W E S T V I R G I N I A

DEPARTMENT OF REVENUE

Joint Select Committee on Tax Reform
Severance Taxes & Property Tax

DEPUTY REVENUE SECRETARY **MARK B. MUCHOW**
GENERAL COUNSEL **MARK S. MORTON**
PROPERTY TAX DIRECTOR **JEFF AMBURGEY**

West Virginia State Capitol
September 14, 2015

Origin of the State Severance Tax

Gross Sales Tax Law - 1921

- The “fairest tax” replaced a tax on corporate profits & an unconstitutional gas pipeline tax as of July 1, 1921

- Base of tax was business gross receipts > $10,000

- Tax Rate on Mining: 0.40% of gross receipts

Origin of the State Severance Tax

Renamed Business & Occupation Tax - 1925

- <u>Tax Rates on Mining with $10,000 Gross Income Exclusion:</u>

– Coal:	0.42% of gross receipts
– Oil:	1.00%
– Natural Gas:	1.85%
– Limestone, Sand & Other:	0.45%
– Timber:	0.21%

Origin of the State Severance Tax

Business & Occupation Tax – 1933 Changes

- $10,000 Gross Income Exclusion Eliminated
- $5,000 Gross Income Exclusion for Natural Gas Only
- $25 Per Year Exemption Credit Created

– Coal:	1.00% of gross receipts
– Oil:	3.00%
– Natural Gas:	6.00%
– Limestone, Sandstone:	1.50%
– Sand Gravel & Other:	3.00%
– Timber:	1.50%

Origin of the State Severance Tax

Business & Occupation Tax – 1935 Changes

- 30% Surtax Added to Base Rates

– Coal:	1.30% of gross receipts
– Oil:	3.90%
– Natural Gas:	7.80%
– Limestone, Sandstone:	1.95%
– Sand Gravel & Other:	3.90%
– Timber:	1.95%

Origin of the State Severance Tax

Business & Occupation Tax – 1971-75 Changes

- New Rates Imposed in 1971

– Coal:	3.50% of gross receipts
– Oil:	4.34%
– Natural Gas:	8.63%
– Limestone, Sandstone:	2.20%
– Sand Gravel:	4.34%
– Timber:	2.20%
– Other:	2.86%

1975 – 0.35% Local Coal Added to 3.50% State Tax

Origin of the State Severance Tax

Renamed Severance Tax – 1985-87 Changes

1985: B&O Tax on Natural Resources to be
renamed Severance Tax on July 1, 1987

- Tax rates to converge to 4.00% by July 1992
- New Gas wells taxed at 4.00% on or after July 1, 1987
- $5,000 income exclusion for Natural Gas Repealed
- Timber Rate to remain at 2.5%

Origin of the State Severance Tax

1989 Tax Changes

Severance Tax Rates increase to 5.00%

- Coal at 5.0% as of March 1, 1989
- New Gas wells taxed at 5.00% on or after March 1, 1989
- Old Gas well tax rates phase-down to 5.00%
- Timber Rate increased to 3.22%

Origin of the State Severance Tax

Changes Since 1989

1990: Minimum Coal Tax imposed at 50 cents/ton

1993: Minimum Coal Tax rate increased to 75 cents

1996: 10% of Oil and Gas Tax to Local Governments

1997: Thin-Seam Coal Rates Enacted

2001: Coal waste taxed at 2.5% - Local Distribution

2005: Workers' Compensation Severance Taxes Added

2010: Regular Timber Severance Tax Rate to 0% for 3+ Years

2012: Phase-in of a 5% State coal severance tax sharing program

Tax	Base
Natural Gas 5% of gross value at the well head.	Gross value at the well head -- before any processing or transportation Net of 11-13A-3a(a) exclusions (1) Free gas provided to a surface owner; (2) Low volume well less than 5 mcf/day (3) 5 year shut in well placed back into production If purchased away from the well head – then deduct transportation allowance to obtain wellhead value.
Workers' Compensation severance tax on natural gas $.047 per mcf	MCF of natural gas at the well head.
Oil 5% of gross value at the well head.	Gross value at the well head -- before any processing or transportation. Net of 11-13A-3a(a) exclusions (1) Free gas provided to a surface owner; (2) Low volume well less than ½ barrel/day (3) 5 year shut in well placed back into production If purchased away from the well head – then deduct transportation allowance to obtain wellhead value.
Oil Shale 5% of gross value after retorting.	Gross value severed & processed – crushing, loading into a retort and retorting. In the case of oil shale, extraction from the ground, crushing, loading into the retort and retorting, but not hydrogenation, refining or any other process subsequent to retorting shall be part of the privilege taxed.

Tax	Base
Coalbed methane 5% of gross value at the well head.	Gross value at the well head -- before any processing or transportation. If purchased away from the well head – then deduct transportation allowance to obtain wellhead value.
Workers' Compensation severance tax on coalbed methane $.047 per mcf	MCF at the well head.
Natural gas liquids (these are classified as "other natural resources") 5% of gross value at the well head.	Gross value at the well head -- before any processing or transportation. If purchased away from the well head – then deduct transportation allowance to obtain wellhead value.
Sandstone, limestone 5% of gross value	Gross value immediately upon severance from the Earth before any processing or transportation. On the mine or quarry floor -- before any processing or transportation. If purchased away from the mine or quarry floor – then deduct transportation allowance to obtain wellhead value.
Other natural resources 5% of gross value	Gross value immediately upon severance from the Earth before any processing or transportation.
Minerals Not Customarily Sold in Crude Form 5% of gross value after processing	Gross value after processing -- In the case of other minerals which are not customarily sold in the form of the crude mineral products, crushing, grinding and beneficiation by concentration (gravity, flotation, amalgamation or electrostatic or magnetic), cyanidation, leaching, crystallization, precipitation (but not including electrolytic deposition, roasting, thermal or electric smelting or refining), or substantially equivalent processes or combinations of processes used in the separation or extraction of the product or products from the ore or the mineral or minerals from other material from the mine or other natural deposit shall be part of the privilege taxed.

Natural Gas Transportation Allowance. –

Value is determined at the well head. Where natural gas is transported to a place distant from the well head for use, consumption or further processing, the cost of transporting the natural gas is not included in the value of product taxed.

Actual Transportation Costs Deduction -- must be supported by schedules and statements of cost by the producer and will be subject to review and audit, and possible assessment or refund as a result of such audit, by the Tax Department.

FERC Alternative -- producers who are subject to regulation by the Federal Energy Regulatory Commission (FERC) under the Natural Gas Act of 1978 may use the first sale ceiling price as determined by FERC §2(21) of the Natural Gas Policy Act report as the value of their gas production the regulation as an amount equal to the Purchased Gas Adjustment (PGA) filed bi-annually with FERC plus any reimbursement of personal property taxes and business and occupation taxes or other severance taxes made by purchasers on sale of affected gas if included in the PGA costs.

Average Pool Price –alternative -- Well-mouth value of production may be determined by the average purchase price of natural gas from the same pool or field, or, in the event no gas is purchased from the same pool or field, by average purchase price of natural gas from the most proximate pool or field, of gas with he same quality and characteristics.

15% Safe Harbor -- Value of gas not sold at the well-mouth may be determined by a deduction of transportation and transmission costs in the amount of 15% of the gross proceeds

Coal Tax (fee)	Base
Workers' Compensation severance tax on coal $0.56 per clean Ton	Tons of clean coal
Minimum severance tax $0.75 per Ton of clean coal. Does not apply to thin seam coal	Tons of clean coal
Regular coal severance tax 5% of gross value w/ credit for Min. Severance Tax paid. (4.65 State component + 0.35 County component = 5%: §11-13A-6)	Gross value of coal severed & processed Coal Processing cleaning / dust alloying breaking / blending crushing / freeze-proofing screening / loading coal sizing / for shipment.
Thin seam coal severance 37 - 45 In. = 2% of gross value Less than 37 In. = 1% of gross value Rate includes 0.35% county tax	Gross value of coal severed & processed
Special reclamation tax 27.9 cents per clean ton	Tons of clean coal mined
Special tax on coal production 2 cents per clean ton	Tons of clean coal sold
Waste coal severance tax 2.5% of Gross value of coal severed and processed. waste coal is **not** subject to: Regular coal severance tax, County component severance tax or Minimum severance tax	Gross value of waste coal severed and processed
Coal resource transportation road fee $0.05 (five cents) per ton of coal hauled over the road.	Tons of coal hauled over the road. Fee payable by shippers of coal that operate under a special permit, issued under §17C-17A-5, for the privilege of loading coal in excess of 88,000 pounds for transport on a coal resource transportation road. This fee is collected and administered by the PSC.

Determination of Gross Value -- Code of State Rules §110-13A-2a.

Gross Value gross value is the amount received or receivable by the taxpayer at the point of severance. For all natural resources, "gross value" is to be reported as follows:

Sale at Future Date. Payment tax is delayed until the point in time when the taxpayer recognizes gross income.

Change in tax rate. -- Gross income will be taxed at the rate in effect in the period in which the gross income is recognized and reported.

No Deduction of Expenses. -- Gross value shall **NOT** be reduced by:

- Any state or federal taxes, including, but not limited to
  - Federal black lung tax,
  - Federal reclamation taxes or
  - State reclamation taxes,
- Royalties,
- Remuneration paid to a contract driller or contract miner
- Sales commissions or
- Any other expense.

Contract Processing -- A taxpayer owning minerals purchased or brought into WV for processing activities subject to the severance tax may **NOT** take a deduction from gross value for amounts paid to an independent contractor to perform the processing services.

Processing Minerals Not Severed By Taxpayer. –

Processing of minerals where processing is part of the taxable privilege is taxable to the processor.

Minerals purchased from an unrelated party to be processed for resale – Taxable gross value is the amount received from the sale of the processed mineral, reduced by the amount paid or payable to the person that sold the mineral to the processor.

Minerals severed by the taxpayer or a related party outside of WV, to be processed in WV for resale -- Taxable gross value is the amount received by the taxpayer from the sale of the processed mineral, reduced by the gross value of the unprocessed natural resource product.

Minerals purchased or severed outside of WV and imported into WV to be processed in WV for the purpose of sale to related parties or to be used or consumed in the taxpayers business, the values determined under Section 2a.6 for related party transactions determine taxable gross value.

Related Party Sales

Sales to Related Party or Minerals Severed and Used or Consumed By Taxpayer. -- Gross value shall not be less than the fair market value for minerals of similar grade and quality – Gross value is the greater of (1) or (2) as follows:

(1) Similar sales

(A) Minerals sold to a related party or consumed by the taxpayer shall be determined by applying the average prices at which sales of like kind, grade and quality are made by the taxpayer during the taxable year to non-related customers of the producer.

(B) If there are no sales of similar products by the taxpayer to non-related customers of the taxpayer then gross value is determined according to the selling price at the place of use or consumption of similar products of like quality and character by other taxpayers.

(2) Gross value may never be less than: the greater of

(A) Actual gross proceeds of sale or

(B) The actual total cost of producing the minerals, whichever is greater.

The person responsible for payment of the severance tax under West Virginia law is the owner of the "economic interest."

West Virginia Code §11-13A-2(c)(4):

"Economic interest" for the purpose of this article is synonymous with the economic interest ownership required by Section 611 of the Internal Revenue Code in effect on the thirty-first day of December, one thousand nine hundred eighty-five, entitling the taxpayer to a depletion deduction for income tax purposes: Provided, That a person who only receives an arm's length royalty shall not be considered as having an economic interest.

West Virginia Code §11-13A-2(c)(13):

"Taxpayer" means and includes any individual, partnership, joint venture, association, corporation, receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind engaged in the business of severing or processing (or both severing and processing) natural resources in this State for sale or use. In instances where contracts (either oral or written) are entered into whereby persons, organizations or businesses are engaged in the business of severing or processing (or both severing and processing) a natural resource but do not obtain title to or do not have an economic interest therein, **the party who owns the natural resource immediately after its severance or has an economic interest therein is the taxpayer**.

The economic interest typically lies with the person or entity that owns the mineral immediately after severance.

Severance Tax Summary FY 2015**

Updated 8/27/2015

	Regular State Severance Tax*		Workers' Compensation Debt Fund Severance Tax		Local Government Tax Distribution		Total Severance Tax	
Coal	$	276,715,111	$	64,390,147	$	34,453,053	$	375,558,311
Natural Gas	$	123,930,147	$	57,675,755	$	12,594,931	$	194,200,833
Oil	$	18,863,640	$	-	$	2,297,077	$	21,160,717
Sand, Gravel	$	223,343	$	-	$	-	$	223,343
Limestone, Sandstone	$	1,251,469	$	-	$	-	$	1,251,469
Timber	$	-	$	3,430,520	$	-	$	3,430,520
Other	$	14,457,674	$	-	$	-	$	14,457,674
Unclassified	$	1,731,116	$	207,503	$	-	$	1,938,619
Total	$	437,172,499	$	125,703,925	$	49,345,061	$	612,221,486

* First $23 million collected is dedicated to the State Infrastructure Bond Fund

** Preliminary results as reconciled with OASIS Reports-subject to revision

Severance Tax Summary FY 2014

Updated 8/27/2015

	Regular State Severance Tax*		Workers' Compensation Debt Fund Severance Tax		Local Government Tax Distribution		Total Severance Tax	
Coal	$	320,242,987	$	63,729,623	$	23,174,978	$	407,147,587
Natural Gas	$	160,006,036	$	42,732,859	$	954,523	$	203,693,419
Oil	$	25,773,482	$	-	$	-	$	25,773,482
Sand, Gravel	$	211,254	$	-	$	-	$	211,254
Limestone, Sandstone	$	1,124,683	$	-	$	-	$	1,124,683
Timber	$	-	$	2,948,756	$	-	$	2,948,756
Other NEC	$	4,327,077	$	48,782	$	-	$	4,375,859
Total	$	511,685,518	$	109,460,020	$	24,129,501	$	645,275,039

Current Tax Rates – Coal

75 Cent Minimum Tax Does Not Apply Unless Coal Price is < $16.13 Per Ton

1. Temporary 56 cents per ton sold
2. 4.65% State Tax plus 0.35% local tax
   - Thin Seam-State rate – No reduction in local tax rate
     - 1.65% rate if underground seam between 37” and 45”
     - 0.65% rate if underground seam less than 37”
   - Waste Coal : 2.5% local tax in lieu of 5.0% tax
3. Coal Reclamation Fee: $0.279/clean ton mined
4. DEP Administrative Fee: $0.02/clean ton sold
5. Coal Resource Transportation Fee: $0.05/ton
   - Payable by shippers of coal under special permit
   - Privilege of hauling more than 88,000 pounds on coal roads

Estimate of Clean Tons of WV Coal

U.S. EIA Revised Estimate for CY2014: 112 Million tons

Workers' Compensation Tax @ 56 cents

- FY2014: $63.7 million = 113.8 million tons

- FY2015: $64.4 million = 115.0 million tons

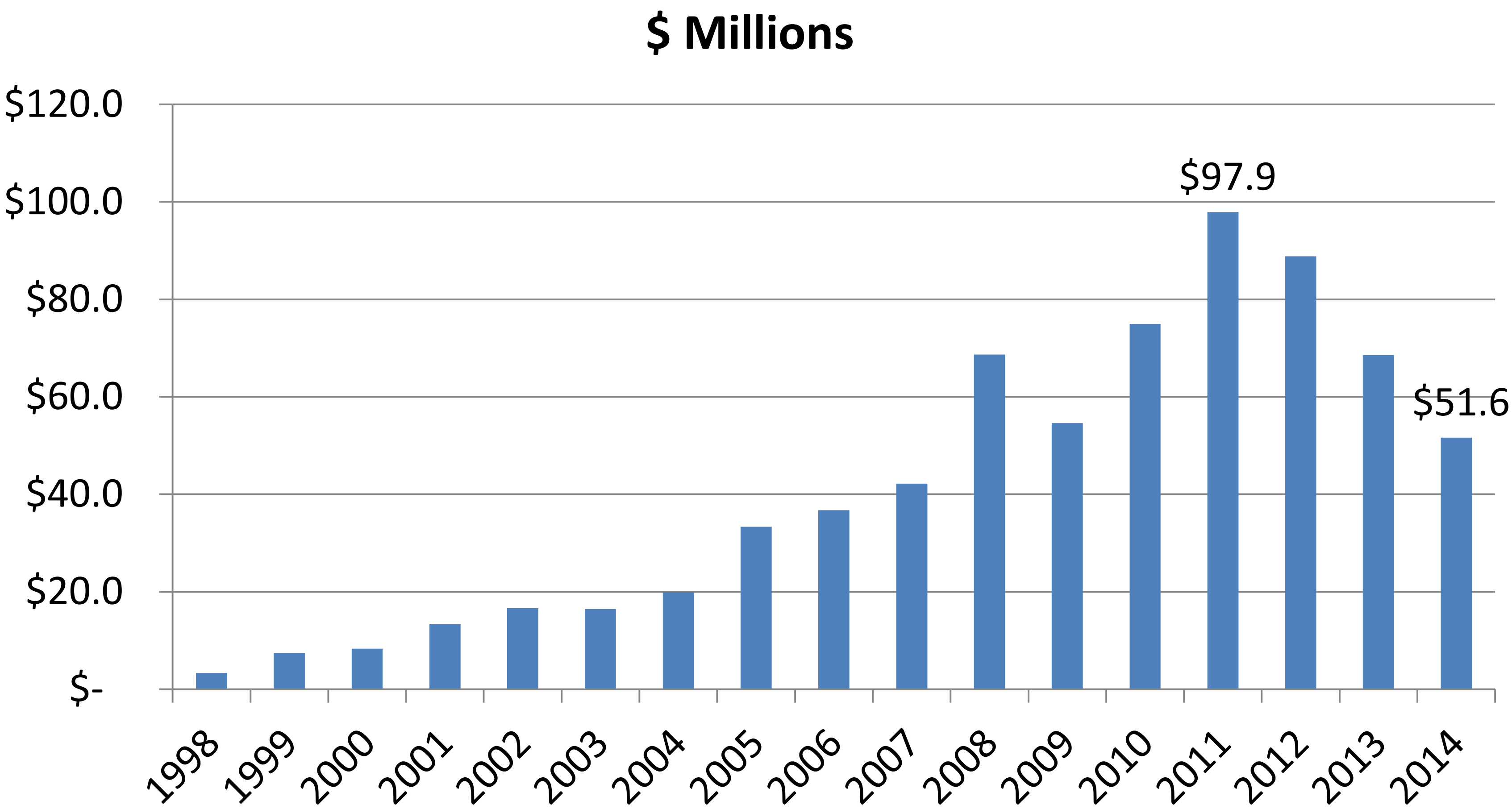
<u>July-August</u>

- YTD FY2016: $6.7 million = 11.9 million tons
- YTD FY2015: $7.8 million = 13.9 million tons
  - Net Change: -14.6%

Coal Severance Tax Preferences

- Thin-Seam Underground Tax Rates
  - Estimated 15-25 million tons/year
  - 1.65% rate: 60% of tonnage ($34.7 million in TY2013)
  - 0.65% rate: 40% of tonnage ($33.9 million in TY2013)
- Coal-Loading Facility Tax Credit:
  - 10% investment tax credit [transfer to rail or barge]
  - 1.1 million/year
- $500 Annual Credit: $40,000 or less
- Reclamation Fee Credit

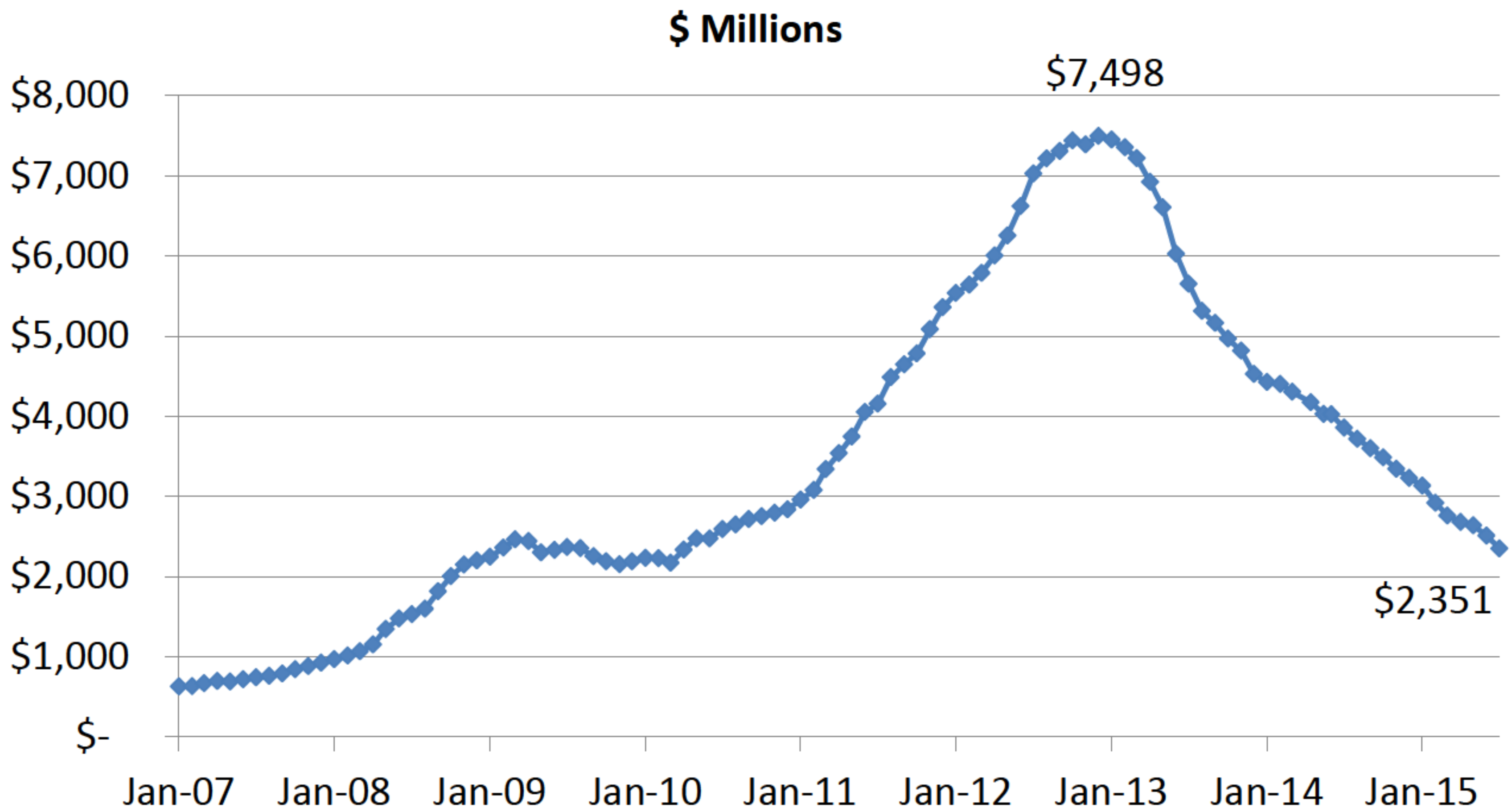
Value of Thin-Seam Tax Rate Preference Tied to Metallurgical Coal Market



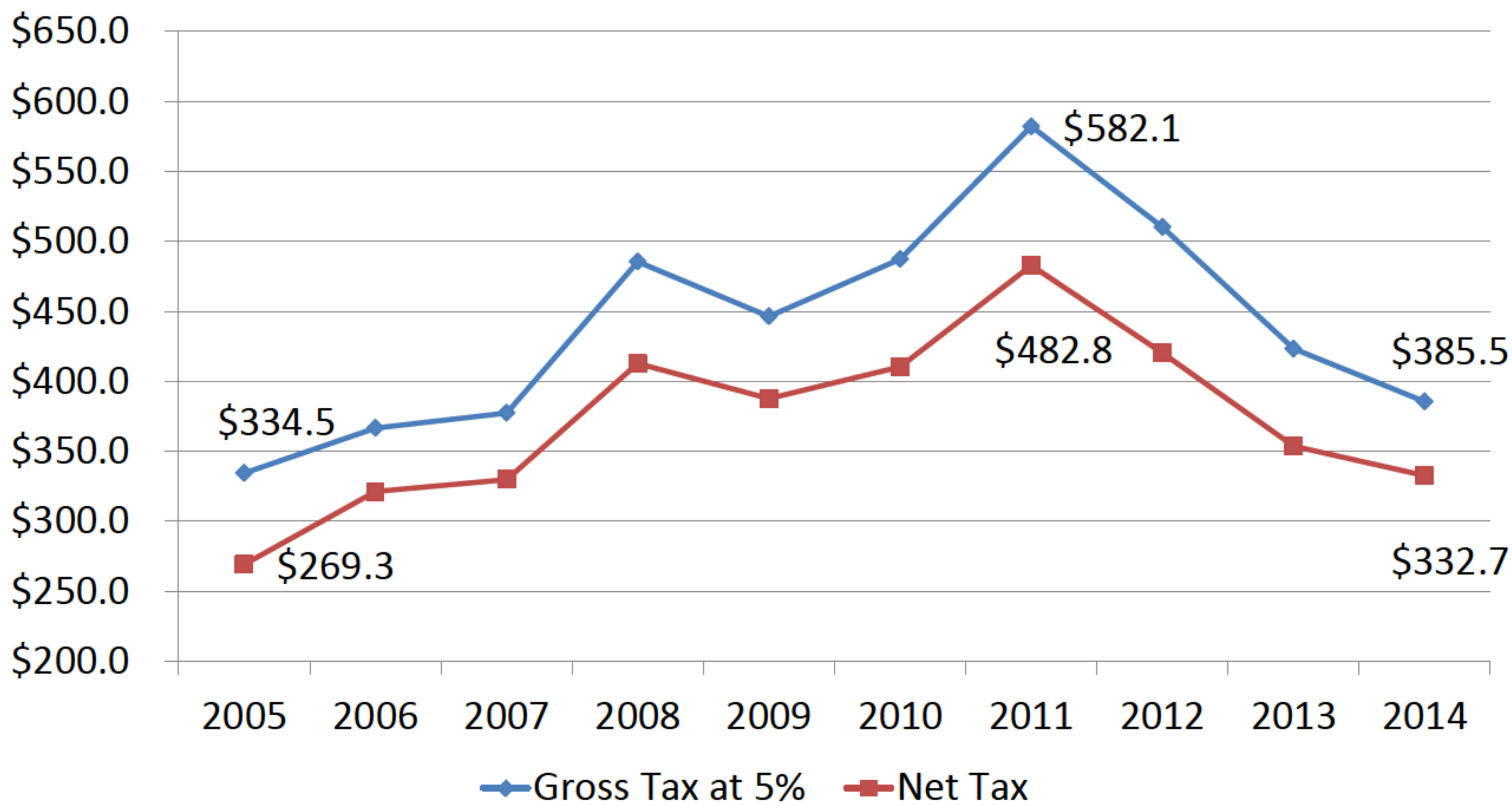
West Virginia Non-Manufacturing Good Exports Down 69% Since 2012

Trailing 12 Month Trend: July 2015

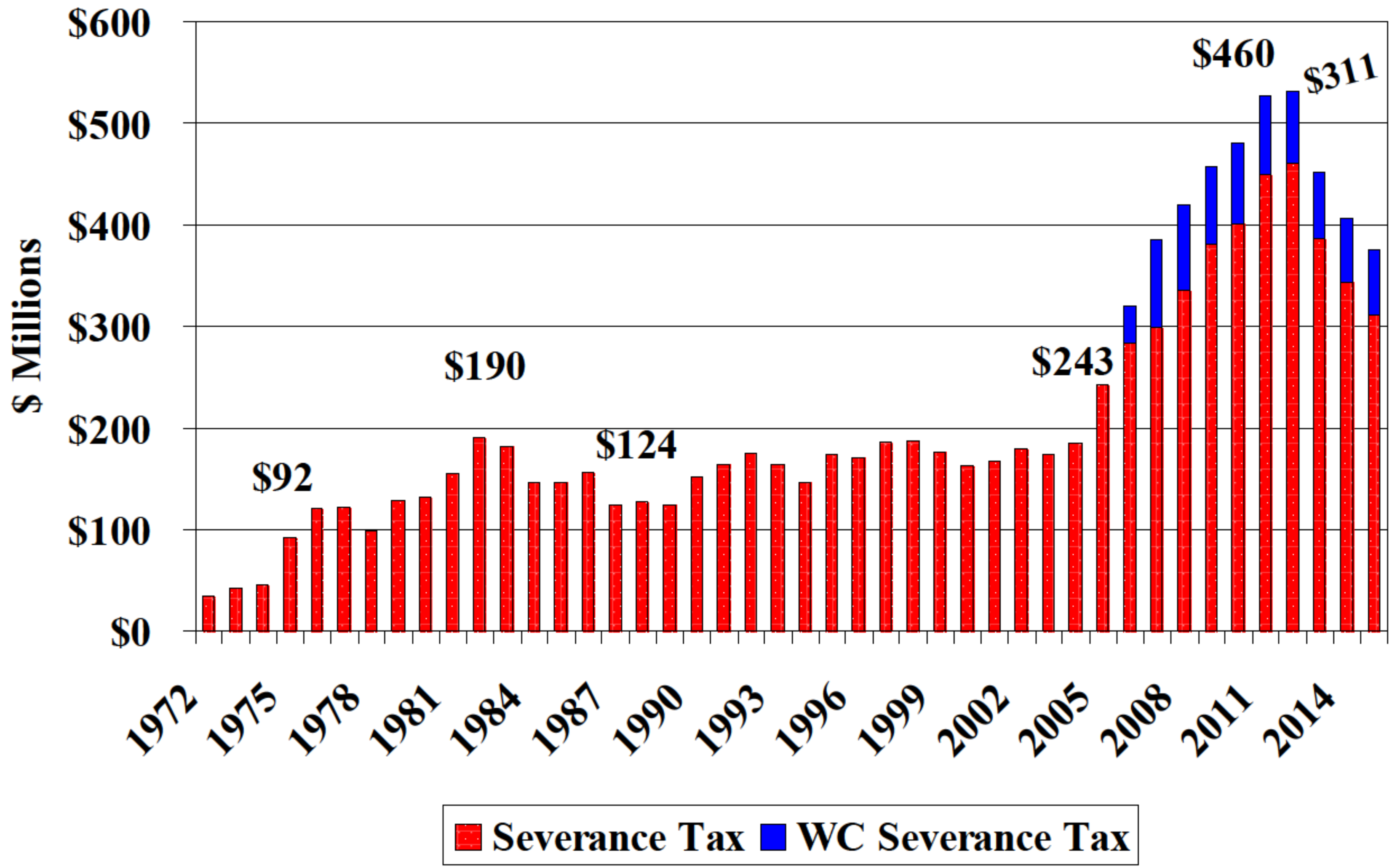
Source: U.S. Census Bureau



Coal Severance Tax Revenue Trends by Tax Year-Annual Return Data



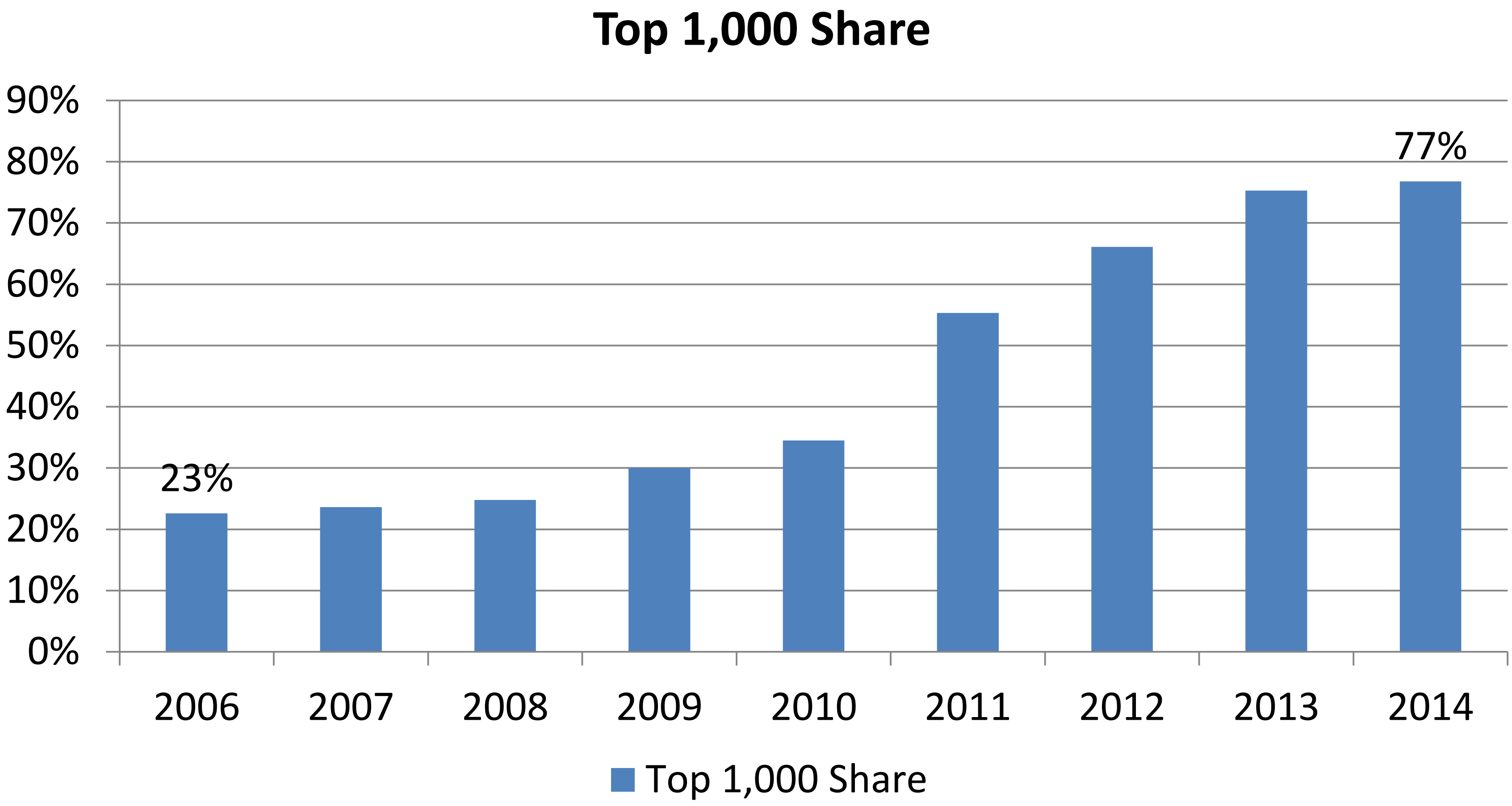
State and Local Coal Severance Tax Revenue Trends: 1972-2015



Current Tax Rates – Natural Gas & Oil

1. Temporary 4.7 cent tax per 1,000 cubic feet: Natural Gas
2. 5.00% State Tax on value at the well-head
   - Gross Receipt Exclusions
     - Free natural gas provided to surface owner
     - Low Volume well exclusion for Less Than 5,000 cubic feet per day (NG)
       - » Less than 2% of production
     - Low-Volume well exclusion for Less Than One-Half Barrel of Oil per day
       - » Less than 6% of production
     - 10-Year exclusion for vertical wells shut-in for period of 5 or more years
   - Other Tax Preferences
     - Manufacturing Investment Tax Credit – Gas Processing Facilities
     - $500 annual credit: < $2 million/year
3. 5.00% Local Tax on Coal-Bed Methane at the well-head

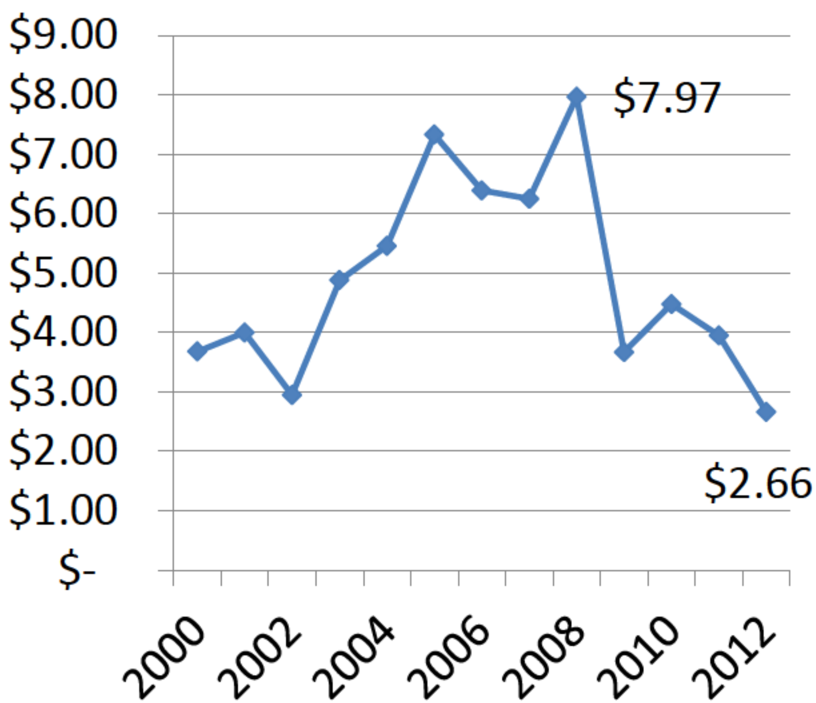
Natural Gas Production Shifting to Larger Horizontal Wells



Average Well-Head Price for Natural Gas Plays Major Role in Determination of Tax Yield

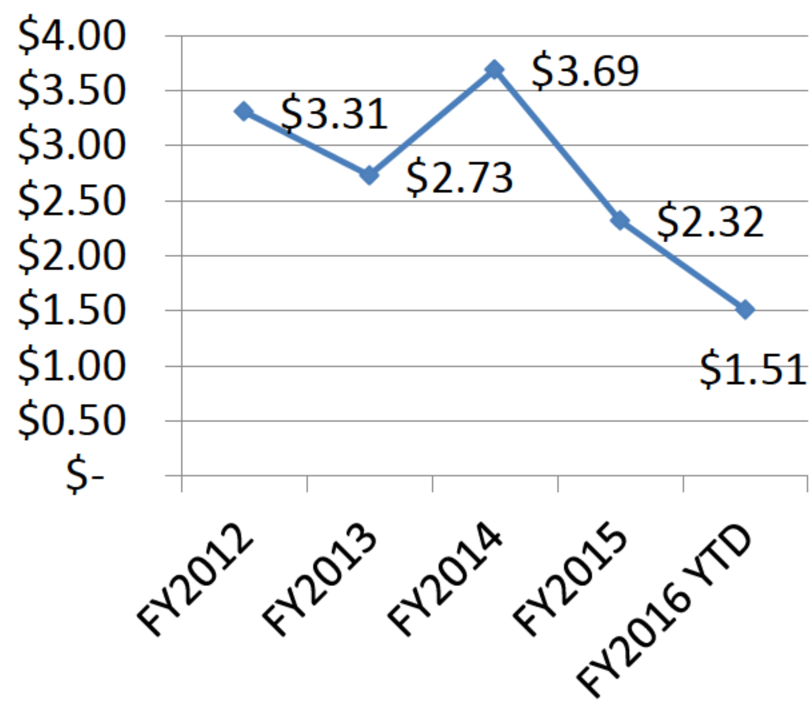
U.S. Average Price (EIA)

$/MCF

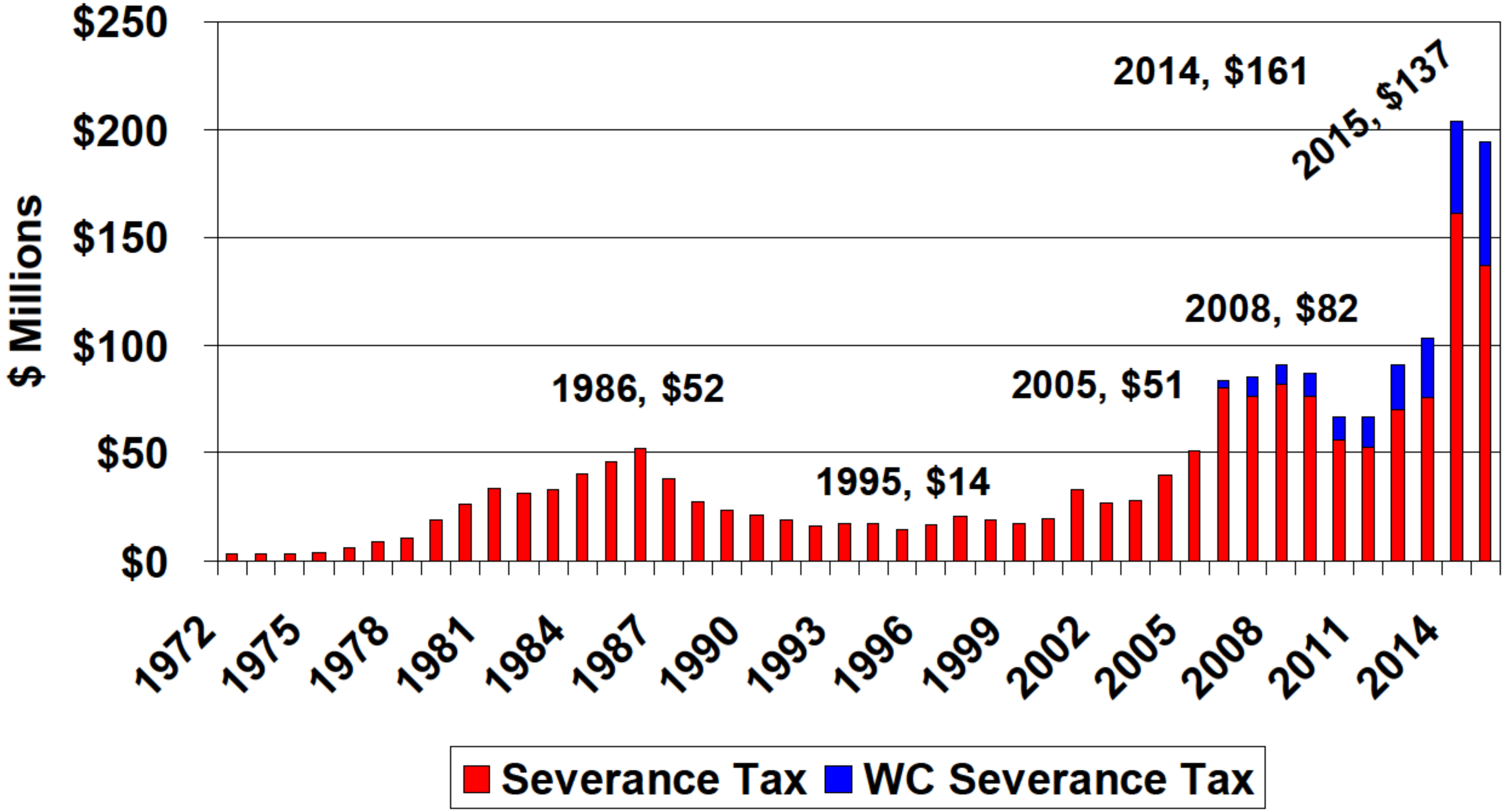


WV Average Price – Tax Data

$/MCF



WV Natural Gas Severance Tax Collections by Fiscal Year 1972-2015



Timber Severance Tax

Current rate is 2.78%

Tax base is the fair market value of the timber at the point where the tree is severed and delimbed on the forest floor.

Timber sold on the ground after bucking operations,

(1) Located where the trees were felled in the forest or

(2) At a central collection point,

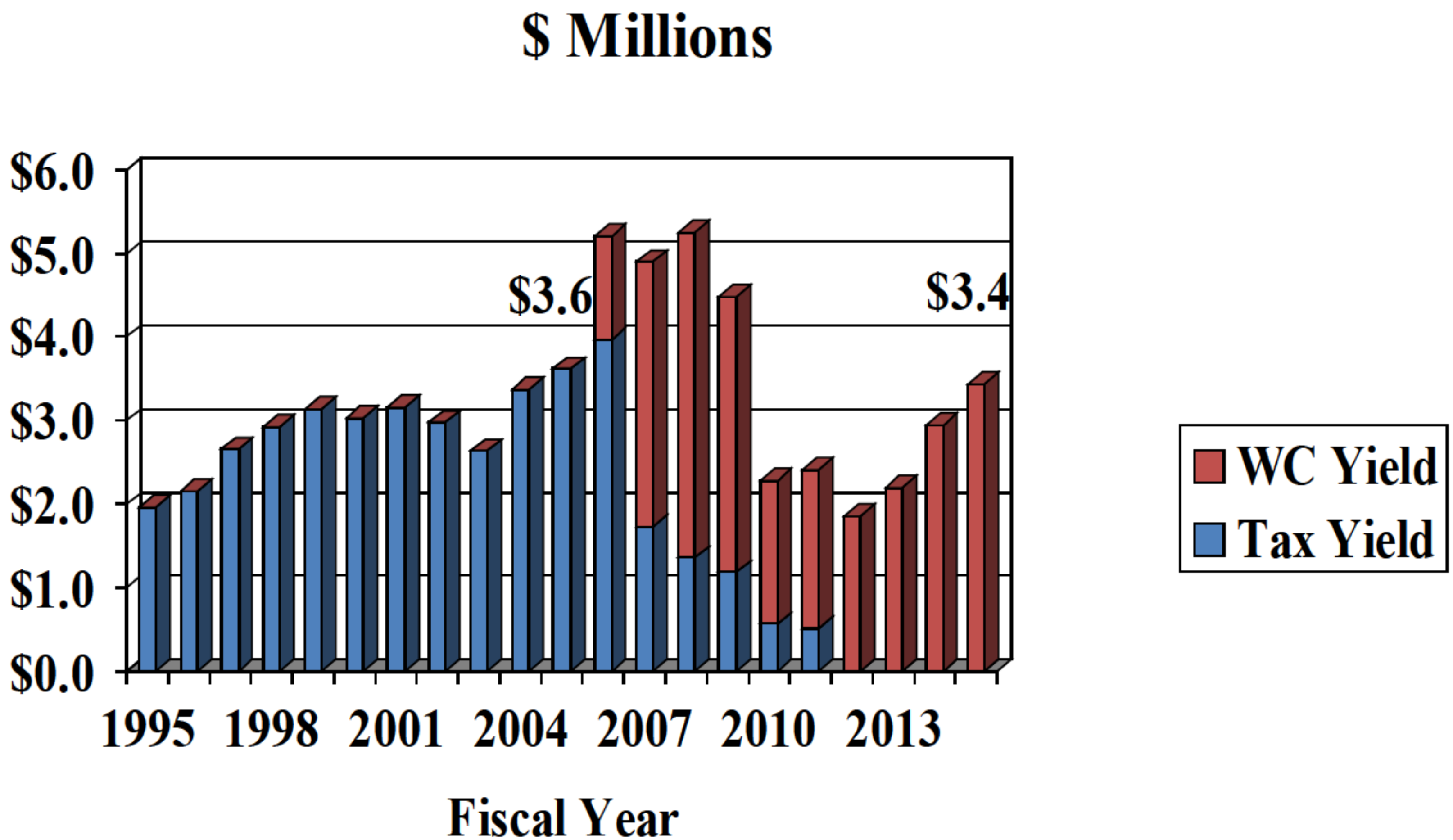
shall report **75%** of the gross proceeds of sale as the severance tax value.

Bucked Timber (logs) delivered to and sold at a saw mill, other manufacturer or consumer, shall report **50%** of the gross proceeds of sale as the severance tax value.

Lumber sold after it is sawn, milled or otherwise manufactured into lumber, cross ties, timbers, veneer and other products for sale, shall report **25%** of gross proceeds of sale under the severance tax

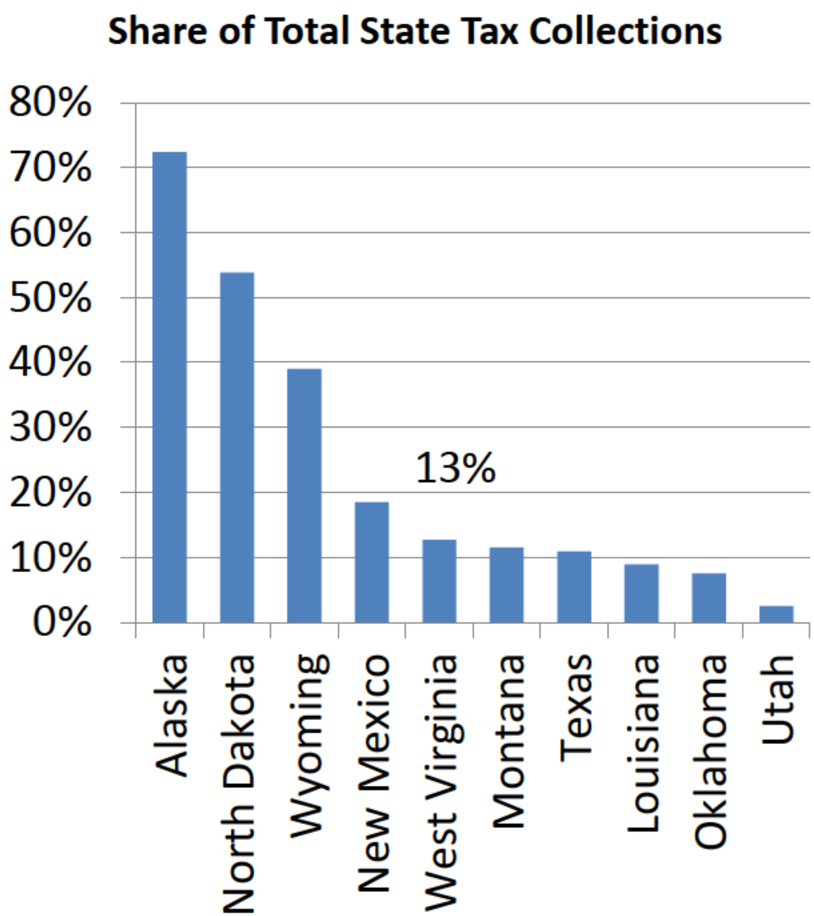
Total Severance Tax & Workers' Comp Tax

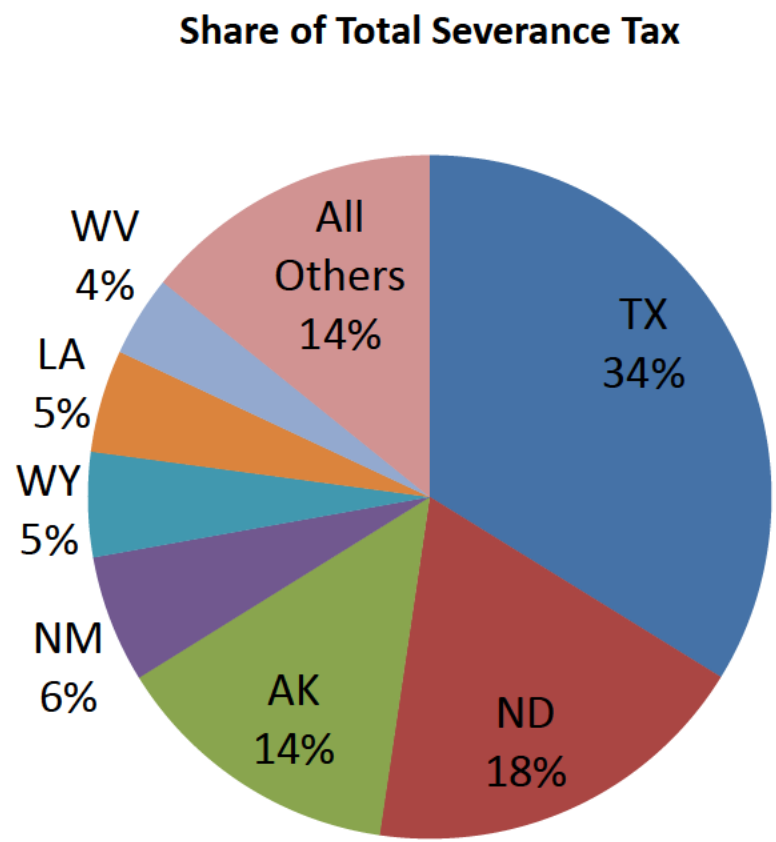
Division of Forestry Received Proceeds of Regular Tax



Severance Taxes: 3% of Total Tax in 35 States in FY2014

Source : U.S. Census Bureau

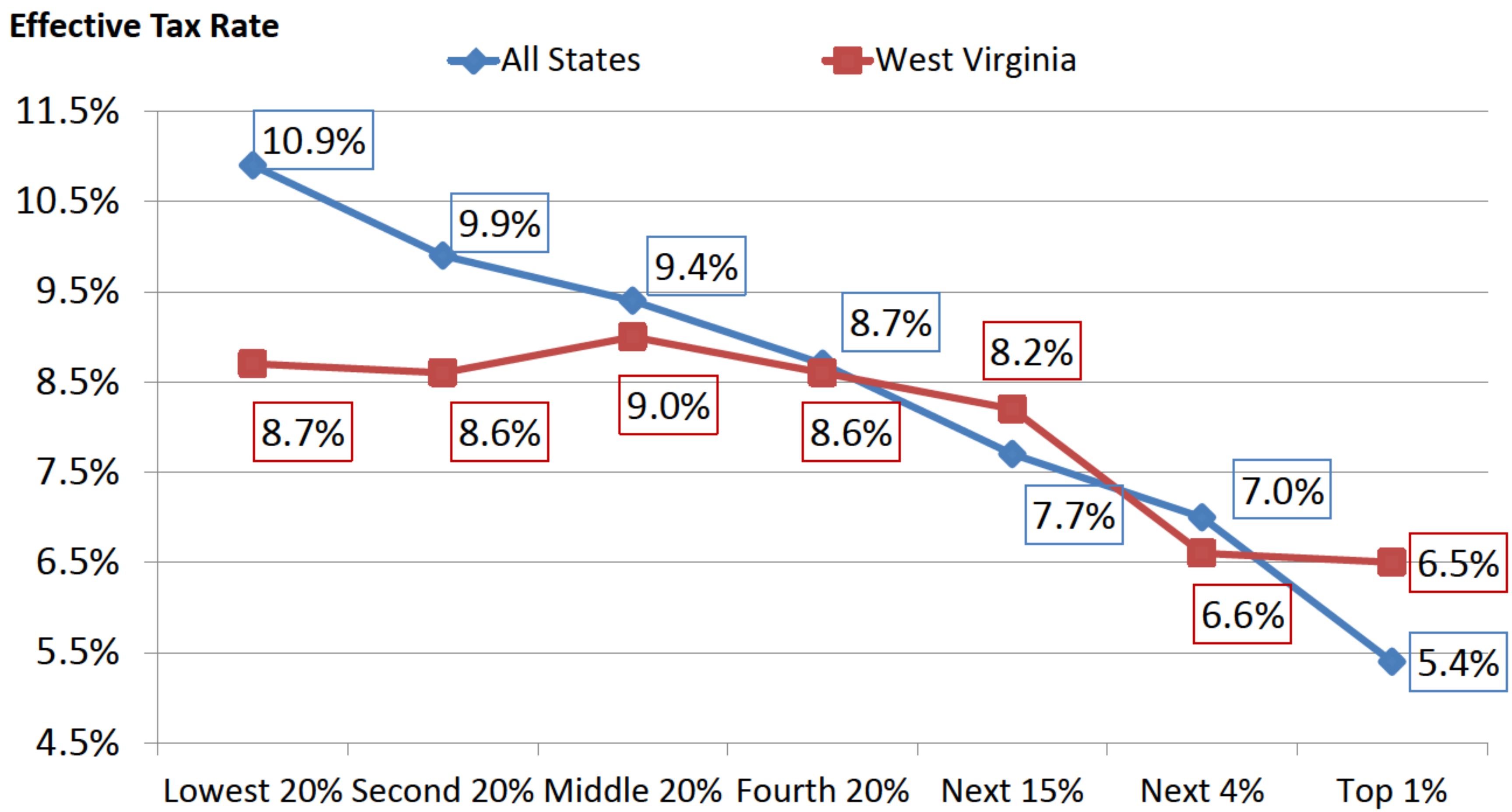




Severance Tax Funds: A Contributing Factor Toward Lower Than Average Individual Tax Burden In West Virginia

Estimated Tax Burdens By Income Level: Non-Elderly

Source: Institute on Taxation & Economic Policy: *Who Pays? A Distributional Analysis of the Tax Systems in All 50 States* January 2015

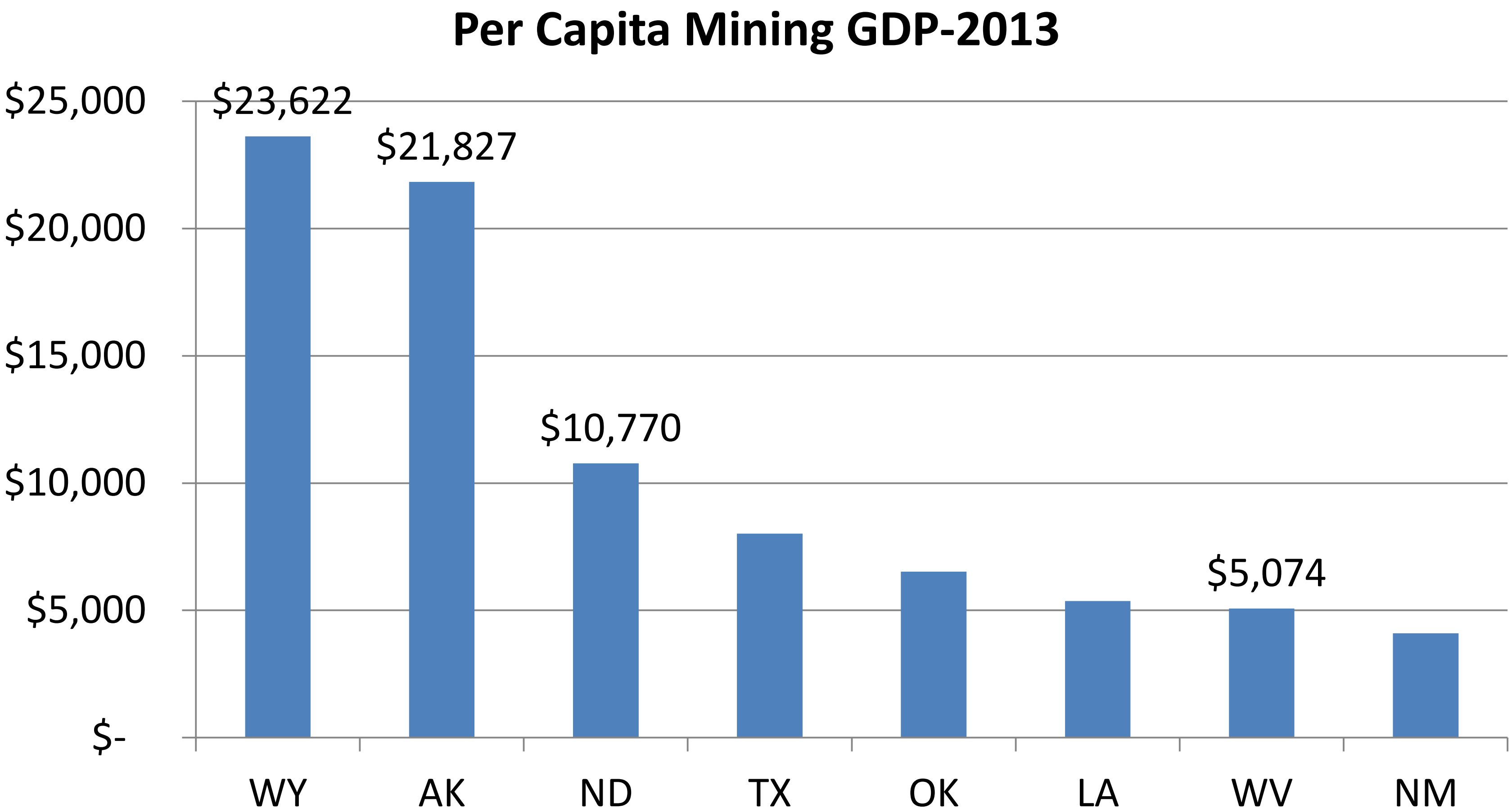


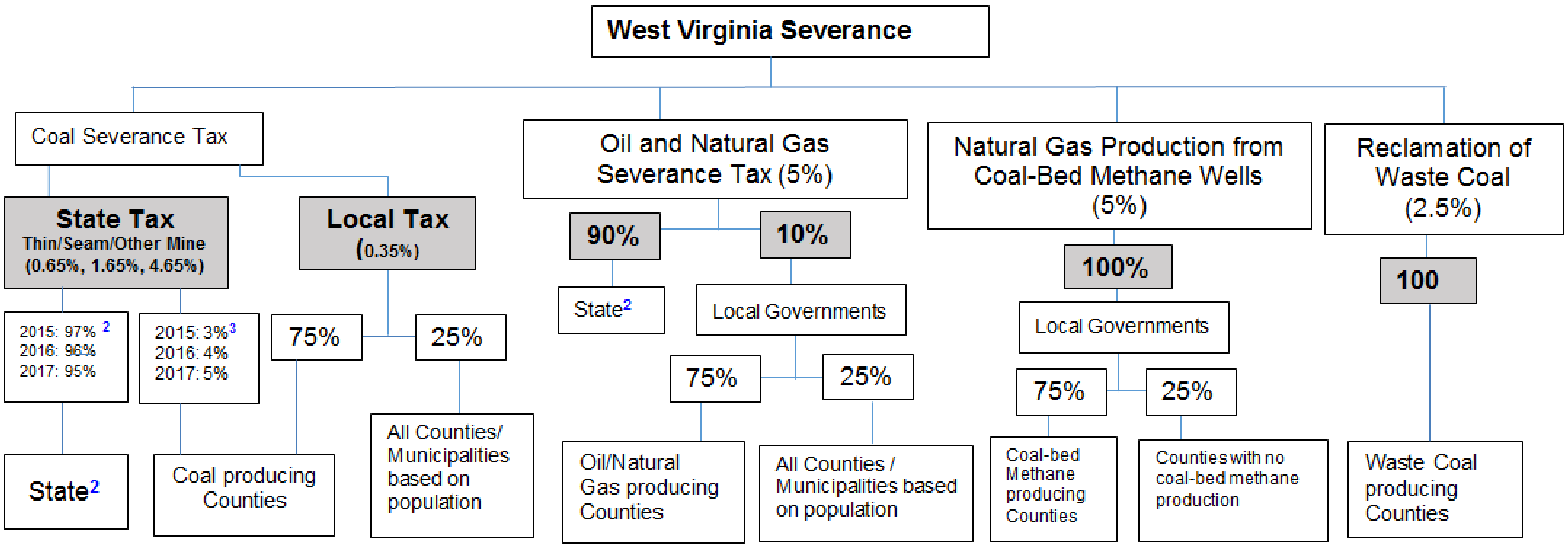
States With Significant Severance Tax Revenues Have Higher Expenditures For Key Services
Lower Price for Resident = Higher Demand for Services

State #1 = Highest #50 = Lowest	Per Capita Personal Income 2014	K-12 Education Per $1,000 of Personal Income FY2013	Higher Education Per $1,000 of Personal Income FY2014	Highways Per $1,000 of Personal Income FY2012	Police Protection Per $1,000 of Personal Income FY2012	Medicaid Per $1,000 of Personal Income FY2012
AK	#10	#1	#3	#2	#4	#8
NM	#46	#11	#2	#25	#7	#13
ND	#7	#44	#4	#1	#46	#45
WV	#50	#6	#11	#7	#40	#22
WY	#8	#4	#1	#4	#13	#35

Relationship Between Economic Output of Mining Sector and Resident Population

Source: U.S. Bureau of Economic Analysis





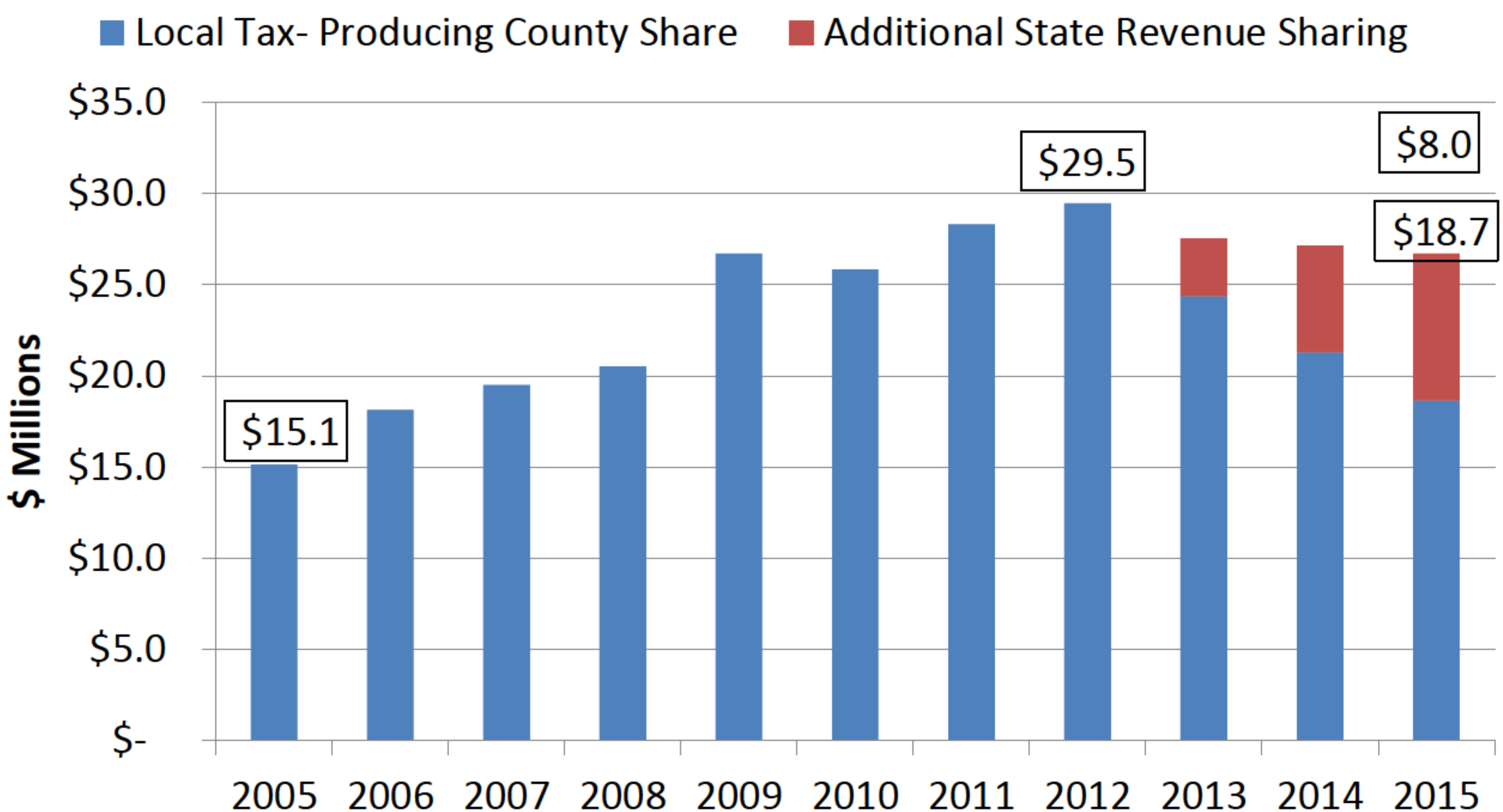
[1] This represents severance taxes deposited into the General Revenue Fund and does not include the annual severance taxes allocated to the Debt Service Fund, or the severance taxes distributed back to local governments. The State Legislature temporarily suspended the regular 1.22% Severance Tax on timber dedicated to the Division of Forestry. Timber production in the State continues to be subject to an additional Severance Tax under the Workers Compensation Debt Reduction Act of 2005. When the unfunded accrued actuarial liability of the Old Fund has been paid, the regular timber Severance Tax of 1.22% will be reinstated.

[2] May be subject to a reduction of 3% for the Future Fund. See discussion regarding Future Fund herein.

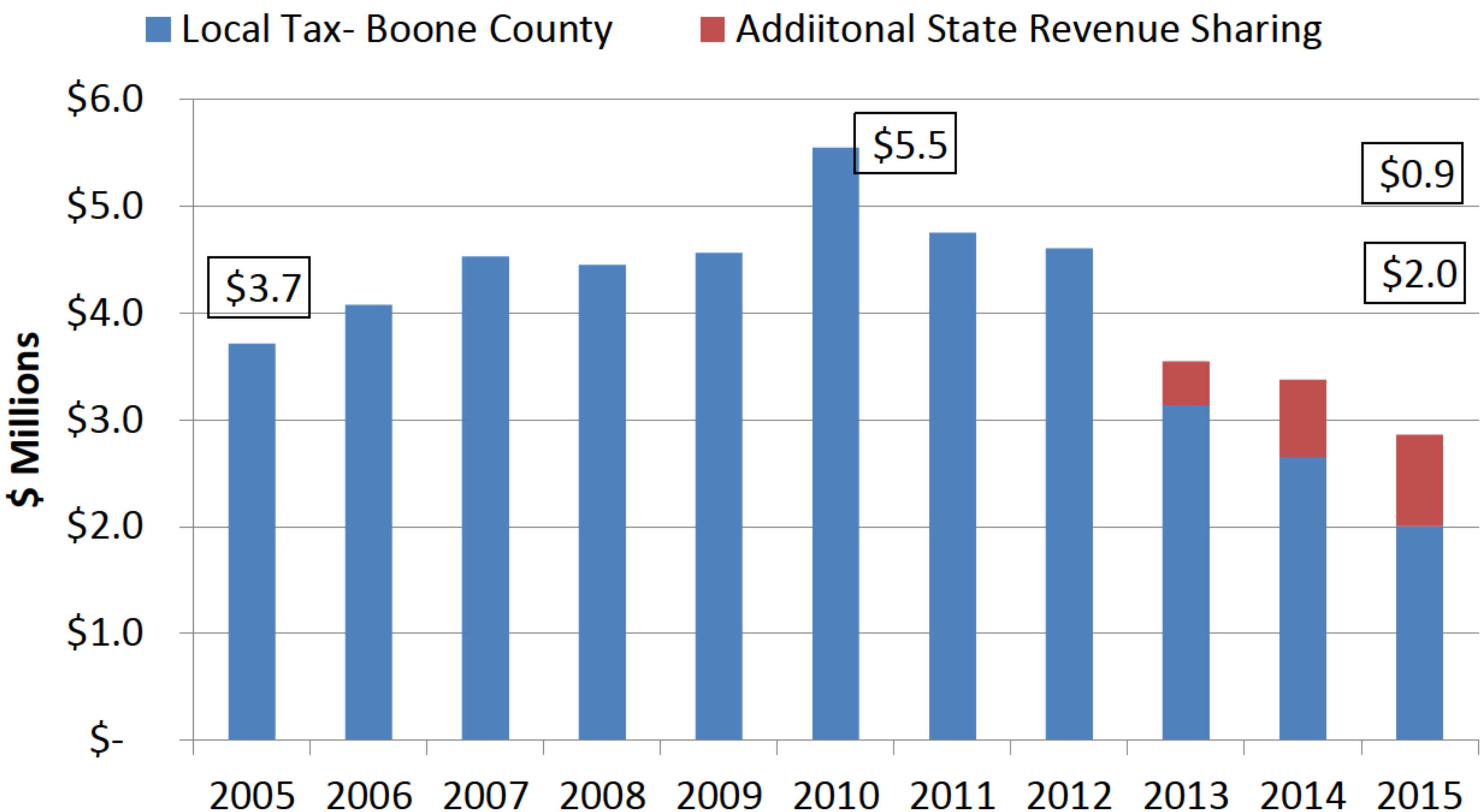
[3] The 5% Coal Severance Tax reallocation will be phased in over five years and began in fiscal year 2013 when 1% of the coal Severance Tax was reallocated back to the counties from which the tax was generated. This percentage will increase by 1% in each succeeding fiscal year until it reaches the maximum of 5% in fiscal year 2017. But the total reallocation of State coal severance tax to coal producing counties may not exceed $20 million in any fiscal year.

[4] The distribution of severance tax revenues from natural gas from coal-bed methane wells to local governments is capped at $4 million a year, any additional revenues beyond this cap is retained by the State. To date severance tax from natural gas from coal-bed methane wells has not exceeded $4 million in any year so the State has not retained any revenue from this source.

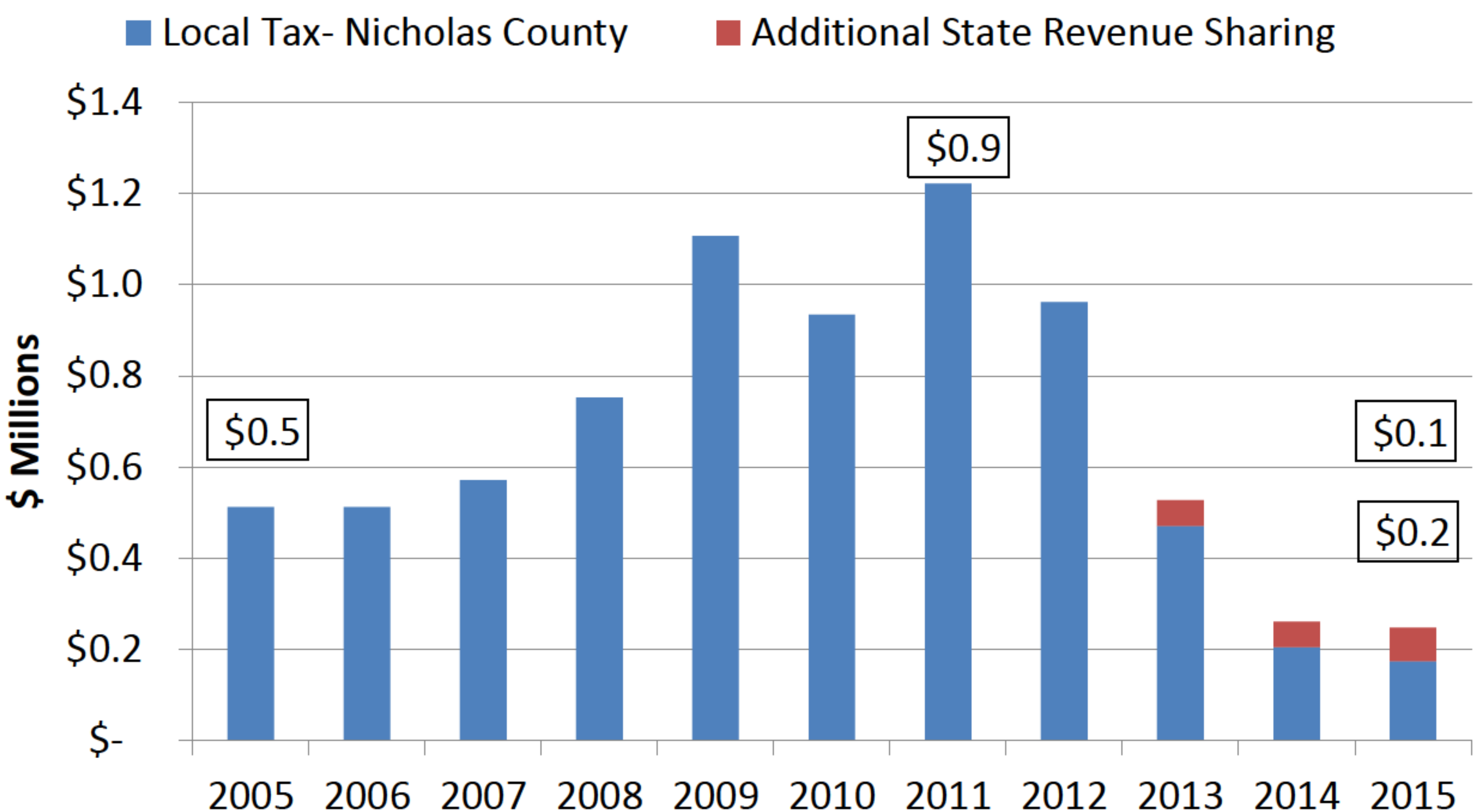
Coal Severance Tax Distributions to **All Producing Counties** Based on Production Share: Year Ending in July



Coal Severance Tax Distributions to **Boone County** Based on Production Share: Year Ending in July



Coal Severance Tax Distributions to **Nicholas County** Based on Production Share: Year Ending in July



10 Richest County Governments in 2005

Natural Resources Play Major Role in Property Tax Yield

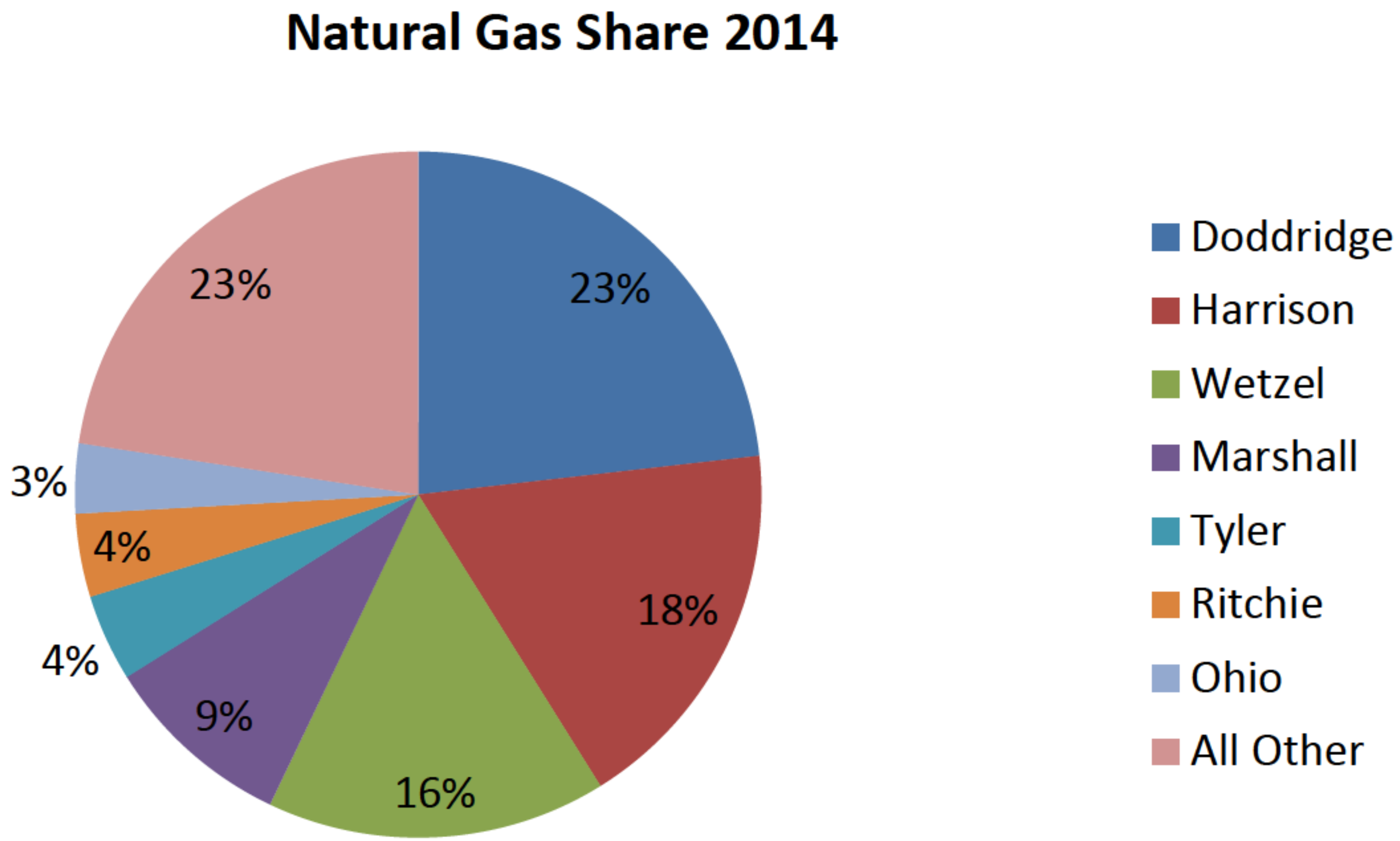
County	Per Capita Education Tax Yield 2005	Average Annual Growth 2005-2015	Per Capita Property Tax Rank in 2015	Voter Imposed Tax Rate Share Exclude City	Per Capita Personal Income Rank 2013
Pleasants	$498	2.5%	5	44%	12
Grant	$365	5.6%	4	1%	23
Pocahontas	$362	2.2%	7	0%	24
Boone	$314	1.5%	11	46%	34
Tucker	$313	6.0%	6	0%	30
Gilmer	$258	1.7%	34	28%	53
Jefferson	$257	3.5%	19	42%	6
Hardy	$255	5.0%	12	13%	39
Kanawha	$246	2.4%	18	40%	1
Lewis	$240	4.9%	9	26%	10

10 Richest County Governments in 2015

Natural Resources Play Major Role in Property Tax Yield

County	Per Capita Education Tax Yield 2015	Average Annual Growth 2005-2015	Per Capita Property Tax Rank in 2005	Voter Imposed Tax Rate Share Exclude City	Per Capita Personal Income Rank 2013
Wetzel	$898	16.3%	29	42%	20
Doddridge	$845	14.9%	11	45%	54
Marshall	$812	12.3%	13	43%	4
Grant	$623	5.6%	2	1%	23
Pleasants	$620	2.5%	1	44%	12
Tucker	$567	6.0%	5	0%	30
Pocahontas	$465	2.2%	3	0%	24
Tyler	$407	8.4%	32	42%	33
Lewis	$405	4.9%	10	26%	10
Ritchie	$399	7.4%	28	39%	18

County Share of Natural Gas Production Two-Thirds in Four Counties



Sample of Counties Without Significant Natural Resources in 2015

County	Per Capita Education Tax Yield 2015	Average Annual Growth 2005-2015	Per Capita Property Tax Rank in 2015	Voter Imposed Tax Rate Share Exclude City	Per Capita Personal Income Rank 2013
Wirt	$141	3.5%	55	44%	55
Monroe	$169	6.3%	53	36%	41
Mercer	$179	2.7%	52	40%	21
Roane	$192	3.5%	48	16%	43
Hancock	$208	0.7%	46	49%	27
Summers	$213	4.8%	44	0%	48
Mineral	$216	4.1%	43	43%	14
Wood	$223	1.2%	42	41%	13
Cabell	$230	3.2%	41	50%	11
Berkeley	$236	4.1%	38	46%	26

W E S T V I R G I N I A

STATE TAX DEPARTMENT

Joint Standing Committee on Energy - Agenda

September 14, 2015

Property Tax Director, Jeff Amburgey

REAL PROPERTY TAX ON ROYALTY/MINERAL OWNER LAND

West Virginia Code§11-4-9
Assessment of different estates; undivided interests

When any person becomes the owner of the surface, **and another or others become the owner of the coal, oil, gas, ore, limestone, fireclay, or other minerals** or mineral substances in and under the same, or of the timber thereon, **the assessor shall assess such respective estates**, or any undivided interest therein, **to the respective owners** thereof, or to groups of same requesting such group assessment, at their true and actual value, according to the rule prescribed in this chapter…

Legislative Rules

TITLE 110 SERIES 1I

VALUATION OF ACTIVE AND RESERVE COAL PROPERTY FOR AD VALOREM PROPERTY TAX PURPOSES

TITLE 110 SERIES 1J

VALUATION OF PRODUCING AND RESERVE OIL AND NATURAL GAS FOR AD VALOREM PROPERTY TAX PURPOSES

110-1I-2. Introduction.

2.1. Coal is one of the several estates in real property which may be owned either separately or in conjunction with other estates. **<u>If coal is owned as a separate estate</u>**, either absolute, as a leasehold, or in conjunction with other estates, **<u>West Virginia property tax law requires ownership to be listed, valued and taxed. Coal may be owned without being mined.</u>**

110-1J-2. Introduction.

Oil or natural gas is one of the several estates in real property which may be owned either separately or in conjunction with other estates. **If oil or natural gas is owned as a separate estate**, either absolute, as a leasehold, or in conjunction with other estates, **West Virginia property tax law requires that ownership be listed, valued and taxed in proportion to its value** to be ascertained as directed by law…**Oil or natural gas may be owned without being produced.**

§110-1J-4. Methods of Valuation.

4.1. General. -- Oil and/or natural gas **producing property value** shall be determined through the process of applying a yield capitalization model to the **net receipts (gross receipts less royalties paid less operating expenses) for the working interest** and a yield capitalization model applied to the **gross royalty payments for the royalty interest.**

TITLE 110 SERIES 1J

4.6.1. Working interest model. -- The **working interest weighted average gross receipts**... shall be **reduced by the annual operating expenses**...to yield a net working interest income series. The net working interest income series shall be discounted....reflecting the capitalization **rate...The summation of the annual discounted income streams shall be the market value estimate for the working interest of the producing oil and/or natural gas well including personal property....**

TITLE 110 SERIES 1J

4.6.2. Royalty interest model. -- **The royalty interest weighted average…gross receipts…shall be discounted**….reflecting the capitalization rate… This amount will then be proportionally distributed to each royalty owner based on the royalty percentage received during the most recent calendar year to the July 1 assessment date. **The summation of the annual discounted income streams shall be the market value estimate for the royalty interest of the producing oil and/or natural gas well…**

TITLE 110 SERIES 1J

4.7. Valuation of non-producing acreage. - **The value per acre of non-producing acreage…shall equal the discounted annual lease payment per acre**. The Tax Commissioner shall annually conduct a review of oil and/or natural gas lease agreements transacted at arms-length in all fifty-five (55) counties to determine the average annual delay rental lease payment per acre, and lease term….A valuation of $1.00 per acre shall be used where property is located in those areas of the State where drilling activity/production have not been established and the property is presumed to be barren.

Oil and Gas

Tax Year	Assessment	Taxes
2011	$3.5 Billion	$ 77 Million
2012	$3.6 Billion	$ 80 Million
2013	$4.1 Billion	$ 91 Million
2014	$3.2 Billion	$ 72 Million
2015	$4.7 Billion	$105 Million

Coal Mineral

Tax Year	Assessment	Taxes
2011	$2.1 Billion	$ 50 Million
2012	$2.2 Billion	$ 51 Million
2013	$2.6 Billion	$ 58 Million
2014	$2.2 Billion	$ 50 Million
2015	$2.1 Billion	$ 47 Million

Coal Machinery

Tax Year	Assessment	Taxes
2011	$3.4 Billion	$ 78 Million
2012	$4.1 Billion	$ 95 Million
2013	$4.8 Billion	$111 Million
2014	$4.4 Billion	$102 Million
2015	$4.2 Billion	$ 96 Million

Tax Year 2015

Property Type	Taxes	
Real Estate	$904,348,484	53%
Personal Property	568,109,740	34%
Public Utility	214,474,021	13%
Total	1,686,932,245	

Tax Year 2015

Purpose	Taxes	
State	$ 7,101,572	.4%
County	451,667,378	26.8%
Schools	1,112,862,839	66.0%
Municipal	115,300,456	6.8%
Total	1,686,932,245	

Tax Year 2015

Property Type	Taxes	
Oil and Gas	$105 Million	6.3%
Coal Mineral	47 Million	2.8%
Coal Machinery	96 Million	5.7%
Other	1,438 Million	
Total	1,686 Million	

Question

Question: Once well(s) are placed on a property, how does this affect the property's classification? (Does it change from farm to industrial?)

Answer: No

Question

<u>Question:</u> Are farm/surface estates and mineral estates kept separate? If not, why not?

<u>Answer:</u> Yes - Farm Legislative Rule TITLE 110 SERIES 1A

2.6.6.3.b. Fee estates which include natural resources, where income is derived from such natural resource(s), shall be valued as follows:

2.6.6.3.b.1. Fee estates where the annual wholesale value of farm commodities or products…**<u>is fifty percent (50%) or more</u>** of the usual annual gross income from all uses of the property, **<u>shall be subject to farm use valuation</u>**.

2.6.6.3.b.2. Fee estates where the annual wholesale value of farm commodities or products…**<u>is less than fifty percent (50%)</u>** of the usual annual gross income from all uses of the property, **<u>shall be valued by adding to the surface farm use value, the applicable natural resource value.</u>**

Question

<u>Question:</u> Are there differing rates between counties on the assessment of minerals?

<u>Answer:</u> Yes - for both producing and reserve coal and producing and reserve oil and gas. Producing oil and gas wells are divided between regions and the various formations have separate decline rates. Additionally, there are separate producing coal values for steam and metallurgical coal.

Question

Question: How (if at all) are factors differentiating minerals such as wet gas vs dry gas, larger seams vs smaller seams, etc. taken into account?

Answer: For producing oil & gas there is no differentiation – values are based on revenues from all sources. Seam factor, identifies the only seam on a property that could be a T20 (highest value), which is the thickest seam. Generally speaking a thick seam is worth more than a thin seam, a seam with high BTU is worth more that seam with lower BTU.

Question

<u>Question:</u> If a property has zero wells on it, but confirmed gas underneath it, is it possible that despite not receiving royalties landowner will be assessed for mineral value and thus increased property taxes?

<u>Answer:</u> Yes – the **<u>mineral</u>** owner will be taxed whether or not they are receiving royalties.

Process of inventory/property taxation on developer/operator equipment.

<u>Method of Reporting</u>

WEST VIRGINIA CODE §11-3-2. Canvass by assessor; lists of property.

On the first day of July, in each year, the assessors and their deputies shall begin the work of assessment in their respective counties**…Beginning on the first day of July…<u>the assessor or a deputy shall obtain</u> from every person in the county who is liable to assessment, <u>a full and correct description of all of the personal property</u> of which he was the owner on the first day of July of the current year, fixing what he deems to be the true and actual value of each item of personal property** …**The assessor or a deputy <u>shall also obtain</u> from such person separate, full and true statements, in like manner, <u>and upon forms to be furnished him</u>, distinctly setting forth in each a <u>correct description of all property, real and personal</u>, held, possessed or controlled by him**…

Process of inventory/property taxation on developer/operator equipment.

Method of Reporting – continued

§11-3-10. Failure to list property, etc.; collection of penalties and forfeitures. (a)…**If any person, firm or corporation**…whose duty it is by law to list any real estate or personal property….**refuses to furnish a proper list …**or if any person, firm or corporation… **refuses to answer or answers falsely any question asked by the assessor**…**or fails or refuses to deliver any statement required by law**, the person, firm or corporation may forfeit…not less than $25 nor more than $100. **If any person, firm or corporation willfully fails to furnish a proper list of real estate or personal property for taxation or refuses to answer or falsely answers any question asked by the assessor…**or fails or refuses to deliver any statement required by law, **such person, firm or corporation shall be denied all remedy provided by law for the correction of any assessment made by the assessor**… *Provided,* **That no person, firm or corporation shall be denied the remedy provided by law to contest any assessment unless the assessor or the Tax Commissioner has notified such person, firm or corporation in writing that this penalty will be asserted and the requested information is not provided within fifteen days of the date of receipt of the notice.**

Process of inventory/property taxation on developer/operator equipment

Concern that since most of the drilling is subcontracted out to smaller firms by large operators, much of the equipment is not reported/assessed.

3 Issues

1) Discovery/Identification of property owners.

2) Proper reporting by property owners.

3) Payment of taxes!

Process of inventory/property taxation on developer/operator equipment.

Method of Reporting – continued

§11-3-10. Failure to list property, etc.; collection of penalties and forfeitures. (a)…**If any person, firm or corporation**…whose duty it is by law to list any real estate or personal property….**refuses to furnish a proper list …**or if any person, firm or corporation… **refuses to answer or answers falsely any question asked by the assessor**…**or fails or refuses to deliver any statement required by law**, the person, firm or corporation may forfeit…not less than $25 nor more than $100. **If any person, firm or corporation willfully fails to furnish a proper list of real estate or personal property for taxation or refuses to answer or falsely answers any question asked by the assessor…**or fails or refuses to deliver any statement required by law, **such person, firm or corporation shall be denied all remedy provided by law for the correction of any assessment made by the assessor**… *Provided,* **That no person, firm or corporation shall be denied the remedy provided by law to contest any assessment unless the assessor or the Tax Commissioner has notified such person, firm or corporation in writing that this penalty will be asserted and the requested information is not provided within fifteen days of the date of receipt of the notice.**

INVENTORY TAX ON INDUSTRY EQUIPMENT

Commercial and Industrial Personal Property Taxes

Tax Year	Taxes	% of Total
2011	$ 253 Million	18%
2012	$ 270 Million	19%
2013	$ 294 Million	19%
2014	$ 305 Million	19%
2015	$ 283 Million	17%

Commercial and Industrial Machinery and Equipment Taxes

Tax Year	Taxes	% of Total
2011	$ 118 Million	8%
2012	$ 129 Million	9%
2013	$ 150 Million	9%
2014	$ 163 Million	10%
2015	$ 136 Million	8%

Commercial and Industrial Inventory Taxes

Tax Year	Taxes	% of Total
2011	$ 59 Million	4%
2012	$ 65 Million	4%
2013	$ 73 Million	5%
2014	$ 68 Million	4%
2015	$ 73 Million	4%

Commercial and Industrial Inventory Taxes

Tax Year	Commercial	Industrial
2011	$ 26 Million	$ 33 Million
2012	$ 29 Million	$ 36 Million
2013	$ 32 Million	$ 40 Million
2014	$ 31 Million	$ 37 Million
2015	$ 34 Million	$ 39 Million

WEST VIRGINIA

DEPARTMENT OF REVENUE

Questions?

Mark B. Muchow | Deputy Secretary of Revenue | 304-558-8730 | Mark.B.Muchow@wv.gov