

AN ACT

RELATING TO TAXATION; AMENDING THE NATURAL GAS PROCESSORS TAX ACT TO CHANGE THE BASIS ON WHICH THE TAX IS IMPOSED; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-33-2 NMSA 1978 (being Laws 1963, Chapter 179, Section 2, as amended) is amended to read:

"7-33-2. DEFINITIONS. --As used in the Natural Gas Processors Tax Act:

A. "average annual taxable value" means the average of the taxable value per mcf, determined pursuant to Section 7-31-5 NMSA 1978, of all natural gas produced in New Mexico for the specified calendar year as determined by the department;

B. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "fiscal year" means the period starting July 1 and ending June 30 of the succeeding calendar year;

D. "mcf" means one thousand cubic feet;

E. "mbtu" means one million British thermal units;

F. "natural gas" means any hydrocarbon that at

atmospheric conditions of temperature and pressure is in a gaseous state, and includes non-hydrocarbon gases that are in combination with hydrocarbon gases;

G. "natural gas processing plant" means a facility used to extract liquid hydrocarbons and non-hydrocarbon gaseous or liquid substances, individually or in any combination, from natural gas, but does not include a facility that refines or processes oil, natural gas or liquid hydrocarbons or that extracts substances from natural gas through a field or lease operation;

H. "person" means any individual, estate, trust, receiver, business trust, corporation, firm, copartnership, cooperative, joint venture, association or other group or combination acting as a unit;

I. "processor" means a person who operates a natural gas processing plant; and

J. "tax" means the natural gas processors tax."

Section 2. Section 7-33-4 NMSA 1978 (being Laws 1963, Chapter 179, Section 4, as amended) is amended to read:

"7-33-4. PRIVILEGE TAX LEVIED--COLLECTED BY
DEPARTMENT--RATE.--

A. There is levied and shall be collected by the department a privilege tax on processors for the privilege of operating a natural gas processing plant in New Mexico. This tax may be referred to as the "natural gas processors tax".

B. The tax shall be imposed on the amount of mmbtus of natural gas delivered to the processor at the inlet of the natural gas processing plant after subtracting the mmbtu deductions authorized in Subsection E of this section. The tax shall be imposed at the rate per mmbtu determined in Subsection C or D of this section, as applicable.

C. The tax rate for the six-month period beginning on January 1, 1999 shall be determined by multiplying the rate of sixty-five hundredths of one cent (\$.0065) per mmbtu by a fraction, the numerator of which is the annual average taxable value per mcf of natural gas produced in New Mexico during the 1997 calendar year and the denominator of which is one dollar thirty-three cents (\$1.33) per mcf. The resulting tax rate shall be rounded to the nearest one-hundredth of one cent per mmbtu.

D. The tax rate for each fiscal year beginning on or after July 1, 1999 shall be determined by multiplying the rate of sixty-five hundredths of one cent (\$.0065) per mmbtu by a fraction, the numerator of which is the annual average taxable value per mcf of natural gas produced in New Mexico during the preceding calendar year and the denominator of which is one dollar thirty-three cents (\$1.33) per mcf. The resulting tax rate shall be rounded to the nearest one-hundredth of one cent per mmbtu.

E. A processor may deduct from the amount of

mbtus of natural gas subject to the tax the mbtus of natural gas that are:

- (1) used for natural gas processing by the processor;
- (2) returned to the lease from which it is produced;
- (3) legally flared by the processor; or
- (4) lost as a result of natural gas processing plant malfunctions or other incidences of force majeure.

F. On or before June 15, 1999 and June 15 of each succeeding year, the department shall inform each processor in writing of the tax rate applicable for the succeeding fiscal year.

G. Any Indian nation, tribe or pueblo or Indian is liable for the tax to the extent authorized or permitted by law. "

Section 3. Section 7-33-6 NMSA 1978 (being Laws 1963, Chapter 179, Section 6, as amended) is amended to read:

"7-33-6. REFUND. -- Any person who has overpaid the tax may apply for a refund of that overpayment in accordance with the provisions of Section 7-1-26 NMSA 1978. "

Section 4. Section 7-33-7 NMSA 1978 (being Laws 1963, Chapter 179, Section 7) is amended to read:

"7-33-7. NATURAL GAS ON WHICH TAX HAS BEEN LEVIED--

REGULATION BY DEPARTMENT. -- The tax shall not be levied more than once on the same natural gas. Reporting of natural gas on which the tax has been paid is subject to the regulation of the department. "

Section 5. Section 7-33-8 NMSA 1978 (being Laws 1963, Chapter 179, Section 8, as amended) is amended to read:

"7-33-8. TAX RETURN--TAX REMITTANCE--ADDITIONAL INFORMATION. --

A. Each processor shall submit a return monthly to the department in the form and manner required by the department showing for the month the total mbtus of natural gas received by the processor at the inlet of the natural gas processing plant and the total mbtus of natural gas deducted pursuant to the Natural Gas Processors Tax Act. All tax due or to be remitted by the processor shall accompany the return.

B. The return required by this section shall be filed on or before the twenty-fifth day of the month after the calendar month for which the return is required.

C. The department may require additional reports or information as necessary for the proper administration of the Natural Gas Processors Tax Act. "

Section 6. TEMPORARY PROVISION--NOTICE. -- On or before November 30, 1998, the taxation and revenue department shall inform each processor in writing of the natural gas

processors tax rate applicable pursuant to the Natural Gas Processors Tax Act for the six-month period beginning January 1, 1999.

Section 7. REPEAL. --Section 7-33-5 NMSA 1978 (being Laws 1963, Chapter 179, Section 5, as amended) is repealed.

Section 8. EFFECTIVE DATE. --The effective date of the provisions of Sections 1 through 5 and 7 of this act is January 1, 1999. _____