



Coal Severance Tax, Minimum Tax & Waste Coal Tax

Severance Tax

This publication provides general information and is not meant to be a substitute for tax laws or regulations.

Coal is “severed” when it is physically removed from the earth or waters of this State by any means. 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. Processing includes cleaning, breaking, crushing, screening, sizing, dust allaying, freeze proofing, and loading coal for shipment.

In general, coal mining, coal processing and coal treatment activities are taxable under the severance tax laws.

Severance tax is imposed on the “gross value” of the coal, which is 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.

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.

When coal is severed or processed by one entity for another who has title to the coal, the entity who has title or an “economic interest” in the coal is the entity liable for 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. Contract miners and entities who process coal owned by another entity do not have economic interest.

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.

Thin Seam Coal

If a coal processor purchases coal from a qualified thin seam mine then additional processing activities associated with such coal would be subject to the same reduced tax rate as applicable to the initial severance activity. However, processors must maintain a log with records of qualified tons and receipts subject to alternative tax rates. Records of Certified Mine Maps are also required.

Thin seam coal produced from qualifying mines is not subject to the seventy-five cents (75¢) minimum tax. If you have further questions regarding reduced severance tax for thin seam coal, please contact the Tax Division:

West Virginia Tax Division
Sales Tax Unit
PO Box 425
Charleston WV 25322-0425

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.

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.

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. The entity that processes the coal in West Virginia is liable for the severance tax on the added value. 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.

Tax Rates

Generally, the severance tax rate on coal is 5% of the gross value of the coal produced. However, there are three circumstances where a lower rate may be applied while still including the 0.35% additional severance tax imposed for the benefit of the counties and municipalities.

- 1) When thermal coal is sold for purposes of generating electricity, the severance tax rate is reduced as follows when produced on or after:
 - July 1, 2019 through June 30, 2020 → 4.3%
 - July 1, 2020 through June 30, 2021 → 3.7%
 - July 1, 2021 to present → 3%
- 2) When thin seam coal is produced from an underground mine and reports by a professional engineer using an Isopach mapping technique show the average seam thickness to be:
 - Less than 37 inches → 1%
 - Greater than 37 inches but not more than 45 inches → 2%
- 3) When coal is produced from the waste coal of prior mining, the severance tax rate is 2.5%, paid with annual filing on form WV/SEV-401W. Quarterly estimated returns (WV/SEV400W) are also required for the 2.5% tax on waste coal.

An annual minimum severance tax is imposed on the privilege of producing coal at the rate of seventy five cents (75¢) per ton of coal produced by the taxpayer for sale, profit, or commercial use during the taxable year, measured by the tons of coal severed. 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.

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.

A special two cents (2¢) per ton of clean coal severance tax is 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.

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 following activities are subject to the waste coal severance tax rate: extraction of coal from gob piles, slurry ponds, or other waste or residue of prior mining.

Waste coal produced in West Virginia is subject to the 2¢ per ton special tax on coal production and the 27^{9/10}¢ per ton of clean coal mined remittance, 15¢ of which is deposited into the Special Reclamation Water Trust Fund. **Tax is imposed only where the Taxpayer is both 1) extracting and 2) processing the waste coal materials.**

If gob is extracted and not processed by the severor, and then sold to another, either for further processing or not for further processing, the gob sold is taxed as an “other natural resource” if it is not predominantly coal. If it is predominantly coal, then it is taxed as a run of mine coal at the regular coal severance tax rate. If a taxpayer bought uncleaned, unprocessed gob extracted by another, and then washed and processed the material and prepared it for sale as coal, that taxpayer would not be subject to the lower waste coal tax rate. The taxpayer would be a processor who purchased either “other natural resources” or run of mine coal, and processed the material purchased into processed coal. The coal resulting from the processing would be subject to the regular coal severance tax rate.

If gob is not sold, it is not taxable. The waste coal tax does not apply to any electrical power cogeneration plant burning material from its wholly owned refuse or gob pile.

Dredging of coal from a river will not be classified or treated as waste coal production for the purposes of the waste coal severance tax because

- 1) it is not a by-product of processing; and
- 2) it is not extracted by the dredging operation from a gob pile or other depository of coal by-products, the Tax Division does not classify river coal as a waste coal within the meaning of the statute.

Production of river coal is subject to either the regular coal severance tax or minimum coal severance tax. These are considered the applicable taxes for the coal production since coal is not typically dredged from a river in order to extract coal from a natural coal seam that happens to run under a river bed.

To see Frequently Asked Questions, Definitions, Forms and credit filing requirements for the Coal Severance Tax, please visit tax.wv.gov.

For more information, you can:

- Call a Taxpayer Services Representative at (304)558-3333 or toll-free at (800) 982-8297
- Email taxhelp@wv.gov
- Go Online to tax.wv.gov