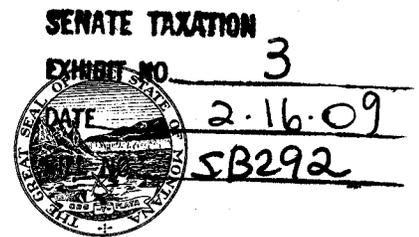




Dan Bucks
Director

Montana Department of Revenue



Brian Schweitzer
Governor

Memorandum

To: Senator Kelly Gebhart
Senate District 23

From: Lee Baerlocher
Business Tax and Valuation Bureau Chief

Date: February 12, 2009

Subject: Auger Mine Information

Per your request, I have attached a copy of HB688 from the 1993 Montana Legislative Session. As you will see, the bill implemented an auger severance tax rate of 7.5%.

In addition you asked whether any other state has a separate auger severance tax rate. The department contacted two states, Wyoming and West Virginia, and neither state currently has a separate auger severance tax rate. Please see the attached information.

If you have any questions regarding this information, please feel free to contact me at 444-3587 or at lbaerlocher@mt.gov.

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CLEAN COAL REGULATION

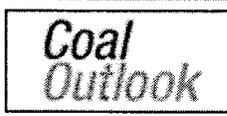
A PLATTS.COM NEWS FEATURE
Ageev Mining Rates

Top coal-producing states

State	2005 production (short tons)
Wyoming <i>NO-verified by phone</i>	404,319
West Virginia <i>NO-POR Review</i>	153,650
Kentucky	119,734
Pennsylvania	67,494
Texas	45,939
Montana	40,354
Colorado	38,510
Indiana	34,457
Illinois	32,014
North Dakota	29,956
Virginia	27,743

Source: Annual Coal Report, EIA

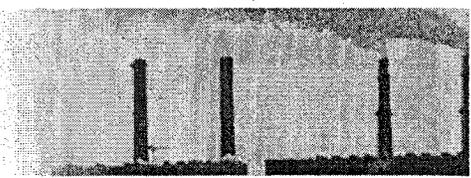
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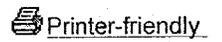
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COAL PROCESSING AND SEVERANCE TAX

To assist taxpayers in properly complying with the severance tax laws, this publication answers some basic questions about the West Virginia severance tax laws pertaining to the coal industry. This publication provides general information. It is not a substitute for tax laws or regulations.

Q1. What is the severance tax?

Severance tax is imposed on the activity of severing, extracting, reducing to possession and producing for sale, profit, or commercial use, any natural resource product, including coal. In general, coal mining, coal processing and coal treatment are all activities taxable under the severance tax laws.

The amount of severance tax due is determined by application of various rates to the "gross value" of a natural resource. Unlike the former State business and occupation tax on most natural resources, the severance tax is a "value added" tax in some instances.

Q2. Who pays the coal severance tax?

Businesses mining or processing coal are both subject to the severance tax.

The person who has title to or an economic interest in the coal immediately after it is severed is responsible for paying the severance tax. When coal is severed or processed by one person for another who has title to the coal, the person who has title or an "economic interest" in the coal is the person responsible for paying the severance tax. The determination of who has title or an "economic interest" in the coal is made after examination of such factors as depletion, royalties, control over sales, etc.

A contract miner is generally not liable for payment of the severance tax. Similarly, a person who processes coal owned by another person is generally not liable for payment of the severance tax.

Q3. What is considered to be a severance activity?

Severance of coal includes the physical removal of coal from the earth or waters of this State by any means. It includes the extraction of coal from gob piles, slurry ponds, or other waste or residue of prior mining. It also includes coal processing activities.

Q4. What is considered to be a processing activity taxable under the severance tax?

Processing includes cleaning, breaking, crushing, screening, sizing, dust alloying, blending, freezeproofing, and loading coal for shipment. The activities of loading for shipment or freezeproofing when performed by themselves are not sufficient to subject a person to the severance tax. However, blending of coal or crushing or screening of coal is sufficient to subject a person to severance tax. Washing of the coal is not required to subject a person to severance tax.

Q5. What is the tax base for the severance tax on coal?

Severance tax is imposed on the "gross value" of the coal. "Gross value" is determined by the sale price of the coal less freight expenses incurred in transporting the coal to a customer, if the transportation is performed by a common carrier. Freight expenses are also deductible when performed by the taxpayer, if the charges are separately stated on the invoice. Freight expenses related to the transporting of coal from a mine to a processing area are not deductible. Only outgoing freight charges incurred in shipping coal to a customer are exempt.

State and federal taxes, royalties, sales commissions, or any other expense, such as black lung excise taxes or reclamation fees, may not be deducted in determining the "gross value" subject to severance tax.

In transactions involving related parties, gross value can never be less than the fair market value of the coal of similar grade and quality. In situations where coal is consumed or used by the severer or processor, the gross value is the fair market value of coal of similar grade and quality.

Q6. What is the "gross value" subject to severance tax of coal purchased from the severer and processed by the purchaser?

When coal is purchased from the severer and processed by another, the processor must pay severance tax on the "value added"

by the processing. The "value added" by the processing is equal to the sales price of the processed coal less freight and less the amount paid for the raw coal.

For example, a processor purchases raw coal at \$15 a ton. After processing, he sells the clean coal for \$25 a ton. The \$25 per ton includes \$2 a ton paid to a common carrier to transport the coal. The processor must pay severance tax on \$8 per ton. This is the "value added" by processing less freight expenses. The "value added" by processing is the sales price of the clean coal less the cost of the raw coal.

Sales price of clean coal	\$25
Cost of raw coal	-\$15
Freight costs to customer	-\$ 2
"Value added" per ton reportable for severance Tax purposes	<hr/> \$ 8

Q7. What is the "gross value" subject to severance tax of coal severed outside West Virginia, but processed within West Virginia?

To determine the "gross value" subject to severance tax for coal severed outside West Virginia but processed within West Virginia, the gross value or sales price of the processed coal is reduced by the fair market value of the raw coal severed outside West Virginia.

Q8. What is the severance tax rates on coal?

The current severance tax rate on coal is 5 percent.

Q9. What is the minimum severantct tax on coal?

Additionally there is an annual minimum severance tax of seventy-five cents (\$.75) per ton of coal produced by the taxpayer for sale, profit or commercial use during the taxable year. The minimum tax is on the severing, extracting, reducing to possession or producing of coal for sale, profit or commercial use and is computed on the tonnage of coal that is actually located and severed in West Virginia. The minimum tax is allowed as a credit against the severance tax, but only after other allowable credits have been applied, and the credit cannot exceed the severance tax due. Also, no credit is allowed against the additional severance tax on the tonnage of coal that is dedicated to the counties and municipalities. A special two (2¢) cents per ton tax is also imposed on producers of coal. The measure of the tax is "tons of clean coal" that were produced by the seller of the coal and sold during the reporting period. For additional information see Publication TSD-382.

West Virginia State Tax Department
Taxpayer Services Division
P. O. Box 3784
Charleston, West Virginia 25337-3784
Telephone: (304) 558-3333
Toll free : 1-800-WVA-TAXS (1-800-982-8297)
or visit our web site:
<http://www.state.wv.us/taxdiv>
TDD service for the hearing impaired: 1-800-2TAXTDD (1-800-282-9833)

Surface

**SEVERANCE TAX REPORT FOR SURFACE COAL
(Form 5000) INSTRUCTIONS (revised 2/2000)**

WHO MUST FILE - All taxes on production shall be remitted by the operator or his duly authorized agent. Severance taxes are determined from the gross production in the current calendar year.

WHEN TO FILE - Severance tax reports and payment in-full must be postmarked by the 25th day of the second month following the month of production. If a taxpayer's total liability for severance tax was less than \$30,000 for the preceding calendar year, monthly reporting and payment requirements are waived and the taxpayer shall report and pay the tax annually, by February 25th of the year following the year of production. If a severance tax report shows tax due, the taxpayer shall pay the tax due when the report is filed. If a taxpayer does not file severance tax reports and pay the total tax due by the due date, the severance tax is delinquent and is subject to penalty and interest.

FOR ASSISTANCE - For assistance with any Wyoming solid mineral tax question, please call the Mineral Tax Division of the Department of Revenue at (307) 777-7935.

Coal is assessed for mineral taxation purposes in accordance with Wyoming Statute 39-14-103. For additional information on the valuation of coal, refer to Wyoming Statute 39-14-103 and Chapter 6 of the Rules of the Wyoming Department of Revenue.

GENERAL INSTRUCTIONS - Please complete a Severance Tax Report For Surface Coal (Form 5000), using production, sales, and taxable value information for the production period reported. **IF YOU ARE A MONTHLY FILER, DO NOT REPORT YEAR-TO-DATE TOTALS FOR TONS SOLD, SALES VALUE, TONS MINED OR TAXABLE VALUE. REPORT ONLY THE TONS SOLD, SALES VALUE, TONS MINED AND TAXABLE VALUE FOR THE PRODUCTION PERIOD REPORTED.** All information provided should be determined on the accrual basis of accounting, in accordance with generally accepted accounting principles. Round all figures to the nearest whole number except where otherwise instructed. Fill out the report completely, on the forms provided by the Department. Do not substitute computer generated forms. If the report is not filled out completely and accurately, the report may be considered delinquent and may be subject to penalty and interest. The sum of the taxable values reported on your monthly severance tax reports must equal the total taxable value of your coal production for the calendar year.

NOTE: Production, sales, taxable value, and tax due information must still be reported separately for each mine, using the Mine Group Number assigned by the Department of Revenue. However you may now report information for more than one Mine Group Number on separate lines of the same Form 5000. You may also report information on production which qualifies for the \$.60 severance tax per ton limitation on a separate line of the same form with your information on production subject to the 7% severance tax rate.

Operator ID: Enter the operator ID number (the 4-digit number beginning with a 9) assigned to you by the Department of Revenue. If an operator ID has not been assigned to you, leave this box blank.

Operator Name: Enter the Operator Name. Do not enter the name of the contact person or tax agent.

Contact Name and Contact Phone #: Enter the name and telephone number of the person the Department of Revenue may contact about this report.

Production Period: Enter the production period (month and year of the production reported). If you qualify to file annually, report the production period as December (for example, 12/2000).

Form Type: Indicate if the report filed is an original (O) or an amended (A) report. Do not report original and amended line items on the same Form 5000.

Mine Group Number: Enter the Mine Group Number (the 5-digit number beginning with a 9) for each line item reported, as assigned by the Department of Revenue. If you are reporting a mine group which has not been assigned a Mine Group Number, leave this box blank.

Rate Code: Enter the proper Rate Code for each line item reported. The Rate Code for coal subject to the 7% severance tax rate is "BAS". The Rate Code for coal which qualifies for the \$.60 severance tax per ton limitation is "60C". A line item with the "BAS" Rate Code must be filed for each Mine Group Number. A separate line item with the "60C" Rate Code may be filed for each Mine Group Number with production which qualifies for the \$.60 severance tax per ton limitation. Do not include the production, sales, or taxable value of \$.60 coal in the information reported under the "BAS" Rate Code. Rate Code "60C" may only be filed by those producers with coal production sold under contracts which qualify for the \$.60 severance tax per ton limitation allowed under Wyoming Statute 39-14-105(b). Producers must submit a letter to the Department for each coal sales agreement which you think qualifies for the \$.60 severance tax per ton limitation.

Tons Sold: Enter the tons of coal sold during the production period.

Sales Value: Enter the sales value of coal sold during the production period.

Tons Mined: Enter the tons of coal mined during the production period.

Taxable Value: Enter the taxable value of the tons of coal mined during the production period. Compute the taxable value in accordance with Wyoming Statute 39-14-103.

Total Tax Due: For Rate Code "BAS", enter the result of multiplying the Taxable Value by 7%, rounded to 2 decimal places (for example, \$100.12). For Rate Code "60C", enter the result of multiplying the Tons Mined by \$.60, rounded to 2 decimal places.

Previous Tax Paid (amends): For amended reports only. Report the severance tax previously paid for this Mine Group Number and Rate Code. If this is an original report, enter 0.

Current Tax Due: Enter the result of subtracting Previous Tax Paid from Total Tax Due.

Page Total: Enter the sum of the Current Tax Due column on this Form 5000.

Payment Amount: Enter the payment submitted with your report(s).

AMENDMENT - Form 5000 is now filed on a monthly basis. Year-to-date information is no longer reported on each monthly severance report. Corrections to information reported may be implemented for each production period by filing amended severance reports. Amended reports must be filed in accordance with the statute of limitations described in W.S. 39-14-108. Report the corrected replacement value for Tons Sold, Sales Value, Tons Mined, and Taxable Value on your amended reports. Please indicate the Form Type as (A). Do not report original and amended line items on the same Form 5000.

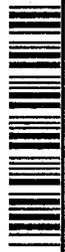
The mailing address for all Department of Revenue mineral forms is:

**Wyoming Department of Revenue
Mineral Tax Division
Herschler Building, 2nd Floor West
Cheyenne, WY 82002-0110**

State of Wyoming
 Department of Revenue
 122 West 25th Street
 Cheyenne WY 82002-0110

SEVERANCE TAX REPORT FOR SURFACE COAL

5000



DOR USE ONLY:

Operator ID:

Operator Name:

Contact Name:

Contact Phone #: ()

Prod. Period:

Form Type:

O - Original
 A - Amended

MINE GROUP NUMBER	RATE CODE	TONS SOLD	SALES VALUE	TONS MINED	TAXABLE VALUE	TOTAL TAX DUE	PREVIOUS TAX PAID (AMENDS)	CURRENT TAX DUE
	BAS							

DO NOT REPORT YEAR-TO-DATE INFORMATION
 REPORT PRODUCTION PERIOD INFORMATION ONLY

PAGE TOTAL:
 PAYMENT AMOUNT:

I declare under penalty of perjury that I have examined this return and, to the best of my knowledge and belief, it is correct and complete.

Authorized Signature _____

Date _____

**SEVERANCE TAX REPORT FOR UNDERGROUND COAL
(Form 5010) INSTRUCTIONS (revised 2/2000)**

WHO MUST FILE - All taxes on production shall be remitted by the operator or his duly authorized agent. Severance taxes are determined from the gross production in the current calendar year.

WHEN TO FILE - Severance tax reports and payment in-full must be postmarked by the 25th day of the second month following the month of production. If a taxpayer's total liability for severance tax was less than \$30,000 for the preceding calendar year, monthly reporting and payment requirements are waived and the taxpayer shall report and pay the tax annually, by February 25th of the year following the year of production. If a severance tax report shows tax due, the taxpayer shall pay the tax due when the report is filed. If a taxpayer does not file severance tax reports and pay the total tax due by the due date, the severance tax is delinquent and is subject to penalty and interest.

FOR ASSISTANCE - For assistance with any Wyoming solid mineral tax question, please call the Mineral Tax Division of the Department of Revenue at (307) 777-7935.

Coal is assessed for mineral taxation purposes in accordance with Wyoming Statute 39-14-103. For additional information on the valuation of coal, refer to Wyoming Statute 39-14-103 and Chapter 6 of the Rules of the Wyoming Department of Revenue.

GENERAL INSTRUCTIONS - Please complete a Severance Tax Report For Underground Coal (Form 5010), using production, sales, and taxable value information for the production period reported. **IF YOU ARE A MONTHLY FILER, DO NOT REPORT YEAR-TO-DATE TOTALS FOR TONS SOLD, SALES VALUE, TONS MINED OR TAXABLE VALUE. REPORT ONLY THE TONS SOLD, SALES VALUE, TONS MINED AND TAXABLE VALUE FOR THE PRODUCTION PERIOD REPORTED.** All information provided should be determined on the accrual basis of accounting, in accordance with generally accepted accounting principles. Round all figures to the nearest whole number except where otherwise instructed. Fill out the report completely, on the forms provided by the Department. Do not substitute computer generated forms. If the report is not filled out completely and accurately, the report may be considered delinquent and may be subject to penalty and interest. The sum of the taxable values reported on your monthly severance tax reports must equal the total taxable value of your coal production for the calendar year.

NOTE: Production, sales, taxable value, and tax due information must still be reported separately for each mine, using the Mine Group Number assigned by the Department of Revenue. However you may now report information for more than one Mine Group Number on separate lines of the same Form 5010. You may also report information on production which qualifies for the \$.30 severance tax per ton limitation on a separate line of the same form with your information on production subject to the 3.75% severance tax rate.

Operator ID: Enter the operator ID number (the 4-digit number beginning with a 9) assigned to you by the Department of Revenue. If an operator ID has not been assigned to you, leave this box blank.

Operator Name: Enter the Operator Name. Do not enter the name of the contact person or tax agent.

Contact Name and Contact Phone #: Enter the name and phone number of the person the Department of Revenue may contact about this report.

Production Period: Enter the production period (month and year of the production reported). If you qualify to file annually, report the production period as December (for example, 12/2000).

Form Type: Indicate if the report filed is an original (O) or an amended (A) report. Do not report original and amended line items on the same Form 5010.

Mine Group Number: Enter the Mine Group Number (the 5-digit number beginning with a 9) for each line item reported, as assigned by the Department of Revenue. If you are reporting a mine group which has not been assigned a Mine Group Number, leave this box blank.

Rate Code: Enter the proper Rate Code for each line item reported. The Rate Code for coal subject to the 3.75% severance tax rate is "BAS". The Rate Code for coal which qualifies for the \$.30 severance tax per ton limitation is "30C". A line item with the "BAS" Rate Code must be filed for each Mine Group Number. A separate line item with the "30C" Rate Code may be filed for each Mine Group Number with production which qualifies for the \$.30 severance tax per ton limitation. Do not include the production, sales, or taxable value of \$.30 coal in the information reported under the "BAS" Rate Code. Rate Code "30C" may only be filed by those producers with coal production sold under contracts which qualify for the \$.30 severance tax per ton limitation allowed under Wyoming Statute 39-14-105(b). Producers must submit a letter to the Department for each coal sales agreement which you think qualifies for the \$.30 severance tax per ton limitation.

Tons Sold: Enter the tons of coal sold during the production period.

Sales Value: Enter the sales value of coal sold during the production period.

Tons Mined: Enter the tons of coal mined during the production period.

Taxable Value: Enter the taxable value of the tons of coal mined during the production period. Compute the taxable value in accordance with Wyoming Statute 39-14-103.

Total Tax Due: For Rate Code "BAS", enter the result of multiplying the Taxable Value by 3.75%, rounded to 2 decimal places (for example, \$100.12). For Rate Code "30C", enter the result of multiplying the Tons Mined by \$.30, rounded to 2 decimal places.

Previous Tax Paid (amends): For amended reports only. Report the severance tax previously paid for this Mine Group Number and Rate Code. If this is an original report, enter 0.

Current Tax Due: Enter the result of subtracting Previous Tax Paid from Total Tax Due.

Page Total: Enter the sum of the Current Tax Due column on this Form 5010.

Payment Amount: Enter the payment submitted with your report(s).

AMENDMENT - Form 5010 is now filed on a monthly basis. Year-to-date information is no longer reported on each monthly severance report. Corrections to information reported may be implemented for each production period by filing amended severance reports. Amended reports must be filed in accordance with the statute of limitations described in W.S. 39-14-108. Report the corrected replacement value for Tons Sold, Sales Value, Tons Mined, and Taxable Value on your amended reports. Please indicate the Form Type as (A). Do not report original and amended line items on the same Form 5010.

The mailing address for all Department of Revenue mineral forms is:

**Wyoming Department of Revenue
Mineral Tax Division
Herschler Building, 2nd Floor West
Cheyenne, WY 82002-0110**

State of Wyoming
 Department of Revenue
 122 West 25th Street
 Cheyenne WY 82002-0110

**SEVERANCE TAX REPORT
 FOR UNDERGROUND COAL**

5010



DOR USE ONLY:

Operator ID: _____

Operator Name: _____

Contact Name: _____

Contact Phone #: (_____) _____

Prod. Period: _____ / _____

Form Type: _____

O - Original
 A - Amended

MINE GROUP NUMBER	RATE CODE	TONS SOLD	SALES VALUE	TONS MINED	TAXABLE VALUE	TOTAL TAX DUE	PREVIOUS TAX PAID (AMENDS)	CURRENT TAX DUE
	BAS							

DO NOT REPORT YEAR-TO-DATE INFORMATION
 REPORT PRODUCTION PERIOD INFORMATION ONLY

PAGE TOTAL:
 PAYMENT AMOUNT:

I declare under penalty of perjury that I have examined this return and, to the best of my knowledge and belief, it is correct and complete.

 Authorized Signature

 Date

P.
6067
7547

The State of Wyoming



DEPARTMENT OF REVENUE

Herschler Building
2nd Floor West
122 West 25th Street
Cheyenne, Wyoming 82002-0110
E-Mail: dor@wy.gov
Web: <http://revenue@state.wy.us>

DAVE FREUDENTHAL, *Governor*
EDMUND J. SCHMIDT, *Director*

Telephone (307) 777-7961
DOR Main FAX (307) 777-7722
Property Tax FAX (307) 777-7527
Excise FAX (307) 777-3632
Mineral FAX (307) 777-7849
Liquor FAX (307) 777-6255

The following is the list of exemptions currently possible to claim:

Oil Stripper production	4%
Oil Tertiary production	4%
Severance tax imposed on Carbon Dioxide if CO2 used in tertiary recovery	0%
Renewed Oil & Gas production	2% (for wells shut in since before 1995)
Marathon Wind River exemption (oil)	1.5%
Natural Gas Vented or flared under WOGCC authority	0%
Natural Gas consumed prior to sale for on-lease use	0%
Coal used to process or treat coal from the same mine	0%
\$60/ton severance tax on surface coal W.S. 39-14-105	
\$30/ton severance tax on underground coal W.S. 39-14-105	
Sand & Gravel used for govt. project produced from a govt. lease	0%

CHAPTER NO. 580

[HB 688]

AN ACT PROVIDING THAT THE EXTENDED DEPTH AUGER METHOD OF MINING COAL IS A DISTINCT METHOD OF MINING FOR PURPOSES OF TAXATION; DEFINING THE EXTENDED DEPTH AUGER METHOD OF MINING FOR TAXATION PURPOSES; ESTABLISHING SEVERANCE TAX RATES FOR EXTENDED DEPTH AUGER MINING; AMENDING SECTIONS 15-35-102 AND 15-35-103, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 15-35-102, MCA, is amended to read:

"15-35-102. Definitions. As used in this chapter, the following definitions apply:

- (1) "Agreement" means a signed contract that is valid under Montana law between a coal mine operator and a purchaser or broker for the sale of coal that is produced in Montana.
- (2) (a) "Base consumption level" for a purchaser, except as provided in subsection (2)(b), applies only for the term of an agreement in effect as of December 31, 1984, and means the lesser of:
 - (i) the volume of coal purchased during calendar year 1986 from all Montana coal mine operators; or
 - (ii) the greater of:
 - (A) the arithmetic average volume of coal purchased during calendar years 1983 and 1984 from all Montana coal mine operators; or
 - (B) 90% of the maximum tonnage provided for in any agreement executed prior to January 1, 1985, for which the highest scheduled minimum quantity of coal stipulated by the terms of the agreement as they existed on January 1, 1985, has not been purchased at any time during the term of the agreement, plus the arithmetic average volume of coal purchased during calendar years 1983 and 1984 from all Montana coal mine operators under all other agreements.
- (b) If the volume calculated in subsection (2)(a)(i) is less than one-third of the volume calculated in subsection (2)(a)(ii), the base consumption level is the volume calculated in subsection (2)(a)(ii).
- (3) (a) Except as provided in subsection (3)(b), "base production level" for a coal mine operator applies only for the term of an agreement in effect as of December 31, 1984, and means the lesser of:
 - (i) the arithmetic average volume of coal produced in Montana and sold to a purchaser in calendar years 1983 and 1984; or
 - (ii) the volume of coal produced in Montana and sold to a purchaser in 1986.

(b) If the amount calculated in subsection (3)(a)(ii) is less than one-third of the amount calculated in subsection (3)(a)(i), the base production level is the amount calculated in subsection (3)(a)(i).

(4) "Broker" means any person who resells Montana coal.

(5) "Contract sales price" means either the price of coal extracted and prepared for shipment f.o.b. mine, excluding that amount charged by the seller to pay taxes paid on production, or a price imputed by the department under 15-36-107. Contract sales price includes all royalties paid on production, no matter how such royalties are calculated. However, with respect to royalties paid to the government of the United States, the state of Montana, or a federally recognized Indian tribe, the contract sales price includes only:

(a) for quarterly periods ending on and after September 30, 1984, 15 cents per ton plus 75% of the difference between 15 cents per ton and the amount of such federal, state, and tribal government royalties actually paid;

(b) for quarterly periods ending on and after September 30, 1985, 15 cents per ton plus 50% of the difference between 15 cents per ton and the amount of such federal, state, and tribal government royalties actually paid;

(c) for quarterly periods ending on and after September 30, 1986, 15 cents per ton plus 25% of the difference between 15 cents per ton and the amount of such federal, state, and tribal government royalties actually paid; and

(d) for quarterly periods ending on and after September 30, 1987, 15 cents per ton.

(6) "Department" means the department of revenue.

(7) "Energy conversion process" includes any process by which coal in the solid state is transformed into slurry, gas, electric energy, or any other form of energy.

(8) "Extended depth auger method" means a method of mining that penetrates a coal deposit and removes the coal through a series of circular openings with bored shafts averaging at least 300 feet in depth.

(9)(9) "Incremental production" means that quantity of coal produced annually by a coal mine operator and sold to a qualified purchaser that exceeds the base production level of the coal mine operator for that purchaser, but only to the extent the quantity of coal exceeds that purchaser's base consumption level from all Montana producers.

(9)(10) "Produced" means severed from the earth.

(9)(11) "Purchaser" means a person who purchases or contracts to purchase Montana coal directly from a coal mine operator or indirectly from a broker and who utilizes that coal in any industrial, commercial, or energy conversion process. A coal broker or any other third party intermediary is not a purchaser under the provisions of this chapter.

purchaser or a broker that causes a reduction in the base consumption level of a purchaser is not a qualified purchaser.

(13) "Strip mining" is defined in 82-4-203 and includes "surface mining" but does not include the extended depth auger method of mining.

(14) "Taxes paid on production" includes any tax paid to the federal, state, or local governments upon the quantity of coal produced as a function of either the volume or the value of production and does not include any tax upon the value of mining equipment, machinery, or buildings and lands, any tax upon a person's net income derived in whole or in part from the sale of coal, or any license fee.

(15) "Ton" means 2,000 pounds.

(16) "Underground mining" means a coal mining method utilizing shafts and tunnels and as further defined in 82-4-203."

Section 2. Section 15-35-103, MCA, is amended to read:

"15-35-103. Severance tax — rates imposed. (1) Subject to the provisions of 15-35-202 allowing a new coal production incentive tax credit, a severance tax is imposed on each ton of coal produced in the state in accordance with the following schedule:

(a) After June 30, 1988, and before July 1, 1990:

Heating quality (Btu per pound of coal):	Surface Mining	Underground Mining
Under 7,000	17% of value	3% of value
7,000 and over	25% of value	4% of value

(b) After June 30, 1990, and before July 1, 1991:

Heating quality (Btu per pound of coal):	Surface Mining	Underground Mining
Under 7,000	13% of value	3% of value
7,000 and over	20% of value	4% of value

(c) After June 30, 1991:

Heating quality (Btu per pound of coal):	Surface Mining	Underground Mining	Extended Depth Auger Mining
Under 7,000	10% of value	3% of value	7.5% of value
7,000 and over	15% of value	4% of value	7.5% of value

(2) "Value" means the contract sales price.

(3) The formula which yields the greater amount of tax in a particular case shall be used at each point on these schedules.

(4) A person is not liable for any severance tax upon 50,000 tons of the coal he produces in a calendar year, except that if he produces more than 50,000 tons of coal in a calendar year, he will be liable for severance tax upon all coal produced in excess of the first 20,000 tons.

(5) A new coal production incentive tax credit may be claimed on certain coal as provided in 15-35-202."

Section 3. Effective date. [This act] is effective July 1, 1993.

Section 4. Termination. [This act] terminates June 30, 1997.

Approved April 28, 1993.

CHAPTER NO. 581

[HB 6891]

AN ACT CREATING SPECIAL REVENUE ACCOUNTS FOR THE ADMINISTRATION OF INCOME TAX CHECKOFF PROGRAMS; ELIMINATING THE PUBLIC CAMPAIGN FUND; AMENDING SECTIONS 15-30-150, 15-30-152, 15-30-155, 15-30-158, AND 17-7-502, MCA; REPEALING SECTIONS 13-37-301, 13-37-302, 13-37-303, 13-37-304, 13-37-306, 13-37-307, AND 13-37-308, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A CONTINGENT TERMINATION PROVISION RELATING TO CERTAIN VOLUNTARY INCOME TAX CHECKOFFS.

Be it enacted by the Legislature of the State of Montana:

Section 1. Funding for administration of special revenue accounts.

(1) The department shall charge any special revenue account created after January 1, 1993, that is funded by means of an income tax checkoff the actual and necessary cost to create the special revenue account and to place the checkoff on the income tax return.

(2) In addition to the charges in subsection (1), the department shall charge each special revenue account funded by means of an income tax checkoff the actual expenses necessary to administer the account. The department's charges may not exceed \$3,000 for a tax year.

Section 2. Special revenue account for tax checkoff administration.

(1) There are special revenue accounts in the state treasury for the administration of income tax checkoffs.

(2) All charges collected pursuant to [section 1] must be deposited in a tax checkoff administration account.

(3) The money in a tax checkoff administration account, subject to appropriation, must be expended to administer the income tax checkoff for which the account was created.