



## FYI Withholding 4

# Colorado Oil and Gas Severance Withholding Requirements

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### GENERAL INFORMATION

Operators and first purchasers who disburse income from oil and gas production in Colorado to any interest owner — royalty, working or any other type of interest — must:

1. Open and maintain a Colorado oil and gas severance withholding tax account with the Colorado Department of Revenue.
2. Withhold one percent (1%) from the gross income disbursed and electronically remit such withholding to the department monthly.
3. File with the department an annual reconciliation of withholding.
4. Notify each interest owner annually of the amount of severance tax withheld from his/her interest payments.

The "withholding agent" is whoever disburses the income to the interest owners, either the operator or the first purchaser. The operator must keep a record of whether the operator or the first purchaser is responsible for reporting and remitting the severance tax withholding and furnish that information to the Department of Revenue upon request. The withholding agent shall withhold one percent (1%) of the gross income from oil and gas owed to every interest owner, including the withholding agent if such agent is an interest owner. **Exception:** Gross income from oil and gas interests owed to the United States or to the State of Colorado or to any political subdivision of the State of Colorado is exempt from severance tax withholding.

### NON-FILERS

If you have a severance tax account or a severance withholding account open with the Colorado Department of Revenue and do not file a return for any period, you will be sent a non-filer notice. The non-filer will remain due and payable until you file your return or close your account. If you are no longer doing business in the State of Colorado, you are required to close your account by filing a Account Change or Closure Form (DR 1102). The form can be found on the Web site at [www.TaxColorado.com](http://www.TaxColorado.com)

### PRODUCTS TAKEN IN KIND

When an interest owner elects to take production in kind, such interest owner is responsible for withholding and paying the severance tax on the products taken in kind. All books, accounts and records of such transactions shall be open for examination by the department.

### STRIPPER WELLS

Colorado law exempts from severance tax:

- Oil produced from any individual well that produces 15 barrels per day or less of oil for the average of all producing days during a taxable year.
- Gas produced from any well that produces 90,000 cubic feet or less of gas per day for the average of all producing days during a taxable year.

Income distributed from qualified stripper well production as defined above is exempt from severance withholding tax. A "Severance Tax Waiver" is no longer required from the Colorado Department of Revenue to waive the withholding requirement on income from such oil and gas production.

The withholding agent is not required to provide an annual withholding statement using the Oil & Gas Withholding Statement for Calendar Year (DR 0021W) to the interest owners if all gross payments or ad valorem taxes to be reported are from stripper well production. If at the end of the year, however, it is determined that a presumed stripper well does not qualify as such, the agent must provide interest owners with an annual withholding statement (DR 0021W) even if no severance tax was withheld. All disbursers must maintain records of barrels of oil and cubic feet of gas produced and of disbursements based on production from any qualifying stripper well, and provide that information to the interest owners.

## HOW TO OPEN A COLORADO OIL AND GAS SEVERANCE WITHHOLDING TAX ACCOUNT

In order to open a severance withholding tax account, complete and return to the Department of Revenue a Sales Tax/Wage Withholding Account Application (CR 0100). Be sure to indicate on your CR 0100 that you are applying for an oil and gas withholding tax account. This form is a multi-purpose application for all types of state business tax accounts, including wage or income withholding. Therefore, clearly indicate the type(s) of tax account(s) you want to open.

## FILING MONTHLY SEVERANCE WITHHOLDING TAX RETURNS

All filers are required to obtain an Electronic Funds Transfer (EFT) account number and remit their tax electronically.

Monthly severance withholding payments made through EFT must be remitted by the first day of the third month following the month the tax was withheld

| <b>Withholding Month:</b> | <b>Due Date:</b> |
|---------------------------|------------------|
| January                   | April 1          |
| February                  | May 1            |
| March                     | June 1           |
| April                     | July 1           |
| May                       | August 1         |
| June                      | September 1      |
| July                      | October 1        |
| August                    | November 1       |
| September                 | December 1       |
| October                   | January 1        |
| November                  | February 1       |

EFT is initiated by making a telephone call and entering a series of touch-tone commands or using the online system available at [www.TaxColorado.com](http://www.TaxColorado.com). To register as an EFT filer, complete the application form Authorization For Electronic Funds Transfer (EFT) For Tax Payments (DR 5785).

All EFT applicants must indicate whether the account shall be designated as credit or debit. The debit designation is available to all EFT filers, while the credit designation is rarely allowed by banking institutions. Credit transactions may require a bank fee for each occurrence. Please check with your banking institution prior to applying for a credit designation to determine availability and cost.

## THE ANNUAL RECONCILIATION REQUIREMENT

The Department of Revenue will send you an Annual Reconciliation of Severance Tax Withheld from Oil and Gas Payments (DR 0456).

This reconciliation must be filed with the Colorado Department of Revenue on or before April 15, following the close of the calendar year. The Oil and Gas Withholding Statement (DR 0021W) for each person from whom Colorado gross severance tax was withheld from oil and gas payments during the calendar year should be submitted with the DR 0456 and copies shall be retained in the records of every producer or purchaser for a period of three years.

## THE ANNUAL OIL AND GAS WITHHOLDING STATEMENT REQUIREMENT

Withholding agents are responsible for completing by March 1 of each year an Oil and Gas Withholding Statement (DR 0021W) for each interest owner from whom you have withheld. On the Oil and Gas Withholding Statement, you must provide for the entire calendar year:

1. Gross disbursements made to the interest owner including stripper well information and cash/accrual detail.
2. Total amount of the interest owner's share of any ad valorem taxes (include stripper).
3. Total amount of severance tax withheld from the gross income payments disbursed to the interest owner including stripper well information and cash/accrual detail.

Copies of the Oil and Gas Withholding Statement (DR 0021W) are available from the department upon request. This form consists of four self-carbon copies. Retain one copy for your records. Submit one copy with the annual reconciliation. Mail two copies to the interest owner by March 1 of the year following the calendar year covered by the statement. [§39-29-111(4), C.R.S.]

If you prefer to print computer facsimiles of the Oil and Gas Withholding Statement (DR 0021W), you may do so provided that all the information requested on the form is included and sufficient copies are made for distribution to interest owners and the Department of Revenue.

Annual reconciliation reports for 2010 or later must be filed by the April 15 deadline and include completed copies of all DR 0021W statements. Failure to meet this requirement may result in a penalty of the lesser of \$1,500 or 15% of the total Colorado severance tax that should have been withheld during the year.

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FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter, or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having the authority to bind the Department, has not formally reviewed and/or approved these FYIs.