WEST VIRGINIA

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

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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...

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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

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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. **<u>If oil or natural gas 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 that ownership be listed, valued and taxed in proportion to its value</u>** to be ascertained as directed by law...**<u>Oil or natural gas may be owned without being produced.</u>**

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§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....**

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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

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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

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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

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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	

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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	

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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	

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Question

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

<u>Answer:</u> 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>**

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Question

Question: Are there differing rates between counties on the assessment of minerals?

Answer: 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...**

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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.**

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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!

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

<u>Method of Reporting – continued</u>

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INVENTORY TAX ON INDUSTRY EQUIPMENT

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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