HOUSE BILL NO. HB0022

Mineral tax-audit interest rate.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

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

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

Section 1. W.S. 39-14-108(b)(viii), (c)(i), (iii) and (iv), 39-14-208(b)(viii), (c)(i), (iii) and (iv), 39-14-308(b)(viii), (c)(i), (iii) and (iv), 39-14-408(b)(viii), (c)(i), (iii) and (iv), 39-14-508(b)(viii), (c)(i), (iii) and (iv), 39-14-608(b)(viii), (c)(i), (iii) and (iv) and 39-14-708(b)(viii), (c)(i), (iii) and (iv) are amended to read:

39-14-108. Enforcement.

(b) Audits. The following shall apply:

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

(c) Interest. The following shall apply:

(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. 39-14-107(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 subsection (b) of this section, the balance of any ad valorem tax not paid as provided by W.S. 39-14-107(b) shall be delinquent following the day on which it is payable and shall bear interest at the rate set forth in paragraph (iv) of this subsection until paid or collected;

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

39-14-208. Enforcement.

(b) Audits. The following shall apply:

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

(c) Interest. The following shall apply:

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

(iv) Effective January 1, ~~1994~~ 2015, interest at an annual rate equal to the average prime interest rate as determined by the state treasurer during the preceding fiscal year plus four percent (4%) shall be added to all delinquent severance taxes and ad valorem taxes determined to be due and owing as a result of an audit conducted under subsection (b) of this section on any mineral produced on or after January 1, ~~1994~~ 2015. To determine the average prime interest rate, the state treasurer shall average the prime interest rate for at least seventy-five percent (75%) of the thirty (30) largest banks in the United States. The interest rate on delinquent severance and ad valorem taxes shall be adjusted on January 1 of each year following the year in which the taxes first became delinquent. In no instance shall the delinquent tax rate be less than twelve percent (12%) nor greater than eighteen percent (18%) from any mineral produced on or after January 1, ~~1994~~ 2015. The interest rate on any delinquent crude oil, lease condensate or natural gas severance and ad valorem tax from any crude oil, lease condensate or natural gas produced before January 1, ~~1994~~ 2015, shall be ~~eighteen percent (18%) per annum~~ as provided by the statutes in effect at the time the mineral was produced.

39-14-308. Enforcement.

(b) Audits. The following shall apply:

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

~~following the calendar year in which the audit was commenced;~~

(c) Interest. The following shall apply:

(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 treasurers, 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. 39-14-307(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 subsection (b) of this section, the balance of any ad valorem tax not paid as provided by W.S. 39-14-307(b) shall be delinquent following the day on which it is payable and shall bear interest at the rate set forth in paragraph (iv) of this subsection until paid or collected;

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

39-14-408. Enforcement.

(b) Audits. The following shall apply:

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

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

(c) Interest. The following shall apply:

(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. 39-14-407(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 subsection (b) of this section, the balance of any ad valorem tax not paid as provided by W.S. 39-14-407(b) shall be delinquent following the day on which it is payable and shall bear interest at the rate set forth in paragraph (iv) of this subsection until paid or collected;

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

39-14-508. Enforcement.

(b) Audits. The following shall apply:

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

(c) Interest. The following shall apply:

(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. 39-14-507(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 subsection (b) of this section, the balance of any ad valorem tax not paid as provided by W.S. 39-14-507(b) shall be delinquent following the day on which it is payable and shall bear interest at the rate set forth in paragraph (iv) of this subsection until paid or collected;

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

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

39-14-608. Enforcement.

(b) Audits. The following shall apply:

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

(c) Interest. The following shall apply:

(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. 39-14-607(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 subsection (b) of this section, the balance of any ad valorem tax not paid as provided by W.S. 39-14-607(b) shall be delinquent following the day on which it is payable and shall bear interest at the rate set forth in paragraph (iv) of this subsection until paid or collected;

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

39-14-708. Enforcement.

(b) Audits. The following shall apply:

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

(c) Interest. The following shall apply:

(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. 39-14-707(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 subsection (b) of this section, the balance of any ad valorem tax not paid as provided by W.S. 39-14-707(b) shall be delinquent following the day on which it is payable and shall bear interest at the rate set forth in paragraph (iv) of this subsection until paid or collected;

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

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

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

(END)