FORTY-NINTH BIENNIAL REPORT

TAX COMMISSIONER
OF
WEST VIRGINIA

WEST VIRGINIA

TAX LAWS

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TAX OVERVIEW

Taxes are levied at the State, county and municipal levels in West Virginia. Counties administer and collect property taxes although property tax rates reflect levies for State government, county governments, county boards of education and municipalities. Counties may also impose a hotel occupancy tax on lodging places not located within the city limits of any municipality that levies such a tax. Municipalities may levy license and gross receipts taxes on businesses located within the city limits and a hotel occupancy tax on lodging places in the city. Additionally, under certain conditions a municipality may levy a sales tax. However, any local sales tax must be administered by the State Tax Commissioner.

At the State level, taxes are levied on businesses and individuals. All resident individuals and nonresident individuals with West Virginia source income are subject to West Virginia Personal Income Tax.

A business must first apply for a Business Registration Certificate to do business in West Virginia. All business registration certificates or renewals issued on or after July 1, 2010 will be permanent registration certificates. If the business is incorporated, it must register with the Secretary of State and pay an annual fee. In addition, some businesses must apply for specific permits or licenses (e. g., a Contractor License through the Department of Labor).

All corporations, including subchapter S corporations, limited liability companies, and partnerships, are subject to the Business Franchise Tax. Corporations are subject to the Corporation Net Income Tax. Certain types of businesses are also subject to other privilege taxes. Natural resource producers must pay the Severance Tax while telecommunications firms are subject to the Telecommunications Tax. Public utilities, electric power producers, and gas storage businesses are subject to the Business and Occupation Tax. Insurance companies must pay the Insurance Tax. Health care providers are subject to either the Severance & Business Privilege Tax or the Health Care Provider Tax.

Although the Consumers Sales and Service Tax and the Use Tax are paid by the consumer, businesses registered with the State Tax Department as vendors must collect and remit these taxes to the State Tax Department unless the consumer presents a direct pay permit or exemption certificate issued by the Department.

Besides the taxes listed above, the State also levies excise taxes on gasoline, tobacco products, soft drinks and alcohol.

WEST VIRGINIA STATE TAX OVERVIEW

Tax	Tax Base	Calendar Year 2011 Tax Rate
Business Registration	Fee per business location	$30
Corporation Net Income	Federal taxable income with modifications apportioned and allocated to WV	8.50%
Business Franchise	Net equity with modifications apportioned to WV	Higher of $50 or 0.34%[1]
Severance	Gross receipts attributable to natural resource production	1.22%–timber 5%--oil, gas, coalbed methane Various rates–coal
Additional Severance	Gross receipts attributable to natural resource production	56¢ per ton–coal 4.7¢ per MCF–natural gas and coalbed methane 2.78%–timber
Business and Occupation	Gross receipts or units of activity:	
	Public utility services	4.40%--water 4.29%--natural gas 2.86%--other
	Street and Interurban Electric Railways	1.40%
	Natural gas storage	$0.05 per net dekatherm
	Electric power production	Generally capped at the average tax for the 1991-1994 period
Severance & Business Privilege	Gross proceeds from furnishing behavioral health services	5%

[1] Rate changes for 2012 through 2014 can be found on page 15.

Tax	Tax Base	Calendar Year 2011 Tax Rate
Health Care Provider	Gross receipts	1.75% - 5.50%
Telecommunications	Gross receipts from non-competitive services	4%
Insurance	Gross premiums	3%- 5.5%
Consumers Sales & Use	Sales of tangible personal property and certain services except food	6%
	Food	3%[1]
Local Sales & Use (Williamstown)	Same as State	1% (in addition to State rate)
Personal Income	Federal adjusted gross income with WV adjustments	3% - 6.5% graduated
Estate	Federal taxable estate	Credit for state death taxes[2]
Motor Fuel Excise	Gallon	20.5 cents per gallon
Gasoline Sales	5% of average wholesale price	11.7 cents per gallon
Beer	Barrel	$5.50 per barrel
Cigarette	Pack of 20	55 cents per pack
Other Tobacco Products	Gross invoice price	7%
Soft Drinks	Half-liter	1 cent
Wine Liter	Liter	$.26406 per liter

[1] The tax rate on food declines to 2% effective January 1, 2012 and to 1% effective July 1, 2012. For the purposes of the Consumers Sales and Use Tax, food means food and food ingredients intended for home consumption. The reduced rate of tax does not apply to sales, purchases and uses by consumers of prepared food, food sold through vending machines and soft drinks. These items are taxed at the full 6% rate.

[2] For deaths occurring on or after January 1, 2005, the federal credit for state death taxes is $0; thus, the West Virginia Estate Tax is $0.

BUSINESS REGISTRATION TAX

1. Business Registration Tax (W. Va. Code §11-12)

BUSINESS REGISTRATION TAX

Persons or corporations intending to do business in West Virginia must first apply for a Business Registration Certificate. The fee for obtaining a Business Registration Certificate is $30. A separate certificate is required for each fixed business location from which property or services are offered for sale or lease or at which customer accounts may be opened, closed or serviced. The Business Registration Tax is important, not because of the revenue it produces directly, but because registration for this tax requires the taxpayer to describe his business so that the State Tax Department can correctly identify the various taxes the business is subject to or that the business must collect and remit to the State. Once a Business Registration Certificate is issued, the taxpayer will receive all tax forms and information necessary to pay State taxes before the due dates.

The Business Registration Certificate is a permit to conduct business in the State and must be displayed at all times at the place of business. Contractors must also have a copy of their Business Registration Certificate available at each of their construction sites until the work at that site is completed. Businesses that sell tangible personal property or services from or out of one or more vehicles must carry a copy of their Business Registration Certificate in each vehicle and publicly display it while business is conducted from or out of the vehicle.

Any person who is engaging in any business activity in the State of West Virginia must register with the State Tax Department before commencing business activities in this State. This includes, but is not limited to, any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, club, society or other group or combination acting as a unit, body politic or political subdivision. Churches and nonprofit organizations are not considered to be "businesses" or engaged in business or subject to any other tax laws by the mere completion of an application for a Business Registration Certificate. Persons engaged in the following activities are not required to register if they engage solely in these activities:

1. judicial sales directed by law or court order,
2. sales for delinquent taxes on real or personal property,
3. the conduct of a charitable bingo occasion licensed under West Virginia Code §47-20 or a charitable raffle licensed under West Virginia Code §47-21,
4. the conduct of a horse or dog race meeting by any racing association licensed under West Virginia Code §19-23,
5. the operation or maintenance of the pari-mutuel system of wagering during the conduct of a licenced horse or dog race meeting,
6. the sale of any commodity during the conduct of a licensed horse or dog race meeting,
7. the services of owners, trainers, or jockeys which are essential to the effective conduct of a licensed horse or dog race meeting, or

8. occasional or casual sales of property or services by persons not engaged in a business activity.

In addition, any person engaging in a business activity who

1. is not required by law to collect any tax or withhold a tax, and
2. does not claim exemption from payment of the West Virginia Consumers Sales and Service Tax or Use Tax, and
3. had gross income from business activity of $4,000 or less from operations in all states during the income tax year most recently completed

is also not required to obtain a Business Registration Certificate. In order to claim this exemption, all three conditions must be met.

Although any person who is engaging in any business activity in this state is required to obtain a Business Registration Certificate, not all persons are required to pay the $30 fee. The following are exempt from the $30 fee:

1. a nonprofit organization that qualifies, or would qualify, for exemption from federal income taxes under section 501 of the Internal Revenue Code of 1986, as amended,
2. this State, or a political subdivision thereof, selling tangible personal property, admissions or services when those activities compete with or may compete with the activities of another person,
3. the United States, or any agency or instrumentality thereof, which is exempt from taxation by the states,
4. any person engaged in the business of agriculture or farming,
5. a foreign retailer, who is not engaging in business in this State, who volunteers to collect and remit Use Tax on sales to West Virginia customers,
6. an out-of-state company that does not have nexus in West Virginia and employs a West Virginia resident (the company must register for a 'withholding only' account), and
7. a West Virginia private household employment domestic help (taxpayer must register for a 'withholding only' account).

Not all taxes are collected by the West Virginia State Tax Department. Some businesses must register with other State agencies. The following is a list of types of businesses that must meet special registration requirements before the West Virginia State Tax Department can issue a Business Registration Certificate.

1. Corporations, limited partnerships, limited liability companies, and voluntary associations must first register with the West Virginia Secretary of State.
2. Collection agencies must file an approved surety bond of $5,000 with the West Virginia State Tax Department for each West Virginia location.
3. Employment agencies must first obtain a letter of approval from the Labor Division of the West Virginia Department of Commerce, Labor and Environmental Resources.

4. Transient vendors must, in addition to filing the Application for Registration Certificate and paying the $30 fee, file an Application for Transient Vendor's License and post a $500 bond with the West Virginia State Tax Department.
5. Sales of Drug Paraphernalia–businesses selling drug paraphernalia must obtain a special Drug Paraphernalia License from the West Virginia State Tax Department.
6. All contractors must obtain a contractor's license from the Labor Division of the West Virginia Department of Commerce, Labor and Environmental Resources.
7. Nonresident contractors must also register with the West Virginia State Tax Department under the Consumers Sales and Use Tax laws prior to engaging in the performance of a contract in West Virginia and must file a cash bond or corporation surety bond for each contract or an Umbrella Corporate Surety Bond.
8. Telemarketers must file an approved bond of $100,000.

The State Tax Commissioner may cancel or suspend a Business Registration Certificate at any time if

1. the registrant filed an Application for a Business Registration Certificate that was false or fraudulent;
2. the registrant willfully refused or neglected to file a tax return for any tax imposed;
3. the registrant willfully refused or neglected to pay any tax, additions to tax, penalties or interest, or any part thereof, when they became due and payable;
4. the registrant neglected to pay over to the State Tax Commissioner on or before its due date any tax imposed which the registrant collects from any person and holds in trust for this State;
5. the registrant abused the exemption from payment of Consumers Sales and Use Tax for some or all of its purchases for use in business; failed to timely pay Use Tax on taxable purchases, or failed to either pay the tax or provide a vendor with a properly executed exemption certificate or direct pay permit number, or
6. the registrant failed to pay in full delinquent personal property taxes owed to the county sheriff in the county where their business is located.

The State Tax Commissioner may refuse to issue a Business Registration Certificate when informed, in writing by the county sheriff that personal property owned by the registrant and used in conjunct with the business activity of the registrant subject to delinquent property taxes.

The State Tax Commissioner may also refuse to issue a Business Registration Certificate for the registrant had been determined by the State Tax Commissioner to be an 'alter ego' of a business that has previously been subject to a lawful refusal to issue, renovation, suspension or refusal to renew. A business is determined to be an 'alter ego' if

1. more than 20 percent of the assets have been transferred from another business or more than 20 percent of the assets were to have been used to secure debts or obligations of the other business;
2. ownership of the business is configured so that the attribution rules of either Internal Revenue Code section 267 or Internal Revenue Code section 318 would apply to cause ownership of the businesses to be attributed to same person or entity, or
3. substantive control of the business is held or retained by the same person or entity.

Before canceling or suspending any Business Registration Certificate, the State Tax Commissioner must give written notice of his or her intent to suspend or cancel the Business Registration Certificate of the taxpayer, the reason for the suspension or cancellation, and the effective date of the cancellation, revocation or suspension. A business for which a Business Registration Certificate has been suspended, cancelled or revoked may apply for a new Business Registration Certificate or for reinstatement of a suspended Business Registration Certificate upon payment of all outstanding delinquent fees, taxes, interest, additions to tax and penalties, in addition to a penalty of $100. The State Tax Commissioner may issue a new Business Registration Certificate or reinstate a suspended Business Registration Certificate if the business has provided security acceptable to and authorized by the State Tax Commissioner, payable to the State Tax Commissioner, sufficient to secure all delinquent fees, taxes, interest, additions to tax and penalties owed or the business has entered into a payment plan approved by the State Tax Commissioner. A fee of $30 for each Business Registration Certificate must be paid when a new certificate is granted after the prior certificate was suspended, revoked of cancelled.

BUSINESS REGISTRATION TAX COLLECTIONS

Fiscal Year	Net Revenue
2000-2001	$1,322,680
2001-2002	1,923,972
2002-2003	1,576,563
2003-2004	1,630,825
2004-2005	1,953,552
2005-2006	1,818,860
2006-2007	1,290,955
2007-2008	2,291,866
2008-2009	1,936,116
2009-2010	2,125,209
2010-2011	2,239,181

BUSINESS TAXES

1. Corporation Net Income Tax (W.Va. Code §11-24)
2. Business Franchise Tax (W.Va. Code §11-23)
3. Severance Tax (W.Va. Code §§11-13A, 11-12B and 11-13V)
4. Special Two-Cent Tax (W.Va. Code §22-3-32)
5. Special Reclamation Tax (W.Va. Code §22-3-11)
6. Business & Occupation Tax (W.Va. Code §11-13)
7. Telecommunications Tax (W.Va. Code §11-13B)
8. Severance and Business Privilege Tax (W. Va. Code §11-13A)
9. Health Care Provider Tax (W.Va. Code §11-27)
10. Insurance Taxes and Fees (W.Va. Code §33)

The State of West Virginia imposes two primary business taxes: the Corporation Net Income Tax (CNIT) and the Business Franchise Tax (BFT). Additional taxes are levied upon certain industries. A Severance Tax is imposed on the production of natural resources. The Business and Occupation Tax is imposed upon public utilities, electric power producers, and gas storage operators. A Telecommunications Tax is imposed upon companies engaged in the business of telecommunications. The Severance and Business Privilege Tax and Health Care Provider Tax are imposed on certain health care providers. Finally, an Insurance Tax is collected from every insurance company transacting insurance business in the State.

CORPORATION NET INCOME TAX

Domestic and foreign corporations doing business in West Virginia or deriving income from property, activity or other sources within the State are subject to the Corporation Net Income Tax (CNIT). Certain insurance companies and mutual companies, certain trusts, S corporations, certain production credit associations and nonprofit corporations are all exempt from tax. However, the tax is applicable to the unrelated business income of nonprofit corporations, and S corporations must file a WV/SPF-100 return. The Corporation Net Income Tax is imposed at the following rates:

Taxable Years Beginning on or After	Rate
January 1, 2009	8.50%
January 1, 2012	7.75%[1]
January 1, 2013	7.00%[1]
January 1, 2014	6.50%[1]

[1]Rate reductions occur only if State Rainy Day Fund balance as of July 1st of the previous year was equal to at least 10% of the current State General Revenue Fund budget.

CNIT is imposed on taxable corporation income as defined by federal law and as adjusted by State law. Some adjustments that can increase taxable income are as follows:

1. interest or dividends on U.S. government obligations or securities that are exempt from federal income tax but not from state income tax;
2. interest or dividends from all state or local bonds or securities excluded from federal taxable income;
3. All taxes imposed on or measured by net income that are expensed on the federal corporate income tax return;
4. the amount of unrelated business taxable income of a corporation that because of its purposes is generally exempt from federal income tax;
5. the federal net operating loss deduction;
6. the amount of foreign taxes deducted in determining federal taxable income;
7. net operating loss from sources outside the United States;
8. federal deduction for charitable contributions to Neighborhood Investment Programs if claiming the West Virginia Neighborhood Investment Programs Tax Credit;
9. Section 199 Domestic Production Allowance, and
10. dividend paid deduction otherwise allowed by federal law in computing net income of certain real estate investment trusts (REIT) or of ceratin regulated investment companies.

Modifications that can decrease taxable income are as follows:

1. state income tax refunds or credits for overpayment included in federal taxable income;
2. interest expense incurred to purchase or carry obligations or securities of states or their political subdivisions, if disallowed in determining federal taxable income;
3. the amount of dividends received from a foreign (non-United States) corporation to the extent the dividends were added to federal taxable income by a corporation claiming a foreign tax credit;
4. that portion of salary expenses disallowed as a deduction for federal income tax purposes due to the claiming of the federal jobs credit;
5. the amount received from a foreign corporation as dividend income to the extent included in federal taxable income;
6. foreign source income to the extent included in federal taxable income, and
7. employer contributions to medical savings accounts.

CNIT law also provides for the elective adjustment to taxable income for expenditures for water and air pollution control facilities as defined by sections 48(h)(12)(B) and (C) of the Internal Revenue Code with the addition to taxable income of depreciation and amortization allowances taken on such facilities.

A decreasing adjustment is allowed for certain government obligations and obligations secured by residential property. The deduction is equal to the average monthly percentage of total

corporate assets represented by tax-exempt federal obligations, West Virginia obligations and mortgages on residential property located within the State multiplied by taxable income.

A taxpayer may claim its aggregated West Virginia net operating loss carry-overs plus the net operating loss carry-backs. However, no more than $300,000 of the net operating loss from any taxable year may be carried back to prior tax years. Net operating losses may be carried back for up to two years (subject to the $300,000 limitation) and then excess losses may be carried forward for up to twenty years.

Corporations subject to taxation in West Virginia and one or more other states must generally use a three-factor apportionment formula to determine the portion of their total income that is subject to taxation in West Virginia. The three factors consist of property, payroll and sales. The sales factor is given a 50 percent weight while the other two factors each receive a weight of 25 percent. Any factor with a zero denominator is eliminated from the apportionment computation. The value of moveable property to be included in the numerator of the property factor is based on the number of days the property is physically located in West Virginia expressed as a percentage of the total number of days the property is located everywhere. The gross receipts from sales of tangible personal property shipped from this State before sale and not subject to an income tax by the state of destination are excluded from both the numerator and the denominator of the sales apportionment factor. This rule does not apply to sales to the United States government.

Special apportionment rules apply to motor carriers and financial organizations. Motor carriers with West Virginia nexus apportion business income by use of the ratio of total vehicle miles in West Virginia to total vehicle miles everywhere. Multi-state financial organizations apportion business income by a special gross receipts factor. The gross receipts factor is the ratio of receipts attributable to West Virginia customers to receipts attributable to all customers. A financial organization has nexus in West Virginia if it obtains or solicits business from twenty or more persons within the State or if total West Virginia receipts equal at least $100,000.

While most business income of multi-state corporations is subject to the apportionment formula mentioned above, some types of income are directly allocated to the State. Adjusted income that is not gained in the regular course of the taxpayer's business and which comes from

1. rents and royalties from real or tangible personal property, and/or
2. capital gains and losses from sales of real property located within this State, and/or
3. interest and dividends if the taxpayer's commercial domicile is in the State, and/or
4. patent or copyright royalties

is allocated to West Virginia and becomes West Virginia taxable income to the extent that these sources of non-business income are owned, used or otherwise represent taxable activity in West Virginia.

Information returns must be filed by every corporation electing to be taxed under subchapter S of the Internal Revenue Code. There is a $50 penalty for

1. failure to file an information return,
2. failure to include all required information, or
3. including incorrect information on an information return.

If the taxpayer corrects these failures by thirty days after the required filing date, the penalty is only $15. A failure corrected after thirty days but before August 1 of the calendar year in which the filing is required results in a $30 penalty.

A corrected information return filed by the August 1 deadline is considered correctly filed, and no penalty will be assessed on the returns if the number of corrected returns filed in the calendar year does not exceed the greater of

1. 10, or
2. 0.5 percent of the total number of returns required to be filed by the corporation with the State Tax Commissioner.

Combined Reporting

Beginning on January 1, 2009, combined income method of reporting for unitary groups will be required when filing the Corporation Net Income/Business Franchise Tax Return.

Tax Credits

The West Virginia Code provides for a variety of tax credits that may be applied against CNIT liability in some cases. These include the Economic Opportunity Tax Credit, the Manufacturing Investment Tax Credit, the Strategic Research and Development Credit, the Military Employment Incentive Credit, the Environmental Agricultural Equipment Credit, the Alternative-Fuel Tax Credit[1], the Credit for Reducing Utility Charges to Low-Income Families, the Credit for Reducing Telephone Charges to Low-Income Families, the Historic Rehabilitated Buildings Investment Credit, the Neighborhood Investment Program Credit, the Tax Credit for Apprenticeship Training, the Film Industry Investment Credit, the credit for utility taxpayers with net operating loss carryovers, Commercial Patent Incentives Tax Credit, and the Innovative Mine Safety Technology Tax Credit (effective for tax years beginning after December 31, 2011). Explanations of these credits may be found in the Tax Credits section.

Taxpayers that had gained entitlement to the terminated Business Investment and Jobs Expansion Credit or the terminated Research and Development Credit pursuant to the placement of qualified investment into service or use prior to January 1, 2003, may continue to use those credits.

BUSINESS FRANCHISE TAX

All partnerships and corporations, including S corporations, are subject to the Business Franchise Tax. The Business Franchise Tax is a tax on the privilege of engaging in business in West Virginia. It applies to all domestic corporations, corporations that have a commercial domicile in West Virginia, and foreign or domestic corporations or partnerships that own or lease real or tangible personal property or do business in West Virginia. The Business Franchise Tax is the greater of $50

[1] The Alternative-Fuel Tax Credit is effective for tax years beginning on or after January 1, 2011 and includes a tax credit for the purchase or conversion of motor vehicles using alternative fuels (see the Tax Credit section and other State Tax Department publications/ forms for more information). A previous credit for motor vehicles using alternative fuels (i.e., the Alternative-Fuel Motor Vehicle Credit) expired on June 6, 2006.

or the product of apportioned net equity times the applicable tax rate. The tax rates are being phased down as follows:

Taxable Years Beginning on or After	Rate
January 1, 2011	0.34%
January 1, 2012	0.27%
January 1, 2013	0.20%
January 1, 2014	0.10%

The tax will be completely eliminated for tax years beginning on or after January 1, 2015.

The following organizations are exempt from this tax:

1. businesses that are not corporations or partnerships, such as sole proprietors or self-employed persons;
2. corporations and organizations that are exempt from federal income tax;
3. insurance companies that pay a premium tax in West Virginia, the Employers' Mutual Insurance Company[1] or private carriers of workers' compensation;
4. production credit associations organized under the federal "Farm Credit Act of 1933";
5. any trust established pursuant to Section 186, Chapter 7, Title 29 of the United States Code;
6. any credit union established under W. Va. Code §31;
7. political subdivisions or instrumentalities of West Virginia;
8. joint ventures and other unincorporated organizations that elect not to be treated as partnerships for federal income tax purposes;
9. any corporation or partnership operating a hunting club if the corporation or partnership does not distribute dividends or income to its owners or stockholders, and
10. any person or other organization engaged in the activity of providing venture capital to West Virginia businesses, providing that the provision of venture capital is their only activity.

Partnerships and corporations that engage in agriculture and farming in West Virginia or are licensed to conduct horse or dog racing meetings in West Virginia are also exempt from Business Franchise Tax if that is their only activity. If the activities of a corporation or partnership include the activity of agriculture and farming and another activity, the exemption from Business Franchise Tax applies only to that portion of the capital of the corporation or partnership that is attributable to the activity of farming and agriculture. Farming cannot shelter the capital of the corporation or partnership that is attributable to other activities. A corporation or partnership that pays this State's pari-mutuel tax

[1]The private successor of the Workers' Compensation Commission

on wagering is exempt from the Business Franchise Tax except to the extent it engages in other activities that are not subject to the pari-mutuel tax.

For corporations the measure of the tax is their capital, which is the average of the beginning and ending balances of the value of common and preferred stock plus both appropriated and unappropriated retained earnings and paid-in capital or capital surplus, less treasury stock. The capital of partnerships is defined as the average of the beginning and ending balances of the partner's capital accounts. These items of capital are taken from Schedule L of the corporation's federal form 1120 or the partnership's federal form 1065 as filed with the Internal Revenue Service for the taxable year.

A decreasing adjustment is allowed against the tax base for certain government obligations and obligations secured by residential property. The deduction is equal to the percentage of total assets represented by tax-exempt federal obligations, tax-exempt West Virginia obligations, and mortgages on residential property located within the State multiplied by net equity (capital). Averages of beginning and ending monthly balances of both total assets and assets as represented by the items mentioned above are used in the computation of this deduction.

Corporations subject to taxation in West Virginia and one or more other states must use a three-factor apportionment formula to determine the portion of total capital subject to taxation in West Virginia. The three factors consist of property, payroll and sales. The sales factor is given a 50 percent weight while the other two factors each receive a weight of 25 percent. The value of moveable property to be included in the numerator of the property factor is based on the number of days the property is physically located in West Virginia expressed as a percentage of the total number of days the property is located everywhere.

Special apportionment rules apply to multi-state financial organizations. These organizations apportion business based on a one-factor customer location gross receipts factor.

Credits Against Tax Liability

1. Taxpayers subject to the State Business and Occupation Tax may take a credit equal to the amount of West Virginia Business Franchise Tax liability multiplied by the percentage that gross income subject to Business and Occupation Tax is of total West Virginia gross receipts.
2. A parent corporation may take credit for its proportional share of Business Franchise Taxes paid by a partnership in which it is a member or by a subsidiary corporation if a consolidated return is not filed.
3. Any domiciled financial organization acquiring an out-of-state bank may claim an annual credit equal to 50 percent of any additional goodwill added to the balance sheet multiplied by the tax rate in effect.

The West Virginia Code provides for a variety of other tax credits that may be applied against Business Franchise Tax liability in some cases. These include the Economic Opportunity Tax Credit, the Manufacturing Investment Tax Credit, the Strategic Research and Development Credit, the Industrial Expansion and Revitalization Credit for electric power producers, the Neighborhood Investment Program Credit, the Coal Loading Facilities Credit, the Apprenticeship Training Tax Credit, the Film Industry Investment tax Credit, the Manufacturing Property Tax Adjustment Tax Credit, the Alternative-Fuel Tax Credit, the Commercial Patent Incentives Tax Credit, and the

Innovative Mine Safety Technology tax Credit (effective for tax years beginning after December 31, 2011). Explanations of these credits may be found in the Tax Credits section.

Taxpayers that had gained entitlement to the Business Investment and Jobs Expansion Credit, the Industrial Expansion and Revitalization Credit, the Residential Housing Development Projects Credit or the Research and Development Credit pursuant to the placement of qualified investment into service or use prior to January 1, 2003, may continue to use those credits.

SEVERANCE TAX

The Severance Tax is a gross receipts tax levied on businesses that sever, extract, and/or produce natural resource products within West Virginia. The Severance Tax base includes the processing and treatment of natural resource products as part of the production process. However, a person subject to the Severance Tax who purchases raw natural resources and processes them into commercially usable products only pays tax on the value added in the processing and not on the total value of the product. The processing tax provision does not apply to oil, natural gas, timber, or limestone or sandstone quarried or mined. The tax under these natural resource categories is levied only on the value of the product immediately after severance from the earth and before processing.

The tax rates on natural resources, except timber, are generally 5 percent of gross receipts. The following is a list of business classifications and their respective tax rates:

Business Classification	Rate
Coal[1] (all rates include the 0.35% additional severance tax for the benefit of counties and municipalities)	5.00%
If seam thickness of deep mine is less than 37 inches for new mines not operating between 10/14/96 and 4/11/97	1.00%
If seam thickness of deep mine is between 37 inches and 45 inches for new mines not operating between 10/14/96 and 4/11/97	2.00%
Waste coal produced from refuse or gob for tax years beginning on or after April 13, 2001 (dedicated to waste coal producing counties)	2.50%
Limestone or sandstone quarried or mined	5.00%
Oil	5.00%

[1] Coal is also subject to special reclamation taxes and a tax to reduce the unfunded Workers' Compensation liability.

Natural gas[1] and coalbed methane[2]	5.00%
Sand, gravel or other mineral products not quarried or mined	5.00%
Timber[3]	1.22%
Other natural resource products	5.00%

Effective July 10, 2009, the Severance Tax on timber has been eliminated for a period of three years.

Tax on the Recovery of Coal from Refuse and Gob

A Severance Tax of 2.5 percent is imposed on the privilege of extracting and recovering material from refuse, gob piles or other sources of waste coal to produce coal. This tax is imposed in lieu of any other severance taxes imposed by W. Va. Code §11-13A-3 and §11-12B-3 but in addition to all other taxes imposed by the law. The tax is imposed at a rate of 2.5 percent of the gross proceeds derived from the sale by the producer. The tax does not apply to an electrical power co-generation plant burning material from its wholly-owned refuse or gob pile. All proceeds from this tax go to waste coal-producing counties on a basis of share of total waste coal production for the State. This 2.5 percent tax is in lieu of the regular 5.0 percent Severance Tax on coal.

Minimum Tax

An annual minimum Severance Tax on coal is imposed on every business severing, extracting or producing coal in West Virginia for sale, profit or commercial use. The annual Minimum Severance tax does not apply to qualified thin-seam coal or to waste coal.

The tax rate for the minimum Severance Tax is 75 cents per ton of coal produced for sale. A taxpayer who pays the minimum Severance Tax is allowed a credit against the Severance Tax imposed on coal; however, no credit is allowed against the additional tax levied on the severance, extraction and production of coal for the benefit of local governments. There are no investment credits allowed against the minimum tax on coal. The minimum Severance Tax is due in monthly installments.

Every taxpayer subject to the minimum Severance Tax is required to file an annual return. If a taxpayer files a consolidated, composite or unitary return for the Severance Tax imposed under W. Va. Code §11-13A, the taxpayer must also file as part of the consolidated, composite or unitary group for the minimum Severance Tax. The State Tax Commissioner may require a cash or corporate security bond to ensure compliance. The amount of the bond shall be no greater than three times the average quarterly liability for quarterly taxpayers, five times the average monthly liability for

[1] Natural gas is also subject to a tax to reduce the unfunded Workers' Compensation liability.

[2] Effective January 1, 2009, coalbed methane from wells not subject to the grandfathered five-year tax exemption is subject to both the 5% regular Severance Tax and the additional Worker's Compensation Severance Tax.

[3] Timber is also subject to a tax to reduce the unfunded Workers' Compensation liability.

monthly taxpayers, or twice the average periodic liability for taxpayers filing returns on other than a monthly or quarterly basis. No bond shall be set at less than $500.

Exemptions for Natural Gas Severance Tax

The gross receipts attributable to the following activities are excluded from the Severance Tax on natural gas and oil:

1. free natural gas provided to the surface owner;
2. natural gas from any well which produced an average of less than 5,000 cubic feet of natural gas per day during the calendar year immediately preceding the given tax year;
3. oil from an oil well which produced an average of less than one-half barrel of oil per day during the calendar year immediately preceding the given tax year, and
4. for a maximum period of ten years, all natural gas or oil produced from any well which has not produced marketable quantities of natural gas or oil for five consecutive years immediately preceding the year in which a well is placed back into production and thereafter produced marketable quantities of natural gas or oil.

Exemption for Severance of Coalbed Methane - Phase Out

Pursuant to Legislation enacted in 2008, the 5-year exemption for the extraction of coalbed methane gas was eliminated effective January 1, 2009. However, the Legislation also provided that any wells placed in service, or for which drilling had actually commenced, before January 1, 2009 were to retain entitlement to the exemption for the remainder of their original 5-year exemption period.

Additional Tax on the Severance, Extraction and Production of Coal (W.Va. Code §11-13A-6)

An additional tax is levied on the severance, extraction and production of coal for the benefit of local governments at the rate of $0.35 per $100. This additional tax is collected for counties and municipalities by the State Tax Department. Therefore, the tax rate for the coal classification on the Severance Tax return is the total of the State rate and the additional tax for the benefit of local governments. The revenue from the additional severance tax is then distributed to local governments quarterly. The amount to be distributed is calculated without application of any credits against the Severance Tax that are otherwise authorized.

Revenue produced by the additional severance tax is divided into two funds. Seventy-five percent goes into the County Coal Revenue Fund, and the remaining 25 percent goes into the All Counties and Municipalities Revenue Fund. All counties and municipalities must create a coal severance tax revenue fund that shall be the depository for money distributed to any county or municipality.

County Coal Revenue Fund

A share of the County Coal Revenue Fund has been distributed quarterly by the State Treasurer to the sheriff of each coal-producing county since January 1, 1976. Each coal-producing county receives as payment a fraction of this fund that is the same fraction that the coal produced in that county is of the total amount of coal produced in West Virginia. The amount of each quarterly payment is based on production data for the previous quarter. In counties with population over 200,000, at least 75 percent of the funds received from the County Coal Revenue Fund shall be apportioned to and expended within the coal-producing area or areas of the county.

All Counties and Municipalities Revenue Fund

Money from this smaller fund has been distributed proportionately based on population to every municipality and county quarterly since July 1, 1976. To make these distributions, the State Treasurer first divides the fund so that each county is allocated a fraction of the fund that is the same fraction that the population of the county is of the total population of West Virginia. When each county has been allocated a share, each share is then divided into two parts: rural and municipal.

The State Treasurer sends to the sheriff of each county as payment a fraction of this fund that is the same fraction that the population of its unincorporated or rural area is of the total population of the county. From the remainder of each county's share the State Treasurer sends to the treasurer of each incorporated town or city as payment a fraction of this remainder that is the same fraction that the population of each incorporated town or city is of the total municipal population of the county. The population data is taken from the most recent decennial U.S. Census of Population.

THE ADDITIONAL TAX ON THE SEVERANCE, EXTRACTION AND PRODUCTION OF COAL

Fiscal Year	Gross Yield (Millions)
2000-2001	$14.1
2001-2002	15.8
2002-2003	15.5
2003-2004	15.1
2004-2005	20.2
2005-2006	24.2
2006-2007	26.0
2007-2008	27.4
2008-2009	35.6
2009-2010	34.5
2010-2011	37.8

Additional Dedication of the Severance Tax Attributable to Coal

Effective July 1, 2012, 1 percent of the Severance Tax attributable to the severance of coal is to be dedicated and distributed to the counties from which the coal was produced that generated

the tax. The amount of Severance Tax attributable to the severance of coal to be distributed to the coal-producing counties increases by an additional percentage point each succeeding first of July until reaching 5 percent. The maximum amount of Severance Tax attributable to the severance of coal to be distributed to the coal-producing counties cannot exceed $20 million in any fiscal year.

Dedication of Oil and Gas Severance Tax Revenue

Ten percent of Severance Tax revenue from the production of gas or oil in West Virginia is dedicated for distribution to counties and municipalities annually. The dedicated Severance Tax revenue is divided into two funds. Seventy-five percent goes into the Oil and Gas County Revenue Fund, and the remaining 25 percent goes into the All Counties and Municipalities Oil and Gas Revenue Fund. Distributions to any county or municipality are deposited into the general revenue fund of the entity and may be expended for any purpose, except that no more than 25 percent of the amount received may be spent for personal services. Also, in oil and gas-producing counties with a population in excess of 200,000, 75 percent of the monies received from the Oil and Gas County Revenue Fund must be spent in the oil and gas-producing areas of the county.

Oil and Gas County Revenue Fund

A share of the Oil and Gas County Revenue Fund is distributed annually by the State Treasurer to each oil or gas-producing county. The amount allocated to each county is determined as follows:

1. For gas, the total amount available for distribution derived from Severance Tax on gas is divided by the total volume of cubic feet of gas extracted in West Virginia during the preceding year. This quotient is multiplied by the number of cubic feet of gas taken from the ground in each county during the preceding year.
2. For oil, the total amount available for distribution derived from Severance Tax on oil is divided by the total number of barrels of oil extracted in West Virginia during the preceding year. This quotient is multiplied by the number of barrels of oil taken from the ground in each county during the preceding year.

All Counties and Municipalities Oil and Gas Revenue Fund

Money from this smaller fund is distributed proportionately based on population to every municipality and county. To make these distributions, the State Treasurer first divides the fund so that each county is allocated a fraction of the fund that is the same fraction that the population of the county is of the total population of West Virginia. When each county has been allocated a share, each share is then divided into two parts: rural and municipal.

The State Treasurer sends to the sheriff of each county as payment a fraction of this fund that is the same fraction that the population of its unincorporated or rural area is of the total population of the county. From the remainder of each county's share the State Treasurer sends to the treasurer of each incorporated town or city as payment a fraction of this remainder that is the same fraction

that the population of each incorporated town or city is of the total municipal population of the county. The population data is taken from the most recent decennial U.S. Census of Population.

DEDICATED OIL AND GAS SEVERANCE TAX[1]

Fiscal Year	Gross Yield (Millions)
2000-2001	$1.8
2001-2002	2.8
2002-2003	2.6
2003-2004	3.5
2004-2005	5.3
2005-2006	6.9
2006-2007	6.7
2007-2008	7.2
2008-2009	8.4
2009-2010	6.0
2010-2011	6.1

Dedication of Coalbed Methane Severance Tax Revenue

In concert with Legislation that eliminated the 5-year exemption from tax for coalbed methane from wells placed in service on and after January 1, 2009, the first $4 million of Severance Tax attributable to coalbed methane collected each fiscal year is dedicated to counties and county economic development authorities. Subject to proportional adjustments, 75 percent of the dedicated revenue is set aside for producing counties and allocated based upon production levels while the remaining 25 percent is set aside for all other counties and allocated in equal amounts. A proportional adjustment is required in the event that the initial allocation to a county with coalbed methane production is less than the allocation to a non-producing county. The final county allocations for each fiscal year are distributed to county commissions if the amount is $10,000 or less while final allocations that are greater than $10,000 are distributed to the county's economic development authority.

DEDICATED COALBED METHANE SEVERANCE TAX

Fiscal Year	Gross Yield (Millions)
2008-2009	$0.5
2009-2010	1.3
2010-2011	2.8

[1]From July 1, 1996 to June 30, 1997, 5 percent of the Severance Tax collections attributable to oil and gas production was dedicated for the use and benefit of counties and municipalities in the State. Beginning July 1, 1997, the percentage distributed to counties and municipalities increased to 10 percent.

Nonresident Requirements for Timber Severance Tax

Every nonresident who owns or purchases standing timber in West Virginia and either directly or indirectly severs that timber must apply for a Business Registration certificate before the timbering operation begins. Nonresident means a person or company that does not have a business location in West Virginia or did not have a permanent office or any other permanent place of business in this State during the three months preceding the date of the application. Every nonresident who either directly or through the activity of others severs West Virginia timber owned by that person at the time it is severed must give the State Tax Commissioner written notice of intent to sever the West Virginia timber. The notice must be given at least thirty days but not more than ninety days before the beginning of the severance activity. This notification must include the estimated gross value of the timber and all information required by W. Va. Code §19-1B-6. If the nonresident owns any part of the timber at the time that it is severed, he must pay the State Tax Commissioner an amount equal to 4 percent of the estimated gross value of the severed timber at the time the notification is filed. The estimated gross value is not to be less than the actual price paid or to be paid for stumpage. This amount is to be deposited into the Forestry Tax Fund pending completion of the timber severance tax activity. After the severance activity is completed, the taxpayer must file a report with the State Tax Commissioner reconciling the prepaid amount and the amount actually due. If there is an overpayment, the State Tax Commissioner will provide a refund. If there is an underpayment, the taxpayer must pay the difference at the time of the filing of the report.

Anyone purchasing severed timber must obtain a copy of the seller's current Business Registration certificate or a copy of the seller's federal form 1099 for the year of the purchase. If the seller is not required to have a Business Registration certificate, the purchaser must obtain an affidavit from the seller stating the following:

1. the seller is not required to obtain a Business Registration certificate;
2. the seller's Social Security number or federal employer identification number, and
3. the current mailing address of the seller.

Credits Against Tax Liability

An annual tax credit of $500 is provided for each business engaged in activities in this State that are subject to the Severance Tax. The West Virginia Code provides for other tax credits that may be applied against Severance Tax liability in some cases. These include the Manufacturing Investment Tax Credit and the Coal-Loading Facilities Credit. Taxpayers that had gained entitlement to the Industrial Expansion and Revitalization Credit or the Research and Development Credit pursuant to the placement of qualified investment into service or use prior to January 1, 2003, may continue to use those credits. Explanations of these credits may be found in the Tax Credits section.

SPECIAL TWO-CENT TAX

A special 2-cent per ton tax is imposed on producers of coal. For purposes of this tax, producers of coal are persons who own the coal immediately after its severance from the ground. The

measure of this tax is "tons of clean coal" sold during the reporting period produced by the seller of the coal. The person who produces and sells unprocessed coal must convert raw tonnage sold to "tons of clean coal" and pay tax on the lower number. Persons who process coal they produced and coal produced by another producer must keep records to prove the accuracy of their tax returns.

This tax must be remitted on or before the last day of the calendar month following the month during which the tax accrued. Persons who remit tax monthly must remit the tax that accrues for the month of May by June 15 instead of June 30.

RECLAMATION TAX

Coal production within West Virginia is subject to the Reclamation Tax of 14.4 cents per ton of clean coal mined. The tax proceeds are deposited into the special reclamation fund for use in mine reclamation projects.

SPECIAL TAXES TO PROVIDE FUNDING FOR UNFUNDED WORKERS' COMPENSATION LIABILITY

Three taxes were temporarily imposed to provide funding to reduce and pay the unfunded Workers' Compensation liability. The three taxes are

1. a 56 cents per ton additional Severance Tax on persons within West Virginia in the business of severing, extracting, reducing to possession and producing coal for sale, profit or commercial use;
2. a 4.7 cents per MCF (thousand cubic feet) additional Severance Tax on persons for the privilege of engaging in West Virginia in the business of severing natural gas[1] for sale, profit or commercial use, and
3. an additional Severance Tax imposed at the rate of 2.78 percent on persons engaging in West Virginia in the business of severing timber for sale, profit or commercial use (the measure of tax is the gross value of the timber at the point where the production privilege ends).

These taxes apply to natural resources produced after November 30, 2005.

BUSINESS AND OCCUPATION TAX

The Business and Occupation Tax applies only to public utilities, electric power producers, gas storage businesses, and the production of synthetic fuel from coal. Descriptions of these tax categories, tax bases and tax rates are listed below.

[1] Effective January 1, 2009, coalbed methane is taxable as natural gas.

1. Public Service or Utility Business Excluding Electricity (W.Va. Code §11-13-2d)

The measure of tax in this category is gross income. Businesses excluded from this category are railroads, railroad car companies, express companies, pipeline companies, motor carriers, telephone and telegraph companies, steamboat or steamship water carriers, and municipally-owned water companies. The tax rates imposed under W.Va. Code §11-13-2d are as follows:

Water Companies (except municipal waterworks)	$4.40 per $100
Natural Gas Companies and Toll Bridges	$4.29 per $100
All Other Public Utilities	$2.86 per $100
Street and Interurban and Electric Railways	$1.40 per $100

Sales of natural gas are excluded from tax if separately metered and used by the purchaser to derive hydrogen and carbon monoxide for use in the manufacture of chemicals in West Virginia. No exclusion is allowed for the sale of natural gas from which the purchaser derives carbon monoxide or hydrogen for resale.

2. Electric Power Producers or Distributors (W.Va. Code §11-13-2o)

a. Electric Power Producers

The tax base for in-state producers is based upon average taxable generating capacity (kilowatts) for the 1991 through 1994 calendar years. Taxable generating capacity is defined as a generating unit's capacity factor (i.e., average four-year generation divided by the unit's maximum possible annual generation) multiplied by its official capability (i.e., nameplate capacity). Taxable generating capacity may also be mathematically expressed as the average four-year generation (i.e., 1991-1994) of a generating unit divided by the number of hours in a year (i.e., 8,760 hours).

If the generating unit was newly installed after January 1, 1991, but before December 31, 1994, then the average four-year generation is computed through the annualization of the average monthly net generation of such unit during its months of operations between 1991 and 1994. If a new generating unit, other than a peaking unit is placed into service after March 10, 1995, that unit's taxable generating capacity equals 40 percent of its nameplate capacity. If a peaking unit is placed in service after March 10, 1995, that unit's taxable generating capacity equals 5 percent of its nameplate capacity. A peaking unit is a unit designed for the limited purpose of meeting peak demands for electricity or filling emergency electricity requirements. For taxable periods beginning on or after January 1, 2008, the taxable generating capacity of a wind-power generating unit is to be equal to 12 percent of the official capability of the unit, except for county-owned units.

If a generating unit is retired from service or placed in inactive reserve, the taxpayer is no longer liable for the tax on such unit. These units must be out-of-service for at least twelve consecutive months to qualify for either the retired or inactive status.

If a generating unit produced electricity for sale to a plant location of a customer engaged in manufacturing activity and such sale exceeded an average of

200,000 kilowatts per hour between 1991 and 1994, then that generating unit qualifies for a partial exclusion from tax. This annual exclusion equals 21/26ths of the average annual kilowatt hours of electricity generated and sold to such customer between 1991 and 1994. Taxable generation capacity for such a generation unit must be split between average generation attributable to the large volume user and average generation attributable to all other uses. The large user exclusion is a fixed amount based upon average activity between 1991 and 1994. There is no additional exclusion attributable to current activity. However, an alternative kilowatt-hour tax calculation ensures that the total tax on taxable capacity attributable to large volume sales does not exceed an amount equal to $0.0005 per kilowatt-hour. If a new 200,000 kilowatt per hour customer appears, there is no additional 21/26ths exclusion for the generating unit supplying power to such customer. However, such additional sales should result in no incremental increase in the fixed taxable generating capacity tax. A 21/26ths exclusion also applies to generating units producing electric power and alternative energy forms from gob or other mine refuse.

The tax base (i.e., taxable generating capacity) already incorporates average exclusion values (1991-1994 period) for separately metered power consumed in either an electrolytic process for the manufacture of chlorine or in the manufacturing of ferroalloy. Therefore, there is no additional exclusion for current activity.

The annual rate on taxable generating capacity is generally $22.78 per kilowatt. However, the rate of tax on generating units with a flue gas desulfurization system is $20.70 per kilowatt.

b. Electric Power Distributors

Electric power distribution companies generally pay a unit tax on distribution. The unit tax rate is $0.0019 per kilowatt hour. A reduced tax rate of $0.0005 per kilowatt hour applies to sales and demand charges exceeding 200,000 kilowatts per hour per year per customer.

The following are implicitly excluded from taxation under the Business and Occupation Tax on electric power production or distribution:

1. sales of electric power if separately metered and consumed in an electrolytic process for the manufacture of chlorine in West Virginia, and
2. sales of electric power if separately metered and consumed in the manufacture of ferroalloy in West Virginia where the term "ferroalloy" means any of various alloys of iron and one or more other elements used as a raw material in the production of steel but does not include the final production of steel.

3. Gas Storage Business (W.Va. Code §11-13-2e)

Persons engaging in West Virginia in any natural gas storage activity using one or more gas storage reservoirs pay a tax at the lesser of the average monthly tax paid during a five-year period (i.e., 1990-1994) or 5 cents multiplied by either the net number of dekatherms of gas injected into or withdrawn from such gas storage reservoirs during a tax month, whether such gas is owned by,

or injected and withdrawn for, the storage operator. Natural gas storage companies may apply an annual Natural Gas Industry Jobs Retention Credit against their gas storage tax liabilities. The annual tax credit equals $1,000 multiplied by the number of full-time employees employed by the taxpayer during the year.

Exemptions

Gross income of a nonprofit homeowners' association received from assessment on its members for community services, such as road maintenance, common area maintenance, water service, sewage service, and security service, is exempt from Business and Occupation Tax.

Credits Against Tax Liability

An annual tax credit of $500 is provided for each business engaged in activities in this State that are subject to the Business and Occupation Tax. The West Virginia Code provides for a variety of other tax credits that may be applied against Business and Occupation Tax liability in some cases. These include the Economic Opportunity Tax Credit, the Industrial Expansion and Revitalization Credit for electric power producers, and the Credit for Reducing Utility Charges to Low-Income Families. Explanations of these credits may be found in the Tax Credits section.

TELECOMMUNICATIONS TAX

Local exchange carriers engaged in the business of telecommunications within West Virginia are subject to the Telecommunications Tax. The term "telecommunications" includes most means of communication, computer data transmission or other encoded symbolic information transfers. The term does not include commercial broadcast radio or television, cable television or amateur or citizen's band radio.

The tax is equal to 4 percent of gross income attributable to services not subject to competition. Gross income subject to tax is equivalent to the receipts received from local exchange or long distance voice or data communications services but not from network access, billing or similar services. Gross income subject to tax does not include gross receipts from commodities or services determined by the Public Service Commission of West Virginia to be subject to competition.

Any telephone utility may apply to the Public Service Commission to have their telephone rates no longer subject to regulation. Unless the Public Service Commission determines that the telephone utility is not subject to workable competition, it is to approve the application. If the application is denied, the Telecommunications Tax would become applicable to the gross income of the telephone utility.

The West Virginia Code provides for a Credit for Reducing Telephone Charges to Low-Income Families. An explanation of this credit can be found in the Tax Credits section.

SEVERANCE AND BUSINESS PRIVILEGE TAX

The Severance and Business Privilege Tax is imposed at the rate of 5 percent on persons providing behavioral health services, which include all health care-related services provided by a behavioral health center. The Severance and Business Privilege Tax is imposed on the gross proceeds received from furnishing behavioral health services in West Virginia. Gross proceeds are defined as the value, whether in money or other property, of the sale or lease of tangible personal property or of the services rendered without any deduction for the cost of the property or expenses. Charitable donations and grants are not included in the gross proceeds, but Medicaid and Medicare payments are. Proceeds from this tax are dedicated to the "Medicaid State Share Fund".

The following deductions can be made from gross receipts before the calculation of the tax:

1. Accrual-based taxpayers may deduct bad debts from their gross receipts to the extent that the amount of the bad debt was included previously in gross receipts upon which the Severance and Business Privilege Tax were paid.
2. Accrual-based taxpayers can reduce gross receipts by the amount of their contractual allowances to the extent included in the amount of gross receipts upon which taxes were previously paid. Contractual allowances are the differences between revenue or gross receipts at established rates and the amounts realized from third party providers under contractual agreements.

An annual tax exemption of $500 or $41.67 per month is provided for each business engaged in activities in this State that are subject to the Severance and Business Privilege Tax.

HEALTH CARE PROVIDER TAXES

The Health Care Provider Taxes are imposed on the provision of selected types of health care services provided in West Virginia. The following is a list of taxable health care services[1] and their respective tax rates, effective July 1, 2011:

Ambulatory Surgical Centers	1.750%
Independent Laboratory or X-ray Services	5.000%
Inpatient Hospital Services	2.500%
Intermediate Care Facility Services for the Mentally Retarded	5.500%
Nursing Facilities other than Intermediate Care Facility Services for the Mentally Retarded	5.500%
Outpatient Hospital Services	2.500%
Acute Care Hospital Services	Conditional 0.880%

[1]The Health Care Provider Tax on the following services was completely phased-out as of July 1, 2010: Chiropractic Services, Dental Services, Emergency Ambulance Services, Nursing Services, Opticians' Services, Optometric Services, Physicians' Services (including Psychiatrists and Opthamologists), Podiatry Services, Psychological Services, and Therapists Services.

The Health Care Provider Tax on acute care hospital services may not be imposed or collected until all of the following have occurred:

1. a State plan amendment is developed by the Bureau of Medical Services, as authorized by the Secretary of the Department of Health and Human Resources;
2. the State plan amendment is reviewed by the Medical Fund services Advisory Council;
3. a comment period of not less than 30 days for public comment on the State plan amendment shall have passed, and
4. the State plan amendment is approved by the Centers for Medicare and Medicaid Services.

If all of the above conditions have been met the Health Care Provider Tax on acute care hospital services becomes retroactive and effective on the first day of the quarter in which the State plan amendment was submitted.

The imposition and collection of the Health Care Provider Tax on acute care hospital services, once imposed and collected, are to be suspended upon the occurrence of any of the following:

1. the effective date of any action by Congress that would disqualify the taxes imposed by W. Va. Code §11-27-38 from counting towards State Medicaid funds available to be used to determine the federal financial participation;
2. the effective date of any decision, enactment or other determination by the Legislature or by any court, officer, department, agency of office of state or federal government that has the effect of disqualifying the tax from counting towards state Medicaid funds available to be used to determine federal financial participation for Medicaid matching funds, or creating for any reason a failure of the State to use the assessment of the Medicaid program as described in W. Va. Code §11-27-38, or
3. the effective date of an appropriation for any State Fiscal year for hospital payments under the State medicaid program that is less than the amount appropriate for State fiscal year ending June 30, 2011.

Unless otherwise extended by the Legislature, the Health Care Provider Tax on acute care hospital services expires on and after June 30, 2013.

The Health Care Provider Taxes are measured by the application of a rate to the gross receipts received from providing the particular health care services. Gross receipts include all payments, in cash or in kind, from patients, third-party providers and others for the services rendered, including retroactive adjustments under reimbursement agreements with third-party providers. No expenses are to be deducted. Gross receipts that are not related to providing of health care services (i.e., fees received by health care providers for providing expert testimony) and charitable donations are not subject to the Health Care Provider Taxes.

The following deductions can be made from gross receipts before the calculation of the tax:

1. Accrual-based taxpayers may deduct bad debts from their gross receipts to the extent that the amount of the bad debt was included previously in gross receipts upon which the Health Care Provider Taxes were paid.
2. Accrual-based taxpayers, except nursing homes, can reduce gross receipts by the amount of their contractual allowances to the extent included in the amount of gross receipts upon which taxes were previously paid. Contractual allowances are the differences between revenue or gross receipts at established rates and the amounts realized from third party providers under contractual agreements.

Dedication of Revenue

The revenue from the Health Care Provider Taxes, including any interest, additions to tax and penalties and excluding allowable refunds and the cost of administration of these taxes, is to be deposited into a special revenue fund. All appropriations from this special revenue fund, the "Medicaid State Share Fund", must be made by the Legislature.

INSURANCE TAXES AND FEES

The information presented in this section is a brief overview of insurance taxes and fees. Detailed information on insurance taxes and fees can be obtained from the Offices of the Insurance Commissioner (http://wvinsurance.gov).

The Insurance Premium Tax is collected from every insurance company transacting insurance in West Virginia, based on gross premiums from business in the State, with certain exceptions. The following are exempt from the Premium Tax:

1. fraternal benefit services;
2. farmers' mutual fire insurance companies;
3. health care corporations, and
4. health maintenance organizations.

An Annuity Tax is imposed based on the gross amount of annuity considerations collected by life insurers on business transacted in West Virginia. Annual license fees are also collected from persons acting as insurers and transacting insurance in West Virginia and from insurance agents and brokers. In addition, fees are received for processing of reports and documents. The taxes and fees are administered by and payable to the Insurance Commissioner.

Premium Tax

The Premium Tax is imposed on all insurance companies, except farmers' mutual fire insurance companies, annuity writers, fraternal beneficiary societies and health care corporations and health maintenance organizations. This tax is levied at the rate of 3 percent on gross direct premiums, including dividends, collected and received for the previous calendar year on policies

covering residents of or risks located in this State minus any premiums returned to policyholders because of cancellations. Reciprocal insurers pay the tax based upon premiums on business in West Virginia minus any premiums returnable because of cancellation and amounts returned to subscribers or credited to their accounts as savings.

Additional Premium Tax

An additional 1 percent Premium Tax for fire and casualty insurance is imposed, and the revenue from this additional tax is deposited into a special account designated the Municipal Pensions and Protection Fund.

Surcharge on Fire and Casualty Insurance Policies

Every fire and casualty insurance policy holder must pay a surcharge equal to 0.55 percent[1] of the gross direct premium paid on the policy. The surcharge is to benefit volunteer and part-volunteer fire departments[2]. The policy surcharge will not be subject to premium taxes, agent commissions or any other assessments against premiums. Casualty insurance does not include credit life insurance or credit disability insurance.

The policy surcharge is to be collected by the insurer and remitted to the Insurance Commissioner. A penalty of up to $100 a day will be imposed if an insurer fails or refuses to collect and remit the policy surcharge to the Insurance Commissioner. The penalty also applies to payments not postmarked by the quarterly due dates. An insurer may be suspended until all surcharge payments and penalties are paid in full.

All monies collected are deposited in the Fire Protection Fund, a special account in the State Treasury. The State Treasurer must distribute the revenues in the Fire Protection Fund quarterly. Each volunteer fire department or company is to receive an equal share of the revenues deposited in the Fire Protection Fund.

Agents' and Insurer's Licenses and Taxes

All excess line brokers are required to pay a Premium Tax of 4.55 percent of the gross premiums and gross fees charged, less any return premiums. The revenue from this additional tax is deposited in the Municipal Pensions and Protection Fund.

An annual license is required for all agents, brokers and solicitors. Specific fees are set for such licenses, unless the agent is a nonresident. Nonresident agents' fees equal the fee imposed by the resident state. Nonresident agents for property and casualty insurance may be licensed to solicit business in West Virginia, but all such solicitations must be reported, placed, countersigned and consummated through a duly licensed resident agent of the same insurer.

[1]This surcharge was equal to 1.0 percent prior to January 1, 2006.

[2]Prior to 2006, this surcharge also benefitted the Teacher Retirement Reserve Fund.

License Tax and Fees

All companies and persons acting as insurers in West Virginia are required to be licensed except those companies whose only business consists of investigating and settling losses under policies written in West Virginia while duly licensed or those companies who are not transacting new business but are only collecting premiums on policies remaining in force. The fee for an annual license for insurers is $200. The following is a list of other fees:

Each surplus line company	$200
Each licensed agent, adjuster, broker, solicitor and service representative	$25
Receiving and filing annual reports	$100
Rating organization	$100
Filing certified copy of articles of incorporation	$50
Filing copies of charter	$50
Filing statements preliminary to admission	$100
Filing any additional paper required by law or furnishing copies thereof	$1
Each certificate of compliance, deposit and valuation copy of report or certificate of condition of company to be filed in any other State	$15
Each form filing	$50
Each rate filing	$75

License Requirements

No insurer may transact insurance business in this State unless it holds a valid license issued by the Insurance Commissioner or the insurer

1. formerly held a valid license and is only settling losses associated with lawfully written policies, or
2. is liquidating such assets and liabilities as may have resulted from its former authorized business.

An insurer not transacting new business but continuing collection of premiums on and servicing of policies remaining in force as to residents for risks located in West Virginia is not required to have a license but must pay premium and annuity taxes on said business.

An insurer may not solicit business in another state from offices in this State unless it holds a license authorizing the same kind or kinds of insurance in this State. Any officer, director, agent, representative or employee of any insurer who willfully violates this section is guilty of a misdemeanor and subject to a $10,000 fine and/or a one-year term in the county jail.

Qualifications for License

To qualify for an insurance license an insurer must

1. be an incorporated stock or mutual insurer or a reciprocal insurer and comply with West Virginia's insurance and Corporate Charter laws,
2. not be owned in whole or in part by any state or foreign government,
3. not be domiciled in a state that does not have reserve requirements that are equal to or greater than those required in West Virginia,
4. be authorized to transact the same kinds of insurance in its state of domicile as it seeks to write in this State,
5. not seek licensure for any kind of insurance not defined by the West Virginia Insurance Code, and
6. not be in arrears to the State for any fees, licenses, taxes, assessments, fines or penalties accrued.

Every insurer transacting insurance in this State must have a license from the Insurance Commissioner except in the following cases:

1. transactions for which a license is not required;
2. attorneys-at-law acting in the ordinary relation of attorney and client in the adjustment of claims or losses;
3. transactions in West Virginia related to a policy issued outside this State involving insurance on cargo vessels, their craft or hulls, cargos, marine builders risk, commercial marine protection and indemnity or other risk, including strikes and war risks, commonly insured under ocean marine forms of policy, and
4. transactions in this State involving group life, group accident and sickness or group annuity insurance providing coverage under policies recognized by the West Virginia Insurance Code where

    a. the master policy of such groups was lawfully issued and delivered in and pursuant to the laws of a state in which the insurer was authorized to do an insurance business to a group organized for purposes other than the procurement of insurance, where the policy holder is domiciled or otherwise has a bona fide situs, and
    b. except for group annuities, the insurer complies with West Virginia Code §33.

Any of the following acts by mail, or otherwise by or for an unauthorized insurer, is considered transacting insurance business in this State:

1. making or proposing to make an insurance contract;
2. making or proposing to make, as guarantor or surety, any contract of guarantee or suretyship as a vocation;

3. the taking or receiving of any insurance application;
4. the receiving or collection of any premium, commission, membership fees, assessments, dues or other consideration for any insurance;
5. the issuance or delivery of insurance contracts to residents of West Virginia or to persons authorized to do business in this State;
6. acting, directly or indirectly, in any manner representing or assisting a person or insurer in the transaction of insurance with residents of this State. (This does not apply to full-time salaried employees of a corporation acting in the capacity of an insurance manager or buyer in placing insurance for the corporation);
7. the transaction of any insurance business specifically recognized as such in W. Va. Code Chapter 33, and
8. transacting or proposing to transact any insurance business in substance equivalent to any of the activities described in a manner designed to evade provisions of W. Va. Code Chapter 33.

Annuity Tax

All life insurers who transact insurance in West Virginia are required to pay the Annuity Tax that is based on the gross amount of annuity considerations minus any annuity considerations returned and termination allowances upon group annuity contracts. This tax is levied at the rate of 1 percent of the gross amount.

Fire Marshall Tax

Every insurance company doing business in West Virginia, except farmers' mutual fire insurance companies, must pay in addition to any other taxes, 0.5 percent of the direct net premium receipts on insurance against fire hazards.

Minimum Tax

Any insurer licensed in West Virginia must pay a minimum tax of $200 for any calendar year. Taxes used in calculating the minimum are those imposed by W. Va. Code §33-3. The minimum tax is to be paid annually on or before March 1.

CORPORATION NET INCOME TAX AND BUSINESS FRANCHISE TAX COLLECTIONS

	Corporation Net Income Tax/ Business Franchise General Revenue	Special Revenue Transfer[1]	Total Net Corporation Net Income Tax/ Business Franchise All Revenues
2000-2001	$214,296,629	$0	$214,296,629
2001-2002	220,158,497	0	220,158,497
2002-2003	181,178,243	0	181,178,243
2003-2004	181,515,211	0	181,515,211
2004-2005	280,788,003	0	280,788,003
2005-2006	347,569,611	0	347,569,611
2006-2007	358,388,437	10,000,000	368,388,437
2007-2008	388,017,365	12,150,000	400,167,410
2008-2009	270,237,027	14,300,000	287,537,027
2009-2010	232,859,163	4,300,000	236,159,163
2010-2011	302,977,776	4,300,000	307,277,776

BUSINESS & OCCUPATION TAX COLLECTIONS

Fiscal Year	Net Revenue
2000-2001	$177,362,771
2001-2002	173,712,450
2002-2003	178,415,433
2003-2004	177,395,094
2004-2005	182,460,781
2005-2006	185,456,897
2006-2007	180,748,060
2007-2008	150,822,471
2008-2009	150,292,700
2009-2010	133,386,079
2010-2011	127,591,014

[1] For fiscal years 2007 through 2009, $10,000,000 was transferred to the Consolidated Public Retirement board. Beginning in 2008, $1,075,000 per quarter has been transferred to the Railroad and Intermodal Enhancement Fund.

PRODUCTION COUNTY WASTE COAL TAX

Fiscal Year	Net Revenue
2001-2002	$333,447
2002-2003	355,673
2003-2004	249,070
2004-2005	183,396
2005-2006	319,132
2006-2007	191,191
2007-2008	327,599
2008-2009	1,842,690
2009-2010	374,012
2010-2011	754,714

TELECOMMUNICATIONS TAX COLLECTIONS

Fiscal Year	Net Revenue
2000-2001	$15,162,696
2001-2002	13,189,742
2002-2003	12,711,309
2003-2004	11,016,694
2004-2005	8,739,561
2005-2006	-430,021
2006-2007	-380,003
2007-2008	303,160
2008-2009	229,556
2009-2010	76,375
2010-2011	22,526

HEALTH CARE PROVIDER TAXES
NET COLLECTIONS

Fiscal Year	Net Revenue
2000-2001	$147,237,374
2001-2002	150,145,216
2002-2003	145,282,789
2003-2004	152,643,881
2004-2005	156,515,303
2005-2006	172,459,353
2006-2007	165,395,351
2007-2008	164,159,585
2008-2009	168,020,167
2009-2010	160,305,644
2010-2011	164,854,738

STATE SEVERANCE TAX COLLECTIONS

	General Revenue	Infrastructure Bond Fund	Additional Severance Workers' Compensation Debt Reduction	50% of Excess Coal Revenue to Workers' Compensation Debt Reduction	Forestry Timber Severance Tax Fund	All State Severance Taxes
2000-2001	$163,202,899	$24,000,000	$0	$0	$3,333,693	$190,536,592
2001-2002	166,513,100	24,000,000	0	0	3,175,225	193,688,325
2002-2003	162,313,803	24,000,000	0	0	2,638,493	188,952,296
2003-2004	184,354,000	24,000,000	0	0	3,370,610	211,724,610
2004-2005	248,067,923	24,000,000	0	0	3,619,479	275,687,402
2005-2006	314,726,682	24,000,000	40,359,906	0	3,963,719	383,050,307
2006-2007	312,245,598	24,000,000	98,764,513	10,414,000	1,731,054	447,155,165
2007-2008	338,176,521	24,000,000	96,294,765	28,000,000	1,356,706	487,827,992
2008-2009	359,578,255	24,000,000	90,134,151	35,535,798	1,185,066	510,433,270
2009-2010	400,590,519	24,000,000	91,573,307	0	571,145	516,734,971
2010-2011	440,874,576	24,000,000	93,112,747	0	515,461	558,502,784

INSURANCE PREMIUM TAX COLLECTIONS

	General Revenue	Municipal Pension & Protection Fund 1% Tax	Fire Protection (& Teacher Retirement) Surcharge[1]	PERS Investment Jail Fund	Total Insurance Premium Tax
2000-2001	$62,611,955	$15,438,273	$14,707,826	$15,000,000	$107,758,054
2001-2002	81,398,255	18,295,997	16,187,082	4,745,748	120,627,082
2002-2003	93,292,371	22,477,831	20,039,320	0	135,809,522
2003-2004	93,247,668	24,077,758	19,828,358	0	137,153,784
2004-2005	97,711,652	25,849,600	21,696,381	0	145,257,633
2005-2006	95,655,187	25,759,212	19,293,814	0	140,708,213
2006-2007	97,576,395	25,787,468	14,303,156	0	137,667,019
2007-2008	103,196,255	25,688,529	11,869,797	0	140,754,581
2008-2009	103,322,336	28,835,077	11,887,224	0	144,044,637
2009-2010	103,677,133	25,583,645	12,170,434	0	141,431,212
2010-2011	107,202,349	25,893,977	12,076,654	0	145,172,980

[1]Surcharge lowered from 1.0% to 0.55% on January 1, 2006. Prior to 2006, this surcharge also benefitted the Teacher Retirement Reserve Fund.

CONSUMERS SALES AND SERVICE TAX AND USE TAX

1. Consumers Sales and Service Tax (W. Va. Code §11-15)
2. Use Tax (W. Va. Code §11-15A)

CONSUMERS SALES AND SERVICE TAX

The Consumers Sales and Service Tax Act imposes a duty on vendors to collect a tax from consumers and remit all receipts from this tax to the State Tax Department. The tax is imposed on the sale or lease of tangible personal property and the furnishing of certain services at a rate of 6 percent. Currently, the rate of Consumers Sales Tax to be imposed on the sales, purchases and uses of food and food ingredients intended for human consumption is 3 percent. The reduced rate of tax does not apply to sales, purchases and uses by consumers of prepared food, food sold through vending machines and soft drinks. Lists of exempt food items and prepared food items can be found in Publication TSD-419. Effective January 1, 2012, the rate for food sales and purchases will be reduced to 2 percent, and the rate will drop to 1 percent effective July 1, 2012. The Consumers Sales Tax will be eliminated on the sales, purchases and uses of food and food ingredients intended for human consumption effective July 1, 2013, contingent on specified levels of funding in the Revenue Shortfall Reserve Fund.

Services rendered by an employee to his employer, services subject to regulation by the West Virginia Public Service Commission and professional and personal services are exempt from Consumers Sales Tax. Most rentals, excluding those of real estate, are taxable as though they were sales. The tax is also imposed on persons producing for sale, profit or commercial use any natural resource or manufacturing product who also use or consume that product in a contracting activity.

Purchases of prepaid wireless calling services, such as wireless airtime cards, prepaid cellular phone cards, prepaid cellular rechargeable minute cards and prepaid wireless ring tone download cards, are subject to the Consumers Sales Tax. The following items are exempt from Consumers Sales Tax:

1. prepaid land line phone cards,
2. prepaid land line rechargeable minute cards,
3. prepaid music download cards unless they are sold for use with or by delivery through mobile wireless service,
4. prepaid game download cards unless they are sold for use with or by delivery through mobile wireless service,
5. prepaid internet access cards unless they are sold for with or by delivery through mobile wireless service, and
6. gift cards unless they are sold for use with or by delivery through mobile wireless service.

Effective July 1, 2008, the Motor Vehicle Privilege Tax was replaced with a Sales Tax on all motor vehicle sales to West Virginia residents. The rate of tax is 5 percent of the sale price of the

vehicle, not including the value of vehicles exchanged in the transaction. The tax applies to all motor vehicles, regardless of whether purchased in or outside of West Virginia. The Division of Motor Vehicles is required to collect the tax, and the revenue from the tax is dedicated to the State Road Fund. A credit is allowed for new residents for sales tax paid on motor vehicles in other states at the time of registration.

Consumers Sales Tax is to be paid by the ultimate consumer; sellers collect the tax and remit their collections to the State Tax Department. The seller collects the tax due from the purchaser at the time of sale unless the purchaser presents the seller with a properly executed exemption certificate or a direct pay permit number. The tax collected by sellers or due on direct pay permit purchases shall be remitted to the State Tax Department. For monthly taxpayers (i.e., those with an average monthly liability in excess of $250), this tax will be due on or before the twentieth day of each month for the preceding month's transactions. For quarterly taxpayers (i.e., those with a monthly liability of less than $250), this tax will be due twentieth day of the month following the close of the quarterly reporting period. Taxpayers who remit more than $10,000 per year for any single tax must file all returns for all taxes and make all payments electronically.

Only one collection of Consumers Sales Tax should occur from production to ultimate consumption for any consumer good or service. Any seller who fails to collect the Consumers Sales Tax must pay the tax himself unless the sale is exempt or the seller receives a direct pay permit number for the purchase. Exempt sales are of three main types:

1. exemption because of the nature of the buyer to whom the sale is made;
2. exemption because of the nature of the article sold, and
3. exemption because of the nature of the sale.

There are several distinct methods by which the exemptions must be claimed. Based on the method by which the exemption must be claimed, exemptions are categorized into three classifications: per se exemptions, exemptions for which exemption certificates are required, and refundable exemptions.

"Per se" exemptions are those for which no separate exemption document is required as proof of the exempt status. The following sales and services are exempt "per se" from Consumers Sales Tax:

1. Advertising--sales of radio and television broadcasting time, preprinted circulars and outdoor advertising space, and newspaper and magazine advertising space for the advertisement of goods and services;
2. Artistic Services or Performances--the charges to the owner or operator of an entertainment facility for the artistic performances of an entertainer or performing artist pursuant to a contract if the contract amount does not exceed $3,000;
3. Burial Charges--charges for the services of opening and closing burial lots;
4. Camp Dawson--sales of goods by a canteen or snack bar facility on a state reservation or state training facility under the jurisdiction of the adjutant general (i.e., Camp Dawson);
5. Child Care Services--charges for babysitting services provided by individuals who babysit for profit if the gross income of the individual from babysitting

services does not exceed $5,000 in a taxable year (all charges or fees over the $5,000 limit are taxable);

6. Clothing Sold by Churches–sales of clothing and clothing accessories by churches or religious organizations if the proceeds from such sales are used for exempt purposes and the clothing was donated or acquired without cost;
7. College Room and Board--sales of room and board by public or private colleges or universities if the sale is for more than thirty consecutive days and is on a contract basis to students enrolled at the school;
8. Contracting--the construction, alteration, repair, improvement or decoration of real property when the work done results in a "capital improvement" to the real property (all other construction activities are subject to the tax unless otherwise exempt);
9. Day Care Centers--sales of tangible personal property or services by licensed day care centers;
10. Educational Summer Camp Tuition--tuition charges made for attending educational summer camps (sales of tangible personal property or food by the camps are taxable);
11. Employees--services provided by an employee to his or her employer if the services are within the scope of the employment contract;
12. Environmental Testing Services--the service of providing technical evaluations for compliance with federal and State environmental standards by environmental and industrial consultants who are certified by the West Virginia Department of Environmental Protection or the West Virginia Bureau of Health;
13. Farm Products--sales of livestock, poultry and other farm products in their original state by producers of those products or members of their immediate family when the sales are made to the public in instances when the producer is not otherwise engaged in making retail sales;
14. Federal and State Law--sales to or sales by certain organizations, including federal or state chartered credit unions, regional transit authorities, county ambulance authorities and nonprofit health care corporations;
15. Flags–sales of regulation size United States and West Virginia flags for display;
16. Food Sales[1]--exempt food sales are as follows:

    a. food sold by public or private schools, school-sponsored student organizations or school-sponsored parent-teacher organizations to students enrolled in such school or to employees of the school during normal school hours,
    b. sales of food by public or private colleges or universities or by officially recognized student organizations to students

[1]Food sales other than the listed exemptions are taxed as follows:

Food and food ingredients intended for human consumption are taxed at a reduced rate;

All other food, including prepared food, food sold through vending machines and soft drinks, is taxed at 6%.

enrolled at such college when such sales are made on contract basis,

c. sales of food by a nonprofit organization or a governmental agency to low-income persons at or below cost,

d. food sold in an occasional sale by a charitable, nonprofit or religious organization if the purpose of the sale is to obtain revenue for the functions and activities of the organization and the revenue so obtained is actually expended for that purpose, and

e. sales of food by little leagues, scouting groups and similar organizations if the purpose of the sale is to obtain revenue for the functions of the organization and the revenue so obtained is actually used for such functions;

17. Food Stamps--sales of food lawfully purchased with federal food stamps or with drafts issued by the West Virginia special supplemental food program for Women, Infants and Children (WIC);

18. Fraternities and Sororities--room and board charges made by fraternities or sororities to their student members;

19. Fundraising Sales--fundraising sales by

a. churches,

b. elementary and secondary schools,

c. organizations that receive more than half their support from gifts, grants, direct or indirect charitable contributions or membership fees,

d. organizations that have no paid employees and whose gross income from fundraising is donated to an organization that is exempt from federal income taxes under section 501(c)(3) or (c)(4) of the Internal Revenue Code, and

e. youth organizations, such as the Girl Scouts, Boy Scouts or YMCA Indian Guide/Princess Program, which are operated exclusively for charitable purposes and whose primary purpose is character development and citizenship training for its members

if the organization has a current Business Registration Certificate and the organization is exempt from federal income taxes under sections 501(c)(3) or (c)(4) of the Internal Revenue Code and these fundraising events are limited to six events per year and each event lasts no more than eighty-four hours;

20. Governmental Services and Materials--sales of governmental services or governmental materials by county assessors, county sheriffs, county clerks, circuit clerks and/or governmental agents of these county officials in the normal course of local governmental operations;

21. Health and Fitness Organizations--sales of membership or services provided by health and fitness organizations for personalized fitness programs;
22. Intangible Property--sales of intangibles, such as copyrights, royalties, notes and bonds;
23. Isolated Transactions--sales of tangible personal property or taxable services by persons who are not in the business of making such sales, such as individuals selling their used furniture, if the person or business holding the sale holds no more than four in one year and each sale lasts no more than forty-eight hours, and sales of taxable services by persons who are not routinely engaged in the business of providing taxable services, such as teenagers who occasionally mow lawns, babysit or do odd jobs (persons who routinely sell odd items at yard sales, flea markets or along the roadside are engaged in the business of selling and must register with the State Tax Department as a business);
24. Libraries--sales of services by public libraries, libraries at academic institutions, or libraries at institutions of higher learning;
25. Livestock--sales of livestock sold at public sales sponsored by the breeder's or registry associations or at livestock auction markets;
26. Lodging Franchise Fees–lodging franchise fees, including royalties, marketing fees, reservation system fees or other fees assessed after December 1, 1997, that may have been imposed by a lodging franchiser as a condition of the franchise agreement;
27. Lottery Tickets--sales of West Virginia lottery tickets and materials by authorized lottery retailers, including sales of Powerball tickets and materials;
28. Magazines Sold by State Agencies–direct or subscription sales by the Division of Natural Resources of Wonderful West Virginia magazine and by the Division of Culture and History of Goldenseal magazine;
29. Manufacturer's Representatives--commissions received by a manufacturer's representative;
30. Membership Organizations--charges to a member by a membership organization that is exempt from paying federal income taxes under sections 501(c)(3) or (c)(6) of the Internal Revenue Code for

    a. membership in the association or organization,
    b. newsletters prepared by the association or organization primarily for distribution to members,
    c. continuing education seminars, workshops, conventions, lectures or courses put on or sponsored by the association or organization, including charges for related course materials prepared by the association or organization or by the speaker for use during the continuing education seminar, workshop, convention, lecture or course, not including separate charges for meals, lodging, entertainment or transportation;

31. Mortgage Brokers–brokerage fees, additional charges and finance charges imposed by licensed mortgage brokers, lenders and loan originators;
32. Music Instructional Services--sales of music instructional services by a music teacher;
33. Newspapers--sales of newspapers when delivered to consumers by route carriers (other newspaper sales are taxable);
34. Nonprofit organizations--sales of otherwise taxable services by 501(c)(3) organizations if the organization meets the following criteria:

    a. the corporation or organization must be organized and operated primarily for charitable or educational purposes,
    b. the activities and programs of the organization must contribute to promoting the general welfare of youth, families and the aged, improving health or fitness and providing recreational opportunities to the public,
    c. the corporation or organization must offer membership or participation in its programs and activities to the public,
    d. the charges, fees and dues of the organization must be arranged so that its programs and activities are accessible by a reasonable cross-section of the community, and
    e. the corporation or organization must offer financial assistance on a regular and ongoing basis to individuals who are unable to afford the organizations membership dues or fees;

35. Personal Services--personal services, such as barbering, hairstyling, manicuring and massages;
36. Prescriptions--sales of drugs dispensed upon prescription and sales of insulin to consumers for medical purposes, including durable medical goods, mobility-enhancing equipment and prosthetic devices;
37. Primary Opinion Research Services--sales of primary research opinion services when such services are provided to an out-of-state client by means of interstate commerce for use by the client outside West Virginia;
38. Professional Services--sales of services recognized as "professional services" under West Virginia law, such as those provided by doctors, lawyers, engineers, architects, certified public accountants and licensed auctioneers;
39. Public Services--sales of services that are subject to regulation by the West Virginia Public Service Commission, including sales of gas, steam or water delivered to consumers through mains or pipes, sales of electricity, most telephone services and services provided by regulated public or common carriers, bus or taxi services (mobile telephone and paging services that may not be regulated are taxable);
40. Real Property--sales of real property (land, houses, buildings and other structures attached to the land), leases or rentals of real property to the same person for thirty or more consecutive days (rentals of less than thirty days are taxable);

41. School Activities--sales of tickets for activities sponsored by elementary and secondary schools located in West Virginia;
42. Textbooks--sales of textbooks required to be used in any of the schools of the State whether the books are sold directly to the school or to students, including written course materials and audio and video materials if they are a required text of the school;
43. Transportation--charges for transporting passengers in interstate commerce, such as airline and bus tickets, if the trip begins or ends outside the State;
44. Travel Agents–commissions received by a travel agency from an out-of-state vendor, and
45. Volunteer Fire Departments–sales by volunteer fire departments for fundraising purposes.

Some exemptions must be claimed by using a current tax exemption certificate. If a vendor fails to obtain a properly completed exemption certificate from the purchaser or if the purchaser refuses to provide a certificate, the vendor must collect the tax and purchaser must pay the tax. The following is a list of the exemptions for which an exemption certificate is required:

1. Aircraft Repair--aircraft repair, remodeling and maintenance services for licensed carriers of persons or property or for a governmental entity; sales of component parts affixed or attached to such aircraft during repair, remodeling and maintenance services, and sales of tools and equipment directly used to do such services;
2. Car Wash Soap–sales of soap to be used at car wash facilities;
3. Certain Computer Hardware and Software–certain sales of computer hardware and software, including

    a. sales of computer hardware and software to be directly incorporated into a manufactured product, including licensing fees,
    b. sales of computer hardware and software directly used in communication,
    c. sales of electronic data processing services,
    d. sales of educational software required to be used in any public school or institution in this State that is subject to the requirements of the Department of Education or the Higher Education Policy Commission,
    e. sales of Internet advertising of goods and services, and
    f. sales of high technology business services to high technology businesses that enter into contracts with State and federal governmental agencies;

4. Controlled Groups--purchases of services by one corporation, limited liability company or partnership from another corporation, limited liability company or partnership when both entities are members of the same controlled group;

5. Electronic Data Processing Services--sales of electronic data processing services and software related to such purchases to another company, including sales of Internet access service by an Internet access service provider (sales of data processing equipment, material and supplies are taxable);
6. Food--food purchased by a nonprofit organization or governmental agency that provides meals to low-income persons at or below cost;
7. Mobile Homes--sales of mobile homes to be used by purchasers as their principal year-round residence are taxed at 50 percent of the sale price;
8. Motion Picture Films--sales of motion picture films to motion picture exhibitors when the sales of tickets or the charge to view the film are taxable;
9. Purchases by an Exempt Commercial Agricultural Producer--purchases of tangible personal property or taxable services for use or consumption in the commercial production of an agricultural product, including the purchase of fencing and nails used for the construction of fencing, and purchases of propane for use in heating poultry houses;
10. Purchases by Certain Nonprofit Organizations--purchases by a corporation or organization that has a current registration certificate, is exempt from federal income taxes under section 501(c)(3) or (c)(4) of the Internal Revenue Code, receives more than half its support from gifts, grants, direct or indirect charitable contributions and membership fees, and

    a. is a youth organization, such as the Girl Scouts and the Boy Scouts, or
    b. is a church, convention or association of churches as defined in 26 U.S.C. §170, or
    c. is an organization with no paid employees whose gross income from fundraisers is donated to a 501(c)(3) or (c)(4) organization;

11. Purchases by Churches--purchases of services, equipment, supplies, food for meals and material directly used or consumed by churches that make no charge at all for the services they render;
12. Purchases by Governments--purchases by the federal government and governmental units of West Virginia or another state, if that state grants a sales tax exemption to governmental units of West Virginia (purchases by employees while on government business are not exempt unless such purchases are directly billed to and paid for by the government entity);
13. Purchases by Producers of Materials Used in the Production of Certain Value-Added Products from Raw Agricultural Products--sales of property or services to persons for direct use in the production of a "value-added product" for a period of no more than five years by such persons engaged exclusively in such production activity for the following:

    a. the conversion of lumber into furniture, toys, collectibles, and home furnishings,

b. the conversion of fruit into wine,
c. the conversion of honey into wine,
d. the conversion of wool into fabric,
e. the conversion of raw hides into semi-finished or finished leather products,
f. the conversion of milk into cheese,
g. the conversion of fruits or vegetables into dried, canned or frozen products,
h. the conversion of feeder cattle into commonly acceptable slaughter weights,
i. the conversion of aquatic animals into dried, canned, cooked or frozen products, and
j. the conversion of poultry into dried, canned, cooked or frozen products;

14. Purchases by Schools--purchases by a school that has its principal campus in this State and has approval from the board of trustees of the university system of West Virginia or the board of directors of the state college system to award degrees;
15. Purchases for New or Expanded Warehouse or Distribution Facility–purchases of computers and computer software, primary material handling equipment, racking and racking systems and components thereof, building materials and tangible personal property installed into or directly used or consumed in the construction, addition, alteration or improvement of a qualified new or expanded warehouse or distribution facility provided that the investment is at least $50 million and at least 300 full-time West Virginia equivalent jobs are created;
16. Purchases for Resale--purchases of tangible personal property or taxable services intended for resale or for use in performing taxable services when such property becomes a component part of the property upon which the services are performed and will be actually transferred to the purchaser, and
17. Video Arcade Games--sales of coin-operated video arcade machines or video arcade games to a person who provides such machines to the public for a charge upon which the tax is imposed.

For purchases for which there are no per se exemptions or for which no exemption certificate may be issued, the purchaser must pay the Consumers Sales Tax and Use Tax unless he has a direct pay permit number from the State Tax Department. Each business with a direct pay permit must keep a record of taxable and exempt purchases and remit any tax due directly to the State Tax Department. Those without a direct pay permit may either credit the tax paid for items that qualify for a refundable exemption against sales or use tax due and owed on non-exempt purchases or apply for a refund of the tax paid. Refundable exemptions are allowed for the following classifications:

1. Charitable Organizations--purchases by bona fide charitable organizations that make no charge at all for the services they render;

2. Communications Businesses--purchases made for direct use or consumption in the activity of communications, such as telephone, telegraph, commercial broadcast radio and television, and cable television (purchases whose use or consumption is only incidental or convenient to the communications activity are taxable);
3. Fraternal or Social Organizations--purchases by nationally chartered fraternal or social organizations for the sole purpose of free distribution in public welfare or relief work;
4. Housing--purchases of building materials or building supplies by organizations that are exempt from federal income taxes under section 501(c)(3) or (c)(4) of the Internal Revenue Code when such are to be installed in buildings or structures used as permanent low-income housing, transitional housing, emergency homeless shelters, domestic violence shelters or emergency children and youth shelters when such are owned or operated by organizations listed above;
5. Manufacturing Businesses--purchases of equipment, supplies, materials and services intended for direct use or consumption in the activity of manufacturing (purchases whose use or consumption is only incidental or convenient to the manufacturing activity are taxable);
6. Natural Resource Production Businesses--purchases for direct use or consumption in the activity of producing natural resources (purchases whose use or consumption is only incidental or convenient to the natural resource production activity are taxable), including purchases for the construction, installation or fabrication of ventilation structures, mine shafts, slopes, boreholes, dewatering structures, including associated facilities and apparatus, by the producer or others, including contractors and subcontractors, at a coal mine or coal production facility;
7. Prescription Drugs and Medical Goods– sales of drugs, durable medical goods, mobility enhancing equipment and prosthetic devices are exempt when purchased by the following:

   hospitals,
   medical clinics,
   nursing homes,
   providers of inpatient hospital services, and
   providers of outpatient hospital services, physician services,
   nursing services, ambulance services or surgical services,
   and veterinarians

   provided that these items are dispensed upon prescription and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of injury or disease;
8. Research and Development Activities–purchases of tangible personal property and services that directly used or consumed in the activity of research and development;

9. Transportation and Transmission Businesses--purchases made for direct use or consumption in the activity of transportation by businesses who are engaged in the activity of hauling or delivering goods for others (purchases whose use or consumption is only incidental or convenient to the transportation or transmission activity are taxable), and
10. Volunteer Fire Departments--purchases of fire fighting or station house equipment, construction and automotive equipment by volunteer fire departments organized and incorporated under the laws of the State of West Virginia.

Direct Use Pass-Through Exemption

Purchases by contractors constructing, altering, repairing or improving a new or existing building or structure for the manufacturing, transportation, production of natural resources or utilities industries will be exempt if utilized directly in the activities of manufacturing, transportation, production of natural resources or public utilities. The contractor receives a pass-through exemption for tax-exempt direct use purchases.

Direct Pay Permit

The State Tax Commissioner may, at his discretion, authorize a person who is a user, consumer, distributor or lessee to pay Consumers Sales Tax and Use Tax directly to the State Tax Department and waive the collection of tax by that person's vendors, including out-of-state vendors. No such authority shall be granted or exercised except upon application to the State Tax Commissioner and after issuance by the State Tax Commissioner of a direct pay permit number. To avoid paying the tax or presenting an exemption certificate at the time of each transaction, the direct pay permit number issued to a specific taxpayer may be used when making taxable or exempt purchases. A direct pay permit number does not apply to purchases of gasoline or special fuel. The permit is valid until it is surrendered by the taxpayer or cancelled.

When using a direct pay permit, the holder of the permit must notify each specified vendor from whom tangible personal property is purchased or leased or from whom services are purchased of their direct pay permit number and that any tax thereon will be paid directly to the State Tax Department. Vendors must maintain records identifying the purchase by name, permit number and the amount of the sale for which the direct pay permit was accepted.

Upon the cancellation or surrender of the direct pay permit, the holder must promptly notify, in writing, the specified vendors from whom tangible personal property is purchased or leased or by whom services are rendered of the cancellation or surrender.

Credits Against Tax Liabilities

Purchasers who pay Consumers Sales Tax or Use Tax on items that qualify for a refundable exemption may credit such tax overpayment against their monthly or quarterly remittances of Consumers Sales Tax and Use Tax.

Municipal Consumers Sales and Use Tax

A qualifying municipality may impose a pension relief municipal sales and service tax at a rate not to exceed 1 percent. A qualifying municipality is any municipality in which the weighted average of the percentages to which its policemen's and firemen's pension and relief funds are fully funded is 3 percent or less on the date of adoption of the ordinance imposing the tax. Both a qualifying municipality and any other municipality may impose an alternative municipal sales and service tax at a rate not to exceed 1 percent. However, a municipality may not simultaneously impose an alternative municipal sales and service tax and a municipal B&O tax. As of October 1, 2011, only Williamstown is imposing a municipal sales and service tax.

Municipal sales and service taxes are subject to the following:

1. The base for sales made and services rendered in the municipality and upon which the tax is imposed must be identical to that for the State Consumers Sales Tax. All exemptions apply except for the exemption for sales and services subject to a Special District Excise Tax. Sales of gasoline and special fuel are not subject to the municipal sales and service tax.
2. All sourcing rules under the Streamlined Sales Act apply to the municipal sales and service tax.
3. The municipal sales and service tax is imposed in addition to the State Consumers Sales Tax.
4. The municipal sales and service tax must be administered by the State.

Each qualifying municipality that imposes a pension relief municipal sales and service tax is required to impose a pension relief municipal use tax at the identical rate. Each municipality that imposes an alternative municipal sales and service tax and use tax is required to impose an alternative municipal use tax at the identical rate. The requirements for the municipal use tax are the same as for the municipal sales and service tax.

Taxpayers may receive as a credit against the municipal use tax imposed on the use of tangible personal property, custom software or services on which the municipal sales and service tax has been paid to another municipality. The credit may not exceed the amount of municipal sales and service tax paid. No credit is allowed for any sales or use tax paid to this State or another state.

A municipality that imposes a municipal sales and service tax and a municipal use tax must notify the State Tax Commissioner within 180 days after the taxes are imposed as well as when there is a tax rate change. The taxes and rate change are not effective until at least 180 days after the ordinance imposing the tax or rate change is enacted.

The State Tax Commissioner is responsible for collecting, enforcing and administering municipal sales and service tax and municipal use tax in the same manner as the State Consumers Sales and Service Tax and the State Use Tax. The State Tax Commissioner may charge a fee not to exceed the lesser of the cost of the service provided or 1 percent of the municipal sales and service tax proceeds.

A special fund will be created in the State Treasurer's Office into which the tax collected by the State Tax Department is deposited. A sub-account will be established for each municipality that imposes a sales tax and a use tax. The State Tax Commissioner is required to deposit into the appropriate sub-account the municipal sales and service and use taxes collected, less any fee charged

for collecting, enforcing and administering the taxes, into the account. The moneys are remitted to the municipalities at least quarterly.

All of the proceeds from the pension relief sales and service tax and use tax must be used solely to reduce the unfunded actuarial accrued liability in the policemen's and firemen's pension and relief funds.

USE TAX

The Use Tax is imposed upon the use within West Virginia of tangible personal property and services bought or leased outside West Virginia for use or consumption within this State. The tax is levied at the rate of 6 percent[1] of the purchase price. The Use Tax complements the Consumers Sales Tax, and Use Tax due is remitted on the same form as the Consumers Sales Tax.

Out-of-state vendors engaging in business in this State are required to collect Use Tax from their West Virginia customers. The State Tax Commissioner is empowered to authorize certain foreign retailers to collect Use Tax at the time a sale is made. Collected tax must be remitted along with the Consumers Sales Tax . Any person who used tangible personal property purchased outside West Virginia upon which the tax has not been paid to the seller is personally liable for such tax and is required to remit quarterly the tax imposed upon all such property directly to the State Tax Department.

The use in West Virginia of the following tangible personal property is exempt from the tax:

1. all articles of tangible personal property brought into the State by a nonresident individual for his or her use or enjoyment while in the State;
2. tangible personal property and services that are exempt from Consumers Sales Tax;
3. tangible personal property and services upon which the Consumers Sales Tax has been paid;
4. tangible personal property and services that are not subject to the Consumers Sales Tax, and
5. tangible personal property purchased outside West Virginia for use outside this State by a nonresident personal or business who later brings such property into this State in connection with his establishment of a permanent resident or business in West Virginia.

Credits Against Use Tax

A credit is allowed against a taxpayer's Use Tax liability for sales tax lawfully paid to another state, but the amount of the credit allowed may not exceed the amount of Use Tax imposed on the use of property in West Virginia.

[1]Food and food ingredients intended for human consumption are taxed at a reduced rate.

CONSUMERS SALES AND SERVICE TAX AND USE TAX COLLECTIONS

	Consumers Sales & Service Tax & Use Tax General Revenue	Consumers Sales & Service Tax Special Revenue[1]	Total Net Consumers Sales & Service & Use Tax Revenue
2000-2001	$928,143,150	$27,538,008	$955,681,158
2001-2002	962,755,910	27,763,008	990,518,918
2002-2003	978,354,149	29,983,012	1,008,337,161
2003-2004	1,021,364,913	30,096,725	1,051,461,638
2004-2005	1,063,122,835	32,217,000	1,095,339,835
2005-2006	1,125,765,670	32,217,000	1,157,982,670
2006-2007	1,129,530,915	32,217,025	1,161,747,950
2007-2008	1,109,821,892	44,919,171	1,154,741,061
2008-2009	1,110,017,434	48,652,914	1,158,670,348
2009-2010	1,095,686,166	47,552,221	1,143,238,387
2010-2011	1,148,243,766	47,760,082	1,196,003,848

[1] The Special Revenue Funds included the Fiscal Responsibility Fund (FY 1991-91 through FY 1991-92), a School Construction Bond Fund (FY 1993-94), the School Major Improvement Fund and School Construction Fund (FY 1995-96 to the present), an annual reimbursement to the State Road Fund (effective FY2008), and transfer to the PSC Fee account.

PERSONAL TAXES

1. Personal Income Tax (W. Va. Code §11-21)
2. Estate Tax (W. Va. Code §11-11)

PERSONAL INCOME TAX

State Personal Income Tax is imposed on the West Virginia taxable income of resident individuals, estates and trusts wherever their income is earned. Nonresident individuals, estates and trusts are also subject to this tax on income from West Virginia sources. Residency for personal income tax purposes is determined by location, duration and intent; it is a somewhat complex legal concept and is explained more fully later in this section.

Corporations, partnerships (but not partners), and certain trusts and associations are exempt from West Virginia Personal Income Tax. Individuals, estates and trusts that are required to file a federal individual income tax return or that have West Virginia adjusted gross income in excess of their total personal exemptions must file a West Virginia return. Individuals, estates and trusts are also required to file West Virginia returns even though they may be exempt from filing a federal return or may have correctly reported zero federal tax liability.

Almost all taxpayers who file Personal Income Tax returns file only one return per year. However, taxpayers whose West Virginia adjusted gross income other than wages are expected to exceed $600 plus the amount allowed for the personal exemptions must file quarterly returns and pay estimated tax. Taxpayers who fail to remit quarterly estimated tax payments may be subject to penalties.

The annual return of a farmer will be treated as his declaration of estimated tax if the annual return is filed on or before March 1 of the succeeding year and the tax shown to be due on the return is paid in full at the time of filing.

Tax returns must also be filed by employers who are required to withhold tax from wages they pay to their employees. Income tax withheld in a given month must be remitted to the State Tax Department by all employers on or before the fifteenth day of the next succeeding month. Tax returns must be filed by all employers on or before the last day of the month following the end of each quarter, reporting income tax withheld and remitted for the quarter. Employers who file a quarterly return of fifty or more employees must file electronically. Employers who withhold less than $600 annually or employ certain domestic or household employees will continue to file an annual return and pay the withheld amount annually. Taxpayers who remit more than $10,000 per year for any single tax must file all returns for all taxes and make all payments electronically.

Partnerships, S corporations and trusts who have nonresident partners or shareholders or beneficiaries must withhold tax from the income paid to these individuals and corporations at a rate of 6.5 percent if the organization has income derived from West Virginia sources. Where the income is paid to a corporation, the tax is applied against the Corporation Net Income Tax liability. Individual shareholders may elect not to have tax withheld from their income distribution through execution of a pass-through entity agreement.

The West Virginia Personal Income Tax is said to be a conformity statute because any term used in this law has the same meaning as when it is used in a comparable context in federal income tax law unless a different meaning is clearly required.

How Tax Liability is Determined

Computation of West Virginia taxable income begins with federal adjusted gross income to which specific increases and/or decreases are made. West Virginia modifications that decrease federal adjusted gross income are as follows:

1. the first $2,000 of benefits received under the West Virginia Public Employees' Retirement System or the West Virginia Teachers' Retirement System or military or federal civil service retirement benefits received to the extent included in federal taxable income;
2. the first $20,000 of annual military retirement income, including survivorship annuities;
3. all benefits received under the West Virginia Department of Public Safety Death, Disability, and Retirement Fund or retirement income received as pensions or annuities from any West Virginia or local police, deputy sheriff's or firefighter's retirement system;
4. income from any source received by persons who are sixty-five years of age or older or who are totally and permanently disabled or received by their surviving spouses, regardless of age, to the extent included in federal taxable income, if the deduction does not exceed $8,000 for a single return or a maximum of $8,000 per person for a joint return;
5. interest on United States obligations to the extent included in federal adjusted gross income;
6. interest or dividends on obligations or other securities of any United States authority, commission or agency, which is included in federal adjusted gross income but is exempt by federal law from State income taxation except for dividends from national bank stock, but including federal interest and dividends paid to shareholders of a regulated investment company under section 852 of the Internal Revenue Code;
7. certain other elements of income received from partnership or fiduciary roles, principally those of the types described in items 5 and 6 above;
8. interest or dividend income from bonds issued by the State of West Virginia or its authorities, commissioners, or instrumentalities where the interest is subject to federal taxation but exempt by West Virginia law from State taxation;
9. shareholder modifications related to distributive shares of ownership in an S corporation;
10. State tax refunds included in federal adjusted gross income;
11. the first $2,000 of deposits made to medical savings accounts offset by any withdrawals made for purposes other than payment of medical expenses if the medical savings account qualifies under West Virginia law but not under federal law for such treatment;
12. qualified payments made toward tuition pre-payment contracts during the tax year;

13. certain other income which this State is prohibited from taxing under federal law that is included in federal adjusted gross income, specifically Railroad Retirement benefits;
14. premiums that are paid for long-term care insurance that provides coverage for the taxpayer, the taxpayer's spouse, parent or dependent if the amount of the premiums is not allowable as a deduction when determining the taxpayer's federal adjusted gross income beginning with tax years starting on or after January 1, 2000;
15. an amount equal to the difference between the amount that would have been received had the plan not been terminated and the amount actually received from the guarantor for retirees who retire under an employer-provided defined benefit plan that terminated prior to or after retirement and is covered by a guarantor whose maximum benefit guarantee is less than the maximum to which the retiree was entitled from the 2001 through 2015 tax years[1];
16. active duty military pay received by West Virginia National Guard or reserve forces members who are called to active duty as a result of a call out under the authority of the President of the United States;
17. amount of not less than $25 and not more than $1,200 of any payment for amounts expended for tolls paid electronically through use of a West Virginia Parkways Authority Commuter Card for noncommercial passes for travel on toll roads in West Virginia for taxable years beginning after December 31, 2006, and
18. contributions to a qualified trust maintained for the benefit of a child with autism by the parent or guardian of a child with autism to the extent the amount is not allowable as a deduction when arriving at federal adjusted gross income.

West Virginia modifications that increase federal adjusted gross income are as follows:

1. interest income on State and local obligations other than those of West Virginia and its political subdivisions;
2. interest or dividend income from obligations or securities of any United States authority, commission or agency that are, by federal law, exempt from federal income tax but not from State income tax;
3. interest on money borrowed to purchase obligations that earn income exempt from State income tax;
4. certain other elements of income received from partnership or fiduciary roles primarily those of the types described in items 1, 2 and 3 above;
5. the amount of lump sum distributions for which the taxpayer has elected to be separately taxed for federal income tax purposes under Section 402(e) of the Internal Revenue Code;

[1]If, because of the reducing modification, the State Tax Commissioner determines that State revenue would be reduced by $2 million or more, then the State Tax Commissioner is required to reduce the percentage of the reduction so that the cost of the adjustment will be $2 million the next year.

6. the amount withdrawn from a medical savings account that is used for a purpose other than payment of medical expenses;
7. the amount withdrawn from a tuition pre-payment plan not used for payment of qualified expenses, and
8. the amount the taxpayer deducted for taxable years beginning after December 31, 2004 under Section 199 of the Internal Revenue Code pursuant to The American Jobs Creation Act of 2004.

West Virginia adjusted gross income (WV AGI) results when the applicable West Virginia increasing and/or decreasing modifications have been applied to federal adjusted gross income. To determine West Virginia taxable income, the taxpayer takes a deduction from WV AGI based upon the number of personal exemptions claimed on the federal return.

Exemptions

Any individual taxpayer, whether resident or nonresident, is currently allowed $2,000 for each exemption to which he is entitled for the taxable year for federal income tax purposes. A husband and wife who file a joint federal return but separate West Virginia returns may each claim only the exemptions to which they would have been entitled as individuals if they had filed separate federal returns. A surviving spouse is allowed one additional $2,000 exemption for two taxable years following the year of the death of his or her spouse. Those claimed as dependents on another's return are entitled to a $500 exemption. Estates and trusts are allowed only one $600 exemption.

Deductions

No subtractions are allowed from West Virginia adjusted gross income for a standard deduction or for any federal itemized deductions.

Exclusions

Taxpayers whose federal adjusted gross income is less than $10,000 may exclude a portion of their earned income. With the exception of married filing separate filers, all taxpayers with federal adjusted gross income of $10,000 or less may claim an exclusion for earned income of up to $10,000 per year. Married filing separate filers with federal adjusted gross income of $5,000 or less may claim an exclusion for earned income of up to $5,000. Earned income is income attributable to wages and salaries or other labor income.

Rates

Personal Income Tax rates differ with each taxable income category. Although the rates increase as taxable income increases, each rate is independent of every other rate. For example, for an individual taxpayer, an income of $24,000 falls into the over $10,000 - but not over $25,000 category. However, only $14,000, or the amount by which the income exceeds $10,000 is taxed at the 4 percent rate. The tax liability for the first $10,000 is $300. The following are the tax rate tables.

Tax Rate Schedules
All Taxpayers Except Married Filing Separate Returns

Taxable Income			Tax Liability		
Over		But Not Over		Plus	Of Excess Over
$0	-	$10,000	$ 0.00	3.0%	$ 0
10,000	-	25,000	300.00	4.0%	10,000
25,000	-	40,000	900.00	4.5%	25,000
40,000	-	60,000	1,575.00	6.0%	40,000
60,000	-		2,775.00	6.5%	60,000

Married Filing Separate Returns

Taxable Income			Tax Liability		
Over		But Not Over		Plus	Of Excess Over
$0	-	$ 5,000	$ 0.00	3.0%	$ 0
5,000	-	12,500	150.00	4.0%	5,000
12,500	-	20,000	450.00	4.5%	12,500
20,000	-	30,000	787.50	6.0%	20,000
30,000	-		1,387.50	6.5%	30,000

Credits Against Tax Liability

1. A credit against Personal Income Tax liability is granted to taxpayers in an amount equal to the West Virginia Personal Income Tax already withheld from their wages or salaries. Taxpayers must submit all appropriate withholding statements.
2. A credit against Personal Income Tax liability is granted to taxpayers for their payments of estimated taxes. Estimated taxes must be paid by each resident and nonresident taxpayer whose West Virginia adjusted gross income, except for any part of that income from which West Virginia income tax is withheld, can reasonably be expected to exceed $600 plus the sum of the personal exemption allowances to which the taxpayer is entitled.
3. A credit may be granted to West Virginia residents because of income tax imposed by another state but not for taxes imposed by any city, township, borough or political subdivision of a state. Currently, credit is allowed for income tax imposed by thirty-six states and the District of Columbia. Taxpayers who are residents for income tax purposes of one of the other states or of Pennsylvania or Virginia may also become residents for tax purposes of West Virginia under certain conditions. The State Tax Department cannot grant this credit unless the taxpayer's domicile is in West Virginia. In the cases of five of these states, Kentucky, Maryland, Ohio, Pennsylvania and Virginia, credit is allowed only on taxable income from some source other than salaries or wages. Taxpayers who believe they may

qualify for the credit must contact the tax or revenue departments of the states involved to be sure of the exact conditions that apply to their cases. Taxpayers should be aware that the conditions under which this credit can be granted are complex and subject to change. The amount of credit that can be allowed is subject to the following limitations:

a. it cannot exceed the amount of tax actually payable to the other state on income that is also subject to West Virginia Personal Income Tax;
b. it cannot be a greater percentage of the taxpayer's West Virginia Tax than the percentage determined by dividing the portion of the taxpayer's West Virginia income that is subject to taxation in another state by the total amount of the taxpayer's West Virginia income, and
c. it cannot reduce West Virginia tax liability to an amount less than that which would have been due if the income that was subject to taxation by the other state had been excluded from the taxpayer's West Virginia income.

4. Some credit may be granted to nonresident West Virginia taxpayers when income they receive from West Virginia sources is also subject to income taxation by their state of residence, provided their state has entered into a written reciprocal agreement with this State. The taxpayer's state of residence must impose an income tax on its residents on the income they receive from West Virginia sources but exempt West Virginia residents from that state's own income tax. Currently, the tax laws of Kentucky, Ohio, Maryland, Pennsylvania and Virginia meet the conditions for applying this credit. The State Tax Department cannot grant this credit unless the taxpayer's domicile is in West Virginia. Residents of Kentucky, Ohio or Pennsylvania can receive credit only if the income they received from West Virginia sources is in the form of salaries or wages. Taxpayers who are residents for income tax purposes of one of the other states or of Pennsylvania or Virginia may become residents for tax purposes of both West Virginia and their home states under certain conditions. Taxpayers who believe they may qualify for this credit must contact the tax or revenue departments of the states involved to be sure of the exact conditions that apply to their cases. The taxpayer should be aware that the conditions under which this credit can be granted are complex and subject to the following limitations:

a. it cannot exceed the amount of tax actually payable;
b. it cannot exceed a percentage of the income tax imposed by the nonresident's home state that is equal to the percentage that the nonresident's West Virginia income that is subject to his home state's income tax is of the total amount of the nonresident's income that is subject to income taxation by his home state, and
c. it cannot exceed a percentage of the income tax that would be due to West Virginia without the credit that is equal to the percentage that the portion of the nonresident's income that is subject to income taxation by his home state is of the total amount of the nonresident's West Virginia income.

5. A one-time credit against Personal Income Tax liability is allowed for non-family adoptions. The credit is equal to $2,000, which may be taken in the year of the adoption of each non-

family child whose age at adoption is under eighteen. The maximum amount for this credit will increase to $4,000 for tax years beginning on or after June 16, 2011. This credit may be taken over a period of three years. A non-family adoption is the adoption of a child by a taxpayer or taxpayers when the child is not related to the taxpayer or taxpayers by blood or marriage.

6. Low-income taxpayers who are eligible for the Homestead Exemption for property tax purposes are eligible for the Senior Citizen Tax Credit for Property Tax Paid. The tax credit is based on the amount of ad valorem property taxes paid on the first $20,000, or portion thereof, of the taxable assessed value over the $20,000 Homestead Exemption. In order to qualify for the credit, the taxpayer must meet all of the following criteria:

   a. they must incur and pay a property tax liability on the Homestead Exemption eligible home;
   b. their federal adjusted gross income must meet the low income test, and
   c. they must file a document to verify the annual income and the amount of the credit.

   Low income is defined as federal adjusted gross income for the year that is 150 percent or less of the federal poverty guidelines for the corresponding household size for the year. If their income is equal to or less than the amounts shown below, they may claim the credit.

Household Size	150% 2011 Poverty Guidelines
1	$16,245
2	$21,855
3	$27,465
4	$33,075
Each additional person add:	$5,610

   This credit is to be calculated prior to calculating the Homestead Excess Property Tax Credit.

7. Homeowners may take the Homestead Excess Property Tax Credit for owner-occupied residential property taxes paid in excess of 4 percent of total gross income. The maximum credit is $1,000. For tax years beginning or after January 1, 2012, the Homestead Excess Property Tax Credit is to be equal to the amount by which the difference between real property taxes paid for the tax year minus the amount of credit calculated for the Senior Citizen Tax Credit for Property Tax paid exceeds 4 percent of the taxpayer's gross household income for the tax year. This credit may not be taken for any homestead which is owned, in whole or in part, by any person who is not a low income person. Low income is defined as federal adjusted gross income that is 300 percent or less of the federal poverty guidelines.

8. Taxpayers who

   a. are over age 65,
   b. whose residential Property Tax bill increased by the greater of 10 percent or $300, and
   c. whose gross income is $25,000 or less

   are entitled to the Senior Citizen Property Tax Deferment Credit equal to the difference between the base year tax paid prior to the $300 Property Tax increase and the tax paid during the tax year. This credit is no longer available on or after January 1, 2012. Taxpayers must choose between the following:

   a. the Senior Citizen Tax Credit for Property Tax Paid,
   b. the Homestead Excess Property Tax Credit, or
   c. the Senior Citizen Property Tax Deferment Credit.

9. Families meeting certain income criteria are eligible for the Family Tax Credit. The credit is based on family size and the federal poverty guidelines. For tax year 2007, families were able to claim 50 percent of the credit. For subsequent tax years, 100 percent of the credit may be claimed. The tax credit table on the next two pages applies in 2011.

Low-Income Family Tax Credit - Indexed Tax Credit Tables 2011

Individual, Head of Household, Joint by Family Size

1			2			3			4		
Modified Federal Adjusted Gross Income		Family Credit %	Modified Federal Adjusted Gross Income		Family Credit %	Modified Federal Adjusted Gross Income		Family Credit %	Modified Federal Adjusted Gross Income		Family Credit %
$0	$10,890	100.0%	$0	$14,710	100.0%	$0	$18,530	100.0%	$0	$22,350	100.0%
$10,890	$11,190	90.0%	$14,710	$15,010	90.0%	$18,530	$18,830	90.0%	$22,350	$22,650	90.0%
$11,190	$11,490	80.0%	$15,010	$15,310	80.0%	$18,830	$19,130	80.0%	$22,650	$22,950	80.0%
$11,490	$11,790	70.0%	$15,310	$15,610	70.0%	$19,130	$19,430	70.0%	$22,950	$23,250	70.0%
$11,790	$12,090	60.0%	$15,610	$15,910	60.0%	$19,430	$19,730	60.0%	$23,250	$23,550	60.0%
$12,090	$12,390	50.0%	$15,910	$16,210	50.0%	$19,730	$20,030	50.0%	$23,550	$23,850	50.0%
$12,390	$12,690	40.0%	$16,210	$16,510	40.0%	$20,030	$20,330	40.0%	$23,850	$24,150	40.0%
$12,690	$12,990	30.0%	$16,510	$16,810	30.0%	$20,330	$20,630	30.0%	$24,150	$24,450	30.0%
$12,990	$13,290	20.0%	$16,810	$17,110	20.0%	$20,630	$20,930	20.0%	$24,450	$24,750	20.0%
$13,290	$13,590	10.0%	$17,110	$17,410	10.0%	$20,930	$21,230	10.0%	$24,750	$25,050	10.0%
$13,590		0.0%	$17,410		0.0%	$21,230		0.0%	$25,050		0.0%

Married Filing Separately by Family Size

1			2			3			4		
Modified Federal Adjusted Gross Income		Family Credit %	Modified Federal Adjusted Gross Income		Family Credit %	Modified Federal Adjusted Gross Income		Family Credit %	Modified Federal Adjusted Gross Income		Family Credit %
$0	$5,445	100.0%	$0	$7,355	100.0%	$0	$9,265	100.0%	$0	$11,175	100.0%
$5,445	$5,595	90.0%	$7,355	$7,505	90.0%	$9,265	$9,415	90.0%	$11,175	$11,325	90.0%
$5,595	$5,745	80.0%	$7,505	$7,655	80.0%	$9,415	$9,565	80.0%	$11,325	$11,475	80.0%
$5,745	$5,895	70.0%	$7,655	$7,805	70.0%	$9,565	$9,715	70.0%	$11,475	$11,625	70.0%
$5,895	$6,045	60.0%	$7,805	$7,955	60.0%	$9,715	$9,865	60.0%	$11,625	$11,775	60.0%
$6,045	$6,195	50.0%	$7,955	$8,105	50.0%	$9,865	$10,015	50.0%	$11,775	$11,925	50.0%
$6,195	$6,345	40.0%	$8,105	$8,255	40.0%	$10,015	$10,165	40.0%	$11,925	$12,075	40.0%
$6,345	$6,495	30.0%	$8,255	$8,405	30.0%	$10,165	$10,315	30.0%	$12,075	$12,225	30.0%
$6,495	$6,645	20.0%	$8,405	$8,555	20.0%	$10,315	$10,465	20.0%	$12,225	$12,375	20.0%
$6,645	$6,795	10.0%	$8,555	$8,705	10.0%	$10,465	$10,615	10.0%	$12,375	$12,525	10.0%
$6,795		0.0%	$8,705		0.0%	$10,615		0.0%	$12,525		0.0%

Low-Income Family Tax Credit - Indexed Tax Credit Tables 2011

5			6			7			8		
Modified Federal Adjusted Gross Income		Family Credit %	Modified Federal Adjusted Gross Income		Family Credit %	Modified Federal Adjusted Gross Income		Family Credit %	Modified Federal Adjusted Gross Income		Family Credit %
$0	$26,170	100.0%	$0	$29,990	100.0%	$0	$33,810	100.0%	$0	$37,630	100.0%
$26,170	$26,470	90.0%	$29,990	$30,290	90.0%	$33,810	$34,110	90.0%	$37,630	$37,930	90.0%
$26,470	$26,770	80.0%	$30,290	$30,590	80.0%	$34,110	$34,410	80.0%	$37,930	$38,230	80.0%
$26,770	$27,070	70.0%	$30,590	$30,890	70.0%	$34,410	$34,710	70.0%	$38,230	$38,530	70.0%
$27,070	$27,370	60.0%	$30,890	$31,190	60.0%	$34,710	$35,010	60.0%	$38,530	$38,830	60.0%
$27,370	$27,670	50.0%	$31,190	$31,490	50.0%	$35,010	$35,310	50.0%	$38,830	$39,130	50.0%
$27,670	$27,970	40.0%	$31,490	$31,790	40.0%	$35,310	$35,610	40.0%	$39,130	$39,430	40.0%
$27,970	$28,270	30.0%	$31,790	$32,090	30.0%	$35,610	$35,910	30.0%	$39,430	$39,730	30.0%
$28,270	$28,570	20.0%	$32,090	$32,390	20.0%	$35,910	$36,210	20.0%	$39,730	$40,030	20.0%
$28,570	$28,870	10.0%	$32,390	$32,690	10.0%	$36,210	$36,510	10.0%	$40,030	$40,330	10.0%
$28,870		0.0%	$32,690		0.0%	$36,510		0.0%	$40,330		0.0%

5			6			7			8		
Modified Federal Adjusted Gross Income		Family Credit %	Modified Federal Adjusted Gross Income		Family Credit %	Modified Federal Adjusted Gross Income		Family Credit %	Modified Federal Adjusted Gross Income		Family Credit %
$0	$13,085	100.0%	$0	$14,995	100.0%	$0	$16,905	100.0%	$0	$18,815	100.0%
$13,085	$13,235	90.0%	$14,995	$15,145	90.0%	$16,905	$17,055	90.0%	$18,815	$18,965	90.0%
$13,235	$13,385	80.0%	$15,145	$15,295	80.0%	$17,055	$17,205	80.0%	$18,965	$19,115	80.0%
$13,385	$13,535	70.0%	$15,295	$15,445	70.0%	$17,205	$17,355	70.0%	$19,115	$19,265	70.0%
$13,535	$13,685	60.0%	$15,445	$15,595	60.0%	$17,355	$17,505	60.0%	$19,265	$19,415	60.0%
$13,685	$13,835	50.0%	$15,595	$15,745	50.0%	$17,505	$17,655	50.0%	$19,415	$19,565	50.0%
$13,835	$13,985	40.0%	$15,745	$15,895	40.0%	$17,655	$17,805	40.0%	$19,565	$19,715	40.0%
$13,985	$14,135	30.0%	$15,895	$16,045	30.0%	$17,805	$17,955	30.0%	$19,715	$19,865	30.0%
$14,135	$14,285	20.0%	$16,045	$16,195	20.0%	$17,955	$18,105	20.0%	$19,865	$20,015	20.0%
$14,285	$14,435	10.0%	$16,195	$16,345	10.0%	$18,105	$18,255	10.0%	$20,015	$20,165	10.0%
$14,435		0.0%	$16,345		0.0%	$18,255		0.0%	$20,165		0.0%

10. A tax credit is allowed for solar energy systems installed on property located in West Virginia and owned by the taxpayer and used as a residence. The credit is equal to 30 percent of the cost to purchase and install the system up to a maximum of $2,000.

Several additional tax credits may be available to some taxpayers. These include the Economic Opportunity Tax Credit, the Strategic Research and Development Tax Credit, the Film Industry Investment Credit, the Commercial Patent Incentives Tax Credit, the Apprenticeship Training Credit, the Historic Rehabilitated Buildings Credit, the Credit for Qualified Rehabilitated Residential Building Investment, the Military Employment Incentive Credit, the Neighborhood Investment Credit, the Environmental Agricultural Equipment Credit, and the Alternative-Fuel Motor Vehicles Credit. Taxpayers that had gained entitlement to the Business Investment and Jobs Expansion Credit pursuant to the placement of qualified investment into service or use prior to January 1, 2003, may continue to use the credit. Additional information regarding these credits may be found in the Tax Credits section.

West Virginia Children's Trust Fund Contribution Program

Individual taxpayers may designate $2, $5, $10, or more from their tax refund to be used for funding the children's trust fund for the prevention of child abuse and neglect.

Composite Returns

Nonresident partners, S corporation shareholders and trust beneficiaries who have West Virginia income may elect to file a composite nonresident income tax return in lieu of filing separate nonresident returns. A composite return processing fee of $50 will be charged. When determining the amount of tax due on a composite nonresident return, no exemptions may be used, and the tax due must be computed at the rate of 6.5 percent of the West Virginia taxable income for each individual included on the composite return. The filing of composite nonresident returns does not prevent a nonresident from also filing a separate nonresident personal income tax return for that taxable year. A separate return is required if the nonresident has income from any other West Virginia source.

Individuals must consent to be included on all composite returns filed. A nonresident also filing a separate return may take a credit for the share of the tax remitted with the composite return.

Residency for Personal Income Tax Purposes

Although the terms "residence", "domicile" and "abode" are somewhat interchangeable in common use, their meanings within West Virginia tax law are distinct and special. An individual may be a resident of West Virginia for income tax purposes even though he would not be deemed a resident for other purposes. Residency for tax purposes is defined in terms of abode (a place where the taxpayer stays or stops off) and domicile (the taxpayer's permanent home to which he intends to return whenever he is absent). The taxpayer may have many abodes but only one domicile.

Abodes, which may be either owned or rented, are those dwelling places the taxpayer maintains during a temporary stay for the accomplishment of some particular project that has a definite and foreseeable end. Permanent abodes are dwelling places the taxpayer maintains

permanently or indefinitely, except for dwelling places such as cottages that are suitable and maintained only for vacation.

The taxpayer's domicile is fixed until he moves to a new location with the honest intention of making it his permanent home. The single fact that he may register to vote in a new location is not proof that he has actually changed his domicile since he may have intended only to avoid taxation in the jurisdiction of his old domicile. When the taxpayer maintains two or more homes, only one of them can be his domicile. The length of time spent at each home is important but not conclusive in determining which home is his domicile.

For Personal Income Tax purposes, a resident is a person who

1. has his domicile in West Virginia, even though he maintains a permanent place of abode outside the State and does not maintain a permanent place of abode in West Virginia if he spends more than thirty (not necessarily consecutive) days of the taxable year here, or
2. has his domicile outside West Virginia but maintains a permanent place of abode in West Virginia and spends more than 183 (not necessarily consecutive) days of the taxable year here unless the person involved is a member of the United States military forces.

Military Taxpayers

If the taxpayer is a member of the United States military forces and was domiciled in West Virginia at the time of entering military service, then assignment to duty outside the State does not change his or her West Virginia domicile. Such a taxpayer must file a West Virginia return and pay any tax owed in the same manner as any other resident individual unless both of the following conditions were met:

1. had no permanent place of abode in West Virginia during the taxable year, and
2. did not spend more than thirty not necessarily consecutive days in West Virginia during the taxable year.

If the military taxpayer met both of the conditions listed above but had income from some West Virginia sources, then he or she may be required to file a nonresident Personal Income Tax return depending on the nature of the income. Members of the United States military forces whose domicile is outside West Virginia are not taxed by this State on their military compensation, even though they may be stationed in West Virginia and maintain a permanent place of abode in the State.

Effective of Tax Year 2009, spouses of military service members may be exempt from Personal Income Tax on wages received from services performed in West Virginia is all three of the following conditions are met:

1. the service member is present in West Virginia in compliance with military orders;
2. the spouse is in West Virginia solely to be with the service member, and
3. the spouse maintains domicile in another state.

Change of Residence in General

A taxpayer who changes his/her residence either from West Virginia to another state or from another state to West Virginia during the tax year is required to file a nonresident/part-year resident return. The taxpayer who changes from being a resident to being a nonresident must include in the nonresident/part-year tax return he files for the period before he moves all items of income, gain or loss that have accrued to him (that is, for the same transaction, the items that he has received plus all items that are owed to him) up to the time of his change of residence. This means, for example, that if a taxpayer sold property while still a resident and agreed to accept payment for it on an installment basis, he must report his income on his nonresident/part-year resident income tax return as though he had already received all the payments, not just the ones he received before he moved.

West Virginia Income of Part-Year Residents

West Virginia source income of part-year residents is the sum of the following:

1. federal adjusted gross income for the period of residency computed as if his taxable year for federal income tax purposes was limited to the period of residency;
2. West Virginia source income for the period of nonresidence, and
3. special accruals.

Special accruals are determined by the following rules:

1. When an individual changes from resident to nonresident, the individual must include in the income on the nonresident/part-year return any loss or deduction accrued before the change of residency that were not included in the individual's federal adjusted gross income for the resident period or in the individual's West Virginia source income for the period of nonresidence.
2. If the individual changes from nonresident to resident status, the individual must include in the income on the nonresident/part-year resident return any items of income, gain, loss or deduction accrued before the change, other than items derived from or connected with West Virginia sources.
3. No item of income, gain, loss or deduction accrued under this section may be considered in determining any future West Virginia adjusted gross income or West Virginia source income.
4. The above-listed accruals are not required if the individual filed a bond or other acceptable security, conditioned on inclusion of amounts accruable in West Virginia adjusted gross income or West Virginia source income as if residency had not changed.

West Virginia Income of Nonresidents

Only those items of income, gain, loss and deduction derived from West Virginia sources are included as West Virginia income.

West Virginia Income of Nonresident Estates and Trusts

Only those items of income, gain, loss and deduction derived from West Virginia sources that would be includible in the federal adjusted gross income of an individual taxpayer must be included in the income of an estate or trust. This includes all items of income from another estate of which the first estate or trust is a beneficiary.

The State Tax Commissioner may authorize alternate methods of determining representative shares of beneficiaries. A written application to use alternate methods must be filed on or before the return due date without regard to any extension.

Federal taxable income for an estate or trust is determined as if the estate or trust was an individual. Also, federal taxable income is increased by the amount of the includible gains, reduced by properly allocable deductions, upon which tax is imposed under Section 644 of the Internal Revenue Code.

Computation of Tax on Income of Nonresidents and Part-Year Residents

Personal Income Tax due on income derived from sources in West Virginia by a nonresident individual, estate or trust or part-year resident individual must be calculated using the following steps:

1. the tentative tax must be calculated as if the taxpayer was a West Virginia resident for the entire year;
2. the tax liability is equal to the following:

$$\text{Tentative Tax} \times \frac{\text{West Virginia Source Income}}{\text{Federal Adjusted Gross Income}}$$

Nonresident Withholding

Tax must be withheld from nonresidents on rents and royalties from real and tangible personal properties located in West Virginia. The list of taxpayers subject to nonresident withholding has been expanded to include estates. Income must be derived from or connected with West Virginia sources to be subject to the nonresident withholding requirements. The withholding rate is 6.5 percent of the taxable income that may be taxed in West Virginia. Withholding of taxes for nonresidents is not required in the following cases:

1. on distributions to a person, other than a corporation who is exempt from paying federal income tax on West Virginia source income;
2. on distributions to a corporation that, because of its purpose or activities, is exempt from federal income tax on its West Virginia source income;
3. on distributions when compliance would cause undue hardship on the pass-through entity and the State Tax Commissioner has approved in writing the entity's petition for exemption from withholding, and
4. on distributions by non-partnership ventures

An unincorporated organization that has elected under Section 761 of the Internal Revenue Code not to be treated as a partnership must file information returns. These information returns must include the fixed or determinable gains, profits and income. These returns also must list the names, addresses and taxpayer identification numbers of persons receiving West Virginia effectively connected taxable income, whether distributed or not distributed for federal income tax proposes. A copy of the information statements must be filed with the pass-through entity's tax return. This information statement must be furnished to nonresident distributee.

A nonresident distributee can file with the pass-through entity an agreement to do the following:

1. timely file returns and timely pay all income taxes imposed on the effectively connected taxable income, and
2. be subject to personal jurisdiction in West Virginia for proposes of collection of unpaid income tax and related interest, penalties, and additions to tax owed by the nonresident distributee.

A nonresident distributee electing to execute such an agreement must file the agreement with each pass-through entity for which the election is made. The filing must occur on or before the last day of the pass-through entity's first tax year for which the agreement applies. The entity must file a copy of the agreement with the State Tax Commissioner. The agreement may be revoked by the distributee according to regulations promulgated by the State Tax Commissioner. Upon receipt of the properly executed agreement, the pass-through entity may no longer withhold tax until notified otherwise by the nonresident distributee or the State Tax Commissioner in writing.

The pass-through entity must file a copy of all distributee agreements received with its annual information return. If the entity fails to timely file the agreements with the State Tax Commissioner, the entity must instead withhold tax from the distributees. The entity may then recover the amount of the payment from the nonresident distributee on whose behalf payment was made.

Effective January 1, 2008, a real estate reporting person is required to withhold income tax on proceeds received by a nonresident individual or entity from the sale or exchange of West Virginia real property and associated tangible personal property.

Fiduciary Tax Returns

While estates and trusts are taxed under the Personal Income Tax statute, their tax liability is calculated on the Fiduciary Income Tax return, not a Personal Income Tax return. Unlike the tax on individuals, federal taxable income is the starting point for the calculation of the West Virginia Fiduciary Income Tax for estates and trusts. West Virginia taxable income is derived after specific increasing or decreasing modifications are made to federal taxable income. The rate schedule for both resident and nonresident estates and trusts is the same as Personal Income Tax rates for all taxpayers, except married taxpayers filing separate returns.

For simplicity, estates have the same $600 exemption allowance as on the federal return. Since West Virginia's treatment of estates and trusts are similar, the same $600 exemption is allowed for trusts.

Although the State does not permit federal itemized deductions for Personal Income Tax, West Virginia allows the federal deductions claimed prior to attainment of taxable income for

Fiduciary Income Tax purposes. Current calculations of State tax liability for fiduciaries begin with federal taxable income, not federal adjusted gross income.

For taxable years beginning after December 31, 2004, an electing small business trust as defined in Section 1361(e) of the Internal Revenue Code that is a shareholder in one or more electing small business corporations must include in West Virginia taxable income the portion of the trust's income attributable to electing small business corporation stock held by the trust that is not included in the trust's federal taxable income.

ESTATE TAX

The West Virginia Estate Tax is a transfer tax imposed on the estates of certain decedents who are subject to the federal Estate Tax. This tax is applicable to the estates of both resident decedents and to the estates of nonresident decedents who own real estate or tangible personal property in West Virginia that is subject to the federal estate tax. The West Virginia Estate Tax also applies to the estates of decedents that are not citizens of the United States and who die owning real property, tangible personal property or intangible personal property with West Virginia situs or presence.

The amount of West Virginia Estate Tax payable is equal to the credit for state death taxes computed for federal estate tax purposes. For deaths occurring on or after January 1, 2005, the federal credit for state death taxes is $0, and the West Virginia estate tax no longer applies. However, for deaths occurring prior to January 1, 2005, the personal representative of an estate must file a West Virginia Estate Tax return whenever required by federal law to file the federal Estate Tax return. Generally, the filing requirement is an estate with a gross value exceeding the applicable federal exclusion for estates. The following table gives the applicable federal asset exclusion by year of death:

Year of Death	Federal Exclusion Amount
2002-2003	$1,000,000
2004-2005	1,500,000
2006-2008	2,000,000
2009	3,500,000
2010[1]	
2011	5,000,000

For estates of nonresident decedents the tax is apportioned based on the value of the West Virginia estate as it relates to the total estate. Apportionment is also necessary where the estate of

[1] The estate tax was repealed for estates of decedents dying in 2010.

a resident decedent consists of real property or tangible personal property with actual situs outside of West Virginia.

The West Virginia Estate Tax is required to be paid within nine months of the decedent's death. Any tax not paid within nine months will become subject to interest and additions to tax.

PERSONAL INCOME TAX COLLECTIONS

Fiscal Year	General Revenue Fund	Refund Reserve Fund	Workers Compensation	Total Receipts
2000-2001	$1,020,689,767	$0	$0	$1,020,689,767
2001-2002	1,034,665,204	3,766,000	0	1,038,431,204
2002-2003	1,055,522,753	5,000,000	0	1,060,522,753
2003-2004	1,068,212,080	6,700,000	0	1,074,912,080
2004-2005	1,170,087,478	1,900,000	0	1,171,987,478
2005-2006	1,297,720,394	17,000,000	30,000,000	1,344,720,394
2006-2007	1,360,511,071	8,400,000	45,000,000	1,413,911,071
2007-2008	1,518,746,238	0	95,400,000	1,614,146,238
2008-2009	1,557,403,317	0	95,400,000	1,652,803,317
2009-2010	1,446,852,095	0	95,400,000	1,542,252,095
2010-2011	1,593,168,829	0	95,400,000	1,688,568,829

ESTATE TAX COLLECTIONS

Fiscal Year	Net Revenue
2000-2001	$17,540,490
2001-2002	13,321,684
2002-2003	10,835,905
2003-2004	9,301,246
2004-2005	4,797,239
2005-2006	591,724
2006-2007	199,364
2007-2008	46,046
2008-2009	28,687
2009-2010	100,284
2010-2011	(93)

EXCISE TAXES

1. Motor Fuel Excise Tax (W.Va. Code §§11-14C, 11-15-18b and 11-15A-13a)
2. Motor Carrier Provisions
   a. International Fuel Tax Agreement (W. Va. §11-14B)
   b. Motor Carrier Road Tax (W. Va. Code §11-14A)
3. Beer Barrel Tax and License Fees (W.Va. Code §11-16)
4. Alcoholic Beverage Tax and License Fees (W.Va. Code §60-3;§60-7 and §60-8)
5. Tobacco Products Excise Tax (W.Va. Code §11-17)
6. Soft Drinks Tax (W.Va. Code §11-19)

MOTOR FUEL EXCISE TAX

The Motor Fuel Excise Tax is a combination of the following:

1. a flat rate of 20.5 cents per invoiced gallon, and
2. a variable sales and use tax rate of 11.7 cents per invoiced gallon for the period of January 1, 2011 through December 31, 2011.

The variable component of the tax is the Consumers Sales and Service Tax and Use Tax, which is based on the average wholesale price of gasoline and special fuel as determined by the State Tax Commissioner. Each January 1, the State Tax Commissioner will determine the average wholesale price for the annual period based on sales data gathered for the preceding period of July 1 through October 31. However, the average wholesale price will never be deemed to be less than $2.34 per gallon. As of January 1, 2011, the average wholesale price cannot vary by more than 10 percent from the average wholesale price for the previous calendar year.

The Use Tax for carriers including aircraft, barge or other watercraft or railroad locomotives, is based on the percentage of carrier operations in West Virginia. The relevant percentage is the proportion of West Virginia miles compared with the total miles traveled within and without West Virginia. Consumers Sales and Service Tax will be included in the price of fuel purchased in West Virginia and can offset the Use Tax.

The Motor Fuel Excise Tax is imposed at the time motor fuel is imported into West Virginia, other than by a bulk transfer and is measured by invoiced gallons received outside this State at a refinery, terminal or bulk plant for delivery to a destination in West Virginia. The tax is payable by the person importing the motor fuel. The tax is also imposed on invoiced gallons of motor fuel removed, other than by bulk transfer,

1. from the bulk transfer/terminal system in West Virginia,
2. from the bulk transfer/terminal system outside West Virginia for delivery to a location in West Virginia as represented on the shipping papers, or
3. upon sale or transfer in a terminal or refinery in West Virginia to any person not holding a supplier's license.

The tax does not apply to motor fuel imported into West Virginia in the motor fuel supply tank or tanks of a motor vehicle, but the Motor Carrier Road Tax may still apply. Tax applies to fuel blended in West Virginia and is calculated on the difference between the total quantity blended and the quantity used for blending but previously taxed.

The following sales of motor fuel are exempt per se from the flat rate component of tax:

1. all motor fuel exported from West Virginia to any other state or nation, provided the destination state tax is collected,
2. sales of aviation fuel,
3. sales of dyed special fuel, and
4. sales of propane.

Refundable exemptions are also available for the flat rate component of the tax. The following entities may apply for a refund of the flat rate component of the tax:

1. the United States government,
2. any county government or agency thereof,
3. any municipal government or agency thereof,
4. county boards of education,
5. any urban mass transportation authority, and
6. any municipal, county, state or federal civil defense or emergency service program.

Also refundable are taxes on

1. all gallons of motor fuel purchased by a licensed exporter and subsequently exported from West Virginia to any other state or nation, provided the destination state tax is paid,
2. all gallons of motor fuel used and consumed in stationary off-highway turbine engines,
3. all gallons of special fuel used for heating any public or private dwelling, building or other premises,
4. all gallons of special fuel used for boilers,
5. all gallons of motor fuel used as a dry cleaning solvent or commercial or industrial solvent,
6. all gallons of motor fuel used as lubricants, ingredients or components of any manufactured product or compound,
7. all gallons of motor fuel sold for use or used as a motor fuel for commercial watercraft,
8. all gallons of special fuel sold for use or consumed in railroad diesel locomotives,
9. all gallons of motor fuel purchased in quantities of 25 gallons or more for use as a motor fuel for internal combustion engines not operated upon the highways of West Virginia,
10. all gallons of motor fuel purchased in quantities of 25 gallons or more and used to power a power take-off unit on a motor vehicle,

11. motor fuel used by any person regularly operating any vehicle under a certificate of public convenience and necessity or under a contract carrier permit for transportation of persons when the amount purchased is 25 gallons of more (amount refunded is equal to 6 cents per gallon), and
12. all gallons of motor fuel that are purchased and used by any bona fide volunteer fire department, nonprofit ambulance service or emergency rescue service.

The Motor Fuel Excise Tax law allows the seller of tax-paid motor fuel to the federal government to claim a refund for the variable rate component of the Motor Fuel Excise Tax and the flat rate component of the Motor Fuel Excise Tax when the federal government does not pay these taxes.

All motor fuel exported from West Virginia to another state or nation is exempt per se from the variable component of the tax, provided that the destination state tax is collected. The following entities may apply for a refund of the variable component of the tax:

1. the United States or any agency thereof,
2. West Virginia and its institutions,
3. any county government, unit or agency thereof,
4. any municipal government or agency thereof,
5. county boards of education,
6. any urban mass transportation authority,
7. any municipal, county, state or federal civil defense or emergency service program, and
8. any bona fide volunteer fire department, nonprofit ambulance service or emergency rescue service.

Licensed exporters may apply for a refund for all gallons of motor fuel purchased and subsequently exported from West Virginia to any other state or nation, provided that the destination state tax is paid.

The following classifications have been established for motor fuel licensing:

1. suppliers which includes refiners,
2. permissive suppliers (out-of-state supplier who is licensed to collect the Motor Fuel Excise Tax and remit the tax to the State),
3. importers,
4. exporters,
5. terminal operators,
6. blenders,
7. motor fuel transporters, and
8. distributors.

Persons who are engaged in more than one activity for which a license is required must have a separate license for each activity.

MOTOR CARRIER PROVISIONS

Most interstate motor carriers pay motor fuel excise tax according to the provisions of the International Fuel Tax Agreement. Intrastate motor carriers pay the excise tax according to the provisions of the Motor Carrier Road Tax. A description of both the IFTA and MCRT provisions follows.

INTERNATIONAL FUEL TAX AGREEMENT

The International Fuel Tax Agreement (IFTA) is a fuel tax reciprocity agreement among states of the United States and provinces of Canada to simplify the reporting and payment of all fuel use taxes by interstate motor carriers for all IFTA qualified vehicles. Qualified motor vehicles are the only vehicles taxed under IFTA and, for purposes of fuel tax reporting, are described as vehicles used, designed or maintained for transportation of persons or property having

1. two axles and gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds,
2. three or more axles regardless of weight, or
3. when used in combination, when the weight of such combination exceeds 26,000 pounds gross vehicle weight or registered gross vehicle weight.

All West Virginia-based motor carriers who travel in at least one other IFTA jurisdiction and operate one or more qualified vehicles must obtain IFTA credentials. IFTA credentials, consisting of a license and decals, are issued by the West Virginia Department of Transportation. Upon receipt of the application, the Department of Transportation will issue to the motor carrier one IFTA license and two decals per qualified vehicle. There is a fee of $5 for each qualified motor vehicle. A photocopy of the actual license must be placed in each qualified vehicle. The decals must be displayed on each side of the exterior of the cab of the trucks and tractors. Licenses and decals are valid from January 1 through December 31. Licenses and decals must be renewed annually.

All IFTA licensees based in West Virginia must file a single tax return to the West Virginia State Tax Department on a quarterly basis. This tax return will contain detailed information about vehicle operations in each IFTA member jurisdiction. West Virginia will then distribute both taxes and carrier information to the other IFTA jurisdictions on behalf of the carrier. The types of fuel that can be reported on an IFTA return include gasoline, diesel, gasohol, propane, LNG, CNG, ethanol, methane, E-85, M-85, A55, and biodiesel. Not all states require that all types of fuel be reported.

West Virginia will receive its portion of gasoline taxes due from motor carriers based in other IFTA jurisdictions from the carrier's base jurisdiction. If the motor carrier does not operate in any other IFTA jurisdiction, the motor carrier will file the Motor Carrier Road Tax return described below.

MOTOR CARRIER ROAD TAX

The Motor Carrier Road Tax (MCRT), which is very closely related to the Motor Fuel Excise Tax, is imposed on any vehicle used, designed or maintained for the transportation of persons or property and having two axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds or having three or more axles regardless of weight or is used in combination when the weight of such combination exceeds 26,000 pounds gross vehicle weight or registered gross vehicle weight. Recreational vehicles are not subject to the Motor Carrier Road Tax.

This tax must be paid on each gallon of motor fuel used in motor carrier operations within West Virginia.

Exemptions from Motor Carrier Road Tax are granted for the following vehicles:

1. motor carriers operated or caused to be operated by or for any agency of the federal government, any state government, or any political subdivision of any state;
2. school buses operated or caused to be operated by or for this State or any of its political subdivisions, and
3. school buses of private schools.

Non-IFTA motor carrier vehicles operated in West Virginia are also subject to a mandatory registration fee of $5. An identification marker that must be displayed on the vehicle is provided for this fee. A motor carrier that does not have a motor carrier identification marker may obtain a trip permit. A trip permit authorizes the motor carrier to operate in West Virginia without an identification marker for not more than ten consecutive days beginning and ending on the dates specified on the permit. The fee for a trip permit is $24. Fees for trip permits are in lieu of the Motor Carrier Road Tax, and no mileage reports are required for a vehicle operating under a trip permit.

A special transporter’s permit may also be granted for a new motor vehicle dealer for use on new motor vehicles driven under their own power from the factory or distribution place of a manufacturer or from the place of business of one new vehicle dealer to another dealer or to the place of business of a purchaser to whom title passes on delivery. A person to whom a transporter's permit is issued must file reports required under the Motor Carrier Road Tax law and pay any tax due. The fee for a transporter's permit is $15. This permit is valid for one year.

BEER BARREL TAX AND LICENSE FEES

The Beer Barrel Tax is an excise tax levied upon the in-state sale, use, handling or distribution of nonintoxicating beer whether manufactured within or outside West Virginia. The tax is levied at a rate of $5.50 on each barrel of thirty-one gallons and, in like ratios, on each part barrel manufactured or sold within the State.

The term "nonintoxicating beer" refers to products of the brewing industry. These products include all cereal malt beverages, beer, lager beer, ale, malt coolers, and other similar items. Effective July 9, 2009, the maximum amount of alcohol allowed in “nonintoxicating beer” was raised from 4.2 percent to 9.6 percent by weight and from 6% by volume to 12% by volume, whichever is greater.

On or before the tenth day of each calendar month, every licensed beer manufacturer must file a report with the State Tax Department which states its total estimated sales of beer to distributors within the State during that month. Every licensed distributor must also file a report stating its total estimated purchases of beer during that month. A brewer who manufactures or produces beer outside the State may file the required report on behalf of its distributors, if so authorized by the Alcohol Beverage Control Commissioner. In all cases, monthly payments of the Beer Barrel Tax must accompany these estimated reports.

Any licensed brewer or licensed distributor who files an estimated report may adjust such report by filing an amended report by no later than the twenty-fifth day of the reporting month. In any case, every brewer must also file a final monthly report in a form and at a time prescribed by the State Tax Department.

Every individual who manufactures, distributes or sells beer products within West Virginia must first obtain an annual license to conduct these activities. The license period starts on July 1 of each year and ends on June 30 of the following year. The following license fees apply.

Place of Business	Annual License Fee
Manufacturer (brewer) of Beer	$1,500
Distributor of Beer	1,000
Sales Representative for Beer	50
Retailers	150
Railroad Cars	10
Festivals and Fairs	250
Social, Fraternal and Private Clubs, Not Operating for Profit	150

Caterers and party supply stores are included in the same category as retail grocery stores with respect to the sale of nonintoxicating beer.

Every applicant for a license must also post a bond conditional upon the observance of the West Virginia Non-Intoxicating Beer Act and rules promulgated under the Act. The amount of the bond shall be set by the Alcohol Beverage Control Commissioner. These bonds shall, for each place of business, be from $5,000 for distributors, and $500 to $1,000 for retail dealers. Brewers shipping beer into West Virginia must furnish a bond of not less than $5,000 nor more than $25,000.

ALCOHOLIC BEVERAGE TAXES AND LICENSES

Liquor can only be sold in West Virginia by retail licensees. Market zones defined as geographic areas are designated by the Retail Liquor Licensing Board for the purpose of issuing retail licenses. One Class A retail license and/or one or more Class B retail licenses are issued for each market zone designated by the Retail Liquor Licensing Board. A Class A license permits but does not require the licensee to operate the number of retail outlets authorized for that zone. A Class B retail license permits the sale of liquor at only one outlet. The annual license fees for Class A and Class B licenses are $1,500 and $500, respectively, for each license period. The license period is from July 1 through June 30.

There are some restrictions concerning where and when retail sales of liquor can be made. A licensee may not sell liquor at a retail outlet in the "immediate vicinity" of a church or school

unless the licensee had a retail license to sell wine or beer at that location on February 27, 1990. Retail sales of liquor other than wine are prohibited on Sundays, Christmas, and Statewide primary and general election days and between 10:00 p.m. and 8:00 a.m. any other day. No more than ten gallons of liquor may be sold for noncommercial use by a retail licensee to any person at one time.

There is a 5 percent tax imposed on the purchase price of retail sales of liquor in addition to the 6 percent Consumers Sales Tax. The retailer must collect the tax, which is deposited in the State Treasury and distributed quarterly to counties and municipalities. A municipality receives the taxes collected within that municipality or within one mile of the municipal boundaries, and the county gets any tax collected in the county from retailers not located within one mile of any municipality. If any tax is collected within one mile of two or more municipalities, that tax is divided equally among them.

Alcoholic Beverage License Fees

A variety of license fees exist for those who wish to manufacture, distribute or sell alcoholic liquor within West Virginia. The term "alcoholic liquor" includes alcohol, wine, spirits and any other liquor or solid capable of being used as a beverage. The following license fees are currently in effect within West Virginia.

Alcohol License	Annual Fee Per Location
Distilleries	$1,500
Wineries	1,500
Brewery (Beer)	250
Bottling Plant (Beer)	100
Wholesale Druggist	50
Institutions (Education or Laboratory)	10
Industrial Use	50
Retail Druggist	10
Industrial Plants Producing Alcohol	250
Commercial Stills	5
Laboratory Stills	0
Sacramental Purposes	0
Farm Wineries	50
Wine Distributor	2,500
Wine Retailer	150
Wine Tasting	50
Sales Representative of Distributor	50
Private Wine Restaurant	250
Festivals and Fairs	250
Fraternal, Veterans, or Nonprofit Club	750
Private Clubs (< 1,000 Members)	1,000
Private Clubs (> 1,000 Members)	2,500
Agent or Broker	100

Caterers and party supply stores may be licensed as retail dealers of wine, but the business must not have less than $500 in monthly sales of food, food products and supplies for the table, exclusive of wine. The caterer or party supply store must also have at least $3,000 in inventory, excluding wine. Caterers and party supply stores may sell both wine and beer if it is licensed in both capacities.

Municipalities may also impose license fees. These fees may equal the State fee amount except for the license fee for private clubs for which the limit is 50 percent of the State fee.

Drunk Driver Prevention Fund

Alcoholic beverages sold to private clubs by private retail liquor stores are subject to a 6 percent excise tax. State revenue generated by this tax is deposited in the Drunk Driving Prevention Fund. Sales by private clubs to their members are also subject to the 6 percent Consumers Sales Tax.

WINE LITER TAX

The Wine Liter Tax is levied on all wine sold by suppliers to distributors, except wine sold to the Alcohol Beverage Control Commissioner. Effective July 1, 2007, this tax is imposed on all wine sold to West Virginia adult residents from direct shippers. The tax is levied at a rate of 26.406 cents per liter. Collections of the Wine Liter Tax are deposited into the General Revenue Fund.

TOBACCO PRODUCTS EXCISE TAX

Cigarettes and other tobacco products are taxed under the Tobacco Products Excise Tax. Cigarettes are taxed at the rate of 55 cents on each twenty cigarettes and, on the sale of each fraction of twenty, at the same fractional part of 55 cents. Only one sale of the same article can be used in computing the amount of Cigarette Tax due. Tobacco products other than cigarettes are taxed at the rate of 7 percent of the wholesale price. “Wholesale price” is the gross invoice price, including all federal excise taxes, at which the tobacco products are sold to distributors or wholesalers. “Wholesale price” excludes all trade discounts and other reductions in the manufacturer’s price. Every taxpayer that pays the Tobacco Products Excise Tax is allowed a discount of 4 percent on all tax due on cigarettes and other tobacco products.

West Virginia law provides a two-part definition of the term"cigarette". One part is narrow; the other is broad. The narrow part of the definition reads "any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any ingredient, the wrapping or cover of which consists of paper or any substance or material except tobacco (is a cigarette)". The broad part of the definition reads "any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packing and labeling is likely to be offered to, or purchased by, consumers as a cigarette (is a cigarette)".

Revenue indicia, which are tax stamps, must be affixed to the bottom of each package of cigarettes sold and can only be purchased by

1. wholesalers who buy unstamped cigarettes directly from manufactures, and
2. vending machines operators who, when they purchase cigarettes directly from manufacturers, are considered wholesalers even though they sell cigarettes at retail.

The stamp must be affixed to the bottom of the cellophane wrapper of every individual cigarette package or similar container before the cigarettes can be delivered for resale to other wholesalers, jobbers or retailers. Stamps are purchased from the State Tax Department or from certain West Virginia banks or trust companies that the State Tax Commissioner has authorized to sell cigarette revenue indicia. The statute authorizes a discount of 4 percent from the face value of the indicia as a commission for affixing the stamps or impressions onto cigarette packages. Prepayment of this tax is possible when wholesalers are authorized by the State Tax Commissioner to use a metering device in affixing revenue indicia. The State Tax Commissioner may authorize wholesalers who file an appropriate surety bond to make conditional credit purchases of cigarette indicia.

SOFT DRINKS TAX

The Soft Drinks Tax is an excise tax levied upon the sale, use, handling or distribution of bottled soft drinks, syrups and powder bases prepared for mixing soft drinks whether manufactured within or outside West Virginia. It is levied to provide revenue for the construction, maintenance and operation of the four-year school of medicine, dentistry and nursing at West Virginia University.

The term "bottled soft drinks" is taken to include any non-alcoholic beverage provided in any type of container. Fluid milk to which no flavoring has been added and natural undiluted fruit and vegetable juices are specifically exempt. The term "soft drink syrups and powders" is also interpreted quite broadly.

The tax is paid through purchase of tax stamps or tax crowns by manufacturers, distributors, wholesale or retail dealers or any other person who is the original consignee of such soft drinks, syrups and powders and who brings such products into the State for the purposes described above. Crowns are tax symbols that are permanently applied by manufacturers to bottle caps, can lids, cartons or labels. The tax may be paid by invoice method by remitting gross tax due. The tax shall not be collected more than once on any bottled soft drink, soft drinks syrup or powder manufactured, sold or distributed in the State.

The rates of the tax are as follows:

On bottled soft drinks

1 cent on each 16.9 fluid ounces or any fraction of that amount, or

1 cent on each ½-liter or any fraction of that amount;

On soft drinks syrup (single strength)

80 cents on each gallon and, on each fractional part of a gallon, the same fractional part of 80 cents, or

84 cents on each 4 liters and, on any fractional part of 4 liters, the same fractional part of 84 cents, or

0.625 cents per ounce

On dry mixture used for making soft drinks
1 cent on each ounce or any fraction of that amount, or
1 cent on each 28.35 grams or any fraction of that amount.

Manufacturers or distributors of tax crowns may be required to furnish an appropriate bond to insure their compliance with regulations. Persons who wish to buy tax stamps or crowns can do so only after authorization has been given by the State Tax Department. Although West Virginia law provides that the State Tax Commissioner may authorize any sheriff or any West Virginia bank or trust company to sell Soft Drinks Tax stamps, no such authorization has been given. Currently, the State Tax Department is the only source of these tax stamps.

The tax must be paid in advance when the stamps are bought. Stamp discounts from the face value of the stamps are as follows:

on sales under $25, no discount;
on sales from $25 but less than $50, 5%, and
on sales of $50 or more, 10%.

When crowns are bought, payment of tax may be made either in advance or on credit bound by the terms on appropriate surety bond. Both cash and credit buyers of tax crowns are granted a discount of 12.5 percent from the face value of the crowns. When either the stamps or crown discount is taken, no claim can be made for a tax refund because of the breakage or destruction of stamped or crowned containers, because of the spoilage of the product, or because of the loss or destruction of the tax stamps or crowns. However, if any of the tax stamps or crowns on soft drinks, soft drink powders or soft drink syrups on which a tax has been paid are destroyed by fire, lightning or flood or if any soft drinks, syrups or powders upon which the tax has been paid are exported from the State or are required to be destroyed pursuant to federal or State order, the taxpayer may file a claim for refund for an amount equal to the amount of tax actually paid for such stamps or crowns. This claim for refund must be filed within 180 days of the date the tax stamps or crowns were destroyed or the soft drink product upon which the tax was paid was destroyed or exported from the State.

MOTOR FUEL EXCISE TAX AND MOTOR CARRIER ROAD TAX AND IFTA COLLECTIONS

Fiscal Year	Net Revenue
2000-2001	$295,691,018
2001-2002	303,370,866
2002-2003	289,172,641
2003-2004	309,317,627
2004-2005	311,624,679
2005-2006	320,757,360
2006-2007	349,171,785
2007-2008	404,222,669
2008-2009	384,538,525
2009-2010	390,916,341
2010-2011	397,748,645

LIQUOR PROFITS

Fiscal Year	Net Revenue
2000-2001	$7,262,832
2001-2002	7,337,593
2002-2003	7,265,000
2003-2004	9,817,041
2004-2005	11,043,765
2005-2006	11,508,649
2006-2007	13,211,351
2007-2008	15,211,048
2008-2009	16,960,842
2009-2010	14,557,551
2010-2011	15,200,485

BEER BARREL TAX AND LICENSE FEES

Fiscal Year	Net Revenue
2000-2001	$7,950,964
2001-2002	8,267,253
2002-2003	8,383,928
2003-2004	8,313,353
2004-2005	8,332,550
2005-2006	8,547,760
2006-2007	8,433,927
2007-2008	8,665,762
2008-2009	8,638,146
2009-2010	8,434,752
2010-2011	8,478,815

WINE LITER TAX

Fiscal Year	Net Revenue
2000-2001	$1,064,017
2001-2002	1,228,559
2002-2003	1,218,493
2003-2004	1,198,616
2004-2005	1,242,134
2005-2006	1,421,151
2006-2007	1,504,802
2007-2008	1,674,789
2008-2009	1,711,188
2009-2010	1,840,888
2010-2011	1,788,067

TOBACCO PRODUCTS EXCISE TAX COLLECTIONS[1]

Fiscal Year	Cigarette Tax	Other Tobacco Products	Net Revenue
2000-2001	$31,838,476	$0	$31,838,476
2001-2002	32,219,157	2,217,252	34,436,409
2002-2003	45,062,379	4,627,101	49,689,480
2003-2004	102,876,773	4,731,793	107,608,566
2004-2005	98,065,896	4,758,872	102,824,768
2005-2006	107,118,357	4,909,270	112,027,627
2006-2007	106,570,122	4,822,604	111,392,726
2007-2008	109,152,254	5,516,525	114,668,779
2008-2009[2]			115,094,599
2009-2010[2]			114,128,347
2010-2011	104,370,209	6,390,235	110,760,444

SOFT DRINKS TAX COLLECTIONS

Fiscal Year	Net Revenue
2000-2001	$13,469,031
2001-2002	12,814,718
2002-2003	14,658,061
2003-2004	14,932,529
2004-2005	14,752,667
2005-2006	14,970,961
2006-2007	15,250,717
2007-2008	16,541,169
2008-2009	15,764,126
2009-2010	15,431,922
2010-2011	16,215,413

[1]Prior to January 1, 2002, this tax was known as the Cigarette Tax and was only applicable to sales of cigarettes.

[2]Transition period from legacy tax computer system to Integrated Tax System. Complete detail not readily available.

PROPERTY TAXES

1. Property Tax (W. Va. Code §§11-1C; 11-2;11-3;11-4;11-5;11-6; 11-6A; 11-6B; 11-6C; 11-6E; 11-6F; 11-6G; 11-6H; 11-6I; 11-6J; 11-6K; 11-8; 11A, and 18-9A)
2. Excise Tax on the Privilege of Transferring Real Property (W. Va. Code §11-22)

The Property Tax and the Property Transfer Tax are collected at the county level, but county officials collecting these taxes are supervised by the State Tax Department. The Property Tax is levied on property as it stands, and the Property Transfer Tax is imposed on property as it is transferred.

Property can be divided into two categories: real and personal. Although there are many practical and legal distinctions involved, real property is, in general, land and anything permanently attached to land, and personal property is, in general, all other objects or rights that can be owned. Personal property can also be categorized as tangible and intangible. Generally, intangible property consists of rights to, or claims against, other property or services. Taxation of property owned or operated as a public utility business differs from taxation of all other property in many administrative aspects. The principal differences are that the process of taxation takes longer for public utility property and State government is more involved than local government in the taxation of public utility property. All further reference in this section to property taxation will be to the taxation of property that is not owned or operated as a public utility business.

PROPERTY TAX

The West Virginia Property Tax is administered by county officials and officials of several State government agencies. Although the State Tax Department plays a major role in the administration of this tax, less than 0.5 percent of the Property Tax collected goes to State government. The primary beneficiaries of the Property Tax are county boards of education.

It is the responsibility of each property owner to pay property taxes. Property taxes are paid to the sheriff of each of the fifty-five counties. Each county and municipality can impose its own rates of property taxation within the limits set by the West Virginia Constitution. The West Virginia Legislature sets the current levy rate of tax used by all county boards of education Statewide. However, the total tax rate for county boards of education may differ from county to county due to excess levies.

West Virginia law defines the following classes of property for tax purposes:

Class I
- a. All tangible personal property used exclusively in agriculture, including horticulture and grazing[1], and
- b. All products of agriculture, including livestock, while owned by the producer[1]

[1] These types of personal property were exempted from property taxation beginning with the 2008 tax year.

Class II	a.	All property owned, used and occupied by the owner exclusively for residential purposes, and
	b.	All farms, including land used for horticulture and grazing, which are occupied and cultivated by their owners or bona fide tenants
Class III		All real and personal property situated outside of municipalities, exclusive of Classes I and II
Class IV		All real and personal property situated inside of municipalities, exclusive of Classes I and II

The significance of the classes of property is that the applicable levy rates vary by class.

Property Values

Property is assessed according to its use, location and value as of July 1 of each year. The amount of tax paid on property depends upon the following:

1. the assessed value of the property as determined by a county assessor, and
2. the rate of tax levied against each $100 of assessed valuation.

The assessed value of property must be 60 percent of the properties' true and actual value. In most cases, that value is defined as the amount of money the property would be worth in a sale between a willing buyer and a willing seller.[1]

In order to have property in West Virginia fairly and equally valued, all real property is to be visited once every three years, and annual adjustments are to be made to the assessments for those properties for which a change in value is determined. All property, except farms and managed timberland property, is to be assessed annually at 60 percent of its then current fair market value.

Farmland that is used, occupied and cultivated by the owner or a bona fide tenant is to be valued at the fair and reasonable value of such property for farmland use, regardless of what the value of the property would be if it was used for another purpose.

Managed timberland is to be valued based on the use and productive potential of such timberland. Managed timberland is defined to be any surface real property of not less than ten contiguous acres that is devoted primarily as forest use and which, in consideration of its size, has sufficient numbers of commercially valuable species of trees that are well distributed over the growing site and that is managed pursuant to a plan provided in W. Va. Code §11-1C-10. The property must be devoted primarily to forest use. In order for property to qualify as managed timberland, the owner must annually certify in writing to the Division of Forestry that the property meets the definition of managed timberland and is managed according to the plan provided for in W. Va. Code §11-1C-10. Timberland that does not qualify as managed timberland is to be valued at its market value.

[1] Information on classified assessed valuations by county can be found in Classified Assessed Valuations and Taxes Levied published by the Property Tax Division of the State Tax Department.

Each assessor is required to maintain current values on the real and personal property within the county by having a member of his staff visit each parcel of real property in repeating three-year cycles to determine if any changes have occurred in the value of the property. The assessor must make any adjustments that are necessary to maintain accurate current valuations of all real and personal property.

The State Tax Commissioner is required to determine the fair market value of all industrial property and all natural resource property in the State. The State Tax Commissioner values these properties according to rules approved by the West Virginia Legislature and special methods given in W. Va. Code §§11-6A, 11-6E and 11-6K.

The State Tax Commissioner also is responsible for the valuation of public utility property and all types of property that are to be included in the operating property of a public utility. Only real and personal property that is an integral part of the public utility's function as a utility are to be included as operating property and assessed by the Board of Public Works.

The State Tax Commissioner is required to develop an inventory of all natural resource properties, except managed timberland, on a county-by-county basis. Special methods for appraising natural resource property can be found in W. Va. Code §11-6K.

Special methods are used for appraising dealer inventories. The value of vehicle, motorboat, factory-built home, house trailer and farm equipment inventories is based upon average monthly sales in lieu of actual value of inventory in place on July 1 of each year. The value of rental car inventories is the gross value of all rental cars on the first day of each month of the preceding calendar year divided by twelve.

Reduced Assessment Property

The following types of property may qualify for a special reduced property valuation:

1. pollution abatement facilities;
2. molds, jigs, dies and templates;
3. certified capital additions to manufacturing facilities, and
4. all aircraft owned or leased by commercial airlines, charter carriers, private carriers, private companies or private firms.

These properties are appraised at salvage value. In addition, each wind turbine installed at a wind power project and each tower upon which the turbine is affixed shall be considered to be personal property that is a pollution control facility and appraised at its salvage value. No more than 79 percent of the total value of the facility shall be accorded salvage value. The State Tax Commissioner is authorized to allocate the value of the wind power project. Personal property at a wind power project other than a wind turbine and the tower shall not be accorded salvage value.

In addition, property belonging to qualified continuing care retirement communities, which are defined as being

a. owned by a corporation or other organization exempt from federal income taxes under the Internal Revenue Code;
b. used in a manner consistent with the purpose of providing housing and health care for residents, and

c. receiving no Medicaid funding under the provisions of W. Va. Code §9-4

is classified and taxed as Class II property.

Tax Rates

The West Virginia Legislature sets the current rate of tax for county boards of education. This rate is used by all county boards of education Statewide. The State Tax Department and the State Auditor's Office supervise and otherwise assist counties and municipalities in their work of assessment and tax rate determination. The first step toward determination of tax rates for county commissions and municipalities is the preparation of tentative budgets by county and municipal governments. These tentative budgets show not only estimated expenditures and receipts but also the tax rates necessary to produce the receipts. Budgets and tax rates must then be approved by the Chief Inspector Division of the State Auditor's Office, and public hearings must be held before the final budgets and tax rates can be adopted. The State Tax Commissioner reports the approved tax rates for each taxing authority to the county assessor. County boards of education must adopt a budget that details the expenditures to be made from revenues generated by the Property Tax rate approved by the West Virginia Legislature and other revenues. Each assessor then applies these tax rates to all items of taxable property listed in the county's real and personal property books. When this process is complete, each assessor must deliver copies of these books with their new tax rates to the sheriff of the county enabling the sheriff to begin the process of tax collection.

Maximum tax rates are shown in the table below for each of the taxing authorities and are given in terms of each of the four classes of property.

MAXIMUM PROPERTY TAX RATES

Rates are given in cents per $100

Taxing Authority	Class I	Class II	Class III	Class IV
State	0.25¢	0.50¢	1.00¢	1.00¢
County	14.30	28.60	57.20	57.20
Schools	22.95	45.90	91.80	91.80
Municipal	12.50	25.00	N.A	50.00
	50.00¢	100.00¢	150.00¢	200.00¢

Amendments to the State Constitution provide that these maximum rates can be temporarily exceeded by all the taxing authorities except State government. The voters of each taxing authority must approve any excess levy of tax proposed for their municipality, school board or county. The average actual tax rates per $100 of assessed valuation for the 2011 tax year, expressed in rounded dollars, are shown in the following table.

STATEWIDE AVERAGE 2011 PROPERTY TAX RATES[1]

Rates are given in dollars per $100 of assessed valuation

	Average
Class I	$ .00[2]
Class II	1.15
Class III	2.17
Class IV	2.84

Statewide, the average rate for all property was $1.88 per $100 of assessed valuation.

When an annual appraisal or general valuation of property would result in an increase in total projected Property Tax revenues for county commissions and municipalities of 1 percent or more, the rate of levy is to be reduced proportionately for all classes of property for the forthcoming tax year so that the new levy rate will produce no more than 101 percent of the previous year's projected Property Tax revenues plus an additional amount to fund the on-going work of the assessor. Additional property value due to new construction or improvements to existing real property are not to be included when considering increases in projected revenue and calculating the new levy rate. Special levies are not to be included in this reduced levy rate calculation. The governing body of a county or municipality may increase the tax rate resulting from the reduced levy rate calculation above as long as a public hearing is conducted before such action. Any such increase cannot have the effect of exceeding the prior year's tax revenue by more than 10 percent.

When any appraisal of general valuation of property would produce a statewide aggregate assessment that would cause an increase of 2 percent or more in the total Property Tax revenue for county boards of education, the levy is to be reduced uniformly Statewide and proportionately for all classes of property for the forthcoming year to produce no more than 102 percent of the previous year's projected Statewide aggregate Property Tax revenues plus an additional amount to fund the on-going work of the assessor. However, the Legislature may take action to increase the reduced rate by holding a public hearing.

Exemptions

Although all property is presumed to be taxable unless shown otherwise, there are many exemptions from the Property Tax. Some of these exemptions are based on the ownership of the property while others are based on the use of the property. A partial list of types of properties that may be exempt from ad valorem property taxation follows:

1. property that belongs to the United States government unless the United States government permits the State to tax it;
2. property that belongs exclusively to the State;

[1] More detailed information on Property Tax rates by county can be found in Rates of Levy published by the Chief Inspector Division of the State Auditor's Office.

[2] Not taxed beginning with 2008 tax year

3. property that belongs exclusively to any county, district, city, village or town in this State when it is used for public purposes;
4. property that belongs exclusively to any political subdivision of any other state when it is used exclusively for public purposes;
5. property used exclusively for divine worship;
6. parsonages and the household goods and furniture pertaining thereto;
7. mortgages, bonds and other evidence of indebtedness in the hands of bona fide owners and holders hereafter issued and sold by churches and religious societies for the purposes of securing money to be used in the erection of church buildings used exclusively for divine worship or for the purpose of paying indebtedness thereon;
8. cemeteries, except for certain personal property of commercial cemeteries, including any sites of unmarked graves certified as such by the Division of Culture and History;
9. property that belongs to, or which is held in trust for, colleges, seminaries, academies and free schools when it is used for the educational, literary or scientific purposes, including books, equipment, annuities and furniture;
10. property that belongs to, or which is held in trust for, colleges or universities located in West Virginia, or any public or private nonprofit foundation or corporation which receives contributions exclusively for such college or university, if the property or dividends, interest, rents or royalties derived therefrom are used or devoted to educational purposes of such college or university;
11. public and family libraries;
12. property used for charitable purposes and not held or leased out for profit;
13. property used for the public purposes of distributing electricity, water or natural gas or providing sewer service by a duly chartered nonprofit corporation when such property is not held, leased out or used for profit;
14. property used for area economic development purposes by nonprofit corporations when such property is not leased out for profit;
15. all real estate not exceeding one acre in extent, and the buildings thereon, used exclusively by any college or university society as a literary hall or as a dormitory or clubroom, if not used with a view to profit, including but not limited to property owned by a fraternity or sorority organization affiliated with a university or college, when the property is used as residential accommodations, or as a dormitory, for members of the organization;
16. all property belonging to benevolent associations, not conducted for private profit;
17. property belonging to any public institution for the education of the deaf, dumb or blind, or any hospital not held or leased out for profit;
18. houses of refuge and mental health facility or orphanage;
19. homes for children or for the aged, friendless or infirm, not conducted for private profit;
20. fire engines and implements for extinguishing fires, and the property used exclusively for the safekeeping thereof and for the meeting of fire companies;

21. all property to be used for the subsistence of livestock on hand at the beginning of the assessment year;
22. household goods to the value of $200 whether or not they are used for profit;
23. bank deposits and money;
24. household goods (personal property and goods commonly found within the house and items to care for the house and its surrounding property);
25. personal effects (articles and items of personal property commonly worn on or about the body or carried and normally associated with the person) when they are not held or used for profit;
26. non-living items of food reserved by a family for its own use;
27. property acquired by lease purchase agreement by the state, a county, district, city, village, town or other political subdivision, or state college or university as long as title to the leased property rests in the name of the lessee;
28. all implements, equipment, machinery, vehicles, supplies, crops and livestock used to engage in commercial farming;
29. tangible personal property that is moving in interstate commerce through West Virginia, or which was consigned from a point of origin outside the State to a warehouse within the State for storage in transit to a final destination outside the State;

The preceding list is not an exhaustive list of exemptions; it shows only some of the possible types of exemptions.

In addition, the Wayport Authority is not required to pay any Property Taxes on any project or any property acquired and used by that Authority as a wayport. A wayport is defined as an airport where passengers and cargo are transferred between flights that is not located in a major metropolitan area. In lieu of the payment of Property Taxes to local governments, the Wayport Authority is required to make an annual payment equal to the amount of Property Taxes otherwise payable.

Homestead Exemption

This program provides for a $20,000 exemption against the total assessed value of a single-family dwelling, including mobile or manufactured homes, owned and occupied as a residence by any person who is at least sixty-five years old or totally and permanently disabled and who has legally resided in and paid taxes on a homestead in this State for two consecutive taxable years before filing for this exemption. However, if an owner receives a similar exemption for a homestead in another state, then the owner is ineligible for the Homestead Exemption in West Virginia. Homeowners who, as a result of illness, accident, or infirmity, reside with a family member or are residents of a nursing home, personal care home, rehabilitation center or similar facility retain a Homestead Exemption and Class II property designation for their property.

If a resident of West Virginia establishes a residence in another state or country and returns to West Virginia within five years, then the resident may be allowed a Homestead Exemption in West Virginia if the person was a resident of this State for two calendar years out of the ten calendar years immediately preceding the tax year for which the Homestead Exemption is sought.

When a member of the United States military forces maintains West Virginia as his state of residence throughout his military service and returns to this State and purchases a homestead upon his retirement or earlier separation from the military service due to permanent and total physical or

mental disability, that person is deemed to satisfy the residency test and shall be allowed a Homestead Exemption if the person otherwise qualifies.

Only one exemption can be granted for each owner-occupied residence. Elderly homeowners may apply for this exemption at the office of their county assessor from July 1 through December 1 provided that the applicant will be at least sixty-five years old by June 30 of the following year. A person who is totally and permanently disabled may also apply for the Homestead Exemption from July 1 through December 1. Once the application of a person sixty-five years of age or older is approved, registration in later years is unnecessary. A person who is permanently and totally disabled does not need to refile in subsequent years if he signs a statement that he will notify the assessor within thirty days if he ceases to be eligible for the exemption based on such disability.

Personal Income Tax Credits Related to the Property Tax

Low-income homeowners qualifying for the Homestead Exemption may also qualify for the Senior Citizen Tax Credit for Property Tax Paid. The tax credit is based on the amount of ad valorem property taxes paid on the first $20,000, or portion thereof, of the taxable assessed value over the $20,000 Homestead Exemption. As an alternative, homeowners may take the Homestead Excess Property Tax Credit for real owner-occupied residential property taxes paid in excess of 4 percent of total gross income. For tax years beginning or after January 1, 2012, this credit is to be equal to the amount by which the difference between real property taxes paid for the tax year minus the amount of credit calculated for the Senior Citizen Tax Credit for Property Tax Paid listed above exceeds 4 percent of the taxpayer's gross household income for the tax year. This credit may not be taken for any homestead which is owned, in whole or in part, by any person who is not a low income person. Low income is defined as federal adjusted gross income that is 300 percent or less of the federal poverty guidelines. Taxpayers who are over age sixty-five, whose residential Property Tax bill increased by the greater of 10 percent or $300, and whose gross income is $25,000 or less will be entitled to the Senior Citizen Property Tax Deferment Credit equal to the difference between the base year tax paid prior to the $300 Property Tax increase and the tax paid during the tax year. This credit is no longer available on or after January 1, 2012. Taxpayers may choose only one of these tax relief credits. Additional information on these credits may be found in the Personal Taxes section.

Business Registration Restrictions

The State Tax Commissioner may cancel or suspend a Business Registration Certificate at any time during a registration period if the registrant has failed to pay in full delinquent personal property taxes owing for the calendar year immediately preceding the calendar year in which the application is made. The State Tax Commissioner shall also refuse to issue or renew a business registration certificate when informed in writing, signed by the county sheriff, that personal property owned by the applicant and used in conjunction with the business activity of the applicant is subject to delinquent property taxes. Following the adoption of a legislative rule in Fiscal Year 2006, the State Tax Commissioner may begin to suspend or cancel a business registration certificate of a business with a delinquent personal property tax liability upon request of a county sheriff.

DISTRIBUTION OF PROPERTY TAXES LEVIED BY TAX YEARS[1]

	For The State	For Counties	For School Boards	For Municipalities	Total
2001	$3,712,765	$233,618,515	$617,188,410	$73,431,355	$927,951,045
2002	3,876,624	244,966,374	641,954,188	74,896,389	965,693,575
2003	4,030,060	255,917,924	664,880,677	75,256, 039	1,000,084,700
2004	4,091,846	259,730,081	667,790,889	76,104,651	1,017,717,467
2005	4,362,526	275,742,359	715,225,221	79,589,482	1,074,919,588
2006	4,783,635	297,356,091	773,084,610	95,626,862	1,170,851,197
2007	5,351,156	328,290,839	843,356,672	88,122,900	1,265,121,566
2008	5,666,782	344,661,969	890,294,171	92,885,200	1,333,508,122
2009	5,928,225	367,903,396	932,299,107	95,891,365	1,402,022,093
2010	6,066,031	381,380,523	956,427,263	98,782,883	1,442,656,700
2011	6,042,911	387,113,752	928,104,721	97,901,570	1,419,162,954

DISTRIBUTION OF PROPERTY TAXES LEVIED FOR TAX YEAR 2011[1]

	By the State	By Counties	By School Boards	By Municipalities	Total
On Real Estate	$3,337,943	$213,830,301	$512,660,268	$54,078,213	$783,907,725
On Personal Property	1,917,385	122,829,243	294,482,952	31,063,675	450,293,255
On Public Utility Property	787,583	50,453,208	120,961,501	12,759,682	184,961,974
Total	$6,042,911	$387,113,752	$928,104,721	$97,901,570	$1,419,162,954

[1] These amounts reflect the total amount of taxes billed.

DISTRIBUTION OF PROPERTY TAXES LEVIED BY PERCENTAGES[1]

	On Real Estate	On Personal Property	On Public Utilities Property	Total
2001	50.62%	34.65%	14.73%	100.00%
2002	51.12%	34.34%	14.54%	100.00%
2003	51.87%	33.79%	14.35%	100.00%
2004	53.24%	32.20%	14.56%	100.00%
2005	53.81%	32.04%	14.15%	100.00%
2006	54.58%	31.97%	13.45%	100.00%
2007	55.05%	32.13%	12.82%	100.00%
2008	55.12%	32.24%	12.65%	100.00%
2009	55.59%	31.91%	12.51%	100.00%
2010	55.34%	31.88%	12.78%	100.00%
2011	55.24%	31.73%	13.03%	100.00%

	For The State	For Counties	For School Boards	For Municipalities	Total
2001	0.40%	25.18%	66.51%	7.91%	100.00%
2002	0.40%	25.37%	66.47%	7.76%	100.00%
2003	0.40%	25.59%	66.48%	7.52%	100.00%
2004	0.40%	25.52%	66.60%	7.48%	100.00%
2005	0.40%	25.65%	66.54%	7.40%	100.00%
2006	0.41%	25.40%	66.03%	8.17%	100.00%
2007	0.42%	25.95%	66.66%	6.97%	100.00%
2008	0.42%	25.85%	66.76%	6.97%	100.00%
2009	0.42%	26.24%	66.50%	6.84%	100.00%
2010	0.42%	26.44%	66.30%	6.85%	100.00%
2011	0.43%	27.28%	65.40%	6.90%	100.00%

[1] These amounts reflect the total amount of taxes billed.

PROPERTY TRANSFER TAX

The Excise Tax on the Privilege of Transferring Real Property is a hybrid tax for two reasons. It is administered by the State Tax Department and by the county clerks, and it consists of an excise tax to be paid to the State and an excise tax to be paid to the treasury of the county where the transfer is to be recorded. Excise stamps purchased from the county clerk are to be affixed to all documents, such as deeds, which transfer rights to, or interests in rights to, real property from one person to another prior to recording. "Person" is also understood to mean association or corporation.

The tax must be paid either by the person who transfers the property or by the person to whom the transfer is made. Transfers from trustees of estates or from county clerks for real estate sold for taxes must be paid by the person to whom the transfer is made.

There are many exemptions from this tax, which fall into four main categories:

1. those principally for the benefit of individuals, which are as follows:
   a. wills,
   b. leases,
   c. testamentary or inter vivos trusts,
   d. deeds of partition,
   e. quitclaim or corrective deeds made without consideration,
   f. mortgages or deeds of trust given as security for a debt,
   g. transfers between husband and wife,
   h. transfers made between parent(s) and child(ren) without consideration,
   I. certain transfers made between parent(s) and child(ren) and the spouse(s) of the child(ren) without consideration,
   j. certain transfers made between grandparent(s) and grandchild(ren) and the spouse(s) of the grandchild(ren) without consideration,
   k. transfers in which the value transferred is $100 or less, and
   l. transfers made between any person and a 'straw' party without consideration;
2. those principally for the benefit of corporations, which are as follows:
   a. deeds made pursuant to corporate mergers,
   b. deeds made from a subsidiary corporation to its parent corporation for no consideration other than surrender of stock, and
   c. deeds made pursuant to mergers of limited liability companies, partnerships, limited partnerships, and conversions of corporations or certain other business organizations into limited liability companies;
3. transfers by gift, dedication deed or condemnation proceeding to or from the United States government or the West Virginia government, including any agencies, instrumentalities or political subdivisions of either, and
4. gifts to or transfers from or between certain voluntary charitable and educational organizations.

The State portion of this tax is levied at the rate of $1.10 for each $500 of value or any fraction of that amount. The county portion of the tax is a minimum of 55 cents on each $500 of value or any fractional part of that amount. County commissions may increase that rate to $1.10 per

$500 or any fractional part of that amount. The percentage of income to State government attributable to the Property Transfer Tax is substantially higher than that of the Property Tax. A $20 fee, in addition to the Property Transfer Tax, will be assessed on the transfer of title to real estate. The money collected from this fee is to be deposited by the respective county assessors in the West Virginia Affordable Housing Trust Fund.

If the rights to, or the interests in the rights to, the real property to be transferred constitute a gift or if they are made without consideration, then the value of the transfer document is determined by the actual monetary value of the property transferred. All other transfers require the value of the document to be determined by the full consideration paid or to be paid, including any claims against or in favor of the property.

Proportional valuations must be made when transfers of real property lie partly inside and partly outside West Virginia and/or when some of the transfer is made up of personal property. Tax on the transfer of property which lies in two counties must be paid only to one of the counties. Both parts of this tax are embodied in a single State-issued series of stamps or by use of another proof of purchase approved by the State Tax Commissioner.

PROPERTY TRANSFER TAX COLLECTIONS

Fiscal Year	Net Revenue
2000-2001	$6,621,182
2001-2002	7,314,554
2002-2003	8,365,472
2003-2004	10,128,603
2004-2005	12,171,339
2005-2006	13,658,145
2006-2007	12,248,630
2007-2008	11,698,879
2008-2009	8,537,130
2009-2010	7,933, 085
2010-2011	8,107,846

MISCELLANEOUS LICENSES AND ACTS

1. Charitable Bingo License (W. Va. Code §47-20)
2. Charitable Raffle License (W. Va. Code §47-21)
3. Raffle Board Wholesalers and Distributors Fees (W. Va. Code §47-23)
4. Sparklers and Novelties Registration Certificate (W. Va. Code §§11-12-86 & 29-3)
5. Solid Waste Assessment Fee (W. Va. Code §§22-15; 22-15A; 22-16 & 22C-4)
6. Racing Taxes and Fees (W. Va. Code §19-23)
7. West Virginia Lottery (W. Va. Code §29-22)
8. Cemetery Registration Act (W. Va. Code §35-5B)
9. Consumer Protection Act (W. Va. Code §46A-7)
10. Collection Agency Act (W. Va. Code §47-16)
11. Telemarketing Act (W. Va. Code §46A-6F)
12. Employment Agency Act (W. Va. Code §21-2)
13. Drug Paraphernalia Act (W. Va. Code §47-19)

In addition to the taxes described in this booklet, the Department of Revenue also issues bingo and charitable raffle licenses and certificates for sparklers and novelties registrations, collects solid waste assessment and racing fees, administers the State Lottery, and administers the Consumer Protection Act, the Collection Agency Act, and the Drug Paraphernalia Act.

CHARITABLE BINGO LICENSE

Bingo licenses can be issued to charitable or public service organizations that are tax-exempt and have been in existence in West Virginia for two years. The West Virginia State Fair Board may also apply for a bingo license and conduct bingo occasions at the State Fair. License fees are as follows:

Annual License	$500
Annual License (bingo occasions grossing less than $20,000 annually)	$200
Annual License Fee (bona fide senior citizen organizations)	$50
Limited Occasion License	$100
State Fair License	$500
Super Bingo License	$5,000

All organizations intending to conduct bingo occasions must complete an application. However, if the charge per card is 5 cents or less and the prizes per game do not exceed $10, the organization is exempt from obtaining a license. No bingo occasions may be held until an application for a bingo license has been filed and approved by the State Tax Commissioner.

All bingo occasions must be open to the general public. No individual under the age of eighteen may play in any bingo game. With the exception of junior volunteer firefighters who are sixteen years of age or older and under the supervision of a senior member of the same volunteer fire department, no individual under the age of eighteen may participate in the operation of any bingo

game. Licensees may receive and cash personal checks in an amount not to exceed $100 during the normal operation of a bingo game.

An annual bingo occasion license is valid for one year and entitles the licensee to hold no more than two bingo occasions per week. No bingo occasion held pursuant to an annual license may exceed six hours in duration.

A limited occasion license is valid only for the time period specified in the application and entitles the licensee to hold a bingo occasion once every twenty-four hours for a time period not to exceed two weeks. No bingo occasion held pursuant to a limited occasion license may exceed twelve hours in duration. Only three limited occasion licenses per year in the aggregate may be granted to an applicant not holding an annual license. No licensee which holds an annual license may obtain more than one limited license.

Any charitable or public service organization, including those organizations already holding a regular or limited occasion license, may apply for an annual Super Bingo license. A Super Bingo licensee may hold one Super Bingo occasion every month during the license year. No more than $50,000 in prizes may be awarded to persons playing Super Bingo during each Super Bingo occasion.

Gross proceeds means all moneys collected or received from the conduct of bingo at all bingo occasions held by the licensee during a license period. No gross proceeds from any bingo operation may be devoted or in any manner used by any licensee or qualified recipient organization for the construction or acquisition of real or personal property except that which is used exclusively for one or more charitable or public service purposes or used as equipment and/or supplies necessary to conduct bingo occasions.

Prizes may be merchandise or money but may not be any type of alcoholic beverage. The value of prizes awarded at a single bingo occasion (excluding Super Bingo) shall not exceed $10,000. The value assigned to merchandise awarded as prizes is the fair market value at the time of purchase or acquisition.

The reasonable, necessary and actual expenses incurred in connection with the conduct of bingo occasions, not to exceed 25 percent of the gross proceeds collected during a license period, may be paid from the gross proceeds of the conduct of bingo.

A bingo licensee may pay a salary, the minimum of which shall be established at the federal minimum wage, and the maximum being 120 percent of the state minimum wage per hour, to operators of bingo games who are active members or employees of the licensee organization. Salaries may be paid to a maximum of eight operators if the licensee's annual gross bingo receipts for the most recent license period were at least $100,000. Salaries may be paid to a maximum of five operators if the annual gross bingo receipts are at least $50,000 but less than $100,000. Up to three operators can be paid if the annual gross bingo receipts are less than $50,000. A Super Bingo licensee may pay up to fifteen operators during Super Bingo occasions.

Net proceeds are all moneys left after deducting prize payouts and allowable expenses from gross proceeds. All net proceeds from the bingo operation must be distributed either to a qualified recipient organization or to support a charitable or public service activity or endeavor that the licensee sponsors.

All licensees must maintain a separate checking account and separate bookkeeping procedure for their bingo operations. Money for expenses shall be withdrawn only by checks having preprinted consecutive numbers and made payable to a specific person, firm or corporation and at no time shall a check be made payable to cash. A licensee must maintain all records for at least three years, and the records shall be open to the State Tax Commissioner for reasonable inspection. Separate records

must be kept for Super Bingo occasions and for regular or limited occasion bingo occasions. Bingo financial returns must be filed by Super Bingo licensees and by regular bingo licensees twenty days after the close of each quarter of their license year. An annual report is due thirty days after the license year ends. Financial returns of limited occasion or State Fair bingo licensees are due thirty days after the bingo occasion is held.

CHARITABLE RAFFLE LICENSE

Charitable raffle licenses can be issued to qualified charitable or public service organizations, including the State Fair Board, that have been in existence in West Virginia for two years. License fees are as follows:

Annual License	$500
Limited License	$ 50
State Fair License	$500

All organizations intending to conduct charitable raffle occasions must complete an application. However, if the gross proceeds of the organization from raffles for a calendar year do not exceed $15,000 and the value of any one prize does not exceed $4,000, the organization is exempt from obtaining a license but is still required to maintain applicable records for three years.

All licensees may receive and cash personal checks in an amount not to exceed $100 during the normal operation of a raffle game. Charitable raffle occasions may be open to the general public or may be restricted to members of the licensee organizations.

An annual license is valid for one year from the date of issuance. A limited occasion license is valid only for the time period specified in the application and entitles the licensee to hold two raffle occasions during the specified time period which may not exceed six months from the date of issuance of such limited occasion license. An applicant may be granted only three limited occasion licenses per year in the aggregate.

Gross proceeds means all moneys collected or received from the conduct of raffles at all raffle occasions held by the licensee during a license period. No gross proceeds from any raffle operation may be devoted or in any manner used by any licensee or qualified recipient organization for the construction or acquisition of real or personal property except that which is used exclusively for one or more charitable or public service purposes or used as equipment and/or supplies necessary to conduct raffle occasions.

Prizes may be merchandise or money but may not be any type of alcoholic beverage. The value assigned to merchandise awarded as prizes is the fair market value at the time of purchase or acquisition. There is no value limitation on charitable raffle prizes.

The reasonable, necessary and actual expenses incurred in connection with the conduct of raffle occasions, not to exceed 25 percent of the gross proceeds collected during a license period, may be paid from the gross proceeds of the conduct of raffles.

A raffle licensee may pay a salary, the minimum of which shall be established at the federal minimum wage, and the maximum being 120 percent of the state minimum wage per hour, to operators of raffle games who are active members or employees of the licensee organization. Salaries may be paid to a maximum of eight operators if the licensee's annual gross raffle receipts for the most recent license period were at least $100,000. Salaries may be paid to a maximum of five

operators if the annual gross raffle receipts are at least $50,000 but less than $100,000. Up to three operators can be paid if the annual gross raffle receipts are less than $50,000. If a raffle licensee has a Super Bingo license and conducts raffle operations in conjunction with the Super Bingo occasions, up to fifteen operators may be paid in addition to any paid bingo operators.

Net proceeds are all moneys left after deducting prize payouts and allowable expenses from gross proceeds. All net proceeds from the raffle operation must be distributed either to a qualified recipient organization or to support a charitable or public service activity or endeavor that the licensee sponsors.

All licensees must maintain a separate checking account and separate bookkeeping procedure for their raffle operations. Money for expenses shall be withdrawn only by checks having preprinted consecutive numbers and made payable to a specific person, firm or corporation and at no time shall a check be made payable to cash. Money may be transferred by check from a licensee's charitable raffle account to its charitable bingo account to cover the actual losses of a bingo occasion. A licensee must maintain all records for at least three years, and the records shall be open to the State Tax Commissioner for reasonable inspection. Separate records must be kept for annual or limited occasion raffle occasions. Financial returns for annual, limited or State Fair raffle licensees are due by thirty days after the expiration of the license.

All raffle boards and games must be purchased from a licensed wholesaler, distributor or manufacturer. All raffle boards and games sold in West Virginia must have some identification as to the manufacturer of the product and a unique serial number printed on each ticket. In addition, the seller is required to provide an original invoice to the purchaser showing the serial numbers of all games purchased and that the "retail value" fee has been paid on those games. Any games in the possession of the purchaser for which the State Tax Commissioner cannot verify through the original invoice that the tax has been paid, will be considered contraband and may be seized and destroyed by the State Tax Commissioner.

RAFFLE BOARD WHOLESALERS AND DISTRIBUTORS FEES

Wholesalers, distributors and manufacturers of raffle boards and games are subject to special West Virginia license requirements. These wholesalers, distributors and manufacturers must pay an annual license fee of $500.

The sale of raffle boards and games to West Virginia retailers is subject to a fee of 20 percent of the retail value. This "retail value" fee is in addition to any Consumers Sales Tax due. However, if a charitable or public service organization qualifies to conduct exempt raffle occasions under West Virginia Code §47-21-3, it is exempt from paying the "retail value" fee on its purchases of raffle boards and games.

The fee on the retail value of the boards and games is to be paid by each licensee on or before the twentieth day of April, July, October and January. The fee due is based on the total amount of the retail value of all charitable raffle boards and games sold during the preceding three months.

All raffle boards and games sold in West Virginia are required to have identification as to the manufacturer of the product and a unique game serial number printed on each ticket. The seller of the games is required to provide an original invoice to the purchaser showing that the fee has been paid on the games. The original invoice provided to the purchaser must include the following information:

1. the name and address of the seller;
2. the name and address of the purchaser;
3. the point of delivery and date of sale;
4. the quantity, description and serial numbers of the games sold;
5. the price of the product, and
6. the raffle board fee (for sales to retailers only).

Any charitable raffle boards and games subject to the "retail value" fee imposed by the Code and upon which the fee has not been paid are deemed to be contraband and may be seized without a warrant by the State Tax Commissioner, or any of his deputies or employees authorized by him, or any peace officer of this state.

SPARKLERS AND NOVELTIES REGISTRATION

Any business that has a current West Virginia Business Registration Certificate and desires to sell sparklers and novelties in West Virginia must obtain a Sparklers and Novelties Registration Certificate from the State Tax Commissioner. The certificate must be obtained before the sale of any sparklers or novelties. The fee for this certificate is $15. If a business has two or more business locations in this State from which sparklers and novelties will be sold, each business location must have both a Business Registration Certificate and a Sparklers and Novelties Registration Certificate.

A Sparklers and Novelties Registration Certificate is required to sell the following items:

1. explosive caps designed to be fired in toy pistols, provided the explosive mixture of the caps does not exceed 0.25 of a grain for each cap;
2. snake and glow worms composed of pressed pellets of a pyrotechnic mixture that produce a snake-like ash when burning;
3. smoke devices consisting of a tube or sphere containing a pyrotechnic mixture that produces white or colored smoke;
4. trick noisemakers that produce a small report designed to surprise the user, including

    a. a party popper, which is a small plastic or paper item containing not more than 0.25 of a grain of explosive mixture, which has a string protruding from the device that is pulled to activate the device, expelling paper streamers and producing a small report,
    b. a string popper, which is a small tube containing not in excess of 0.25 of a grain of explosive mixture that has a string protruding from both ends that are pulled to activate the friction-sensitive mixture, producing a small report, and
    c. a snapper or drop pop, which is a small paper wrapped item containing no more than 0.25 of a grain of explosive mixture coated on small bits of sand that, when dropped, produces a small report;

5. wire sparklers consisting of wire or stick coated with a nonexplosive pyrotechnic mixture of 100 grams or less per item that produces a shower of sparks upon ignition, and;
6. other sparkling devices which emit showers of sparks and sometimes a whistling or crackling effect when burning, do not detonate or explode, are hand-held or ground-based, cannot propel themselves through the air and contain no more than seventy-five grams of chemical compound per tube, or not more than a total of 200 grams if multiple tubes are used.

These sparklers and sparkling devices may not be sold to anyone under the age of sixteen.

A Sparklers and Novelties Registration Certificate is not needed to sell the following items:

1. model rockets and model rocket engines designed, sold and used to propel recoverable acro models;
2. toy pistols, toy canes, toy guns or other devices in which paper or plastic caps manufactured according to the United States Department of Transportation regulations for packing and shipping of toy paper or plastic caps are used, and
3. toy paper or plastic caps manufactured as provided in the United States Department of Transportation regulations for packing and shipping of toy paper or plastic caps.

Although the sale of these items is permitted at all times, W. Va. Code §29-3-23 specifies that each package containing toy paper or plastic caps offered for retail sale must be labeled to indicate the maximum explosive content per cap.

It remains unlawful to offer for sale, possess, expose for sale, sell at retail, use or explode any fireworks. 'Fireworks' is defined to include any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation and includes, but is not limited to

1. blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used,
2. the type of unmanned balloons that require fire underneath to propel the same,
3. firecrackers,
4. torpedoes,
5. skyrockets,
6. Roman candles,
7. daygo bombs,
8. other fireworks of like construction, and
9. any fireworks containing any explosive or flammable compound or any tablet or other device containing any explosive substance.

SOLID WASTE ASSESSMENT FEE

Several Solid Waste Assessment Fees are levied and imposed on the disposal of solid waste at any solid waste disposal facility in West Virginia. The Solid Waste Assessment Fees are imposed in addition to all other fees and taxes levied. The fees are to be added to, and constitute part of, any fee charged by the operator or owner of a solid waste disposal facility for receiving and disposing of solid waste. These fees are to be collected from the customer and remitted to the State Tax Commissioner by the 15th day of the month following the month in which the fees accrued.

The fees imposed by the State on the disposal of both in-shed and out-of-shed solid waste total $8.25 per ton. Three transactions are exempt from most of the Solid Waste Assessment Fees. They are as follows:

1. solid waste disposed of at a solid waste disposal facility by the person who owns, operates or leases the solid waste disposal facility if the facility is used exclusively to dispose of waste originally produced

    a. by such person in such person's regular business or personal activities, or
    b. by persons using the facility on a cost-sharing or nonprofit basis;

2. reuse or recycling of any solid waste, and
3. disposal of residential solid waste by an individual not engaged in the business of hauling or disposing of solid waste on days and times designated by the Director of the Division of Environmental Protection.

Solid waste disposed of at a recycling facility is exempt from all solid waste disposal assessment fees. A "recycling facility" is a facility that only accepts, buys or transfers source-separated material or recycled material for use, resale or transfer for further processing.

Commercial recyclers pay only the $2 per ton recycling assessment fee on solid waste disposed of from the commercial recycling facility. "Commercial recycler" means any person, corporation or business entity whose operation involves the mechanical separation of materials in order to resell or recycle at least 70 percent by weight of the materials coming into its facility.[1]

Net proceeds from the Solid Waste Assessment Fee received by the State Tax Commissioner are transferred to various accounts specified in the West Virginia Code.

RACING TAXES AND FEES

Various horse and dog racing taxes and fees are collected by the Racing Commission. A license tax is imposed upon the operator of each track in West Virginia. That tax is collected on a daily basis for those days on which races are run. Fees are also imposed for permits for jockeys, trainers, etc.

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[1] In order to be considered a commercial recycler, a person must obtain a permit from the Department of Environmental Protection.

A daily license tax is levied for each day upon which horse races and dog races are run. License taxes are imposed as follows:

Activity	Daily License Tax
Dog Racing	$150
Harness Racing	150
Thoroughbred Racing	250
Any Combination of the Above	250

In addition, any licensed racing association conducting thoroughbred racing and permitting pari-mutuel wagering shall pay a tax during the months of January, February, March, October, November and December of 0.4 percent of the pari-mutuel pool and on pari-mutuel pools conducted or made each day during all other months 1.4 percent of such pool. However, if any such racing association operating a horse race track in West Virginia has an average daily pari-mutuel pool on horse racing of $280,000 or less per day for the race meetings of the preceding calendar year, that association shall, in lieu of payment of the pari-mutuel pool tax, pay an alternate pari-mutuel pool tax of $1,000 on the first $300,000 of any daily pools plus the rate otherwise applicable on any portion of the pools in excess of $300,000. If any association or licensee qualifying for the foregoing alternate tax conducts more than one racing performance, each consisting of up to thirteen races in a calendar day, such association or licensee shall pay both the daily license tax and the foregoing alternate tax for each such performance. A licensee qualifying for the foregoing alternate tax is excluded from participation in the Thoroughbred Development Fund, except for a thoroughbred racetrack at which the licensee has participated in such fund for a period of more than four consecutive calendar years before December 31, 1992.

Any racing association conducting harness racing and permitting and conducting pari-mutuel wagering shall pay, in addition to the daily license tax, a pari-mutuel tax of 3 percent of the first $100,000 wagered each day, or any part thereof, 4 percent of the next $150,000, and 5.75 percent of total amounts over $250,000 wagered each day in all such pari-mutuel pools.

Any racing association licensed by the Racing Commission to conduct dog racing and permitting and conducting pari-mutuel wagering shall, in addition to the daily license tax, pay as a tax 4 percent of the first $50,000 or any part thereof of such pari-mutuel pools, 5 percent of the next $50,000 of such pari-mutuel pools, 6 percent of the next $100,000, 7 percent of the next $150,000, and 8 percent of all pools over $350,000 wagered each day.

Any licensed dog racing association that conducts at least 220 live racing dates per year or any licensed thoroughbred association that conducts 210 live racing dates per year may contract with a legal wagering entity in this State or any other legal wagering entity in any other governmental jurisdiction outside this State to receive telecasts and accept wagers on races conducted at that location. The licensee must obtain prior approval from the Racing Commission, and the contract must receive the approval of the majority of the owners and trainers who hold permits required for the receiving racetrack. The telecast may be received and wagers accepted at any location so authorized under W. Va. Code §19-23-12a.

The licensee may be allowed to co-mingle its wagering pool with that of the host racing association. In such a situation, the licensee's racetrack must be capable of issuing pari-mutuel tickets and be electronically linked with the equipment at the sending racetrack. Breakage of the pools must be calculated according to the laws and rules governing the sending racetrack and must be distributed

in the manner agreed to by the two racetracks. The Racing Commission must assign either a steward or an auditor to preside over the televised races at the licensee's racetrack.

Licensees authorized to hold televised racing days must pay the greater of the following for each televised racing day on which the total pari-mutuel pool exceeds $100,000:

1. the total of the applicable daily license tax and the applicable pari-mutuel pool tax, or
2. a daily license tax of $1,250.

On racing days when the total pari-mutuel pool is $100,000 or less, the licensee must pay a daily license tax of $500 plus an additional $100 for each $10,000, or part of it, above $50,000.

After deducting the amount of tax, contributions to the pension fund and development funds where applicable, local government share, host fee and transmission expenses, the Racing Association must deposit 50 percent of the remainder into the purse fund established by W. Va. Code §19-23-9(b)(1). All daily license and pari-mutuel pool tax payments shall be made to the Racing Commission after the last race of each and every day of horse or dog race meeting.

The per diem tax shall not apply to any local, county or state fair, horse show or agricultural or livestock exposition at which racing is conducted for not more than six days.

All revenues collected as license taxes and pari-mutuel pool taxes on horse and dog racing shall be deposited into a special account. The revenues in that account will be available to the Racing Commission to pay salaries and other budgeted expenses for the Racing Commission. The amount used by the Racing Commission cannot exceed amounts appropriated for such purposes. Revenues over the budgeted expenses of the Racing Commission are to be accumulated and transferred to the General Revenue Fund.

All monies held by any licensee for the payment of outstanding and unredeemed pari-mutuel tickets are to be turned over to the Racing Commission if not claimed within ninety days from the end of the televised racing meet during which the unredeemed pari-mutuel ticket was purchased. This is in addition to the similar requirement for monies held for “live” horse or dog race meetings. Notice of monies being held must be published in the county in West Virginia in which the pari-mutuel ticket was purchased.

WEST VIRGINIA LOTTERY

The West Virginia Lottery is a state-operated lottery authorized to conduct public games of chance, establish rules for conducting games and select the type and number of games or gaming systems.

At present, the authorized types of lottery games are as follows:

1. "Instant" games, in which lottery "instant" game tickets are sold to licensed lottery retailers, who in turn sell the tickets to the public. The purchaser rubs off the covered spots to determine whether a prize has been won. Prizes under $600 are paid instantly by the retailer. Game themes and prize structures vary.
2. Powerball, Cash 25, Daily 3 and Daily 4, Keno, Megamillions and Hot Lotto in which sales of on-line (computerized) lottery tickets are made by licensed agents to the public. To win, the purchaser’s chosen numbers are entered

through a computer terminal and printed on his/her ticket stub; these numbers must match the numbers drawn during the West Virginia Lottery's live television drawings or the five-minute Keno draws, as applicable.

3. Video lottery at State racetracks.

The State Lottery Act created a special fund in the State Treasury called the "State Lottery Fund". All receipts from lottery ticket sales are deposited in this account daily. A minimum annual average of 45 percent of the gross amount received from each lottery is earmarked for prizes. This amount can be as high as 95 percent for certain video lottery games. Net profits are to be appropriated for education, for senior citizens, and to the Bureau of Commerce for certain recreation, parks, and tourism expenses. Not more than 15 percent of the gross amount received from each lottery can be allocated and disbursed for fund operation and administrative expenses.

Winnings are subject to federal income taxes. Winnings by West Virginia residents are also subject to West Virginia income tax.

Video Lottery

Video lottery was first introduced as an experimental game in June 1990 with less than one hundred terminals at Mountaineer Park racetrack in Hancock County. After passage of the Racetrack Video Lottery Act in 1994, video lottery expanded to Wheeling Downs and Tri-State Greyhound Park, and in 1997 the fourth racetrack, Charles Town Races, began video lottery gaming. Definition changes to the term "video lottery" over the years allowed the licensees to offer traditional casino slot machines by the year 2000. These four businesses have each modified their names over the ensuing years. As of June 30, 2011, the number of video lottery terminals installed and running was as follows:

Hollywood Casino at Charles Town Races	4,242
Mardi Gras Casino & Resort	1,237
Mountaineer Casino Racetrack & Resort	2,490
Wheeling Island Hotel•Casino•Racetrack	1,763

Limited Video Lottery Games

The Limited Video Lottery Act was enacted to restrict (limit) and regulate ("gray") video poker machines that had been illegally operated for several years throughout the State. Limited Video Lottery is a self-activated video version of lottery games that were first placed in operation in December 2001. The games allow a player to use currency to place bets for the chance to receive free games or vouchers that may be redeemed for cash. The Limited Video Lottery games' prize structures are designed to award prizes, at a stipulated rate of total bets played, and prize expense is netted against total video credits played. Limited video lottery permit holders are statutorily responsible for acquiring equipment and bearing the risk associated with the costs of operating the games.

The Limited Video Lottery Act has established specific requirements for Limited Video Lottery and imposed certain restrictions limiting the licensing for the operation of Limited Video Lottery games to 9,000 video lottery terminals placed in limited licensed retailer areas restricted for adult amusement. As of July 30, 2011, there were 6,741 machines operating in 1,492 locations.

These licensed retailers must hold a qualifying license for the sale on premises of alcohol or non-intoxicating beer. The Limited Video Lottery Act limits the placement of no more than five machines in licensed establishments (ten machines in the case of veteran's and fraternal organizations). The Limited Video Lottery Act further provides that no person can own, directly or indirectly, more than 675 video terminals. The West Virginia Lottery has been charged with the administration, monitoring and regulation of these machines. The Limited Video Lottery Act further stipulates the distribution of revenues from the Limited Video Lottery games, and requires any licensed retailers to comply with all related rules and regulations of the Lottery in order to continue its retailer status.

Table Games

During the 2007 Legislative Session, the West Virginia Legislature approved table games at the State's four racetracks provided table games were approved by the local voters. Table games were approved for three of the four State racetracks in 2007– Mountaineer Casino Racetrack & Resort in Hancock County, Wheeling Island Hotel•Casino•Racetrack in Ohio County, and Mardi Gras Casino & Resort in Kanawha County. Hollywood Casino at Charles Town Races Began offering table games in 2010.

In 1999, the Legislature enacted a law that would allow the Greenbrier Resort to have a full fledged casino. The initial local option election in 2000 was unsuccessful, but the second election in November 2008 was successful. The new $80 million Greenbrier Casino has 347 video lottery terminals and 45 gaming tables.

CEMETERY REGISTRATION ACT

Cemetery companies are required to register with the State Tax Department and establish trust accounts for a portion of the proceeds from certain sales. The registration fee set by regulation is $200. An additional $100 annual filing fee is due when a cemetery company reports a change in ownership or a change in the name of the compliance agent designated by the cemetery company.

Cemetery companies required to register are persons, partnerships, firms or corporations operating a cemetery or selling property, goods or services used in connection with interring or disposing of the remains or commemorating the memory of a deceased human being under certain conditions. These companies must only register if the delivery of the property or goods sold or the performance of the services may take place more than 120 days after the receipt of the initial payment on the account. The property, goods or services include but are not limited to burial vaults, mausoleum crypts, lawn crypts, memorials, marker bases and opening and closing and/or interment services. This does not include graves or incidental additions, such as dates or scrolls, representing not more than 10 percent of the total contract price.

Exemptions

Certain companies are exempt from the requirement to register and establish trust accounts. They are as follows:

1. cemeteries owned and operated by a county, municipal corporation, church or a non-stock corporation not operated for profit if the cemetery company

    a. does not compensate any officer or director, except for reimbursement of reasonable expenses incurred in the performance of official duties;
    b. does not sell or construct or directly or indirectly contract for the sale or construction of vaults or lawn or mausoleum crypts, and
    c. uses proceeds from the sale of all graves and entombment rights for the sole purpose of defraying the direct expenses of managing the cemetery

2. community cemeteries not operated for profit if the cemetery

    a. does not compensate any officer, owner or director except for reimbursement of reasonable expenses incurred in the performance of official duties, and
    b. uses proceeds from the sale of all graves and entombment rights for the sole purpose of defraying the direct expenses of managing the cemetery

3. family cemeteries in which lots or spaces are not offered for public sale.

Trust Fund Requirements

Every cemetery company or seller of pre-need goods or services used in the interring or disposing of the remains or commemorating the memory of a deceased human being shall deposit in an interest-bearing trust fund 40 percent of the receipts from the sale of property, goods or services purchased pursuant to a pre-need cemetery company contract. This includes sales of opening and closing or interment services when the delivery will be delayed more than 120 days from the initial payment of the contract.

Deposits must be made within thirty days after the close of the month in which the receipts are paid. If payment is made on an installment or deferred payment plan, the cemetery company or seller may deposit 40 percent of the payments as they are made. If the proceeds from the sale are financed through a lending institution, it is considered a cash sale. All funds deposited in the trust account must be identified in the records of the seller by the contract number and by the name of the buyer.

Within four months of the end of the cemetery company's fiscal year, the company must report the following information to the State Tax Commissioner:

1. the total amount of principal in the pre-need trust account;
2. the securities in which the pre-need trust account is invested;
3. the income received from the trust and the source of that income during the preceding fiscal year;
4. an affidavit executed by the compliance agent that all provisions of this article applicable to the seller relating to pre-need trust account have been complied with;
5. the total receipts required to be deposited in the pre-need trust account;
6. all expenditures from the pre-need trust account, and
7. if the trustee is other than a bank, savings and loan or other federally insured investment banking institution, proof that the fidelity bond required by law has been secured and is in effect.

In addition, the cemetery company must employ an independent certified public accountant to audit the account and provide assurance that 40 percent of the cash receipts from pre-need contracts was deposited in the account within thirty days after the close of each month. Such assurance must be sent with the report to the State Tax Commissioner.

CONSUMER PROTECTION ACT

The Consumer Protection Act provides for the initial and subsequent annual registration with the State Tax Department of persons who are in the business of making consumer credit sales or consumer loans in West Virginia or maintain a place of business in this State and take assignment of debts that arise from such sales and then undertake direct collection of payments or enforcement of rights against the debtor.

Initial registration must be made within thirty days of the start of business in West Virginia; subsequent annual notification must be made before January 31 of each year in which business is conducted. The following conditions must be satisfied to meet the provisions of the Consumer Protection Act:

1. credit must be granted either by a seller who regularly engages as a seller in credit transactions of the same kind or by a seller under provisions of a seller credit card;
2. the buyer must be an individual or individuals and not an organization;
3. the real property, personal property or services must be purchased primarily for personal, family, household or agricultural purposes;
4. either the debt must be payable in installments or finance charges must be made, and
5. either the principal amount must not exceed $25,000 or the debt must be secured by an interest in land.

Government agencies and national banks are subject to the provisions of this Act as are providers of professional services who include finance charges in their payment schedules.

COLLECTION AGENCY ACT

The Collection Agency Act provides for some regulation and bonding of persons who engage directly or indirectly in the business of operating a collection agency in West Virginia. The act is very broad and inclusive in its definition of the business of operating a collection agency. Specific persons not considered collection agencies are as follows:

1. regular employees of a single creditor or a collection agency licensed under the Act,
2. banks,
3. trust companies,
4. savings and loan associations,
5. building and loan associations,
6. industrial loan companies,
7. small loan companies,
8. abstract companies doing escrow business,
9. properly licensed real estate brokers or agents when claims and/or accounts they handle are related to or are part of their regular real estate businesses,
10. express and telegraph companies subject to public regulation,
11. attorneys-at-law when they handle claims and/or collections in their own names as attorneys,
12. any individual or organization which acts under the order of any court of competent jurisdiction, and
13. any person collecting a debt owed to another person only where
    a. both persons are related by wholly-owned, common ownership or affiliated by wholly-owned corporation control,
    b. the person collecting the debt acts only on behalf of persons related as described in (a), and
    c. debt collection is not the principal business of the person collecting the debt.

Individuals and organizations that are not exempt and which conduct the business of a collection agency in West Virginia must file separate approved surety bonds of $5,000 with the State Tax Commissioner. A separate bond must be filed for the principal office and each branch office. These bonds must be renewed annually during the operation of the agency.

At its principal West Virginia office, each agency must maintain a record of all collections and disbursements. These records must be maintained for six years from the date of the last entry and be available for inspection by the State Tax Department. In addition, they must maintain a separate trust account in a bank for deposit of monies collected since the collection agency's customers' monies cannot be co-mingled with other monies. Within thirty days of the close of each calendar month, each agency must pay its customers the net proceeds due on all collections the agency made during the preceding calendar month.

Out-of-state collection agencies without an office in West Virginia and whose only contact with residents of this State is by letter or telephone call are required to designate a resident agent upon whom notice of orders may be served. The West Virginia Secretary of State may be designated as the resident agent for service of process pursuant to W. Va. Code §56-3-33.

TELEMARKETING ACT

Telemarketing solicitation means and includes any communications between a telemarketer and a prospective purchaser for the purpose of selling or attempting to sell the purchaser any consumer goods or services if it is intended by the telemarketer that an agreement to purchase the consumer goods or services. Telemarketer means any person who initiates or receives telephone calls to or from a consumer in West Virginia for the purpose of making a telemarketing solicitation.

The initial application for registration shall be made at least sixty days prior to offering consumer goods or services or offering for sale consumer goods or services through any medium, and an application for renewal shall be made on an annual basis thereafter. The application fee and the renewal fee are $250. The money collected shall be deposited into the "Telemarketer Registration Fund".

An application must be accompanied by a continuing surety bond. The bond must be approved by the Department of Tax and Revenue before a certificate of registration is issued. A separate bond in the amount of $100,000 must be filed for each telemarketing location, including each principal office and each branch office or a single bond in the amount of $500,000 may be filed for all locations of the telemarketer. The surety bond must be in effect for three years from the time the telemarketing business ceases to operate in West Virginia.

Any business required to file a bond with the registration application may file an irrevocable letter of credit with annual renewals, a certificate of deposit, cash or a government bond in the same amount as would be required for the bond. The Department of Tax and Revenue shall deposit any funds in an interest-bearing account. The Department shall hold such letter of credit, cash, certificate of deposit, cash or government bond for three years from the time the telemarketing business ceases to operate or its registration lapses.

EMPLOYMENT AGENCY ACT

The Employment Agency Act requires all persons who receive any fee, charge, commission or other compensation, either directly or indirectly, for services as employment agent to first obtain a license from the State Tax Commissioner. The State Tax Commissioner may issue a license after the application has been approved by the Commissioner of Labor in writing. The employment agency license must be posted at all times in the place of business. This license is not transferable.

The State Tax Commissioner may refuse to issue a license if, upon investigation, the Commissioner finds that the applicant is unfit to engage in the business of an employment agency. A license will not be issued to any person who has had a previous license revoked. The State Tax Commissioner may also refuse to issue a license if the business location is unsuitable or immediately adjoining unsuitable premises.

The State Tax Commissioner may revoke any license, with or without a hearing, if the employment agency has violated any of the rules and regulations governing an employment agency.

DRUG PARAPHERNALIA ACT

It is unlawful to sell any paraphernalia designed or marketed for use with controlled substances without obtaining a license from the State Tax Commissioner. The fee for such a license is $150.

Institutions authorized by Chapter 60A of the West Virginia Code to distribute controlled substances may also sell items, such as syringes, which are designed and marketed for lawful use, either with controlled substances or over the counter medicine, such as insulin. Although these items may also facilitate the illegal use of controlled substances, authorized institutions are not required to obtain drug paraphernalia licenses if the institutions sell only items designed and marketed for legal use with controlled substances.

SOLID WASTE ASSESSMENT FEE

Fiscal Year	State Revenue
2000-2001	$12,704,074
2001-2002	19,981,738
2002-2003	14,730,883
2003-2004	14,546,765
2004-2005	15,721,604
2005-2006	14,445,964
2006-2007	14,666,520
2007-2008	15,203,654
2007-2009	15,022,991
2009-2010	14,157,856
2010-2011	16,036,207

GENERAL REVENUE FUND RECEIPTS FROM RACETRACKS

Fiscal Year	State Revenue
2000-2001	$2,058,000
2001-2002	2,593,000
2002-2003	1,520,000
2003-2004	2,070,000
2004-2005	1,370,000
2005-2006	1,089,011
2006-2007	1,118,000
2007-2008	993,500
2008-2009	480,348
2009-2010	335,930
2010-2011	20,810

TAX CREDITS

1. Business Investment Tax Credits
   a. Economic Opportunity Tax Credit (W. Va. Code §11-13Q)
   b. Manufacturing Investment Tax Credit (W. Va. Code §11-13S)
   c. Strategic Research and Development Credit (W. Va. Code §11-13R)
   d. Commercial Patent Incentives Tax Credit (W. Va. Code §11-13AA)
   e. Industrial Expansion and Revitalization Credit for Electric Power Producers (W. Va. Code §11-13D-4)
   f. Coal-Loading Facilities Credit (W. Va. Code §11-13E)
   g. West Virginia Film Industry Investment Credit (W. Va. Code §13X)
   h. Community Contribution Tax Credit for Wind-Powered Projects (W. Va. Code §11-13-2p)
   I. Tourism Development Project Credit (W. Va. Code §§5B-2E-1 et seq. and 11-15-34)
   j. West Virginia Tourism Development Expansion Project Credit (W. Va. §5B-2E-7a)
   k. Credit Recapture Provisions
   l. Terminated Business Investment Tax Credits
2. Business Employment Tax Credits
   d. Military Employment Incentive Credit (W. Va. Code §§11-21-42, 11-24-12 and 21A-2C)
   e. Natural Gas Industry Jobs Retention Credit (W. Va. Code §11-13L)
   f. Tax Credit for Apprenticeship Training (W. Va. Code §11-13W)
   g. Terminated Business Employment Tax Credits
3. Environmental Tax Credits
   a. Environmental Agricultural Equipment Credit (W. Va. Code §11-13K)
   b. Residential Solar Energy Tax Credit (W. Va. Code §11-13Z)
   c. Alternative-Fuel Tax Credit (W. Va. Code §11-6D)
4. Credits That Aid Low-Income Families
   a. Credit for Reducing Utility Charges to Low-Income Families (W. Va. Code §11-13F)
   b. Credit for Reducing Telephone Charges to Low-Income Families (W. Va. Code §11-13G)
5. Miscellaneous Tax Credits
   a. Credit for Qualified Rehabilitated Residential Building Investment (W. Va. Code §§11-21-8a and 11-24-23a)
   b. Neighborhood Investment Program Credit (W. Va. Code §11-13J)
   c. Credit for Utilities with Net Operating Loss Carryovers (W. Va. Code §11-24-11b)
   d. Manufacturing Property Tax Adjustment Credit (W. Va. Code §11-13Y)
   e. Financial Organization Goodwill Credit (W. Va. Code §11-23-5a(g))
   f. Financial Organization Adjusted Tax Credit (W. Va. Code§11-24-9b)
   g. Innovative Mine Safety Technology Tax Credit (W. Va. Code §11-13BB)

ECONOMIC OPPORTUNITY TAX CREDIT

The Economic Opportunity Tax Credit is available to qualified businesses that make a qualified investment in a new or expanded business in West Virginia on or after January 1, 2003, and as a result of this investment create at least twenty new jobs. Qualified businesses include only those businesses engaged in the activities of manufacturing, information processing, warehousing, non-retail goods distribution, qualified research and development, the relocation of a corporate headquarters or destination-oriented recreation and tourism.

A qualified business creating at least twenty new jobs within three tax years is allowed a credit equal to 20 percent of its qualified investment. This percentage increases with the number of new jobs created. A business creating at least 280 new jobs is allowed a credit equal to 25 percent of its qualified investment, and a business creating at least 520 new jobs can claim 30 percent of its qualified investment. The applicable jobs percentage for most taxpayers range as follows:

New West Virginia Jobs Total At Least	Applicable Percentage[1]
520	30
280	25
20	20
15 (Corporate headquarters relocation only)	10
10 (Small business credit)	10

The Economic Opportunity Tax Credit is pro-rated over a ten-year period at a rate of 10 percent per year.

The calculation of qualified investment is determined by multiplying the net cost of eligible property by its applicable useful life percentage based on the projected actual economic useful life of the asset. The percentages shown in the following table apply.

Useful Life	Applicable Percentage
Less than 4 years	0
4 years or more but less than 6 years	33 1/3
6 years or more but less than 8 years	66 2/3
8 years or more	100

For example, if a taxpayer purchases a machine for $25,000 for use in a new industrial facility which has a useful life of six years, the qualified investment is equal to $16,666.66.

[1]For projects having qualified investment of $20 million or more that are constructed using construction labor and mechanics numbering 75 or more employees or equivalent employees who are paid an average wage of at least the prevailing wage, the new jobs percentage for the 20 to 520 employee range is increased by five percentage points.

The Economic Opportunity Tax Credit can offset a portion of the tax attributable to qualified investment for the Business and Occupation Tax (electric power generation taxes only), Business Franchise Tax, Corporation Net Income Tax and Personal Income Tax (tax on flow-through business profits only) in the order stated.

The amount of tax attributable to qualified investment is generally determined by use of a payroll factor. The taxpayer multiplies total tax available by a fraction, the numerator of which is the compensation paid to the employees hired as a result of the new qualified investment and the denominator of which is the compensation paid to all West Virginia employees of the taxpayer. The result of this computation is tax attributable to qualified investment.

If the annual median compensation paid by the taxpayer to qualified new employees exceeds the statewide average non-farm payroll wage as determined annually from WORKFORCE West Virginia information, then the taxpayer may use the available credit to offset up to 100 percent of each of the above taxes attributable to qualified investment. All other qualified taxpayers may use the available credit to offset up to 80 percent of each of the above taxes attributable to qualified investment.

The following is a summary of the Statewide average non-farm payroll wages above which the median compensation of new jobs must exceed to obtain the 100 percent tax offset.

Applicable Tax Year[1]	Statewide Average Nonfarm Payroll Wage for Economic Opportunity Tax Credit
2003	$27,981
2004	28,615
2005	29,284
2006	30,383
2007	31,344
2008	32,723
2009	34,000
2010	35,985
2011	36,895
2012	37,701

Excess credit remaining after application of the credit against current year taxes may be carried forward for up to twelve years following the year of the initial credit claim attributable to the placement of qualified investment into service. The year of the initial credit claim is either the tax year that the qualified investment was first placed into service or, at the election of the taxpayer, the next succeeding tax year.

No credit may be allowed or applied to any qualified investment property placed in service until the person asserting a claim for the credit makes written application to the State Tax Commissioner and receives written acknowledgment of such application from the State Tax Commissioner. Failure to timely apply for credit will result in forfeiture of 50 percent of the annual

[1] Annual updates may be found in the Administrative Notices Section at http://www.wvtax.gov.

credit allowance otherwise available under this requirement. Form EOTC-A is designed to be a general application form for taxpayers wishing to claim credit based on investments placed into use or service on or after January 1, 2003. The timely filing of this application is a condition precedent to claiming tax credits. This application must be filed annually no later than the due date of the taxpayer's West Virginia income tax return, including any legally granted extension of time for filing such returns.

Economic Opportunity Tax Credit for Corporate Headquarters Relocation

A taxpayer that moves its corporation headquarters to West Virginia from a location outside of West Virginia may be entitled to an Economic Opportunity Tax Credit if the relocation creates at least fifteen new West Virginia jobs. If the relocation creates at least fifteen but less than twenty new jobs, then the amount of the credit is equal to 10 percent of the taxpayer's adjusted qualified investment. "Adjusted qualified investment" is the qualified investment of the taxpayer in real and tangible personal property purchased for the corporate headquarters plus the cost of the reasonable and necessary expenses incurred by the taxpayer to relocate the corporation headquarters from its out-of-state location to West Virginia. Generally, the tax credit may be used to offset tax liabilities in the same manner as for the general Economic Opportunity Tax Credit. The only significant difference is that there is a slightly different application against Corporation Net Income Tax and Business Franchise Tax. At a minimum, the Economic Opportunity Tax Credit for a corporation headquarters relocation may be used to offset the sum of 100 percent of tax on allocated corporate net income and 80 percent of the tax attributable to qualified investment on apportioned corporation net income. No credit may be allowed or applied to any qualified investment property placed in service until the person asserting a claim for the credit makes written application to the State Tax Commissioner and receives written acknowledgment of such application from the State Tax Commissioner. Failure to timely apply for credit will result in forfeiture of 50 percent of the annual credit allowance otherwise available under this requirement. Form EOTC-A is designed to be a general application form for taxpayers wishing to claim credit based on investments placed into use or service on or after January 1, 2003. The timely filing of this application is a condition precedent to claiming tax credits. This application must be filed annually no later than the due date of the taxpayer's West Virginia income tax return, including any legally granted extension of time for filing such returns.

Economic Opportunity Tax Credit for "Small Business"

Certain small businesses may also be entitled to an Economic Opportunity Tax Credit. "Small business" means a business or a controlled group of foreign and domestic affiliated businesses with annual gross sales of not more than $7 million. Beginning on January 1, 2004, the maximum gross sales qualification is increased each year by a percentage reflecting the cost of living increase for the prior year. This constraint must be met by the small business only during the year qualified investment is first placed into service or use. The following is a summary of the applicable inflation adjusted small business credit constraint by tax year:

Year[1]	Gross Sales
2003	$7,000,000
2004	7,159,000
2005	7,324,500
2006	7,552,050
2007	7,846,850
2008	8,026,350
2009	8,368,450
2010	8,384,000
2011	8,507,850
2012	8,714,300

An eligible small business taxpayer is allowed a credit in the manner described above for the general Economic Opportunity Tax Credit, except that the small business must create at least ten new West Virginia jobs within twelve months, rather than twenty new jobs. If the qualified small business creates at least ten qualified new jobs, the small business may receive a credit equal to 10 percent of its qualified investment.

No credit may be allowed or applied to any qualified investment property placed in service until the person asserting a claim for the credit makes written application to the State Tax Commissioner and receives written acknowledgment of such application from the State Tax Commissioner. Failure to timely apply for credit will result in forfeiture of 50 percent of the annual credit allowance otherwise available under this requirement. Form EOTC-A is designed to be a general application form for taxpayers wishing to claim credit based on investments placed into use or service on or after January 1, 2003. The timely filing of this application is a condition precedent to claiming tax credits. This application must be filed annually no later than the due date of the taxpayer's West Virginia income tax return, including any legally granted extension of time for filing such returns.

Tax Credit for High Technology Manufacturers

Effective January 1, 2008, a credit is provided for specified high technology manufacturers. A "high technology manufacturing business" is defined as a business properly classified as having a NAICS Code of 334111, 334112, 334411, 334414, 334413 or 333295. The credit is based on the qualified taxpayer's qualified investment which results in the creation of at least 20 new jobs within twelve months after placing the qualified investment in service. The credit is 100 percent of the tax attributable to the qualified investment and is allowed for each year for a twenty-year credit period. The credit is to be taken beginning with the taxable year in which the qualified investment is placed in service unless the taxpayer elects to delay to the next succeeding tax year. A taxpayer who uses this credit cannot take any other credit under West Virginia Code §§ 11-13Q-1 et seq. In order to claim or retain the credit, the median compensation of the new jobs attributable to the qualified investment must exceed inflation-adjusted values as follows:

[1] Annual updates may be found in the Administrative Notices Section at http://www.wvtax.gov.

Year[1]	Median Compensation or Salary
2008	$45,000
2009	46,900
2010	47,000
2011	47,650
2012	48,850

Credit for Taxpayers That Do Not Satisfy the New Jobs Percentage Requirement

Taxpayers that do not satisfy the new jobs percentage requirements are permitted to claim a credit of $3,000 per year per new job created for a period of five consecutive years beginning in the tax year when the new employee is first hired if

1. the new job pays at least $32,000 annually (see inflation adjusted values below);
2. health insurance and other benefits, such as child care and retirement, are offered, and
3. the position if a full-time permanent position.

The inflation adjusted annual pay for the new jobs created for purposes of the tax credit must equal or exceed the following:

Year[2]	Annual Compensation or Salary
2009	$32,000
2010	32,000
2011	32,450
2012	33,250

MANUFACTURING INVESTMENT TAX CREDIT

Manufacturers that make qualified investments for industrial expansion or industrial revitalization on or after January 1, 2003 may be eligible for the Manufacturing Investment Tax Credit. The term "manufacturing" means any business activity whose first two digits of its North American Industry Classification System (NAICS) Code are 31, 32 or 33 or whose six digit code is 211112.

[1] Annual updates may be found in the Administrative Notices Section at http://www.wvtax.gov.

[2] Annual updates may be found in the Administrative Notices Section at http://www.wvtax.gov.

Eligible investments include real property and improvements to real property and tangible personal property constructed or purchased for use as a part of a new or expanded business of a qualified industrial taxpayer. Eligible investments may also include replaced or refurbished buildings, equipment, machinery and other tangible personal property used in the operation of a qualified facility located in West Virginia. Eligible investments may also include real or tangible personal property acquired by written lease for a primary term of ten years or longer if used as a component part of a new, expanded or revitalized industrial facility. The credit is equal to 5 percent of the taxpayer's qualified investment pro-rated over a ten-year period at a rate of 10 percent per year.

Manufacturing Investment Tax Credit may be used to offset up to 60 percent[1] of the taxpayer's annual liability for Business Franchise Tax, Severance Tax and Corporation Net Income Tax for a period of ten years. Any portion of a particular year's annual credit that remains after application against these taxes for the taxable year is forfeited.

No credit may be allowed or applied to any qualified investment property placed in service until the person asserting a claim for the credit makes written application to the State Tax Commissioner and receives written acknowledgment of such application from the State Tax Commissioner. Failure to timely apply for credit will result in forfeiture of 50 percent of the annual credit allowance otherwise available under this requirement. Form MITC-A is designed to be a general application form for taxpayers wishing to claim credit based on investments placed into use or service on or after January 1, 2003. The timely filing of this application is a condition precedent to claiming tax credits. This application must be filed annually no later than the due date of the taxpayer's West Virginia income tax return, including any legally granted extension of time for filing such returns.

STRATEGIC RESEARCH AND DEVELOPMENT CREDIT

Businesses engaged in qualified research and development activities within West Virginia may be eligible for the Strategic Research and Development Tax Credit. The credit equals the higher of 3 percent of all qualified expenses and qualified investment or 10 percent of the excess of qualified expenses and qualified investment for the taxable year over the average for a base period. The base period is generally the three-year period prior to the taxable year.

Research and development includes but is not limited to design, refinement and testing of prototypes of new or improved products or equipment or the design, refinement and testing of manufacturing processes before commercial sales relating thereto have begun. Research and development does not include market research; sales research; efficiency surveys; consumer surveys; product market testing; product testing by product consumers; the ordinary testing or inspection of materials or products for quality control; management studies; advertising; promotions; the acquisition of another's patent, model, production or process or investigation or evaluation of the value or investment potential related thereto; research in connection with literary or historical topics or similar activities; research in social sciences, incomes, humanities or psychology and other non-technical activities, and the providing of sales services or other services.

[1] Prior to 2009, the credit offset was 50 percent.

The credit is available for eligible investments made in depreciable property for qualified research projects and in qualified research expenses. Investment in land does not qualify for the credit. The calculation of qualified investment is determined by multiplying the cost of eligible property by its applicable useful life percentage based on the projected actual useful life of the property. The percentages shown in the following table apply.

Useful Life	Applicable Percentage
Less than 4 years	33 1/3
4 years or more but less than 6 years	66 2/3
6 years or more	100

In addition to investments in buildings and depreciable tangible personal property, qualified research expenses may also be included in the Strategic Research and Development Tax Credit base. "Qualified research and development expenses" include 100 percent of in-house research expenses and 65 percent of contract research expenses for qualified research allocated to the State and incurred by an eligible taxpayer. Qualified research expenses do not include any expenses that must be capitalized and depreciated for federal income tax purposes or any expenses incurred for the purpose of ascertaining the existence, location, extent or quality of any deposit of a natural resource.

Strategic Research and Development Tax Credit may be used to offset up to 100 percent of the taxpayer's annual liability for Business Franchise Tax, Corporation Net Income Tax and Personal Income Tax (tax on flow-through business profits only) in the order stated. Excess credit may be carried forward for a period not to exceed ten years.

No credit may be allowed or applied to any qualified investment property placed in service until the person asserting a claim for the credit makes written application to the State Tax Commissioner and receives written acknowledgment of such application from the State Tax Commissioner. Failure to timely apply for credit will result in forfeiture of 100 percent of the annual credit allowance otherwise available under this requirement. Form SRDTC-A is designed to be a general application form for taxpayers wishing to claim credit based on investments placed into use or service on or after January 1, 2003. The timely filing of this application is a condition precedent to claiming tax credits. This application must be filed annually no later than the due date of the taxpayer's West Virginia income tax return, including any legally granted extension of time for filing such returns.

COMMERCIAL PATENT INCENTIVES TAX CREDIT

The Commercial Patent Incentives Tax Credit was enacted to encourage greater development and use in West Virginia of commercial intellectual properties by West Virginia businesses and thereby increase economic opportunity in West Virginia. The credit is available for tax years beginning on or after January 1, 2011 for the following:

1. The development, in West Virginia, of plant patent, design patent, or patents for direct use in a manufacturing process or product.

2. The use of a patent in a manufacturing process or product in West Virginia when the patent was developed in West Virginia.

Available Commercial Patent Incentives Tax Credit may be applied against tax liability attributable to the Personal Income Tax, Business Franchise Tax, or Corporation Net Income Tax. No Commercial Patent Incentives Tax Credit is allowed for any activity, investment, assets, or expenditures for which any of the following tax credits has been authorized, taken, or allowed:

1. Industrial Expansion and Revitalization Credit (W. Va. Code §11-13D et seq.)
2. Coal Loading Facilities Credit (W. Va. Code §11-13E et seq.)
3. Economic Opportunity Tax Credit (W. Va. Code §11-13Q et seq.)
4. Strategic Research and Development Tax Credit (W. Va. Code §11-13R et seq.)
5. Manufacturing Investment Tax Credit (W. Va. Code §11-13S et seq.)
6. Film Industry Investment Tax Credit (W. Va. Code §11-13X et seq.).

Also, no Commercial Patent Incentives Tax Credit is allowed for any activity, investment, assets, or expenditures for which any tax credit authorized under W. Va. Code §18B-13 et seq. Has been taken or allowed.

The Commercial Patent Incentives Tax Credit for developing patents in West Virginia is generally equal to 20 percent of the total royalties, license fees, or other consideration from the sales, lease or licensing of the patent developed in West Virginia, subject to allocation if a portion of the direct costs of the development of the patent occurred outside West Virginia. The credit percentage increases to 30 percent if at least 80 percent of the previous year's tax credit was reinvested in West Virginia for certain uses.

Similarly, the Commercial Patent Incentives Tax Credit for use of a patent in a manufacturing process or product in West Virginia that was developed in West Virginia is generally equal to 20 percent of the net profit attributable to the use of the patent. The credit percentage increases to 30 percent if at least 80 percent of the previous year's tax credit was reinvested in West Virginia for certain uses.

INDUSTRIAL EXPANSION AND INDUSTRIAL REVITALIZATION CREDIT FOR ELECTRIC POWER PRODUCERS

Electric power generation companies that make eligible investments for industrial expansion or industrial revitalization within West Virginia may be eligible for the Industrial Expansion and Revitalization Credit. Eligible investment for industrial expansion includes real property and improvements thereto and tangible personal property constructed or purchased for use as a part of a new or expanded electric power generation facility. Eligible investment for industrial revitalization includes replaced or refurbished facilities, equipment, machinery and other tangible personal property used in the operation of an electric power generation facility located in West Virginia. Eligible investment may also include real or tangible personal property acquired by written lease for a primary term of ten years or longer if used as a component part of a new, expanded or revitalized electric power generation facility. The credit is equal to 10 percent of the taxpayer's qualified

investment. The calculation of qualified investment for this credit is similar to that required for the Economic Opportunity Tax Credit. Industrial Expansion and Revitalization Credit may be used to offset up to 50 percent of the taxpayer's annual liability for Business and Occupation Tax, Severance Tax and Business Franchise Tax for a period of ten years. Any portion of a particular year's annual credit that remains after application against theses taxes for the taxable year is forfeited.

COAL-LOADING FACILITIES CREDIT

A tax credit is granted against Business Franchise Tax, Business and Occupation Tax and Severance Tax liability for qualified investment in a new, expanded or revitalized coal-loading facility. A coal-loading facility that will qualify for the credit is limited to any building or structure specifically designed and solely used to transfer coal from a coal processing or preparation facility or from a coal storage facility, or both, or from any means of rail or barge transportation used to move coal, including such land as is directly associated with and solely used for the coal-loading facility.

The credit is equal to 10 percent of the cost of the eligible investment made in the coal-loading facility and must be applied over a ten-year period at the rate of one-tenth of the credit per taxable year. The amount of investment that is eligible for the credit is determined by applying a prescribed percentage to the total cost of the project. If the property has a useful life of eight years or more, the industrial taxpayer may consider 100 percent of the cost of the property as eligible investment. If the useful life is six years or more but less than eight years, then 66-2/3 percent of the cost may be considered eligible investment. If the useful life is four years or more but less than six years, then 33-1/3 percent of the cost may be considered eligible investment. Property with a useful life of less than four years does not qualify for purposes of this credit.

The credit may reduce Business Franchise Tax, Business and Occupation Tax and Severance Tax liability, but the credit cannot be over 50 percent of the total tax liability. No carry-over to a subsequent tax year or carry-back to a prior tax year is allowed for the amount of any unused portion of the allowed credit. Unused credit is forfeited.

WEST VIRGINIA FILM INDUSTRY INVESTMENT CREDIT

Eligible film production companies may claim a tax credit in an amount equaling up to 31 percent of direct production and post production expenditures made in West Virginia. For eligible expenditures occurring on or after December 31, 2007 and for tax years beginning prior to January 1, 2010, the base credit percentage is 27 percent with an additional 4 percent available if certain hiring levels are obtained. For tax years beginning on or after January 1, 2010, the base credit percentage is 22 percent with an additional 4 percent available if certain hiring levels are obtained. The credit may be applied to Business Franchise Tax, Corporation Net Income Tax, and Personal Income Tax liabilities. The eligible claimants would <u>not</u> be able to receive a refund of any credit amount in excess of tax liability, and no more than $10 million in credit may be allocated in any tax year. Effective January 1, 2008, qualified film makers, who produce their product in West Virginia, can sell or transfer excess film tax credits to other individuals or businesses.

COMMUNITY CONTRIBUTION TAX CREDIT FOR WIND-POWERED PROJECTS

A new community contribution credit is provided against the Business and Occupation Tax imposed on the taxable generating capability of wind-powered generating units. The credit is limited to the amount of qualified contractually agreed contributions made pursuant to a written transfer agreement A written transfer agreement is a written contract to transfer money or property to the county in which the wind turbine is located, the county school board of the county in which the wind turbine is located, or the municipality in which the wind turbine is located. The agreement is required to have been executed not later than March 1, 2007. The credit may only offset the annual Business and Occupation Tax measured by the taxable generating capacity of the wind turbine unit. The credit is to be applied after application of the credits allowed by West Virginia Code § 11-13D-1 et seq. and any other applicable credits. This credit and the credit under Article 13D in combination may not reduce the amount of tax that would have been imposed by more than 50 percent if the taxable generating capacity of the wind generating unit was set at 5 percent of the official capability of the unit.

TOURISM DEVELOPMENT PROJECT CREDIT

A tax credit is granted against Consumers Sales Tax liability for qualified investment in tourism development projects approved by the Development Office. An approved company must provide the amount of approved costs that qualify for the credit and the date by which the project is to be completed and open to the public. The total amount of Tourism Development Project credits for all approved companies may not exceed $1.5 million for each calendar year. No applications for the credit may be accepted on or after January 1, 2013, and any applications previously filed and approved as of January 1, 2013, shall be null and void.

Approved companies are allowed a credit against Consumers Sales Tax collected by the company only from the project. The maximum amount of the credit is 25 percent of the company's approved costs. However, if the project site is within the permit area or an adjacent area of a surface coal mine from which all coal will have been extracted prior to the commencement of the project, the credit is equal to 50 percent of the approved costs. The credit shall be taken over a ten-year period at a rate of one-tenth of the total credit amount per taxable year.

The credit is to be recaptured if

1. in any year following the first calendar year the project is open to the public, the project fails to attract at least 25 percent of its visitors from among persons who are not residents of West Virginia;
2. in any year following the first year the project is open to the public that the project is not open at least 100 days, or
3. if the approved company, as of the beginning of each calendar year, has an outstanding obligation to a Workers' Compensation Fund, and outstanding obligation under the West Virginia Unemployment Compensation Act, or an outstanding obligation under the West Virginia state tax and revenue laws.

If the credit is forfeited, the approved company shall return to the State all previously claimed tax credits. The tax credit is transferrable to an eligible successor company.

TOURISM DEVELOPMENT EXPANSION PROJECT CREDIT

A tax credit is granted against Consumers Sales Tax liability for qualified investment in tourism development expansion projects. Project credits for all approved companies may not exceed $1.5 million for each calendar year.

Approved companies are allowed a credit against Consumers Sales Tax collected by the company only from the project. The maximum amount of the credit is 25 percent of the company's approved costs. However, if the project site is within the permit area or an adjacent area of a surface coal mine from which all coal will have been extracted prior to the commencement of the project, the credit is equal to 35 percent of the approved costs. The credit shall be taken over a ten-year period at a rate of one-tenth of the total credit amount per taxable year.

CREDIT RECAPTURE PROVISIONS

There are special recapture provisions for the five Business Investment Tax Credits discussed previously (Economic Opportunity Tax Credit, Manufacturing Investment Tax Credit, Strategic Research and Development Tax Credit, Industrial Expansion and Revitalization Credit and Coal-Loading Facilities Credit). Credit recapture may occur when the actual useful life of the qualified investment property or the period of actual use of qualified investment property within West Virginia falls short of the projected useful life applicable percentage category used in the original credit calculations. Credit attributable to property that ceases to be used in West Virginia prior to the end of its categorized useful life must be recalculated for all tax years according to the actual useful life or period of use in West Virginia.

Additional recapture provisions exist for the Economic Opportunity Tax Credit whenever the taxpayer fails to maintain the required number of new jobs upon which the credit is based. Except for the Economic Opportunity Tax Credit for small businesses, recapture generally occurs immediately after the taxpayer's jobs re-determination year (the second tax year following the tax year when qualified investment was first placed into service or use). Job levels are determined on an annual basis for ten years for small businesses. If the actual number of new jobs falls below the projected new job threshold, then the taxpayer must file amended returns with the payment of any additional tax, interest and penalties owed due to an over-utilization of the credit. A Recapture Tax may apply whenever the number of new jobs falls below a minimum threshold set forth in the table below subsequent to the initial re-determination period.

New West Virginia Jobs Total At Least		Applicable Percentage
520		30
280		25
20		20
15	(Corporate headquarters relocation only)	10
10	(Small business credit)	10

TERMINATED BUSINESS INVESTMENT TAX CREDITS

Effective January 1, 2003, the following business investment tax credits were terminated: the Business Investment and Jobs Expansion Credit, the Industrial Expansion and Revitalization Credit (except for electric power producers), Research and Development Projects Credit, the Residential Housing Development Projects Credit, and the Aerospace Industrial Facility Credit. Generally, taxpayers who gained entitlement to any of these credits prior to January 1, 2003, retain that entitlement and may apply the credit pursuant to the requirements and limitations of the credit until the original credit entitlement has been exhausted or otherwise terminated. Information on these tax credits can be found in the 2000 edition of the Forty-Fourth Biennial Report of the Tax Commissioner. Additionally, the High-Growth Business Investment Tax Credit expired July 1, 2008.

MILITARY EMPLOYMENT INCENTIVE CREDIT

Every employer may take a credit against its Corporation Net Income or Personal Income Tax liability for hiring an economically disadvantaged veteran of the Vietnam era or Korean conflict, a disabled veteran or an unemployed member of the National Guard or reserve forces of the United States military. For hiring an economically disadvantaged Vietnam era or Korean conflict veteran, the taxpayer may take a credit of 30 percent of the first $5,000 paid in wages and compensation. For each disabled veteran hired, the taxpayer may take a credit in the amount of the first $5,000 of wages and compensation paid multiplied by the percentage of disability suffered as determined by the Veterans Administration. For members of the National Guard or the reserve forces of the United States military, the tax credit is 25 percent of the first $5,000 paid in wages and compensation.

To take a credit under this program, the taxpayer must hire veterans who have received vouchers from the Department of Employment Security, the West Virginia National Guard or participating Reserve forces certifying their eligibility. The employer is not eligible to take a credit if the veteran is already employed or displaces a person who is already employed or the employer is already receiving job training payments for the veteran. A credit also cannot be taken if the veteran is employed for less than one continuous year unless the employee voluntarily resigns, becomes totally disabled or is discharged for just cause. However, if the employee is discharged, becomes totally disabled or resigns before he has worked one year, the employer can take a partial tax credit. The partial tax credit equals the amount of the tax credit the employer would have received for the full year multiplied by the ratio of the time period worked to the full-year period.

NATURAL GAS INDUSTRY JOBS RETENTION CREDIT

The Natural Gas Industry Jobs Retention Credit is an annual offset to the Natural Gas Storage Tax (i.e., Business and Occupation Tax on natural gas storage activities). The credit equals $1,000 per qualified full-time employee (i.e., one who works at least 1,500 hours per year) employed by the taxpayer during the tax year. The credit is available as long as the qualified taxpayer retains at least 60 percent of the number of jobs in existence with the business as of January 1, 1996. The credit applies only against the Natural Gas Storage Tax. Any unused credit is forfeited.

TAX CREDIT FOR APPRENTICESHIP TRAINING

For tax years beginning on or after January 1, 2008, a tax credit equal to $1 per hour multiplied by the total number of hours worked during the tax year by an apprentice working in the construction trades for the taxpayer participating in a qualified apprenticeship training program. Apprentices must be registered with the United States Department of Labor, Office of Apprenticeship, West Virginia State Office. In addition to the requirements for a qualified apprenticeship training program mandated by the United States Department of Labor, the training program must consist of at least 2,000 hours but not more than 10,000 hours of on the job apprenticeship training.

TERMINATED BUSINESS EMPLOYMENT TAX CREDITS

In prior years, other employment investment tax credits were in effect. These include Consumer-Ready Wood Manufacturing Operations Credit, Value-added Agricultural Products Employee Training Credit, Steel Manufacturing Operations Credit, and Aluminum and Polymers Manufacturing Operations Credit. Information on these tax credits can be found in the 2000 edition of the Forty-Fourth Biennial Report of the Tax Commissioner.

ENVIRONMENTAL AGRICULTURAL EQUIPMENT CREDIT

Eligible taxpayers are allowed a credit against State income tax (i.e., Corporation Net Income Tax or Personal Income Tax) for 25 percent of expenditures for the purchase and installation of qualified agricultural equipment and structures that protect the environment. Eligible taxpayers must purchase and install the qualified equipment for use in their agricultural operations in West Virginia.

The maximum amount of credit in any year is limited to the lesser of $2,500 or the State income tax due for the year. Excess credits may be carried forward for a period not to exceed five years.

Agricultural operations include the commercial production of food, fiber, or woodland products (but not timbering activity) by means of cultivation, tillage of the soil or by the conduct of livestock, dairy, apiary, equine or poultry husbandry, aquacultural activity, horticultural activity, or any other plant or animal production activity. Commercial production generally consists of annual sales by the producer of at least $1,000 of agricultural products.

"Qualified agricultural equipment" includes advanced technology pesticide and fertilizer application equipment, conservation tillage equipment, dead poultry composting facilities, nutrient management systems, streambank and shoreline protection systems, stream channel stabilization systems, stream crossing or access plans, waste management systems, waste storage facilities, and waste treatment lagoons located on or at agricultural operations in West Virginia. Qualified agricultural equipment must meet certain certification requirements to qualify for the tax credit benefit. These requirements include proof of purchase and installation and written certification by the Commissioner of Agriculture that each item is in fact qualified agricultural equipment. In lieu of written certification by the Commissioner of Agriculture, written certification from the West Virginia Division of Environmental Protection is required for advanced technology pesticide and fertilizer application equipment.

RESIDENTIAL SOLAR ENERGY TAX CREDIT

The Residential Solar Energy Tax Credit may be taken by any taxpayer who installs, or causes to be installed a solar energy system on property located in West Virginia which is owned by the taxpayer and used as a residence after July 1, 2009. The amount of the credit allowed against the personal income tax is equal to 30 percent of the cost to purchase and install the system up to a maximum amount of $2,000. To qualify for the Residential Solar Energy Tax Credit, a solar system must:

1. be a new and complete system able to collect, store, convert, monitor, and distribute energy to the residence it serves;
2. be installed in the immediate vicinity of the residence served such that the solar energy is delivered directly to the residence, and
3. be a photovoltaic system, a solar domestic hot water system, or an active solar space heating system.

ALTERNATIVE-FUEL TAX CREDIT

The Alternative-Fuel Tax Credit is intended to encourage the use of alternatively-fueled motor vehicles and possibly reduce unnecessary pollution in the environment and reduce dependence on foreign sources of energy.

An Alternative-Fuel Tax Credit is available for tax years beginning on or after January 1, 2011 for the following:

1. the purchase of a new dedicated or bi-fueled alternative-fuel motor vehicle for which the purchaser then obtains a valid West Virginia vehicle registration;
2. the conversion of a motor vehicle that is presently registered in West Virginia to operate exclusively on an alternative fuel;
3. the construction or purchase and installation of a qualified vehicle refueling infrastructure that is capable of dispensing alternative fuel for alternative-fuel motor vehicles or,

4. the construction or purchase and installation of a qualified alternative fuel vehicle refueling infrastructure that is capable of dispensing alternative fuel for alternative-fuel motor vehicles.

The Alternative-Fuel Tax Credit is not available to any taxpayer under any obligation pursuant to any federal or state law, policy or regulation to convert to the use of alternative fuels for any motor vehicle.

For purposes of the Alternative-Fuel Tax Credit, "alternative fuel" includes:

1. compressed natural gas;
2. liquefied natural gas;
3. liquefied petroleum gas;
4. ethanol;
5. fuel mixtures that contain 85 percent or more by volume, when combined with gasoline or other fuels, of the following:
   a. Methanol,
   b. Ethanol, or
   c. Other Alcohols;
6. natural gas hydrocarbons and derivatives;
7. hydrogen; and,
8. electricity, including electricity from solar energy.

"Alternative-fuel motor vehicle" means a motor vehicle that is a new or retrofitted or converted fuel vehicle that:

1. operates solely on one alternative fuel;
2. is capable of operating on one or more alternative fuels, singly or in combination; or
3. is capable of operating on an alternative fuel and is also capable of operating on gasoline or diesel fuel.

"Qualified alternative fuel vehicle refueling infrastructure" means property owned by the applicant for the tax credit and used for storing alternative fuels for dispensing such alternative fuels into fuel tanks of motor vehicles. The infrastructure property includes compression equipment, storage tanks, and dispensing units for alternative fuel at the point where the fuel is delivered, provided that the property is installed and located in West Virginia and is not located on a private residence or private home.

"Qualified alternative fuel vehicle home refueling infrastructure" means property owned by the applicant for the tax credit located on a private residence or private home and used for storing alternative fuels and for dispensing such alternative fuels into fuel tanks of motor vehicles. The infrastructure property includes compression equipment, storage tanks, and dispensing units for alternative fuel at the point where the fuel is delivered or for providing electricity to plug-in hybrid electric vehicles or electric vehicles.

The Alternative-Fuel Tax Credit for the purchase of an alternative-fuel motor vehicle is the lesser of 35 percent of the purchase price or $7,500 ($25,000 if the gross vehicle weight of the vehicle is 26,000 pounds or greater), while the Alternative-Fuel Tax Credit for a vehicle converted

to use an alternative fuel is the lesser of 50% or $7,500 ($25,000 if the gross vehicle weight of the vehicle is 26,000 pounds or greater).

The Alternative-Fuel Tax Credit for a qualified alternative-fuel vehicle home refueling infrastructure is the lesser of 50 percent of the cost of the qualifying infrastructure or $10,000.

The Alternative-Fuel Tax Credit for a qualified alternative-fuel vehicle refueling infrastructure is the lesser of 50 percent of the cost of the infrastructure (62.5 percent if the refueling infrastructure is generally available to the public) and the values below:

	Not for Public Use	Available for Public Use
Tax years beginning prior to 1/1/2014	$250,000	$312,500
Tax years beginning prior to 1/1/2016	$200,000	$250,000
Tax years beginning prior to 1/1/2022	$150,000	$187,500

CREDIT FOR REDUCING UTILITY CHARGES TO LOW-INCOME FAMILIES

Natural gas and electric utility companies must grant a rate reduction of 20 percent to qualified low-income residential customers for the heating season of November through March. A qualified low-income resident is one who is eligible to receive electric or natural gas utility service, or both, under special reduced rates. The utility companies may take a credit against Business and Occupation Tax liability for the amount of revenue lost by providing the reduced rates to qualified customers. Any unused portion of the credit may be taken as a credit against Corporation Net Income Tax.

Effective July 1, 2011, businesses providing water utility services at reduced rates to qualified low-income residential customers which have not been reimbursed by other means are eligible for the credit. The State Tax Commissioner was authorized to prescribe such regulations as may be necessary to provide for the tax credit.

CREDIT FOR REDUCING TELEPHONE CHARGES TO LOW-INCOME FAMILIES

Telephone companies are required to provide low-cost service called Tele-Assistance Service to qualified low-income customers. Telephone companies may take a credit against Telecommunications Tax liability equal to the certified cost of providing Tele-Assistance Service. Any unused portion of the credit may be taken as a credit against Corporation Net Income Tax.

CREDIT FOR REHABILITATED BUILDINGS INVESTMENT

This credit equals 10 percent of the qualified expenditures for rehabilitation of residential and non-residential buildings designated by the National Park Service, United States Department of the Interior, as “certified historic structures” and further defined as “qualified rehabilitated structures”.

The building or area must be located within West Virginia to be eligible for the credit, and rehabilitation expenditures must be reviewed and approved by the West Virginia Department of Culture and History in order to qualify for the credit.

The credit may offset up to 100 percent of the taxpayer's liability for Personal Income Tax or Corporation Net Income Tax. For tax years beginning on or after March 9, 2002, taxpayers may transfer, sell or assign any unused tax credits after first obtaining a certificate of approval from the Division of Culture and History to transfer, sell or assign the stated amount of unused tax credit.

NEIGHBORHOOD INVESTMENT PROGRAM CREDIT

Eligible taxpayers are allowed a credit for 50 percent of eligible contributions made to a community based nonprofit organization that has received approval from the Neighborhood Investment Advisory Board and been certified by the Director of the West Virginia Development Office as the sponsor of a project performing neighborhood assistance, community services, crime prevention, housing, education, job training, and physical and environmental improvements.

An eligible contribution may consist of cash, tangible personal or real property at fair market value and in-kind professional services valued at 75 percent of fair market value. "Professional services" are limited to services provided by physicians, dentists, registered nurses, practical nurses, dental hygienists, other licensed health care professionals, lawyers and licensed public accountants. The value of in-kind professional services will not qualify as an eligible contribution unless:

1 the services are reasonably priced and valued, and reasonably necessary services customarily and normally provided by the contributor in the normal course of business to customers, clients or patients other than those encompassed by the project plan;
4. not reimbursable, in whole or in part, from sources other than the tax credit, and
5. are services which are not available elsewhere in the community.

Individual contributions must have a fair market value of at least $500 but no more than $200,000 to qualify for a credit. In addition, no more than 25 percent of total eligible contributions made by any taxpayer to any certified project may be in-kind contributions.

The maximum credit for any one taxpayer is $100,000 per year and the aggregate amount of credits that may be granted to all taxpayers in any fiscal year is capped at $3.0 million. The credit must be used within five years. The credit may be fully used in the first year or excess amounts may be carried over for use in the succeeding four years. Available credits may offset up to 50 percent of qualified taxpayer's liability for the Business Franchise Tax, and the Corporation Net Income or Personal Income Tax. Unused credits are forfeited.

Taxpayers claiming the credit against income taxes are required to increase their pre-tax income by an amount equal to the amount of the tax credit claim. Taxpayers must attach Form WV/NIPA-1, Neighborhood Investment Program Tax Credit Voucher, issued by the sponsoring organization and form WV/NIPA-2, Neighborhood Investment Program Tax Credit Schedule when filing their Business Franchise or income tax return. Form WV/NIPA-1 details the amount of credit allowed for the taxable year. Credits claimed in error are subject to recapture and a potential 10 percent penalty.

CREDIT FOR UTILITIES WITH NET OPERATING LOSS CARRYOVERS

Taxpayers subject to the Business and Occupation Tax on electric power generation and/or distribution may claim a nonrefundable credit against their Corporation Net Income Tax liability in an amount equal to 0.25 percent of their West Virginia net operating loss carryovers that existed on December 31, 2006. Any credit remaining after application against the taxpayer's tax liabilities for the current year may be carried forward to subsequent tax years until used.

MANUFACTURING PROPERTY TAX ADJUSTMENT CREDIT

Beginning in 2009, manufacturers may claim a nonrefundable credit against the Business Franchise Tax and Corporation Net Income Tax liabilities equal to the amount of local property taxes paid on West Virginia manufacturing inventory. For purposes of the Manufacturing Property Tax Adjustment Tax Credit, manufacturing inventory means, and is limited to, raw materials, goods in process, and finished goods of a business primarily engaged in business activity classified as having a sector identifier whose first two digits of its North American Industry Classification System (NAICS) Code are 31, 32 or 33. The credit may be applied against the Business Franchise Tax and the Corporation Net Income Tax.

FINANCIAL ORGANIZATION GOODWILL CREDIT

A Business Franchise Tax credit is available for any West Virginia domiciled financial organization related to additional goodwill added to the balance sheet on or after January 1, 2008 that is attributable to the acquisition of a non-domiciled bank. The credit is equal to 50 percent of the goodwill associated with the acquisition multiplied by the tax rate for the tax period.

FINANCIAL ORGANIZATION ADJUSTED TAX CREDIT

Financial organizations may qualify for a combined reporting transition tax credit equal to a portion of the increase in Corporation Net Income Tax liability over the 2008 base year resulting the requirements of combined reporting. The tax credit is equal to the net income in the tax income in the tax liability over the base year 2008 tax liability multiplied by 80 percent in 2009, 60 percent in 2010, 40 percent in 2011, 20 percent in 2012 and 10 percent in 2013. This transition tax credit may not reduce annual Corporation Net Income Tax liability below $1 million.

INNOVATIVE MINE SAFETY TECHNOLOGY TAX CREDIT

Effective for tax years beginning after December 31, 2011, a tax credit is available for investment in innovative mine safety technology equipment. The Office of Miners' Health, Safety and Training, pursuant to applications for the tax credit, may allocate no more than $2 million of Innovative Mine Safety Technology Tax Credit per fiscal year. The tax credit may be applied against

the Business Franchise Tax or the Corporation Net Income Tax. For pass-through entities (i.e., limited liability companies treated as a partnership, small business corporations, or partnership), if any credit remains after application against the Business Franchise Tax or the Corporation Net Income Tax, the credit can be applied against the Personal Income Tax liability of the owners of the pass-through entity. However, the total amount of tax credit that may be used in any taxable year by any eligible taxpayer in combination with the owners of the eligible taxpayer may not exceed $100,000.

The credit allocation as determined by the Office of Miners' Health, Safety and Training. The Innovative Mine Safety Technology Tax Credit is generally equal to 50 percent of the investment in innovative mine safety technology equipment.

PROCEDURES, CIVIL PENALTY POLICY AND TAXPAYER BILL OF RIGHTS

PROCEDURES

Complete Return

A return form is not to be considered complete if the information required to be entered on the applicable return forms is only contained in amendments or supplements thereto, including supporting schedules, attachments or lists.

Electronic Filing

Taxpayers who remit more than $10,000 per year for any single tax must file all returns for all taxes and make all payments electronically

Combined Assessments

The State Tax Commissioner may, subsequent to any investigation authorized by W. Va. Code §11-10-7(a) that results in an assessment in each of two or more taxes administered pursuant to this article, combine those assessments into a combined single assessment. In order to complete any investigation, the State Tax Commissioner may review and combine returns for the taxes that are the subject of the investigation.

If a single assessment is issued and the assessment becomes final, the State Tax Commissioner is authorized to pursue collection of the tax resulting from the combined assessment and to record a lien that includes all unpaid amounts of all finalized tax liabilities included in that combined assessment.

CIVIL PENALTY

The purpose of the statutory penalty policy is to both recognize the rights of the taxpayer and provide for the tax collection abilities of the State Tax Department. Penalties are imposed to encourage voluntary compliance by increasing the cost of non-compliance. Penalties are not deductible for federal or state income tax purposes. The following is a summary of the current penalty schedule excluding the crimes and penalties in W. Va. Code §11-9-1 et. seq.

Summary of Interest, Additions to Tax and Other Penalties

Penalty	Rate
1. Interest on underpayments	Variable rate of not less than 8% per year from the due date of return until the date the tax is paid (see chart below for rates)
2. Additions to tax for a. failure to pay amount shown due on timely filed return, or b. failure to pay balance found due within 15 days of notice and demand	0.5% of the tax due per month, 25% maximum
3. Additions to tax for failure to file return	5% of the tax due per month, 25% maximum
4. Additions to tax for negligence or intentional disregard for rules or regulations	5% of the tax due per month, 25% maximum
5. Additions to tax for filing false or fraudulent return	50% of the tax due
6. Penalty for failure to collect, account for and remit to the State Tax Department Consumers Sales Tax, Use Tax, Motor Fuel Excise Tax or Withholding Tax or evade remittance of these taxes	100% of the total amount evaded or not collected or not remitted
7. Penalty for failure to file Motor Fuel Excise Tax, Motor Carrier Road Tax, Cigarette Tax returns when no tax is due	$25 per month or each fraction thereof for each month of continuing failure to file
8. Penalty for fraudulent claim for refund or credit	50% of the amount claimed
9. Penalty for providing fraudulent employee W-2 forms or failure to furnish a W-2 form to each employee	$50 for each offense
10. Penalty for bad check	Amount equal to bank charge

11. Penalty for failure to make estimated payments	Penalty is same as IRS interest rate, where applicable, but never less than 8%
12. Penalty for failure to obtain a Business Registration Certificate	$50 per registration certificate
13. Penalty for contractor's failure to post a Business Registration Certificate	Forfeiture of right to enforce mechanics' liens
14. Penalty for transient vendor's failure to exhibit a Business Registration Certificate	Forfeiture of merchandise and vehicle
15. Penalty for late filing or late payment of Soft Drinks Tax	Forfeiture of right to purchase stamps and crowns

Interest Rate on Underpayments and Overpayments of Taxes and Fees

Semiannually the State Tax Commissioner must establish the rate of interest that must be paid on underpayments and overpayments of taxes. The following is a summary of the interest rates since January 1, 1987.

	Interest Rate for Underpayments	Interest Rate for Overpayments
January 1, 1987 - December 31, 1987	8.0%	8.0%
January 1, 1988 - June 30, 1989	9.0%	9.0%
July 1, 1989 - June 30, 1990	11.0%	11.0%
July 1, 1990 - December 31, 1991	10.0%	10.0%
January 1, 1992 - June 30, 1992	9.0%	9.0%
July 1, 1992 - December 31, 1995	8.0%	8.0%
January 1, 1996 - December 31, 1996	9.0%	9.0%
January 1, 1997 - December 31, 1997	8.0%	8.0%
January 1, 1998 - December 31, 1998	9.0%	9.0%
January 1, 1999 - June 30, 2000	8.0%	8.0%
July 1, 2000 - December 31, 2001	9.0%	9.0%
January 1, 2002 - June 30, 2002	8.0%	8.0%
July 1, 2002 - December 31, 2011	9.5%	8.0%

Rules for Personal Income Tax Underpayments

For Personal Income Tax purposes, additions to tax are due on the excess of the amount of the installments that should have been paid over the amount of the installments paid. The total amount of the installments that should have been paid must be

1. either 90 percent of the tax shown on the annual return for the tax year divided by the number of installments required to have been paid, or
2. 90 percent of the tax for such year divided by the number of required installment payments, if no estimated returns were filed.

When determining the period of underpayment, the due date for the annual return is to be determined without regard to any extension of time for filing. Payment of any portion of an underpayment will be credited against unpaid required installments in the order in which such installments were due.

There will be no additions to tax for underpayments of estimated tax if the total amount of all installments equals or exceeds the lesser of

1. 100 percent of the prior year's tax, or
2. the annualized income installment.

The annualized income installment is determined by subtracting the aggregate amount of any prior required installments for the taxable year from the amount equal to the applicable percentage of tax for the taxable year from the following table:

In the case of the following required installments:	the applicable percentage is:
First	22.5
Second	45.0
Third	67.5
Fourth	90.0

No addition to tax will be imposed if the tax on the return, less the credit for withheld tax, is less than $600. Also, no additions to tax are imposed if all of the following conditions are met:

1. the preceding taxable year was twelve months;
2. the taxpayer had no West Virginia Personal Income Tax liability for the preceding taxable year;
3. the taxpayer was a United States citizen or resident throughout the preceding taxable year, and
4. the West Virginia Personal Income Tax liability for the current taxable year is less than $5,000.

There will be no additions to tax on underpayments of the fourth installment of estimated tax if the taxpayer files his or her annual Personal Income Tax return on or before the last day of the first month following the end of the tax year. The taxpayer must pay the full amount computed on the return. The State Tax Commissioner can waive additions to tax because of casualty, disaster, etc.

Additions to tax are also not imposed on the tax liability of an estate for a tax year ending before two years after the date of the decedent's death. This rule also applies to trusts treated as owned by the decedent and to which the residue of the decedent's estate passes by will.

For a farmer, there is only one required installment. The due date for this installment is January 15 of the following year. The amount of the installment is 66 2/3 percent of the tax due. The required installment is treated as the fourth installment. There will be no additions to tax on underpayments of estimated tax if the taxpayer files his or her annual Personal Income Tax return and pays the amount due on or before March 1.

TAXPAYER BILL OF RIGHTS

The civil penalty policy for taxes under the West Virginia Code is balanced by a number of provisions designed to protect the rights of taxpayers. The State Tax Commissioner shall abate any portion of any penalty or addition to tax attributable to erroneous advice furnished to a taxpayer in writing by an officer or employee of the Tax Department. The State Tax Commissioner may also abate interest due to any deficiency attributable, in whole or in part, to any error or delay by an officer or employee of the Tax Department. Finally, interest is to be paid on all refunds of Personal Income Tax not made to a taxpayer within ninety days of the date the claim for refund was made with the State Tax Commissioner and all refunds of Corporation Net Income Tax not made within six months.