

# **COLORADO DEPARTMENT OF REVENUE STATEMENT OF BASIS AND PURPOSE**

## **DEFINITION OF “GROSS INCOME” FOR SEVERANCE TAX ON OIL AND GAS 39-29-102(3)(A) 1 CCR 201-10**

### **Basis**

The basis for this rule is §§ 39-21-112(1), 39-29-102(3)(a), and 39-29-102(7), C.R.S.

### **Purpose**

The purpose of this rule is to provide, consistent with the Colorado Supreme Court’s ruling in *BP Am. v. Colo. Dep’t of Revenue*, clarification regarding gross lease revenues and the costs deductible therefrom in the calculation of gross income subject to severance tax on oil and gas.

The rule:

- clarifies that, pursuant to § 39-29-114, C.R.S., members of the same controlled group of corporations are treated as one taxpayer and the gross income for that taxpayer will be determined collectively;
- clarifies that natural gas subject to severance tax includes both hydrocarbon and nonhydrocarbon gases;
- includes in gross lease revenues the fair market value of any extracted taxable hydrocarbon gas the taxpayer uses for a non-deductible purpose;
- defines the point of sale and the point of taxable valuation for the purpose of clarifying costs for which deduction is allowed;
- defines related parties and clarifies when fair market value, rather than sales price, is used to determine either gross lease revenues or deductible costs;
- enumerates several deductible and nondeductible costs;
- prescribes the calculation of depreciation and cost of capital deductions in the same manner as prescribed by the Property Tax Administrator for the calculation of Return of Investment (RofI) and Return on Investment (ROI), respectively; and
- prescribes the calculation of additional depreciation or a reduction in depreciation in the event that a taxpayer sells, transfers, or disposes an asset for which a depreciation deduction was previously claimed.