by the end of the third calendar year~~
10 ~~following the calendar year in which the audit was~~
11 ~~commenced;~~

12

13 (c) Interest. The following shall apply:

14

15 (i) The taxpayer is entitled to receive an
16 offsetting credit for any overpaid gross product or
17 severance tax identified by an audit that is within the
18 scope of the audit period, without regard to the limitation
19 period for requesting refunds. In calculating interest,
20 the department, ~~or~~ following consultation with the board of
21 county commissioners and the county treasurer, shall first
22 compute a net deficiency amount after subtracting any
23 offsetting credit and then calculate any interest due. The
24 board of county commissioners shall be bound by any

1 decision made by the department of revenue in the course of
2 an audit conducted under subsection (b) of this section
3 concerning the time period during which interest shall
4 accrue and be due and payable;

5
6 (iii) Except for any delinquent taxes determined
7 to be due and owing as a result of an audit conducted under
8 subsection (b) of this section, the balance of any ad
9 valorem tax not paid as provided by W.S. 39-14-707(b)(ii)
10 is delinquent after the day on which it is payable and
11 shall bear interest at eighteen percent (18%) per annum.
12 Effective January 15, 2015, for delinquent taxes determined
13 to be due and owing as a result of an audit conducted under
14 subsection (b) of this section, the balance of any ad
15 valorem tax not paid as provided by W.S. 39-14-707(b) shall
16 be delinquent following the day on which it is payable and
17 shall bear interest at the rate set forth in paragraph (iv)
18 of this subsection until paid or collected;

19
20 (iv) Effective January 1, ~~1994~~ 2015, interest at
21 an annual rate equal to the average prime interest rate as
22 determined by the state treasurer during the preceding
23 fiscal year plus four percent (4%) shall be added to all
24 delinquent severance taxes and ad valorem taxes determined

1 to be due and owing as a result of an audit conducted under
2 subsection (b) of this section on any mineral produced on
3 or after January 1, ~~1994~~2015. To determine the average
4 prime interest rate, the state treasurer shall average the
5 prime interest rate for at least seventy-five percent (75%)
6 of the thirty (30) largest banks in the United States. The
7 interest rate on delinquent severance taxes and ad valorem
8 taxes shall be adjusted on January 1 of each year following
9 the year in which the taxes first became delinquent. In no
10 instance shall the delinquent tax rate be less than twelve
11 percent (12%) nor greater than eighteen percent (18%) from
12 any mineral produced on or after January 1, ~~1994~~2015. The
13 interest rate on any delinquent ~~mineral~~severance and ad
14 valorem tax from any mineral produced before January 1,
15 ~~1994~~2015, shall be ~~eighteen percent (18%) per annum~~as
16 provided by the statutes in effect at the time the mineral
17 was produced.

18

19 **Section 2.** This act shall not affect any audit
20 commenced prior to the effective date of this act.

21

22 **Section 3.** This act is effective July 1, 2014.

23

24

(END)