West Virginia State Tax

TSD-210
(Revised October 2019)

COAL SEVERANCE TAX

This publication answers some common questions regarding West Virginia severance tax laws pertaining to the coal industry. This publication provides general information. It is not a substitute for tax laws or regulations.

WHAT IS THE COAL SEVERANCE TAX?

- A severance tax is imposed on the privilege of severing, extracting, reducing to possession and producing for sale, profit, or commercial use, any natural resource product, including coal.
- In general, coal mining, coal processing and coal treatment are all activities taxable under the severance tax laws.
- The amount of severance tax due is determined by applying the correct tax rate to the "gross value" of the natural resource produced.

WHAT IS THE SEVERANCE TAX RATE ON COAL?

- The severance tax rate on coal is 5% of the gross value of the coal produced. However, under some circumstances this rate is a lower rate:
  - When thermal coal is sold for purposes of generating electricity, the severance tax rate is reduced as follows:

Produced and Sold Dates		Rate
On and after July 1, 2019	Through June 30, 2020	4.3%
On and after July 1, 2020	Through June 30, 2021	3.7%
On and after July 1, 2021		3%

  - When thin-seam coal is produced from an underground mine and:

Average Seam Thickness	Rate
Less than 37 inches	1%
37 inches but not more than 45 inches	2%

  - When coal is produced from the waste coal of prior mining, the severance tax rate is 2.5%.
- These rates include the 0.35% additional severance tax imposed for the benefit of the counties and municipalities.

For additional information on thin seam coal severance tax, see Publication TSD-398.

WHAT IS THE MINIMUM SEVERANCE TAX RATE ON COAL?

- An annual minimum severance tax is imposed on the privilege of producing coal equal to 75¢ per ton of coal produced by the Taxpayer for sale, profit or commercial use during the taxable year.
- The minimum severance tax is on the privilege of severing, extracting, reducing to possession or producing of coal for sale, profit or commercial use. The tax is measured by the tons of coal actually severed in West Virginia.
- The minimum tax paid is allowed as a credit against the "regular" severance tax, but only after other allowable credits have been applied. The amount of credit cannot exceed the amount of "regular" severance tax due. Also, no credit is allowed against the additional severance tax that is imposed for the benefit of the counties and municipalities.
- Also, no credit is allowed against the additional severance tax on the tonnage of coal that is dedicated to the counties and municipalities.
- Thermal coal is subject to the 75¢ minimum severance tax.
- Thin seam coal that is subject to reduced severance tax rates is not subject to the 75¢ minimum severance tax.

WHAT IS THE SPECIAL 2¢ TAX ON COAL?

- A special two cents (2¢) per ton severance tax is also imposed on producers of coal.
- The measure of the tax is "tons of clean coal" that were produced by the seller of the coal and then sold during the reporting period.
- For additional information on the special 2¢ tax on coal, see Publication TSD-382.

WHO IS LIABLE FOR THE COAL SEVERANCE TAX?

- Any business that mines or processes coal in this State is subject to the severance tax.
- The person who has title to or an economic interest in the coal immediately after it is severed is liable for paying the severance tax.

  When coal is severed or processed by one person for another who has title to the coal, the person who has title or an "economic interest" in the coal is the person liable for paying the severance tax on the entire gross value of the processed coal.

  The determination of who has title or an "economic interest" in the coal is made after examination of such factors as: entitlement to claim a depletion allowance for federal income tax purposes, obligation to pay royalties to another, control over the coal from the time of extraction to sale, etc.
- When coal is mined outside West Virginia and processed in West Virginia, the severance tax is measured by the value that processing adds to the value of the raw coal.
- When coal is mined in West Virginia and sold to an unrelated third party who processes the raw coal, the producer pays severance tax measured by the gross proceeds derived from sale of the raw coal to the processor and the processor pays severance tax measured by the value that processing adds to the raw coal.
- A contract miner is generally not liable for paying the severance tax.
- Similarly, a person who processes coal owned by another person is generally not liable for paying the severance tax.

WHAT IS A COAL SEVERANCE ACTIVITY?

- Coal is "severed" when it is physically removed from the earth or waters of this State by any means.
- Severance includes the extraction of coal from gob piles, slurry ponds, or other waste or residue of prior mining. That activity is subject to the waste coal severance tax rate, which is 2.5% of the gross value of the coal.
- For more information on the waste coal severance tax, see below and Publication TSD-416.

WHAT IS A COAL PROCESSING ACTIVITY?

- Processing includes cleaning, breaking, crushing, screening, sizing, dust allaying, freeze proofing, and loading coal for shipment.

WHAT IS THE TAX BASE FOR THE SEVERANCE TAX ON COAL?

- Severance tax is imposed on the "gross value" of the coal.
- "Gross value" is determined by the sale price of the coal less freight expenses incurred in transporting the coal to a customer if:
  - The transportation is performed by a common carrier; or
  - The charges are separately stated on the invoice when transportation is performed by the Taxpayer.

  Freight expenses related to the transporting of coal from a mine to a processing area are not deductible. Only outgoing freight charges incurred in shipping coal to a customer are exempt.
- State and federal taxes, royalties, sales commissions, or any other expense, such as black lung excise taxes or reclamation fees, may not be deducted in determining the "gross value" subject to severance tax.

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

WHAT IS THE "GROSS VALUE" SUBJECT TO SEVERANCE TAX OF COAL PURCHASED FROM THE SEVERER AND PROCESSED BY THE PURCHASER?

- When coal is purchased from the severer and processed by another, the processor must pay severance tax on the "value added" by the processing.
- The "value added" by the processing is equal to the sales price of the processed coal less freight and less the amount paid for the raw coal.

EXAMPLE:

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

Sales price of clean coal	$ 25
Cost of raw coal	-$ 15
Freight costs to customer	-$ 2
"Value added" per ton reportable for severance tax purposes	$ 8

WHAT IS THE "GROSS VALUE" SUBJECT TO SEVERANCE TAX OF COAL SEVERED OUTSIDE WEST VIRGINIA BUT PROCESSED IN WEST VIRGINIA?

- For coal severed outside West Virginia but processed within West Virginia, the "gross value" subject to severance tax is the fair market value of processed coal of similar grade and quality reduced by the fair market value of coal of similar grade and quality in the same condition immediately preceding the processing of the coal.

WHAT IS THE WASTE COAL SEVERANCE TAX?

- A waste coal severance tax is imposed on the privilege of extracting and recovering material from refuse, gob piles or other sources of waste coal to produce coal.
- The severance tax rate on coal produced from the mining and processing of waste coal is 2.5% of the gross value of the coal produced.
- For additional information on the waste coal severance tax, see Publication TSD-416.

ASSISTANCE AND ADDITIONAL INFORMATION

- For assistance or additional information, you may call a Taxpayer Service Representative at:

  1-800-WVA-TAXS
  (1-800-982-8297)

  Or visit our website at:

  www.tax.wv.gov

  File and pay taxes online at:

  https://mytaxes.wvtax.gov
