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39-11-101. Definitions.

(a) As used in this act unless otherwise specifically provided:

(i) "Assessed value" means taxable value;

(ii) "Assessment roll" means the official list of taxable property for the ensuing tax year and may include taxes due thereon;

(iii) "Board" means the state board of equalization or its authorized agent;

(iv) "Department" means the department of revenue or its authorized agent;

(v) "Director" means the director of the department of revenue.

(vi) "Fair market value" means the amount in cash, or terms reasonably equivalent to cash, a well informed buyer is justified in paying for a property and a well informed seller is justified in accepting, assuming neither party to the transaction is acting under undue compulsion, and assuming the property has been offered in the open market for a reasonable time, except, fair market value of

agricultural land shall be determined as provided by W.S. 39-13-103(b)(x) and fair market value of mine products shall be determined as provided by W.S. 39-14-103(b), 39-14-203(b), 39-14-303(b), 39-14-403(b), 39-14-503(b), 39-14-603(b) and 39-14-703(b);

(vii) "Intangible personal property" includes:

(A) Money and cash on hand including currency, gold, silver and other coin, bank drafts, certified checks and cashier's checks;

(B) Money on deposit;

(C) Accounts receivable and other credits;

(D) Bonds, promissory notes, debentures and other evidences of debt;

(E) Shares of stock or other written evidence of ownership;

(F) Judgments for the payment of money;

(G) Annuities and annuity contracts.

(viii) "In transit property" means manufactured goods, wares, seed, feed, fertilizer, tools, supplies and merchandise which is in interstate commerce, or, Wyoming assembled or manufactured products being held for out-of-state sale, which are consigned or placed in any storage area in Wyoming for storage, repackaging, processing, fabricating, milling, disassembly or assembly in transit to a final destination outside Wyoming whether the destination is specified before or after the transportation begins;

(ix) "Inventories" means any personal property held for resale consisting of goods, wares or merchandise including stocks of raw or finished material, unassembled parts, work in progress or finished products constituting the inventory of a merchant or manufacturer;

(x) "Livestock" means horses, cattle, mules and asses, sheep, swine, goats and all other animals commonly thought of as livestock;

(xi) "Manufacturer" means any person who purchases, receives or holds personal property for the purpose of adding to the value thereof, by any process of manufacturing, refining, purifying, or by the combination of different materials, and with a purpose to make a gain or profit by sale thereof;

(xii) "Merchant" means any person owning, possessing or controlling personal property with a purpose to sell the property at an advanced price or profit, or any person controlling personal property which has been consigned to the person from outside Wyoming to be sold within Wyoming;

(xiii) "Person" means an individual, partnership, corporation, company or any other type of association and any agent or officer of any partnership, corporation, company or other type of association;

(xiv) "Property used for industrial purposes" means those properties valued under W.S. 39-13-102(m)(ii) through (viii) and those properties used or held for use for:

(A) Manufacturing, milling, converting, producing, processing or fabricating materials;

(B) The extraction or processing of minerals;

(C) The mechanical, chemical or electronic transformation of property into new products.

(xv) "Real property" means land and appurtenances, including structures, affixed thereto;

(xvi) "Tangible personal property" means property which is neither intangible personal property nor real property;

(xvii) Beginning January 1, 1989, "taxable value" means a percent of the fair market value of property in a particular class as follows:

(A) Gross product of minerals and mine products, one hundred percent (100%);

(B) Property used for industrial purposes, eleven and one-half percent (11.5%);

(C) All other property, real and personal, nine and one-half percent (9.5%).

(xviii) "This act" means W.S. 39-11-101 through 39-19-111.

**39-11-102. Administration; confidentiality; department of revenue.**

(a) Taxpayer rights. The following provisions shall apply to this act:

(i) The department shall publish and make available a list of taxpayer rights in the area of state tax administration and collection, written in plain language, which includes the following rights:

(A) A right to taxpayer information services including a location where taxpayers may request copies of public records or obtain explanations of billings and information about their rights and responsibilities;

(B) A right to assurance that no employee of the state shall receive a bonus, be promoted or in any way rewarded on the basis of the amount of assessments or collections from taxpayers;

(C) A right to confidentiality as to records protected against disclosure by statute;

(D) A right, if a tax has accrued penalty and interest because the taxpayer relied on erroneous written information or written answers from the state, that the penalty and interest shall not be assessed, provided that the pertinent facts and circumstances disclosed by the taxpayer were substantially correct and complete;

(E) A right to enter into installment payment agreements on tax assessments for tax liabilities where repayment requirements are met and where payment in a lump sum would cause severe inconvenience to the taxpayer;

(F) A right to assessment notices that describe in plain terms the basis for assessments and describe the procedures for appeal.

(ii) Any taxpayer may bring an action to enjoin any violation of the rights provided by paragraph (i) of this subsection. The list of taxpayer rights and enforcement provisions provided in this section are supplemental to other rights provided by law.

(b) The department of revenue is created pursuant to W.S. 9-2-2007. The governor shall appoint a director who shall exercise all management authority over agency personnel. The director may formulate the policies and programs to be carried out by the department through its respective divisions and adopt suitable rules and regulations pursuant to the provisions of the Wyoming Administrative Procedure Act.

(c) In addition to the other powers and duties imposed by law, the department shall:

(i) Coordinate collection of state taxes, assessments, licenses, fees and other monies as designated by law;

(ii) Insure specialized service for tax enforcements, through establishment and maintenance of uniformity in definition, regulation, return and payment;

(iii) Insure avoidance of duplication in state facilities for tax collections that involve seasonal or occasional increases of staff, duplication of audits and wasteful travel expenses;

(iv) Safeguard tax and other collections wherever received until duly deposited in the state treasury;

(v) Provide an advisory service on fiscal status, processes and needs of state government, including periodic reports on payments, receipts and debts;

(vi) Designate divisions to enforce the laws of this state relating to collections of taxes, fees and all monies, and to delegate the authority necessary to the heads of the divisions to enforce state laws;

(vii) Prescribe standard procedures for receiving, receipting, safeguarding and periodically reporting all state revenue receipts, whether current, delinquent, penalty, interest, refunds or otherwise, and the amounts,

kinds and terms of items, either collected or still outstanding, to be summarized, studied and reported;

(viii) Specify the amount of land for mines or mining claims to which the ad valorem tax or assessment of coal lands provisions of the constitution apply. For purposes of this paragraph, all real and tangible personal property used underground in mining or used within the well in oil or gas exploration or production which historically has not been assessed and taxed based on the 1941 and 1963 attorney general opinions and which remains underground until its value is consumed in the production of the mineral shall be considered part of the mine or mining claim to which the ad valorem tax applies. The taxpayer may remove the equipment from underground for repair or to meet statutory or regulatory requirements, and such removal shall not be considered by the assessor in determining whether the property shall be separately assessed. The following apply to underground equipment:

(A) Equipment which is permanently underground is not subject to separate assessment;

(B) Equipment which is intended or otherwise designed to be consumed underground in the production of the mineral shall not be separately assessed for taxation during the normal course of mining or oil or gas exploration or production;

(C) Except as provided by this paragraph, equipment which is removed from underground shall be treated as tangible personal property and assessed accordingly.

(ix) Require persons to furnish information concerning all relevant matters pertaining to property owned by them for purposes of taxation;

(x) Furnish the governor all information he may require relative to tax matters, and annually transmit to the governor on or before the third Monday of December and to each member of the legislature on or before the second Tuesday in January, the report of the department for the year showing in tabulated form all taxable property in the state and its value;

(xi) Require the attorney general or district attorneys in their respective districts to assist in the commencement and prosecution of actions and proceedings for penalties, forfeitures, removals and punishments for violations of the laws of the state respecting the assessment and taxation of property, and to represent the department or board in any litigation in which they may become involved in the discharge of their duties;

(xii) Decide all questions that may arise with reference to the construction of any statute affecting the assessment, levy and collection of taxes, in accordance with the rules, regulations, orders and instructions prescribed by the department;

(xiii) Institute or cause to be instituted any proceedings, either civil or criminal, provided by law as a punishment for the neglect, failure or refusal to obey any lawful requirement or order by the department, or to prevent the violation or disobedience of any lawful requirement or order, or to compel their enforcement;

(xiv) Prescribe forms for uniform schedules, consistent with W.S. 39-13-103(b)(viii), rolls and other documents, and draft and require the use of a standard form of tax notice by each of the several counties to uniformly designate, detail and total the levies and valuations established within the counties;

(xv) Prescribe the system of establishing the fair market value of all property valued for property taxation to ensure that all property within a class is uniformly valued. The county assessor and the facilities of his office, together with the deputy assessors and clerical assistants in each county, at the direction of the department, shall give full aid in the installation of the prescribed system in the county. The county shall also furnish the necessary supplies and records for installing the system;

(xvi) Confer with, advise and give necessary instructions and directions to county assessors as to their duties under the laws of the state. The department or its designee shall officially visit each county of the state annually and inquire into the method of assessment and taxation and ascertain whether the assessors faithfully discharge their duties, particularly as to their compliance

with the laws requiring the assessment of all property not exempt from taxation;

(xvii) Direct proceedings, actions and prosecutions to be instituted to enforce the laws relating to the liability and punishment of persons for failure or neglect to comply with the provisions of the laws of this state governing the return, assessment and taxation of property, and cause complaints to be made against county assessors, members of county boards of equalization, or any other assessing or taxing officers, to the proper authority, for their removal from office for misconduct or neglect of duty;

(xviii) Monitor the work in progress in the office of each county assessor to determine that procedures and formulae promulgated by the department are being strictly observed and applied;

(xix) Promulgate rules and regulations consistent with the provisions hereof as provided by the Wyoming Administrative Procedure Act, necessary to the enforcement of the provisions of any or all tax and other revenue measures which are administered by the department;

(xx) Promulgate rules and regulations under which the department may offset any taxes or fees due and payable under title 39, Wyoming statutes and any taxes or fees due and payable to a state agency under title 31, Wyoming statutes, from any other funds owed to the taxpayer by the state or any political subdivision thereof. All state agencies and political subdivisions in Wyoming are subject to these rules with regard to the department's offset authority;

(xxi) Map and keep record of the geographical boundaries for all governmental entities with authority to levy property taxes, for administration of tax districts;

(xxii) Map and keep record of the geographical boundaries for all special districts in the state; and

(xxiii) Review boundaries for proposed special districts pursuant to W.S. 22-29-109(a).

(d) The following shall be adopted in accordance with the requirements and procedures of the Wyoming Administrative Procedure Act:

(i) Adoption of any manual, formula, method or system to be used to determine the fair market value of property for tax purposes;

(ii) Adoption of standards, guidelines, criteria or methods to implement paragraph (c)(xv) of this section.

(e) The enumeration of specific actions or decisions which must be implemented by a properly adopted rule set forth in subsection (d) of this section is not exclusive and does not limit in any way the applicability of the Wyoming Administrative Procedure Act to other actions or decisions of the department.

**39-11-102.1. Administration; state board of equalization.**

(a) The governor shall appoint, with senate confirmation, three (3) persons who shall constitute the state board of equalization who are the department's board of appeals. Not more than two (2) board members may be members of the same political party. Each appointment of the board members shall be for a six (6) year term.

(b) The board shall elect a chairman and a vice-chairman who shall serve for two (2) years.

(c) The state board of equalization shall perform the duties specified in article 15, section 10 of the Wyoming constitution and shall hear appeals from county boards of equalization and review final decisions of the department upon application of any interested person adversely affected, including boards of county commissioners for the purposes of this subsection, under the contested case procedures of the Wyoming Administrative Procedure Act. Any interested person adversely affected by the adoption, amendment or repeal of a rule pursuant to W.S. 16-3-103(a) shall be afforded an opportunity for a hearing before the board. In addition, the board shall:

(i) Manage its internal affairs and prescribe rules of practice and procedure;

(ii) Prescribe the form for the abstract of the assessment roll, examine and compare the abstracts of the counties and equalize the same, so that all taxable

property in the state is assessed at its fair market value, and to that end shall add to or deduct from the aggregate valuation of the property, or any class or classes of property, in any county such percent as will bring the same to its fair market value. When any assessed valuation is to be increased or decreased, the board shall provide not less than twenty (20) days notice of the proposed action to the county board of equalization and county assessor of the county in which the property is situated. If requested, the state board of equalization shall provide an opportunity for a hearing for the county board of equalization and assessor of the affected county. The hearing shall be held in the affected county. After a hearing, if requested, the county board of equalization shall take the necessary action to effectuate the action taken by the state board of equalization. The state board of equalization shall certify the valuation to be used for all tax levies on or before the first Monday in August. The board shall communicate its equalization actions to the department, along with any recommendations for improved work practices of county assessors;

(iii) When in the opinion of the board, it would be of assistance in equalizing values under paragraph (ii) of this subsection, the board may require any county assessor to furnish statements showing assessments of the property of any person within the county. The board shall consider and equalize county assessments under paragraph (ii) of this subsection and may increase or decrease assessments returned by the county board of equalization when the property so assessed appears to be over-valued or under-valued, first giving notice to those persons affected. The notice shall fix a time and place of hearing. Any affected person may appeal from the decision of the board to the district court of the county in which the property is situated;

(iv) Decide all questions that may arise with reference to the construction of any statute affecting the assessment, levy and collection of taxes, in accordance with the rules, regulations, orders and instructions prescribed by the department:

(A) Upon application of any person adversely affected; or

(B) In performing its responsibilities to equalize values, including with respect to the suitability of the system prescribed by the department for establishing fair market value.

(v) Require each county assessor immediately after the county boards of equalization have been notified by the state board of equalization of the amount of the county values and state levy, to certify to the state board of equalization, on or before August 10 of each year, in the form and detail prescribed by the board, all valuations and levies fixed in their respective counties;

(vi) Institute or cause to be instituted any proceedings, either civil or criminal, provided by law as a punishment for the neglect, failure or refusal to obey any lawful requirement or order by the board arising from a review of department action under the Wyoming Administrative Procedure Act or in performing its responsibilities to equalize values, or to prevent the violation or disobedience of any lawful requirement or order regarding appeal or equalization, or to compel their enforcement;

(vii) At the time of making annual assessment for state purposes, direct the boards of county commissioners of the several counties to levy upon all taxable property a tax sufficient to pay the interest on all state bonds for that year;

(viii) Hold hearings after due notice in the manner and form provided in the Wyoming Administrative Procedure Act and its own rules and regulations of practice and procedure. The board may contract with an attorney licensed in the state of Wyoming to perform the functions of a presiding officer, provided the attorney is knowledgeable of and qualified in the particular areas of taxation which are the subject of the appeal;

(ix) Certify to the county boards of equalization the amount of levy for state purposes on or before the first Monday in August. Whenever the valuation of any county is changed by the state board of equalization, the officers of the county who have authority to levy taxes shall use the valuation as fixed by the state board of equalization as a basis for making tax levies for all purposes;

(x) Carefully examine into all cases wherein it is alleged that property subject to taxation has not been assessed or has been fraudulently, improperly, or unequally assessed, or the law in any manner evaded or violated, and cause to be instituted proceedings which will remedy improper or negligent administration of the tax laws of the state. Except for allegations based in fraud, any request for relief under this paragraph shall be filed within five (5) years from the date the taxes were paid or should have been paid;

(xi) Require any public officer to report information relating to the assessment of property, collection of taxes, receipts from excises and other sources, and whatever other information the department or board may need in the form it prescribes;

(xii) Schedule meetings of the board at a fixed time on the first working day of each week, and all final actions or decisions by the board shall be made or ratified at such scheduled meetings;

(xiii) Keep complete, accurate, written minutes of all meetings of the board and the actions taken;

(xiv) Provide not less than twenty (20) days notice and an opportunity to be heard to the county board of equalization and the county assessor of any county or counties in which the taxable value of any class of property is to be increased or decreased;

(xv) Have the power to issue subpoenas. The board may issue a subpoena requiring any person to appear at a place within the county where the person resides designated in the subpoena and be examined about any matter within the scope of the inquiry, investigation or contested case being conducted by the board or department and requiring the production of any books and records. The district court shall upon a finding of good cause issue an order requiring the person to appear and to produce the necessary books and records in the event the person disregards or refuses to obey the subpoena of the board;

(xvi) Promulgate rules and regulations governing procedures for board proceedings, including those related

to its responsibility to equalize values, and its own internal affairs.

(d) The governor may remove any member of the state board of equalization as provided in W.S. 9-1-202.

(e) On or before August 1 of each year, the state auditor shall certify to the board the amount of all appropriations made by the legislature of the state of Wyoming and the interest on the public debt for which a levy must be made.

**39-11-103. Imposition.**

(a) Taxable event. The following shall apply:

(i) Property subject to taxation. All property within Wyoming is subject to taxation as provided by this act except as prohibited by the United States or Wyoming constitutions or expressly exempted by W.S. 39-11-105;

(ii) Provisions for assessing tax. The board and department shall not compromise or reduce the tax liability of any person owing a tax to the state of Wyoming, except that the department for good cause, may, but is not required to, compromise and settle with the taxpayer for payment of any taxes owed to the state of Wyoming which tax liability is disputed in good faith by the taxpayer and which liability has not been settled in law. In case the department and the person owing the tax do not agree with respect to tax liability, the department shall by order, assess and levy the full amount of tax due and any person aggrieved by the assessment may appeal the decision to the board pursuant to the Wyoming Administrative Procedure Act.

(b) Basis of tax. There are no specific applicable provisions for the basis of tax for this chapter.

(c) Taxpayer. There are no specific applicable provisions for the taxpayer for this chapter.

**39-11-104. Taxation rate.**

There are no specific applicable provisions for the taxation rate for this chapter.

**39-11-105. Exemptions.**

(a) The following property is exempt from property taxation:

(i) Property owned by the United States the majority of which is used primarily for a governmental purpose. The following property is not owned and used primarily for a governmental purpose:

(A) Improvements placed on federal lands by persons for private or commercial use;

(B) Improvements furnished by the federal government to employees other than enlisted and officer personnel of the armed forces as a place of residence;

(C) Improvements and equipment rented, leased, loaned or furnished by the federal government to employees or groups of employees for the purpose of operating enterprises for which there is a service or admission charge;

(D) The equity or interest of the purchaser, his heirs, executors or assigns, in any real property being purchased from the United States government under a contract of sale, the value thereof to be determined by taking the market value of the real property and deducting the amount of principal and accrued interest owing to the United States on January 1 of the year for which the property is assessed;

(E) Lands entered under any act of congress when final proof of ownership has been issued before February 1 whether or not patent for the lands has been issued.

(ii) Property of the state of Wyoming owned and used primarily for a governmental purpose. The following property is not owned and used primarily for a governmental purpose:

(A) Improvements placed on state lands by lessees for private or commercial use;

(B) Improvements furnished by the state to employees as a place of residence;

(C) Improvements and equipment rented, leased, loaned or furnished by the state to employees or groups of employees for the purpose of operating enterprises for which there is a service or admission charge;

(D) The equity or interest of the purchaser, his heirs, executors or assigns, in any land being purchased from the state of Wyoming under a contract of sale, the value thereof to be determined by taking the market value of the lands and deducting the amount of principal and accrued interest owing to the state of Wyoming on January 1 of the year for which the property is assessed.

(iii) Property owned and used by counties primarily for a governmental purpose;

(iv) Property of a Wyoming school district owned and used primarily for a governmental purpose excluding teacherages;

(v) Property of Wyoming cities and towns owned and used primarily for a governmental purpose including:

(A) Streets and alleys and property used for the construction, reconstruction, maintenance and repair of streets and alleys;

(B) Property used to furnish sewer and water services;

(C) City or town halls, police stations and equipment, traffic control equipment, garbage collection and disposal equipment and lands and buildings used to service and repair the halls, stations or equipment;

(D) Parks, airports, auditoriums, cemeteries, golf courses, playgrounds and recreational facilities. Any charges for the use of the facilities shall not exceed the cost of operation and maintenance to qualify for the exemption;

(E) Personal property used exclusively for the care, preservation and administration of city or town property;

(F) Parking lots operated on a nonprofit basis.

(vi) Property of a public library used for library purposes;

(vii) Real property used exclusively for religious worship, church schools and church parsonages;

(viii) Property of a cemetery used for cemetery purposes;

(ix) Property of:

(A) A nonprofit organization, corporation, cooperative or association which is exclusively a water utility engaged in the production, gathering, transmission, distribution or sale of water for domestic use in Wyoming; and

(B) Any other organization, corporation, cooperative or association which is a water utility, if the property is used in the production, gathering, transmission, distribution or sale of water for domestic use in Wyoming.

(x) Fire engines, stations, including land upon which located, and equipment used to extinguish fires;

(xi) Personal property held for personal or family use excluding mobile homes required to be titled under W.S. 31-2-501 through 31-2-508;

(xii) Inventories;

(xiii) Vehicles subject to registration as defined by W.S. 31-4-101(a)(i) and 31-18-201(a) and registered as provided by law;

(xiv) Vehicles owned by the United States, state of Wyoming, counties, cities, towns, school districts and municipal corporations when used primarily for a governmental purpose;

(xv) Snowmobiles;

(xvi) Property of a museum or hospital district;

(xvii) In transit property;

(xviii) Property owned by the Wyoming community development authority excluding assessments for local improvements;

(xix) Property of charitable trusts;

(xx) Property used for pollution control to the extent provided by W.S. 35-11-1103;

(xxi) Property owned by the Black Hills Joint Power Commission;

(xxii) Property owned by a water and sewer district;

(xxiii) Property of a water conservancy district;

(xxiv) The property of veterans to the extent provided by W.S. 39-13-105;

(xxv) Property used for schools, orphan asylums or hospitals to the extent they are not used for private profit;

(xxvi) Property used by a secret, benevolent and charitable society or association, including any fraternal organization officially recognized by the University of Wyoming or any community college, and senior citizens centers to the extent it is not used for private profit nor primarily for commercial purposes by the society, association or center, or lessee thereof;

(xxvii) Property owned by a nonprofit society, foundation or association and used primarily as a community area center in which presentations in music, the arts and related fields are made in order to foster public interest and education therein, to the extent and in the proportion that receipts and revenues attributable to the above specified presentations bear to total receipts and revenues from the use and operation of the center including rentals and revenues received for the commercial use of the center not attributable to the above specified presentations;

(xxviii) Lands for mines or mining claims as prescribed by section 3, article 15, Wyoming constitution and defined by W.S. 39-11-102(c)(viii);

(xxix) Intangible personal property except as specified in W.S. 39-13-103(b)(xi);

(xxx) Other property as provided by law;

(xxxi) All livestock including livestock in feed lots being fed for slaughter. This exemption applies only to ad valorem taxation. Any other special tax which is levied on livestock for a particular purpose based on the assessment value established by the department of revenue is not affected by this exemption;

(xxxii) Any improvement to residential property making entrance to or common facilities within the property accessible to a handicapped person;

(xxxiii) Real and personal property owned by an irrigation district created under W.S. 41-7-201 through 41-7-210 or a weed and pest control district created under W.S. 11-5-101 et seq. which is essential to the operation and maintenance of the district and which is used for no business or commercial activity unrelated to the operation and maintenance of the district;

(xxxiv) Mobile machinery registered under W.S. 31-18-203 through 31-18-208;

(xxxv) Property owned and used by a nonprofit corporation serving persons with disabilities, mental illnesses or substance abuse problems, or operating a family violence project to the extent it is not used for private profit nor primarily for commercial purposes;

(xxxvi) Real property owned by the Wyoming game and fish commission. Nothing in this exemption affects the special tax levied under W.S. 39-13-103(b)(xii).

**39-11-106. Licenses; permits.**

There are no specific applicable provisions for licenses and permits for this chapter.

**39-11-107. Compliance; collection procedures.**

There are no specific applicable provisions for compliance and collection procedures for this chapter.

**39-11-108. Enforcement.**

There are no specific applicable provisions for enforcement for this chapter.

**39-11-109. Taxpayer remedies.**

(a) Interpretation requests. There are no specific applicable provisions for interpretation requests for this chapter.

(b) Appeals. The following shall apply:

(i) Any person aggrieved by any final administrative decision of the department may appeal to the board. Appeals shall be made in a timely manner as provided by rules and regulations of the board by filing with the board a notice of appeal specifying the grounds therefor. The department shall, within a timely manner as specified by board rules and regulations, transmit to the board the complete record of the action from which the appeal is taken;

(ii) Any person including the state of Wyoming aggrieved by any order issued by the board, or any county board of equalization whose decision has been reversed or modified by the state board of equalization, may appeal the decision of the board to the district court of the county in which the property or some part thereof is situated;

(iii) Any interested person adversely affected by the adoption, amendment or repeal of a rule pursuant to W.S. 16-3-103(a) shall be afforded an opportunity for a hearing before the board.

(c) Refunds. The following shall apply:

(i) As used in this subsection:

(A) "Department" means the department of health;

(B) "Equity value" means the current market value less any legal debts against the property such as mortgages and encumbrances;

(C) "Income" includes, but is not limited to, wages, receipts from earnings including earnings from

self-employment, rents, interest, dividends, annuities, trusts, pensions, alimony, support payments, public assistance payments, unemployment compensation, federal social security payments, veteran's benefits and disability payments, native American per capita payments, or net income from any other qualified income as determined by the department;

(D) "Resident" means a person who has been a resident of Wyoming and domiciled within Wyoming for a period of not less than one (1) year and who has not claimed residency elsewhere for any purpose for the one (1) year period immediately preceding the date of application for a refund under this subsection;

(E) "Resource" means:

(I) Real property; and

(II) Personal property, including but not limited to:

(1) Money and cash on hand including currency, gold, silver and other coins;

(2) Money on deposit including savings, checking accounts and IRAs;

(3) Bonds, promissory notes and debentures;

(4) Shares of stock, mutual funds and other investments; and

(5) Annuities and annuity contracts.

(F) "Totally disabled" means a person eighteen (18) years of age or older whose physical or mental condition permanently prevents the person from performing any substantial gainful employment during the one (1) year period immediately preceding the date of application for a refund under this subsection.

(ii) Wyoming residents meeting resource eligibility requirements under paragraph (vii) of this subsection who are sixty-five (65) years of age and older or who are

eighteen (18) years of age and older and are totally disabled during the one (1) year period immediately preceding the date of application for a refund under this subsection and are not residents of any state funded institution, are qualified for an exemption and refund of state taxes as provided in this subsection. A qualified single person whose actual income is less than ten thousand dollars (\$10,000.00) shall receive five hundred dollars (\$500.00) reduced by the percentage that his actual income exceeds six thousand dollars (\$6,000.00) and qualified married persons, at least one (1) of whom is at least sixty-five (65) years of age or totally disabled, whose actual income is less than fourteen thousand dollars (\$14,000.00) shall receive six hundred dollars (\$600.00) reduced by the percentage that their actual income exceeds eight thousand dollars (\$8,000.00) per year. Until remarriage a person sixty (60) years or older once qualified through marriage remains eligible individually for single person benefits, subject to income limitations, after the death of his spouse;

(iii) Qualified residents shall apply to the department, or its designee, in the county of their residence, on or before the last working day in August of each year for a refund of exempted sales and use taxes, certifying age, residency, disability, if any, marital status, resources and income under oath on forms prescribed by the department. Each application shall be submitted under oath by the applicant and shall be accompanied by a copy of the applicant's federal income tax return for the previous calendar year or a statement under oath that the applicant was not required to file a return for the previous calendar year. The department shall issue upon request to each qualified applicant a receipt acknowledging the filing of a completed application;

(iv) Warrants for tax refunds shall be mailed by the department to qualified recipients by December 20 following the application date of the last working day in August. The department shall enclose a letter of transmittal with each warrant explaining how the refund was computed on the basis of the applicant's income, enclosing a chart which shows sources of income to the state general fund and an explanation indicating that each payment represents an allowance for sales and use tax refund, property tax refund and a refund for utility or energy costs;

(v) Warrants are issued to senior citizens and disabled persons as a refund and partial exemption of taxes paid under the sales and use taxes, property tax relief and utility or energy cost relief. Refunds are payable from the general fund;

(vi) The department shall promulgate rules and regulations to carry out the provisions of this subsection;

(vii) No applicant is entitled to a refund under this article who owns resources that exceed an equity value of four thousand five hundred dollars (\$4,500.00). In determining resources, a single one hundred thousand dollars (\$100,000.00) equity value of the combined property is exempt:

(A) The structure and lands occupied as the applicant's primary residence;

(B) Household furnishings and personal belongings;  
and

(C) One (1) automobile.

(d) Credits. There are no specific applicable provisions for credits for this chapter.

(e) Redemption. There are no specific applicable provisions for redemption for this chapter.

(f) Escrow. The following shall apply:

(i) If taxes are paid under protest to the extent of and due to an appeal pending before the state board of equalization or any court of competent jurisdiction, the state treasurer shall deposit that protested amount under appeal in a separate interest bearing escrow account and withhold distribution until a final decision on the appeal has been rendered by the state board of equalization or the court. To the extent the taxpayer prevails in the appeal, the state treasurer shall refund that amount under appeal, plus interest earned thereon, to the taxpayer within thirty (30) days from the day the final decision is rendered. If the taxpayer pays to the state an amount in excess of the protested amount under appeal, the excess shall be distributed as provided by law;

(ii) "Taxes" for purposes of this provision include any taxes imposed under this act which are paid to the state but shall not include any tax paid pursuant to W.S. 39-13-111;

(iii) This provision does not enlarge or curtail the ability of a taxpayer to appeal any department of revenue decision as otherwise provided for under this act including W.S. 39-11-102.1(c) or 39-15-109(b).

**39-11-110. Statute of limitations.**

There are no specific applicable provisions for a statute of limitations for this chapter.

**39-11-111. Distribution.**

All revenue received and collected by the department shall be transferred to the state treasurer, who shall credit the proper accounts.

CHAPTER 12  
INCOME TAX

**39-12-101. Preemption by state.**

The state of Wyoming does hereby preempt for itself the field of imposing and levying income taxes, earning taxes, or any other form of tax based on wages or other income and no county, city, town or other political subdivision shall have the right to impose, levy or collect such taxes.

CHAPTER 13  
AD VALOREM TAXATION

**39-13-101. Definitions.**

(a) As used in this article:

(i) "Ad valorem" means according to value;

(ii) "Ad valorem tax" means a property tax based on the assessed value of the property;

(iii) "Agricultural land," as used in W.S. 39-13-103(b)(x), means land which meets the requirements of W.S. 39-13-103(b)(x) for the purpose of tax assessment;

(iv) "Deed" means a conveyance of real property, in writing signed by the grantor, whereby the interest held by the grantor to real property is transferred from one to another;

(v) "Tax deed" means the conveyance given upon a sale of real property for nonpayment of ad valorem taxes;

(vi) "Telecommunications companies" means and includes any person engaged in the furnishing of telecommunications service;

(vii) "Telecommunications service" means the offering of transmission for hire of telecommunications between or among points specified by the user, of information of the user's choosing without change in the content of the information as sent and received by means of telecommunications facilities, including switching facilities, using wire, cable, microwave, radio wave, light wave or a combination of those or similar media. The term shall include all types of telecommunications transmission such as telephone service, telegraph service, cellular, wireless or satellite. The term shall not include assets used for television or radio programming broadcast over airwaves for public consumption, cable or satellite television offered for public consumption or telephone answering service and one-way paging or beeper service;

(viii) "Agricultural purpose," as used in W.S. 39-13-103(b)(x), means the following land uses when conducted consistent with the land's capability to produce:

(A) Cultivation of the soil for production of crops; or

NOTE: This section becomes effective 01/01/2003.

(B) Production of timber products or grasses for forage; or

NOTE: This section becomes effective 01/01/2003.

(C) Rearing, feeding, grazing or management of livestock.

NOTE: This section becomes effective 01/01/2003.

**39-13-102. Administration; confidentiality.**

(a) Each board of county commissioners during its first meeting in January may annually divide the county

into assessment districts. If the county is so divided the county assessor shall appoint one (1) deputy assessor for each district to serve at the pleasure of the county assessor.

(b) Annually, on January 31, each board of county commissioners shall furnish suitable assessment rolls and schedules properly ruled and headed to the county assessor upon which shall be entered the legal description of taxable real property, an enumeration of taxable personal property and the name of the person to whom the property is taxable.

(c) The board of county commissioners of each county constitutes the county board of equalization. The county board shall meet at the office of the county commissioners at such times as necessary to perform its statutory duties, but no earlier than the fourth Tuesday in April to consider current year assessments. The county clerk shall act as clerk of the county board. The county assessor or his designee shall attend all meetings to explain or defend the assessments. The county board of equalization shall:

(i) Add to the assessment roll and value any taxable property within the county not included within the assessment roll as returned by the county assessor at its meeting in April;

(ii) Equalize the assessment and valuation of the taxable property which is assessed and valued by the county assessor;

(iii) Correct any assessment or valuation contained in and complete the assessment roll;

(iv) Hear and determine the complaint of any person relative to any property assessment or value as returned by the county assessor subject to W.S. 39-13-109(b)(i);

(v) Decide all protests heard and provide the protestant with a written decision no later than the first Monday in August.

(d) The county board of equalization has no power to and shall not set tax policy nor engage in any administrative duties concerning assessments which are

delegated to the board, the department or the county assessor.

(e) Immediately after the assessment roll is corrected by the county board of equalization and not later than June 1, the county assessor shall make an abstract of the assessment roll containing the quantity and value of each class of property assessed for taxation and transmit the abstract to the board. The board shall immediately forward copies of the abstracts to the department and ask for any recommendations with respect to equalization of values.

(f) The county assessor shall notify any person whose property assessment has been increased by the county board of equalization of the increase.

(g) On or before the first Monday of August, the board of county commissioners shall by order entered of record levy the requisite taxes for the year. On or before the third Monday in August the county assessor shall compute the taxes from the corrected valuations as corrected by the state board and entered by the county assessor in the column of corrected valuations. The county assessor shall deliver the tax list and his warrant for the collection of the taxes to the county treasurer setting forth the assessment roll, with the taxes extended, containing in tabular form and alphabetical order the names of persons in whose names property has been listed in the county, with the classes of property and the value, total amount of taxes and column of numbers and values and total taxes footed commanding the treasurer to collect the taxes. At the end of the tax list and warrant, the county assessor shall prorate the total taxes levied to the several funds.

(h) The county treasurer upon receiving the tax list and warrant shall immediately proceed to collect the taxes levied for the current year and taxes remaining unpaid from preceding years.

(j) The county assessor may authorize changes in the assessment roll or tax list at any time to correct errors in the name of a person taxed or to enter omitted property and its assessed value.

(k) On or before September 1, county assessors shall certify the exemptions granted pursuant to W.S. 39-11-105(a)(xxiv) to the department. On or before October

1 the state treasurer out of funds appropriated for that purpose shall reimburse each county treasurer for the amount of taxes which would have been collected if the property was not exempt. The county treasurer shall distribute the revenue to each governmental entity in the actual amount of taxes lost due to the exemption.

(m) The department shall annually value and assess the following property at its fair market value for taxation:

(i) The gross product of all mines and mining claims;

(ii) Property of pipeline companies;

(iii) Property of electric utilities;

(iv) Property of railroad companies;

(v) Property of rail car companies;

(vi) Property of telecommunications companies;

(vii) Property of other public utilities;

(viii) Leased property consisting of warehouses, storage facilities and office structures and any other property that is in support of or which is used or held for use for the activities listed in this subsection. If leased property is assessed to the lessee it shall not be assessed to the property owner.

(n) Following determination of the fair market value of property the department shall notify the taxpayer by mail of the assessed value. The person assessed may file written objections to the assessment with the board within thirty (30) days of the date of postmark and appear before the board at a time specified by the board. The person assessed shall also file a copy of the written objections with the county treasurer of the county in which the property is located, who shall notify the county assessor and the board of county commissioners, with an estimate of the tax amount under appeal based upon the previous year's tax levy.

(o) Annually, on or before the dates hereafter indicated, or as soon thereafter as the fair market value

is determined, the department shall certify the valuation determined by the department to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county:

(i) June 1, mines and mining claims, pipeline companies, electric utilities and other public utilities;

(ii) First Monday in June, telephone and telegraph companies;

(iii) First Monday in July, railroad companies.

(p) Any governmental entity with authority to levy property taxes which is formed or organized or which changes its geographical boundaries shall cause one (1) copy of the legal description which is contained within the document authorizing formation or modification of boundaries and one (1) copy of an official map designating the geographical boundaries as formed or changed to be filed with the department and with the county clerk and county assessor in the county or counties within which the entity is located within ten (10) days after the effective date of the formation, and annually, by a date determined by the department, if a special district has changes to its geographical boundaries by enlargement, merger, consolidation, exclusion or dissolution. Failure to file the required documents within the required time relieves the county assessor and the department from responsibility of modifying the assessment roll to reflect the property in the new entity or changed boundary area.

(q) Confidentiality. The following shall apply:

(i) All taxpayer returns and return information shall be confidential and, except as authorized below, no current or former official, officer, employee or agent of the state of Wyoming or any political subdivision thereof shall disclose any such information obtained by him in connection with his service as an officer or employee. As used in this subsection, "taxpayer returns and return information" shall include, but not be limited to, all statements, reports, summaries and all other data and documents under audit or provided by the taxpayer in accordance with law;

(ii) Without written authorization from the taxpayer, no current or former official, officer, employee or agent of the state of Wyoming or any political subdivision thereof shall release taxpayer returns and return information pertaining to taxes imposed by this chapter, except:

(A) Information filed with the department may be released to the governor or his designee, members of the state board of equalization, to the commissioners and employees of the public service commission, to employees of the department of audit, the department of revenue, the consensus revenue estimating group and to the attorney general. Information filed with the county assessor may be released to the county board of equalization, the department of revenue and the department of audit;

(B) Upon prior notice to the taxpayer, information filed with the department may be released by the department, upon written application, to any other governmental entity if the governmental entity shows sufficient reason to obtain the information for official business;

(C) Information concerning taxpayer's valuation and assessment shall be made available on a confidential basis to the county board of equalization and the state board of equalization when the information is pertinent to an appeal before either board;

(D) Any other use authorized by law.

(iii) Any person receiving information pursuant to paragraph (ii) of this subsection shall sign an agreement with the department to keep the information confidential;

(iv) The taxable value of the taxpayer's property is not confidential and may be released without qualification;

(v) Any person who negligently violates the provisions of this subsection is guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000.00). Any person who intentionally violates the provisions of this subsection is guilty of a misdemeanor and upon conviction shall be fined not less than one thousand dollars (\$1,000.00), but not more than

five thousand dollars (\$5,000.00) and imprisoned for not more than one (1) year.

**39-13-103. Imposition.**

(a) Taxable event. The following shall apply:

(i) The tax imposed by this chapter shall be in addition to any other taxes imposed by law including but not limited to those taxes in W.S. 39-14-101 through 39-14-711;

(ii) All property claimed to be in transit shall be designated as being in transit upon the books and records of the public or private warehouse or storage area supervisor wherein the same is located. The books and records of the public or private warehouse or storage area supervisor shall contain a full, true and correct inventory of all in transit property, together with the date of the withdrawal of the same, the point of origin thereof and point of ultimate destination thereof if known. The books and records of the public or private warehouse or storage area supervisor with reference to any in transit property shall at all times be open to the inspection of all taxing authorities of the state of Wyoming and any political subdivision thereof. Any person claiming property to be in transit shall do so in the form and manner provided by the board. The books and records of the public or private warehouse or storage area supervisor must be maintained in a manner which will enable the county assessor or his agent to quickly ascertain the amount of the property.

(b) Basis of tax. The following shall apply:

(i) Except as otherwise provided:

(A) All taxable property shall be annually listed, valued and assessed for taxation in the county in which located and in the name of the owner of the property on January 1;

(B) All taxable personal property brought, driven or coming into Wyoming, or acquired, after the assessment date and prior to December 31 which remains in Wyoming at least thirty (30) days and has not been regularly assessed for taxation in any other Wyoming county is subject to and shall be assessed for all taxes levied in the county in

which the property is located for that calendar year except as hereafter provided. Property subject to this paragraph brought, driven or coming into Wyoming, or acquired, after March 1 is subject to taxes only for the proportionate part of the year remaining, computed to the closest full month.

(ii) All taxable property shall be annually valued at its fair market value. Except as otherwise provided by law for specific property, the department shall prescribe by rule and regulation the appraisal methods and systems for determining fair market value using generally accepted appraisal standards;

(iii) Beginning January 1, 1989, "taxable value" means a percent of the fair market value of property in a particular class as follows:

(A) Gross product of minerals and mine products, one hundred percent (100%);

(B) Property used for industrial purposes, eleven and one-half percent (11.5%);

(C) All other property, real and personal, nine and one-half percent (9.5%).

(iv) The fair market value determined by the department pursuant to W.S. 39-11-101(a)(vi) and 39-14-101 through 39-14-711 pertaining to the valuation of the gross product of mines and mining claims, and paragraph (xvi) of this subsection as it pertains to the valuation of rail car companies, shall be the fair market value for purposes of the tax imposed by this chapter on the property described in W.S. 39-13-102(m);

(v) Except as provided in chapter 14 of this title, annually, commencing on January 1, the county assessor or deputy assessors as provided by W.S. 39-13-102(a) shall obtain from each property owner or person having control of taxable property in the assessment district for which they were appointed, a full, complete and detailed statement of the amount of the taxable property owned by or subject to the control of the property owner. If a property owner fails to provide a listing of personal property owned by him or under his control by March 1, unless an extension is granted from the assessor in writing, the assessor shall issue an assessment of personal property from the best

information available. The county assessor shall extend the date for listing personal property from March 1 to April 1 upon written request of the property owner provided the written request is made not later than February 15. The county assessor or his deputies or any representative of the department may examine any property. The county assessor or his deputies shall enter the fair market value of the property for taxation on the assessment roll. The owner, or his agent, shall make and subscribe the following oath:

"I, . . . ., the owner of (or agent, etc., as the case may be) do solemnly swear (or affirm) that the above and foregoing listed property is a full, true, correct and complete list of all property owned by me or under my control as agent or otherwise, and that I have not failed or neglected to list for taxation for the year . . . ., all property of which I am the owner or of which I have control as agent, guardian, administrator or otherwise, in the county of . . . ., State of Wyoming, and that I have not connived at any violation or evasion of the requirements of law in relation to the assessment of property for taxation.";

(vi) Each deputy county assessor upon completing the assessment of property within the district assigned to him shall immediately deliver all books, records, schedules and lists to the county assessor and make and subscribe the following oath: "I, . . . ., deputy assessor in and for district No. . . ., county of . . . ., State of Wyoming, do solemnly swear (or affirm), that I have obtained from every person within the district, the lists and schedules required by law, and have received the lists and schedules according to law, from every person in the district; that I have carefully examined each of the lists and schedules, and have revised and corrected the lists when necessary; that I have to the best of my knowledge and ability valued the property in the lists and schedules at its fair market value as required by law; that in no case have I knowingly omitted to perform any duty required of me by law and have not, in any way, connived at any evasion or violation of any of the requirements of law in relation to the listing and valuation of property.";

(vii) The county assessor shall enter in books furnished for that purpose, from the tax schedule, the enumeration and fair market value of all taxable property

assessed by him or his deputies. The county assessor shall enter the names of persons against whom property is assessed in the county assessment roll in alphabetical order. On or before the fourth Monday in April, or as soon thereafter as is practicable, the county assessor shall mail all assessment schedules to taxpayers at their last known address, and return the county assessment roll enumerating the property and value assessed by him or his deputies to the board of county commissioners together with a list stating the assessed value of taxable property within each school district, municipality or special district in the county;

(viii) Every assessment schedule sent to a taxpayer shall contain the property's estimated fair market value for the current and previous year, or, productive value in the case of agricultural property. The schedule shall also contain the assessment ratio as provided by paragraph (b)(iii) of this section for the taxable property, the amount of taxes assessed on the taxable property from the previous year, and an estimate of the taxes which will be due and payable for the current year based on the previous year's mill levies. The schedule shall contain a statement of the process to contest assessments as prescribed by W.S. 39-13-109(b)(i);

(ix) If machinery or equipment is located in two (2) or more counties during the calendar year, the county assessors of the respective counties, or the department of revenue if the assessors cannot agree, shall meet and prorate the assessed valuation of the machinery or equipment among the counties pursuant to rules and regulations promulgated by the department. The rules and regulations may reflect such factors as the home location of the machinery or equipment, the time the machinery or equipment will be in each county, or the monetary value of work to be done in each county by the owner or user of the machinery or equipment;

(x) The following shall apply to agricultural land:

(A) The department shall determine the taxable value of agricultural land and prescribe the form of the sworn statement to be used by the property owner to declare that the property meets the requirements of subparagraph (B) of this paragraph. In determining the taxable value for assessment purposes under this paragraph, the value of

agricultural land shall be based on the current use of the land, and the capability of the land to produce agricultural products, including grazing and forage, based on average yields of lands of the same classification under normal conditions;

(B) Contiguous or noncontiguous parcels of land under one (1) operation owned or leased shall qualify for classification as agricultural land if the land meets each of the following qualifications:

(I) The land is presently being used and employed for an agricultural purpose;

(II) The land is not part of a platted subdivision;

(III) If the land is not leased land, the owner of the land has derived annual gross revenues of not less than five hundred dollars (\$500.00) from the marketing of agricultural products, or if the land is leased land the lessee has derived annual gross revenues of not less than one thousand dollars (\$1,000.00) from the marketing of agricultural products; and

(IV) The land has been used or employed, consistent with the land's size, location and capability to produce as defined by department rules and the mapping and agricultural manual published by the department, primarily in an agricultural operation, or the land does not meet this requirement and the requirement of subdivision (III) of this subparagraph because the producer:

(1) Experiences an intervening cause of production failure beyond its control;

(2) Causes a marketing delay for economic advantage;

(3) Participates in a bona fide conservation program, in which case proof by an affidavit showing qualification in a previous year shall suffice; or

(4) Has planted a crop that will not yield an income in the tax year.

(C) If needed, the county assessor may require the producer to provide a sworn affidavit affirming that the land meets the requirements of this paragraph. When deemed necessary, the county assessor may further require supporting documentation.

(xi) The following shall apply to water and reservoir rights:

(A) Water rights and reservoir rights originating in Wyoming and appurtenant to and beneficially used in connection with lands within Wyoming shall be assessed and taxed with the lands. All other water rights and reservoir rights originating in Wyoming shall be separately assessed and listed for taxation at the place of origin of the water or reservoir rights;

(B) On or before April 1 the manager of any reservoir in which water is impounded or stored within Wyoming for use in another state shall furnish the names and addresses of all persons entitled to receive the water and the number of acre feet each person is entitled to receive to the county assessor of the county in which the reservoir is located;

(C) On or before May 1 the county treasurer shall certify to the water commissioner of the district in which the county is located the names of all persons whose taxes are delinquent on water and reservoir rights situated in the county which were listed and assessed separately from land, the number of acre feet assessed and taxed to each person on which taxes are delinquent and the name and location of the reservoir. Upon certification by the county treasurer the water commissioner shall regulate or cause to be regulated the headgates of the reservoir or other delivery facilities to prevent delivery of water to delinquent taxpayers until the commissioner is furnished a tax receipt from the county treasurer showing the delinquent taxes have been paid;

(D) As used in this paragraph "water rights" and "reservoir rights" include any proportionate interest in any well, ditch, dam, reservoir, and the storage capacity therein, easement or other instrumentality including any affixed or unaffixed sprinkler irrigation system necessary to the use and enjoyment of the rights.

(xii) The following shall apply to special tax imposed on property owned by the game and fish commission:

(A) There is imposed upon all real property owned by the Wyoming game and fish commission a special tax computed as provided in this paragraph which shall be in lieu of ad valorem property tax. The special tax shall be determined as follows:

(I) For property used for wildlife management purposes, the tax shall be equal to the amount of the ad valorem tax for that property had it been levied and assessed based upon the taxable value of agricultural land of similar productive value under W.S. 39-13-101(a) and paragraph (b)(x) of this section;

(II) For property used for any other purpose, the tax shall be equal to the amount of the ad valorem tax for that property had it been levied and assessed based upon the taxable value of similar property valued at fair market value as provided by paragraph (b)(ii) of this section.

(B) For the purpose of valuation, assessment, collection, distribution of tax collected and all other matters related to this special tax, the administration of this tax shall be as if this tax were an ad valorem tax on the property. The Wyoming game and fish commission shall constitute a person against whom property is assessed, as returned by the county assessor, and from whom taxes are collected.

(xiii) For minerals and mine products, the taxpayer may request a value determination from the department and propose a value determination method which may be used until the department issues a value determination. The taxpayer shall submit all available data relevant to its proposal and any additional information the department deems necessary. After the department issues its determination, the taxpayer shall make adjustments based upon the value established or request a hearing by the board;

(xiv) All information and reports shall be notarized and signed by a person who has legal authority to bind the taxpayer;

(xv) For mines and mining claims, the department may presume that the property is located in the county in which production is reported by the taxpayer pursuant to the provisions found in chapter 14 of this title. The department shall not direct any county to provide relief for taxes paid on taxable valuation which was erroneously reported and certified to the wrong county unless the taxpayer files or is directed to file amended returns within two (2) years of the date of the original certification of the production. Unless there is evidence of bad faith or willful disregard of production circumstances, no taxpayer shall be required to pay taxes on production which was erroneously reported and certified to the wrong county if relief for taxes paid is not allowed under this provision;

(xvi) The following shall apply to the valuation of rail car companies:

(A) The department shall ascertain from the statements required from the rail car companies and the reports made by the railway companies operating in the state the total mileage of the rail cars of each company for the period of one (1) year within this state. The department shall determine the number of rail cars of each company by determining the number of cars which if kept in the state would be reasonably required in making the mileage, and this number of cars shall be the number of cars on which each company shall be assessed for that year;

(B) The department shall fix the valuation upon each particular class of rail cars, which as nearly as possible shall be the fair market value of the cars, and the number ascertained shall be assessed to the company. The department may base the assessment upon the returns of the several railroad companies;

(C) In case any company fails or refuses to make the required statement, the department shall fix the fair market value of the rail cars, and in determining the number and value of cars the department, insofar as practicable, shall harmonize the statements of the several rail car companies, with respect thereto and the assessment shall be included in the records and proceedings of the department.

(c) Taxpayer. As between the grantor and grantee of any property where there is no express agreement in writing as to which party shall pay the taxes that may be assessed on the property, if the property is conveyed on or after January 1, the grantor shall pay the taxes for that year.

**39-13-104. Taxation rate.**

(a) Authorized mill levies. There shall be annually levied and assessed upon the taxable value of property within Wyoming the following state taxes when applicable:

(i) Not to exceed four (4) mills as certified by the board to be credited to the state general fund;

(ii) Not to exceed one (1) mill as certified by the board as provided by W.S. 9-4-302;

(iii) The number of mills necessary for the payment of the state debt and interest thereon not to exceed the limitation prescribed by article 16, section 1, Wyoming constitution;

(iv) Not to exceed twelve (12) mills for school purposes as certified by the board as provided by W.S. 21-13-303.

(b) There shall be annually levied and assessed upon the taxable value of property within each Wyoming county the following county taxes when applicable:

(i) Not to exceed twelve (12) mills as determined by the board of county commissioners which shall include mill levies, if any, for the following purposes:

(A) The number of mills to be dedicated to the operation of a county hospital;

(B) The number of mills to be dedicated to the operators of a county library;

(C) The number of mills to be dedicated to the operation of a county fair;

(D) The number of mills to be dedicated to the operation of a county museum;

(E) The number of mills to be dedicated to the support of public assistance and social services;

(F) The number of mills to be dedicated to the operation of an airport;

(G) The number of mills to be dedicated for civil defense;

(H) The number of mills to be dedicated for a county building fund as provided by W.S. 18-4-201;

(J) The number of mills to be dedicated to road and bridge purposes;

(K) The number of mills to be dedicated for recreation purposes as provided by W.S. 18-9-201;

(M) The number of mills to be dedicated for public health purposes as provided by W.S. 35-1-304.

(ii) Six (6) mills for school purposes as provided by W.S. 21-13-201;

(iii) The number of mills necessary for the payment of the county debt and interest thereon not to exceed the limitation prescribed by article 16, sections 3 and 5, Wyoming constitution.

(c) There shall be annually levied and assessed upon the taxable value of property within the limits of incorporated cities and towns the following city and town taxes when applicable:

(i) Not to exceed eight (8) mills which shall include mill levies, if any, for the following purposes:

(A) Not to exceed one (1) mill for band concerts;

(B) The number of mills to be dedicated for police pensions;

(C) The number of mills to be dedicated for recreation purposes as provided by W.S. 18-9-201;

(D) The number of mills to be dedicated for public health purposes as provided by W.S. 35-1-304.

(ii) The number of mills necessary for the payment of the city or town debt including interest thereon not to exceed the limitation prescribed by article 16, section 5, Wyoming constitution.

(d) There shall be annually levied and assessed upon the taxable value of property within the limits of Wyoming school districts the following school taxes when applicable:

(i) Not to exceed the number of mills provided by W.S. 21-13-102;

(ii) Not to exceed two and one-half (2 1/2) mills for vocational and adult education as provided by W.S. 21-12-103;

(iii) Not to exceed one (1) mill for recreation purposes as provided by W.S. 18-9-201;

(iv) The number of mills necessary for the payment of the school district debt plus interest thereon not to exceed the limitation prescribed by article 16, section 5, Wyoming constitution;

(v) The number of mills necessary for a school building fund as provided by W.S. 21-13-501 through 21-13-503.

(e) There shall be annually levied and assessed upon the taxable value of property within the limits of the following special districts the following special district taxes when applicable:

(i) Not to exceed ten (10) mills by a community college district as provided by W.S. 21-18-304(a)(vii) and 21-18-311(f) plus the number of mills necessary for the payment of the community college district debt plus interest thereon not to exceed the limitations prescribed by W.S. 21-18-314(a);

(ii) Not to exceed six (6) mills by a hospital district as provided by W.S. 35-2-414(b), (c) and (d) plus the number of mills necessary for the payment of the district debt plus interest thereon not to exceed the limitations prescribed by W.S. 35-2-415;

(iii) Not to exceed three (3) mills by a special cemetery district as provided by W.S. 35-8-314 plus the number of mills necessary for the payment of the district debt plus interest thereon not to exceed the limitations prescribed by W.S. 35-8-316;

(iv) Not to exceed three (3) mills by a fire protection district as provided by W.S. 35-9-203(b) plus the number of mills necessary for the payment of the district debt plus interest thereon not to exceed the limitations prescribed by W.S. 35-9-204;

(v) Not to exceed one (1) mill by a sanitary and improvement district as provided by W.S. 35-3-109 plus the number of mills necessary for the payment of the district debt plus interest thereon not to exceed the limitations prescribed by W.S. 35-3-115;

(vi) Not to exceed one (1) mill by a special museum district as provided by W.S. 18-10-213(b) plus the number of mills necessary for the payment of the district debt plus interest thereon not to exceed the limitations prescribed by W.S. 18-10-214;

(vii) Not to exceed three (3) mills by a solid waste disposal district as provided by W.S. 18-11-103(a);

(viii) Not to exceed one (1) mill for a county weed and pest control district as provided by W.S. 11-5-111 and not to exceed an additional one (1) mill as provided by W.S. 11-5-303;

(ix) Not to exceed eight (8) mills by a water and sewer district as provided by W.S. 41-10-114 plus the number of mills necessary for the payment of the district debt plus interest thereon not to exceed the limitations prescribed by W.S. 41-10-127 plus the number of mills to create a reserve fund as authorized by W.S. 41-10-119;

(x) Not to exceed one (1) mill by a water conservancy district as provided by W.S. 41-3-771 and 41-3-775;

(xi) Not to exceed two (2) mills by a rural health care district as provided by W.S. 35-2-708(c);

(xii) Not to exceed one (1) mill by a soil and water conservation district as provided by W.S. 11-16-133 and 11-16-134;

(xiii) Not to exceed two (2) mills by a senior citizen service district as provided by W.S. 18-15-110.

(f) There shall be annually levied and assessed upon the taxable value of the property indicated within the limits of the political subdivision, governmental entity or special district indicated, the following taxes when applicable:

(i) Not to exceed twelve (12) mills by a flood control district upon real property as provided by W.S. 41-3-803;

(ii) Not to exceed one (1) mill as determined by a board of county commissioners upon all property within the county excluding property lying within an incorporated city or town or rural fire district under W.S. 18-3-509;

(iii) Any special assessment as provided by law.

(g) Rail car companies. The department shall each year make a levy equal to the statewide average county, school district and state levy for the year immediately preceding against the values assessed for each of the counties through which the rail cars may have been operated. When the tax due is determined the department shall send to each owner a statement of the amount of the assessment, the rate of levy and the amount of tax due, which shall be paid to the department of revenue. When all these taxes have been collected the state treasurer shall pay to the respective county treasurers the amount due their counties.

(h) The following shall apply to property tax for community colleges:

(i) Except as provided in paragraph (ii) of this subsection, effective for calendar year 1990 and thereafter a tax of four (4) mills shall be levied on the assessed value of each county in this state in which there is located a community college as defined by W.S. 21-18-102(a) and operated by a community college district established under W.S. 21-18-301 through 21-18-317. The tax shall be

assessed, levied and collected at the same time and in the same manner as other property taxes. Proceeds from the tax shall be paid to the community college in the county in which the taxes are collected and shall be used for the regular support and operation of the college;

(ii) The tax imposed under paragraph (i) of this subsection shall be reduced by the amount of tax levied against the same property during the same tax year pursuant to W.S. 21-18-304(a)(vii). The tax under paragraph (i) of this subsection shall not be imposed if the qualified voters of the area of the county in which the tax under W.S. 21-18-304(a)(vii) is not imposed vote to reject imposition of the tax under paragraph (i) of this subsection before January 1, 1990. The election shall be held in accordance with procedures provided by W.S. 22-21-104 through 22-21-110 upon petition signed by at least ten percent (10%) of the qualified electors residing in that area of the county in which a tax under W.S. 21-18-304(a)(vii) is not imposed. The petition shall be submitted to the board of county commissioners which shall pay all costs incident to the election. The number of electors required for a petition shall be determined by the number of votes cast in that area in the last general election. The tax under paragraph (i) of this subsection shall be imposed if no election is held under this paragraph or if the voters vote to not reject imposition of the tax. The ballot in an election under this paragraph shall state the question substantially in the following form:

"Shall a tax for .... community college of four (4) mills be levied on the assessed value of property in the area of .... county in which a property tax under W.S. 21-18-304(a)(vii) for a community college is not currently imposed?"

Yes                      No

(j) On or before August 1 of each year, the state auditor shall certify to the board the amount of all appropriations made by the legislature of the state of Wyoming and the interest on the public debt for which a levy must be made.

(k) The following shall apply to the certification of tax levies:

(i) All governmental entities in Wyoming having the power to levy or require the levy of ad valorem taxes shall annually notify the board of county commissioners of the county or counties in which the entity is located, of the amount of tax to be collected against the taxable property of the district, as follows:

(A) On or before the fourth Monday in May by incorporated cities and towns under four thousand (4,000) inhabitants;

(B) On or before July 31 by all governmental entities subject to the Uniform Municipal Fiscal Procedures Act and all special purpose districts having the authority under general laws to levy taxes or impose assessments;

(C) On or before the first Monday in August by the board for state purposes as provided by W.S. 9-4-302, 21-13-303 and this act.

(ii) Tax levies for all governmental entities as certified by the board of county commissioners except as otherwise provided by law following notification pursuant to paragraph (a)(i) of this subsection shall be collected by the county treasurer;

(iii) No levy certified by the board of county commissioners shall exceed the statutory or constitutional limitation for the governmental entity for which the levy is made and the county treasurer shall not collect any levy in excess of those limitations;

(iv) Each special district shall demonstrate to the county commissioners that a legal description and map have been filed with the department, the county clerk and the county assessor that accurately reflect the property within the district, as follows:

(A) Annually, the department and the county assessor shall issue a notice of compliance to each special district that has filed a legal description and map accurately showing the geographical boundaries of the district to date;

(B) Starting January 1, 2005, the board of county commissioners shall not certify tax levies for any special district without a notice of compliance.

(m) The following shall apply to the limitations on taxation by new or reorganized taxing entities:

(i) A governmental entity authorized to levy general property taxes which is formed or organized or which expands its geographical boundaries after January 1 shall not make a tax levy upon the new jurisdictional area for that calendar year. Neither shall the commissioners of the county where the new jurisdiction is located levy on behalf of the taxing entity against property in the new jurisdictional area under the same circumstances;

(ii) Taxable property located within an area subjected to a reorganization between like taxing entities is subject to taxation by the entity with controlling jurisdiction on January 1.

**39-13-105. Exemptions; veterans.**

(a) The following persons who are bona fide Wyoming residents for at least three (3) years at the time of claiming the exemption are entitled to receive the tax exemption provided by W.S. 39-11-105(a)(xxiv):

(i) An honorably discharged veteran of the Indian Wars, Spanish American War, Filipino insurrection, Boxer rebellion, Puerto Rico campaign or First World War;

(ii) An honorably discharged veteran of the Second World War, who served in the military service of the United States between December 8, 1941 and August 14, 1945;

(iii) An honorably discharged veteran of the Korean War emergency, who served in the military service of the United States between June 27, 1950 and July 28, 1953;

(iv) An honorably discharged veteran of the Vietnam War emergency, who served in the military service of the United States between August 5, 1964 and August 15, 1973;

NOTE: Effective 1/1/2004, this section will read as follows:

(iv) An honorably discharged veteran of the Vietnam War emergency, who served in the military service of the United States between February 28, 1961 and August 15, 1973;

(v) A widow, during her widowhood, of any person qualifying under this subsection or who died while serving honorably during the war, conflict or period described in this section. The tax exemption shall be applied to property the title to which is held by the widow or to property which is the subject of a trust created by or for the benefit of the widow;

(vi) An honorably discharged veteran who served in the military service of the United States, who is a bona fide Wyoming resident for at least three (3) years and who served in one (1) of the below listed military operations during the specified period and who was awarded the armed forces expeditionary medal, the Vietnam service medal or other authorized service or campaign medal:

(A) Berlin - from August 14, 1961 to June 1, 1963;

(B) Lebanon - from July 1, 1958 to November 1, 1958;

(C) Quemoy and Matsu Islands - from August 23, 1958 to June 1, 1963;

(D) Taiwan Straits - from August 23, 1958 to January 1, 1959;

(E) Cuba - from October 24, 1962 to June 1, 1963;

(F) Congo - from November 23, 1964 to November 27, 1964;

(G) Dominican Republic - from April 28, 1965 to September 21, 1966;

(H) Korea - from October 1, 1966 to June 30, 1974;

(J) Congo - from July 14, 1960 to September 1, 1962;

(K) Laos - from April 19, 1961 to October 7, 1962;

(M) Vietnam - from July 1, 1958 to August 4, 1964;

(N) Persian Gulf - Desert Storm Conflict - from January 15, 1991 to a date to be determined by the department of revenue;

(O) Bosnia - from November 20, 1995 to a date to be determined by the department of revenue;

(P) Iraq - Operation Southern Watch and Operation Northern Watch - from December 1, 1995 and from January 1, 1997, respectively, to a date or dates to be determined by the department of revenue;

(Q) Kosovo -- Operation Allied Force/Air War over Kosovo and Serbia - from March 24, 1999 to a date to be determined by the department of revenue;

(R) Afghanistan and other locations -- Operation Enduring Freedom and Operation Noble Eagle (Homeland Security) - from October 7, 2001 to a date to be determined by the department of revenue.

(b) The exemption for veterans is limited to an annual exemption of two thousand dollars (\$2,000.00) of assessed value and not to exceed a total tax benefit of eight hundred dollars (\$800.00) except as hereafter provided. The eight hundred dollar (\$800.00) limitation does not apply to qualified widows of veterans nor veterans of the Spanish American War. Veterans who have received the entire eight hundred dollar (\$800.00) exemption and who have a service connected disability certified by the veterans administration or a branch of the armed forces of the United States are entitled to additional annual tax exemptions not to exceed two thousand dollars (\$2,000.00) of assessed value times the ratio which the percent of disability certified bears to one hundred percent (100%). Disability certified less than ten percent (10%) shall be treated as a ten percent (10%) disability.

(c) Except as provided in subsection (g) of this section, in order to receive the exemption provided by this section the claimant shall file an annual sworn claim therefor on or before the fourth Monday in May with the county assessor of the county in which the property against which the exemption is sought is located indicating:

(i) Claimant's right to the exemption;

(ii) That only the claimant or his spouse owns the property or that the property is the subject of a trust created by or for the benefit of the claimant or his spouse;

(iii) The total tax benefit which the claimant has received under this section to the best of his knowledge.

(d) Any claimant who is honorably discharged from military service and files his claim after the fourth Monday in May is entitled to receive the exemption for that taxable year in addition to the exemption allowed during the ensuing tax year if a claim is filed on or before the fourth Monday in May of the ensuing calendar year.

(e) The county assessor shall accept a claim made by a claimant's spouse, or may waive the filing of a claim and allow an exemption, in the case of a qualified claimant who reentered the armed services of the United States on or before the fourth Monday in May of the year in which the exemption is claimed.

(f) As used in this section "honorably discharged veteran" means a member of the military forces of the United States whose written evidence of separation from the military forces shows an honorable discharge or the rendition of honorable military service.

(g) Notwithstanding subsection (c) of this section and except as provided in subsections (d) and (e) of this section, a claimant under this section may file his claim after the fourth Monday in May and receive the exemption for that taxable year but only to modify motor vehicle registration fees as authorized under W.S. 31-3-101(b)(iii).

(h) A surviving spouse, during widowhood or widower hood, is qualified for the tax exemption under W.S. 39-11-105(a)(xxiv) and is entitled to apply for it under the same procedure specified in this section for veterans if:

(i) At the time of the spouse's death, both the veteran and the veteran's spouse were residents of Wyoming;

(ii) The veteran's spouse has been a resident of Wyoming for at least three (3) years at the time the spouse claims the exemption; and

(iii) The veteran would have qualified under subsection (a) of this section for a tax exemption had the veteran survived and applied for the exemption.

**39-13-106. Licenses; permits.**

There are no specific applicable provisions for licenses and permits for this chapter.

**39-13-107. Compliance; collection procedures.**

(a) Returns and reports. The following shall apply:

(i) Except as provided by chapter 14 of this title or paragraph (ii) of this subsection, annually, commencing on January 1, the county assessor or deputy assessors as provided by W.S. 39-13-102(a) shall obtain from each property owner or person having control of taxable property in the assessment district for which they were appointed, a full, complete and detailed statement of the amount of the taxable property owned by or subject to the control of the property owner. If a property owner fails to provide a listing of personal property owned by him or under his control by March 1, unless an extension is granted from the assessor in writing, the assessor shall issue an assessment of personal property from the best information available. The county assessor shall extend the date for listing personal property from March 1 to April 1 upon written request of the property owner provided the written request is made not later than February 15. The county assessor or his deputies or any representative of the department may examine any property. The county assessor or his deputies shall enter the fair market value of the property for taxation on the assessment roll. The owner, or his agent, shall make and subscribe the following oath:

"I, . . . ., the owner of (or agent, etc., as the case may be) do solemnly swear (or affirm) that the above and foregoing listed property is a full, true, correct and complete list of all property owned by me or under my control as agent or otherwise, and that I have not failed or neglected to list for taxation for the year . . . ., all property of which I am the owner or of which I have control as agent, guardian, administrator or otherwise, in the county of . . . ., State of Wyoming, and that I have not connived at any violation or evasion of the requirements of

law in relation to the assessment of property for taxation.";

(ii) Annually, on or before the dates hereafter indicated, any person whose property is subject to W.S. 39-13-102(m) shall sign under oath and submit a statement listing the information relative to the property and affairs of the company as the department may require to assess the following property:

(A) May 1, rail car companies;

(B) April 1, pipeline companies, electric utilities, telephone and telegraph companies and other public utilities;

(C) May 1, railroad companies.

(iii) If the statement provided by paragraph (ii) of this subsection is not filed, the department shall value the property from the best information available. The department may use information other than contained in the statement provided by paragraph (ii) of this subsection to determine the fair market value of the property provided by W.S. 39-13-102(m).

(b) The following provisions shall apply to the payment of taxes, distraint of property and deferral:

(i) The following shall apply to the payment of taxes due:

(A) On or before the first Monday of August, the board of county commissioners shall by order entered of record levy the requisite taxes for the year. On or before the third Monday in August the county assessor shall compute the taxes from the corrected valuations as corrected by the state board and entered by the county assessor in the column of corrected valuations. The county assessor shall deliver the tax list and his warrant for the collection of the taxes to the county treasurer setting forth the assessment roll, with the taxes extended, containing in tabular form and alphabetical order the names of persons in whose names property has been listed in the county, with the classes of property and the value, total amount of taxes and column of numbers and values and total taxes footed commanding the treasurer to collect the taxes.

At the end of the tax list and warrant, the county assessor shall prorate the total taxes levied to the several funds;

(B) The county treasurer upon receiving the tax list and warrant shall immediately proceed to collect the taxes levied for the current year and taxes remaining unpaid from preceding years. The county treasurer shall issue receipts for taxes paid, specifying the kind of tax and when paid, and enter the payment on the tax list;

(C) Annually, on or before October 10 the county treasurer shall send a written statement in sealed envelopes of total tax due, itemized as to property description, assessed value and mill levies, to each taxpayer at his last known address. Failure to send notice, or to demand payment of taxes, does not invalidate any taxes due;

(D) Taxes provided by this act are due and payable at the office of the county treasurer of the county in which the taxes are levied. Fifty percent (50%) of the taxes are due on and after September 1 and payable on and after November 10 in each year and the remaining fifty percent (50%) of the taxes are due on and after March 1 and payable on and after May 10 of the succeeding calendar year except as hereafter provided. If the entire tax is paid on or before December 31, no interest or penalty is chargeable;

(E) As between the grantor and grantee of any property where there is no express agreement in writing as to which party shall pay the taxes that may be assessed on the property, if the property is conveyed on or after January 1, the grantor shall pay the taxes for that year.

(ii) The following shall apply to the distraint of property:

(A) The following shall apply to the removal of property subject to tax:

(I) If the county treasurer has reasonable grounds to believe that any taxable property in the county will be removed from the county before the tax due or to become due has been paid, he may take possession of so much of the property as will be necessary to pay the taxes due or to become due for the year plus the costs incident to

keeping the property. The property shall be released if the amount necessary to pay the taxes plus costs is deposited with the county treasurer;

(II) If the tax list and warrant have been delivered to the county treasurer, taxes are immediately due if circumstances provided by subdivision (I) of this subparagraph are present, and the county treasurer may levy distress against the property;

(III) When acting pursuant to subdivision (I) of this subparagraph the county treasurer may seize property in any county of the state. When acting pursuant to subdivision (II) of this subparagraph the county treasurer may forward the tax claim to the county treasurer of any county in which the property may be found who shall proceed to collect the taxes as provided by subdivision (II) of this subparagraph.

(B) The following shall apply to the distraint of property for nonpayment:

(I) Annually, the county treasurer shall declare any taxes remaining unpaid on May 11 delinquent, and on or before May 21 shall certify a list of delinquent taxes and taxpayers, indicating the years for which payment is delinquent, which constitutes the delinquent tax roll or list of the county for the years covered thereby. The county treasurer shall stamp upon each line of the delinquent tax roll "Delinquent May 11, ...." but failure to do so does not invalidate subsequent collection proceedings;

(II) Following certification of the delinquent tax roll or list, the county treasurer shall demand payment of all delinquent taxes plus interest from the taxpayers listed therein;

(III) In the event of nonpayment of delinquent taxes and interest following demand therefor, the county treasurer shall proceed to collect the delinquent taxes, interest and costs provided by W.S. 39-13-108(b)(ii) and 39-13-108(e)(ix) by levying distress against the real or personal property of the delinquent taxpayer as may be most convenient except a homestead may only be sold for taxes due upon it exclusively. The county treasurer may distraint and sell personal property even if the delinquent taxpayer

has real property in the county, or may sell real property even if the delinquent taxpayer has personal property in the county subject to the homestead exception stated above.

(iii) The following shall apply to the deferral of tax collection:

(A) On or before November 10 of the year taxes are levied and upon the filing of an affidavit demonstrating an adequate showing that he is qualified under subparagraph (N) of this paragraph and if his principal residence is located on a parcel of land not more than forty (40) acres, any person may apply to the board of county commissioners for deferral of the collection of not to exceed one-half (1/2) of any real estate ad valorem taxes owed by the property owner on his principal residence. The board of county commissioners of each county may promulgate rules and regulations necessary to administer the provisions of this paragraph including guidelines for a taxpayer to demonstrate qualification and provisions allowing or requiring annual payment of a portion of the taxes or interest on deferred taxes. All rules, regulations, guidelines, forms and other program information shall be submitted to the department prior to July 1 of the year the deferral program is implemented in the county. The board of county commissioners may implement the program unless disapproved in writing by the department within forty-five (45) days of submission. If at least ten (10) residents of a county who are qualified under subparagraph (N) of this paragraph submit a petition to the board of county commissioners, the board of county commissioners shall hold a hearing within thirty (30) days on the issue of whether to promulgate rules to enable the qualified residents of the county to participate in the tax deferral program authorized under this paragraph;

(B) Any deferral of collection of taxes granted by the board of county commissioners shall constitute a perpetual tax lien against the property pursuant to W.S. 39-13-108(d)(i) with priority over any other lien. The taxpayer shall file an affidavit each year demonstrating qualification including any significant change to his financial status. If the board of county commissioners finds that the taxpayer's financial status to qualify under subdivision (N)(I) of this paragraph has significantly changed, the board of county commissioners shall, by written order, declare any taxes deferred due and payable

on an earlier date. Unless declared to be due earlier, any taxes deferred shall be due and payable upon a significant change in the taxpayer's financial status as determined by the board of county commissioners, abandonment of the property, failure to file annually the affidavit required by this paragraph, the death of the property owner or the sale or transfer of the property, whichever occurs first. If the board of county commissioners finds at any time that the total taxes deferred exceeds one-half (1/2) of the fair market value of the property as estimated by the board of county commissioners, the board of county commissioners may declare, by written order, that all deferred taxes are immediately due and payable;

(C) Nothing in this paragraph shall be construed to prohibit or affect requirements for property to be listed, valued and assessed by the county assessor pursuant to law;

(D) Notwithstanding W.S. 39-13-108(b)(ii), interest shall accrue on any tax collection deferral granted by the board of county commissioners at a compounded rate of four percent (4%) per annum, except for persons who qualify solely under subdivision (N)(III) of this paragraph interest shall accrue at a rate equal to the average rate of return on all permanent mineral trust fund investments as determined by the state treasurer for the calendar year preceding the year in which application is made. Any tax collection deferral may be prepaid at any time without prepayment penalty;

(E) Each year the county assessor shall publicize in a manner reasonably designed to notify all residents of the county the provisions of this section and the method by which eligible persons may obtain a deferral;

(F) Payment of deferred taxes shall be distributed pursuant to W.S. 39-13-111(a)(ii). Any taxes deferred under this paragraph which would be distributed pursuant to W.S. 39-13-111(a)(ii)(A) shall be paid from the county general fund subject to reimbursement when the deferred taxes are paid by the taxpayer or otherwise collected by the county. The board of county commissioners may, by December 1 of the year in which the first installment of deferred taxes are to be paid, make application to the state treasurer for disbursement of funds pledged by W.S. 9-4-701(m). If

applications exceed funds authorized, the state treasurer shall make investments on a prorated basis;

(G) The deferral option shall not be available in any county which has not adopted rules as required by subparagraph (A) of this paragraph, or which has received disapproval of the county program by the department;

(H) If any residence is under mortgage, deed of trust or purchase contract whereby the explicit terms of the mortgage, deed or contract requires the accumulation of reserves out of which the holder of the mortgage, deed or contract is required to pay real property taxes, the holder or his authorized agent shall cosign the affidavit to defer either before a notary public or the county assessor or deputy in the county in which the real property is located;

(J) If any residence is under rental and the terms of the rental contract require the payment of taxes by the renter, the renter may apply for the deferral provided the property owner or authorized agent also cosigns the affidavit to defer either before a notary public or the county assessor or deputy in the county in which the real property is located;

(K) Consistent with generally accepted fiscal accounting standards, each county implementing the deferral program shall maintain adequate records pertaining to the deferral program, by legal description, owner, taxpayer, if different from owner, deferred taxes and interest, payments made against deferred taxes and interest, and any other information necessary to document and determine the status of deferred taxes and interest in the county. These records shall be updated annually or as needed, and a summary thereof shall be submitted annually to the department of revenue on or before August 10;

(M) As used in this paragraph, "limited income" means not to exceed a maximum gross monthly household income at or below one hundred fifty percent (150%) of the federal poverty level for a household of four (4) as adjusted annually by the comparative cost-of-living index for the respective county as determined by the division of economic analysis, department of administration and information;

(N) An owner is qualified under this subparagraph if:

(I) The owner's affidavit demonstrates limited income as defined in subparagraph (M) of this paragraph;

(II) The owner is a person over the age of sixty-two (62) years or is a handicapped person as determined by the social security administration; or

(III) The owner purchased the property before December 31, 1987.

(O) In addition to the program for deferral of ad valorem taxes otherwise provided in this paragraph, for 1995, there shall be deferred ad valorem taxes on residential real property as provided in this subparagraph which was continuously so classified from 1993 through 1995. Taxes deferred under this subparagraph constitute a lien against the property pursuant to W.S. 39-13-108(d)(i) except that this lien shall have priority over any other lien which becomes effective after August 1, 1995. Taxes deferred under this subparagraph are due and payable July 1, 1996, or upon transfer of the property, whichever is earlier. The deferral authorized under this subparagraph shall be granted upon application to the county assessor by an owner of property which qualifies for the deferral under this subparagraph. Taxes deferred under this subparagraph shall not accrue interest before July 1, 1996. The department shall promulgate rules for the computation of deferrals under this subparagraph and to ensure that taxpayers are advised of the amount deferred. Residential real property is eligible for a deferral under this subparagraph if the assessed valuation of the property has increased by at least one hundred percent (100%) as compared with the assessed valuation of the property in 1993 excluding changes to assessed valuation under subdivision (II) and (III) of this subparagraph. The amount of tax deferred shall be equal to twenty-five percent (25%) of the ad valorem tax on the property for 1995 excluding increases in the tax as compared with the tax on that property in 1993 due to:

(I) Increase in the total mill levy;

(II) Improvements, including new construction, made to the property that were not reflected in the assessed valuation in the property for 1994;

(III) Corrections of errors in the assessed valuation of the property.

(c) Timelines. There are no specific applicable provisions for timelines for this chapter.

**39-13-108. Enforcement.**

(a) Audits. There are no specific applicable provisions for audits for this chapter.

(b) Interest. The following shall apply:

(i) Taxes provided by this act are due and payable at the office of the county treasurer of the county in which the taxes are levied. Fifty percent (50%) of the taxes are due on and after September 1 and payable on and after November 10 in each year and the remaining fifty percent (50%) of the taxes are due on and after March 1 and payable on and after May 10 of the succeeding calendar year except as hereafter provided. If the entire tax is paid on or before December 31, no interest or penalty is chargeable;

(ii) The balance of any tax not paid as provided by paragraph (i) of this subsection is delinquent after the day on which it is payable and shall bear interest at eighteen percent (18%) per annum until paid or collected;

(iii) Taxes are delinquent pursuant to paragraph (ii) of this subsection when a taxpayer or his agent knew or reasonably should have known that the total tax liability was not paid when due;

(iv) Rail car companies. If the taxes levied and payable to the department under W.S. 39-13-104(g) are not paid on December 31 of the year levied, they shall become delinquent and shall bear interest at the rate of eleven percent (11%) per annum. If the taxes and interest due are not paid before February 1 following the levy, the department may collect them by distress and sale of any property belonging to the delinquent owner in the manner required of county treasurers, and the order of the

department shall be sufficient authority therefor. The department may use any other remedy available for the collection of monies due.

(c) Offenses and penalties. The following shall apply:

(i) Offenses. The following shall apply:

(A) Any officer neglecting or refusing to comply with any requirement of this act for which no other penalty is provided, may be fined not to exceed one thousand dollars (\$1,000.00) to be recovered against him and his sureties;

(B) Any county treasurer, or person acting in his behalf, failing to comply with any provision of paragraph (e)(ii) of this section is guilty of a misdemeanor and upon conviction thereof may be fined not to exceed one hundred dollars (\$100.00);

(C) Any person is guilty of a misdemeanor punishable upon conviction by a fine of not more than ten thousand dollars (\$10,000.00) if he:

(I) Knowingly fails to file the statement required under W.S. 39-14-107(a)(i)(A), 39-14-207(a)(i), 39-14-307(a)(i), 39-14-407(a)(i), 39-14-507(a)(i), 39-14-607(a)(i) and 39-14-707(a)(i);

(II) Knowingly makes any false statement or willfully and knowingly orders or authorizes the making of a false statement in the statement required under W.S. 39-13-107(a)(ii), 39-14-107(a)(i)(A), 39-14-207(a)(i), 39-14-307(a)(i), 39-14-407(a)(i), 39-14-507(a)(i), 39-14-607(a)(i) and 39-14-707(a)(i).

(D) This paragraph does not preclude prosecution pursuant to any other applicable law.

(ii) Penalties. The following shall apply:

(A) Any person failing to file the statement provided by W.S. 39-13-107(a)(ii)(C) shall forfeit not less than one thousand dollars (\$1,000.00) nor more than five thousand dollars (\$5,000.00) to be recovered by an action in the name of the state of Wyoming;

(B) Any person failing to file the statement provided by W.S. 39-13-107(a)(ii)(A) or (B) is subject to a penalty of not more than five hundred dollars (\$500.00) plus not more than one hundred dollars (\$100.00) for each day's failure to file the statement, to be recovered by an action in the name of the state of Wyoming brought by the attorney general at the request of the department. The department may waive the penalties imposed by this subsection as part of a settlement or for any other good cause shown. Penalties collected shall be credited to the state school foundation program account;

(C) If any person fails to file the reports for ad valorem purposes required by chapter 14 of this title by the due date or any extension thereof, the department may impose a penalty equal to a total of one percent (1%) of the taxable value of the production from the well, mine or mining claim but not to exceed five thousand dollars (\$5,000.00) for each calendar month or portion thereof that the report or information is late. If any person fails to file reports and other information required by rule of the department other than those required by chapter 14 of this title, the department may impose a penalty of up to one thousand dollars (\$1,000.00). The department may waive penalties under this subparagraph for good cause. Penalties imposed under this subparagraph may be appealed to the board.

(d) Liens. The following shall apply:

(i) Taxes upon real property are a perpetual lien thereon against all persons excluding the United States and the state of Wyoming. Taxes upon personal property are a lien upon all real property owned by the person against whom the tax was assessed subject to all prior existing valid liens. Taxes upon personal property are a lien upon the personal property until paid but if the personal property is transferred before payment the tax shall be collected from other real or personal property of the transferor but if the transferor has no other property from which the taxes can be collected then payment shall be enforced from the transferred property;

(ii) Any person, county, municipality or political subdivision holding a certificate of purchase or tax deed issued for delinquent taxes has a lien against the real property which is subject to the certificate of purchase or

tax deed to the extent of taxes, costs and penalties accrued plus interest, accruing penalties and the value of improvements placed on the real property by the lienholder or his assigns while lawfully in possession of the premises. The lien is superior to all other liens except those created by junior tax sales or payment of subsequent taxes by another person. The lien may be enforced in the district court of the county in which the real property lies or in any district court in which an action is filed in which the lienholder is made a defendant. The action shall be conducted in a manner similar to foreclosures of mortgages and sales thereunder. The decree may contain an order of sale directing the sheriff to advertise and sell the real property without appraisal and make a return of the proceedings within sixty (60) days;

(iii) Pursuant to an order of sale under paragraph (ii) of this subsection, the sheriff shall advertise the property for sale, and sell the property at public auction, without appraisal, to the highest bidder for cash. The lienholder pursuant to a certificate of purchase or tax deed may bid on the property and if he is the highest bidder, he shall only pay to the sheriff the amount by which his bid exceeds the amount due him under the court's decree. Upon confirmation of the sale by the court, the sheriff shall execute a deed conveying title to the real property to the purchaser in fee simple subject only to the rights of lienholders from junior tax sales. Any person having an interest in the real property may redeem the property prior to confirmation by the court by paying into court a sum of money sufficient to pay all sums owing to the lienholder;

(iv) Upon confirmation of the sale, the proceeds of the sale shall be applied as follows:

(A) To pay the costs of the action and sale including an attorney's fee to the lienholder's attorney as allowed by the court;

(B) To pay all sums due the lienholder;

(C) The balance to be paid to persons holding prior interests in the real property as their interests may appear. The payment may be claimed within two (2) years from the date of confirmation of the sale, or in the case of a person under a legal disability within one (1) year

from removal of the disability. If the payment is unclaimed within two (2) years the proceeds shall be credited to the county sinking fund. If a person under a legal disability claims the proceeds within one (1) year following removal of the disability and the proceeds have been credited to the county sinking fund, the person shall be paid out of the county sinking fund.

(v) No deficiency judgment shall be rendered against any party to an action pursuant to this subsection;

(vi) Liens on mineral production. The following shall apply:

NOTE: This section becomes effective 1/1/2004.

(A) All taxes, fees, penalties and interest imposed upon mineral production under this article are an automatic and continuing lien in favor of the county in which the mineral was produced. The lien is on all property in the county, real, tangible and intangible, including all after acquired property rights, future production and rights to property, of any delinquent taxpayer to the extent permitted by W.S. 39-14-103(c)(i), 39-14-203(c)(i), 39-14-303(c)(i), 39-14-403(c)(i), 39-14-503(c)(i), 39-14-603(c)(i) and 39-14-703(c)(i);

NOTE: This section becomes effective 1/1/2004.

(B) A lien under this paragraph is also a lien on all interests of the delinquent taxpayer in the mineral estate from which the production was severed, and on all future production of the same mineral from the same leasehold, regardless of any change of ownership or change in the person extracting the mineral;

NOTE: This section becomes effective 1/1/2004.

(C) Any lien arising under this paragraph is superior and paramount to all other liens, claims, mortgages or any other encumbrance of any kind except a lien, claim, mortgage or other encumbrance of record held by a bona fide creditor and properly perfected, filed or recorded under Wyoming law prior to the filing of a lien as provided by subparagraph (E) of this paragraph;

NOTE: This section becomes effective 1/1/2004.

(D) The county may file a notice of lien at any time at its discretion, except no lien shall be enforced until the right of the taxpayer to file and properly

perfect an appeal concerning the tax delinquent property before the state board of equalization has expired. A properly perfected appeal on the tax delinquent property before the state board of equalization or any subsequent properly perfected appeal on the same property to a district court or the supreme court shall stay enforcement of a lien filed by the county until such appeal has been exhausted or concluded;

NOTE: This section becomes effective 1/1/2004.

(E) In order to perfect a tax lien under this paragraph, the county treasurer shall file a notice of the tax lien and a certified copy of the delinquent tax statement with the clerk and recorder of the real estate records in the county in which the mineral production occurred. A copy of the lien shall be filed with the secretary of state, but such filing is not required to perfect the lien. The notice of the tax lien shall contain:

NOTE: This section becomes effective 1/1/2004.

(I) The name and last known address of the person or persons against whose property the lien is filed including, but not limited to, the delinquent taxpayer;

NOTE: This section becomes effective 1/1/2004.

(II) The name and address of the county as the holder of the lien and the name of the contact person within the county;

NOTE: This section becomes effective 1/1/2004.

(III) The amount of the tax, fees, penalties and interest owed;

NOTE: This section becomes effective 1/1/2004.

(IV) A legal description of the premises from which the mineral was produced;

NOTE: This section becomes effective 1/1/2004.

(V) A statement that the amount of the unpaid tax, fees, penalties or interest is a lien on all property, real, tangible or intangible, including all after acquired property and rights to the property belonging to the delinquent taxpayer to the extent permitted by W.S. 39-14-103(c)(i), 39-14-203(c)(i), 39-14-303(c)(i), 39-14-403(c)(i), 39-14-503(c)(i), 39-14-603(c)(i) and 39-14-703(c)(i) and located within the county, as well as all interest of the delinquent taxpayer in the mineral

estate from which the production was severed and any future production from the same mineral leasehold.

NOTE: This section becomes effective 1/1/2004.

(F) No other action beyond that described in subparagraph (E) of this paragraph shall be required to perfect a tax lien;

NOTE: This section becomes effective 1/1/2004.

(G) The filing of the notice of the tax lien as described in subparagraph (E) of this paragraph shall constitute record notice of the tax lien;

NOTE: This section becomes effective 1/1/2004.

(H) One (1) notice of the tax lien shall be deemed sufficient to cover all taxes, together with interest, fees and penalty of the same nature which may accrue after the filing of the notice;

NOTE: This section becomes effective 1/1/2004.

(J) Any tax lien created under this paragraph and duly filed shall survive the death or incapacitation of any person, and shall survive any other destruction or attempted destruction of any interest in property owned by any person liable under Wyoming law for the collection, payment or remittance of taxes, fees, penalties or interest to the county;

NOTE: This section becomes effective 1/1/2004.

(K) In the event of foreclosure, the county shall be entitled to recover the costs of filing the lien, foreclosing on the lien and reasonable attorney's fees;

NOTE: This section becomes effective 1/1/2004.

(M) All notice of tax liens shall be released within sixty (60) days after taxes, penalties and interest due are paid or collected;

NOTE: This section becomes effective 1/1/2004.

(N) Notwithstanding that the lien is a lien on all interests in the mineral estate from which the production was severed and on all future production from the same leasehold to the extent permitted by W.S. 39-14-103(c)(i), 39-14-203(c)(i), 39-14-303(c)(i), 39-14-403(c)(i), 39-14-503(c)(i), 39-14-603(c)(i) and 39-14-703(c)(i), the county may for good cause shown, release the lien on all property in the county, real, tangible and intangible, and

settle delinquent taxes, interest and penalties to be collected against future production from that leasehold;

NOTE: This section becomes effective 1/1/2004.

(O) As used in this paragraph, "delinquent taxpayer" means any person who has the legal responsibility to pay ad valorem taxes, fees, penalties or interest on mineral production and who has not made payment as of the date due of such taxes, fees, penalties or interest. A delinquent taxpayer may include a mineral lessee who is receiving production from the mineral interest; the mineral lessor to the extent of the lessor's retained interest; an owner of a royalty, overriding royalty or other interest carved out of the mineral estate; a person severing the mineral if the person has the legal responsibility for remittance of ad valorem tax, fees, penalties or interest on the mineral production.

NOTE: This section becomes effective 1/1/2004.

(e) Tax sales. The following shall apply:

(i) The following shall apply to the distraint and sale of personal property:

(A) If the county treasurer proceeds to collect delinquent taxes by distraint and sale of personal property the county treasurer:

(I) May keep the property at the expense of the owner;

(II) Shall give notice of the time and place of sale within five (5) days after the distraint in the manner required for notice of a sale of personal property under execution;

(III) Shall commence the sale within ten (10) days after the distraint;

(IV) May adjourn the sale from time to time, not exceeding three (3) days, shall adjourn the sale when there are no bidders, and shall put a notice of adjournment at the place of sale in the case of an adjournment;

(V) Shall return to the owner any surplus proceeds of sale after payment of taxes, interest, costs of keeping and transporting the property and fees of sale

including charges provided by paragraph (ix) of this subsection, and render an account in writing of the sale and charges upon demand by the owner.

(B) The following fees, costs and charges shall be collected by the county treasurer to be credited to the county treasury:

(I) Twenty-three cents (\$.23) per mile for necessary travel; and

(II) Not to exceed twenty dollars (\$20.00) for advertising in the case of sale of personal property.

(ii) The following shall apply to sales of real property:

(A) If the county treasurer proceeds to collect delinquent taxes by sale of real property, he shall advertise notice of all sales of real property by publication thereof, once a week for three (3) weeks in a legal newspaper in the county, the first publication to be at least four (4) weeks prior to the day of sale and prior to the first week in September. If there is no legal newspaper published in the county, the county treasurer shall post a written notice of the sale at least thirty (30) days prior to the date of the sale within and near the front door of the courthouse and in three (3) public places in the county in which the major portion of the real property to be sold is situated;

(B) Notices of sale of real property for payment of delinquent taxes shall:

(I) Describe the real property to be sold, by providing the legal description and the street address for the property used by the United States postal service when available, or the street address used by the county or municipality if available;

(II) Contain the name of the record owner of the real property and the person in whose name the real property is assessed if different than the record owner;

(III) Enumerate the year or years for which taxes are delinquent and the amount of taxes, interest and penalties due and unpaid for each year;



Here state in whose name assessed and describe the property. Witness my hand the day and year first above mentioned.

.... County Treasurer.

(D) The notice of sale and text matter describing the real property to be sold shall be set in not larger than eight (8) point type, nor wider than the regular double column width of the newspaper. All sub-heads or captions designating school, irrigation or drainage districts, or other county subdivisions, shall be composed in black-faced type, not larger than eight (8) point, centered in double columns of not more than one (1) such line;

(E) Descriptions of all property offered for sale and listed in the name of one (1) owner shall be "run in" with the commas, semicolons and periods in a continuous line so as to use all space in each line thereof except space for tabulation of the total amount of the taxes, interest and costs, each line, when necessary, shall be leadered out to said total item, thus, .... \$ ;

(F) The name of the individual, firm, corporation or association to whom the property is assessed shall be set in capital letters, followed by an em dash immediately followed in the same line by the legal description and street address when available of the property to be sold which shall, if sufficiently long, continue to the end of the line leaving sufficient white space to classify the figures of the total amount for which the property is to be sold;

(G) The newspaper publisher shall follow the copy submitted to him by the county treasurer. The county treasurer shall prepare the copy for the publisher as herein provided and shall prepare the body matter of said tax list in the following form:

DOE, JOHN - SW1/4 Sec. 14; S1/2 SE1/4 Sec. 12; N1/2 NE1/4 Sec. 12; SE1/4 SW1/3 Sec. 32; all in Twp. 12, Range 63 (street address when available) ..... \$134.25

ROE, JOHN - NW1/4 Sec. 12, Twp. 14, Range 63 (street address when available) ..... 54.76

(H) The continuation of lines used in the publication in directing the reader from page to page shall be in black-faced type, not larger than eight (8) point, shall occupy, in each case, not more than two (2) eight (8) point lines of double column width and shall be in the following form:

Delinquent Tax List of .... County, Wyoming (year)..., Taxes

(Continued on Page .... or Continued from Page ....);

(J) Where the same individual, firm, corporation or association shall have assessed to it more than one (1) piece of real property located in the same school district the county treasurer shall so prepare his copy that all such pieces of property shall be advertised and appear under one (1) insertion of the name of the individual, firm, corporation or association.

(iii) The following shall apply to the time and place of sale, the purchasers, unsold property and the certificate of purchase:

(A) Sales of real property shall be held at the county courthouse or county building between 9:00 a.m. and 5:00 p.m., Sundays excluded, and may be adjourned from day-to-day until all lands are sold;

(B) Any person who offers to pay the amount of taxes, interest, penalties and costs including charges provided by paragraph (ix) of this subsection due on any real property is considered the purchaser thereof. The purchaser shall immediately pay the county treasurer all amounts due on the real property in the absence of which the real property shall again be offered for sale and the original purchaser disqualified. Any real property which cannot be sold for the amount of taxes, interest, penalties and costs shall be bid in for the county by the county treasurer. Real property bid in for the county shall be assessed each year and taxes placed thereon the same as other real property but shall be placed on a separate assessment roll and the valuation shall not be included in the county valuation. A list of the property shall be sent to the board on the first Monday in July for statistical purposes;

(C) Following completion of the sale the county treasurer upon payment of the fee provided by subparagraph (ix)(B) of this subsection shall make out, sign and deliver a certificate of purchase to the purchaser, or to the county in the event real property was bid in for the county without fee. The certificate of purchase shall describe the real property purchased, taxes and costs paid and shall state the amount of any special assessments for local or public improvements. Certificates of purchase may be assigned by endorsement and assignment vests all right and title of the original purchaser in the assignee or his legal representatives. The county treasurer shall also note in the margin of the delinquent tax roll the certificate of purchase number and the amount for which the property was sold;

(D) The county commissioners of any county may sell and assign any certificate of purchase for real property bid in for the county pursuant to subparagraph (iii)(B) of this subsection at public or private sale at any time. If sold at public sale the commissioners may reject any bids and continue the sale until the property is sold;

(E) The holder of the certificate of purchase takes subject to any special assessments for local or public improvements.

(iv) The following shall apply to tax deeds to a county:

(A) Following four (4) years from the date of sale the county treasurer shall issue and record a tax deed to the county conveying real property for which the county holds unredeemed certificates of purchase. At least sixty (60) days prior to execution and delivery of the tax deed the county clerk shall inform by personal service or send a registered or certified letter to the person in whose name the property was assessed and mortgagees, if any, to their last known addresses, if any, complying with the notice requirements of subparagraph (v)(A) of this subsection;

(B) Following issuance of a tax deed to a county, the county commissioners may dispose of the property at private sale and cause a deed to be executed to the purchaser, signed by the commission chairman and the county clerk;

(C) Upon sale of real property by the county to private parties, the county assessor shall immediately place the property on the assessment roll of the county.

(v) The following shall apply to tax deeds to purchasers:

(A) The county treasurer shall accept applications and issue tax deeds for unredeemed real property subject to a certificate of purchase not less than four (4) nor more than six (6) years from the date of the original sale for taxes to the person in whose name the certificate of purchase was delivered or his assigns upon proper application, return of the certificate of purchase, payment of fees and proof of compliance with the notice requirements of this section to consist of the fact of personal service and the contents of the notice served in cases where personal service is made, or, in the case of service by publication, a sworn statement attached to a copy of the notice indicating the time of service by the publisher, manager or editor of the newspaper in which publication of notice was made;

(B) Holders of certificates of purchase of real property sold for delinquent taxes, including a holder's or county's assigns, upon application for a tax deed therefor shall furnish proof to the county treasurer:

(I) That at least three (3) months prior to the application a written or printed notice was served on each person in actual possession or occupancy of the real property and the person in whose name the property was taxed or assessed if upon diligent inquiry the persons can be found in the county; or

(II) If no person is in actual possession or occupancy of the property and if the person in whose name the property was taxed or assessed cannot be found in the county, that notice was published in a newspaper printed in the county, or if no newspaper is printed in the county, then in a newspaper printed in Wyoming nearest to the county seat of the county in which the property is located. The notice shall be published once a week for three (3) weeks, the first publication not more than five (5) months and the last publication not less than three (3) months prior to the application; and

(III) That notice was sent by certified or registered mail to the record owner and mortgagees, if any, of the real property if their addresses are known or disclosed by the public records.

(C) Notices required by this paragraph shall contain the following:

(I) When the applicant purchased the real property;

(II) In whose name the real property was taxed;

(III) A description of the real property;

(IV) The year the property was taxed or assessed;

(V) When the time of redemption will expire;

(VI) When application for a tax deed will be made;

(VII) The amount of any special assessments for local or public improvements.

(D) Following issuance of a tax deed, the grantee shall file the notice and proof of service to be recorded as other instruments affecting the conveyance of real property. The tax deed, when recorded, is subject to the provisions of W.S. 34-2-131 through 34-2-135.

(vi) Form of tax deeds. The following shall apply:

(A) Tax deeds executed by the treasurer shall be substantially in the following form:

Know all men by these presents, that whereas, the following described real property, viz: (here insert the description) situated in the County of . . . ., and State of Wyoming, was subject to taxation for the year (or years) A.D. . . . .; and whereas the taxes assessed upon said real property for the year (or years) aforesaid, remained due and unpaid at the date of such sale hereinafter named, and whereas the treasurer of the said county did on the . . . . day of . . . ., A.D. . . . ., by virtue of the authority vested by law, at (an

adjourned sale) the sale begun and publicly held on the .... day of ....., A.D. ....., expose to public sale at the court house (or county building) in the county aforesaid, in substantial conformity with all the requirements of the statute in such case made and provided, the real property above described, for the payment of the taxes, interest and costs then due, and remaining unpaid on said property, and whereas at the time and place aforesaid, A. B., of the county of ....., and of ....., having offered to pay the sum of .... dollars and .... cents, being the whole amount of taxes, interest and costs then due and remaining unpaid on said property for (here follows a description of the property sold) which was the least quantity bid for, and payment of said sum having been made by him to the said treasurer the said property was stricken off to him at that price (and whereas the said A. B. did, on the .... day of ....., A.D. ....., duly assign the certificate of the sale of the property as aforesaid, and all his right, title and interest to said property, to C. D. of the County of ....., and .... of .....) and, whereas four (4) years have elapsed since the date of said sale, and the said property has not been redeemed therefrom, as provided for by law; now, therefore, I, E. F., treasurer of the county aforesaid, for and in consideration of the said sum to the treasurer paid as aforesaid, and by virtue of the statute in such case made and provided, have granted, bargained and sold, and by these presents do grant, bargain and sell, unto the said A. B. (or C. D.) his heirs and assigns, the real property last hereinbefore described, to have and to hold unto him, the said A. B. (or C. D.) his heirs and assigns forever, subject, however, to all the rights of redemption provided by law and to any special assessments for unpaid local or public improvements.

In witness whereof, I, E. F., treasurer, as aforesaid by virtue of the authority aforesaid, have hereunto subscribed my name, on this .... day of ....., A.D. .... .

E. F., Treasurer.

(B) Tax deeds shall be acknowledged by the treasurer.

(vii) The following shall apply to tax deeds:

(A) No irregularity or informality in the advertisement of sale provided by paragraph (ii) of this subsection shall affect the legality of the sale or the

title to any real property conveyed by a subsequent treasurer's tax deed. In all cases the provisions of this act shall be deemed sufficient notice to the owners of the sale of the property;

(B) Any grantee of a tax deed or county commissioner's deed pursuant to paragraph (iv) or (v) of this subsection, and successors in title are entitled to possession of the real property conveyed by the deed and the deed is prima facie evidence of title to the property described subject to special assessments for local or public improvements. The burden of proof shall be upon any party seeking to invalidate title conveyed by a tax or county commissioner's deed in any action in any court in Wyoming;

(C) Books and records of the county clerk's and county treasurer's offices, on copies duly certified, shall be deemed sufficient evidence to prove the sale of any real property for taxes, the redemption thereof, or the payment of the taxes thereon;

(D) No action for the recovery of real property sold for the nonpayment of taxes shall be maintained unless commenced within six (6) years after the date of sale for taxes.

(viii) The following shall apply to the indemnification of a purchaser under a void sale and a lien under an invalid sale:

(A) When real property has been sold for delinquent taxes unlawfully in consequence of any mistake, irregularity or unlawful act of a county treasurer rendering the sale void, the county shall pay the purchaser or his assignee the total amount to which he would have been entitled upon redemption if the property had been rightfully sold. The county treasurer and his sureties are liable to the county for the amount paid if due to an act of the county treasurer or his deputies;

(B) When real property has been sold or conveyed for delinquent taxes and it is discovered or adjudged that the sale or conveyance was invalid and the purchaser or grantee has no legal right of recovery from the county as provided by subparagraph (A) of this paragraph, the purchaser or grantee has a lien against the real property

for the amount due on any taxes for which the property was sold or conveyed plus any subsequent taxes thereon paid by the purchaser or his assigns plus interest of eight percent (8%) per annum. The lien may be enforced in any court of competent jurisdiction;

(C) If the grantee of a tax deed or persons claiming under him by virtue of the tax deed are defeated in any action for the recovery of the real property conveyed by the tax deed, the court shall grant judgment in favor of the grantee or person claiming under him against the successful party to the suit before the successful party is awarded relief or granted possession of the real property. The judgment, which is a lien against the real property, shall be for the amount of all taxes paid on the real property by the grantee or person claiming under him, interest at eight percent (8%) per annum on the amount paid at the tax sale and on subsequent taxes from the time paid and costs as allowed by law including the cost of the tax deed and recording the tax deed.

(ix) The following fees, costs and charges shall be collected by the county treasurer to be credited to the county treasury:

(A) Twenty-three cents (\$.23) per mile for necessary travel and not to exceed twenty dollars (\$20.00) for advertising in the case of sale of personal property and not to exceed twenty dollars (\$20.00) for advertising in the case of sale of real property to collect delinquent taxes;

(B) Not to exceed twenty dollars (\$20.00) for issuing a certificate of purchase;

(C) Twenty-five dollars (\$25.00) for issuing a treasurer's deed to a private purchaser;

(D) Not to exceed twenty dollars (\$20.00) for issuing a certificate of redemption.

### **39-13-109. Taxpayer remedies.**

(a) Interpretation requests. There are no specific applicable provisions for interpretation requests for this chapter.

(b) Appeals. The following shall apply:

(i) The county assessor shall notify any person whose property assessment has been increased by the county board of equalization of the increase. Any person wishing to contest an assessment of his property shall file not later than thirty (30) days after the date or postmark date of the assessment schedule properly sent pursuant to W.S. 39-13-103(b)(vii), whichever is later, a statement with the county assessor specifying the reasons why the assessment is incorrect. The county assessor shall provide a copy to the county clerk as clerk of the county board of equalization. The county assessor and the person contesting the assessment, or his agent, shall disclose witnesses and exchange information, evidence and documents relevant to the appeal, including sales information from relevant statements of consideration if requested, no later than fifteen (15) days prior to the scheduled county board of equalization hearing. The assessor shall specifically identify the sales information used to determine market value of the property under appeal. A county board of equalization may receive evidence relative to any assessment and may require the person assessed or his agent or attorney to appear before it, be examined and produce any documents relating to the assessment. No adjustment in an assessment shall be granted to or on behalf of any person who willfully neglects or refuses to attend a meeting of a county board of equalization and be examined or answer any material question upon the board's request. Minutes of the examination shall be taken and filed with the county clerk;

(ii) A county assessor may appeal any decision or order of the county board of equalization to the state board of equalization;

(iii) Any person aggrieved by any final administrative decision of the department may appeal to the board. Appeals shall be made in a timely manner as provided by rules and regulations of the board by filing with the board a notice of appeal specifying the grounds therefor. The department shall, within a timely manner as specified by board rules and regulations, transmit to the board the complete record of the action from which the appeal is taken;

(iv) Any person including the state of Wyoming aggrieved by any order issued by the board, or any county board of equalization whose decision has been reversed or modified by the state board of equalization, may appeal the decision of the board to the district court of the county in which the property or some part thereof is situated;

(v) The board and department shall not compromise or reduce the tax liability of any person owing a tax to the state of Wyoming, except that the department for good cause, may, but is not required to, compromise and settle with the taxpayer for payment of any taxes owed to the state of Wyoming which tax liability is disputed in good faith by the taxpayer and which liability has not been settled in law. In case the department and the person owing the tax do not agree with respect to tax liability, the department shall by order, assess and levy the full amount of tax due and any person aggrieved by the assessment may appeal the decision to the board pursuant to the Wyoming Administrative Procedure Act.

(c) Refunds. The following shall apply:

(i) Within one (1) year following an illegal assessment, levy or collection of taxes an action may be filed in district court to enjoin the illegal assessment, levy or collection. The action shall be against the county assessor in the case of an illegal assessment, the governmental entity which levies an illegal levy, the county treasurer if the levy is entered on the tax list, or against the governmental entity if the taxes were collected and paid to the entity;

(ii) If any person pays any tax, or portion thereof, found to have been erroneous or illegal, the board of county commissioners shall direct the county treasurer to refund the erroneous or illegal payment to the taxpayer. When an increase in the value of any product is subject to the approval of any agency of the United States of America or the state of Wyoming, or of any court, the increased value shall be subject to property taxation. In the event the increase in value is disapproved, either in whole or in part, then the amount of tax which has been paid on the disapproved part of the value shall be considered excess tax. Within one (1) year following the final determination of value, any person who has paid any such excess tax may apply for a refund, and the board of county commissioners

shall refund the amount of excess tax paid. Any refund may, at the discretion of the board of county commissioners, be made in the form of credit against future tax payments for a period not to exceed five (5) years. Unless otherwise agreed to by the taxpayer, refunds in the form of credit against future tax payments shall be made in no less than equal annual amounts. The board of county commissioners shall not provide a credit for interest on the excess tax paid unless the taxes are paid under protest due to an appeal pending before the state board of equalization and the taxpayer prevails in the appeal;

(iii) The following shall apply to the property tax relief program:

(A) On or before the second Monday in May, upon the filing of an affidavit demonstrating an adequate showing that he is qualified under subparagraph (B) of this paragraph, any person may apply to the county treasurer for a property tax refund from property taxes timely paid for the preceding calendar year upon his principal residence including the land upon which the residence is located not to exceed two (2) acres. The affidavit shall include information as required by rule and regulation on a form approved by the department of revenue. The tax relief granted shall be as provided by subparagraph (B) of this paragraph;

(B) Gross income as used in this subparagraph shall be defined by the department through rules and regulations and shall include, at minimum, all sources of taxable and nontaxable income of members of the household and all taxable entities controlled by members of the household. Such gross income shall be verified by federal income tax returns, if federal income tax returns were required and filed, or whatever other means necessary as determined by the department through rules and regulations. The tax relief for qualifying persons shall be in the form of a refund of any ad valorem tax due and timely paid upon the person's principal residence for the preceding calendar year in the amount specified in this paragraph. The county treasurer shall issue all refunds due under this paragraph on or before August 31 of the year in which application is made for the refund. Any person shall qualify for a refund in the amount specified under this paragraph if the person's gross income including the total household income of which the person is a member, as a percentage of the

federal poverty level as adjusted for family size, and as adjusted annually by the comparative cost-of-living index for the respective county as determined by the division of economic analysis, department of administration and information, is as follows:

(I) Effective January 1, 1997, if the person's household income is at or below one hundred percent (100%) of the poverty level, fifty percent (50%) or five hundred dollars (\$500.00), whichever is less;

(II) Effective January 1, 1997, if the person's household income is more than one hundred percent (100%) but less than or equal to one hundred twenty percent (120%) of the poverty level, forty percent (40%) or four hundred dollars (\$400.00), whichever is less;

(III) Effective April 1, 1998, if the person's household income is more than one hundred twenty percent (120%) but less than or equal to one hundred forty percent (140%) of the poverty level, thirty percent (30%) or three hundred dollars (\$300.00), whichever is less;

(IV) Effective April 1, 1998, if the person's household income is more than one hundred forty percent (140%) but less than or equal to one hundred sixty percent (160%) of the poverty level, twenty percent (20%) or two hundred dollars (\$200.00), whichever is less;

(V) Effective April 1, 1998, if the person's household income is more than one hundred sixty percent (160%) but less than or equal to one hundred eighty percent (180%) of the poverty level, ten percent (10%) or one hundred dollars (\$100.00), whichever is less;

(VI) Effective January 1, 1997, if the person's household income is more than one hundred eighty percent (180%) of the poverty level, the person shall not be entitled to any deduction under this section.

(C) Nothing in this paragraph shall be construed to prohibit or affect requirements for property to be listed, valued and assessed by the county assessor pursuant to law. Each year the county shall publicize in a manner reasonably designed to notify all residents of the county the provisions of this paragraph and the method by which eligible persons may obtain a refund;

(D) The department shall promulgate rules and regulations necessary to implement this paragraph;

(E) Any refund as provided by this paragraph shall be reduced by the dollar amount received by the person applying for the refund for the preceding calendar year of any exemption received for veterans under W.S. 39-13-105, any home owner's tax credit under paragraph (d)(i) of this section, or any property tax deferral under W.S. 39-13-107(b)(iii);

(F) This paragraph is repealed January 1, 2008.

(d) Credits. The following shall apply:

(i) The following shall apply to the home owner's tax credit:

(A) Subject to subparagraph (G) of this paragraph, a person who occupies a specified homestead as his home and principal residence is entitled to a property tax credit in the amount provided by subparagraph (D) or (E) of this paragraph. No more than one (1) home owner's tax credit shall be allowed on the same piece of property during any year;

(B) A person who wishes to claim a home owner's tax credit shall file a claim under penalties of perjury with the county assessor on or before the fourth Monday in May on forms provided by the department of revenue. The forms may be mailed to property owners and may be published in a newspaper by county assessors and the mailed or published form may be filled out and returned by mail or in person to county assessors. The applicant shall list the property claimed to be subject to the tax credit, state that the property is the principal place of residence of the applicant and state that no other home owner's claims have been or will be submitted by the applicant during the remainder of the calendar year. False claims are punishable as provided by W.S. 6-5-303;

(C) In completing the assessment roll of the county the county assessor shall indicate the assessed value used as a base for computation of the home owner's tax credit and the county treasurer shall collect from the property owner the amount of tax due minus the amount of

tax credit allowed. On or before September 1, county assessors shall certify the credits granted pursuant to this section to the department. On or before October 1 the state treasurer out of funds appropriated for that purpose shall reimburse each county treasurer for the amount of taxes which would have been collected if the property tax credit had not been granted. The county treasurer shall distribute to each governmental entity the actual amount of revenue lost due to the tax credit;

(D) The tax credit under subparagraph (A) of this paragraph is one thousand four hundred sixty dollars (\$1,460.00) times the mill levy to be applied against the property if the dwelling and land, not to exceed two (2) acres on which the dwelling is located, have a combined assessed value of less than three thousand nine hundred dollars (\$3,900.00), or five hundred ninety dollars (\$590.00) times the mill levy to be applied against the property if the dwelling and land, not to exceed two (2) acres on which the dwelling is located, have a combined assessed value of at least three thousand nine hundred dollars (\$3,900.00) but less than five thousand eight hundred fifty dollars (\$5,850.00) and if:

(I) The dwelling and land on which the dwelling is located are owned by the same person or entity; and

(II) The dwelling has been occupied in Wyoming since the beginning of the calendar year by the applicant.

(E) The tax credit under subparagraph (A) of this paragraph is five hundred ninety dollars (\$590.00) times the mill levy to be applied against the property if:

(I) The dwelling has an assessed value of less than five thousand eight hundred fifty dollars (\$5,850.00); and

(II) The land on which the dwelling is located is not owned by the same person or entity owning the dwelling; and

(III) The dwelling has been occupied in Wyoming since the beginning of the calendar year by the applicant.

(F) As used in this paragraph:

(I) "Applicant" means:

(1) A person who occupies and owns a homestead either solely or jointly with his spouse;

(2) A person who occupies a homestead as a vendee in possession under a contract of sale;

(3) A person who occupies a homestead owned by a corporation primarily formed for the purpose of farming or ranching if the person is a shareholder or is related to a shareholder of the corporation; or

(4) A person who occupies a homestead owned by a partnership primarily formed for the purpose of farming or ranching if the person is a partner or is related to a partner in the partnership.

(II) "Dwelling" means a house, trailer house, mobile home, transportable home or other dwelling place.

(G) Every person or entity holding an escrow for the payment of taxes on property owned by another shall notify the owner of the property of the amount of home owner's tax credit allowed to the owner under this paragraph annually on or before October 1;

(H) The home owner's tax credit authorized by this paragraph is allowed during a fiscal year only if the legislature has appropriated monies that the department determines to be necessary to reimburse all local governments for tax losses created by this paragraph during that fiscal year. When it appears to the state treasurer that the monies appropriated are insufficient to reimburse the counties as provided herein, the money available shall be prorated among the counties at an amount less than one hundred percent (100%);

(J) The purpose of this paragraph is to provide general property tax relief for certain persons who own their residences through a system of tax credits and general fund appropriations. The relief provided is to offset in part the general tax burden. Thus, the tax relief provided is determined by reference to property tax assessment and collection mechanisms but is not limited to

property tax relief nor formulated upon legislative power to relieve such taxes. It is for the general relief of taxes and grounded upon general legislative power. In adopting this method of reimbursement of property taxes and providing that no local government shall incur any loss of property tax revenue under subparagraph (H) of this paragraph, any bond issues or other matters relying upon the assessed value of a local government for computation shall be predicated upon the assessed value of the local government before computation of tax credits under this paragraph.

(e) Redemption. The following shall apply:

(i) Real property sold for delinquent taxes may be redeemed by the legal owner after the date of sale but before a valid tax deed application has been filed and accepted by the county treasurer pursuant to W.S. 39-13-108(e)(v)(A), by paying to the county treasurer to be held subject to order of the holder of the certificate of purchase, the amounts provided by paragraph (iv) or (v) of this subsection. The county treasurer, if satisfied the person has a right to redeem the property, shall issue to the legal owner or his assigns a certificate of redemption stating the facts of the sale substantially as contained in the certificate of purchase, the date of redemption, the amount paid and the name of the person redeeming the property. The county treasurer shall note the redemption in his records and notify the holder of the certificate of purchase;

(ii) A mortgagee of real property, or a purchaser of real property at a mortgage foreclosure sale, shall have the right to partially redeem a certificate of purchase as to that portion of real property in which the mortgagee or purchaser holds an interest. The procedure for partial redemption of certificates of purchase shall be the same as provided in paragraph (i) of this subsection, except that the certificate of redemption shall state the appropriate facts of the partial redemption. A partial redemption under this subsection shall not affect the legal status of a certificate of purchase to the extent of any real property remaining unredeemed;

(iii) An amount not to exceed twenty dollars (\$20.00) shall be collected by the county treasurer to be

credited to the county treasury for the issuance of a certificate of redemption;

(iv) A person redeeming real property from a person holding a certificate of purchase shall pay the following amounts, excluding attorney's fees, before being entitled to a certificate of redemption:

(A) The amount for which the property was sold at the tax sale, or in the case of a partial redemption, the amount allocated by the county assessor to the portion being redeemed, including the charges provided by W.S. 39-13-108(e)(ix)(A) and (B) plus:

(I) Three percent (3%); plus

(II) Interest at eight percent (8%) per annum since the date of sale except fifteen percent (15%) per annum on all property sold at date of 1982 tax sale and thereafter.

(B) The amount of taxes accruing since the date of sale plus eight percent (8%) per annum if the subsequent taxes were paid by the holder of the certificate of purchase dated before 1982 tax sale. Commencing at date of 1982 tax sale, interest on subsequent taxes if paid by the holder of the certificate of purchase shall be fifteen percent (15%) per annum;

(C) Actual expenses, not to exceed two hundred fifty dollars (\$250.00) incurred by the holder of the certificate of purchase if redemption occurs after the holder has given notice of his intent to apply for a treasurer's deed, upon filing a sworn statement of the expense with the county treasurer.

(v) A person redeeming real property from a county holding a certificate of purchase shall pay the amounts provided by subdivision (iv)(A)(II) and subparagraph (iv)(B) of this subsection before being entitled to a certificate of redemption.

(f) Escrow. If taxes are paid under protest to the extent of and due to an appeal pending before the state board of equalization or any court of competent jurisdiction, the county treasurer shall deposit that protested amount under appeal in an interest bearing escrow

account and withhold distribution under W.S. 39-13-111 until a final decision on the appeal has been rendered. To the extent the taxpayer prevails in the appeal, the county treasurer shall refund that amount under appeal, plus interest earned thereon, to the taxpayer within thirty (30) days from the day the final decision is rendered. If the taxpayer pays to the county an amount in excess of the protested amount under appeal, the excess shall be distributed as provided under W.S. 39-13-111.

**39-13-110. Statute of limitations.**

(a) All personal property taxes not collected within ten (10) years from the time the taxes were levied shall be cancelled and are thereafter uncollectible.

(b) Property omitted from prior year tax lists discovered by the county assessor shall be added to the assessment roll and taxes computed and collected for the period the property was omitted not exceeding five (5) prior years or since the last change in ownership, whichever is less.

(c) Any person, county, municipality or political subdivision holding a certificate of purchase or tax deed issued for delinquent taxes has a lien against the real property which is subject to the certificate of purchase or tax deed to the extent of taxes, costs and penalties accrued plus interest, accruing penalties and the value of improvements placed on the real property by the lienholder or his assigns while lawfully in possession of the premises. The lien is superior to all other liens except those created by junior tax sales or payment of subsequent taxes by another person. The lien may be enforced in the district court of the county in which the real property lies or in any district court in which an action is filed in which the lienholder is made a defendant. The action shall be conducted in a manner similar to foreclosures of mortgages and sales thereunder. The decree may contain an order of sale directing the sheriff to advertise and sell the real property without appraisal and make a return of the proceedings within sixty (60) days. No action provided by this section may be commenced less than four (4) years nor more than ten (10) years from the date of the original tax sale.

(d) Any person entitled to sales proceeds under W.S. 39-13-108(d)(iv)(C) may claim those amounts within two (2) years from the date of confirmation of the sale, or in the case of a person under a legal disability within one (1) year from removal of the disability. If the payment is unclaimed within two (2) years the proceeds shall be credited to the county sinking fund. If a person under a legal disability claims the proceeds within one (1) year following removal of the disability and the proceeds have been credited to the county sinking fund, the person shall be paid out of the county sinking fund.

(e) No action for the recovery of real property sold for the nonpayment of taxes shall be maintained unless commenced within six (6) years after the date of sale for taxes.

**39-13-111. Distribution.**

(a) The following shall apply to the distribution of tax collections:

(i) The county treasurer shall keep accurate records of taxes collected for each governmental entity for which a tax levy is made pursuant to W.S. 39-13-104(k) and shall pay the taxes collected to the treasurer of each governmental unit or settle accounts with the county commissioners as hereafter provided:

(A) On the first day of each month in the case of cities, towns, irrigation districts, drainage districts, county libraries and the state and statewide levies. One-half percent (.5%) shall be deducted from payments to cities and towns and credited to the county treasury as reimbursement for county expenses in collecting taxes for the city or town;

(B) On November 25, May 25 and when the board of county commissioners requires, settle county accounts with the board of county commissioners;

(C) To school districts as provided by W.S. 21-13-207;

(D) On the second Monday of each month including all interest received in the case of community colleges;

(E) On November 10, January 10 and May 10 for all other governmental entities.

(ii) Upon sale of property for the nonpayment of taxes, the proceeds thereof shall be distributed as follows:

(A) The portion attributable to school district levies is payable to the proper school district;

(B) The portion attributable to a levy by a city or town is payable to the proper city or town;

(C) The balance is payable to the county general fund.

(iii) The county treasurer shall credit all taxes collected from rail car companies to an account within the trust and agency fund and after the regular state, county and school district levies are made, distribute them in the same manner property taxes are distributed. To determine the entitlement to the state, county and school districts the county treasurer shall apportion the taxes to the various school districts through which the rail cars may have operated on the ratio that main track mileage in each school district bears to the total main track mileage within the county.

(b) If taxes are paid under protest to the extent of and due to an appeal pending before the board or any court of competent jurisdiction, the county treasurer shall deposit that protested amount under appeal in an interest bearing escrow account and withhold distribution until a final decision on the appeal has been rendered. To the extent the taxpayer prevails in the appeal, the county treasurer shall refund that amount under appeal, plus interest earned thereon, to the taxpayer within thirty (30) days from the day the final decision is rendered. If the taxpayer pays to the county an amount in excess of the protested amount under appeal, the excess shall be distributed as provided by law.

CHAPTER 14  
MINE PRODUCT TAXES

ARTICLE 1  
COAL

**39-14-101. Definitions.**

(a) As used in this article:

(i) "Arm's-length market or sales price" means the transaction price determined in connection with a bona fide arm's length sale;

(ii) "Bona fide arm's-length sale" means a transaction in cash or terms equivalent to cash for specified property rights after reasonable exposure in a competitive market between a willing, well informed and prudent buyer and seller with adverse economic interests and assuming neither party is acting under undue compulsion or duress;

(iii) "Department review" means, but is not limited to, corrections of clerical errors or reconciliations of tax reports with reports required by other state or federal agencies;

(iv) "Mine product valuation amendment" means a valuation adjustment determination made by the department including special directives;

(v) "Mining or production" means drilling, blasting, loading, roadwork, overburden removal, pre-mouth of the mine reclamation, transportation from the point of severance to the mouth of the mine, and maintenance of facilities and equipment directly relating to any of the functions stated in this paragraph;

(vi) "Mouth of the mine" means the point at which a mineral is brought to the surface of the ground and is taken out of the pit, shaft or portal. For a surface mine, this point shall be the top of the ramp where the road or conveying system leaves the pit. For an in situ mine, the point shall be the wellhead;

(vii) "Processing" means crushing, sizing, milling, washing, drying, refining, upgrading, beneficiation, sampling, testing, treating, heating, separating, tailings or reject material disposal, compressing, storing, loading for shipment, transportation from the mouth of the mine to the loadout, transportation to market to the extent included in the price and provided by the producer, processing plant site and post-mouth of mine reclamation,

maintenance of facilities and equipment relating to any of the functions stated in this paragraph, and any other function after severance that changes the physical or chemical characteristics or enhances the marketability of the mineral;

(viii) "Purchaser" means the first purchaser who acquires the produced valuable coal deposit from the taxpayer for value;

(ix) "Severance tax" means an excise tax imposed on the present and continuing privilege of removing, extracting, severing or producing any mineral in this state;

(x) Beginning January 1, 1989, "taxable value" means one hundred percent (100%) of the fair market value of the gross product of minerals and mine products;

(xi) "Transportation to market provided by a third party" means the costs incurred for any movement of a mineral which is performed by a third party, after completion of all mining and processing functions, beyond the point of loading for shipment to the customer, commonly referred to as the loadout, established by contract or by government regulations;

(xii) "Transportation to market provided by the producer" means the costs incurred for any movement of a mineral which is performed by the producer beyond the point of loading for shipment to the customer, commonly referred to as the loadout, completed by the employees of the producer using equipment owned by the producer;

(xiii) "Underground coal" means coal mined by methods of man-made excavation underneath the surface of the earth utilizing shafts, tunnels or lifts, including planes connected with excavations penetrating the mineral stratum;

(xiv) "Unreported production" means production volume for which no tax report was filed for the reporting period by the taxpayer or his agent;

(xv) "Value of the gross product" means fair market value as prescribed by W.S. 39-11-101, less any deductions and exemption allowed by Wyoming law or rules.

**39-14-102. Administration; confidentiality.**

(a) The department shall annually value and assess the gross product of all mines and mining claims at its fair market value for taxation.

(b) Based upon the information received or procured pursuant to W.S. 39-14-107(a) or 39-14-108(a) and except as otherwise provided, the department shall annually value the gross product for the preceding calendar year, in appropriate unit measures of all mines and mining claims from which valuable deposits are produced.

(c) Except as otherwise provided, in the event the product as defined in W.S. 39-14-103(b)(iii) is not sold at the mouth of the mine by bona fide arms-length sale, or if the product of the mine is used without sale, the department shall determine the fair market value by application of recognized appraisal techniques.

(d) Annually, on or before June 1, or as soon thereafter as the fair market value is determined, the department shall certify the valuation determined by the department to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county.

(e) All taxpayer returns and return information shall be confidential and, except as authorized below, no current or former official, officer, employee or agent of the state of Wyoming or any political subdivision thereof shall disclose any such information obtained by him in connection with his service as an officer or employee.

(f) As used in this section, taxpayer returns and return information shall include, but not be limited to, all statements, reports, summaries and all other data and documents under audit or provided by the taxpayer in accordance with the provisions of W.S. 39-14-107(a) and related provision.

(g) Without written authorization from the taxpayer, no current or former official, officer, employee or agent of the state of Wyoming or any political subdivision thereof shall release taxpayer returns and return

information pertaining to taxes imposed by this article, except:

(i) Information may be released to the governor or his designee, members of the board, to employees of the department of audit, the department of revenue, the consensus revenue estimating group and to the attorney general;

(ii) Upon prior notice to the taxpayer, information may be released by the department, upon written application, to any other governmental entity if the governmental entity shows sufficient reason to obtain the information for official business;

(iii) Information is admissible in court or administrative proceedings related to mineral taxes or government royalties.

(h) Any person receiving information pursuant to paragraph (g)(ii) of this section shall sign an agreement with the department to keep the information confidential.

(j) Units of production reported by the taxpayer and the taxpayer's taxable value are not confidential and may be released without qualification.

(k) Any person who negligently violates subsections (e) through (j) of this section is guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000.00). Any person who intentionally violates subsections (e) through (j) of this section is guilty of a misdemeanor and upon conviction shall be fined not less than one thousand dollars (\$1,000.00), but not more than five thousand dollars (\$5,000.00) and imprisoned for not more than one (1) year.

(m) Repealed By Laws 2000, Ch. 68, § 1.

**39-14-103. Imposition.**

(a) Taxable event. The following shall apply:

(i) There is levied a severance tax on the value of the gross product for the privilege of severing or extracting both surface and underground coal in the state. The severance tax imposed by this article may be in

addition to other taxes, including but not limited to the ad valorem taxes imposed by W.S. 39-13-104.

(b) Basis of tax (valuation). The following shall apply:

(i) Coal shall be valued for taxation as provided in this subsection;

(ii) The value of the gross product shall be the fair market value of the product at the mouth of the mine where produced, after the mining or production process is completed;

(iii) Except as otherwise provided, the mining or production process is deemed completed when the mineral product reaches the mouth of the mine. In no event shall the value of the mineral product include any processing functions or operations regardless of where the processing is performed;

(iv) Except as otherwise provided, if the product as defined in paragraph (iii) of this subsection is sold at the mouth of the mine, the fair market value shall be deemed to be the price established by bona fide arms-length sale;

(v) In the event the product as defined in paragraph (iii) of this subsection is sold at the mouth of the mine without further movement or processing, the fair market value shall be the price established by bona fide arms-length sale less exempt royalties;

(vi) In the event the product as defined in paragraph (iii) of this subsection is not sold at the mouth of the mine by bona fide arms-length sale, or, except as otherwise provided, if the product of the mine is used without sale, the department shall determine the fair market value of coal in accordance with paragraph (vii), (viii), (ix) or (x) of this subsection;

(vii) For coal sold away from the mouth of the mine pursuant to a bona fide arms-length sale, the department shall calculate the fair market value of coal by multiplying the sales value of extracted coal, less transportation to market provided by a third party to the extent included in sales value, all royalties, ad valorem

production taxes, severance taxes, black lung excise taxes and abandoned mine lands fees, by the ratio of direct mining costs to total direct costs. Nonexempt royalties, ad valorem production taxes, severance taxes, black lung excise taxes and abandoned mine lands fees shall then be added to determine fair market value. For purposes of this paragraph:

(A) The sales value of extracted coal shall be the selling price pursuant to an arms-length contract. To the extent not included in the selling price pursuant to an arms-length contract, and to the extent that the following represent partial consideration for the value of the coal, sales value shall include the value per ton attributable to the extracted coal for any consideration provided to the seller in the form of heat content adjustments, price escalations or de-escalations, expense reimbursements, capital, facilities or equipment, services for mining, handling, processing or transporting the coal at or near the mine site, or any payment received for the current or past sale of extracted coal, by or on behalf of the purchaser. Sales value per ton shall include consideration provided for the deferral of extraction and sale in the taxable period in which the purchaser receives credit for the payment as a result of subsequent extraction and sale of the deferred production;

(B) Direct mining costs include mining labor including mine foremen and supervisory personnel whose primary responsibility is extraction of coal, supplies used for mining, mining equipment depreciation, fuel, power and other utilities used for mining, maintenance of mining equipment, coal transportation from the point of severance to the mouth of the mine, and any other direct costs incurred prior to the mouth of the mine that are specifically attributable to the mining operation;

(C) Total direct costs include direct mining costs determined under subparagraph (B) of this paragraph plus mineral processing labor including plant foremen and supervisory personnel whose primary responsibility is processing coal, supplies used for processing, processing plant and equipment depreciation, fuel, power and other utilities used for processing, maintenance of processing equipment, coal transportation from the mouth of the mine to the point of shipment, coal transportation to market to the extent included in the price and provided by the

producer, and any other direct costs incurred that are specifically attributable to the mining, processing or transportation of coal up to the point of loading for shipment to market;

(D) Indirect costs, royalties, ad valorem production taxes, severance taxes, black lung excise taxes and abandoned mine lands fees shall not be included in the computation of the ratio set forth in this paragraph. Indirect costs include but are not limited to allocations of corporate overhead, data processing costs, accounting, legal and clerical costs, and other general and administrative costs which cannot be specifically attributed to an operational function without allocation.

(viii) For coal used without sale, or coal not sold pursuant to a bona fide arms-length agreement, the sales value for the purposes of paragraph (vii) of this subsection shall be the fair market value of coal which is comparable in the quality, quantity, terms and conditions under which the coal is being used or sold, both in the spot market and through long-term agreements negotiated within the previous twelve (12) months, multiplied by the respective number of tons used or sold for each reporting period;

(ix) Notwithstanding paragraph (viii) of this subsection, the sales value for purposes of paragraph (vii) of this subsection for coal used as a feedstock in a coal enhancement process which has been subjected to normal processes necessary to achieve marketability, shall be the market value of comparable coal as determined by this paragraph. The market value of comparable coal attributable to feedstock coal shall be:

(A) A representative selling price received or receivable which shall be determined by the first of the following subdivisions that is applicable, multiplied by the total feedstock tons used in each reporting period:

(I) Arms-length price of comparable coal produced from the same mine and sold under comparable terms, or if a comparable coal price is not available from the same mine, the arms-length price of comparable coal produced from other mines in the area and sold under comparable terms;

(II) Price reported to a public utility commission for comparable coal produced from the same mine and sold under comparable terms, or if a comparable coal price is not available from the same mine, the price reported to a public utility commission for comparable coal produced from other mines in the area and sold under comparable terms;

(III) Other published or publicly available market prices for comparable coal produced from mines in the area and sold under comparable terms.

(B) If subparagraph (A) of this paragraph is not applicable, then the sales value for coal used as a feedstock shall be the total arms-length selling price of the enhanced coal sold during the reporting period multiplied by the total of the enhanced tons sold.

(x) In the event that unique or unusual circumstances exist such that the department or the taxpayer is unable to determine the value of the gross product of coal from a mine or mining claim by application of the methods provided in this subsection, the taxpayer may petition the department for approval to use an alternate valuation method. The department shall approve or deny the use of an alternate valuation method and shall so inform the parties within forty-five (45) days of the date the petition is filed.

(c) Taxpayer. The following shall apply:

(i) In the case of the gross product of all mines and mining claims produced under lease, the lessor is liable for the payment of ad valorem taxes on the product removed only to the extent of the lessor's retained interest under the lease, whether royalty or otherwise, and the lessee or his assignee is liable for all other ad valorem taxes due on production under the lease;

(ii) Any taxpayer paying the taxes imposed by this article on any valuable deposit may deduct the severance taxes paid from any amounts due or to become due to the interest owners of such valuable deposit in proportion to the interest ownership;

(iii) Any person extracting valuable products subject to this chapter and any person owning an interest

in the valuable products to the extent of their interest ownership are liable for the payment of the severance taxes imposed by this article together with any penalties and interest.

**39-14-104. Tax rate.**

(a) Except as otherwise provided by W.S. 39-14-105, the total severance tax rate for surface coal shall be seven percent (7%). This rate comprises one and one-half percent (1.5%) imposed by Wyoming constitution article 15, section 19, and five and one-half percent (5.5%) imposed statutorily. The tax shall be distributed as provided in W.S. 39-14-111 and is imposed as follows:

- (i) One and one-half percent (1.5%); plus
- (ii) One-half percent (.5%); plus
- (iii) Two percent (2%); plus
- (iv) One and one-half percent (1.5%); plus
- (v) One percent (1%); plus
- (vi) One-half percent (.5%).

(b) The total severance tax rate for underground coal shall be three and three-quarters percent (3.75%). The tax shall be distributed as provided in W.S. 39-14-111 and is imposed as follows:

- (i) One and one-half percent (1.5%); plus
- (ii) One and one-quarter percent (1.25%); plus
- (iii) One percent (1%).

**39-14-105. Exemptions.**

(a) Coal has no value and is exempt from taxation if it is consumed prior to sale for the purpose of treating or processing coal produced from the same mine.

(b) Notwithstanding W.S. 39-14-104 and effective January 1, 1999, when the application of taxes under W.S. 39-14-104 results in a tax on a ton of surface mined coal

in excess of sixty cents (\$.60), or thirty cents (\$.30) on a ton of underground mined coal, the coal is exempt from the tax which exceeds the maximum amount per ton. This exemption shall be applicable to:

(i) New agreements entered into between March 31, 1987, and December 31, 2003, if:

(A) The application of the taxes in W.S. 39-14-104 results in a tax on a ton of surface mined coal in excess of sixty cents (\$.60), or thirty cents (\$.30) on a ton of underground mined coal at the time the agreement is entered and the coal is first produced under the agreement;

(B) Production and delivery of coal actually commences pursuant to the agreement between March 31, 1987, and December 31, 2003;

(C) The coal is transported and consumed outside the borders of the state of Wyoming; and

(D) The new contract or agreement is not the result of the purchaser breaching a contract with another Wyoming producer; or

(ii) New agreements entered into between January 1, 1987, and December 31, 2003, to supply coal to a facility in the planning stage or under construction at the time the new agreement is entered if:

(A) The application of the taxes in W.S. 39-14-104 results in a tax on a ton of surface mined coal in excess of sixty cents (\$.60), or thirty cents (\$.30) on a ton of underground mined coal at the time the agreement is entered and the coal is first produced under the agreement;

(B) The coal is transported and consumed outside the borders of the state of Wyoming; and

(C) The new contract or agreement is not the result of the purchaser breaching a contract with another Wyoming producer; or

(iii) A contract or agreement which existed on January 1, 1987, or a modification to that contract or agreement occurring between March 31, 1987, and December 31, 2003, between a Wyoming coal producer and a purchaser

for consumption in an electrical generating facility or coking facility located in Wyoming to the extent that the producer's annual production and deliveries under the contract exceeds the average annual tonnage of coal delivered during calendar years 1985 and 1986 under the same contract. The exemption applies to the amount of additional coal produced in each of calendar years 1987 through 2003 and thereafter, so long as the additional coal is produced and delivered annually. If the annual deliveries after calendar year 2003 fall below the average of the 1985 and 1986 production, the exemption will no longer apply even if subsequent production exceeds the average of the 1985 and 1986 production unless the annual deliveries after calendar year 2000 fall below the average of the 1985 and 1986 production by reason of fire, explosion, earthquake, windstorm, accident, flood, equipment failure, act of God, war, seizure or activities of the armed forces, or other casualty or act beyond the reasonable control of either party to the contract or agreement. The exemption applies to contracts or agreements described in this paragraph only if a facility's total annual purchase of Wyoming coal exceeds the average annual tonnage of Wyoming coal purchased by the facility during calendar years 1985 and 1986;

(iv) Coal consumed by any coking facility located in Wyoming if the producer demonstrates to the department of revenue that the Wyoming coal consumed at the coking facility has displaced an equivalent quantity of coal produced outside of Wyoming. The exemption applies to the amount of Wyoming coal delivered and consumed by the coking facility in calendar year 1989 and thereafter, so long as the Wyoming coal is produced and delivered annually. If annual deliveries after calendar year 2003 fall below the previous year's deliveries, the exemption will no longer apply unless shipments are curtailed as the result of conditions described under paragraph (iii) of this subsection.

(c) The limitation on excise taxation provided for in subsection (b) of this section shall be applicable to a contract or agreement for the duration of its term or any extension thereof executed prior to December 31, 2003. If a producer and purchaser of coal under a contract or agreement existing on January 1, 1999, mutually rescind that contract or agreement and execute a new contract or agreement under substantially similar terms or amend an

existing contract to diminish the total revenue which would have accrued under that contract, the coal sold under the new or amended contract shall be taxed under the provisions of this section without regard to the tax limitation imposed by subsection (b) of this section.

(d) The department of revenue shall review the exemption, analyze the benefit to the state and report to the joint revenue interim committee on or before December 1 in 1999 through 2003 on the exemption granted by subsections (b) and (c) of this section.

**39-14-106. Licenses; permits.**

There are no specific applicable provisions for licenses and permits for this article.

**39-14-107. Compliance; collection procedures.**

(a) Returns and reports. The following shall apply:

(i) Annually, on or before February 25 of the year following the year of production any person whose property is subject to W.S. 39-14-102(a) shall sign under oath and submit a statement listing the information relative to the property and affairs of the company as the department may require to assess the property:

(A) For mines and mining claims, the same date as prescribed by paragraph (iv) of this subsection for December production. In addition to the information required by this subsection, Wyoming coal producers shall provide to the department a summary of each new coal sales agreement for total sales in excess of ten thousand (10,000) tons and any amendment to an existing agreement for total sales in excess of ten thousand (10,000) tons signed during each calendar quarter no later than the last day of the month following the end of the calendar quarter. Each summary shall be on a form prescribed by the department and shall contain the date the agreement or amendment was executed, term of the agreement or amendment, annual volume or total volume if the agreement or amendment is for less than one (1) year, heat content requirements, quality specifications, nature and extent of enhancement if any, transportation terms, contract price and an explanation of any consideration that is a part of the sales value but not included in the contract price. A copy

of each coal sales agreement or amendment shall be provided by the producer to the department no later than eighteen (18) months after the date the agreement or amendment was signed unless the agreement is not yet publicly available. If the agreement is not yet publicly available, the producer shall, in lieu of providing a copy of the agreement, notify the department in writing that the agreement is not yet publicly available and when the producer believes the agreement will be publicly available. It will thereafter be the responsibility of the producer to ascertain if and when the agreement does become publicly available and to provide a copy to the department within thirty (30) days from the date the agreement becomes publicly available. The producer may be relieved of the responsibility of ascertaining the date the agreement becomes publicly available by supplying a copy to the department. The coal sales agreements, amendments and summaries shall not be considered public records and shall not be open to public inspection. The coal sales agreements, amendments and summaries shall be considered taxpayer return information and shall be made available in accordance with applicable confidentiality statutes to the extent needed to carry out official duties under this section and W.S. 39-14-102(e) through (k). Proprietary information derived from the agreements and summaries shall be aggregated by the department on a calendar year basis prior to disclosure to any person not authorized by law to have access to the information. Any producer complying with this section shall not be required to provide subsequent summaries or copies of the same agreement or amendments to any of the agencies or officials identified by this section and W.S. 39-14-102(e) through (k). Any producer complying with this section shall not be required to provide other state agencies authorized by law to have access to the information, additional copies of sales agreements, amendments or summaries except as required through formal discovery in a contested case.

(ii) All information and reports shall be notarized and signed by a person who has legal authority to bind the taxpayer;

(iii) For mines and mining claims, the department may presume that the property is located in the county in which production is reported by the taxpayer. The department shall not direct any county to provide relief for taxes paid on taxable valuation which was erroneously

reported and certified to the wrong county unless the taxpayer files or is directed to file amended returns within two (2) years of the date of the original certification of the production. Unless there is evidence of bad faith or willful disregard of production circumstances, no taxpayer shall be required to pay taxes on production which was erroneously reported and certified to the wrong county if relief for taxes paid is not allowed under this provision;

(iv) Except as provided in paragraph (v) of this subsection, each taxpayer liable for severance taxes under W.S. 39-14-103 shall report monthly to the department. The monthly tax reports are due on or before the twenty-fifth day of the second month following the month of production. Reports shall be filed on forms prescribed by the department. The department may allow extensions for filing returns by regulation;

(v) If a taxpayer's liability for severance tax imposed under this article is less than thirty thousand dollars (\$30,000.00) for the preceding calendar year, monthly reporting requirements are waived and the taxpayer shall report annually. The annual report is due on February 25 of the year following the year in which production occurred. If a taxpayer who reports and pays annually accumulates an annual liability exceeding thirty thousand dollars (\$30,000.00), that taxpayer shall commence reporting monthly as provided in paragraph (iv) of this subsection during the production year following the year in which the accumulated tax liability exceeded thirty thousand dollars (\$30,000.00). It is the taxpayer's responsibility to notify the department concerning the change from annual to monthly reporting requirements or from monthly to annual reporting;

(vi) For mines and mining claims, the taxpayer shall report the location of the production to the county and tax district in which the mine or mining claim is located, based upon the actual taxable production produced by the mine in each county or tax district. Other reasonable methods of reporting the location of production may be approved by the department upon written request of the taxpayer or taxing jurisdiction.

(b) Payment. The following shall apply:

(i) Annually, on or before October 10 the county treasurer shall send a written statement in sealed envelopes of total tax due, itemized as to property description, assessed value and mill levies, to each taxpayer at his last known address. Failure to send notice, or to demand payment of taxes, does not invalidate any taxes due;

(ii) Ad valorem taxes provided by this act are due and payable at the office of the county treasurer of the county in which the taxes are levied. Fifty percent (50%) of the taxes are due on and after September 1 and payable on and after November 10 in each year and the remaining fifty percent (50%) of the taxes are due on and after March 1 and payable on and after May 10 of the succeeding calendar year except as hereafter provided. If the entire tax is paid on or before December 31, no interest or penalty is chargeable;

(iii) Except as provided in paragraph (iv) of this subsection, each taxpayer liable for a severance tax under W.S. 39-14-103 shall pay monthly tax payments to the department. The payment shall be determined by the taxpayer based on the value of the gross product produced and saved during the second preceding month, and tax computed on value at rates prescribed in this chapter. The monthly tax payments are due on or before the twenty-fifth day of the second month following the month of production. If the report the taxpayer is required to file shows tax due, the taxpayer shall pay the tax due when the report is filed. The department may allow extensions for paying taxes by regulation. The department may, if an extension is granted, request the payment of the reasonable estimate of ninety percent (90%) of the tax by the statutory due date, with the remaining tax remitted with the extended return;

(iv) If a taxpayer's liability for severance tax imposed under this article is less than thirty thousand dollars (\$30,000.00) for the preceding calendar year, monthly payment requirements are waived and the taxpayer shall pay the tax annually. The annual payment is due on February 25 of the year following the year in which production occurred. If a taxpayer who pays annually accumulates an annual liability exceeding thirty thousand dollars (\$30,000.00), that taxpayer shall commence remitting tax payments as provided in paragraph (iii) of this subsection during the production year following the

year in which the accumulated tax liability exceeded thirty thousand dollars (\$30,000.00). It is the taxpayer's responsibility to notify the department concerning the change from annual to monthly payment requirements or from monthly to annual payment.

(c) Timelines. Except as otherwise provided, there are no specific applicable provisions for timelines for this article.

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

(a) General. The following shall apply:

(i) If the statement provided by W.S. 39-14-107(a)(i) is not filed, the department shall value the property from the best information available. The department may use information other than contained in the statement provided by W.S. 39-14-107(a)(i) to determine the fair market value of the property provided by W.S. 39-14-102(a);

(ii) When a taxpayer producing valuable deposits fails to pay the taxes imposed by this article when due, the purchaser of the produced valuable deposit shall withhold and remit to the department the taxpayer's subsequently accruing taxes on the produced valuable deposit acquired by the purchaser. This provision is subject to the following conditions:

(A) The department shall notify the purchaser and taxpayer in writing on or before the first day of the production month for which subsequent taxes are due that the purchaser shall begin remitting taxes to the department as provided in W.S. 39-14-107(b)(iii);

(B) The department shall notify the purchaser in writing of the proper rates for calculating taxes due and the percentage of the produced valuable deposit subject to taxation by this article;

(C) The amount of tax paid by a purchaser to the department, as required by this paragraph, shall offset and satisfy all claims for payments for the purchase of produced valuable deposits to the extent of the tax payment;

(D) This paragraph shall not apply under circumstances where the purchaser is required to continue payments due to legal proceedings;

(E) This paragraph shall not apply until after the purchaser has been notified in writing that subsequent accruing taxes will be payable by the purchaser.

(iii) Severance taxes due together with interest, penalties and costs shall be collectible by the department by appropriate judicial proceedings.

(b) Audits. The following shall apply:

(i) The department may employ examiners and obtain other technical services, to investigate and examine the books and records of any person paying taxes imposed under W.S. 39-13-101 through 39-13-111. The department shall notify the county assessor of any change in valuation as determined by audits, examinations or investigations establishing:

(A) Taxable volumes or values were not accurately reported;

(B) Clerical errors were made in determining taxable volumes or values;

(C) Taxable volumes or values for the year that production occurred were not calculated in compliance with Wyoming statutes or rules governing the determinations; or

(D) Additional payment for production was received and not reported whether such payment was received in the year of production or in subsequent years.

(ii) Effective until March 1, 1994, the department is authorized to rely on final audit findings under W.S. 9-2-2003, taxpayer amended returns or department review, and to certify mine product valuation amendments for production in calendar year 1985 and thereafter, to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county and taxes computed and collected thereon subject to appeal under W.S. 39-14-109(b)(ii);

(iii) Commencing January 1, 2003, the department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to certify mine product valuation amendments to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county and taxes computed and collected thereon subject to appeal under W.S. 39-14-109(b)(ii), provided that the return is filed within three (3) years from the date the production should have been or was reported pursuant to W.S. 39-14-107(a)(i), whichever is later, and that the audit or review commenced within the time period as required by paragraph (vii) of this subsection;

(iv) The department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to assess deficient severance tax payments, interest and penalty, if any, for the same periods governing mine product valuation amendments pursuant to paragraphs (ii) and (iii) of this subsection;

(v) All audits or department reviews, as applicable, pursuant to paragraphs (ii), (iii) and (iv) of this subsection are subject to the following conditions:

(A) Audits are commenced when the taxpayer receives written notice of the intended action;

(B) Prior to entering the premises of a taxpayer or third party, the taxpayer or third party shall be provided at least fourteen (14) days written notice;

(C) Audits are completed when the final findings are issued to the taxpayer by the department of audit;

(D) Unless otherwise agreed to in writing, audits shall be completed and the final audit findings issued to the taxpayer not later than the end of the month two (2) years after the audit is commenced;

(E) Any assessment or levy, including the assessment of a penalty and interest, if any, resulting from final audit findings or department review shall be issued within one (1) year following the completion of the audit or review;

(F) Upon receipt of department review findings, the taxpayer shall have sixty (60) days in which to submit a response.

(vi) Where there is evidence of gross negligence by the taxpayer in reporting and valuing production, an audit may examine prior years and issue assessments where gross negligence occurred. This section shall not apply to mine product valuation amendments to add the value of unreported production;

(vii) Audits provided by this article shall commence within six (6) months immediately following the three (3) years following the reporting period and taxpayers shall keep accurate books and records of all production subject to taxes imposed by this article and determinations of taxable value as prescribed by W.S. 39-14-103(b) for a period of seven (7) years and make them available to department examiners for audit purposes. If the examination discloses evidence of gross negligence by the taxpayer in reporting and paying the tax, the department may examine all pertinent records for any reporting period without regard to the limitations set forth in paragraphs (vii) and (viii) of this subsection;

(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;

(ix) The state may employ auditors and obtain other technical assistance necessary to determine if the tax imposed by this article has been properly reported and paid.

(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 board of county commissioners shall first compute a net deficiency amount after subtracting any offsetting credit and then calculate any interest due;

(ii) Taxes are delinquent pursuant to paragraphs (iii) and (iv) of this subsection when a taxpayer or his agent knew or reasonably should have known that the total tax liability was not paid when due;

(iii) 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 until paid or collected;

(iv) Effective January 1, 1994, 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 on any mineral produced on or after January 1, 1994. 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 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. The interest rate on any delinquent mineral tax from any mineral produced before January 1, 1994, shall be eighteen percent (18%) per annum.

(d) Penalties. 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 penalty, the department or board of county commissioners shall first

compute a net deficiency amount after subtracting any offsetting credit and then calculate any penalty due;

(ii) If any person fails to file the report required by W.S. 39-14-107(a)(i)(A) by the due date or any extension thereof, the department may impose a penalty equal to a total of one percent (1%) of the taxable value of the production from the well, mine or mining claim but not to exceed five thousand dollars (\$5,000.00) for each calendar month or portion thereof that the report or information is late. If any person fails to file reports and other information required by rule of the department of revenue other than those required by W.S. 39-14-107(a)(iv) or 39-14-107(a)(i)(A), the department may impose a penalty of up to one thousand dollars (\$1,000.00). The department may waive penalties under this paragraph for good cause. Penalties imposed under this paragraph may be appealed to the state board of equalization;

(iii) If any person fails to make or file a return and remit the tax as required by W.S. 39-14-107, the department shall impose a penalty of five percent (5%) of the taxes due for each thirty (30) day period, or fraction thereof, elapsing between the due date of the return and the date filed, unless the person for good cause obtains from the department an extension of time for filing prior to the due date for filing. In no event shall the total penalty imposed by this subsection exceed twenty-five percent (25%) of the tax due. The department, for good cause, may waive a penalty imposed for failure to file a return for any one (1) month in a calendar year, provided that:

(A) The return was filed within five (5) business days following the due date, including an approved extension period; and

(B) The taxpayer requests the waiver in writing within fifteen (15) days after the return was filed, setting forth the reasons for the late filing.

(iv) If any part of a tax deficiency is due to negligence or intentional disregard of rules and regulations, there shall be added a penalty of five percent (5%) of the amount of the deficiency plus interest as provided by paragraph (c)(iv) of this subsection. The taxes, penalty and interest shall be paid by the taxpayer

within ten (10) days after receipt of notice and demand by the department;

(v) The department may credit or waive penalties imposed by paragraphs (iii) and (iv) of this subsection as part of a settlement or for any other good cause.

(e) Liens. The following shall apply:

(i) Repealed by Laws 2002, Ch. 50, § 2.

(ii) Repealed By Laws 2002, Ch. 50, § 2.

(iii) Repealed By Laws 2002, Ch. 50, § 2.

(iv) All taxes, fees, penalties and interest imposed under this article are an automatic and continuing lien in favor of the state of Wyoming. The lien is on all property in the state of Wyoming, real, tangible and intangible, including all after acquired property rights, future production and rights to property, of any person severing minerals in this state and who is liable under Wyoming law for the collection, payment or remittance of the severance tax and corresponding penalty or interest as of the date such taxes, fees, penalties or interest is due, and remains a lien until paid;

(v) A lien under this subsection is also a lien on all interests in the mineral estate from which the production was severed, and on all future production of the same mineral from the same leasehold, regardless of any change of ownership or change in the person extracting the mineral;

(vi) Any lien arising under this subsection is superior and paramount to all other liens, claims, mortgages or any other encumbrance of any kind except a lien, claim, mortgage or other encumbrance of record held by a bona fide creditor and properly perfected, filed or recorded under Wyoming law prior to the filing of a lien as provided by paragraph (viii) of this subsection;

(vii) The department may file a notice of lien at any time at its discretion, except no lien shall be enforced until the right of the taxpayer to file and properly perfect an appeal concerning the tax delinquent property before the state board of equalization has expired. A properly perfected appeal on the tax delinquent

property before the state board of equalization or any subsequent properly perfected appeal on the same property to a district court or the supreme court shall stay enforcement of a lien filed by the department until such appeal has been exhausted or concluded;

(viii) In order to perfect a tax lien under this subsection, the department of revenue shall file a notice of the tax lien with the secretary of state. The notice of the tax lien shall contain:

(A) The name and last known address of the person or persons against whose property the lien is filed including, but not limited to, the person severing the mineral;

(B) The name and address of the department of revenue as the holder of the lien and the name of the contact person within the department;

(C) The amount of the tax, fees, penalties and interest owed the state of Wyoming;

(D) A statement that the amount of the unpaid tax, fees, penalties or interest is a lien on all property, real, tangible or intangible, including all after acquired property and rights to the property belonging to the person who severed the mineral and located within the state of Wyoming, as well as all interest in the mineral estate from which the production was severed and any future production from the same mineral leasehold.

(ix) No other action beyond that described in paragraph (viii) of this subsection shall be required to perfect a tax lien;

(x) The filing of the notice of the tax lien as described in paragraph (viii) of this subsection shall constitute record notice of the tax lien;

(xi) One (1) notice of the tax lien shall be deemed sufficient to cover all taxes, together with interest, fees and penalty of the same nature which may accrue after the filing of the notice;

(xii) Any tax lien created under this subsection and duly filed with the secretary of state shall survive the death or incapacitation of any person, and shall survive

any other destruction or attempted destruction of any interest in property owned by any person liable under Wyoming law for the collection, payment or remittance of taxes, fees, penalties or interest to the state;

(xiii) In the event of foreclosure, the department of revenue shall be entitled to recover the costs of filing the lien, foreclosing on the lien and reasonable attorney's fees;

(xiv) All notice of tax liens shall be released within sixty (60) days after taxes, penalties and interest due are paid or collected;

(xv) Notwithstanding that the lien is a lien on all interests in the mineral estate from which the production was severed and on all future production from the same leasehold, the department may for good cause shown, release the lien on all property in this state, real, tangible and intangible, and settle delinquent taxes, interest and penalties to be collected against future production from that leasehold;

(xvi) The secretary of state is authorized and directed to maintain copies of all tax liens filed by the department of revenue pursuant to this chapter, and to maintain a data base of such tax liens and to provide copies to any person pursuant to the duties of the secretary of state as set forth in W.S. 9-1-301 et seq. All tax liens on file with any county in this state and in good standing on the effective date of this paragraph shall remain effective and in good standing. Within sixty (60) days of the effective date of this paragraph, the director of the department of revenue shall transmit to the secretary of state for filing copies of all tax liens that the director seeks to have in continuing effect. Upon the filing of a copy of the tax lien with the secretary of state, the tax lien shall continue to be fully effective until released by the department of revenue.

(f) Tax sales. There are no specific applicable provisions for tax sales for this article.

**39-14-109. Taxpayer remedies.**

(a) Interpretation requests. The following shall apply:

(i) The taxpayer may request a value determination from the department and propose a value determination method which may be used until the department issues a value determination. The taxpayer shall submit all available data relevant to its proposal and any additional information the department deems necessary. After the department issues its determination, the taxpayer shall make adjustments based upon the value established or request a hearing by the board;

(ii) A taxpayer may request and the department shall provide written interpretations of these statutes and rules. When requesting an interpretation, a taxpayer must set forth the facts and circumstances pertinent to the issue. If the department deems the facts and circumstances provided to be insufficient, it may request additional information. A taxpayer may act in reliance upon a written interpretation through the end of the calendar year in which the interpretation was issued, or until revoked by the department, whichever occurs last if the pertinent facts and circumstances were substantially correct and fully disclosed.

(b) Appeals. The following shall apply:

(i) Following determination of the fair market value of property the department shall notify the taxpayer by mail of the assessed value. The person assessed may file written objections to the assessment with the board within thirty (30) days of the date of postmark and appear before the board at a time specified by the board. The person assessed shall also file a copy of the written objections with the county treasurer of the county in which the property is located, who shall notify the county assessor and the board of county commissioners, with an estimate of the tax amount under appeal based upon the previous year's tax levy;

(ii) Mine product valuation amendments under this section may be appealed by the taxpayer to the board within thirty (30) days of the final administrative decision;

(iii) Any taxpayer who feels aggrieved by the valuation and taxes levied by this article may appeal to the board. The appeal does not relieve the taxpayer from paying the tax when due and payable nor does the payment invalidate the appeal. No restraining order or injunction

shall be granted or issued by any court or judge to restrain or enjoin the collection of any tax, interest or penalty imposed by this article;

(iv) The state board of equalization shall perform the duties specified in article 15, section 10 of the Wyoming constitution and shall hear appeals from county boards of equalization and review final decisions of the department upon application of any interested person adversely affected, including boards of county commissioners for the purposes of this paragraph, under the contested case procedures of the Wyoming Administrative Procedure Act. Any interested person adversely affected by the adoption, amendment or repeal of a rule pursuant to W.S. 16-3-103(a) shall be afforded an opportunity for a hearing before the board;

(v) Any person including the state of Wyoming aggrieved by any order issued by the board, or any county board of equalization whose decision has been reversed or modified by the state board of equalization, may appeal the decision of the board to the district court of the county in which the property or some part thereof is situated.

(c) Refunds. The following shall apply:

(i) If any person pays any tax, or portion thereof, found to have been erroneous or illegal, the board of county commissioners shall direct the county treasurer to refund the erroneous or illegal payment to the taxpayer. When an increase in the value of any product is subject to the approval of any agency of the United States of America or the state of Wyoming, or of any court, the increased value shall be subject to property taxation. In the event the increase in value is disapproved, either in whole or in part, then the amount of tax which has been paid on the disapproved part of the value shall be considered excess tax. Within one (1) year following the final determination of value, any person who has paid any such excess tax may apply for a refund, and the board of county commissioners shall refund the amount of excess tax paid;

(ii) If a taxpayer has reason to believe that taxes imposed by this article have been overpaid, a request for refund shall be filed with the department on forms it prescribes prior to the end of the fifth calendar year following the calendar year which included the month for

which overpayment was made. Refunds of two thousand dollars (\$2,000.00), or less may be applied to subsequent payments for taxes imposed by this article. Requests for refunds exceeding two thousand dollars (\$2,000.00) shall be approved in writing by the department prior to the taxpayer receiving credit. All refunds granted are subject to modification or revocation upon audit.

(d) Credits. The following shall apply:

(i) Any refund may, at the discretion of the board of county commissioners, be made in the form of credit against future tax payments for a period not to exceed five (5) years. Unless otherwise agreed to by the taxpayer, refunds in the form of credit against future tax payments shall be made in no less than equal annual amounts. The board of county commissioners shall not provide a credit for interest on the excess tax paid unless the taxes are paid under protest due to an appeal pending before the state board of equalization and the taxpayer prevails in the appeal;

(ii) 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;

(iii) If a taxpayer overpaid taxes imposed by this article, the department shall allow a credit in the amount of the overpayment to be taken on the taxpayer's subsequent monthly reports for the production year.

(e) Redemption. There are no specific applicable provisions for redemption for this article.

(f) Escrow. The following shall apply:

(i) If ad valorem taxes are paid under protest to the extent of and due to an appeal pending before the state board of equalization or any court of competent jurisdiction, the county treasurer shall deposit that protested amount under appeal in an interest bearing escrow account and withhold distribution until a final decision on the appeal has been rendered. To the extent the taxpayer prevails in the appeal, the county treasurer shall refund that amount under appeal, plus interest earned thereon, to

the taxpayer within thirty (30) days from the day the final decision is rendered. If the taxpayer pays to the county an amount in excess of the protested amount under appeal, the excess shall be distributed as provided by law;

(ii) If severance taxes are paid under protest to the extent of and due to an appeal pending before the state board of equalization or any court of competent jurisdiction, the state treasurer shall deposit that protested amount under appeal in a separate interest bearing escrow account and withhold distribution until a final decision on the appeal has been rendered by the state board of equalization or the court. To the extent the taxpayer prevails in the appeal, the state treasurer shall refund that amount under appeal, plus interest earned thereon, to the taxpayer within thirty (30) days from the day the final decision is rendered. If the taxpayer pays to the state an amount in excess of the protested amount under appeal, the excess shall be distributed as provided by law;

(iii) This provision does not enlarge or curtail the ability of a taxpayer to appeal any department of revenue decision as otherwise provided for under this act.

**39-14-110. Statute of limitations.**

Except as otherwise provided in this article, there is no general statute of limitations for this article.

**39-14-111. Distribution.**

(a) As provided by W.S. 39-14-104(a), the total severance tax rate for surface coal shall be seven percent (7%). As provided by W.S. 39-14-104(b), the total severance tax rate for underground coal shall be three and three-quarters percent (3.75%). A one and one-half percent (1.5%) tax imposed by W.S. 39-14-104(a)(i) and a one and one-half percent (1.5%) tax imposed by W.S. 39-14-104(b)(i) shall be deposited into the permanent Wyoming mineral trust fund. All other taxes imposed by W.S. 39-14-104(a) and (b) shall be deposited into the severance tax distribution account.

(b) Repealed by Laws 2002, Ch. 62, § 2.

(c) Repealed By Laws 2002, Ch. 62, § 2.

(d) Repealed By Laws 2002, Ch. 62, § 2.

(e) If the cumulative taxes levied against coal in this section do not exceed sixty cents (\$.60) per ton of surface mined coal, or thirty cents (\$.30) per ton of underground mined coal, the tax proceeds shall be distributed in the manner provided in this section. If the cumulative taxes in this section exceed sixty cents (\$.60) per ton of surface mined coal, or thirty cents (\$.30) per ton of underground mined coal, so that the limit imposed by W.S. 39-14-105(b) becomes operative, an amount equal to one and one-half percent (1.5%) of the value of the gross product of coal extracted shall be deducted from the total tax proceeds for deposit in the permanent mineral trust fund and the remaining proceeds shall be distributed on a pro rata basis for the purposes specified in this section and any other applicable law.

(f) Repealed by Laws 2000, Ch. 97, § 4.

(g) All payments received pursuant to W.S. 39-14-107(b)(iii) shall be transferred to an account of the trust and agency fund. The monies in this account shall be invested or deposited in accordance with W.S. 9-4-701 through 9-4-831, and any interest earned shall be credited to the general fund. The revenue under W.S. 39-14-107(b)(iii) shall be distributed in accordance with this section subject to the following and except as otherwise provided by law for fiscal year 1994:

(i) Revenues earned during each fiscal year shall be recognized as revenue during that fiscal year for accounting purposes;

(ii) Revenues which are earned and received during the first three (3) calendar quarters of the fiscal year shall be distributed within the first fifteen (15) days of October, January and April. For the last quarter of each fiscal year, revenues earned or received shall be distributed not later than June 30. In computing distributions for the last quarter, the state treasurer shall use the most recent consensus revenue estimating group estimates to the extent that earnings cannot be determined by June 30. Not later than September 15, the state treasurer shall compute the actual earnings for the last quarter of the preceding fiscal year and make adjustments to the October distributions in an amount equal to the difference between revenues earned and actual distributions for the preceding fiscal year.

(h) Repealed By Laws 2001, Ch. 209, § 3.

(j) Repealed by Laws 2000, Ch. 97, § 4.

(k) Repealed By Laws 2002, Ch. 62, § 2.

ARTICLE 2  
OIL AND GAS

**39-14-201. Definitions.**

(a) As used in this article:

(i) "Arm's-length market or sales price" means the transaction price determined in connection with a bona fide arm's length sale;

(ii) "Bona fide arm's-length sale" means a transaction in cash or terms equivalent to cash for specified property rights after reasonable exposure in a competitive market between a willing, well informed and prudent buyer and seller with adverse economic interests and assuming neither party is acting under undue compulsion or duress;

(iii) "Average daily production" means the qualified maximum total production of domestic crude oil produced from wells reported as oil wells to the Wyoming oil and gas commission during the preceding calendar year divided by the number of calendar days in that year times the number of wells which produced and wells which injected substances for the recovery of crude petroleum from that property or lease in that year. To qualify as maximum total production each well must have been maintained at the maximum feasible rate of production in accordance with recognized conservation practices and not significantly curtailed by reason of mechanical failure or other disruption in production;

(iv) "Collection wells" means reservoir access holes drilled from underground shafts or tunnels from which crude oil or natural gas is produced;

(v) "Compressor" means a device associated with processing or transporting natural gas which mechanically increases the pressure of natural gas;

(vi) "Crude oil" means the crude petroleum oil and any other hydrocarbons, regardless of gravity, produced at the well in liquid form by ordinary production methods and which are not the result of condensation of gas before or after it leaves the reservoir;

(vii) "Dehydrator" means a device which removes water vapor that is commonly associated with raw natural gas;

(viii) "Department review" means, but is not limited to, corrections of clerical errors or reconciliations of tax reports with reports required by other state or federal agencies;

(ix) "Gathering" means the transportation of crude oil, lease condensate or natural gas from multiple wells by separate and individual pipelines to a central point of accumulation, dehydration, compression, separation, heating and treating or storage;

(x) "Heating and treating" means the removal of solid, liquid and gaseous components from the well stream by chemical, mechanical and thermal processes;

(xi) "Lease" means the area encompassed in the leasehold granting the right to explore for or produce crude oil or natural gas, which may include a single tract or multiple tracts of land described in the instrument granting the leasehold;

(xii) "Lease automatic custody transfer unit (LACT)" means a device which automatically and mechanically measures and at which point custody of crude oil transfers from the producer to the purchaser;

(xiii) "Lease condensate" means liquid hydrocarbons which are separated from other components of the natural gas production stream on the lease or before the inlet to a natural gas processing facility;

(xiv) "Mine product valuation amendment" means a valuation adjustment determination made by the department including special directives;

(xv) "Natural gas" means all gases, both hydrocarbon and nonhydrocarbon, that occur naturally beneath the

earth's crust and are produced from an oil or gas well. For the purposes of taxation, the term natural gas includes products separated for sale or distribution during processing of the natural gas stream including, but not limited to plant condensate, natural gas liquids and sulfur;

(xvi) "Purchaser" means the first purchaser who acquires the produced crude oil, lease condensate or natural gas from the taxpayer for value;

(xvii) "Previously shut-in well" means a well from which crude oil previously has been produced and from which no production has occurred for at least the two (2) consecutive years prior to January 1, 1995;

(xviii) "Processing" means any activity occurring beyond the inlet to a natural gas processing facility that changes the well stream's physical or chemical characteristics, enhances the marketability of the stream, or enhances the value of the separate components of the stream. Processing includes, but is not limited to fractionation, absorption, adsorption, flashing, refrigeration, cryogenics, sweetening, dehydration within a processing facility, beneficiation, stabilizing, compression (other than production compression such as reinjection, wellhead pressure regulation or the changing of pressures and temperatures in a reservoir) and separation which occurs within a processing facility;

(xix) "Property" means lease or unit. The term "property" is synonymous with the term "mining claim";

(xx) "Recompletion" means any downhole operation that is conducted to establish production of an oil or gas well in any geological interval not currently completed or producing which has been approved as a recompletion by the Wyoming oil and gas conservation commission;

(xxi) "Reservoir" means an underground accumulation of oil or gas or both characterized by a single pressure system which is segregated from other such accumulations;

(xxii) "Separating" means the isolation of the well stream into discrete gas, liquid hydrocarbons, liquid water and solid components;

(xxiii) "Severance tax" means an excise tax imposed on the present and continuing privilege of removing, extracting, severing or producing any mineral in this state;

(xxiv) "Stripper production" means the production from a property or lease whose average daily production of crude petroleum from wells reported as oil wells to the Wyoming oil and gas commission did not exceed:

(A) Ten (10) barrels per day per well during the preceding calendar year if the average price received by the producer for production from the property was twenty dollars (\$20.00) or more per barrel; or

(B) Fifteen (15) barrels per day per well during the preceding calendar year if the average price received by the producer for production from the property was less than twenty dollars (\$20.00) per barrel.

(xxv) "Sweetening" means any activity that removes acid gases, such as hydrogen sulfide and carbon dioxide, from the well stream. Sweetening includes, but is not limited to absorption, stabilization, thermal and catalytic conversions, chemical reaction and regeneration;

(xxvi) "Tertiary production" means the crude oil recovered from a petroleum reservoir by means of a tertiary enhanced recovery project to which one (1) or more tertiary enhanced recovery techniques meeting the certification requirements of the Wyoming oil and gas conservation commission or the United States government are being applied;

(xxvii) "Unit" means the total area incorporated in a unitization agreement providing for a consolidated development and operational plan to recover oil or gas from the lease areas incorporated in the unit. Participating areas of units as designated by the Wyoming oil and gas conservation commission may be designated as separate units for production tax purposes;

(xxviii) "Unreported production" means production volume for which no tax report was filed for the reporting period by the taxpayer or his agent;

(xxix) "Value of the gross product" means fair market value as prescribed by W.S. 39-14-203(b), less any deductions and exemption allowed by Wyoming law or rules;

(xxx) "Well" means a hole drilled in the earth for the purpose of finding or producing crude oil or natural gas;

(xxxii) "Wildcat well" means any crude oil or natural gas well designated as a wildcat well by the Wyoming oil and gas conservation commission. The Wyoming oil and gas conservation commission shall adopt rules and criteria to implement this designation process. The rules and criteria shall provide that wildcat wells are wells outside known fields or new wells which are determined by the commission to have discovered crude oil or natural gas in a pool not previously proven productive;

(xxxiii) "Workover" means any downhole operation that is designed to sustain, restore or increase the production rate or the ultimate recovery in the geologic interval in which an oil or gas well or group of wells is currently completed and producing and approved as a workover by the Wyoming oil and gas conservation commission.

**39-14-202. Administration; confidentiality.**

(a) Administration. The following shall apply:

(i) The department shall annually value and assess crude oil, lease condensate or natural gas production at its fair market value for taxation;

(ii) Based upon the information received or procured pursuant to W.S. 39-14-207(a) or 39-14-208(a), the department shall annually value crude oil, lease condensate and natural gas for the preceding calendar year in appropriate unit measures at the fair market value of the product, after the mining or production process is completed;

(iii) Annually, on or before June 1, or as soon thereafter as the fair market value is determined, the department shall certify the valuation determined by the department to the county assessor of the county from which the crude oil, lease condensate or natural gas was produced to be entered upon the assessment rolls of the county;

(iv) To promote research that will lead to expanded production or processing of natural gas in Wyoming, there is created the gas research review committee consisting of the following members:

(A) The state geologist;

(B) Two (2) other members of the oil and gas conservation commission appointed by the governor;

(C) The chief executive officer of the Wyoming business council or other person designated by the council;

(D) The director of the department of revenue or his designee.

(v) The state oil and gas supervisor shall be an ex officio member of the committee and shall provide administrative support to the committee as necessary;

(vi) The gas research review committee shall review applications from taxpayers who have or will have a liability for severance tax on the production of natural gas under W.S. 39-14-204(a)(i), (ii) and (iii) for certification of research projects to be conducted primarily in Wyoming for the purpose of expanding the production or processing of natural gas in Wyoming. If the committee certifies a project, it shall provide a notice of the certification to the department of revenue, including the total amount approved as an investment, which shall be used by the department to compute a credit against the severance tax liability of the taxpayer as provided in W.S. 39-14-205(k). The department of revenue shall promulgate rules to implement paragraphs (iv) through (x) of this subsection;

(vii) The gas research review committee shall certify research projects submitted for certification by a taxpayer under paragraphs (iv) through (x) of this subsection subject to the following terms and conditions:

(A) As determined by the committee, the results of the research project, if successful, would be commercially applicable to the development of natural gas resources and could reasonably be expected to result in increased production or processing of natural gas within Wyoming

within three (3) years after work on the research project begins;

(B) A majority of the total expenditures for the research project will occur within Wyoming;

(C) The taxpayer shall submit a proposed budget for the research, including the expected level of expenditures during each calendar year of project activity. The amount approved as an investment and certified annually to the department of revenue for the purposes of granting a credit shall be limited to actual expenditures by the taxpayer for the research project, and shall not include any in kind services or materials;

(D) Nothing in this paragraph limits a taxpayer from entering into an agreement with another Wyoming entity, including an educational institution, under which that entity will actually perform the research;

(E) Progress reports on each research project shall be required by the committee as necessary to evaluate compliance with paragraphs (iv) through (x) of this subsection;

(F) The total amount approved for all projects in any calendar year as an investment under paragraphs (iv) through (x) of this subsection shall not exceed four million dollars (\$4,000,000.00), thereby resulting in a tax credit for any calendar year of not more than two million dollars (\$2,000,000.00), and not more than fifty percent (50%) of this credit shall be received by any one (1) taxpayer in any calendar year.

(viii) The committee shall annually report to the governor and the legislature not later than thirty (30) days before the convening of a regularly scheduled session of the legislature regarding the progress of each project for which a credit has been granted under W.S. 39-14-205(k), including the extent to which it appears that natural gas production or processing has increased as a result of the implementation of the results of research projects certified under paragraphs (iv) through (x) of this subsection;

(ix) On or before December 1 of 1995, 1996, 1997, 1998 and 1999, the gas research review committee, the oil

and gas commission and the mineral tax division within the department of revenue shall report to the joint revenue interim committee on the results of the incentives provided to projects under paragraphs (iv) through (x) of this subsection. The report shall include the production from the projects, the operators, the number of wells involved, the amount of any ad valorem and sales taxes paid on that production and on the project, the amount of severance taxes which would have been paid on that production under W.S. 39-14-204(a)(ii) and (iii) and the amount of the credit earned to the date of the report for the project;

(x) Paragraphs (iv) through (ix) of this subsection and this paragraph are not effective after June 30, 1999, unless specifically extended by the legislature;

(xi) Repealed By Laws 2000, Ch. 68, § 1.

(b) Confidentiality. The following shall apply:

(i) All taxpayer returns and return information shall be confidential and, except as authorized below, no current or former official, officer, employee or agent of the state of Wyoming or any political subdivision thereof shall disclose any such information obtained by him in connection with his service as an officer or employee;

(ii) As used in this subsection, taxpayer returns and return information shall include, but not be limited to, all statements, reports, summaries and all other data and documents under audit or provided by the taxpayer in accordance with the provisions of W.S. 39-14-207(a) and related provision;

(iii) Without written authorization from the taxpayer, no current or former official, officer, employee or agent of the state of Wyoming or any political subdivision thereof shall release taxpayer returns and return information pertaining to taxes imposed by this article, except:

(A) Information may be released to the governor or his designee, members of the board, to employees of the department of audit, the department of revenue, the consensus revenue estimating group and to the attorney general;

(B) Upon prior notice to the taxpayer, information may be released by the department, upon written application, to any other governmental entity if the governmental entity shows sufficient reason to obtain the information for official business;

(C) Information is admissible in court or administrative proceedings related to mineral taxes or government royalties.

(iv) Any person receiving information pursuant to subparagraph (iii)(B) of this subsection shall sign an agreement with the department to keep the information confidential;

(v) Units of production reported by the taxpayer and the taxpayer's taxable value are not confidential and may be released without qualification;

(vi) Any person who negligently violates this subsection is guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000.00). Any person who intentionally violates this subsection is guilty of a misdemeanor and upon conviction shall be fined not less than one thousand dollars (\$1,000.00), but not more than five thousand dollars (\$5,000.00) and imprisoned for not more than one (1) year.

**39-14-203. Imposition.**

(a) Taxable event. The following shall apply:

(i) There is levied a severance tax on the value of the gross product extracted for the privilege of severing or extracting crude oil, lease condensate or natural gas in the state. The tax imposed by this subsection shall be in addition to all other taxes imposed by law including, but not limited to, ad valorem taxes imposed by W.S. 39-13-101 through 39-13-111.

(b) Basis of tax. The following shall apply:

(i) Crude oil, lease condensate and natural gas shall be valued for taxation as provided in this subsection;

(ii) The fair market value for crude oil, lease condensate and natural gas shall be determined after the production process is completed. Notwithstanding paragraph (x) of this subsection, expenses incurred by the producer prior to the point of valuation are not deductible in determining the fair market value of the mineral;

(iii) The production process for crude oil or lease condensate is completed after extracting from the well, gathering, heating and treating, separating, injecting for enhanced recovery, and any other activity which occurs before the outlet of the initial storage facility or lease automatic custody transfer (LACT) unit;

(iv) The production process for natural gas is completed after extracting from the well, gathering, separating, injecting and any other activity which occurs before the outlet of the initial dehydrator. When no dehydration is performed, other than within a processing facility, the production process is completed at the inlet to the initial transportation related compressor, custody transfer meter or processing facility, whichever occurs first;

(v) If the crude oil, lease condensate or natural gas production as provided by paragraphs (iii) and (iv) of this subsection are sold to a third party, or processed or transported by a third party at or prior to the point of valuation provided in paragraphs (iii) and (iv) of this subsection, the fair market value shall be the value established by bona fide arms-length transaction;

(vi) In the event the crude oil, lease condensate or natural gas production as provided by paragraphs (iii) and (iv) of this subsection is not sold at or prior to the point of valuation by bona fide arms-length sale, or, except as otherwise provided, if the production is used without sale, the department shall identify the method it intends to apply under this paragraph to determine the fair market value and notify the taxpayer of that method on or before September 1 of the year preceding the year for which the method shall be employed. The department shall determine the fair market value by application of one (1) of the following methods:

(A) Comparable sales - The fair market value is the representative arms-length market price for minerals of

like quality and quantity used or sold at the point of valuation provided in paragraphs (iii) and (iv) of this subsection taking into consideration the location, terms and conditions under which the minerals are being used or sold;

(B) Comparable value - The fair market value is the arms-length sales price less processing and transportation fees charged to other parties for minerals of like quantity, taking into consideration the quality, terms and conditions under which the minerals are being processed or transported;

(C) Netback - The fair market value is the sales price minus expenses incurred by the producer for transporting produced minerals to the point of sale and third party processing fees. The netback method shall not be utilized in determining the taxable value of natural gas which is processed by the producer of the natural gas;

(D) Proportionate profits - The fair market value is:

(I) The total amount received from the sale of the minerals minus exempt royalties, nonexempt royalties and production taxes times the quotient of the direct cost of producing the minerals divided by the direct cost of producing, processing and transporting the minerals; plus

(II) Nonexempt royalties and production taxes.

(vii) When the taxpayer and department jointly agree, that the application of one (1) of the methods listed in paragraph (vi) of this subsection does not produce a representative fair market value for the crude oil, lease condensate or natural gas production, a mutually acceptable alternative method may be applied;

(viii) If the fair market value of the crude oil, lease condensate or natural gas production as provided by paragraphs (iii) and (iv) of this subsection is determined pursuant to paragraph (vi) of this subsection, the method employed shall be used in computing taxes for three (3) years including the year in which it is first applied or until changed by mutual agreement between the department and taxpayer. If the taxpayer believes the valuation method selected by the department does not accurately

reflect the fair market value of the crude oil, lease condensate or natural gas, the taxpayer may appeal to the board of equalization for a change of methods within one (1) year from the date the department notified the taxpayer of the method selected;

(ix) If the department fails to notify the taxpayer of the method selected pursuant to paragraph (vi) of this subsection, the taxpayer shall select a method and inform the department. The method selected by the taxpayer shall be used in computing taxes for three (3) years including the year in which it is first applied or until changed by mutual agreement between the taxpayer and the department. If the department believes the valuation technique selected by the taxpayer does not accurately reflect the fair market value of the crude oil, lease condensate or natural gas, the department may appeal to the board of equalization for a change of methods within one (1) year from the date the taxpayer notified the department of the method selected;

(x) If crude oil is enhanced prior to the point of valuation as defined in paragraph (iii) of this subsection by either a blending process with a higher grade hydrocarbon or through a refining process such as cracking, then the fair market value shall be the fair market value of the crude oil absent the blending or refining process;

(xi) For natural gas, the total of all actual transportation costs from the point where the production process is completed to the inlet of the processing facility or main transmission line shall not exceed fifty percent (50%) of the value of the gross product without approval of the department based on documentation that the costs are due to environmental, public health or safety considerations, or other unusual circumstances.

(c) Taxpayer. The following shall apply:

(i) In the case of ad valorem taxes on crude oil, lease condensate or natural gas produced under lease, the lessor is liable for the payment of ad valorem taxes on crude oil, lease condensate or natural gas production removed only to the extent of the lessor's retained interest under the lease, whether royalty or otherwise, and the lessee or his assignee is liable for all other ad valorem taxes due on production under the lease;

(ii) In the case of severance taxes, any person extracting crude oil, lease condensate or natural gas and any person owning an interest in the crude oil, lease condensate or natural gas production to the extent of their interest ownership are liable for the payment of the severance taxes together with any penalties and interest;

(iii) Any taxpayer paying severance taxes on any crude oil, lease condensate or natural gas production may deduct the taxes paid from any amounts due or to become due to the interest owners of such production in proportion to the interest ownership.

**39-14-204. Tax rate.**

(a) Except as otherwise provided by this section and W.S. 39-14-205, the total severance tax on crude oil, lease condensate or natural gas shall be six percent (6%), comprising one and one-half percent (1.5%) imposed by the Wyoming constitution article 15, section 19 and the remaining amount imposed by Wyoming statute. The tax shall be distributed as provided in W.S. 39-14-211 and is imposed as follows:

(i) One and one-half percent (1.5%); plus

(ii) One-half percent (.5%); plus

(iii) Two percent (2%), except for the period January 1, 1999 through December 31, 1999, the rate for crude oil production under this paragraph shall be one percent (1%). If the average monthly price received by Wyoming crude oil producers as determined by the department of revenue equals or exceeds twenty dollars (\$20.00) per barrel for three (3) consecutive months, the reduced tax rate of one percent (1%) specified in this paragraph for the period of January 1, 1999 through December 31, 1999 shall terminate; plus

(iv) Two percent (2%), except for the period January 1, 1999 through December 31, 1999, the rate for crude oil production under this paragraph shall be one percent (1%). If the average monthly price received by Wyoming crude oil producers as determined by the department of revenue equals or exceeds twenty dollars (\$20.00) per barrel for three (3) consecutive months, the reduced tax rate of one percent

(1%) specified in this paragraph for the period of January 1, 1999 through December 31, 1999 shall terminate.

**39-14-205. Exemptions.**

(a) Stripper production is exempt from the severance taxes imposed by W.S. 39-14-204(a)(iii).

(b) Crude oil extracted from collection wells prior to January 1, 1999, is exempt from the severance taxes imposed by W.S. 39-14-204(a)(ii), (iii) and (iv).

(c) Tertiary production resulting from projects certified by the Wyoming oil and gas conservation commission after March 31, 2003, and before March 31, 2008, is exempt from the severance taxes imposed by W.S. 39-14-204(a)(iii) for a period of five (5) years from date of first tertiary production provided no exemption shall be allowed under this subsection in those months when the price received by the producer for the tertiary production equals or exceeds twenty-seven dollars and fifty cents (\$27.50) per barrel. A taxpayer claiming a tax reduction under this subsection is prohibited from claiming a tax reduction provided by subsection (f) or (g) of this section.

(d) In the case of tertiary production of crude oil resulting from injection of carbon dioxide gas, all Wyoming severance taxes paid on the carbon dioxide gas injected shall be deducted from and allowed as a credit against the severance taxes imposed on the oil produced by the injection.

(e) Crude oil or natural gas produced from a wildcat well drilled and completed on or after January 1, 1991, and on or before December 31, 1994, is exempt from the severance taxes imposed by W.S. 39-14-204(a)(iii) and (iv) for a period of four (4) years commencing the date of first production from the well.

(f) Crude oil and natural gas produced from wells drilled between July 1, 1993, and March 31, 2003, except the production from collection wells, is exempt from the severance taxes imposed by W.S. 39-14-204(a)(iii) and (iv) for the first twenty-four (24) months of production on oil production up to sixty (60) barrels per day or its equivalency in gas production, which for purposes of this

subsection shall be six (6) MCF gas production for one (1) barrel oil production, or until the price received by the producer for the new production is equal to or exceeds twenty-two dollars (\$22.00) per barrel of oil or two dollars and seventy-five cents (\$2.75) per MCF of natural gas for the preceding six (6) month period of time. Provided however, that a taxpayer claiming a tax reduction under this subsection is prohibited from claiming a tax reduction provided by subsection (c) or (e) of this section. Nothing in this subsection shall apply to natural gas produced from any well completed for production at a depth of less than two thousand feet (2,000) from the earth's surface if drilling activities commenced on or after April 1, 2000.

(g) Incremental crude oil or natural gas production resulting from a workover or recompletion of an oil or gas well between January 1, 1997, and March 31, 2001, shall be exempt from the severance taxes imposed by W.S. 39-14-204(a)(iii) and (iv) for a period of twenty-four (24) months immediately following the workover or recompletion. Rules, definitions and regulations to implement the provisions of this subsection shall be promulgated by the Wyoming oil and gas conservation commission in consultation with the mineral tax division of the department of revenue. Provided, however that a taxpayer claiming a tax reduction under this subsection is prohibited from claiming a tax reduction provided by subsection (c) or (e) of this section.

(h) Crude oil produced from previously shut-in wells is exempt from the severance taxes imposed by W.S. 39-14-204(a)(ii), (iii) and (iv) for the first sixty (60) months of renewed production or until the average price received by the producer for the renewed production is equal to or exceeds twenty-five dollars (\$25.00) per barrel of oil for the preceding six (6) months, whichever sooner occurs.

(j) Natural gas which is vented or flared under the authority of the Wyoming oil and gas conservation commission and natural gas which is reinjected or consumed prior to sale for the purpose of maintaining, stimulating, treating, transporting or producing crude oil or natural gas on the same lease or unit from which it was produced has no value and is exempt from taxation.

(k) A taxpayer who is liable for payment of taxes under W.S. 39-14-204(a)(i), (ii) and (iii) on the production of natural gas is entitled to a credit against those taxes in an amount equal to fifty percent (50%) of the amount certified by the gas research review committee under W.S. 39-14-202(a)(iv) through (x) as a qualifying investment by that taxpayer in a research project. Credits under this section shall first be applied to tax liability under W.S. 39-14-204(a)(iii) and then to the tax liability under W.S. 39-14-204(a)(ii).

**39-14-206. Licenses; permits.**

There are no specific applicable provisions for licenses and permits for this article.

**39-14-207. Compliance; collection procedures.**

(a) Returns and reports. The following shall apply:

(i) Annually, on or before February 25 of the year following the year of production any person whose crude oil, lease condensate or natural gas production is subject to W.S. 39-14-202(a) shall sign under oath and submit a statement listing the information relative to the production and affairs of the company as the department may require to assess the production;

(ii) All information and reports shall be notarized and signed by a person who has legal authority to bind the taxpayer;

(iii) For crude oil, lease condensate or natural gas, the taxpayer shall report the location of the production to the county and tax district in which the well or property is located, based upon the actual taxable production produced by the well or property in each county or tax district. Other reasonable methods of reporting the location of production may be approved by the department upon written request of the taxpayer or taxing jurisdiction;

(iv) For crude oil, lease condensate or natural gas, the department may presume that the production is located in the county in which production is reported by the taxpayer pursuant to paragraph (iii) of this subsection. The department shall not direct any county to provide

relief for taxes paid on taxable valuation which was erroneously reported and certified to the wrong county unless the taxpayer files or is directed to file amended returns within two (2) years of the date of the original certification of the production. Unless there is evidence of bad faith or willful disregard of production circumstances, no taxpayer shall be required to pay taxes on production which was erroneously reported and certified to the wrong county if relief for taxes paid is not allowed under this provision;

(v) Except as provided in paragraph (vi) of this subsection, each taxpayer liable for severance taxes under W.S. 39-14-203(a) shall report monthly to the department. The monthly tax reports are due on or before the twenty-fifth day of the second month following the month of production. Reports shall be filed on forms prescribed by the department. The department may allow extensions for filing returns by regulation;

(vi) If a taxpayer's liability for severance taxes is less than thirty thousand dollars (\$30,000.00) for the preceding calendar year, monthly reporting requirements are waived and the taxpayer shall report annually. The annual report is due on February 25 of the year following the year in which production occurred. If a taxpayer who reports annually accumulates an annual liability exceeding thirty thousand dollars (\$30,000.00), that taxpayer shall commence reporting monthly as provided in paragraph (v) of this subsection during the production year following the year in which the accumulated tax liability exceeded thirty thousand dollars (\$30,000.00). It is the taxpayer's responsibility to notify the department concerning the change from annual to monthly reporting requirements or from monthly to annual reporting.

(b) Payment. The following shall apply:

(i) Annually, on or before October 10 the county treasurer shall send a written statement in sealed envelopes of total ad valorem tax due, itemized as to production description, assessed value and mill levies, to each taxpayer at his last known address. Failure to send notice, or to demand payment of taxes, does not invalidate any taxes due;

(ii) Ad valorem taxes are due and payable at the office of the county treasurer of the county in which the taxes are levied. Fifty percent (50%) of the taxes are due on and after September 1 and payable on and after November 10 in each year and the remaining fifty percent (50%) of the taxes are due on and after March 1 and payable on and after May 10 of the succeeding calendar year except as hereafter provided. If the entire tax is paid on or before December 31, no interest or penalty is chargeable;

(iii) Except as provided in paragraph (iv) of this subsection, each taxpayer liable for severance taxes under W.S. 39-14-203(a) shall pay monthly tax payments to the department. The payment shall be determined by the taxpayer based on the value of the gross product of the crude oil, lease condensate or natural gas produced and saved during the second preceding month, and tax computed on value at rates prescribed by W.S. 39-14-204(a). The monthly tax payments are due on or before the twenty-fifth day of the second month following the month of production. If the report the taxpayer is required to file shows tax due, the taxpayer shall pay the tax due when the report is filed. The department may allow extensions for paying taxes by regulation. The department may, if an extension is granted, request the payment of the reasonable estimate of ninety percent (90%) of the tax by the statutory due date, with the remaining tax remitted with the extended return;

(iv) If a taxpayer's liability for severance taxes is less than thirty thousand dollars (\$30,000.00) for the preceding calendar year, monthly payment requirements are waived and the taxpayer shall pay the tax annually. The annual report and payment are due on February 25 of the year following the year in which production occurred. If a taxpayer who pays annually accumulates an annual liability exceeding thirty thousand dollars (\$30,000.00), that taxpayer shall commence remitting tax payments as provided in paragraph (iii) of this subsection during the production year following the year in which the accumulated tax liability exceeded thirty thousand dollars (\$30,000.00). It is the taxpayer's responsibility to notify the department concerning the change from annual to monthly payment requirements or from monthly to annual payment.

(c) Timelines. Except as otherwise specifically provided, there are no general applicable provisions for timelines for this article.

**39-14-208. Enforcement.**

(a) General. The following shall apply:

(i) If the statement provided by W.S. 39-14-207(a)(i) is not filed, the department shall value the crude oil, lease condensate or natural gas production from the best information available. The department may use information other than contained in the statement provided by W.S. 39-14-207(a)(i) to determine the fair market value of the production provided by W.S. 39-14-202(a);

(ii) When a taxpayer producing crude oil, lease condensate or natural gas fails to pay the severance taxes when due, the purchaser of the produced crude oil, lease condensate or natural gas shall withhold and remit to the department the taxpayer's subsequently accruing taxes on the produced crude oil, lease condensate or natural gas acquired by the purchaser. This provision is subject to the following conditions:

(A) The department shall notify the purchaser and taxpayer in writing on or before the first day of the production month for which subsequent taxes are due that the purchaser shall begin remitting taxes to the department as provided in W.S. 39-14-207(b)(iii);

(B) The department shall notify the purchaser in writing of the proper rates for calculating taxes due and the percentage of the produced crude oil, lease condensate or natural gas subject to taxation;

(C) The amount of tax paid by a purchaser to the department, as required by this paragraph, shall offset and satisfy all claims for payments for the purchase of produced crude oil, lease condensate or natural gas to the extent of the tax payment;

(D) This paragraph shall not apply under circumstances where the purchaser is required to continue payments due to legal proceedings;

(E) This paragraph shall not apply until after the purchaser has been notified in writing that subsequent accruing taxes will be payable by the purchaser.

(iii) Severance taxes due together with interest, penalties and costs shall be collectible by the department by appropriate judicial proceedings.

(b) Audits. The following shall apply:

(i) The department may employ examiners and obtain other technical services, to investigate and examine the books and records of any person paying ad valorem taxes under W.S. 39-13-101 through 39-13-111. The department shall notify the county assessor of any change in valuation as determined by audits, examinations or investigations establishing:

(A) Taxable volumes or values were not accurately reported;

(B) Clerical errors were made in determining taxable volumes or values;

(C) Taxable volumes or values for the year that production occurred were not calculated in compliance with Wyoming statutes or rules governing the determinations; or

(D) Additional payment for production was received and not reported whether such payment was received in the year of production or in subsequent years.

(ii) Effective until March 1, 1994, the department is authorized to rely on final audit findings under W.S. 9-2-2003, taxpayer amended returns or department review, and to certify mine product valuation amendments for production in calendar year 1985 and thereafter, to the county assessor of the county from which the crude oil, lease condensate or natural gas was produced to be entered upon the assessment rolls of the county and taxes computed and collected thereon subject to appeal under W.S. 39-14-209(b)(v);

(iii) Commencing January 1, 2003, the department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to certify mine product valuation amendments to the county assessor of the county from which the crude oil, lease condensate or natural gas was produced, to be entered upon the assessment rolls of the county and taxes computed and collected

thereon subject to appeal under W.S. 39-14-209(b)(v), provided that the return is filed within three (3) years from the date the production should have been or was reported pursuant to W.S. 39-14-207(a)(i), whichever is later, and that the audit or review commenced within the time period as required by paragraph (vii) of this subsection;

(iv) The department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to assess deficient severance tax payments, interest and penalty, if any, for the same periods governing mine product valuation amendments pursuant to paragraphs (ii) and (iii) of this subsection;

(v) All audits or department reviews, as applicable, pursuant to paragraphs (ii), (iii) and (iv) of this subsection are subject to the following conditions:

(A) Audits are commenced when the taxpayer receives written notice of the intended action;

(B) Prior to entering the premises of a taxpayer or third party, the taxpayer or third party shall be provided at least fourteen (14) days written notice;

(C) Audits are completed when the final findings are issued to the taxpayer by the department of audit;

(D) Unless otherwise agreed to in writing, audits shall be completed and the final audit findings issued to the taxpayer not later than the end of the month two (2) years after the audit is commenced;

(E) Any assessment or levy, including the assessment of a penalty and interest, if any, resulting from final audit findings or department review shall be issued within one (1) year following the completion of the audit or review;

(F) Upon receipt of department review findings, the taxpayer shall have sixty (60) days in which to submit a response.

(vi) Where there is evidence of gross negligence by the taxpayer in reporting and valuing production, an audit may examine prior years and issue assessments where gross

negligence occurred. This subsection shall not apply to mine product valuation amendments to add the value of unreported production;

(vii) Audits provided by this article shall commence within six (6) months immediately following the three (3) years following the reporting period and taxpayers shall keep accurate books and records of all production subject to severance taxes imposed by this article and determinations of taxable value as prescribed by W.S. 39-14-203(b) for a period of seven (7) years and make them available to department examiners for audit purposes. If the examination discloses evidence of gross negligence by the taxpayer in reporting and paying the tax, the department may examine all pertinent records for any reporting period without regard to the limitations set forth in paragraphs (vii) and (viii) of this subsection;

(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;

(ix) The state may employ auditors and obtain other technical assistance necessary to determine if the severance tax imposed by this article has been properly reported and paid;

(x) Audits of mineral production are subject to the authority and procedures set forth in W.S. 9-2-2003.

(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 board of county commissioners shall first compute a net deficiency amount after subtracting any offsetting credit and then calculate any interest due;

(ii) Taxes are delinquent pursuant to paragraphs (iii) and (iv) of this subsection when a taxpayer or his agent knew or reasonably should have known that the total tax liability was not paid when due;

(iii) 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 until paid or collected;

(iv) Effective January 1, 1994, 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 on any mineral produced on or after January 1, 1994. 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 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. The interest rate on any delinquent crude oil, lease condensate or natural gas severance tax from any crude oil, lease condensate or natural gas produced before January 1, 1994, shall be eighteen percent (18%) per annum.

(d) Penalties. 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 penalty, the department shall first compute a net deficiency amount after subtracting any offsetting credit and then calculate any penalty due;

(ii) If any person fails to file the ad valorem report required by W.S. 39-14-207(a)(i) by the due date or any extension thereof, the department may impose a penalty equal to a total of one percent (1%) of the taxable value of the production from the well or property but not to exceed five thousand dollars (\$5,000.00) for each calendar month or portion thereof that the report or information is late. If any person fails to file reports and other information required by rule of the department of revenue other than those required by W.S. 39-14-207(a)(v) or 39-14-207(a)(i) the department may impose a penalty of up to one thousand dollars (\$1,000.00). The department may waive penalties under this subsection for good cause. Penalties imposed under this subsection may be appealed to the state board of equalization;

(iii) If any person fails to make or file a severance tax return and remit the tax as required by W.S. 39-14-207(a)(v) and (b)(iii), the department shall impose a penalty of five percent (5%) of the taxes due for each thirty (30) day period, or fraction thereof, elapsing between the due date of the return and the date filed, unless the person for good cause obtains from the department an extension of time for filing prior to the due date for filing. In no event shall the total penalty imposed by this subsection exceed twenty-five percent (25%) of the tax due. The department, for good cause, may waive a penalty imposed for failure to file a return for any one (1) month in a calendar year, provided that:

(A) The return was filed within five (5) business days following the due date, including an approved extension period; and

(B) The taxpayer requests the waiver in writing within fifteen (15) days after the return was filed, setting forth the reasons for the late filing.

(iv) If any part of a severance tax deficiency is due to negligence or intentional disregard of rules and regulations, there shall be added a penalty of five percent (5%) of the amount of the deficiency plus interest as provided by W.S. 39-14-208(c)(iv). The taxes, penalty and interest shall be paid by the taxpayer within ten (10) days after receipt of notice and demand by the department;

(v) The department may credit or waive penalties imposed by paragraphs (iii) and (iv) of this subsection as part of a settlement or for any other good cause.

(e) Liens. The following shall apply:

(i) Repealed By Laws 2002, Ch. 50, § 2.

(ii) Repealed By Laws 2002, Ch. 50, § 2.

(iii) Repealed By Laws 2002, Ch. 50, § 2.

(iv) All taxes, fees, penalties and interest imposed under this article are an automatic and continuing lien in favor of the state of Wyoming. The lien is on all property in the state of Wyoming, real, tangible and intangible, including all after acquired property rights, future production and rights to property, of any person severing minerals in this state and who is liable under Wyoming law for the collection, payment or remittance of the severance tax and corresponding penalty or interest as of the date such taxes, fees, penalties or interest is due, and remains a lien until paid;

(v) A lien under this subsection is also a lien on all interests in the mineral estate from which the production was severed, and on all future production of the same mineral from the same leasehold, regardless of any change of ownership or change in the person extracting the mineral;

(vi) Any lien arising under this subsection is superior and paramount to all other liens, claims, mortgages or any other encumbrance of any kind except a lien, claim, mortgage or other encumbrance of record held by a bona fide creditor and properly perfected, filed or recorded under Wyoming law prior to the filing of a lien as provided by paragraph (viii) of this subsection;

(vii) The department may file a notice of lien at any time at its discretion, except no lien shall be enforced until the right of the taxpayer to file and properly perfect an appeal concerning the tax delinquent property before the state board of equalization has expired. A properly perfected appeal on the tax delinquent property before the state board of equalization or any subsequent properly perfected appeal on the same property to a district court or the supreme court shall stay

enforcement of a lien filed by the department until such appeal has been exhausted or concluded;

(viii) In order to perfect a tax lien under this subsection, the department of revenue shall file a notice of the tax lien with the secretary of state. The notice of the tax lien shall contain:

(A) The name and last known address of the person or persons against whose property the lien is filed including, but not limited to, the person severing the mineral;

(B) The name and address of the department of revenue as the holder of the lien and the name of the contact person within the department;

(C) The amount of the tax, fees, penalties and interest owed the state of Wyoming;

(D) A statement that the amount of the unpaid tax, fees, penalties or interest is a lien on all property, real, tangible or intangible, including all after acquired property and rights to the property belonging to the person who severed the mineral and located within the state of Wyoming, as well as all interest in the mineral estate from which the production was severed and any future production from the same mineral leasehold.

(ix) No other action beyond that described in paragraph (viii) of this subsection shall be required to perfect a tax lien;

(x) The filing of the notice of the tax lien as described in paragraph (viii) of this subsection shall constitute record notice of the tax lien;

(xi) One (1) notice of the tax lien shall be deemed sufficient to cover all taxes, together with interest, fees and penalty of the same nature which may accrue after the filing of the notice;

(xii) Any tax lien created under this subsection and duly filed with the secretary of state shall survive the death or incapacitation of any person, and shall survive any other destruction or attempted destruction of any interest in property owned by any person liable under

Wyoming law for the collection, payment or remittance of taxes, fees, penalties or interest to the state;

(xiii) In the event of foreclosure, the department of revenue shall be entitled to recover the costs of filing the lien, foreclosing on the lien and reasonable attorney's fees;

(xiv) All notice of tax liens shall be released within sixty (60) days after taxes, penalties and interest due are paid or collected;

(xv) Notwithstanding that the lien is a lien on all interests in the mineral estate from which the production was severed and on all future production from the same leasehold, the department may for good cause shown, release the lien on all property in this state, real, tangible and intangible, and settle delinquent taxes, interest and penalties to be collected against future production from that leasehold;

(xvi) The secretary of state is authorized and directed to maintain copies of all tax liens filed by the department of revenue pursuant to this chapter, and to maintain a data base of such tax liens and to provide copies to any person pursuant to the duties of the secretary of state as set forth in W.S. 9-1-301 et seq. All tax liens on file with any county in this state and in good standing on the effective date of this paragraph shall remain effective and in good standing. Within sixty (60) days of the effective date of this paragraph, the director of the department of revenue shall transmit to the secretary of state for filing copies of all tax liens that the director seeks to have in continuing effect. Upon the filing of a copy of the tax lien with the secretary of state, the tax lien shall continue to be fully effective until released by the department of revenue.

(f) Tax sales. There are no specific applicable provisions for tax sales for this article.

**39-14-209. Taxpayer remedies.**

(a) Interpretation requests. The following shall apply:

(i) The taxpayer may request a value determination from the department and propose a value determination

method which may be used until the department issues a value determination. The taxpayer shall submit all available data relevant to its proposal and any additional information the department deems necessary. After the department issues its determination, the taxpayer shall make adjustments based upon the value established or request a hearing by the board;

(ii) A taxpayer may request and the department shall provide written interpretations of these statutes and rules. When requesting an interpretation, a taxpayer must set forth the facts and circumstances pertinent to the issue. If the department deems the facts and circumstances provided to be insufficient, it may request additional information. A taxpayer may act in reliance upon a written interpretation through the end of the calendar year in which the interpretation was issued, or until revoked by the department, whichever occurs last if the pertinent facts and circumstances were substantially correct and fully disclosed.

(b) Appeals. The following shall apply:

(i) Any person aggrieved by any final administrative decision of the department may appeal to the state board of equalization. Appeals shall be made in a timely manner as provided by rules and regulations of the board by filing with the board a notice of appeal specifying the grounds therefor. The department shall, within a timely manner as specified by board rules and regulations, transmit to the board the complete record of the action from which the appeal is taken;

(ii) Any interested person adversely affected by the adoption, amendment or repeal of a rule pursuant to W.S. 16-3-103(a) shall be afforded an opportunity for a hearing before the state board of equalization;

(iii) Any person including the state of Wyoming aggrieved by any order issued by the state board of equalization, or any county board of equalization whose decision has been reversed or modified by the state board of equalization, may appeal the decision of the board to the district court of the county in which the production or some part thereof is situated;

(iv) Following determination of the fair market value of crude oil, lease condensate or natural gas production the department shall notify the taxpayer by mail of the assessed value. The person assessed may file written objections to the assessment with the state board of equalization within thirty (30) days of the date of postmark and appear before the board at a time specified by the board. The person assessed shall also file a copy of the written objections with the county treasurer of the county in which the production is located, who shall notify the county assessor and the board of county commissioners, with an estimate of the tax amount under appeal based upon the previous year's tax levy;

(v) Mine product valuation amendments may be appealed by the taxpayer to the state board of equalization within thirty (30) days of the final administrative decision;

(vi) Any taxpayer who feels aggrieved by the valuation and severance taxes levied by this article may appeal to the state board of equalization. The appeal does not relieve the taxpayer from paying the tax when due and payable nor does the payment invalidate the appeal. No restraining order or injunction shall be granted or issued by any court or judge to restrain or enjoin the collection of any severance tax, interest or penalty imposed by this article.

(c) Refunds. The following shall apply:

(i) If any person pays any ad valorem tax, or portion thereof, found to have been erroneous or illegal, the board of county commissioners shall direct the county treasurer to refund the erroneous or illegal payment to the taxpayer. When an increase in the value of any product is subject to the approval of any agency of the United States of America or the state of Wyoming, or of any court, the increased value shall be subject to ad valorem taxation. In the event the increase in value is disapproved, either in whole or in part, then the amount of tax which has been paid on the disapproved part of the value shall be considered excess tax. Within one (1) year following the final determination of value, any person who has paid any such excess tax may apply for a refund, and the board of county commissioners shall refund the amount of excess tax paid;

(ii) If a taxpayer has reason to believe that severance taxes imposed by this article have been overpaid, a request for refund shall be filed with the department on forms it prescribes prior to the end of the fifth calendar year following the calendar year which included the month for which overpayment was made. Refunds of two thousand dollars (\$2,000.00), or less may be applied to subsequent payments for severance taxes imposed by this article. Requests for refunds exceeding two thousand dollars (\$2,000.00) shall be approved in writing by the department prior to the taxpayer receiving credit. All refunds granted are subject to modification or revocation upon audit.

(d) Credits. The following shall apply:

(i) Any ad valorem tax refund may, at the discretion of the board of county commissioners, be made in the form of credit against future tax payments for a period not to exceed five (5) years. Unless otherwise agreed to by the taxpayer, refunds in the form of credit against future tax payments shall be made in no less than equal annual amounts. The board of county commissioners shall not provide a credit for interest on the excess tax paid unless the taxes are paid under protest due to an appeal pending before the state board of equalization and the taxpayer prevails in the appeal;

(ii) If a taxpayer overpaid severance taxes imposed by this article, the department shall allow a credit in the amount of the overpayment to be taken on the taxpayer's subsequent monthly reports for the production year;

(iii) The taxpayer is entitled to receive an offsetting credit for any overpaid ad valorem 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.

(e) Redemption. There are no specific applicable provisions for redemption for this article.

(f) Escrow. The following shall apply:

(i) If ad valorem taxes are paid under protest to the extent of and due to an appeal pending before the state board of equalization or any court of competent

jurisdiction, the county treasurer shall deposit that protested amount under appeal in an interest bearing escrow account and withhold distribution until a final decision on the appeal has been rendered. To the extent the taxpayer prevails in the appeal, the county treasurer shall refund that amount under appeal, plus interest earned thereon, to the taxpayer within thirty (30) days from the day the final decision is rendered. If the taxpayer pays to the county an amount in excess of the protested amount under appeal, the excess shall be distributed as provided by law;

(ii) If severance taxes are paid under protest to the extent of and due to an appeal pending before the state board of equalization or any court of competent jurisdiction, the state treasurer shall deposit that protested amount under appeal in a separate interest bearing escrow account and withhold distribution until a final decision on the appeal has been rendered by the state board of equalization or the court. To the extent the taxpayer prevails in the appeal, the state treasurer shall refund that amount under appeal, plus interest earned thereon, to the taxpayer within thirty (30) days from the day the final decision is rendered. If the taxpayer pays to the state an amount in excess of the protested amount under appeal, the excess shall be distributed as provided by law;

(iii) The provisions of paragraph (ii) of this subsection do not enlarge or curtail the ability of a taxpayer to appeal any department of revenue decision as otherwise provided for under this act.

**39-14-210. Statute of limitations.**

Except as otherwise provided in this article, there is no general statute of limitations for this article.

**39-14-211. Distribution.**

(a) The state treasurer shall transfer the revenue collected from the severance tax imposed by W.S. 39-14-204(a)(i) into the permanent Wyoming mineral trust fund. The state treasurer shall transfer the revenue collected from the severance tax imposed by W.S. 39-14-204(a)(ii), (iii) and (iv) into the severance tax distribution account.

(b) Repealed By Laws 2002, Ch. 62, § 2.

(c) Repealed By Laws 2002, Ch. 62, § 2.

(d) Repealed By Laws 2002, Ch. 62, § 2.

(e) Revenues to be distributed to local governments under W.S. 39-14-801 shall be distributed as follows:

(i) Distributions shall be made quarterly in an amount equal to one-fourth (1/4) of the amount estimated to be earned in the current fiscal year based upon the most recent consensus revenue estimating group estimates. In computing distributions, the state treasurer shall make adjustments to reflect changes in the consensus revenue estimating group estimates;

(ii) Not later than September 15, the state treasurer shall compute actual earnings for the months of the preceding fiscal year for which estimates were used in computing distributions. The state treasurer shall make adjustments to distributions during the current fiscal year in an amount equal to the difference between revenues earned and actual distributions for the preceding fiscal year.

(f) Repealed By Laws 2001, Ch. 209, § 3.

(g) Repealed By Laws 2001, Ch. 209, § 3.

(h) Repealed By Laws 2002, Ch. 45, § 2.

(j) Repealed By Laws 2002, Ch. 62, § 2.

ARTICLE 3  
TRONA

**39-14-301. Definitions.**

(a) As used in this article:

(i) "Arm's-length market or sales price" means the transaction price determined in connection with a bona fide arm's length sale;

(ii) "Bona fide arm's-length sale" means a transaction in cash or terms equivalent to cash for specified property rights after reasonable exposure in a competitive market between a willing, well informed and prudent buyer and seller with adverse economic interests

and assuming neither party is acting under undue compulsion or duress;

(iii) "Department review" means, but is not limited to, corrections of clerical errors or reconciliations of tax reports with reports required by other state or federal agencies;

(iv) "Mine product valuation amendment" means a valuation adjustment determination made by the department including special directives;

(v) "Mining or production" means drilling, blasting, loading, roadwork, overburden removal, pre-mouth of the mine reclamation, transportation from the point of severance to the mouth of the mine, and maintenance of facilities and equipment directly relating to any of the functions stated in this paragraph;

(vi) "Mouth of the mine" means the point at which a mineral is brought to the surface of the ground and is taken out of the pit, shaft or portal. For a surface mine, this point shall be the top of the ramp where the road or conveying system leaves the pit. For an in situ mine, the point shall be the wellhead;

(vii) "Processing" means crushing, sizing, milling, washing, drying, refining, upgrading, beneficiation, sampling, testing, treating, heating, separating, tailings or reject material disposal, compressing, storing, loading for shipment, transportation from the mouth of the mine to the loadout, transportation to market to the extent included in the price and provided by the producer, processing plant site and post-mouth of mine reclamation, maintenance of facilities and equipment relating to any of the functions stated in this paragraph, and any other function after severance that changes the physical or chemical characteristics or enhances the marketability of the mineral;

(viii) "Purchaser" means the first purchaser who acquires the produced valuable trona deposit from the taxpayer for value;

(ix) Beginning January 1, 1989, "taxable value" means one hundred percent (100%) of the fair market value of the gross product of minerals and mine products;

(x) "Severance tax" means an excise tax imposed on the present and continuing privilege of removing, extracting, severing or producing any mineral in this state;

(xi) "Transportation to market provided by the producer" means the costs incurred for any movement of a mineral which is performed by the producer beyond the point of loading for shipment to the customer, commonly referred to as the loadout, completed by the employees of the producer using equipment owned by the producer;

(xii) "Unreported production" means production volume for which no tax report was filed for the reporting period by the taxpayer or his agent;

(xiii) "Value of the gross product" means fair market value as prescribed by W.S. 39-11-101(a)(vi), less any deductions and exemption allowed by Wyoming law or rules.

**39-14-302. Administration; confidentiality.**

(a) The department shall annually value and assess the gross product of all mines and mining claims at its fair market value for taxation.

(b) The department shall annually value the gross product for the preceding calendar year, in appropriate unit measures of all mines and mining claims from which valuable deposits are produced.

(c) Except as otherwise provided, in the event the product as defined in W.S. 39-14-303(b)(iv) is not sold at the mouth of the mine by bona fide arms-length sale, or if the product of the mine is used without sale, the department shall determine the fair market value by application of recognized appraisal techniques.

(d) Annually, on or before June 1, or as soon thereafter as the fair market value is determined, the department shall certify the valuation determined by the department to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county.

(e) All taxpayer returns and return information shall be confidential and, except as authorized below, no current or former official, officer, employee or agent of the state of Wyoming or any political subdivision thereof shall disclose any such information obtained by him in connection with his service as an officer or employee.

(f) As used in this section, taxpayer returns and return information shall include, but not be limited to, all statements, reports, summaries and all other data and documents under audit or provided by the taxpayer in accordance with the provisions of W.S. 39-14-307(a) and related provision.

(g) Without written authorization from the taxpayer, no current or former official, officer, employee or agent of the state of Wyoming or any political subdivision thereof shall release taxpayer returns and return information pertaining to taxes imposed by this article, except:

(i) Information may be released to the governor or his designee, members of the board, to employees of the department of audit, the department of revenue, the consensus revenue estimating group and to the attorney general;

(ii) Upon prior notice to the taxpayer, information may be released by the department, upon written application, to any other governmental entity if the governmental entity shows sufficient reason to obtain the information for official business;

(iii) Information is admissible in court or administrative proceedings related to mineral taxes or government royalties.

(h) Any person receiving information pursuant to paragraph (g)(ii) of this section shall sign an agreement with the department to keep the information confidential.

(j) Units of production reported by the taxpayer and the taxpayer's taxable value are not confidential and may be released without qualification.

(k) Any person who negligently violates subsections (e) through (j) of this section is guilty of a misdemeanor

and upon conviction shall be fined not more than one thousand dollars (\$1,000.00). Any person who intentionally violates subsections (e) through (j) of this section is guilty of a misdemeanor and upon conviction shall be fined not less than one thousand dollars (\$1,000.00), but not more than five thousand dollars (\$5,000.00) and imprisoned for not more than one (1) year.

(m) Repealed By Laws 2000, Ch. 68, § 1.

**39-14-303. Imposition.**

(a) Taxable event. The following shall apply:

(i) There is levied a severance tax on the value of the gross product for the privilege of severing or extracting trona, in the state. The severance tax imposed by this article may be in addition to other taxes, including but not limited to the ad valorem taxes imposed by W.S. 39-13-104.

(b) Basis of tax (valuation). The following shall apply:

(i) Trona shall be valued for taxation as provided in this section;

(ii) The department shall calculate the value of trona ore for severance and ad valorem tax purposes by using the individual producer's fair market value of soda ash f.o.b. plant multiplied by the industry factor divided by the individual producer's trona to soda ash ratio less exempt royalties. The industry factor shall be calculated by the department using a combination of the reported production for the two (2) previous calendar years by dividing the composite trona value per ton of soda ash by the composite soda ash sales price. The minerals division of the department of audit shall conduct an audit of the trona industry not later than December 31, 1990. The information shall be provided to the department of revenue to establish the industry factor. The factor will be recomputed at two (2) year intervals and will be based on an average of the data for the two (2) prior years. The new factor will be applied prospectively;

NOTE: Effective 1/1/2004, this section will read as follows:

(ii) The department shall calculate the value of trona ore for severance and ad valorem tax purposes by using the individual producer's fair market value of soda ash f.o.b. plant multiplied by the industry factor divided by the individual producer's trona to soda ash ratio less exempt royalties. The industry factor shall be thirty-two and five-tenths percent (32.5%);

(iii) The value of the gross product shall be the fair market value of the product at the mouth of the mine where produced, after the mining or production process is completed;

(iv) Except as otherwise provided, the mining or production process is deemed completed when the mineral product reaches the mouth of the mine. In no event shall the value of the mineral product include any processing functions or operations regardless of where the processing is performed;

(v) Except as otherwise provided, if the product as defined in paragraph (iv) of this subsection is sold at the mouth of the mine, the fair market value shall be deemed to be the price established by bona fide arms-length sale.

(c) Taxpayer. The following shall apply:

(i) In the case of the gross product of all mines and mining claims produced under lease, the lessor is liable for the payment of ad valorem taxes on the product removed only to the extent of the lessor's retained interest under the lease, whether royalty or otherwise, and the lessee or his assignee is liable for all other property taxes due on production under the lease;

(ii) Any taxpayer paying the taxes imposed by this article on any valuable deposit may deduct the severance taxes paid from any amounts due or to become due to the interest owners of such valuable deposit in proportion to the interest ownership;

(iii) Any person extracting valuable products subject to this article and any person owning an interest in the valuable products to the extent of their interest ownership are liable for the payment of the severance taxes imposed by this article together with any penalties and interest.

**39-14-304. Tax rate.**

(a) The total severance tax rate for trona shall be four percent (4%). The tax shall be distributed as provided in W.S. 39-14-311 and is imposed as follows:

(i) Two percent (2%); plus

(ii) Two percent (2%).

**39-14-305. Exemptions.**

There are no specific applicable provisions for exemptions for this chapter.

**39-14-306. Licenses; permits.**

There are no specific applicable provisions for licenses and permits for this chapter.

**39-14-307. Compliance; collection procedures.**

(a) Returns, reports. The following shall apply:

(i) Annually, on or before February 25 of the year following the year of production any person whose property is subject to W.S. 39-14-302(a) shall sign under oath and submit a statement listing the information relative to the property and affairs of the company as the department may require to assess the property;

(ii) All information and reports shall be notarized and signed by a person who has legal authority to bind the taxpayer;

(iii) For mines and mining claims, the department may presume that the property is located in the county in which production is reported by the taxpayer. The department shall not direct any county to provide relief for taxes paid on taxable valuation which was erroneously reported and certified to the wrong county unless the taxpayer files or is directed to file amended returns within two (2) years of the date of the original certification of the production. Unless there is evidence of bad faith or willful disregard of production circumstances, no taxpayer shall be required to pay taxes

on production which was erroneously reported and certified to the wrong county if relief for taxes paid is not allowed under this provision;

(iv) Except as provided in paragraph (v) of this subsection, each taxpayer liable for severance taxes under W.S. 39-14-303 shall report monthly to the department. The monthly tax reports are due on or before the twenty-fifth day of the second month following the month of production. Reports shall be filed on forms prescribed by the department. The department may allow extensions for filing returns by regulation;

(v) If a taxpayer's liability for severance tax imposed under this article is less than thirty thousand dollars (\$30,000.00) for the preceding calendar year, monthly reporting requirements are waived and the taxpayer shall report annually. The annual report is due on February 25 of the year following the year in which production occurred. If a taxpayer who reports annually accumulates an annual liability exceeding thirty thousand dollars (\$30,000.00), that taxpayer shall commence reporting monthly as provided in paragraph (iv) of this subsection during the production year following the year in which the accumulated tax liability exceeded thirty thousand dollars (\$30,000.00). It is the taxpayer's responsibility to notify the department concerning the change from annual to monthly reporting requirements or from monthly to annual reporting;

(vi) For mines and mining claims, the taxpayer shall report the location of the production to the county and tax district in which the mine or mining claim is located, based upon the actual taxable production produced by the mine in each county or tax district. Other reasonable methods of reporting the location of production may be approved by the department upon written request of the taxpayer or taxing jurisdiction.

(b) Payment. The following shall apply:

(i) Annually, on or before October 10 the county treasurer shall send a written statement in sealed envelopes of total tax due, itemized as to property description, assessed value and mill levies, to each taxpayer at his last known address. Failure to send notice, or to demand payment of taxes, does not invalidate any taxes due;

(ii) Ad valorem taxes provided by this act are due and payable at the office of the county treasurer of the county in which the taxes are levied. Fifty percent (50%) of the taxes are due on and after September 1 and payable on and after November 10 in each year and the remaining fifty percent (50%) of the taxes are due on and after March 1 and payable on and after May 10 of the succeeding calendar year except as hereafter provided. If the entire tax is paid on or before December 31, no interest or penalty is chargeable;

(iii) Except as provided in paragraph (iv) of this subsection, each taxpayer liable for a severance tax under W.S. 39-14-303(a) shall pay monthly tax payments to the department. The payment shall be determined by the taxpayer based on the value of the gross product produced and saved during the second preceding month, and tax computed on value at rates prescribed in this article. The monthly tax payments are due on or before the twenty-fifth day of the second month following the month of production. If the report the taxpayer is required to file shows tax due, the taxpayer shall pay the tax due when the report is filed. The department may allow extensions for paying taxes by regulation. The department may, if an extension is granted, request the payment of the reasonable estimate of ninety percent (90%) of the tax by the statutory due date, with the remaining tax remitted with the extended return;

(iv) If a taxpayer's liability for severance tax imposed under this article is less than thirty thousand dollars (\$30,000.00) for the preceding calendar year, monthly payment requirements are waived and the taxpayer shall pay the tax annually. The annual payment is due on February 25 of the year following the year in which production occurred. If a taxpayer who pays annually accumulates an annual liability exceeding thirty thousand dollars (\$30,000.00), that taxpayer shall commence remitting tax payments as provided in paragraph (iii) of this subsection during the production year following the year in which the accumulated tax liability exceeded thirty thousand dollars (\$30,000.00). It is the taxpayer's responsibility to notify the department concerning the change from annual to monthly payment requirements or from monthly to annual payment.

(c) Timelines. Except as otherwise specifically provided, there are no general applicable provisions for timelines for this article.

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

(a) General. The following shall apply:

(i) If the statement provided by W.S. 39-14-307(a)(i) is not filed, the department shall value the property from the best information available. The department may use information other than contained in the statement provided by W.S. 39-14-307(a)(i) to determine the fair market value of the property provided by W.S. 39-14-302(a);

(ii) When a taxpayer producing valuable deposits fails to pay the taxes imposed by this article when due, the purchaser of the produced valuable deposit shall withhold and remit to the department the taxpayer's subsequently accruing taxes on the produced valuable deposit acquired by the purchaser. This provision is subject to the following conditions:

(A) The department shall notify the purchaser and taxpayer in writing on or before the first day of the production month for which subsequent taxes are due that the purchaser shall begin remitting taxes to the department as provided in W.S. 39-14-307(b)(iii);

(B) The department shall notify the purchaser in writing of the proper rates for calculating taxes due and the percentage of the produced valuable deposit subject to taxation by this article;

(C) The amount of tax paid by a purchaser to the department, as required by this paragraph, shall offset and satisfy all claims for payments for the purchase of produced valuable deposits to the extent of the tax payment;

(D) This paragraph shall not apply under circumstances where the purchaser is required to continue payments due to legal proceedings;

(E) This paragraph shall not apply until after the purchaser has been notified in writing that subsequent accruing taxes will be payable by the purchaser.

(iii) Severance taxes due together with interest, penalties and costs shall be collectible by the department by appropriate judicial proceedings.

(b) Audits. The following shall apply:

(i) The department may employ examiners and obtain other technical services, to investigate and examine the books and records of any person paying taxes imposed under W.S. 39-13-101 through 39-13-111. The department shall notify the county assessor of any change in valuation as determined by audits, examinations or investigations establishing:

(A) Taxable volumes or values were not accurately reported;

(B) Clerical errors were made in determining taxable volumes or values;

(C) Taxable volumes or values for the year that production occurred were not calculated in compliance with Wyoming statutes or rules governing the determinations; or

(D) Additional payment for production was received and not reported whether such payment was received in the year of production or in subsequent years.

(ii) Effective until March 1, 1994, the department is authorized to rely on final audit findings under W.S. 9-2-2003, taxpayer amended returns or department review, and to certify mine product valuation amendments for production in calendar year 1985 and thereafter, to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county and taxes computed and collected thereon subject to appeal under W.S. 39-14-309(b)(ii);

(iii) Commencing January 1, 2003, the department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to certify mine product valuation amendments to the county assessor of the county in which the property is located, to be entered upon

the assessment rolls of the county and taxes computed and collected thereon subject to appeal under W.S. 39-14-309(b)(ii), provided that the return is filed within three (3) years from the date the production should have been or was reported pursuant to W.S. 39-14-307(a)(i), whichever is later, and that the audit or review commenced within the time period as required by paragraph (vii) of this subsection;

(iv) The department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to assess deficient severance tax payments, interest and penalty, if any, for the same periods governing mine product valuation amendments pursuant to paragraphs (ii) and (iii) of this subsection;

(v) All audits or department reviews, as applicable, pursuant to paragraphs (ii), (iii) and (iv) of this subsection are subject to the following conditions:

(A) Audits are commenced when the taxpayer receives written notice of the intended action;

(B) Prior to entering the premises of a taxpayer or third party, the taxpayer or third party shall be provided at least fourteen (14) days written notice;

(C) Audits are completed when the final findings are issued to the taxpayer by the department of audit;

(D) Unless otherwise agreed to in writing, audits shall be completed and the final audit findings issued to the taxpayer not later than the end of the month two (2) years after the audit is commenced;

(E) Any assessment or levy, including the assessment of a penalty and interest, if any, resulting from final audit findings or department review shall be issued within one (1) year following the completion of the audit or review;

(F) Upon receipt of department review findings, the taxpayer shall have sixty (60) days in which to submit a response.

(vi) Where there is evidence of gross negligence by the taxpayer in reporting and valuing production, an audit

may examine prior years and issue assessments where gross negligence occurred. This section shall not apply to mine product valuation amendments to add the value of unreported production;

(vii) Audits provided by this article shall commence within six (6) months immediately following the three (3) years following the reporting period and taxpayers shall keep accurate books and records of all production subject to taxes imposed by this article and determinations of taxable value as prescribed by W.S. 39-14-303(b) for a period of seven (7) years and make them available to department examiners for audit purposes. If the examination discloses evidence of gross negligence by the taxpayer in reporting and paying the tax, the department may examine all pertinent records for any reporting period without regard to the limitations set forth in paragraphs (vii) and (viii) of this subsection;

(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;

(ix) The state may employ auditors and obtain other technical assistance necessary to determine if the tax imposed by this article has been properly reported and paid.

(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 board of county commissioners shall first

compute a net deficiency amount after subtracting any offsetting credit and then calculate any interest due;

(ii) Taxes are delinquent pursuant to paragraphs (iii) and (iv) of this subsection when a taxpayer or his agent knew or reasonably should have known that the total tax liability was not paid when due;

(iii) 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 until paid or collected;

(iv) Effective January 1, 1994, 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 on any mineral produced on or after January 1, 1994. 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 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. The interest rate on any delinquent mineral tax from any mineral produced before January 1, 1994, shall be eighteen percent (18%) per annum.

(d) Penalties. 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 penalty, the department or board of county commissioners shall first compute a net deficiency amount after subtracting any offsetting credit and then calculate any penalty due;

(ii) If any person fails to file the report required by W.S. 39-14-307(a)(i) by the due date or any extension thereof, the department may impose a penalty equal to a total of one percent (1%) of the taxable value of the production from the well, mine or mining claim but not to

exceed five thousand dollars (\$5,000.00) for each calendar month or portion thereof that the report or information is late. If any person fails to file reports and other information required by rule of the department of revenue other than those required by W.S. 39-14-307(a)(iv) or 39-14-307(a)(i), the department may impose a penalty of up to one thousand dollars (\$1,000.00). The department may waive penalties under this paragraph for good cause. Penalties imposed under this paragraph may be appealed to the state board of equalization;

(iii) If any person fails to make or file a return and remit the tax as required by W.S. 39-14-307, the department shall impose a penalty of five percent (5%) of the taxes due for each thirty (30) day period, or fraction thereof, elapsing between the due date of the return and the date filed, unless the person for good cause obtains from the department an extension of time for filing prior to the due date for filing. In no event shall the total penalty imposed by this subsection exceed twenty-five percent (25%) of the tax due. The department, for good cause, may waive a penalty imposed for failure to file a return for any one (1) month in a calendar year, provided that:

(A) The return was filed within five (5) business days following the due date, including an approved extension period; and

(B) The taxpayer requests the waiver in writing within fifteen (15) days after the return was filed, setting forth the reasons for the late filing.

(iv) If any part of a tax deficiency is due to negligence or intentional disregard of rules and regulations, there shall be added a penalty of five percent (5%) of the amount of the deficiency plus interest as provided by paragraph (c)(iv) of this section. The taxes, penalty and interest shall be paid by the taxpayer within ten (10) days after receipt of notice and demand by the department;

(v) The department may credit or waive penalties imposed by paragraphs (iii) and (iv) of this subsection as part of a settlement or for any other good cause.

(e) Liens. The following shall apply:

(i) Repealed By Laws 2002, Ch. 50, § 2.

(ii) Repealed By Laws 2002, Ch. 50, § 2.

(iii) Repealed By Laws 2002, Ch. 50, § 2.

(iv) All taxes, fees, penalties and interest imposed under this article are an automatic and continuing lien in favor of the state of Wyoming. The lien is on all property in the state of Wyoming, real, tangible and intangible, including all after acquired property rights, future production and rights to property, of any person severing minerals in this state and who is liable under Wyoming law for the collection, payment or remittance of the severance tax and corresponding penalty or interest as of the date such taxes, fees, penalties or interest is due, and remains a lien until paid;

(v) A lien under this subsection is also a lien on all interests in the mineral estate from which the production was severed, and on all future production of the same mineral from the same leasehold, regardless of any change of ownership or change in the person extracting the mineral;

(vi) Any lien arising under this subsection is superior and paramount to all other liens, claims, mortgages or any other encumbrance of any kind except a lien, claim, mortgage or other encumbrance of record held by a bona fide creditor and properly perfected, filed or recorded under Wyoming law prior to the filing of a lien as provided by paragraph (viii) of this subsection;

(vii) The department may file a notice of lien at any time at its discretion, except no lien shall be enforced until the right of the taxpayer to file and properly perfect an appeal concerning the tax delinquent property before the state board of equalization has expired. A properly perfected appeal on the tax delinquent property before the state board of equalization or any subsequent properly perfected appeal on the same property to a district court or the supreme court shall stay enforcement of a lien filed by the department until such appeal has been exhausted or concluded;

(viii) In order to perfect a tax lien under this subsection, the department of revenue shall file a notice

of the tax lien with the secretary of state. The notice of the tax lien shall contain:

(A) The name and last known address of the person or persons against whose property the lien is filed including, but not limited to, the person severing the mineral;

(B) The name and address of the department of revenue as the holder of the lien and the name of the contact person within the department;

(C) The amount of the tax, fees, penalties and interest owed the state of Wyoming;

(D) A statement that the amount of the unpaid tax, fees, penalties or interest is a lien on all property, real, tangible or intangible, including all after acquired property and rights to the property belonging to the person who severed the mineral and located within the state of Wyoming, as well as all interest in the mineral estate from which the production was severed and any future production from the same mineral leasehold.

(ix) No other action beyond that described in paragraph (viii) of this subsection shall be required to perfect a tax lien;

(x) The filing of the notice of the tax lien as described in paragraph (viii) of this subsection shall constitute record notice of the tax lien;

(xi) One (1) notice of the tax lien shall be deemed sufficient to cover all taxes, together with interest, fees and penalty of the same nature which may accrue after the filing of the notice;

(xii) Any tax lien created under this subsection and duly filed with the secretary of state shall survive the death or incapacitation of any person, and shall survive any other destruction or attempted destruction of any interest in property owned by any person liable under Wyoming law for the collection, payment or remittance of taxes, fees, penalties or interest to the state;

(xiii) In the event of foreclosure, the department of revenue shall be entitled to recover the costs of filing

the lien, foreclosing on the lien and reasonable attorney's fees;

(xiv) All notice of tax liens shall be released within sixty (60) days after taxes, penalties and interest due are paid or collected;

(xv) Notwithstanding that the lien is a lien on all interests in the mineral estate from which the production was severed and on all future production from the same leasehold, the department may for good cause shown, release the lien on all property in this state, real, tangible and intangible, and settle delinquent taxes, interest and penalties to be collected against future production from that leasehold;

(xvi) The secretary of state is authorized and directed to maintain copies of all tax liens filed by the department of revenue pursuant to this chapter, and to maintain a data base of such tax liens and to provide copies to any person pursuant to the duties of the secretary of state as set forth in W.S. 9-1-301 et seq. All tax liens on file with any county in this state and in good standing on the effective date of this paragraph shall remain effective and in good standing. Within sixty (60) days of the effective date of this paragraph, the director of the department of revenue shall transmit to the secretary of state for filing copies of all tax liens that the director seeks to have in continuing effect. Upon the filing of a copy of the tax lien with the secretary of state, the tax lien shall continue to be fully effective until released by the department of revenue.

(f) Tax sales. There are no specific applicable provisions for tax sales for this article.

**39-14-309. Taxpayer remedies.**

(a) Interpretation requests. The following shall apply:

(i) The taxpayer may request a value determination from the department and propose a value determination method which may be used until the department issues a value determination. The taxpayer shall submit all available data relevant to its proposal and any additional information the department deems necessary. After the department issues its determination, the taxpayer shall

make adjustments based upon the value established or request a hearing by the board;

(ii) A taxpayer may request and the department shall provide written interpretations of these statutes and rules. When requesting an interpretation, a taxpayer must set forth the facts and circumstances pertinent to the issue. If the department deems the facts and circumstances provided to be insufficient, it may request additional information. A taxpayer may act in reliance upon a written interpretation through the end of the calendar year in which the interpretation was issued, or until revoked by the department, whichever occurs last if the pertinent facts and circumstances were substantially correct and fully disclosed.

(b) Appeals. The following shall apply:

(i) Following determination of the fair market value of property the department shall notify the taxpayer by mail of the assessed value. The person assessed may file written objections to the assessment with the board within thirty (30) days of the date of postmark and appear before the board at a time specified by the board. The person assessed shall also file a copy of the written objections with the county treasurer of the county in which the property is located, who shall notify the county assessor and the board of county commissioners, with an estimate of the tax amount under appeal based upon the previous year's tax levy;

(ii) Mine product valuation amendments under this section may be appealed by the taxpayer to the board within thirty (30) days of the final administrative decision;

(iii) Any taxpayer who feels aggrieved by the valuation and taxes levied by this article may appeal to the board. The appeal does not relieve the taxpayer from paying the tax when due and payable nor does the payment invalidate the appeal. No restraining order or injunction shall be granted or issued by any court or judge to restrain or enjoin the collection of any tax, interest or penalty imposed by this article;

(iv) The state board of equalization shall perform the duties specified in article 15, section 10 of the Wyoming constitution and shall hear appeals from county

boards of equalization and review final decisions of the department upon application of any interested person adversely affected, including boards of county commissioners for the purposes of this subsection, under the contested case procedures of the Wyoming Administrative Procedure Act. Any interested person adversely affected by the adoption, amendment or repeal of a rule pursuant to W.S. 16-3-103(a) shall be afforded an opportunity for a hearing before the board;

(v) Any person including the state of Wyoming aggrieved by any order issued by the board, or any county board of equalization whose decision has been reversed or modified by the state board of equalization, may appeal the decision of the board to the district court of the county in which the property or some part thereof is situated.

(c) Refunds. The following shall apply:

(i) If any person pays any tax, or portion thereof, found to have been erroneous or illegal, the board of county commissioners shall direct the county treasurer to refund the erroneous or illegal payment to the taxpayer. When an increase in the value of any product is subject to the approval of any agency of the United States of America or the state of Wyoming, or of any court, the increased value shall be subject to property taxation. In the event the increase in value is disapproved, either in whole or in part, then the amount of tax which has been paid on the disapproved part of the value shall be considered excess tax. Within one (1) year following the final determination of value, any person who has paid any such excess tax may apply for a refund, and the board of county commissioners shall refund the amount of excess tax paid;

(ii) If a taxpayer has reason to believe that taxes imposed by this article have been overpaid, a request for refund shall be filed with the department on forms it prescribes prior to the end of the fifth calendar year following the calendar year which included the month for which overpayment was made. Refunds of two thousand dollars (\$2,000.00), or less may be applied to subsequent payments for taxes imposed by this article. Requests for refunds exceeding two thousand dollars (\$2,000.00) shall be approved in writing by the department prior to the taxpayer receiving credit. All refunds granted are subject to modification or revocation upon audit.

(d) Credits. The following shall apply:

(i) Any refund may, at the discretion of the board of county commissioners, be made in the form of credit against future tax payments for a period not to exceed five (5) years. Unless otherwise agreed to by the taxpayer, refunds in the form of credit against future tax payments shall be made in no less than equal annual amounts. The board of county commissioners shall not provide a credit for interest on the excess tax paid unless the taxes are paid under protest due to an appeal pending before the state board of equalization and the taxpayer prevails in the appeal;

(ii) 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;

(iii) If a taxpayer overpaid taxes imposed by this article, the department shall allow a credit in the amount of the overpayment to be taken on the taxpayer's subsequent monthly reports for the production year.

(e) Redemption. There are no specific applicable provisions for redemption for this article.

(f) Escrow. The following shall apply:

(i) If ad valorem taxes are paid under protest to the extent of and due to an appeal pending before the state board of equalization or any court of competent jurisdiction, the county treasurer shall deposit that protested amount under appeal in an interest bearing escrow account and withhold distribution until a final decision on the appeal has been rendered. To the extent the taxpayer prevails in the appeal, the county treasurer shall refund that amount under appeal, plus interest earned thereon, to the taxpayer within thirty (30) days from the day the final decision is rendered. If the taxpayer pays to the county an amount in excess of the protested amount under appeal, the excess shall be distributed as provided by law;

(ii) If severance taxes are paid under protest to the extent of and due to an appeal pending before the state

board of equalization or any court of competent jurisdiction, the state treasurer shall deposit that protested amount under appeal in a separate interest bearing escrow account and withhold distribution until a final decision on the appeal has been rendered by the state board of equalization or the court. To the extent the taxpayer prevails in the appeal, the state treasurer shall refund that amount under appeal, plus interest earned thereon, to the taxpayer within thirty (30) days from the day the final decision is rendered. If the taxpayer pays to the state an amount in excess of the protested amount under appeal, the excess shall be distributed as provided by law;

(iii) This provision does not enlarge or curtail the ability of a taxpayer to appeal any department of revenue decision as otherwise provided for under this act.

**39-14-310. Statute of limitations.**

Except as otherwise provided in this article, there is no general statute of limitations for this article.

**39-14-311. Distribution.**

(a) As provided by W.S. 39-14-304(a), the total severance tax rate for trona shall be four percent (4%). The taxes imposed by W.S. 39-14-304(a) shall be deposited into the severance tax distribution account.

(b) Repealed By Laws 2002, Ch. 62, § 2.

(c) All payments received pursuant to W.S. 39-14-307(b)(iii) shall be transferred to an account of the trust and agency fund. The monies in this account shall be invested or deposited in accordance with W.S. 9-4-701 through 9-4-831, and any interest earned shall be credited to the general fund. The revenue under W.S. 39-14-307(b)(iii) shall be distributed in accordance with this section, subject to the following and except as otherwise provided by law for fiscal year 1994:

(i) Revenues earned during each fiscal year shall be recognized as revenue during that fiscal year for accounting purposes;

(ii) Revenues which are earned and received during the first three (3) calendar quarters of the fiscal year shall be distributed within the first fifteen (15) days of

October, January and April. For the last quarter of each fiscal year, revenues earned or received shall be distributed not later than June 30. In computing distributions for the last quarter, the state treasurer shall use the most recent consensus revenue estimating group estimates to the extent that earnings cannot be determined by June 30. Not later than September 15, the state treasurer shall compute the actual earnings for the last quarter of the preceding fiscal year and make adjustments to the October distributions in an amount equal to the difference between revenues earned and actual distributions for the preceding fiscal year.

ARTICLE 4  
BENTONITE

**39-14-401. Definitions.**

(a) As used in this article:

(i) "Arm's-length market or sales price" means the transaction price determined in connection with a bona fide arm's length sale;

(ii) "Bona fide arm's-length sale" means a transaction in cash or terms equivalent to cash for specified property rights after reasonable exposure in a competitive market between a willing, well informed and prudent buyer and seller with adverse economic interests and assuming neither party is acting under undue compulsion or duress;

(iii) "Department review" means, but is not limited to, corrections of clerical errors or reconciliations of tax reports with reports required by other state or federal agencies;

(iv) "Mine product valuation amendment" means a valuation adjustment determination made by the department including special directives;

(v) "Mining or production" means drilling, blasting, loading, roadwork, overburden removal, pre-mouth of the mine reclamation, transportation from the point of severance to the mouth of the mine, and maintenance of facilities and equipment directly relating to any of the functions stated in this paragraph;

(vi) "Mouth of the mine" means the point at which a mineral is brought to the surface of the ground and is taken out of the pit, shaft or portal. For a surface mine, this point shall be the top of the ramp where the road or conveying system leaves the pit. For an in situ mine, the point shall be the wellhead;

(vii) "Processing" means crushing, sizing, milling, washing, drying, refining, upgrading, beneficiation, sampling, testing, treating, heating, separating, tailings or reject material disposal, compressing, storing, loading for shipment, transportation from the mouth of the mine to the loadout, transportation to market to the extent included in the price and provided by the producer, processing plant site and post-mouth of mine reclamation, maintenance of facilities and equipment relating to any of the functions stated in this paragraph, and any other function after severance that changes the physical or chemical characteristics or enhances the marketability of the mineral;

(viii) "Purchaser" means the first purchaser who acquires the produced valuable bentonite deposit from the taxpayer for value;

(ix) "Severance tax" means an excise tax imposed on the present and continuing privilege of removing, extracting, severing or producing any mineral in this state;

(x) Beginning January 1, 1989, "taxable value" means one hundred percent (100%) of the fair market value of the gross product of minerals and mine products;

(xi) "Transportation to market provided by the producer" means the costs incurred for any movement of a mineral which is performed by the producer beyond the point of loading for shipment to the customer, commonly referred to as the loadout, completed by the employees of the producer using equipment owned by the producer;

(xii) "Unreported production" means production volume for which no tax report was filed for the reporting period by the taxpayer or his agent;

(xiii) "Value of the gross product" means fair market value as prescribed by W.S. 39-11-101(a)(vi), less

any deductions and exemption allowed by Wyoming law or rules.

**39-14-402. Administration; confidentiality.**

(a) The department shall annually value and assess the gross product of all mines and mining claims at its fair market value for taxation.

(b) The department shall annually value the gross product for the preceding calendar year, in appropriate unit measures of all mines and mining claims from which valuable deposits are produced.

(c) Annually, on or before June 1, or as soon thereafter as the fair market value is determined, the department shall certify the valuation determined by the department to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county.

(d) All taxpayer returns and return information shall be confidential and, except as authorized below, no current or former official, officer, employee or agent of the state of Wyoming or any political subdivision thereof shall disclose any such information obtained by him in connection with his service as an officer or employee.

(e) As used in this section, taxpayer returns and return information shall include, but not be limited to, all statements, reports, summaries and all other data and documents under audit or provided by the taxpayer in accordance with the provisions of W.S. 39-14-407(a) and related provision.

(f) Without written authorization from the taxpayer, no current or former official, officer, employee or agent of the state of Wyoming or any political subdivision thereof shall release taxpayer returns and return information pertaining to taxes imposed by this article, except:

(i) Information may be released to the governor or his designee, members of the board, to employees of the department of audit, the department of revenue, the consensus revenue estimating group and to the attorney general;

(ii) Upon prior notice to the taxpayer, information may be released by the department, upon written application, to any other governmental entity if the governmental entity shows sufficient reason to obtain the information for official business;

(iii) Information is admissible in court or administrative proceedings related to mineral taxes or government royalties.

(g) Any person receiving information pursuant to paragraph (f)(ii) of this section shall sign an agreement with the department to keep the information confidential.

(h) Units of production reported by the taxpayer and the taxpayer's taxable value are not confidential and may be released without qualification.

(j) Any person who negligently violates subsections (d) through (h) of this section is guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000.00). Any person who intentionally violates this section is guilty of a misdemeanor and upon conviction shall be fined not less than one thousand dollars (\$1,000.00), but not more than five thousand dollars (\$5,000.00) and imprisoned for not more than one (1) year.

(k) Repealed By Laws 2000, Ch. 68, § 1.

**39-14-403. Imposition.**

(a) Taxable event. The following shall apply:

(i) There is levied a severance tax on the value of the gross product for the privilege of severing or extracting bentonite in the state. The severance tax imposed by this article may be in addition to other taxes, including but not limited to the ad valorem taxes imposed by W.S. 39-13-104.

(b) Basis of tax (valuation). The following shall apply:

(i) Bentonite shall be valued for taxation as provided in this subsection. Based upon the information

received or procured pursuant to W.S. 39-14-407(a) or 39-14-408(a)(i), the department shall annually value the gross product for the preceding calendar year, in appropriate unit measures of all mines and mining claims from which valuable deposits are produced, at the fair market value of the product at the mouth of the mine where produced, after the mining or production process is completed;

(ii) In the event the bentonite is sold at or prior to the mouth of the mine without further movement or processing, the fair market value shall be the total mineral sales revenue received or receivable by the individual producer less amounts paid or payable by the producer for exempt royalty;

(iii) In the event the bentonite is not sold at the mouth of the mine by bona fide arms-length sale, or, except as hereafter provided, if the product of the mine is used without sale, the department shall determine the fair market value of bentonite in accordance with paragraph (iv) of this section;

(iv) The department shall determine the value of bentonite for severance and ad valorem tax purposes as follows:

(A) For bentonite sold away from the mouth of the mine, the taxable value shall be calculated by adding to each producer's actual direct cost of mining per unit, an allocation of indirect costs, overhead and profit, per unit, as determined by the method prescribed in subdivision (I) of this subparagraph plus nonexempt royalty and production taxes per unit:

(I) The allocation of indirect costs, overhead and profit, shall be determined initially and effective with the implementation of this section, by first calculating a bentonite industry wide percentage add-on factor, determined as prescribed in subdivision (II) of this subparagraph, and second by multiplying this initial industry factor times each producer's actual average direct mining costs to mine-mouth per unit, excluding royalty and production taxes. This add-on amount shall be computed prospectively for each producer each year as prescribed in subdivision (III) of this subparagraph;

(II) The industry factor shall initially be determined by an audit of 1989 production data conducted in accordance with the provisions of subdivision (IV) of this subparagraph. The initial industry factor shall be the same for all producers for 1990 which shall represent the base line year. The subsequent add-on factors for each producer will be determined each year as defined in subdivision (III) of this subparagraph;

(III) Subsequent adjustments to the add-on amount as initially determined under the provisions of subdivision (II) of this subparagraph and as subsequently determined under the provisions of this subdivision shall be recalculated each year with the base year being the initial year of this act. The recalculated add-on amount per unit for each producer shall be determined by multiplying the previous, or initial, add-on percentage amount by the difference between each individual bentonite producer's percentage increase or decrease in mining costs per unit from the percentage increase or decrease in sales price per unit and then adding this amount to the initial industry wide or previous percentage add-on factor. Sales price per unit for purposes of this formula shall be the weighted average sales price per unit for each producer based on the actual arms-length sales of milled bentonite used for taconite, foundry and drilling mud applications (including crushed and dried shipments), where user destinations are known to be in the United States and Canada. Packaged sales of bentonite in these three (3) categories shall be included after deducting the packaging premium. The packaging premium shall be calculated by subtracting the weighted average sales price per ton of bulk sales in these three (3) categories from the weighted average sales price per ton of package sales in these three (3) categories. If substantial arms-length transactions, which are at least five percent (5%) of total transactions in a particular category, do not exist for a producer in a specific targeted sales category, average pricing determined from arms-length transactions in that specific category by all producers shall be imposed. In no event shall the value of the bentonite product include any processing functions or operations regardless of where the processing is performed. As used in this subsection, direct mining costs include but are not limited to mining labor including mine foremen and supervisory personnel whose primary responsibility is extraction of bentonite, supplies used for mining, mining equipment, fuel, power and

other utilities used for mining, maintenance of mining equipment, depreciation of mining equipment, reclamation, ad valorem property taxes on mining equipment, transportation of bentonite from the point of severance to the point of valuation and any other costs incurred prior to the point of valuation that are directly and specifically attributable to the mining operation. Royalty and production taxes shall be excluded from mine mouth cost for purposes of computation. In no event and under no circumstances shall the value of bentonite be less than the direct mining costs plus nonexempt royalty and production taxes;

(IV) At four (4) year intervals and for the base year the taxable value per unit for each producer shall be revised using the proportionate profits method. Each producer's add-on factor shall be adjusted to provide the taxable value equivalent to the value derived using the proportionate profits method with a direct cost ratio. The direct cost ratio shall be total direct mining costs divided by total direct mining, processing and transportation costs. The sales price per unit, as described in subdivision (III) of this subparagraph, shall exclude all royalties and production taxes. The taxable value shall be derived based on an audit of the most current completed year's data conducted in the producer's offices. Should the audit not be performed, the producer's factor shall be adjusted according to subdivision (III) of this subparagraph until the audit is performed, and then the revised factor shall be applied prospectively. Thereafter, the revised factor for each producer shall be adjusted according to subdivision (III) of this subparagraph.

(v) The value of the gross product shall be the fair market value of the product at the mouth of the mine where produced, after the mining or production process is completed;

(vi) Except as otherwise provided, the mining or production process is deemed completed when mineral product reaches the mouth of the mine. In no event shall the value of the mineral product include any processing functions or operations regardless of where the processing is performed;

(vii) Except as otherwise provided, if the product as defined in paragraph (vi) of this subsection is sold at

the mouth of the mine, the fair market value shall be deemed to be the price established by bona fide arms-length sale.

(c) Taxpayer. The following shall apply:

(i) In the case of the gross product of all mines and mining claims produced under lease, the lessor is liable for the payment of ad valorem taxes on the product removed only to the extent of the lessor's retained interest under the lease, whether royalty or otherwise, and the lessee or his assignee is liable for all other property taxes due on production under the lease;

(ii) Any taxpayer paying the taxes imposed by this article on any valuable deposit may deduct the severance taxes paid from any amounts due or to become due to the interest owners of such valuable deposit in proportion to the interest ownership;

(iii) Any person extracting valuable products subject to this article and any person owning an interest in the valuable products to the extent of their interest ownership are liable for the payment of the severance taxes imposed by this article together with any penalties and interest.

**39-14-404. Tax rate.**

The total severance tax rate for bentonite shall be two percent (2%). The tax shall be distributed as provided in W.S. 39-14-411.

**39-14-405. Exemptions.**

There are no specific applicable provisions for exemptions for this chapter.

**39-14-406. Licenses; permits.**

There are no specific applicable provisions for licenses and permits for this chapter.

**39-14-407. Compliance; collection procedures.**

(a) Returns and reports. The following shall apply:

(i) Annually, on or before February 25 of the year following the year of production any person whose property is subject to W.S. 39-14-402(a) shall sign under oath and submit a statement listing the information relative to the property and affairs of the company as the department may require to assess the property;

(ii) All information and reports shall be notarized and signed by a person who has legal authority to bind the taxpayer;

(iii) For mines and mining claims, the department may presume that the property is located in the county in which production is reported by the taxpayer. The department shall not direct any county to provide relief for taxes paid on taxable valuation which was erroneously reported and certified to the wrong county unless the taxpayer files or is directed to file amended returns within two (2) years of the date of the original certification of the production. Unless there is evidence of bad faith or willful disregard of production circumstances, no taxpayer shall be required to pay taxes on production which was erroneously reported and certified to the wrong county if relief for taxes paid is not allowed under this provision;

(iv) Except as provided in paragraph (v) of this subsection, each taxpayer liable for severance taxes under W.S. 39-14-403 shall report monthly to the department. The monthly tax reports are due on or before the twenty-fifth day of the second month following the month of production. Reports shall be filed on forms prescribed by the department. The department may allow extensions for filing returns by regulation;

(v) If a taxpayer's liability for severance tax imposed under this article is less than thirty thousand dollars (\$30,000.00) for the preceding calendar year, monthly reporting requirements are waived and the taxpayer shall report annually. The annual report is due on February 25 of the year following the year in which production occurred. If a taxpayer who reports annually accumulates an annual liability exceeding thirty thousand dollars (\$30,000.00), that taxpayer shall commence reporting monthly as provided in paragraph (iv) of this subsection during the production year following the year in which the accumulated tax liability exceeded thirty thousand dollars

(\$30,000.00). It is the taxpayer's responsibility to notify the department concerning the change from annual to monthly reporting requirements or from monthly to annual reporting;

(vi) For mines and mining claims, the taxpayer shall report the location of the production to the county and tax district in which the mine or mining claim is located, based upon the actual taxable production produced by the mine in each county or tax district. Other reasonable methods of reporting the location of production may be approved by the department upon written request of the taxpayer or taxing jurisdiction.

(b) Payment. The following shall apply:

(i) Annually, on or before October 10 the county treasurer shall send a written statement in sealed envelopes of total tax due, itemized as to property description, assessed value and mill levies, to each taxpayer at his last known address. Failure to send notice, or to demand payment of taxes, does not invalidate any taxes due;

(ii) Ad valorem taxes provided by this act are due and payable at the office of the county treasurer of the county in which the taxes are levied. Fifty percent (50%) of the taxes are due on and after September 1 and payable on and after November 10 in each year and the remaining fifty percent (50%) of the taxes are due on and after March 1 and payable on and after May 10 of the succeeding calendar year except as hereafter provided. If the entire tax is paid on or before December 31, no interest or penalty is chargeable;

(iii) Except as provided in paragraph (iv) of this subsection, each taxpayer liable for a severance tax under W.S. 39-14-403(a) shall pay monthly tax payments to the department. The payment shall be determined by the taxpayer based on the value of the gross product produced and saved during the second preceding month, and tax computed on value at rates prescribed in this article. The monthly tax payments are due on or before the twenty-fifth day of the second month following the month of production. If the report the taxpayer is required to file shows tax due, the taxpayer shall pay the tax due when the report is filed. The department may allow extensions for paying taxes by regulation. The department may, if an extension is granted,

request the payment of the reasonable estimate of ninety percent (90%) of the tax by the statutory due date, with the remaining tax remitted with the extended return;

(iv) If a taxpayer's liability for severance tax imposed under this article is less than thirty thousand dollars (\$30,000.00) for the preceding calendar year, monthly payment requirements are waived and the taxpayer shall pay the tax annually. The annual payment is due on February 25 of the year following the year in which production occurred. If a taxpayer who pays annually accumulates an annual liability exceeding thirty thousand dollars (\$30,000.00), that taxpayer shall commence remitting tax payments as provided in paragraph (iii) of this subsection during the production year following the year in which the accumulated tax liability exceeded thirty thousand dollars (\$30,000.00). It is the taxpayer's responsibility to notify the department concerning the change from annual to monthly payment requirements or from monthly to annual payment.

(c) Timelines. Except as otherwise specifically provided, there are no specific applicable provisions for timelines for this article.

#### **39-14-408. Enforcement.**

(a) General. The following shall apply:

(i) If the statement provided by W.S. 39-14-407(a)(i) is not filed, the department shall value the property from the best information available. The department may use information other than contained in the statement provided by W.S. 39-14-407(a)(i) to determine the fair market value of the property provided by W.S. 39-14-402(a);

(ii) When a taxpayer producing valuable deposits fails to pay the taxes imposed by this article when due, the purchaser of the produced valuable deposit shall withhold and remit to the department the taxpayer's subsequently accruing taxes on the produced valuable deposit acquired by the purchaser. This provision is subject to the following conditions:

(A) The department shall notify the purchaser and taxpayer in writing on or before the first day of the

production month for which subsequent taxes are due that the purchaser shall begin remitting taxes to the department as provided in W.S. 39-14-407(b)(iii);

(B) The department shall notify the purchaser in writing of the proper rates for calculating taxes due and the percentage of the produced valuable deposit subject to taxation by this article;

(C) The amount of tax paid by a purchaser to the department, as required by this subsection, shall offset and satisfy all claims for payments for the purchase of produced valuable deposits to the extent of the tax payment;

(D) This paragraph shall not apply under circumstances where the purchaser is required to continue payments due to legal proceedings;

(E) This paragraph shall not apply until after the purchaser has been notified in writing that subsequent accruing taxes will be payable by the purchaser.

(iii) Severance taxes due together with interest, penalties and costs shall be collectible by the department by appropriate judicial proceedings.

(b) Audits. The following shall apply:

(i) The department may employ examiners and obtain other technical services, to investigate and examine the books and records of any person paying taxes imposed under W.S. 39-13-101 through 39-13-111. The department shall notify the county assessor of any change in valuation as determined by audits, examinations or investigations establishing:

(A) Taxable volumes or values were not accurately reported;

(B) Clerical errors were made in determining taxable volumes or values;

(C) Taxable volumes or values for the year that production occurred were not calculated in compliance with Wyoming statutes or rules governing the determinations; or

(D) Additional payment for production was received and not reported whether such payment was received in the year of production or in subsequent years.

(ii) Effective until March 1, 1994, the department is authorized to rely on final audit findings under W.S. 9-2-2003, taxpayer amended returns or department review, and to certify mine product valuation amendments for production in calendar year 1985 and thereafter, to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county and taxes computed and collected thereon subject to appeal under W.S. 39-14-409(b)(ii);

(iii) Commencing January 1, 2003, the department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to certify mine product valuation amendments to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county and taxes computed and collected thereon subject to appeal under W.S. 39-14-409(b)(ii), provided that the return is filed within three (3) years from the date the production should have been or was reported pursuant to W.S. 39-14-407(a)(i), whichever is later, and that the audit or review commenced within the time period as required by paragraph (vii) of this subsection;

(iv) The department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to assess deficient severance tax payments, interest and penalty, if any, for the same periods governing mine product valuation amendments pursuant to paragraphs (ii) and (iii) of this subsection;

(v) All audits or department reviews, as applicable, pursuant to paragraphs (ii), (iii) and (iv) of this subsection are subject to the following conditions:

(A) Audits are commenced when the taxpayer receives written notice of the intended action;

(B) Prior to entering the premises of a taxpayer or third party, the taxpayer or third party shall be provided at least fourteen (14) days written notice;

(C) Audits are completed when the final findings are issued to the taxpayer by the department of audit;

(D) Unless otherwise agreed to in writing, audits shall be completed and the final audit findings issued to the taxpayer not later than the end of the month two (2) years after the audit is commenced;

(E) Any assessment or levy, including the assessment of a penalty and interest, if any, resulting from final audit findings or department review shall be issued within one (1) year following the completion of the audit or review;

(F) Upon receipt of department review findings, the taxpayer shall have sixty (60) days in which to submit a response.

(vi) Where there is evidence of gross negligence by the taxpayer in reporting and valuing production, an audit may examine prior years and issue assessments where gross negligence occurred. This section shall not apply to mine product valuation amendments to add the value of unreported production;

(vii) Audits shall commence within six (6) months immediately following the three (3) years following the reporting period and taxpayers shall keep accurate books and records of all production subject to taxes imposed by this article and determinations of taxable value as prescribed by W.S. 39-14-403(b) for a period of seven (7) years and make them available to department examiners for audit purposes. If the examination discloses evidence of gross negligence by the taxpayer in reporting and paying the tax, the department may examine all pertinent records for any reporting period without regard to the limitations set forth in paragraphs (vii) and (viii) of this subsection;

(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;

(ix) The state may employ auditors and obtain other technical assistance necessary to determine if the tax imposed by this article has been properly reported and paid.

(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 board of county commissioners shall first compute a net deficiency amount after subtracting any offsetting credit and then calculate any interest due;

(ii) Taxes are delinquent pursuant to paragraphs (iii) and (iv) of this subsection when a taxpayer or his agent knew or reasonably should have known that the total tax liability was not paid when due;

(iii) 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 until paid or collected;

(iv) Effective January 1, 1994, 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 on any mineral produced on or after January 1, 1994. 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 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. The interest rate on any delinquent mineral tax from any mineral produced before January 1, 1994, shall be eighteen percent (18%) per annum.

(d) Penalties. 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 penalty, the department or board of county commissioners shall first compute a net deficiency amount after subtracting any offsetting credit and then calculate any penalty due;

(ii) If any person fails to file the report required by W.S. 39-14-407(a)(i) by the due date or any extension thereof, the department may impose a penalty equal to a total of one percent (1%) of the taxable value of the production from the well, mine or mining claim but not to exceed five thousand dollars (\$5,000.00) for each calendar month or portion thereof that the report or information is late. If any person fails to file reports and other information required by rule of the department of revenue other than those required by W.S. 39-14-407(a)(iv) or 39-14-407(a)(i), the department may impose a penalty of up to one thousand dollars (\$1,000.00). The department may waive penalties under this paragraph for good cause. Penalties imposed under this paragraph may be appealed to the state board of equalization;

(iii) If any person fails to make or file a return and remit the tax as required by W.S. 39-14-407(a)(iv), the department shall impose a penalty of five percent (5%) of the taxes due for each thirty (30) day period, or fraction thereof, elapsing between the due date of the return and the date filed, unless the person for good cause obtains from the department an extension of time for filing prior to the due date for filing. In no event shall the total penalty imposed by this subsection exceed twenty-five percent (25%) of the tax due. The department, for good cause, may waive a penalty imposed for failure to file a return for any one (1) month in a calendar year, provided that:

(A) The return was filed within five (5) business days following the due date, including an approved extension period; and

(B) The taxpayer requests the waiver in writing within fifteen (15) days after the return was filed, setting forth the reasons for the late filing.

(iv) If any part of a tax deficiency is due to negligence or intentional disregard of rules and regulations, there shall be added a penalty of five percent (5%) of the amount of the deficiency plus interest as provided by paragraph (c)(iv) of this section. The taxes, penalty and interest shall be paid by the taxpayer within ten (10) days after receipt of notice and demand by the department;

(v) The department may credit or waive penalties imposed by paragraphs (iii) and (iv) of this subsection as part of a settlement or for any other good cause.

(e) Liens. The following shall apply:

(i) Repealed By Laws 2002, Ch. 50, § 2.

(ii) Repealed By Laws 2002, Ch. 50, § 2.

(iii) Repealed By Laws 2002, Ch. 50, § 2.

(iv) All taxes, fees, penalties and interest imposed under this article are an automatic and continuing lien in favor of the state of Wyoming. The lien is on all property in the state of Wyoming, real, tangible and intangible, including all after acquired property rights, future production and rights to property, of any person severing minerals in this state and who is liable under Wyoming law for the collection, payment or remittance of the severance tax and corresponding penalty or interest as of the date such taxes, fees, penalties or interest is due, and remains a lien until paid;

(v) A lien under this subsection is also a lien on all interests in the mineral estate from which the production was severed, and on all future production of the same mineral from the same leasehold, regardless of any change of ownership or change in the person extracting the mineral;

(vi) Any lien arising under this subsection is superior and paramount to all other liens, claims, mortgages or any other encumbrance of any kind except a lien, claim, mortgage or other encumbrance of record held by a bona fide creditor and properly perfected, filed or recorded under Wyoming law prior to the filing of a lien as provided by paragraph (viii) of this subsection;

(vii) The department may file a notice of lien at any time at its discretion, except no lien shall be enforced until the right of the taxpayer to file and properly perfect an appeal concerning the tax delinquent property before the state board of equalization has expired. A properly perfected appeal on the tax delinquent property before the state board of equalization or any subsequent properly perfected appeal on the same property to a district court or the supreme court shall stay enforcement of a lien filed by the department until such appeal has been exhausted or concluded;

(viii) In order to perfect a tax lien under this subsection, the department of revenue shall file a notice of the tax lien with the secretary of state. The notice of the tax lien shall contain:

(A) The name and last known address of the person or persons against whose property the lien is filed including, but not limited to, the person severing the mineral;

(B) The name and address of the department of revenue as the holder of the lien and the name of the contact person within the department;

(C) The amount of the tax, fees, penalties and interest owed the state of Wyoming;

(D) A statement that the amount of the unpaid tax, fees, penalties or interest is a lien on all property, real, tangible or intangible, including all after acquired property and rights to the property belonging to the person who severed the mineral and located within the state of Wyoming, as well as all interest in the mineral estate from which the production was severed and any future production from the same mineral leasehold.

(ix) No other action beyond that described in paragraph (viii) of this subsection shall be required to perfect a tax lien;

(x) The filing of the notice of the tax lien as described in paragraph (viii) of this subsection shall constitute record notice of the tax lien;

(xi) One (1) notice of the tax lien shall be deemed sufficient to cover all taxes, together with interest, fees and penalty of the same nature which may accrue after the filing of the notice;

(xii) Any tax lien created under this subsection and duly filed with the secretary of state shall survive the death or incapacitation of any person, and shall survive any other destruction or attempted destruction of any interest in property owned by any person liable under Wyoming law for the collection, payment or remittance of taxes, fees, penalties or interest to the state;

(xiii) In the event of foreclosure, the department of revenue shall be entitled to recover the costs of filing the lien, foreclosing on the lien and reasonable attorney's fees;

(xiv) All notice of tax liens shall be released within sixty (60) days after taxes, penalties and interest due are paid or collected;

(xv) Notwithstanding that the lien is a lien on all interests in the mineral estate from which the production was severed and on all future production from the same leasehold, the department may for good cause shown, release the lien on all property in this state, real, tangible and intangible, and settle delinquent taxes, interest and penalties to be collected against future production from that leasehold;

(xvi) The secretary of state is authorized and directed to maintain copies of all tax liens filed by the department of revenue pursuant to this chapter, and to maintain a data base of such tax liens and to provide copies to any person pursuant to the duties of the secretary of state as set forth in W.S. 9-1-301 et seq. All tax liens on file with any county in this state and in good standing on the effective date of this paragraph shall remain effective and in good standing. Within sixty (60)

days of the effective date of this paragraph, the director of the department of revenue shall transmit to the secretary of state for filing copies of all tax liens that the director seeks to have in continuing effect. Upon the filing of a copy of the tax lien with the secretary of state, the tax lien shall continue to be fully effective until released by the department of revenue.

(f) Tax sales. There are no specific applicable provisions for tax sales for this article.

**39-14-409. Taxpayer remedies.**

(a) Interpretation requests. The following shall apply:

(i) The taxpayer may request a value determination from the department and propose a value determination method which may be used until the department issues a value determination. The taxpayer shall submit all available data relevant to its proposal and any additional information the department deems necessary. After the department issues its determination, the taxpayer shall make adjustments based upon the value established or request a hearing by the board;

(ii) A taxpayer may request and the department shall provide written interpretations of these statutes and rules. When requesting an interpretation, a taxpayer must set forth the facts and circumstances pertinent to the issue. If the department deems the facts and circumstances provided to be insufficient, it may request additional information. A taxpayer may act in reliance upon a written interpretation through the end of the calendar year in which the interpretation was issued, or until revoked by the department, whichever occurs last if the pertinent facts and circumstances were substantially correct and fully disclosed.

(b) Appeals. The following shall apply:

(i) Following determination of the fair market value of property the department shall notify the taxpayer by mail of the assessed value. The person assessed may file written objections to the assessment with the board within thirty (30) days of the date of postmark and appear before the board at a time specified by the board. The person

assessed shall also file a copy of the written objections with the county treasurer of the county in which the property is located, who shall notify the county assessor and the board of county commissioners, with an estimate of the tax amount under appeal based upon the previous year's tax levy;

(ii) Mine product valuation amendments under this section may be appealed by the taxpayer to the board within thirty (30) days of the final administrative decision;

(iii) Any taxpayer who feels aggrieved by the valuation and taxes levied by this article may appeal to the board. The appeal does not relieve the taxpayer from paying the tax when due and payable nor does the payment invalidate the appeal. No restraining order or injunction shall be granted or issued by any court or judge to restrain or enjoin the collection of any tax, interest or penalty imposed by this article;

(iv) The state board of equalization shall perform the duties specified in article 15, section 10 of the Wyoming constitution and shall hear appeals from county boards of equalization and review final decisions of the department upon application of any interested person adversely affected, including boards of county commissioners for the purposes of this paragraph, under the contested case procedures of the Wyoming Administrative Procedure Act. Any interested person adversely affected by the adoption, amendment or repeal of a rule pursuant to W.S. 16-3-103(a) shall be afforded an opportunity for a hearing before the board;

(v) Any person including the state of Wyoming aggrieved by any order issued by the board, or any county board of equalization whose decision has been reversed or modified by the state board of equalization, may appeal the decision of the board to the district court of the county in which the property or some part thereof is situated.

(c) Refunds. The following shall apply:

(i) If any person pays any tax, or portion thereof, found to have been erroneous or illegal, the board of county commissioners shall direct the county treasurer to refund the erroneous or illegal payment to the taxpayer. When an increase in the value of any product is subject to

the approval of any agency of the United States of America or the state of Wyoming, or of any court, the increased value shall be subject to property taxation. In the event the increase in value is disapproved, either in whole or in part, then the amount of tax which has been paid on the disapproved part of the value shall be considered excess tax. Within one (1) year following the final determination of value, any person who has paid any such excess tax may apply for a refund, and the board of county commissioners shall refund the amount of excess tax paid;

(ii) If a taxpayer has reason to believe that taxes imposed by this article have been overpaid, a request for refund shall be filed with the department on forms it prescribes prior to the end of the fifth calendar year following the calendar year which included the month for which overpayment was made. Refunds of two thousand dollars (\$2,000.00), or less may be applied to subsequent payments for taxes imposed by this article. Requests for refunds exceeding two thousand dollars (\$2,000.00) shall be approved in writing by the department prior to the taxpayer receiving credit. All refunds granted are subject to modification or revocation upon audit.

(d) Credits. The following shall apply:

(i) Any refund may, at the discretion of the board of county commissioners, be made in the form of credit against future tax payments for a period not to exceed five (5) years. Unless otherwise agreed to by the taxpayer, refunds in the form of credit against future tax payments shall be made in no less than equal annual amounts. The board of county commissioners shall not provide a credit for interest on the excess tax paid unless the taxes are paid under protest due to an appeal pending before the state board of equalization and the taxpayer prevails in the appeal;

(ii) 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;

(iii) If a taxpayer overpaid taxes imposed by this article, the department shall allow a credit in the amount

of the overpayment to be taken on the taxpayer's subsequent monthly reports for the production year.

(e) Redemption. There are no specific applicable provisions for redemption for this article.

(f) Escrow. The following shall apply:

(i) If ad valorem taxes are paid under protest to the extent of and due to an appeal pending before the state board of equalization or any court of competent jurisdiction, the county treasurer shall deposit that protested amount under appeal in an interest bearing escrow account and withhold distribution until a final decision on the appeal has been rendered. To the extent the taxpayer prevails in the appeal, the county treasurer shall refund that amount under appeal, plus interest earned thereon, to the taxpayer within thirty (30) days from the day the final decision is rendered. If the taxpayer pays to the county an amount in excess of the protested amount under appeal, the excess shall be distributed as provided by law;

(ii) If severance taxes are paid under protest to the extent of and due to an appeal pending before the state board of equalization or any court of competent jurisdiction, the state treasurer shall deposit that protested amount under appeal in a separate interest bearing escrow account and withhold distribution until a final decision on the appeal has been rendered by the state board of equalization or the court. To the extent the taxpayer prevails in the appeal, the state treasurer shall refund that amount under appeal, plus interest earned thereon, to the taxpayer within thirty (30) days from the day the final decision is rendered. If the taxpayer pays to the state an amount in excess of the protested amount under appeal, the excess shall be distributed as provided by law;

(iii) This provision does not enlarge or curtail the ability of a taxpayer to appeal any department of revenue decision as otherwise provided for under this act.

**39-14-410. Statute of limitations.**

Except as otherwise provided in this article, there is no general statute of limitations for this article.

**39-14-411. Distribution.**

(a) As provided by W.S. 39-14-404, the total severance tax rate for bentonite shall be two percent (2%), and shall be deposited in the severance tax distribution account.

(b) All payments received pursuant to W.S. 39-14-407(b)(iii) shall be transferred to an account of the trust and agency fund. The monies in this account shall be invested or deposited in accordance with W.S. 9-4-701 through 9-4-831, and any interest earned shall be credited to the general fund. The revenue under W.S. 39-14-407(b)(iii) shall be distributed in accordance with subsection (a) of this section, subject to the following and except as otherwise provided by law for fiscal year 1994:

(i) Revenues earned during each fiscal year shall be recognized as revenue during that fiscal year for accounting purposes;

(ii) Revenues which are earned and received during the first three (3) calendar quarters of the fiscal year shall be distributed within the first fifteen (15) days of October, January and April. For the last quarter of each fiscal year, revenues earned or received shall be distributed not later than June 30. In computing distributions for the last quarter, the state treasurer shall use the most recent consensus revenue estimating group estimates to the extent that earnings cannot be determined by June 30. Not later than September 15, the state treasurer shall compute the actual earnings for the last quarter of the preceding fiscal year and make adjustments to the October distributions in an amount equal to the difference between revenues earned and actual distributions for the preceding fiscal year.

ARTICLE 5  
URANIUM

**39-14-501. Definitions.**

(a) As used in this article:

(i) "Arm's-length market or sales price" means the transaction price determined in connection with a bona fide arm's length sale;

(ii) "Bona fide arm's-length sale" means a transaction in cash or terms equivalent to cash for specified property rights after reasonable exposure in a competitive market between a willing, well informed and prudent buyer and seller with adverse economic interests and assuming neither party is acting under undue compulsion or duress;

(iii) "Department review" means, but is not limited to, corrections of clerical errors or reconciliations of tax reports with reports required by other state or federal agencies;

(iv) "Mine product valuation amendment" means a valuation adjustment determination made by the department including special directives;

(v) "Mining or production" means drilling, blasting, loading, roadwork, overburden removal, pre-mouth of the mine reclamation, transportation from the point of severance to the mouth of the mine, and maintenance of facilities and equipment directly relating to any of the functions stated in this paragraph;

(vi) "Mouth of the mine" means the point at which a mineral is brought to the surface of the ground and is taken out of the pit, shaft or portal. For a surface mine, this point shall be the top of the ramp where the road or conveying system leaves the pit. For an in situ mine, the point shall be the wellhead;

(vii) "Processing" means crushing, sizing, milling, washing, drying, refining, upgrading, beneficiation, sampling, testing, treating, heating, separating, tailings or reject material disposal, compressing, storing, loading for shipment, transportation from the mouth of the mine to the loadout, transportation to market to the extent included in the price and provided by the producer, processing plant site and post-mouth of mine reclamation, maintenance of facilities and equipment relating to any of the functions stated in this paragraph, and any other function after severance that changes the physical or chemical characteristics or enhances the marketability of the mineral;

(viii) "Purchaser" means the first purchaser who acquires the produced valuable uranium deposit from the taxpayer for value;

(ix) "Severance tax" means an excise tax imposed on the present and continuing privilege of removing, extracting, severing or producing any mineral in this state;

(x) Beginning January 1, 1989, "taxable value" means one hundred percent (100%) of the fair market value of the gross product of minerals and mine products;

(xi) "Unreported production" means production volume for which no tax report was filed for the reporting period by the taxpayer or his agent;

(xii) "Value of the gross product" means fair market value as prescribed by W.S. 39-11-101(a)(vi), less any deductions and exemption allowed by Wyoming law or rules.

**39-14-502. Administration; confidentiality.**

(a) The department shall annually value and assess the gross product of all mines and mining claims at its fair market value for taxation.

(b) The department shall annually value the gross product for the preceding calendar year, in appropriate unit measures of all mines and mining claims from which valuable deposits are produced.

(c) Annually, on or before June 1, or as soon thereafter as the fair market value is determined, the department shall certify the valuation determined by the department to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county.

(d) All taxpayer returns and return information shall be confidential and, except as authorized below, no current or former official, officer, employee or agent of the state of Wyoming or any political subdivision thereof shall disclose any such information obtained by him in connection with his service as an officer or employee.

(e) As used in this section, taxpayer returns and return information shall include, but not be limited to, all statements, reports, summaries and all other data and documents under audit or provided by the taxpayer in accordance with the provisions of W.S. 39-14-507(a) and related provision.

(f) Without written authorization from the taxpayer, no current or former official, officer, employee or agent of the state of Wyoming or any political subdivision thereof shall release taxpayer returns and return information pertaining to taxes imposed by this article, except:

(i) Information may be released to the governor or his designee, members of the board, to employees of the department of audit, the department of revenue, the consensus revenue estimating group and to the attorney general;

(ii) Upon prior notice to the taxpayer, information may be released by the department, upon written application, to any other governmental entity if the governmental entity shows sufficient reason to obtain the information for official business;

(iii) Information is admissible in court or administrative proceedings related to mineral taxes or government royalties.

(g) Any person receiving information pursuant to paragraph (f)(ii) of this section shall sign an agreement with the department to keep the information confidential.

(h) Units of production reported by the taxpayer and the taxpayer's taxable value are not confidential and may be released without qualification.

(j) Any person who negligently violates subsections (d) through (h) of this section is guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000.00). Any person who intentionally violates subsections (d) through (h) of this section is guilty of a misdemeanor and upon conviction shall be fined not less than one thousand dollars (\$1,000.00), but not more than five thousand dollars (\$5,000.00) and imprisoned for not more than one (1) year.

(k) Repealed By Laws 2000, Ch. 68, § 1.

**39-14-503. Imposition.**

(a) Taxable event. The following shall apply:

(i) There is levied a severance tax on the value of the gross product for the privilege of severing or extracting uranium in the state. The severance tax imposed by this article may be in addition to other taxes, including but not limited to the ad valorem taxes imposed by W.S. 39-13-104.

(b) Basis of tax (valuation). The following shall apply:

(i) Uranium shall be valued for taxation as provided in this section;

(ii) The value of the gross product shall be the fair market value of the product at the mouth of the mine where produced, after the mining or production process is completed;

(iii) Except as otherwise provided, the mining or production process is deemed completed when mineral product reaches the mouth of the mine. In no event shall the value of the mineral product include any processing functions or operations regardless of where the processing is performed;

(iv) In the event the product as provided by paragraph (iii) of this subsection is sold at the mouth of the mine without further movement or processing, the fair market value shall be the price established by bona fide arms-length sale less exempt royalties;

(v) In the event the mineral product as provided by paragraph (iii) of this subsection is not sold at the mouth of the mine by a bona fide arms-length sale, or, except as otherwise provided, if the product of the mine is used without sale, the department shall determine the fair market value of uranium in accordance with paragraph (vi) or (vii) of this subsection;

(vi) The department shall calculate the fair market value of uranium by multiplying the individual producer's

sales value of yellow cake less all royalties, ad valorem production taxes, and severance taxes multiplied by the industry factor. The industry factor shall be an average of all uranium producers' ratios of total mining costs to total mining and processing costs incurred to produce yellow cake calculated by the department. Nonexempt royalties, ad valorem production taxes and severance taxes shall then be added to determine taxable value. For purposes of this paragraph:

(A) Total mining costs for in situ mines include labor, including mine foremen and supervisory personnel whose primary function is the extraction of uranium, supplies, equipment depreciation and maintenance, fuel, power and other utilities, uranium transportation to the point of valuation, indirect costs related to extraction and any other costs incurred prior to the point of valuation that are specifically attributable to the installation of the well field, pumps used for extraction or injection, or any other extraction activity;

(B) Total mining costs for conventional surface and underground mines include labor, including mine foremen and supervisory personnel whose primary function is the extraction of uranium, supplies, equipment depreciation and maintenance, fuel, power and other utilities, uranium transportation to the point of valuation, indirect costs related to extraction and any other costs incurred prior to the point of valuation that are specifically attributable to the excavation and transportation of ore to the mine mouth;

(C) Total mining and processing costs include mining costs determined under subparagraph (A) or (B) of this paragraph plus mineral processing labor including plant foremen and supervisory personnel whose primary responsibility is processing uranium, supplies used for processing, processing plant and equipment depreciation, fuel, power and other utilities used for processing, maintenance of processing equipment, uranium transportation from the mouth of the mine to the point of shipment, indirect processing costs and any other costs incurred that are specifically attributable to the mining or processing of uranium up to the point of sale f.o.b. the mine;

(D) Indirect costs include but are not limited to allocations of corporate overhead, data processing costs,

accounting, legal and clerical costs and other general and administrative costs which cannot be specifically attributed to an operational function without allocation. Indirect costs shall be allocated using methods in accordance with generally accepted accounting principles. Similar costs shall be allocated using the same method for each producer;

(E) The industry factor shall be recomputed at four (4) year intervals and will be based on an average of the four (4) prior years' cost data. The new ratio shall be effective prospectively.

(vii) In the event that unique or unusual circumstances exist such that the department or the taxpayer is unable to determine the value of the gross product of uranium from a mine or mining claim by application of the methods provided in this subsection, the taxpayer may petition the department for approval to use an alternate valuation method. The department shall approve or deny the use of an alternate valuation method and shall so inform the parties within forty-five (45) days of the date the petition is filed.

(c) Taxpayer. The following shall apply:

(i) In the case of the gross product of all mines and mining claims produced under lease, the lessor is liable for the payment of ad valorem taxes on the product removed only to the extent of the lessor's retained interest under the lease, whether royalty or otherwise, and the lessee or his assignee is liable for all other property taxes due on production under the lease;

(ii) Any taxpayer paying the taxes imposed by this article on any valuable deposit may deduct the severance taxes paid from any amounts due or to become due to the interest owners of such valuable deposit in proportion to the interest ownership;

(iii) Any person extracting valuable products subject to this article and any person owning an interest in the valuable products to the extent of their interest ownership are liable for the payment of the severance taxes imposed by this article together with any penalties and interest.

**39-14-504. Tax rate.**

(a) The total severance tax rate for uranium shall be four percent (4%). The tax shall be distributed as provided in W.S. 39-14-511 and is imposed as follows:

- (i) Two percent (2%); plus
- (ii) Two percent (2%).

**39-14-505. Exemptions.**

(a) All uranium production occurring after January 1, 1995, and before March 31, 2009, is exempt from the tax provided in W.S. 39-14-504, except there is levied upon the privilege of severing or extracting uranium an excise tax on the value of the gross product extracted beginning with the month that follows six (6) consecutive months at which the spot market price per pound of nonenriched uranium concentrate is at least fourteen United States dollars (\$14.00) as determined by an average of the following international indexes or their successors quoting the monthly price of nonenriched uranium:

- (i) Nuexco exchange value;
- (ii) Nukem price range;
- (iii) Ux U308 spot price.

(b) For purposes of subsection (a) of this section the spot market price of uranium used in this table is the price per pound on nonenriched uranium concentrate (U308). The excise tax in subsection (a) of this section, shall be applied in accordance with the following table:

Uranium Spot Market Price	Tax Applied
\$14.00 to \$15.00	1%
\$15.01 to \$16.00	2%
\$16.01 to \$17.99	3%
\$18.00 or more	4%

**39-14-506. Licenses; permits.**

There are no specific applicable provisions for licenses and permits for this chapter.

**39-14-507. Compliance; collection procedures.**

(a) Returns, reports. The following shall apply:

(i) Annually, on or before February 25 of the year following the year of production any person whose property is subject to W.S. 39-14-502(a) shall sign under oath and submit a statement listing the information relative to the property and affairs of the company as the department may require to assess the property;

(ii) All information and reports shall be notarized and signed by a person who has legal authority to bind the taxpayer;

(iii) For mines and mining claims, the department may presume that the property is located in the county in which production is reported by the taxpayer. The department shall not direct any county to provide relief for taxes paid on taxable valuation which was erroneously reported and certified to the wrong county unless the taxpayer files or is directed to file amended returns within two (2) years of the date of the original certification of the production. Unless there is evidence of bad faith or willful disregard of production circumstances, no taxpayer shall be required to pay taxes on production which was erroneously reported and certified to the wrong county if relief for taxes paid is not allowed under this provision;

(iv) Except as provided in paragraph (v) of this subsection, each taxpayer liable for severance taxes under W.S. 39-14-503 shall report monthly to the department. The monthly tax reports are due on or before the twenty-fifth day of the second month following the month of production. Reports shall be filed on forms prescribed by the department. The department may allow extensions for filing returns by regulation;

(v) If a taxpayer's liability for severance tax imposed under this article is less than thirty thousand dollars (\$30,000.00) for the preceding calendar year, monthly reporting requirements are waived and the taxpayer shall report annually. The annual report is due on February 25 of the year following the year in which production occurred. If a taxpayer who reports annually accumulates an

annual liability exceeding thirty thousand dollars (\$30,000.00), that taxpayer shall commence reporting monthly as provided in paragraph (iv) of this subsection during the production year following the year in which the accumulated tax liability exceeded thirty thousand dollars (\$30,000.00). It is the taxpayer's responsibility to notify the department concerning the change from annual to monthly reporting requirements or from monthly to annual reporting;

(vi) For mines and mining claims, the taxpayer shall report the location of the production to the county and tax district in which the mine or mining claim is located, based upon the actual taxable production produced by the mine in each county or tax district. Other reasonable methods of reporting the location of production may be approved by the department upon written request of the taxpayer or taxing jurisdiction.

(b) Payment. The following shall apply:

(i) Annually, on or before October 10 the county treasurer shall send a written statement in sealed envelopes of total tax due, itemized as to property description, assessed value and mill levies, to each taxpayer at his last known address. Failure to send notice, or to demand payment of taxes, does not invalidate any taxes due;

(ii) Ad valorem taxes provided by this act are due and payable at the office of the county treasurer of the county in which the taxes are levied. Fifty percent (50%) of the taxes are due on and after September 1 and payable on and after November 10 in each year and the remaining fifty percent (50%) of the taxes are due on and after March 1 and payable on and after May 10 of the succeeding calendar year except as hereafter provided. If the entire tax is paid on or before December 31, no interest or penalty is chargeable;

(iii) Except as provided in paragraph (iv) of this subsection, each taxpayer liable for a severance tax under W.S. 39-14-503(a) shall pay monthly tax payments to the department. The payment shall be determined by the taxpayer based on the value of the gross product produced and saved during the second preceding month, and tax computed on value at rates prescribed in this article. The monthly tax payments are due on or before the twenty-fifth day of the

second month following the month of production. If the report the taxpayer is required to file shows tax due, the taxpayer shall pay the tax due when the report is filed. The department may allow extensions for paying taxes by regulation. The department may, if an extension is granted, request the payment of the reasonable estimate of ninety percent (90%) of the tax by the statutory due date, with the remaining tax remitted with the extended return;

(iv) If a taxpayer's liability for severance tax imposed under this article is less than thirty thousand dollars (\$30,000.00) for the preceding calendar year, monthly payment requirements are waived and the taxpayer shall pay the tax annually. The annual payment is due on February 25 of the year following the year in which production occurred. If a taxpayer who pays annually accumulates an annual liability exceeding thirty thousand dollars (\$30,000.00), that taxpayer shall commence remitting tax payments as provided in paragraph (iii) of this subsection during the production year following the year in which the accumulated tax liability exceeded thirty thousand dollars (\$30,000.00). It is the taxpayer's responsibility to notify the department concerning the change from annual to monthly payment requirements or from monthly to annual payment.

(c) Timelines. Except as otherwise specifically provided, there are no general applicable provisions for timelines for this article.

**39-14-508. Enforcement.**

(a) General. The following shall apply:

(i) If the statement provided by W.S. 39-14-507(a)(i) is not filed, the department shall value the property from the best information available. The department may use information other than contained in the statement provided by W.S. 39-14-507(a)(i) to determine the fair market value of the property provided by W.S. 39-14-502(a);

(ii) When a taxpayer producing valuable deposits fails to pay the taxes imposed by this article when due, the purchaser of the produced valuable deposit shall withhold and remit to the department the taxpayer's subsequently accruing taxes on the produced valuable

deposit acquired by the purchaser. This provision is subject to the following conditions:

(A) The department shall notify the purchaser and taxpayer in writing on or before the first day of the production month for which subsequent taxes are due that the purchaser shall begin remitting taxes to the department as provided in W.S. 39-14-507(b)(iii);

(B) The department shall notify the purchaser in writing of the proper rates for calculating taxes due and the percentage of the produced valuable deposit subject to taxation by this article;

(C) The amount of tax paid by a purchaser to the department, as required by this paragraph, shall offset and satisfy all claims for payments for the purchase of produced valuable deposits to the extent of the tax payment;

(D) This paragraph shall not apply under circumstances where the purchaser is required to continue payments due to legal proceedings;

(E) This paragraph shall not apply until after the purchaser has been notified in writing that subsequent accruing taxes will be payable by the purchaser.

(iii) Severance taxes due together with interest, penalties and costs shall be collectible by the department by appropriate judicial proceedings.

(b) Audits. The following shall apply:

(i) The department may employ examiners and obtain other technical services, to investigate and examine the books and records of any person paying taxes imposed under W.S. 39-13-101 through 39-13-111. The department shall notify the county assessor of any change in valuation as determined by audits, examinations or investigations establishing:

(A) Taxable volumes or values were not accurately reported;

(B) Clerical errors were made in determining taxable volumes or values;

(C) Taxable volumes or values for the year that production occurred were not calculated in compliance with Wyoming statutes or rules governing the determinations; or

(D) Additional payment for production was received and not reported whether such payment was received in the year of production or in subsequent years.

(ii) Effective until March 1, 1994, the department is authorized to rely on final audit findings under W.S. 9-2-2003, taxpayer amended returns or department review, and to certify mine product valuation amendments for production in calendar year 1985 and thereafter, to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county and taxes computed and collected thereon subject to appeal under W.S. 39-14-509(b)(ii);

(iii) Commencing January 1, 2003, the department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to certify mine product valuation amendments to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county and taxes computed and collected thereon subject to appeal under W.S. 39-14-509(b)(ii), provided that the return is filed within three (3) years from the date the production should have been or was reported pursuant to W.S. 39-14-507(a)(i), whichever is later, and that the audit or review commenced within the time period as required by paragraph (vii) of this subsection;

(iv) The department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to assess deficient severance tax payments, interest and penalty, if any, for the same periods governing mine product valuation amendments pursuant to paragraphs (ii) and (iii) of this subsection;

(v) All audits or department reviews, as applicable, pursuant to paragraphs (ii), (iii) and (iv) of this subsection are subject to the following conditions:

(A) Audits are commenced when the taxpayer receives written notice of the intended action;

(B) Prior to entering the premises of a taxpayer or third party, the taxpayer or third party shall be provided at least fourteen (14) days written notice;

(C) Audits are completed when the final findings are issued to the taxpayer by the department of audit;

(D) Unless otherwise agreed to in writing, audits shall be completed and the final audit findings issued to the taxpayer not later than the end of the month two (2) years after the audit is commenced;

(E) Any assessment or levy, including the assessment of a penalty and interest, if any, resulting from final audit findings or department review shall be issued within one (1) year following the completion of the audit or review;

(F) Upon receipt of department review findings, the taxpayer shall have sixty (60) days in which to submit a response.

(vi) Where there is evidence of gross negligence by the taxpayer in reporting and valuing production, an audit may examine prior years and issue assessments where gross negligence occurred. This section shall not apply to mine product valuation amendments to add the value of unreported production;

(vii) Audits provided by this article shall commence within six (6) months immediately following the three (3) years following the reporting period and taxpayers shall keep accurate books and records of all production subject to taxes imposed by this article and determinations of taxable value as prescribed by W.S. 39-14-503(b) for a period of seven (7) years and make them available to department examiners for audit purposes. If the examination discloses evidence of gross negligence by the taxpayer in reporting and paying the tax, the department may examine all pertinent records for any reporting period without regard to the limitations set forth in paragraphs (vii) and (viii) of this subsection;

(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;

(ix) The state may employ auditors and obtain other technical assistance necessary to determine if the tax imposed by this article has been properly reported and paid.

(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 board of county commissioners shall first compute a net deficiency amount after subtracting any offsetting credit and then calculate any interest due;

(ii) Taxes are delinquent pursuant to paragraphs (iii) and (iv) of this subsection when a taxpayer or his agent knew or reasonably should have known that the total tax liability was not paid when due;

(iii) 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 until paid or collected;

(iv) Effective January 1, 1994, 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 on any mineral produced on or after January 1, 1994. 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 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. The interest rate on any delinquent mineral tax from any mineral produced before January 1, 1994, shall be eighteen percent (18%) per annum.

(d) Penalties. 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 penalty, the department or board of county commissioners shall first compute a net deficiency amount after subtracting any offsetting credit and then calculate any penalty due;

(ii) If any person fails to file the report required by W.S. 39-14-507(a)(i) by the due date or any extension thereof, the department may impose a penalty equal to a total of one percent (1%) of the taxable value of the production from the well, mine or mining claim but not to exceed five thousand dollars (\$5,000.00) for each calendar month or portion thereof that the report or information is late. If any person fails to file reports and other information required by rule of the department of revenue other than those required by W.S. 39-14-507(a)(iv) or 39-14-507(a)(i), the department may impose a penalty of up to one thousand dollars (\$1,000.00). The department may waive penalties under this paragraph for good cause. Penalties imposed under this paragraph may be appealed to the state board of equalization;

(iii) If any person fails to make or file a return and remit the tax as required by W.S. 39-14-507, the department shall impose a penalty of five percent (5%) of the taxes due for each thirty (30) day period, or fraction thereof, elapsing between the due date of the return and the date filed, unless the person for good cause obtains from the department an extension of time for filing prior to the due date for filing. In no event shall the total penalty imposed by this subsection exceed twenty-five percent (25%) of the tax due. The department, for good cause, may waive a penalty imposed for failure to file a

return for any one (1) month in a calendar year, provided that:

(A) The return was filed within five (5) business days following the due date, including an approved extension period; and

(B) The taxpayer requests the waiver in writing within fifteen (15) days after the return was filed, setting forth the reasons for the late filing.

(iv) If any part of a tax deficiency is due to negligence or intentional disregard of rules and regulations, there shall be added a penalty of five percent (5%) of the amount of the deficiency plus interest as provided by paragraph (c)(iv) of this subsection. The taxes, penalty and interest shall be paid by the taxpayer within ten (10) days after receipt of notice and demand by the department;

(v) The department may credit or waive penalties imposed by paragraphs (iii) and (iv) of this subsection as part of a settlement or for any other good cause.

(e) Liens. The following shall apply:

(i) Repealed By Laws 2002, Ch. 50, § 2.

(ii) Repealed By Laws 2002, Ch. 50, § 2.

(iii) Repealed By Laws 2002, Ch. 50, § 2.

(iv) All taxes, fees, penalties and interest imposed under this article are an automatic and continuing lien in favor of the state of Wyoming. The lien is on all property in the state of Wyoming, real, tangible and intangible, including all after acquired property rights, future production and rights to property, of any person severing minerals in this state and who is liable under Wyoming law for the collection, payment or remittance of the severance tax and corresponding penalty or interest as of the date such taxes, fees, penalties or interest is due, and remains a lien until paid;

(v) A lien under this subsection is also a lien on all interests in the mineral estate from which the production was severed, and on all future production of the same mineral from the same leasehold, regardless of any

change of ownership or change in the person extracting the mineral;

(vi) Any lien arising under this subsection is superior and paramount to all other liens, claims, mortgages or any other encumbrance of any kind except a lien, claim, mortgage or other encumbrance of record held by a bona fide creditor and properly perfected, filed or recorded under Wyoming law prior to the filing of a lien as provided by paragraph (viii) of this subsection;

(vii) The department may file a notice of lien at any time at its discretion, except no lien shall be enforced until the right of the taxpayer to file and properly perfect an appeal concerning the tax delinquent property before the state board of equalization has expired. A properly perfected appeal on the tax delinquent property before the state board of equalization or any subsequent properly perfected appeal on the same property to a district court or the supreme court shall stay enforcement of a lien filed by the department until such appeal has been exhausted or concluded;

(viii) In order to perfect a tax lien under this subsection, the department of revenue shall file a notice of the tax lien with the secretary of state. The notice of the tax lien shall contain:

(A) The name and last known address of the person or persons against whose property the lien is filed including, but not limited to, the person severing the mineral;

(B) The name and address of the department of revenue as the holder of the lien and the name of the contact person within the department;

(C) The amount of the tax, fees, penalties and interest owed the state of Wyoming;

(D) A statement that the amount of the unpaid tax, fees, penalties or interest is a lien on all property, real, tangible or intangible, including all after acquired property and rights to the property belonging to the person who severed the mineral and located within the state of Wyoming, as well as all interest in the mineral estate from which the production was severed and any future production from the same mineral leasehold.

(ix) No other action beyond that described in paragraph (viii) of this subsection shall be required to perfect a tax lien;

(x) The filing of the notice of the tax lien as described in paragraph (viii) of this subsection shall constitute record notice of the tax lien;

(xi) One (1) notice of the tax lien shall be deemed sufficient to cover all taxes, together with interest, fees and penalty of the same nature which may accrue after the filing of the notice;

(xii) Any tax lien created under this subsection and duly filed with the secretary of state shall survive the death or incapacitation of any person, and shall survive any other destruction or attempted destruction of any interest in property owned by any person liable under Wyoming law for the collection, payment or remittance of taxes, fees, penalties or interest to the state;

(xiii) In the event of foreclosure, the department of revenue shall be entitled to recover the costs of filing the lien, foreclosing on the lien and reasonable attorney's fees;

(xiv) All notice of tax liens shall be released within sixty (60) days after taxes, penalties and interest due are paid or collected;

(xv) Notwithstanding that the lien is a lien on all interests in the mineral estate from which the production was severed and on all future production from the same leasehold, the department may for good cause shown, release the lien on all property in this state, real, tangible and intangible, and settle delinquent taxes, interest and penalties to be collected against future production from that leasehold;

(xvi) The secretary of state is authorized and directed to maintain copies of all tax liens filed by the department of revenue pursuant to this chapter, and to maintain a data base of such tax liens and to provide copies to any person pursuant to the duties of the secretary of state as set forth in W.S. 9-1-301 et seq. All tax liens on file with any county in this state and in good standing on the effective date of this paragraph shall

remain effective and in good standing. Within sixty (60) days of the effective date of this paragraph, the director of the department of revenue shall transmit to the secretary of state for filing copies of all tax liens that the director seeks to have in continuing effect. Upon the filing of a copy of the tax lien with the secretary of state, the tax lien shall continue to be fully effective until released by the department of revenue.

(f) Tax sales. There are no specific applicable provisions for tax sales for this article.

**39-14-509. Taxpayer remedies.**

(a) Interpretation requests. The following shall apply:

(i) The taxpayer may request a value determination from the department and propose a value determination method which may be used until the department issues a value determination. The taxpayer shall submit all available data relevant to its proposal and any additional information the department deems necessary. After the department issues its determination, the taxpayer shall make adjustments based upon the value established or request a hearing by the board;

(ii) A taxpayer may request and the department shall provide written interpretations of these statutes and rules. When requesting an interpretation, a taxpayer must set forth the facts and circumstances pertinent to the issue. If the department deems the facts and circumstances provided to be insufficient, it may request additional information. A taxpayer may act in reliance upon a written interpretation through the end of the calendar year in which the interpretation was issued, or until revoked by the department, whichever occurs last if the pertinent facts and circumstances were substantially correct and fully disclosed.

(b) Appeals. The following shall apply:

(i) Following determination of the fair market value of property the department shall notify the taxpayer by mail of the assessed value. The person assessed may file written objections to the assessment with the board within thirty (30) days of the date of postmark and appear before

the board at a time specified by the board. The person assessed shall also file a copy of the written objections with the county treasurer of the county in which the property is located, who shall notify the county assessor and the board of county commissioners, with an estimate of the tax amount under appeal based upon the previous year's tax levy;

(ii) Mine product valuation amendments under this section may be appealed by the taxpayer to the board within thirty (30) days of the final administrative decision;

(iii) Any taxpayer who feels aggrieved by the valuation and taxes levied by this article may appeal to the board. The appeal does not relieve the taxpayer from paying the tax when due and payable nor does the payment invalidate the appeal. No restraining order or injunction shall be granted or issued by any court or judge to restrain or enjoin the collection of any tax, interest or penalty imposed by this article;

(iv) The state board of equalization shall perform the duties specified in article 15, section 10 of the Wyoming constitution and shall hear appeals from county boards of equalization and review final decisions of the department upon application of any interested person adversely affected, including boards of county commissioners for the purposes of this subsection, under the contested case procedures of the Wyoming Administrative Procedure Act. Any interested person adversely affected by the adoption, amendment or repeal of a rule pursuant to W.S. 16-3-103(a) shall be afforded an opportunity for a hearing before the board;

(v) Any person including the state of Wyoming aggrieved by any order issued by the board, or any county board of equalization whose decision has been reversed or modified by the state board of equalization, may appeal the decision of the board to the district court of the county in which the property or some part thereof is situated.

(c) Refunds. The following shall apply:

(i) If any person pays any tax, or portion thereof, found to have been erroneous or illegal, the board of county commissioners shall direct the county treasurer to refund the erroneous or illegal payment to the taxpayer.

When an increase in the value of any product is subject to the approval of any agency of the United States of America or the state of Wyoming, or of any court, the increased value shall be subject to property taxation. In the event the increase in value is disapproved, either in whole or in part, then the amount of tax which has been paid on the disapproved part of the value shall be considered excess tax. Within one (1) year following the final determination of value, any person who has paid any such excess tax may apply for a refund, and the board of county commissioners shall refund the amount of excess tax paid;

(ii) If a taxpayer has reason to believe that taxes imposed by this article have been overpaid, a request for refund shall be filed with the department on forms it prescribes prior to the end of the fifth calendar year following the calendar year which included the month for which overpayment was made. Refunds of two thousand dollars (\$2,000.00), or less may be applied to subsequent payments for taxes imposed by this article. Requests for refunds exceeding two thousand dollars (\$2,000.00) shall be approved in writing by the department prior to the taxpayer receiving credit. All refunds granted are subject to modification or revocation upon audit.

(d) Credits. The following shall apply:

(i) Any refund may, at the discretion of the board of county commissioners, be made in the form of credit against future tax payments for a period not to exceed five (5) years. Unless otherwise agreed to by the taxpayer, refunds in the form of credit against future tax payments shall be made in no less than equal annual amounts. The board of county commissioners shall not provide a credit for interest on the excess tax paid unless the taxes are paid under protest due to an appeal pending before the state board of equalization and the taxpayer prevails in the appeal;

(ii) 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;

(iii) If a taxpayer overpaid taxes imposed by this article, the department shall allow a credit in the amount

of the overpayment to be taken on the taxpayer's subsequent monthly reports for the production year.

(e) Redemption. There are no specific applicable provisions for redemption for this article.

(f) Escrow. The following shall apply:

(i) If ad valorem taxes are paid under protest to the extent of and due to an appeal pending before the state board of equalization or any court of competent jurisdiction, the county treasurer shall deposit that protested amount under appeal in an interest bearing escrow account and withhold distribution until a final decision on the appeal has been rendered. To the extent the taxpayer prevails in the appeal, the county treasurer shall refund that amount under appeal, plus interest earned thereon, to the taxpayer within thirty (30) days from the day the final decision is rendered. If the taxpayer pays to the county an amount in excess of the protested amount under appeal, the excess shall be distributed as provided by law;

(ii) If severance taxes are paid under protest to the extent of and due to an appeal pending before the state board of equalization or any court of competent jurisdiction, the state treasurer shall deposit that protested amount under appeal in a separate interest bearing escrow account and withhold distribution until a final decision on the appeal has been rendered by the state board of equalization or the court. To the extent the taxpayer prevails in the appeal, the state treasurer shall refund that amount under appeal, plus interest earned thereon, to the taxpayer within thirty (30) days from the day the final decision is rendered. If the taxpayer pays to the state an amount in excess of the protested amount under appeal, the excess shall be distributed as provided by law;

(iii) This provision does not enlarge or curtail the ability of a taxpayer to appeal any department of revenue decision as otherwise provided for under this act.

**39-14-510. Statute of limitations.**

Except as otherwise provided in this article, there is no general statute of limitations for this article.

**39-14-511. Distribution.**

(a) As provided by W.S. 39-14-504(a), the total severance tax rate for uranium shall be four percent (4%). The taxes imposed by W.S. 39-14-504(a) shall be deposited into the severance tax distribution account.

(b) Repealed By Laws 2002, Ch. 62, § 2.

(c) All payments received pursuant to W.S. 39-14-507(b)(iii) shall be transferred to an account of the trust and agency fund. The monies in this account shall be invested or deposited in accordance with W.S. 9-4-701 through 9-4-831, and any interest earned shall be credited to the general fund. The revenue under W.S. 39-14-507(b)(iii) shall be distributed in accordance with subsections (a) and (b) of this section, subject to the following and except as otherwise provided by law for fiscal year 1994:

(i) Revenues earned during each fiscal year shall be recognized as revenue during that fiscal year for accounting purposes;

(ii) Revenues which are earned and received during the first three (3) calendar quarters of the fiscal year shall be distributed within the first fifteen (15) days of October, January and April. For the last quarter of each fiscal year, revenues earned or received shall be distributed not later than June 30. In computing distributions for the last quarter, the state treasurer shall use the most recent consensus revenue estimating group estimates to the extent that earnings cannot be determined by June 30. Not later than September 15, the state treasurer shall compute the actual earnings for the last quarter of the preceding fiscal year and make adjustments to the October distributions in an amount equal to the difference between revenues earned and actual distributions for the preceding fiscal year.

(d) For the period commencing after January 1, 1995, and ending before March 31, 2003, the taxes collected pursuant to W.S. 39-14-505(b) shall be deposited into the severance tax distribution account.

ARTICLE 6  
SAND AND GRAVEL

**39-14-601. Definitions.**

(a) As used in this article:

(i) "Arm's-length market or sales price" means the transaction price determined in connection with a bona fide arm's length sale;

(ii) "Bona fide arm's-length sale" means a transaction in cash or terms equivalent to cash for specified property rights after reasonable exposure in a competitive market between a willing, well informed and prudent buyer and seller with adverse economic interests and assuming neither party is acting under undue compulsion or duress;

(iii) "Department review" means, but is not limited to, corrections of clerical errors or reconciliations of tax reports with reports required by other state or federal agencies;

(iv) "Mine product valuation amendment" means a valuation adjustment determination made by the department including special directives;

(v) "Mining or production" means drilling, blasting, loading, roadwork, overburden removal, pre-mouth of the mine reclamation, transportation from the point of severance to the mouth of the mine, and maintenance of facilities and equipment directly relating to any of the functions stated in this paragraph;

(vi) "Mouth of the mine" means the point at which a mineral is brought to the surface of the ground and is taken out of the pit, shaft or portal. For a surface mine, this point shall be the top of the ramp where the road or conveying system leaves the pit. For an in situ mine, the point shall be the wellhead;

(vii) "Processing" means crushing, sizing, milling, washing, drying, refining, upgrading, beneficiation, sampling, testing, treating, heating, separating, tailings or reject material disposal, compressing, storing, loading for shipment, transportation from the mouth of the mine to the loadout, transportation to market to the extent included in the price and provided by the producer, processing plant site and post-mouth of mine reclamation, maintenance of facilities and equipment relating to any of

the functions stated in this paragraph, and any other function after severance that changes the physical or chemical characteristics or enhances the marketability of the mineral;

(viii) "Purchaser" means the first purchaser who acquires the produced valuable sand or gravel deposit from the taxpayer for value;

(ix) "Severance tax" means an excise tax imposed on the present and continuing privilege of removing, extracting, severing or producing any mineral in this state;

(x) Beginning January 1, 1989, "taxable value" means one hundred percent (100%) of the fair market value of the gross product of minerals and mine products;

(xi) "Unreported production" means production volume for which no tax report was filed for the reporting period by the taxpayer or his agent;

(xii) "Value of the gross product" means fair market value as prescribed by W.S. 39-11-101(a)(vi), less any deductions and exemption allowed by Wyoming law or rules.

**39-14-602. Administration; confidentiality.**

(a) The department shall annually value and assess the gross product of all mines and mining claims at its fair market value for taxation.

(b) The department shall annually value the gross product for the preceding calendar year, in appropriate unit measures of all mines and mining claims from which valuable deposits are produced.

(c) Annually, on or before June 1, or as soon thereafter as the fair market value is determined, the department shall certify the valuation determined by the department to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county.

(d) All taxpayer returns and return information shall be confidential and, except as authorized below, no current or former official, officer, employee or agent of the state

of Wyoming or any political subdivision thereof shall disclose any such information obtained by him in connection with his service as an officer or employee.

(e) As used in this section, taxpayer returns and return information shall include, but not be limited to, all statements, reports, summaries and all other data and documents under audit or provided by the taxpayer in accordance with the provisions of W.S. 39-14-607(a) and related provision.

(f) Without written authorization from the taxpayer, no current or former official, officer, employee or agent of the state of Wyoming or any political subdivision thereof shall release taxpayer returns and return information pertaining to taxes imposed by this article, except:

(i) Information may be released to the governor or his designee, members of the board, to employees of the department of audit, the department of revenue, the consensus revenue estimating group and to the attorney general;

(ii) Upon prior notice to the taxpayer, information may be released by the department, upon written application, to any other governmental entity if the governmental entity shows sufficient reason to obtain the information for official business;

(iii) Information is admissible in court or administrative proceedings related to mineral taxes or government royalties.

(g) Any person receiving information pursuant to paragraph (f)(ii) of this section shall sign an agreement with the department to keep the information confidential.

(h) Units of production reported by the taxpayer and the taxpayer's taxable value are not confidential and may be released without qualification.

(j) Any person who negligently violates subsections (d) through (h) of this section is guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000.00). Any person who intentionally violates subsections (d) through (h) of this section is

guilty of a misdemeanor and upon conviction shall be fined not less than one thousand dollars (\$1,000.00), but not more than five thousand dollars (\$5,000.00) and imprisoned for not more than one (1) year.

(k) Repealed By Laws 2000, Ch. 68, § 1.

**39-14-603. Imposition.**

(a) Taxable event. The following shall apply:

(i) There is levied a severance tax on the value of the gross product for the privilege of severing or extracting sand and gravel in the state. The severance tax imposed by this article may be in addition to other taxes, including but not limited to the ad valorem taxes imposed by W.S. 39-13-104.

(b) Basis of tax (valuation). The following shall apply:

(i) Sand and gravel shall be valued for taxation as provided in this subsection. For purposes of this subsection, the term "sand and gravel" includes aggregates used in construction. Based upon the information received or procured pursuant to W.S. 39-14-607(a)(i) or 39-14-608(a)(i), the department shall annually value the gross product for the preceding calendar year, in appropriate unit measures of all mines and mining claims from which valuable deposits are produced, at the fair market value of the product at the mouth of the pit or quarry where produced, after the mining or production process is completed;

(ii) In the event the sand and gravel are sold at the mouth of the pit or quarry without further movement or processing, the fair market value shall be the price established by bona fide arms-length sale less exempt royalty;

(iii) In the event the sand and gravel are not sold at the mouth of the pit or quarry by a bona fide arms-length sale, or, except as otherwise provided, if the product of the pit or quarry is used without sale, the department shall determine the fair market value of sand and gravel in accordance with paragraph (iv) or (v) of this subsection;

(iv) For sand and gravel sold away from the mouth of the mine pursuant to a bona fide arms-length sale the department shall calculate the fair market value by multiplying the sales value of the sand and gravel less exempt royalties by twenty-five hundredths (0.25);

(v) For sand and gravel used without sale or not sold pursuant to a bona fide arms-length agreement the fair market value shall be the fair market value of sand and gravel which is comparable in quality, quantity, terms and conditions under which the sand and gravel is being used or sold;

(vi) The value of the gross product shall be the fair market value of the product at the mouth of the mine where produced, after the mining or production process is completed;

(vii) Except as otherwise provided, the mining or production process is deemed completed when the mineral product reaches the mouth of the mine. In no event shall the value of the mineral product include any processing functions or operations regardless of where the processing is performed;

(viii) Except as otherwise provided, if the product as provided in paragraph (vii) of this subsection is sold at the mouth of the mine, the fair market value shall be deemed to be the price established by bona fide arms-length sale.

(c) Taxpayer. The following shall apply:

(i) In the case of the gross product of all mines and mining claims produced under lease, the lessor is liable for the of ad valorem taxes on the product removed only to the extent of the lessor's retained interest under the lease, whether royalty or otherwise, and the lessee or his assignee is liable for all other property taxes due on production under the lease;

(ii) Any taxpayer paying the taxes imposed by this article on any valuable deposit may deduct the severance taxes paid from any amounts due or to become due to the interest owners of such valuable deposit in proportion to the interest ownership;

(iii) Any person extracting valuable products subject to this article and any person owning an interest in the valuable products to the extent of their interest ownership are liable for the payment of the severance taxes imposed by this article together with any penalties and interest.

**39-14-604. Tax rate.**

The total severance tax rate for sand and gravel shall be two percent (2%). The tax shall be distributed as provided in W.S. 39-14-611.

**39-14-605. Exemptions.**

There are no specific applicable provisions for exemptions for this chapter.

**39-14-606. Licenses; permits.**

There are no specific applicable provisions for licenses and permits for this chapter.

**39-14-607. Compliance; collection procedures.**

(a) Returns and reports. The following shall apply:

(i) Annually, on or before February 25 of the year following the year of production any person whose property is subject to W.S. 39-14-602(a) shall sign under oath and submit a statement listing the information relative to the property and affairs of the company as the department may require to assess the property;

(ii) All information and reports shall be notarized and signed by a person who has legal authority to bind the taxpayer;

(iii) For mines and mining claims, the department may presume that the property is located in the county in which production is reported by the taxpayer. The department shall not direct any county to provide relief for taxes paid on taxable valuation which was erroneously reported and certified to the wrong county unless the taxpayer files or is directed to file amended returns within two (2) years of the date of the original

certification of the production. Unless there is evidence of bad faith or willful disregard of production circumstances, no taxpayer shall be required to pay taxes on production which was erroneously reported and certified to the wrong county if relief for taxes paid is not allowed under this provision;

(iv) Except as provided in paragraph (v) of this subsection, each taxpayer liable for severance taxes under W.S. 39-14-603 shall report monthly to the department. The monthly tax reports are due on or before the twenty-fifth day of the second month following the month of production. Reports shall be filed on forms prescribed by the department. The department may allow extensions for filing returns by regulation;

(v) If a taxpayer's liability for severance tax imposed under this article is less than thirty thousand dollars (\$30,000.00) for the preceding calendar year, monthly reporting requirements are waived and the taxpayer shall report annually. The annual report is due on February 25 of the year following the year in which production occurred. If a taxpayer who reports annually accumulates an annual liability exceeding thirty thousand dollars (\$30,000.00), that taxpayer shall commence reporting monthly as provided in paragraph (iv) of this subsection during the production year following the year in which the accumulated tax liability exceeded thirty thousand dollars (\$30,000.00). It is the taxpayer's responsibility to notify the department concerning the change from annual to monthly reporting requirements or from monthly to annual reporting;

(vi) For mines and mining claims, the taxpayer shall report the location of the production to the county and tax district in which the mine or mining claim is located, based upon the actual taxable production produced by the mine in each county or tax district. Other reasonable methods of reporting the location of production may be approved by the department upon written request of the taxpayer or taxing jurisdiction.

(b) Payment. The following shall apply:

(i) Annually, on or before October 10 the county treasurer shall send a written statement in sealed envelopes of total tax due, itemized as to property description, assessed value and mill levies, to each

taxpayer at his last known address. Failure to send notice, or to demand payment of taxes, does not invalidate any taxes due;

(ii) Ad valorem taxes provided by this act are due and payable at the office of the county treasurer of the county in which the taxes are levied. Fifty percent (50%) of the taxes are due on and after September 1 and payable on and after November 10 in each year and the remaining fifty percent (50%) of the taxes are due on and after March 1 and payable on and after May 10 of the succeeding calendar year except as hereafter provided. If the entire tax is paid on or before December 31, no interest or penalty is chargeable;

(iii) Except as provided in paragraph (iv) of this subsection, each taxpayer liable for a severance tax under W.S. 39-14-603(a) shall pay monthly tax payments to the department. The payment shall be determined by the taxpayer based on the value of the gross product produced and saved during the second preceding month, and tax computed on value at rates prescribed in this article. The monthly tax payments are due on or before the twenty-fifth day of the second month following the month of production. If the report the taxpayer is required to file shows tax due, the taxpayer shall pay the tax due when the report is filed. The department may allow extensions for paying taxes by regulation. The department may, if an extension is granted, request the payment of the reasonable estimate of ninety percent (90%) of the tax by the statutory due date, with the remaining tax remitted with the extended return;

(iv) If a taxpayer's liability for severance tax imposed under this article is less than thirty thousand dollars (\$30,000.00) for the preceding calendar year, monthly payment requirements are waived and the taxpayer shall pay the tax annually. The annual payment is due on February 25 of the year following the year in which production occurred. If a taxpayer who pays annually accumulates an annual liability exceeding thirty thousand dollars (\$30,000.00), that taxpayer shall commence remitting tax payments as provided in paragraph (iii) of this subsection during the production year following the year in which the accumulated tax liability exceeded thirty thousand dollars (\$30,000.00). It is the taxpayer's responsibility to notify the department concerning the

change from annual to monthly payment requirements or from monthly to annual payment.

(c) Timelines. Except as specifically provided, there are no general applicable provisions for timelines for this article.

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

(a) General. The following shall apply:

(i) If the statement provided by W.S. 39-14-607(a)(i) is not filed, the department shall value the property from the best information available. The department may use information other than contained in the statement provided by W.S. 39-14-607(a)(i) to determine the fair market value of the property provided by W.S. 39-14-602(a);

(ii) When a taxpayer producing valuable deposits fails to pay the taxes imposed by this article when due, the purchaser of the produced valuable deposit shall withhold and remit to the department the taxpayer's subsequently accruing taxes on the produced valuable deposit acquired by the purchaser. This provision is subject to the following conditions:

(A) The department shall notify the purchaser and taxpayer in writing on or before the first day of the production month for which subsequent taxes are due that the purchaser shall begin remitting taxes to the department as provided in W.S. 39-14-607(b)(iii);

(B) The department shall notify the purchaser in writing of the proper rates for calculating taxes due and the percentage of the produced valuable deposit subject to taxation by this article;

(C) The amount of tax paid by a purchaser to the department, as required by this subsection, shall offset and satisfy all claims for payments for the purchase of produced valuable deposits to the extent of the tax payment;

(D) This paragraph shall not apply under circumstances where the purchaser is required to continue payments due to legal proceedings;

(E) This paragraph shall not apply until after the purchaser has been notified in writing that subsequent accruing taxes will be payable by the purchaser.

(iii) Severance taxes due together with interest, penalties and costs shall be collectible by the department by appropriate judicial proceedings.

(b) Audits. The following shall apply:

(i) The department may employ examiners and obtain other technical services, to investigate and examine the books and records of any person paying taxes imposed under W.S. 39-13-101 through 39-13-111. The department shall notify the county assessor of any change in valuation as determined by audits, examinations or investigations establishing:

(A) Taxable volumes or values were not accurately reported;

(B) Clerical errors were made in determining taxable volumes or values;

(C) Taxable volumes or values for the year that production occurred were not calculated in compliance with Wyoming statutes or rules governing the determinations; or

(D) Additional payment for production was received and not reported whether such payment was received in the year of production or in subsequent years.

(ii) Effective until March 1, 1994, the department is authorized to rely on final audit findings under W.S. 9-2-2003, taxpayer amended returns or department review, and to certify mine product valuation amendments for production in calendar year 1985 and thereafter, to the county assessor of the county in which the property is located, to be entered upon the assessment rolls of the county and taxes computed and collected thereon subject to appeal under W.S. 39-14-609(b)(ii);

(iii) Commencing January 1, 2003, the department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to certify mine product valuation amendments to the county assessor of the

county in which the property is located, to be entered upon the assessment rolls of the county and taxes computed and collected thereon subject to appeal under W.S. 39-14-609(b)(ii), provided that the return is filed within three (3) years from the date the production should have been or was reported pursuant to W.S. 39-14-607(a)(i), whichever is later, and that the audit or review commenced within the time period as required by paragraph (vii) of this subsection;

(iv) The department is authorized to rely on final audit findings, taxpayer amended returns or department review, and to assess deficient severance tax payments, interest and penalty, if any, for the same periods governing mine product valuation amendments pursuant to paragraphs (ii) and (iii) of this subsection;

(v) All audits or department reviews, as applicable, pursuant to paragraphs (ii), (iii) and (iv) of this subsection are subject to the following conditions:

(A) Audits are commenced when the taxpayer receives written notice of the intended action;

(B) Prior to entering the premises of a taxpayer or third party, the taxpayer or third party shall be provided at least fourteen (14) days written notice;

(C) Audits are completed when the final findings are issued to the taxpayer by the department of audit;

(D) Unless otherwise agreed to in writing, audits shall be completed and the final audit findings issued to the taxpayer not later than the end of the month two (2) years after the audit is commenced;

(E) Any assessment or levy, including the assessment of a penalty and interest, if any, resulting from final audit findings or department review shall be issued within one (1) year following the completion of the audit or review;

(F) Upon receipt of department review findings, the taxpayer shall have sixty (60) days in which to submit a response.

(vi) Where there is evidence of gross negligence by the taxpayer in reporting and valuing production, an audit may examine prior years and issue assessments where gross negligence occurred. This section shall not apply to mine product valuation amendments to add the value of unreported production;

(vii) Audits provided by this article shall commence within six (6) months immediately following the three (3) years following the reporting period and taxpayers shall keep accurate books and records of all production subject to taxes imposed by this article and determinations of taxable value as prescribed by W.S. 39-14-603(b) for a period of seven (7) years and make them available to department examiners for audit purposes. If the examination discloses evidence of gross negligence by the taxpayer in reporting and paying the tax, the department may examine all pertinent records for any reporting period without regard to the limitations set forth in paragraphs (vii) and (viii) of this subsection;

(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;

(ix) The state may employ auditors and obtain other technical assistance necessary to determine if the tax imposed by this article has been properly reported and paid.

(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 board of county commissioners shall first compute a net deficiency amount after subtracting any offsetting credit and then calculate any interest due;

(ii) Taxes are delinquent pursuant to paragraphs (iii) and (iv) of this subsection when a taxpayer or his agent knew or reasonably should have known that the total tax liability was not paid when due;

(iii) 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 until paid or collected;

(iv) Effective January 1, 1994, 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 on any mineral produced on or after January 1, 1994. 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 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. The interest rate on any delinquent mineral tax from any mineral produced before January 1, 1994, shall be eighteen percent (18%) per annum.

(d) Penalties. 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 penalty, the department or board of county commissioners shall first compute a net deficiency amount after subtracting any offsetting credit and then calculate any penalty due;

(ii) If any person fails to file the report required by W.S. 39-14-607(a)(i) by the due date or any extension thereof, the department may impose a penalty equal to a

total of one percent (1%) of the taxable value of the production from the well, mine or mining claim but not to exceed five thousand dollars (\$5,000.00) for each calendar month or portion thereof that the report or information is late. If any person fails to file reports and other information required by rule of the department of revenue other than those required by W.S. 39-14-607(a)(iv) or 39-14-607(a)(i), the department may impose a penalty of up to one thousand dollars (\$1,000.00). The department may waive penalties under this paragraph for good cause. Penalties imposed under this paragraph may be appealed to the state board of equalization;

(iii) If any person fails to make or file a return and remit the tax as required by W.S. 39-14-607 the department shall impose a penalty of five percent (5%) of the taxes due for each thirty (30) day period, or fraction thereof, elapsing between the due date of the return and the date filed, unless the person for good cause obtains from the department an extension of time for filing prior to the due date for filing. In no event shall the total penalty imposed by this subsection exceed twenty-five percent (25%) of the tax due. The department, for good cause, may waive a penalty imposed for failure to file a return for any one (1) month in a calendar year, provided that:

(A) The return was filed within five (5) business days following the due date, including an approved extension period; and

(B) The taxpayer requests the waiver in writing within fifteen (15) days after the return was filed, setting forth the reasons for the late filing.

(iv) If any part of a tax deficiency is due to negligence or intentional disregard of rules and regulations, there shall be added a penalty of five percent (5%) of the amount of the deficiency plus interest as provided by paragraph (c)(iv) of this section. The taxes, penalty and interest shall be paid by the taxpayer within ten (10) days after receipt of notice and demand by the department;

(v) The department may credit or waive penalties imposed by paragraphs (iii) and (iv) of this subsection as part of a settlement or for any other good cause.

(e) Liens. The following shall apply:

(i) Repealed By Laws 2002, Ch. 50, § 2.

(ii) Repealed By Laws 2002, Ch. 50, § 2.

(iii) Repealed By Laws 2002, Ch. 50, § 2.

(iv) All taxes, fees, penalties and interest imposed under this article are an automatic and continuing lien in favor of the state of Wyoming. The lien is on all property in the state of Wyoming, real, tangible and intangible, including all after acquired property rights, future production and rights to property, of any person severing minerals in this state and who is liable under Wyoming law for the collection, payment or remittance of the severance tax and corresponding penalty or interest as of the date such taxes, fees, penalties or interest is due, and remains a lien until paid;

(v) A lien under this subsection is also a lien on all interests in the mineral estate from which the production was severed, and on all future production of the same mineral from the same leasehold, regardless of any change of ownership or change in the person extracting the mineral;

(vi) Any lien arising under this subsection is superior and paramount to all other liens, claims, mortgages or any other encumbrance of any kind except a lien, claim, mortgage or other encumbrance of record held by a bona fide creditor and properly perfected, filed or recorded under Wyoming law prior to the filing of a lien as provided by paragraph (viii) of this subsection;

(vii) The department may file a notice of lien at any time at its discretion, except no lien shall be enforced until the right of the taxpayer to file and properly perfect an appeal concerning the tax delinquent property before the state board of equalization has expired. A properly perfected appeal on the tax delinquent property before the state board of equalization or any subsequent properly perfected appeal on the same property to a district court or the supreme court shall stay enforcement of a lien filed by the department until such appeal has been exhausted or concluded;

(viii) In order to perfect a tax lien under this subsection, the department of revenue shall file a notice of the tax lien with the secretary of state. The notice of the tax lien shall contain:

(A) The name and last known address of the person or persons against whose property the lien is filed including, but not limited to, the person severing the mineral;

(B) The name and address of the department of revenue as the holder of the lien and the name of the contact person within the department;

(C) The amount of the tax, fees, penalties and interest owed the state of Wyoming;

(D) A statement that the amount of the unpaid tax, fees, penalties or interest is a lien on all property, real, tangible or intangible, including all after acquired property and rights to the property belonging to the person who severed the mineral and located within the state of Wyoming, as well as all interest in the mineral estate from which the production was severed and any future production from the same mineral leasehold.

(ix) No other action beyond that described in paragraph (viii) of this subsection shall be required to perfect a tax lien;

(x) The filing of the notice of the tax lien as described in paragraph (viii) of this subsection shall constitute record notice of the tax lien;

(xi) One (1) notice of the tax lien shall be deemed sufficient to cover all taxes, together with interest, fees and penalty of the same nature which may accrue after the filing of the notice;

(xii) Any tax lien created under this subsection and duly filed with the secretary of state shall survive the death or incapacitation of any person, and shall survive any other destruction or attempted destruction of any interest in property owned by any person liable under Wyoming law for the collection, payment or remittance of taxes, fees, penalties or interest to the state;

(xiii) In the event of foreclosure, the department of revenue shall be entitled to recover the costs of filing the lien, foreclosing on the lien and reasonable attorney's fees;

(xiv) All notice of tax liens shall be released within sixty (60) days after taxes, penalties and interest due are paid or collected;

(xv) Notwithstanding that the lien is a lien on all interests in the mineral estate from which the production was severed and on all future production from the same leasehold, the department may for good cause shown, release the lien on all property in this state, real, tangible and intangible, and settle delinquent taxes, interest and penalties to be collected against future production from that leasehold;

(xvi) The secretary of state is authorized and directed to maintain copies of all tax liens filed by the department of revenue pursuant to this chapter, and to maintain a data base of such tax liens and to provide copies to any person pursuant to the duties of the secretary of state as set forth in W.S. 9-1-301 et seq. All tax liens on file with any county in this state and in good standing on the effective date of this paragraph shall remain effective and in good standing. Within sixty (60) days of the effective date of this paragraph, the director of the department of revenue shall transmit to the secretary of state for filing copies of all tax liens that the director seeks to have in continuing effect. Upon the filing of a copy of the tax lien with the secretary of state, the tax lien shall continue to be fully effective until released by the department of revenue.

(f) Tax sales. There are no specific applicable provisions for tax sales for this article.

**39-14-609. Taxpayer remedies.**

(a) Interpretation requests. The following shall apply:

(i) The taxpayer may request a value determination from the department and propose a value determination method which may be used until the department issues a value determination. The taxpayer shall submit all available data relevant to its proposal and any additional

information the department deems necessary. After the department issues its determination, the taxpayer shall make adjustments based upon the value established or request a hearing by the board;

(ii) A taxpayer may request and the department shall provide written interpretations of these statutes and rules. When requesting an interpretation, a taxpayer must set forth the facts and circumstances pertinent to the issue. If the department deems the facts and circumstances provided to be insufficient, it may request additional information. A taxpayer may act in reliance upon a written interpretation through the end of the calendar year in which the interpretation was issued, or until revoked by the department, whichever occurs last if the pertinent facts and circumstances were substantially correct and fully disclosed.

(b) Appeals. The following shall apply:

(i) Following determination of the fair market value of property the department shall notify the taxpayer by mail of the assessed value. The person assessed may file written objections to the assessment with the board within thirty (30) days of the date of postmark and appear before the board at a time specified by the board. The person assessed shall also file a copy of the written objections with the county treasurer of the county in which the property is located, who shall notify the county assessor and the board of county commissioners, with an estimate of the tax amount under appeal based upon the previous year's tax levy;

(ii) Mine product valuation amendments under this section may be appealed by the taxpayer to the board within thirty (30) days of the final administrative decision;

(iii) Any taxpayer who feels aggrieved by the valuation and taxes levied by this article may appeal to the board. The appeal does not relieve the taxpayer from paying the tax when due and payable nor does the payment invalidate the appeal. No restraining order or injunction shall be granted or issued by any court or judge to restrain or enjoin the collection of any tax, interest or penalty imposed by this article;

(iv) The state board of equalization shall perform the duties specified in article 15, section 10 of the Wyoming constitution and shall hear appeals from county boards of equalization and review final decisions of the department upon application of any interested person adversely affected, including boards of county commissioners for the purposes of this subsection, under the contested case procedures of the Wyoming Administrative Procedure Act. Any interested person adversely affected by the adoption, amendment or repeal of a rule pursuant to W.S. 16-3-103(a) shall be afforded an opportunity for a hearing before the board;

(v) Any person including the state of Wyoming aggrieved by any order issued by the board, or any county board of equalization whose decision has been reversed or modified by the state board of equalization, may appeal the decision of the board to the district court of the county in which the property or some part thereof is situated.

(c) Refunds. The following shall apply:

(i) If any person pays any tax, or portion thereof, found to have been erroneous or illegal, the board of county commissioners shall direct the county treasurer to refund the erroneous or illegal payment to the taxpayer. When an increase in the value of any product is subject to the approval of any agency of the United States of America or the state of Wyoming, or of any court, the increased value shall be subject to property taxation. In the event the increase in value is disapproved, either in whole or in part, then the amount of tax which has been paid on the disapproved part of the value shall be considered excess tax. Within one (1) year following the final determination of value, any person who has paid any such excess tax may apply for a refund, and the board of county commissioners shall refund the amount of excess tax paid;