

WEST VIRGINIA
DEPARTMENT OF REVENUE



**Joint Select Committee on Tax Reform
Severance Taxes & Property Tax**

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West Virginia State Capitol

September 14, 2015

Secretary **Robert S. Kiss**

Governor **Earl Ray Tomblin**

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

- Tax Rates on Mining with \$10,000 Gross Income Exclusion:

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

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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%

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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%

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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

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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- \$5,000 income exclusion for Natural Gas Repealed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%

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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%

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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

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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.

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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.

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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 the 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

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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 <table border="1"> <tr><th colspan="2">Coal Processing</th></tr> <tr><td>cleaning</td><td>dust abating</td></tr> <tr><td>breaking</td><td>blending</td></tr> <tr><td>crushing</td><td>freeze-proofing</td></tr> <tr><td>screening</td><td>loading coal</td></tr> <tr><td>sizing</td><td>for shipment</td></tr> </table>	Coal Processing		cleaning	dust abating	breaking	blending	crushing	freeze-proofing	screening	loading coal	sizing	for shipment
Coal Processing													
cleaning	dust abating												
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-6, 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.

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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.

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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.

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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	\$ 276,716,111	\$ 64,390,147	\$ 34,463,053	\$ 375,558,311
Natural Gas	\$ 123,830,147	\$ 57,875,755	\$ 12,694,931	\$ 194,200,833
Oil	\$ 18,883,640	\$ -	\$ 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	\$ 48,762	\$ -	\$ 4,375,839
Total	\$ 511,685,518	\$ 109,460,020	\$ 24,129,501	\$ 645,275,039

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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

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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

July-August

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

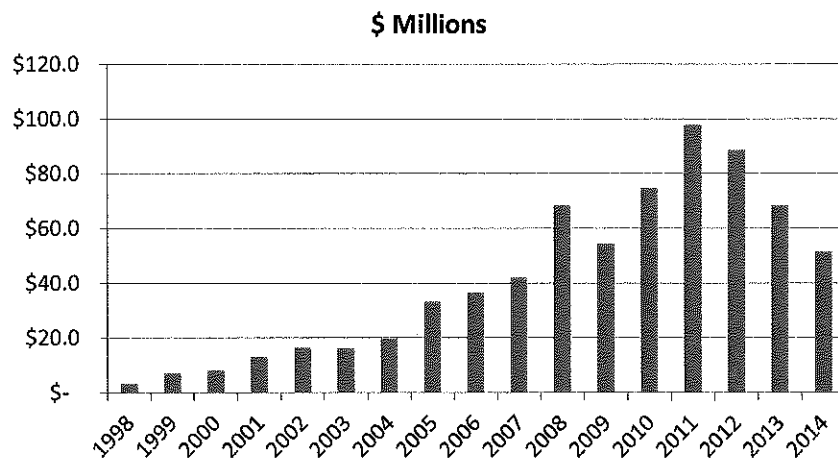
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Coal Severance Tax Preferences

- **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**

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

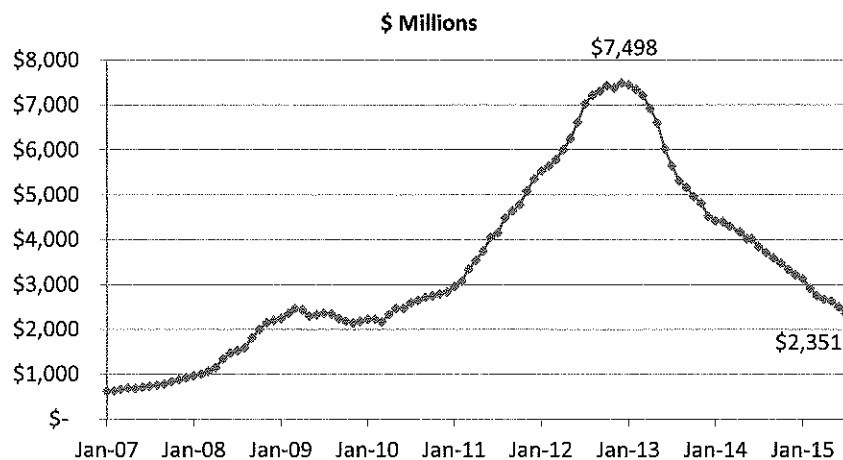


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West Virginia Non-Manufacturing Good Exports Down 69% Since 2012

Trailing 12 Month Trend: July 2015

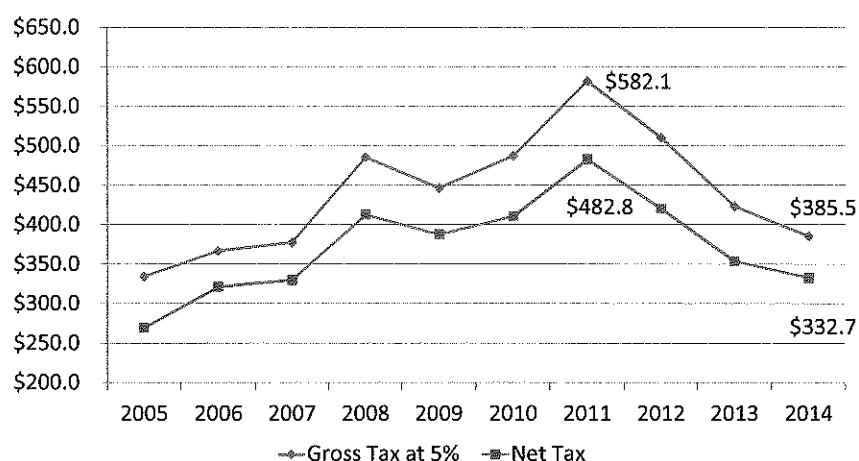
Source: U.S. Census Bureau



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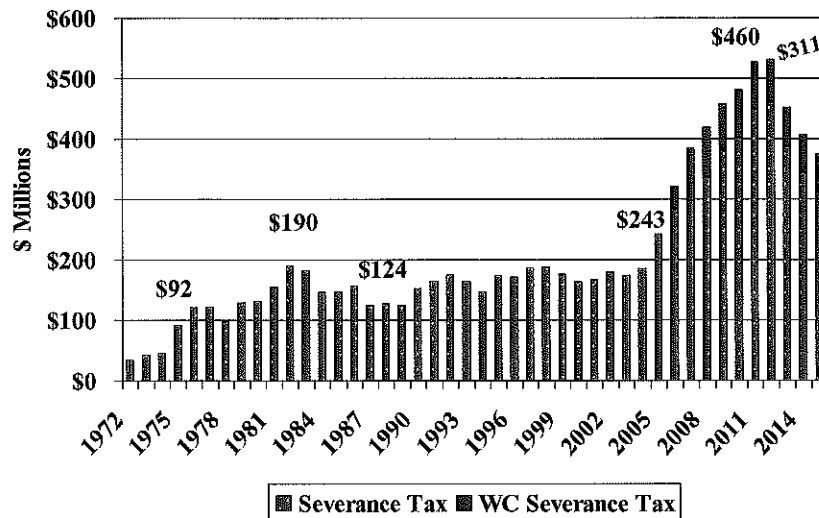
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Coal Severance Tax Revenue Trends by Tax Year-Annual Return Data



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

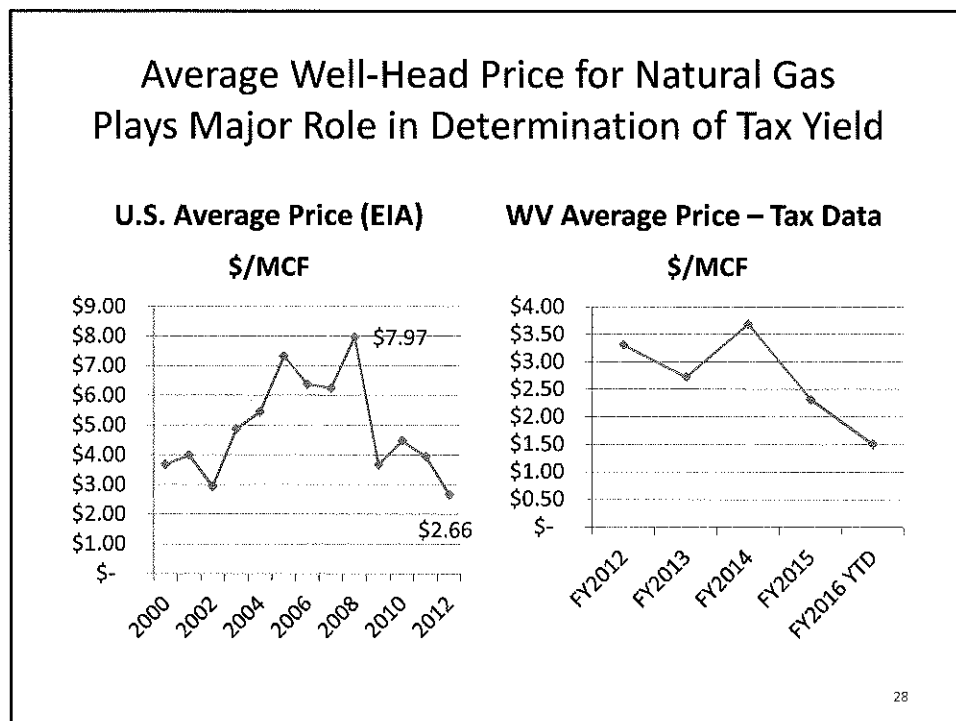
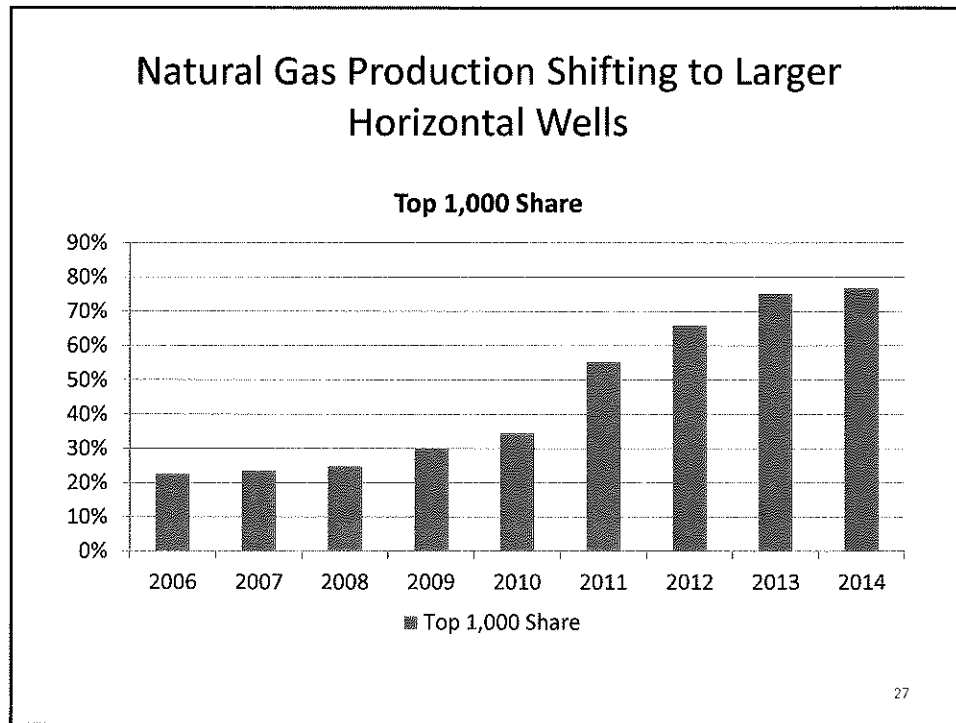


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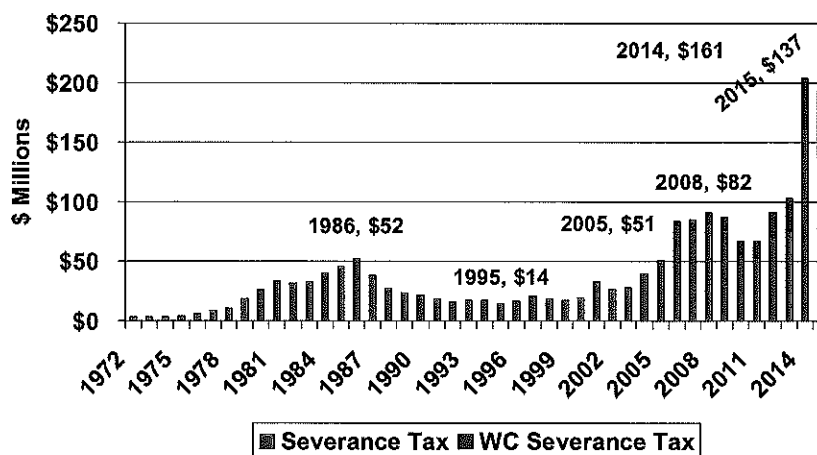
Current Tax Rates – Natural Gas & Oil

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

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



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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.

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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.

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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.

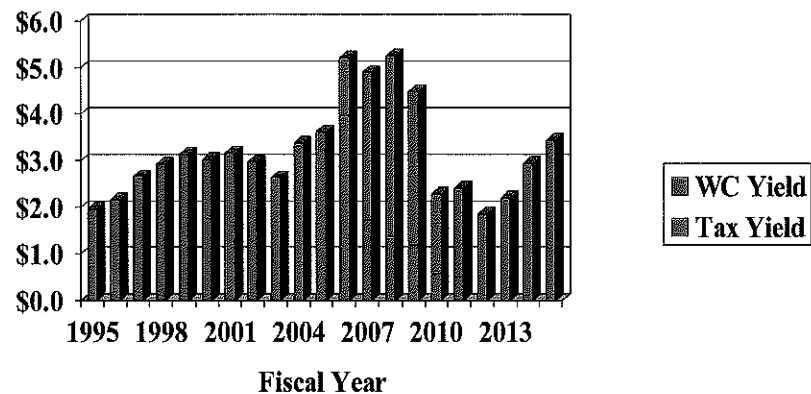
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Lumber sold after it is sawn, milled or otherwise manufactured into lumber, cross ties, timbers, veneer and other products for sale, shall report **25%** of gross proceeds of sale under the severance tax

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Total Severance Tax & Workers' Comp Tax
Division of Forestry Received Proceeds of Regular Tax

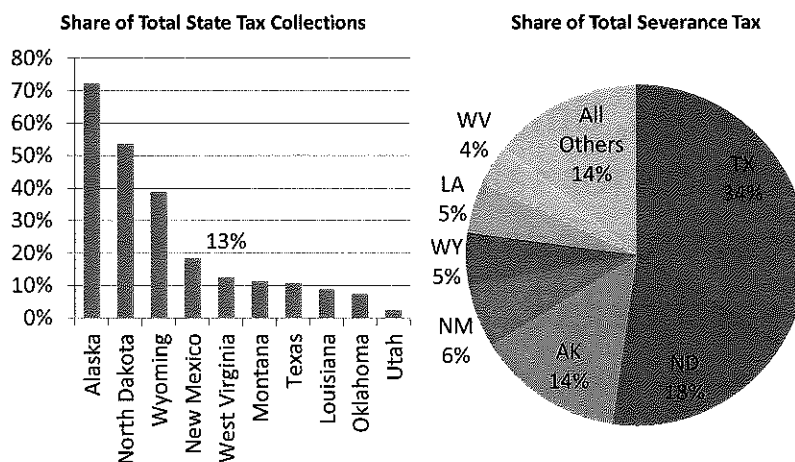
\$ Millions



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

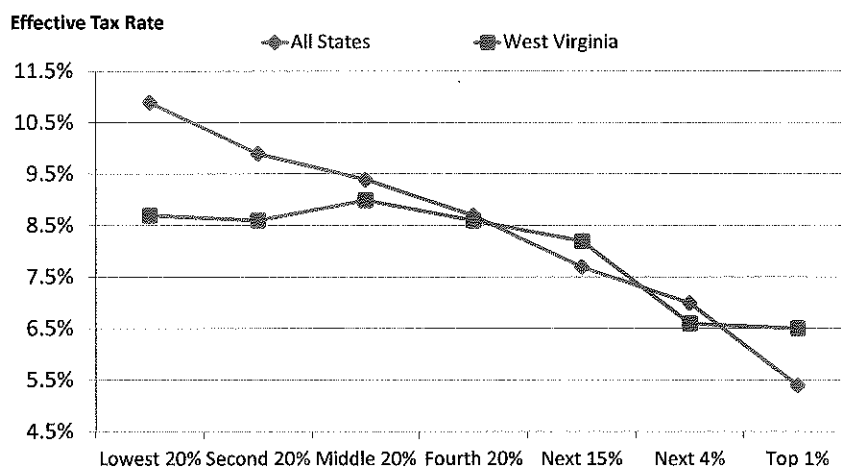
Source : U.S. Census Bureau



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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*



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

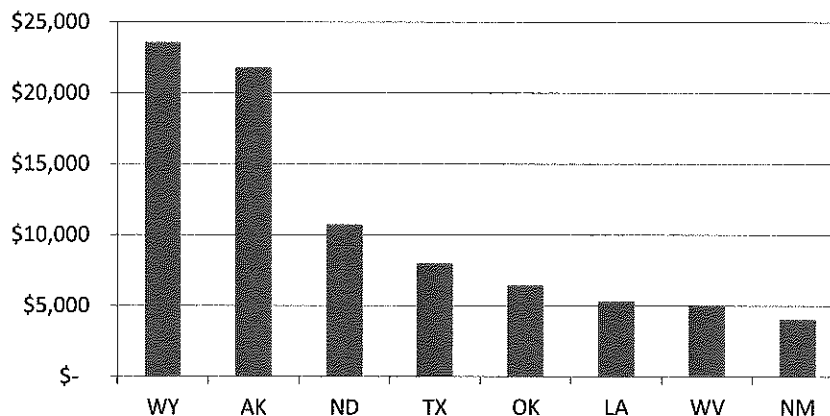
State #1 = Highest #50 = Lowest	Per Capita Personal Income 2014	K-12 Education Per \$1,000 of Personal Income FY2013	Higher Education Per \$1,000 of Personal Income FY2014	Highways Per \$1,000 of Personal Income FY2012	Police Protection Per \$1,000 of Personal Income FY2012	Medicaid Per \$1,000 of Personal 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

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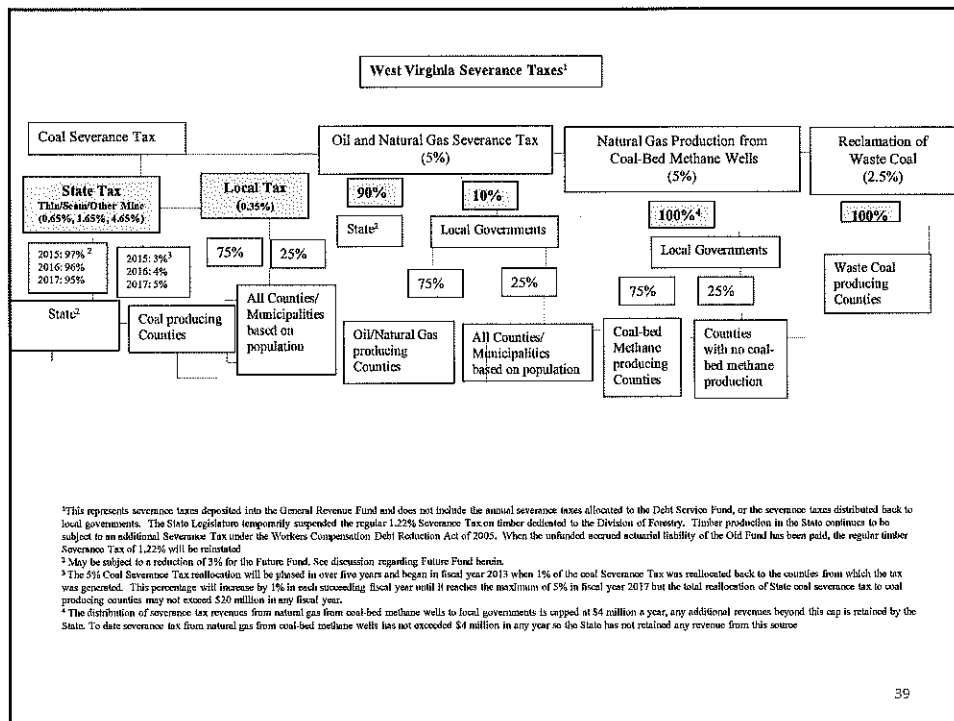
**Relationship Between Economic Output of Mining Sector and
Resident Population**

Source: U.S. Bureau of Economic Analysis

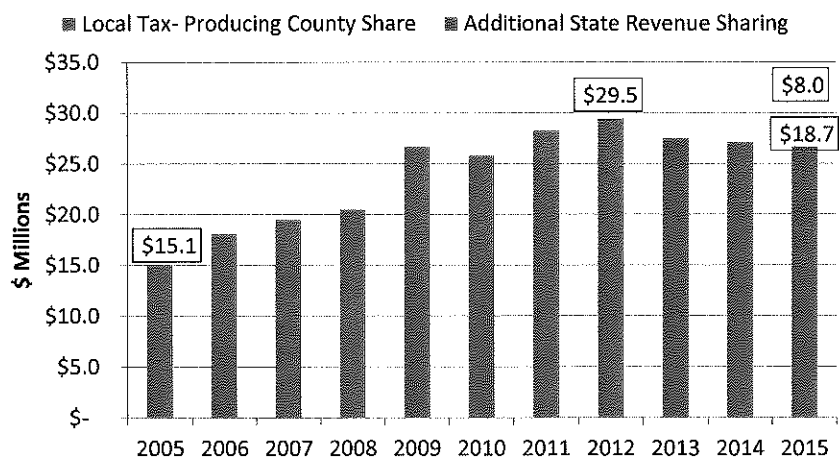
Per Capita Mining GDP-2013



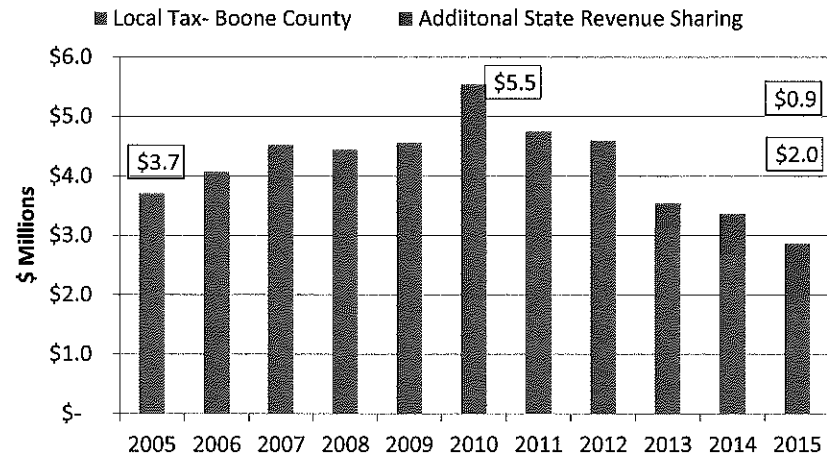
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Coal Severance Tax Distributions to All Producing Counties Based on Production Share: Year Ending in July

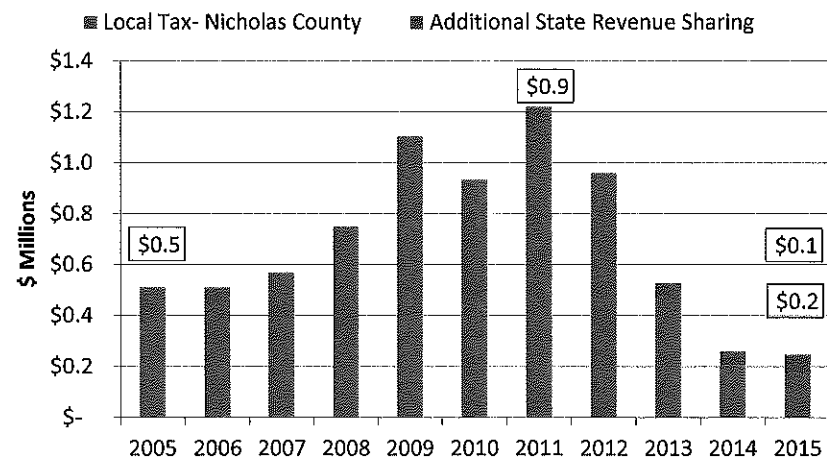


Coal Severance Tax Distributions to **Boone County** Based on Production Share: Year Ending in July



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



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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

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10 Richest County Governments in 2015

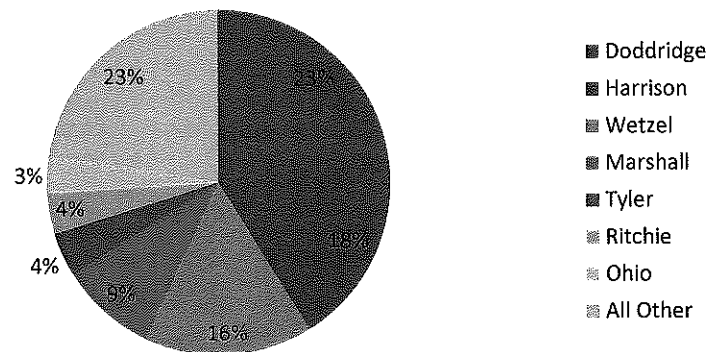
Natural Resources Play Major Role in Property Tax Yield

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

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

Natural Gas Share 2014



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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

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