

2024 Guidebook To West Virginia Taxes

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This **Guidebook** is designed to provide accurate and authoritative information regarding the subject matter covered. However, it is not designed to eliminate the necessity of referring to the law and regulations for answers to specific problems, nor is it intended to take the place of the more detailed information available from other publishers. The publisher is not engaged in rendering legal, accounting, or other professional service and the authors are not offering such advice in this publication. If legal advice, accounting advice, or other expert assistance is required, the services of a competent professional person should be sought.

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GUIDEBOOK TO WEST VIRGINIA TAXES

This **Guidebook** provides a general discussion of the taxes imposed by the State of West Virginia and the taxes levied by the local governments. All 2023 amendments to the West Virginia law that are currently in effect are reflected in the **Guidebook** and references to federal laws are to the laws enacted or amended before January 1, 2023.¹

This **Guidebook** is a reference work describing the general provisions of the respective tax laws, regulations, and administrative practice, useful to tax practitioners, businesspersons and others who prepare or file West Virginia state and local returns or who deal with West Virginia state and local taxes.

State taxes of major interest, including the corporation net income tax, the consumer sales and service and use taxes, the personal income tax, the property tax, and the severance tax, are discussed in detail. Incentives for business development and tax procedure are also discussed in detail. Other West Virginia state and local taxes are summarized with particular emphasis on persons or transactions subject to tax, exemptions, basis and rates of tax, and returns and payment.

In determining the personal income tax and the corporation net income tax, West Virginia uses federal figures as a starting point in the determination of the West Virginia tax base. Consequently, the **Guidebook** references the comparable and relevant provisions of the Federal Internal Revenue Code (“IRC”). Changes in federal income tax law made after December 31, 2022 that affect the federal adjusted gross income of individuals and the federal taxable income of corporations are not automatically incorporated into the West Virginia personal and corporation net income tax laws. Historically, the West Virginia Legislature annually updates the meanings of “federal adjusted gross income” and “federal taxable income” for West Virginia income tax purposes. Any federal change the Legislature does not wish to adopt is then enacted as an increasing or decreasing modification to “federal adjusted gross income” or “federal taxable income,” as appropriate. As of the date of this publication, taxpayers must follow all changes to federal income tax law made after December 31, 2021 and before January 1, 2023. The legislature will likely update its IRC conformity again in 2024, with such change being retroactive if allowable under federal income tax law.

PREFACE

Each tax of major interest is covered in a separate chapter, and there is a chapter covering several miscellaneous taxes. Additionally, there are chapters on tax procedures and incentives for business development. Where there is a special procedure applicable to a particular tax, the procedure is discussed in the chapter pertaining to that tax.

¹ West Virginia income tax laws do not automatically conform to changes in federal income tax law affecting the definitions of federal adjusted gross income for individuals and federal taxable income in the case of corporations, estates, and trust. Historically, the West Virginia Legislature has enacted conformity legislation and made the enactments retroactive.

This **Guidebook** was written by several authors, each of whom contributed a chapter or multiple chapters. The authors are well-known tax authorities in West Virginia and have knowledge of the subject of their chapter. Each chapter discusses the statutory scheme and regulations and briefly reviews the major cases pertaining to the tax covered. A detailed example of each State tax incentive for business development is provided in the chapter discussing those incentives. Discussion of the major taxes includes reference to relevant forms. However, because forms for all taxes collected by the West Virginia Tax Division² are available at the Division’s webpage, <https://tax.wv.gov/Pages/default.aspx>, we have not included the various forms in this publication.

Each **Guidebook** chapter lists the sections of the West Virginia Code applicable to the tax being discussed. The West Virginia Code is available at the West Virginia Legislature’s webpage: <http://www.wvlegislature.gov/>. Frequently, applicable regulations are cited. The Tax Commissioner is authorized to promulgate interpretive, legislative, and procedural administrative rules following the procedure set forth in article three of the State Administrative Procedures Act. W. Va. Code § 29A-3-1 *et seq.* These rules are available in hard copy from the West Virginia Secretary of State. They are also available in electronic format at the Secretary of State’s website: <https://sos.wv.gov/Pages/default.aspx> by clicking on “CSR Search” under ‘Popular Resources.’”

Craig A. Griffith, Editor

January 1, 2024

² After decades of referring to itself as the “West Virginia State Tax Department,” the Department began referring to itself as the “West Virginia State Tax Division” in 2023 in conjunction with a rebrand. The newly coined “West Virginia State Tax Division” may be referred to as the “West Virginia State Tax Department” frequently in the chapters to the **Guidebook**.

ACKNOWLEDGMENT

The editor acknowledges the assistance of Commerce Clearing House (“CCH”) in allowing the West Virginia Society of Certified Public Accountants (“WVSCPA”) to use its *1993 West Virginia Tax Guide* as a starting point for this publication. We are also grateful to Kevin R. Waldo, Esq., who was instrumental in obtaining the assistance of CCH. The 1993 publication was edited by the late Harry P. Henshaw III with the assistance of the West Virginia University College of Law, and several other people, including the writers who participated in that undertaking. While there have been many changes in West Virginia’s tax laws since 1993, being able to use the 1993 CCH publication as a starting point is very much appreciated by writers who prepared the **2024 Guidebook to West Virginia Taxes**.

The WVSCPA recognizes the work of Victor Grigoraci, who was instrumental in the **Guidebook** becoming a project of the WVSCPA and who for many years authored the chapter on corporation net income taxes.

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The State Tax Division publishes the following Taxpayer Services Division publications (“TSD”) at:

<https://tax.wv.gov/TaxProfessionals/GuidanceAndPublications/Pages/TaxProfessionalsGuidanceAndPublications.aspx>.

The TSD publications provide general tax information on the following subjects*:

Publication	Title
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TSD-2	Tax Division Phone Numbers
TSD-3	Tax Division Addresses
TSD-4	Taxpayer Bill of Rights
TSD-100	Business Taxes
TSD-110	West Virginia Tax Credits
TSD-200	West Virginia Business Franchise Tax
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TSD-211	Timber Severance Tax
TSD-300	Sales and Use Tax Exemptions
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TSD-310	Capital Improvement Rule - Sales and Use Tax for Construction Trades
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TSD-314	Sales and Use Tax for Funeral Directors and Related Taxpayers
TSD-315	Sales and Use Tax for Dealers of Factory-Built Home
TSD-316	Sales and Use Tax for Lodging Rentals
TSD-317	Registration and Sales Tax for Transient Vendors
TSD-318	Taxation of Homeowners’ Associations and Common Interest Communities
TSD-320	Sales and Use Tax for Nonprofit Organizations
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TSD-330	Nonresident Contractors Sales and Use Tax Requirements
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TSD-366	Sales Tax for Night Clubs, Bars, Restaurants and Similar Businesses
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TSD-369	Use Tax for Your Business
TSD-370	Sales and Use Tax on Samples for Manufacturer/Retailer
TSD-371	Sales and Use Tax for Agricultural Producers
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TSD-400	Consumers Sales Tax Responsibilities: Entertainers and Artists
TSD-402	West Virginia Broad Based Health Care Related Taxes
TSD-404	Timber Severance Tax Requirements for Nonresidents
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TSD-411	Senior Citizen Tax Credit
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TSD-413	West Virginia Tax Tips for Senior Citizens
TSD-415	Collection of West Virginia Consumer Sales and Service Tax for All State Correctional and Regional Jail Facilities
TSD-418	Personal Income Tax Filing Tips
TSD-420	Sales Tax Regarding Prepared Foods
TSD-423	Nonresident Lawyers - Tax Reporting and Filing Requirements
TSD-424	Integrated Tax System
TSD-425	Consumers Sales Tax Exemption for Drugs, Durable Medical Goods, Mobility Enhancing Equipment and Prosthetic Devices
TSD-427	Prepaid Wireless Calling Services Now Subject to Sales and Use Tax
TSD-429	Notice to West Virginia Timber Producers of Elimination of Severance Tax on Timber for a Three-Year Period
TSD-432	Gambling Withholding and Losses
TSD-433	Taxes on Boxing and Mixed Martial Arts Events Regulated by the State Athletic Commission
TSD-434	Sales Tax Collection Responsibilities of Florists
TSD-435	Short-Term Leases and Rentals of Real Property
TSD-436	Requests for Waiver of Electronic Filing and Payment Requirements
TSD-437	Nonresident Wage Income Assigned to West Virginia
TSD-440	Pension Income of Retired Federal Law Enforcement & Federal Firefighter Personnel – <i>Dawson v. Steager</i>
TSD-442	Marketplace Facilitators
TSD-443	Personal Income Tax of Military Servicemembers
TSD-444	Sales Tax Exemption for Small Arms and Ammunition
TSD-445	Sales and Use Tax for Streaming Services
TSD-446	Charitable Gaming
TSD-447	Fairs and Festivals
TSD-450	Audits
TSD-451	Electronic Smoking and Drug Paraphernalia

TSD-454

Motor Vehicle Property Tax Adjustment Act

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

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

Taxpayers may also call the Revenue Center general line at (304) 558-3333

Internet address: <http://www.wvtax.gov>

*List is current through December 31, 2023.

ADMINISTRATION AND PERSONNEL

DEPARTMENT OF REVENUE

Acting Secretary of Revenue: Larry Pack

Deputy Secretary: Mark Muchow

The Department of Revenue provides administrative support services and liaison with the Governor's Office for 10 agencies, boards, commissions and offices, including the State Tax Division. Also included in the Department of Revenue are the Office of Tax Appeals, the Alcohol Beverage Control Administration, the Division of Financial Institutions, the Insurance Commission, the Lottery Commission, the Municipal Bond Commission, the Racing Commission, the Athletic Commission, and the Budget Office.

STATE TAX DIVISION

State Tax Commissioner: Matthew Irby

Deputy Tax Commissioner: Erin Winter

Assistant Commissioner, Operations: J. Michael Dempsey

Assistant Deputy Tax Commissioner of Taxpayer Engagement: Emily Cramer

Assistant Deputy Tax Commissioner of Compliance and Enforcement: R. Derek Walker

General Counsel and Legal Division Director: Mark S. Morton

Auditing Division Director: Pam Morris

Compliance Division Director: Thomas A. Moore Jr.

Criminal Investigation Division Director: Randy Young

Information Technology Division Director: Kwasi C. Toombs

Operations Division Director: Vacant

Property Tax Division Director: Deanna Sheets

Research and Development Director: Cindy Dunbar

Revenue Division Director: Brianna Walker

Tax Account Administration Division Director: Stacy Acree

Taxpayer Services Division Director: Travis Payne

Disclosure Officer: Harry Yates Jr.

Office of the Taxpayer Advocate: Sarah Sikorovsky

Statement of Good Standing/Statement of Good Standing for Office of Medical Cannabis

Complete and file GSR-01 WV Request for Statement of Good Standing

West Virginia State Tax Division

ATTN: TPS – Support Unit
P.O. Box 885
Charleston, WV 25323-0885
Phone: (304) 558-3333
(800) 982-8297

The State Tax Division administers, collects, and enforces all of the State taxes discussed in this book except for the ad valorem property tax, the unemployment tax and the taxes imposed, administered, collected and enforced by counties and municipalities. The State Tax Division determines the appraised values of industrial and natural resource properties, determines the tentative assessed value of operating public utility properties and supervises the work of locally elected county assessors who are responsible for determining the appraised value of all other property and for determining the assessed value of real and tangible personal property in their respective counties on the July 1st assessment day, except for operating public utility property. The Division administers several business incentives and other tax credit programs, licenses the conduct of charitable bingo games and charitable raffles held in the State, and performs several other statutory duties.

Tax return forms, instructions and other publications are available at the State Tax Division's website: <https://tax.wv.gov/Pages/default.aspx>.

OFFICE OF TAX APPEALS

Chief Administrative Law Judge: A.M. "Fenway" Pollack
Administrative Law Judge: Crystal S. Flanigan
Administrative Law Judge: Michael E. Bevers
Executive Director: Angela R. Mullins

The Office of Tax Appeals hears petitions for appeal of taxes and fees administered under the West Virginia Tax Procedure and Administration Act and hears other appeals from actions of the Tax Commissioner as authorized in the West Virginia Code. The Office of Tax Appeals has jurisdiction in property tax matters beginning with property tax year 2023.

BOARD OF PUBLIC WORKS

Governor: James Conley "Jim" Justice
Secretary of State: Andrew "Mac" Warner
State Attorney General: Patrick Morrisey
State Auditor: John B. McCuskey
State Commissioner of Agriculture: Kent Leonhardt
State Superintendent of Schools: Michelle L. Blatt
State Treasurer: Riley Moore

The Board of Public Works, a board composed of the above officials, ex-officio, levies the State property tax, determines the assessed value of operating property of public

service companies and hears appeals from tentative assessments of public utility property.

SECRETARY OF STATE

Andrew “Mac” Warner, Secretary of State

The Secretary of State Office’s includes the administrative law division, which publishes the State Register and is the repository for administrative regulations promulgated by state agencies; the business division, which maintains the official state records of formation, change and termination of legal entities, such as corporations, limited liability companies, limited partnerships, limited liability partnerships, voluntary associations and business trusts, and authorizations of foreign entities to do business in the State; and the elections division.

STATE AUDITOR

John B. McCuskey, State Auditor

The State Auditor’s duties include annually apportioning the statewide assessed values of public utility properties determined by the Board of Public Works; and collecting the property taxes annually levied on public utilities.

STATE TREASURER

Riley Moore, Treasurer

The State Treasurer’s duties include administering the State’s unclaimed property program.

STATE TAX DIVISION OFFICE LOCATIONS

West Virginia Revenue Center

1001 Lee Street, East
Charleston, West Virginia 25301
Phone: (304) 558-8333 or (304) 558-0751

Charleston Office – Compliance Division

1001 Lee Street East
P.O. Box 229
Charleston, WV 25321-0229
Phone: (304) 558-8750

Charleston Office – Property Tax Division

1001 Lee Street East
P. O. Box 2389

Charleston, WV 25328-2389
Phone: (304) 558-3940
Fax: (304) 558-1843

Charleston Office - Taxpayer Services Division

1001 Lee Street East
P. O. Box 3784 Charleston, WV 25337-3784
Phone: (304) 558-3333 or (304) 558-2051
Toll Free: 1-800-WVA-TAXS (982-8297)
Fax: (304) 558-3269

See TSD-2 and TSD-3 for a comprehensive listing of Telephone Numbers and Mailing Addresses

STATE TAX DIVISION REGIONAL and FIELD OFFICES

Beckley Regional Office

407 Neville Street
Beckley, WV 25801
Compliance and Taxpayer Services Divisions, Suite 109
Phone: (304) 256-6764
Fax: (304) 250-6549
Property Tax Field Office, Suite 120
Phone: (304) 256-6873
Fax: (304) 256-6740

Martinsburg Regional Office

397 Mid Atlantic Parkway, Suite 2
Martinsburg, WV 25401
Compliance and Taxpayer Services Divisions
Phone: (304) 267-0022
Fax: (304) 267-0041
Property Tax Field Office, Suite 2
Phone: (304) 267-0023
Fax: (304) 267-0041

Clarksburg Regional Office

153 West Main Street
Clarksburg, WV 26301
Compliance and Taxpayer Services Divisions
Phone: (304) 627-2109
Fax: (304) 627-2112
Property Tax Field Office
Phone: (304) 627-2110 or 2111
Fax: (304) 267-2112

Parkersburg Regional Office

400 5th Street, Room 509
Parkersburg, WV 26101
Compliance and Taxpayer Services Divisions
Phone: (304) 420-4570
Fax: (304) 420-4530

Wheeling Regional Office

40 14th Street, Suite 101
Wheeling, WV 26003
Compliance and Taxpayer Services Divisions
Phone: (304) 238-1152
Fax: (304) 238-1153
Property Tax Field Office
Phone: (304) 238-1160
Fax: (304) 238-1153

TAX RATES

BUSINESS FRANCHISE TAX

Period	Tax Rate
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For taxable years beginning after December 31, 2014	No Tax
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For additional information about the former business franchise tax, see chapter 2 of this *Guidebook*.

CORPORATION NET INCOME TAX

Period	Tax Rate
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For taxable periods beginning after December 31, 2013	6.5%
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For additional information about the corporation net income tax, see chapter 1 of this *Guidebook*.

NON-CORPORATE INCOME TAX

Single individuals, estates and trusts, married individuals filing joint returns, heads of households, surviving spouses:

If W. Va. taxable income is:

Not over \$10,000
Over \$10,000 but not over \$25,000
Over \$25,000 but not over \$40,000
Over \$40,000 but not over \$60,000
Over \$60,000

The tax is:

2.36% of the taxable income
\$236 plus 3.15% of excess over \$10,000
\$708.50 plus 3.54% of excess over \$25,000
\$1,239.50 plus 4.72% of excess over \$40,000
\$2,183.50 plus 5.12% of excess over \$60,000

Married individuals filing separate returns:

If W. Va. taxable income is:

Not over \$5,000
Over \$5,000 but not over \$12,500
Over \$12,500 but not over \$20,000
Over \$20,000 but not over \$30,000
Over \$30,000

The tax is:

2.36% of the taxable income
\$118.00 plus 3.15% of excess over \$5,000
\$354.25 plus 3.54% of excess over \$12,500
\$619.75 plus 4.72% of excess over \$20,000
\$1,091.75 plus 5.12% of excess over \$30,000

Minimum tax: None

Withholding on employee compensation is required.

Withholding is also required:

- When a pass-through entity distributes West Virginia source income to nonresident partners or nonresident shareholders or corporations (distributions include actual or deemed) (5.12% rate of tax for individuals beginning January 1, 2023; 6.5% for corporations);
- When a nonresident individual or business sells real property located in this State unless an exemption applies (2.5% of total payment to nonresident or 5.12% of estimated capital gain beginning January 1, 2023);
- On gambling winnings when withholding is required for federal income tax purposes (6.5% rate of tax); and
- On lottery winnings of more than \$5,000 from any lottery prize awarded by the West Virginia State Lottery Commission (6.5% rate of tax).

For additional information about the noncorporate income taxes, see chapter 4 of this Guidebook.

CONSUMER SALES AND SERVICE TAX AND USE TAX

General: The rate of tax due under the consumers sales and service tax and under the use tax is 6% of the purchase price of the tangible personal property or taxable service. However, sales of mobile homes used by the purchasers as a principal year-round residence are taxed at a rate of 6% on 50% of the purchase price. Use tax is also generally imposed when tangible personal property or a taxable service is purchased outside West Virginia and then used in West Virginia. Credit is allowed against the use tax for sales taxes lawfully paid to another state.

Grocery store type food items intended for human consumption are exempt from state and local sales taxes. This exemption does not include certain prepared foods, soft drinks or food sold through vending machines.

Motor vehicles: Motor vehicles are subject to the 6% sales tax. Individuals who move to West Virginia are generally exempt from paying this tax when they re-title their motor vehicle in West Virginia.

Motor fuel: Motor fuels are subject to sales tax, at the 5% rate of tax, based on the average wholesale price of motor fuel during the months of July, August, September, and October of the prior calendar year, as determined annually by the Tax Commissioner. This tax is collected as the variable rate component of the motor fuel excise tax. The wholesale price of motor fuels cannot be less than \$3.04 per gallon and the variable component of the tax per gallon may not be less than 15.2¢ per gallon of motor fuel. For calendar year 2024, the flat rate component of the motor fuel excise tax is 20.5¢ per

gallon, the variable rate component of the motor fuel excise tax is 15.2¢ per gallon, and the aggregate rate per gallon of conventional motor fuels is 35.7¢ per gallon.

Local sales and use taxes: As of January 1, 2024, over 80 municipalities impose local sales and use taxes at a rate of 1% that are administered, collected, and enforced by the State Tax Commissioner. These municipalities are:

Municipalities		
Alderson	Kingwood	Ravenswood
Ansted	Lewisburg	Reedsville
Athens	Logan	Ripley
Barboursville	Man	Romney
Beckley	Mannington	Rowlesburg
Bluefield	Martinsburg	Rupert
Bolivar	Masontown	Shepherdstown
Bridgeport	Middlebourne	Shinnston
Bruceeton Mills	Milton	Sistersville
Buckhannon	Montgomery	Smithers
Capon Bridge	Moorefield	Sophia
Chapmanville	Morgantown	South Charleston
Charles Town	Moundsville	Spencer
Charleston	New Cumberland	St. Albans
Chester	New Martinsville	Summersville
Clarksburg	Nitro	Sylvester
Davis	Nutter Fort	Terra Alta
Dunbar	Oak Hill	Thomas
Elizabeth	Paden City	Tunnelton
Elkins	Parkersburg	Vienna
Ellenboro	Paw Paw	Wardensville
Fairmont	Pennsboro	Wayne
Fayetteville	Petersburg	Weirton
Follansbee	Pine Grove	West Union
Grafton	Princeton	Weston
Harpers Ferry	Quinwood	Wheeling
Harrisville	Ranson	White Hall
Hundred		Williamstown
Huntington		
Hurricane		

Local sales and use taxes do not apply to sales of motor vehicles, sales of motor fuels, any transaction that is exempt from State sales and use taxes, or any transaction subject to State sales tax that municipalities are prohibited from taxing under State or Federal law.

For additional information about sales and use taxes, see chapter 5 and chapter 10 of this Guidebook.

PROPERTY TAX

The maximum property tax rates allowed by the West Virginia Constitution per \$100 of assessed valuation are:

- \$0.50 for Class I property (certain agricultural personal property),
- \$1.00 for Class II property (owner occupied residential property and farmland),
- \$1.50 for Class III property (other property located outside a municipality),
- \$2.00 for Class IV property (other property located inside a municipality).

These rates can be increased by voter approved referendum to impose special or excess levies, as proposed by county boards of education, county commissions and municipalities. Excess levies are generally in effect for a period of five years before resubmission to the voters. Excess levies of county commissions and municipalities may not exceed 50% of the regular levy rate and must be approved by at least 60% of those voting on the question. Education excess levies can be 100% of the regular levy and are approved by a simple majority vote. General obligation bond levies are approved by a simple majority vote.

For additional information about ad valorem property taxes, see chapter 6 of this Guidebook.

PROPERTY TRANSFER TAX

The maximum property transfer tax rate is \$2.75 per \$500 of consideration. The maximum state rate is \$1.10 per \$500 of value and maximum county rate is \$1.65 per \$500 of value. Counties have the option of imposing an additional property transfer tax of \$1.10 for farmland preservation.

In most counties, the county real property transfer tax is \$1.10 per \$500 of value (or fraction thereof) and is payable to the county clerk when the deed is recorded. The county tax is in addition to the state property transfer tax which is \$1.10 per \$500 of value (or fraction thereof) and is payable to the county clerk when the deed is recorded. This equates to a tax rate of .44% in most counties, and counties have the option of increasing the rate to .77%.

Beginning July 1, 2021, counties shall retain 10% of each state excise tax collected for the privilege of transferring title to real estate and beginning July 1 of every year thereafter an additional 10% of state excise tax shall be retained by the county. Effective July 1, 2030, the state excise tax will convert to a county excise tax.

For additional information about the property transfer tax, see chapter 10 of this Guidebook.

SEVERANCE TAX

NATURAL RESOURCE CLASSIFICATION	Tax Rate
Coal *	
Metallurgical Coal	5.00%
Steam Coal (Prior to July 1, 2019)	5.00%
Steam Coal (July 1, 2019 to June 30, 2020)	4.30%
Steam Coal (July 1, 2020 to June 30, 2021)	3.70%
Steam Coal (On or after July 1, 2021)	3.00%
When produced by underground mining methods from seams 37" to 45" thick	2.00%
When produced by underground mining methods from seams less than 37" thick	1.00%
When produced from waste and residue from prior mining	2.50%
Limestone or Sandstone quarried or mined on or after July 1, 2019	0.00%
Oil	5.00%
Oil wells (excluding horizontal wells) producing between ½ to 10 barrels per day	2.50%
Natural Gas	5.00%
Natural gas wells (excluding horizontal wells) producing between 5,000 to 60,000 cubic feet per day	2.50%
Natural gas – coalbed methane gas	5.00%
Sand, gravel, or other mineral product not quarried or mined	5.00%
Timber produced on or after July 1, 2019	0.00%
Other Natural Resources	5.00%

* The rates for coal include the 0.35% rate imposed for the benefit of counties and municipalities.

These rates do not include the minimum severance tax on coal, see chapter 7, ¶ 712, the additional tax on producers of coal, gas, or timber, see ¶ 713, the special reclamation tax, see ¶ 714, or the special tax on coal producers, see ¶ 715. The rates are based on the gross value of the natural resource subject to severance tax.

ESTATE TAX: None (for persons dying after December 31, 2004)