



MEETINGS

Everyone welcome - Members, spouses, friends, non-members, subscribers, IRS & CDOR personnel and any other interested individuals!!

REGISTER ONLINE at www.cosea.org - under tab EVENTS - click on MEETING PROGRAMS - click on REGISTER NOW button under current monthly program. You may also register by sending an email to C.J. Whiteley at Programs@cosea.org. REGISTER NO LATER THAN THE SUNDAY BEFORE THE TUESDAY MEETING. THANK YOU.

No shows will be billed if a reservation is made.

DINNER MEETINGS

May 27, 2014, Meeting

Date: Tuesday, May 27, 2014
Time: 6:00 - 7:00 pm Dinner
Dinner meal TBA
7:00 - 8:00 pm Program
Place: Summit Event Center,
411 Sable Blvd., Aurora
Program: 3.8% net Investment Tax
Speaker: Brad Burnet

June 24, 2014, Meeting

Date: Tuesday, June 24, 2014
Time: 6:00 - 7:00 pm Dinner
Dinner meal TBA
7:00 - 8:00 pm Program
Place: Plaza Denver Central,
4849 Bannock Street, Denver
Program: Offers in Compromise
Speaker: Clarice Landreth

July 22, 2014, Meeting

Date: Tuesday, July 22, 2014
Time: 6:00 - 7:00 pm Dinner
Dinner meal TBA
7:00 - 8:00 pm Program
Place: Embassy Suites, Denver Southeast,
7525 E Hampden Ave
Program: Repairs vs. Capitalization
Speaker: Brad Burnett

Spring Practitioner Conference May 15 – 16, 2014

16 hours of Continuing Education
Summit Events Center, Aurora, Colorado

C. (Controversy) P. (Practice) R. (Representation)

Featuring: Claudia Hill and Kathy Morgan for Controversy.
Mike Merrion, Esq. and Joe Thibodeau, Esq. on
Practice, and
Larry Gray, CPA detailing Representation.

Networking Reception on Thursday evening.

Go to cosea.org right now and register

Note: Subject to change, please check the website for the most up to date information.

INSIDE THIS ISSUE:

President's Message	2
Editor's Message	2
Announcements and Activities	3
New Members Save The Date Spring Practitioner Conference	
Federal Updates	4
Letter from the Governor	11
Coming Events	6

PRESIDENT'S MESSAGE



Greetings and Salutations!

I barely survived this year but it appears as though all sorts of professional goals and objectives were achieved and I am hopeful that each of you achieved some degree of success as well. Here in Colorado your elected leadership team remains hard at work promoting the EA designation across the state as well as helping

members hone their skills as America's Tax Experts and we look forward to your involvement in our seminars and participation in our monthly meetings. Regarding updates:

Housecleaning items

1. Be sure to renew your membership with NAEA and CoSEA. The most efficient way to do that is online at www.naea.org
2. Be sure to consider attending CoSEA's upcoming Spring Seminar May 15th and 16th
3. Be sure to check your PTIN account with the IRS as it does NOT automatically update your EA information – particularly relevant to licensure expiration date. While there be sure to check that all your education credits are properly reflected. www.irs.gov/ptin
4. Be advised the new IRS 'Get transcript' functionality does not produce as of yet timely transcripts which can be misleading when developing a file. Continue to rely on your 2848 authority to download transcripts directly from IRS E-services.

Here in Colorado

Colorado House Bill 14-1285 regulating tax return preparers died in the Colorado Senate. This was a difficult bill for many of us as we generally tend to agree that anyone who prepares signs and/or files tax returns for hire should be held to a certain standard of excellence. We also believe however that because our licensure comes from the United States Treasury as federally authorized tax practitioners there is no need for redundant regulation by the State of Colorado. After all US Treasury Circular 230 has teeth and Karen Hawkins is far from shy when exercising authority. This bill is expected to come back again and when it does we will work hard to have language included exempting EAs from state regulation.

Across the nation

NAEA Administrative Update

- Leadership Academy - Baltimore June 7-9, 2014. Applications are being accepted now. We have seen renewed interest and heightened activity in these regards.
- Expense Ground Rules for Leadership Academy
 - NAEA covers lodging and major meals
 - CoSEA covers travel
- Upcoming Leadership Academy planned schedule:
 - Mid- September: San Francisco Bay Area
 - Early November: Orlando (with NTPI)
- If you are interested in this most excellent opportunity let me know ASAP!

Government Relations

- **Fly-in** - Wednesday May 7 with training the evening before. The response of our members has been exceptionally strong with applications up over 20%. 115 Participants. Agenda will likely include:
 - EA Credential Protection Act (Congressman Boustany / Senator Rob Portman)
 - Return Preparer Oversight
 - Tax Reform / Extenders

August Las Vegas Conference

- August 3-5 at the Cosmopolitan of Las Vegas
- On-Line Registration now Available
- Schedule at a Glance Available
- NTPI Level 1, 2, & 3
- Graduate Level in Representation, Tax Prep Issues and Practice Management Courses
- Lunch & Learn on Value-Added Services
- 3-Day SEE Boot Camp
- NAEA Annual Meeting on Monday Evening at the hotel

Membership Update

Total YTD membership: 10,993
New Members: 359

Here's to a successful rest of your year. I look forward to seeing you at one of our many upcoming functions.

Regards,
John Dundon EA, President
Colorado Society of Enrolled Agents
NTPI Fellow
www.CoSEA.org
(720) 234-1177 (Cell)



Paul's Points to Ponder



Just a short note – Please review the flyers and details regarding the upcoming Spring Conference. It is certain to be an excellent conference, given the quality of the speakers and the work Dan H. et al put into the sessions. Sign up as soon as possible

PLEASE REVIEW THE SPRING CONFERENCE AND SIGN UP BEFORE FRIDAY, MAY 9TH.

Paul

ANNOUNCEMENTS AND ACTIVITIES

New Members

Timothy D. Mathis, EA

444 Salomon Cir., Sparks, NV 89434-9651

Phone: 775-750-1034 (T)

Email: Timothy.d.mathis@gmail.com

Joseph D. Clemens, CFP®, EA

Co-Founder / Owner | Wisdom Wealth Strategies

Instructor - Retirement and Employee Benefits, College for Financial Planning

Enrolled to represent taxpayers before the IRS

Phone: 303.219.Fax: 720.222.8435

Website: wisdomws.com

Newsletter | @clemensj

SAVE THE DATE

May 15-16, 2014; Spring Controversy Subjects

Fall Practitioner Conference - November 16, 17, 18, 2014 at the Summit Event Center, Aurora, CO

MEMBER NEWS

If you have been in the news recently or have received some award, or know of a member who has been in the news, please let us know so we can celebrate their achievements. Contact Paul Ketcham, the Newsletter Editor.

NOTE FROM THE PROGRAM COMMITTEE:

Beginning immediately, the first request for reservations to our monthly meetings will be sent out no later than the 2nd Friday before the meeting. A second request will be sent out no later than the Wednesday before the meeting. The Program Committee asks that all reservations be received no later than the Sunday before the meeting. When we receive reservations late - or not at all, the hotel staff does not have ample time to set up an appropriate meeting room and, in addition, the chef needs to know how many meals to prepare.

We cannot stress how important this procedure is to ensure that all members attending the meeting will have an enjoyable experience.

Thank You – Program Committee



Daniel Halleman

**Taxpayer Advocacy Panel Member
Colorado**

TAP4Colorado@gmail.com

(720) 336-8566

In January 2014, I was selected to represent Colorado taxpayers as a member of the Taxpayer Advocacy Panel to serve a three-year term. I am currently the Chairman of the Toll-Free Phones Committee. We have been tasked for this year to provide feedback to the IRS on two primary issues:

1. Evaluate and make recommendations to improve the “Get Transcripts” on irs.gov.
2. Provide recommendations to the IRS on ways to communicate with taxpayers the reduction in services related to toll-free assistance for tax law questions.

As a serving member of the Colorado Society of Enrolled Agents, I hope to use this platform to keep you updated on the various aspects of TAP and occasionally call upon our tax practitioner community for assistance on specific issues we at TAP are working on. I look forward to hearing from you.

Comments, suggestions, or complaints with regard to experiences with the IRS can also be directed to the Taxpayer Advocacy Panel at www.improveirs.org or 1.888.912.1227.

COLORADO UPDATES

If you are not currently getting the Colorado Tax Professionals updates via email from the Taxpayer Service Division, you may sign up at tpspublicinfo@spike.dor.state.co.us and put **SUBSCRIBE** in the subject line.

FEDERAL UPDATES

In light of the recent decision of the Appellate Court in *Loving vs. US* the Senate Finance Committee held a hearing on the subject of incompetent and unethical tax preparers and heard testimony on how the Internal Revenue Service should deal with them.

The committee heard testimony from IRS commissioner John Koskinen, National Taxpayer Advocate Nina Olson, an official with the Government Accountability Office, tax preparers and advocates from across the country, as well as the attorney who represented the tax preparers whose lawsuit ended the IRS's tax preparer regulatory program.

"Taxpayers today face a double burden: crooked or incompetent tax preparers, along with an overgrown and complicated tax code. We should put an end to both," said Senate Finance Committee chairman Ron Wyden, D-Ore. "I'm proud to say my state gets this issue right. While Oregon and a few other states are already leading in this area, we need to restore federal standards to protect all American taxpayers."

Wyden said that unlike many other industries, paid tax preparers don't have to meet any standards for competence in order to prepare someone else's return.

"In some egregious cases, preparers calculate a taxpayer's refund in person and skip the line that shows who did the work," said Wyden. "Then after the taxpayer leaves, the preparer falsifies the math to boost the refund, files the return and pockets the difference. And worst of all, unless the taxpayer can prove what happened, they're on the hook for the money when the IRS finds out."

At the hearing, the GAO released the results of a new investigation involving undercover site visits in which 17 of 19 randomly selected, paid tax preparers failed to complete a tax return accurately, either due to significant mistakes or willful negligence. The new GAO investigation reported findings similar to those of a 2006 GAO investigation that identified preparer mistakes in 19 of 19 uncover visits.

IRS commissioner John Koskinen told the senators that the tax preparer community is a key ally in the agency's efforts to fulfill its dual mission of providing taxpayer service and ensuring tax compliance. "We view our relationship with tax professionals as a partnership, one that has enabled a system that interacts with hundreds of millions of taxpayers to nimbly adjust to new tax laws, speed the average time for refunds, and encourage the voluntary compliance of taxpayers," he said. "Return preparers are a vital link between the IRS and taxpayers, especially given that the vast majority of people seek help in doing their taxes."

Koskinen noted that each year, paid preparers are called upon by taxpayers to complete about 80 million returns, or about 56 percent of the total individual income tax returns filed, while another 34 percent of taxpayers use tax preparation software, for a total of 90 percent who seek some form of assistance.

"Competent preparers make our job easier by helping their clients properly report their taxes and pay what they owe," said Koskinen. "Given the crucial role that return preparers play in our tax system, the IRS believes it is critical to ensure a basic competency level for tax return preparers and to focus our enforcement efforts on identifying and stopping unscrupulous preparers."

Last year, he noted, the U.S. District Court for the District of Columbia issued an injunction last year in the case of *Loving v. IRS* that prevented the IRS from enforcing the regulatory requirements it had tried to impose for competency testing and continuing education, and the decision was upheld by a federal appeals court this year. "The IRS is continuing to assess the scope and impact of the court's decision while consideration is given to options for appeal," he added.

Koskinen noted that the Obama administration's fiscal 2015 budget includes a proposal to explicitly authorize the IRS to regulate all paid tax preparers. He asked Congress to provide that authorization and said the IRS might offer a voluntary form of certification to tax preparers in the meantime.

"Following the court decision, the IRS remains concerned about protecting taxpayers and ensuring they receive quality assistance in preparing their tax returns," said Koskinen. "While we urge Congress to quickly enact the proposal described in the President's Budget, we are taking a close look at the possibility of an interim step involving a program of voluntary continuing education. The idea of a voluntary program is under consideration because we believe it is important to maintain the momentum for regulation and oversight of unregulated preparers that has built up over the last five years, and to lessen the risks to taxpayers resulting from the lack of federal education requirements. Before moving forward on this idea, however, we will solicit feedback from a wide range of external stakeholders as to whether such an interim step would be useful and appropriate."

For all the number crunchers out there, these statistics are fresh off the wire:

The Internal Revenue Service anticipates that nearly 5 million taxpayers will amend their returns by filing Form 1040X this year.

Nearly 46 million returns were electronically filed from home computers as of April 18, more than the total from home computers for all of 2013. The IRS said Friday that it has received more than 131 million tax returns, of which 88 percent were e-filed.

This year, many same-sex couples may want to consider filing amended returns. A same-sex couple, legally married in a state or foreign country that recognizes their marriage, is now considered married for tax purposes. This is true regardless of whether or not the couple lives in a jurisdiction that recognizes same-sex marriage.

For tax returns originally filed before Sept. 16, 2013, legally married same sex couples have the option of filing amended return to change their filing status to married filing separately or married filing jointly. But they are not required to change their

filing status on a prior return, even if they amend that return for another reason. In either case, their amended return must be consistent with the filing status they have chosen. Further details are available on IRS.gov.

2014 FILING SEASON STATISTICS
Cumulative statistics comparing 4/19/13 and 4/18/14

Individual Income Tax Returns:	2013		2014		%
Change					
Total Receipts	130,203,000		131,170,000		0.7
Total Processed	120,737,000		125,604,000		4.0
E-filing Receipts:					
TOTAL	112,665,000		115,969,000		2.9
Tax Professionals	69,474,000		69,992,000		0.7
Self-prepared	43,191,000		45,977,000		6.5
Web Usage:					
Visits to IRS.gov	296,468,446		269,820,598		-9.0
Total Refunds:					
Number	93,839,000		94,809,000		1.0
Amount	\$249.489	billion	\$254.702	billion	2.1
Average refund	\$2,659		\$2,686		
Direct Deposit Refunds:					
Number	76,135,000		76,714,000		0.8
Amount	\$217.189	billion	\$217.657	billion	0.2
Average refund	\$2,853		\$2,837		-0.5

Kudos from The Commish!

Internal Revenue Service commissioner John Koskinen addressed a special thank you to the tax community in an email to tax professionals Friday, noting that their work is “critical to running the tax system and helping the nation.”

“With the end of the filing season just a few days away, I want to take a moment to thank all the tax professionals and other partners who have helped to make this filing season run smoothly,” he wrote. “It’s a long list, ranging from attorneys, Certified Public Accountants and Enrolled Agents to the software industry and payroll community.”

“Tax professionals and other partners are a vital link between the IRS and taxpayers, particularly given that most people seek assistance in doing their taxes,” Koskinen added. “Your work is critical to running the tax system and helping the nation. As the final days and hours approach before April 15, I just wanted to let you know that we appreciate your hard work and continued dedication. Of course, the work does not stop on April 15. The tax professional community works throughout the year helping individual and business clients with extensions, amended returns and many other issues. We look forward to continuing to work with tax professionals and all of our partners in the tax community as we start to wrap up the work of this filing season and turn our attention to preparing for next year.”

“We view our relationship with tax professionals as a partnership, one that has enabled a system that interacts with hundreds of millions of taxpayers to nimbly adjust to new tax laws, speed the average time for refunds, and encourage the voluntary compliance of taxpayers,” he said. “Return preparers are a vital link between the IRS and taxpayers, especially given that the vast majority of people seek help in doing their taxes.”

Koskinen noted that each year, paid preparers are called upon by taxpayers to complete about 80 million returns, or about 56 percent of the total individual income tax returns filed, while another 34 percent of taxpayers use tax preparation software, for a total of 90 percent who seek some form of assistance.

GROSS INCOME FROM THE SALE OF OIL AND GAS

REGULATION 39-29-102(3)(A):

- (1) When referring to oil and gas production, gross income means adjusted gross income. Severance tax on oil and gas production is calculated on gross income minus certain deductions set forth in paragraph (3), below, and is referred to in this rule as adjusted gross income.
- (2) ~~Adjusted g~~Gross income ~~for purposes of oil and gas~~ is the fair market value of the oil or gas at the wellhead. If the oil and gas is not sold at the wellhead, then the deductions in (3) apply to calculate the value at the wellhead. The fair market value of the ultimate sale transaction is determined by the higher of the actual transaction price or the value computed for Colorado and federal income tax depletion purposes. ~~If different values are determined, the higher of the two shall apply.~~
 - (a) ~~Adjusted g~~Gross income ~~for this purpose shall~~ includes, but is not limited to, income ~~received~~ in the form of royalties or other production payments received by persons having an “economic interest” for depletion purposes. ~~See sections 611, 612, and 613 and the regulations promulgated thereunder of the Internal Revenue Code of 1954 for definition of gross income for depletion purposes.~~
- (3) **Deductions.**
 - (a) For purposes of computing the adjusted gross income, the following costs shall be deducted:
 - (i) Transportation.
 - (ii) Processing. The processing deduction is the cost incurred when natural gas is processed through a gas processing plant where identifiable natural gas liquids are stripped from the natural gas into residue gas and natural gas liquid product or the various individual natural gas liquid products and/or the hydrogen sulfide and sulfite. These costs begin at the inlet of a gas processing plant or refinery and end at the tailgate of that facility. If the facility has multiple uses, only the costs for processing are allowed.
 - (iii) Manufacturing.
 - (b) A deduction is allowed only when the income from the well that incurred the direct costs is included in gross income. If a cost is a direct cost to a well whose income is not included in the gross income, then the direct costs for such well cannot be included as a deduction. Transportation, processing, and manufacturing costs that are allocated or apportioned to stripper wells cannot be used as a deduction from income from other wells included in gross income, even if such costs exceed the income generated from the stripper well.
 - (c) Any allowable deductions that do not relate to a specific well shall be allocated back to the taxable production on a volume basis for each taxable well.
 - (d) Cost means the actual amount paid; the sum or equivalent expended, paid, or charged for something.
- (4) A barrel means forty-two U.S. gallons at sixty degrees Fahrenheit at standard atmospheric pressure.
- (5) “Related parties” shall have the same meaning as “controlled group of corporations” as defined in §39-26-102(3)(b)(II), C.R.S. and also includes any entity that, notwithstanding its form of organization, bears the same ownership relationship to the taxpayer as a corporation that would qualify as a component member of the same controlled group of corporations as the taxpayer.

Cross Reference(s)

1. See Department Rule 39-29-102(7) for a discussion on eligible transportation deductions.
2. See Sections 611, 612, and 613 and the regulations promulgated thereunder of the Internal Revenue Code of 1954 for a definition of gross income for depletion purposes.

TRANSPORTATION DEDUCTION TO GROSS INCOME

39-29-102(7)

- (1) Transportation includes the costs of moving identified and measured oil or gas to the sales point. For oil and gas streams that require separation, transportation begins after both the initial separation and metering. For oil and gas streams that do not require separation, transportation begins after metering. Costs directly attributable to transportation systems that are deductible include:
 - (a) Cost of compression downstream of the meter.
 - (b) Cost of a pipeline that transports oil or gas in addition to compressors used in the transportation process.
 - (c) Overhead costs and depreciation directly attributable to the process of transportation within the boundaries of the transportation system, such as depreciation of the pipeline and pipeline repairs and/or maintenance.
- (2) The total transportation costs of a taxpayer-owned transportation system must be allocated to all production. For example, transportation costs attributable to transportation of water produced during separation must be allocated to water production and not oil and gas production. Similarly, transportation costs attributable to stripper wells must be allocated to stripper well production and not to taxable oil and gas production.
- (3) Nondeductible costs include, but are not limited to:
 - (a) Gathering costs, which are the movement of unseparated bulk production to the point of initial separation.
 - (b) Economic opportunity costs such as rate of return on investment.
 - (c) Other overhead or indirect costs.

TAXATION OF OIL SHALE

REGULATION 39-29-107

~~This tax is levied at the rate of four percent, except as provided in subsection (2) of this section, on the gross proceeds from each commercial oil shale facility.~~

- (1) Oil shale is an organic-rich, fine-grained sedimentary rock that contains a solid organic compound called kerogen. Shale oil is not the same as oil shale. Shale oil is taxable as oil and gas under §39-29-105, C.R.S.
- (2) The severance tax of oil shale shall be levied on the gross proceeds from each commercial oil shale facility.
- (3) **Gross Proceeds of Oil Shale.**
 - (a) For purposes of severance tax on oil shale, gross proceeds shall be computed on the first sales price.
 - (i) For oil shale that is severed from the ground and then sold, the gross proceeds are the amount of such sales.
 - (ii) For oil shale that is in situ retorted (heated underground) and then extracted and sold, the gross proceeds are the amount of such sales.
 - (iii) For oil shale that is severed, subsequently processed and then sold as oil, the gross proceeds are the amount of such sales minus the costs of such processing.
 - (b) Whether a cost of processing is a direct or indirect expenditure shall be determined on the basis of generally accepted accounting principles for any given period. Excess cost of one taxable year cannot be deducted for another taxable year.
 - (c) Allowable deductions for the purposes of computing gross proceeds are only those costs incurred after shale or oil has been actually severed from the earth.
- (4) For the purposes of the fractional calculations described in §39-29-107(2), C.R.S., the first year of taxable production begins one hundred eighty days after a commercial oil shale facility commences oil shale production.
- (5) In the event a commercial oil shale facility suspends production, the fractional calculations described in §39-29-107(2), C.R.S. are not restarted, but any period of suspension does not accrue additional years that determine the fractional calculations of the severance tax imposed for years in which no production occurred.
- (6) A commercial oil shale facility shall be considered to be any combined unitary economic interest consisting

TAXATION OF METALLIC MINERALS

REGULATION 39-29-103:

- (1) **Tax levied.** In addition to all other taxes, ~~there is~~ §39-29-103, C.R.S. levies a tax upon the severance of all metallic minerals from the earth within this state. The tax is levied against every mining operation engaged in severance of metallic minerals and shall be based upon the gross income of such mining operation. The owners and/or operators of the mining operation so engaged shall ~~be deemed liable for the maintenance of~~ maintain records, ~~fileing~~ required forms and ~~payment of~~ the tax.
- (2) **Gross Income from the Sale of Metallic Minerals.**
- (a) The gross income from the sale of metallic minerals is the fair market value of the ore immediately after its removal from the mine. The fair market value is the price at which the ore would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell, and both having reasonable knowledge of relevant facts.
- (b) Gross income from the ore shall not include any value added subsequent to the ore being severed from the earth. If the ore is not sold until after transportation or processing, then such costs are deductible to arrive at gross income. The value so arrived at should reflect the costs of mining the ore plus a reasonable profit margin.
- (c) “Ore” as used in this rule is defined as the crude material obtained without any handling or processing other than sorting.
- (3) **Taxation.**
- (a) For each taxable year, the tax is imposed at the rate of 2.25% of gross income. Such tax on gross income from the severance of metallic minerals is subject to an exemption of the first \$19,000,000 of gross income, which need not be prorated for a taxable period of less than twelve months. This exemption is allowed for each mining operation. ~~A mining operation, which shall~~ consists of an area of land ~~where in which~~ the recoverable metallic mineral reserves can be developed in an efficient, economical, and orderly manner as a unit with due regard to conservation of recoverable metallic mineral reserves and other resources. ~~All lands in a mining operation shall be under the effective control of a single operator/lessee and be able to be developed and operated as a single operation.~~ A single mining operation may include, but is not limited to, surface mining, underground and in situ mining, on-site concentrating, milling, evaporation, and other primary processing and transportation at or near the mine site.
- (b) ~~Ores severed prior to January 1, 1978 shall not be subject to these provisions.~~ Where ores are processed and abandoned and subsequently reclaimed by an unrelated economic interest, ~~they such~~ ores shall be ~~generally~~ considered as waste or residue. ~~The following case is cited to exemplify what is not considered to be waste or residue from previously processed ores:~~ For example,
- (i) Taxpayer’s predecessor in interest dredge mined property for gold. ~~Aggregates were picked up by dredge, washed but not treated chemically or crushed; therefore, the aggregates are unprocessed. The aggregates were then dumped back, unprocessed, unchanged on the same land. Gold was in a free state; and not actually extracted from the aggregates, which are considered. Aggregates were~~ natural deposits of minerals in place - not dumps, waste, or tailings; therefore, any future processing, whether by a related or unrelated economic interest, is subject to tax. ~~Commissioner of Internal Revenue v. Claude C. Wood Company, 321 F.2d 207, (9th Cir. 1963).~~
- (4) **Tax credit.** All ad valorem tax determined on the basis of gross proceeds or net proceeds under ~~Section~~ §39-6-106, C.R.S. ~~1973~~, is allowed as a credit against the tax imposed ~~on the severance tax of metallic minerals. in subsection (1) of this section.~~ The ad valorem tax credit allowed may not exceed fifty percent of the metallic minerals severance tax imposed. The amount of ad valorem tax used to determine the credit shall be (1) the amount assessed in the case of an accrual basis taxpayer during the taxable year or (2) the amount paid by a cash basis taxpayer during a taxable year. In the case of a short period return including the return for the first taxable period, the credit will be limited to an amount equal to the ad valorem tax assessed to an accrual basis taxpayer or paid by a cash basis taxpayer during the short period.

Cross Reference(s)

1. For additional information on ores that are abandoned and subsequently reclaimed by an unrelated economic interest, see Commissioner of Internal Revenue v. Claude C. Wood Company, 321 F.2d 207, (9th Cir. 1963).

OIL AND GAS SEVERANCE TAX WITHHOLDING

REGULATION 39-29-111(1)(A):

- (1) Every producer or purchaser who disburses funds owed to any person owning a working interest, a royalty interest, a production payment, or any other interest in any oil or gas produced in Colorado shall withhold one percent (1%) of the gross income from such payments; except, no withholding shall be taken from payments for:
 - (a) ~~i~~Interests held by the United States of America;
 - (b) ~~i~~Interests held by the State of Colorado or any political subdivisions of the state of Colorado;
 - (c) ~~i~~Interests held by the Southern Ute Indian Tribe or the Mountain Ute Indian Tribe; or,
 - (d) On or after January 1, 2000, any production exempt from the tax imposed by 39-29-105(1)(a) or (b), C.R.S.
- (2) Producers and purchasers do not have to register wells with production exempt under section 39-29-105(1)(b), C.R.S. where the well API number shows exempt levels of monthly production on the conservation levy records of the Colorado Oil and Gas Conservation Commission. ~~Producers or purchasers who wish to register wells with the Department should submit on Department Form DR 23 all newly qualified low production wells by API well number. Wells only have to be registered in the first quarter in which the well produces at exempt levels.~~
- (3) **Annual Report.**
 - (a) Every producer or first purchaser who withholds as provided in §39-29-111(1), C.R.S. shall furnish an annual report to the Department on a calendar year basis reflecting:
 - (i) Gross royalty income,
 - (ii) Amount withheld, and
 - (iii) Any ad valorem tax attributable to the particular royalty interest.
- (4) **Returns and Liability.** The tax is imposed on the interest owner who shall file the severance tax return and pay the severance tax. The return shall reflect the amount listed on the DR21W received from the producer or first purchaser; the tax liability shall not be shifted onto another party. For example, a limited partnership, LLC or S Corporation must file at the entity level. Partners, members, or shareholders shall not file a severance tax return to report oil and gas income received by the pass-through entity. The interest owner is the person who receives income from the producer or first purchaser regardless of the person's form of organization, including individual partnerships, LLCs or corporations.
- (5) The amount withheld pursuant to §39-29-111, C.R.S. by the producer or first purchaser may be claimed as a credit by the interest owner of oil and gas or oil shale production when such party files a return as required under §39-29-112, C.R.S.
 - (a) If the credit for the amount withheld exceeds the tax shown on the return, the excess credit shall be refunded to the royalty interest owner.

Cross Reference(s)

1. For additional information governing the requirement to file electronically, see Procedure and Administration Special Rule 1, "EFT Payment Due."

DUE-DATE EXTENSION FOR FILING SEVERANCE TAX RETURNS AND PENALTY AND INTEREST:**REGULATION 39-29-112:**

~~(1) **Due Date.** When a severance tax filing due date falls on a Saturday, Sunday or a legal holiday, a return will be considered to have been timely filed if it is filed on the next business day.~~

- (1) **Automatic Extension of Time to File a Severance Tax Return and Pay Severance Tax.** All taxpayers ~~will be~~ are allowed an automatic six-month extension of time ~~for filing~~ to file their severance tax return and pay severance tax. However, interest will accrue from the original due date on any net tax liability. ~~due will be assessed. Penalty may also be due if the taxpayer has not complied with regulation 39-29-115.~~ If a taxpayer needs additional time to file a severance tax return or pay the severance tax in addition to the automatic six-month extension, the taxpayer shall file a request for an extension with the Department.
- (2) **Extension Period.** The extension of time to file and pay ends when the return is filed. If the return is not filed within the six-month extension period, the original due date shall be used in the calculation of penalty and interest. ~~the extension period is disregarded and the return is considered delinquently filed.~~
- (3) **Penalties.** The penalties for failure to file or to pay penalty described in §39-29-115(1), C.R.S. will not be due if a taxpayer files the severance tax return and/or pays (as applicable) the severance tax within the extension period as provided for in paragraph (2) of this rule.
- (4) Net tax liability means the total Colorado severance tax liability for the tax year reduced by all credits other than prepayment credits.
- (5) Prepayment credits are credits for severance tax paid by the taxpayer (severance tax withheld and estimated tax) on or before the original due date of the return.
- (6) The Department is not bound by an IRS granted extension, and the Department will independently evaluate whether the taxpayer qualifies for an extension to file their Colorado severance tax return.

Cross Reference(s)

1. For additional information on due dates that fall on a Saturday, Sunday or legal holiday, see §-21-119(3), C.R.S.

PENALTY AND INTEREST:**REGULATION 39-29-115:**

- ~~(1) Except as specified in paragraph (2) of this regulation, the penalties for failure to file or to pay penalty described in §39-29-115(1), C.R.S. will not be due if a taxpayer files and pays the severance tax return within the extension period.~~
- ~~(2) Unless specifically waived by the Department for good cause, the failure to file or pay penalty described in §39-29-115(1), C.R.S. will be due if:~~
 - ~~(a) the taxpayer has not paid at least ninety percent of the net tax liability into the Department of Revenue as of the original due date of the return;~~
 - ~~(b) the taxpayer does not file by the extension due date, or~~
 - ~~(c) the taxpayer does not pay all of the net tax due with the taxpayer's filed return.~~
- ~~(3) Interest will be assessed on any unpaid net tax liability, including a return filed under extension, for the period from the original due date until payment is made.~~
- ~~(4) Net tax liability means the total Colorado severance tax liability for the tax year reduced by all credits other than prepayment credits.~~
- ~~(5) Prepayment credits are credits for severance tax paid by the taxpayer (severance tax withheld and estimated tax) on or before the original due date of the return.~~

STATE OF COLORADO

DEPARTMENT OF REVENUE

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John W. Hickenlooper
Governor

Barbara J. Brohl
Executive Director

Colorado Department of Revenue
Division of Taxation
Notice of Workshop
Re: Severance Tax Regulations

The Colorado Department of Revenue will hold a Severance Tax Workshop on June 25, 2014 at 9:00 a.m. at the Colorado Department of Revenue, 1375 Sherman Street, Room 127. The Department held a rulemaking hearing on April 3, 2014 concerning these and other rules. Upon discussion at the rulemaking hearing, the Department determined there was a need for another workshop. The draft rules, as issued for the hearing, will be the basis for the discussion, and the Department invites public comment on these rules. If there is an interest for a call-in number, please contact Erika Hoxeng (erika.hoxeng@state.co.us).

1. Regulation (39) 29-102(3)(a) (Oil and Gas Gross Income) Open for comment.
2. Regulation (39) 29-102(7) (Transportation Deduction to Gross Income) Open for comment.
3. Regulation 39-29-103 (Taxation of Metallic Minerals) Open for comment.
4. Regulation (39-) 29-107(1) (Tax on Oil Shale Severance) No shale production has ever occurred in Colorado.
5. Regulation (39-) 29-111 (Oil and Gas Severance Tax Withholding) Open for comment.
6. Regulation 39-29-112 (Due Dates for Filing Severance Tax Returns) Open for comment.
7. Regulation 39-29-115 (Penalty and Interest) Open for comment.

Stakeholders and the public are encouraged to submit topics or specific proposals for new or amended rules concerning severance taxes. Proposals can be submitted to the Department through its new rule review request process which is found at www.colorado.gov/revenue > Library > Rules and Regulations > Rule Review Request Form (DR 2477). The Department will schedule those proposals, together with its regular rule review, at future workshops. Questions or comments about this process can be sent to Erika Hoxeng (erika.hoxeng@state.co.us).



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Summit Events Center, 411 Sable Blvd.,
Aurora
- May 27, 2014** Dinner Meeting
Dinner Meal TBA
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Program: 3.8% net Investment Tax
Speaker: Brad Burnett
- June 24, 2014** Dinner Meeting
Dinner Meal TBA
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4849 Bannock Street, Denver
411 Sable Blvd., Aurora
Program: Offers in Compromise
Speaker: Clarice Landreth
- July 22, 2014** Dinner Meeting
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Program: Repairs vs. Capitalization
Speaker: Brad Burnett

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