



COAL PROCESSING AND SEVERANCE TAX

To assist taxpayers in properly complying with the severance tax laws, this publication answers some basic questions about the 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.

Q1. What is the severance tax?

Severance tax is imposed on the activity 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 application of various rates to the "gross value" of a natural resource. Unlike the former State business and occupation tax on most natural resources, the severance tax is a "value added" tax in some instances.

Q2. Who pays the coal severance tax?

Businesses mining or processing coal are both subject to the severance tax.

The person who has title to or an economic interest in the coal immediately after it is severed is responsible 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 responsible for paying the severance tax. The determination of who has title or an "economic interest" in the coal is made after examination of such factors as depletion, royalties, control over sales, etc.

A contract miner is generally not liable for payment of the severance tax. Similarly, a person who processes coal owned by another person is generally not liable for payment of the severance tax.

Q3. What is considered to be a severance activity?

Severance of coal includes the physical removal of coal from the earth or waters of this State by any means. It includes the extraction of coal from gob piles, slurry ponds, or other waste or residue of prior mining. It also includes coal processing activities.

Q4. What is considered to be a processing activity taxable under the severance tax?

Processing includes cleaning, breaking, crushing, screening, sizing, dust alloying, blending, freezeproofing, and loading coal for shipment. The activities of loading for shipment or freezeproofing when performed by themselves are not sufficient to subject a person to the severance tax. However, blending of coal or crushing or screening of coal is sufficient to subject a person to severance tax. Washing of the coal is not required to subject a person to severance tax.

Q5. 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. Freight expenses are also deductible when performed by the taxpayer, if the charges are separately stated on the invoice. 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 the 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.

Q6. 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.

For 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	<hr/> \$ 8

Q7. What is the "gross value" subject to severance tax of coal severed outside West Virginia, but processed within West Virginia?

To determine the "gross value" subject to severance tax for coal severed outside West Virginia but processed within West Virginia, the gross value or sales price of the processed coal is reduced by the fair market value of the raw coal severed outside West Virginia.

Q8. What is the severance tax rates on coal?

The current severance tax rate on coal is 5 percent.

Q9. What is the minimum severant tax on coal?

Additionally there is an annual minimum severance tax of seventy-five cents (\$.75) per ton of coal produced by the taxpayer for sale, profit or commercial use during the taxable year. The minimum tax is on the severing, extracting, reducing to possession or producing of coal for sale, profit or commercial use and is computed on the tonnage of coal that is actually located and severed in West Virginia. The minimum tax is allowed as a credit against the severance tax, but only after other allowable credits have been applied, and the credit cannot exceed the severance tax due. Also, no credit is allowed against the additional severance tax on the tonnage of coal that is dedicated to the counties and municipalities. A special two (2¢) cents per ton 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 sold during the reporting period. For additional information see Publication TSD-382.

<p style="text-align: center;">West Virginia State Tax Department Taxpayer Services Division P. O. Box 3784 Charleston, West Virginia 25337-3784 Telephone: (304) 558-3333 Toll free : 1-800-WVA-TAXS (1-800-982-8297) or visit our web site: http://www.state.wv.us/taxdiv TDD service for the hearing impaired: 1-800-2TAXTDD (1-800-282-9833)</p>
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