WEST VIRGINIA CODE: §11-13A-3D

§11-13A-3d. Imposition of tax on privilege of severing coalbed methane.

(a) The Legislature hereby finds and declares the following:

(1) That coalbed methane is underdeveloped and an under-utilized resource within this state which, where practicable, should be captured and not be vented or wasted;

(2) The health and safety of persons engaged in coal mining is a paramount concern to the state. The Legislature intends to preserve coal seams for future safe mining, to facilitate the expeditious, safe evacuation of coalbed methane from the coalbeds of this state, and to ensure the safety of miners by encouraging the advance removal of coalbed methane;

(3) The United States environmental protection agency's coalbed methane outreach program encourages United States coal mines in the United States to remove and use methane that is otherwise wasted during mining. These projects have important economic benefits for the mines and their local economies while they also reduce emissions of methane; and

(4) The initial costs of development of coalbed methane wells can be large in comparison to conventional wells and deoxygenation and water removal increase development expenditures.

The Legislature, therefore, concludes that an incentive to coalbed methane development should be implemented to encourage capture of methane gas that would otherwise be vented to the atmosphere.

(b) Imposition of tax. –- In lieu of the annual privilege tax imposed on the severance of natural gas or oil pursuant to section three-a, article thirteen-a, for the privilege of engaging or continuing within this state in the business of severing coalbed methane for sale, profit or commercial use, there is hereby levied and shall be collected from every person exercising such privilege an annual privilege tax: Provided, That effective for taxable years beginning on or after January 1, 2001, there is an exemption from the imposition of the tax provided for in this article for a maximum period of five years for all coalbed methane produced from any coalbed methane well placed in service after January 1, 2000. For purposes of this section, the terms "coalbed methane" and "coalbed methane well" have the meaning ascribed to them in section two, article twenty-one, chapter twenty-two of this code. The exemption from tax provided by this section is applicable to any coalbed methane well placed in service before January 1, 2009, subject to the provisions of subsection (f) of this section.

(c) Rate and measure of tax. -- The tax imposed on subsection (b) of this section is five percent of the gross value of the coalbed methane produced, as shown by the gross proceeds derived from the sale thereof by the producer, except as otherwise provided in this article.

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(d) Tax in addition to other taxes. -- The tax imposed by this section applies to all persons severing coalbed methane in this state, and is in addition to all other taxes imposed by law.

(e) Except as specifically provided in this section, application of the provisions of this article apply to coalbed methane in the same manner and with like effect as the provisions apply to natural gas.

(f) Notwithstanding any other provision of this code to the contrary, on and after January 1, 2009, the exemption from the tax on the privilege of severing coalbed methane created in this section will no longer be applicable except that the privilege tax shall not be collected on coalbed methane produced from any coalbed methane well for the remainder of the five-year exemption for any well that was placed in service, including the commencement of actual drilling of the well, before January 1, 2009.

(g) Subject to the exceptions set forth in this section and article thirteen-v of this chapter, on and after January 1, 2009, coalbed methane and methane produced from or by a coalbed methane well is taxable as natural gas for purposes of the taxes imposed by this article and the taxes imposed by article thirteen-v of this chapter.

(h) The Tax Commissioner shall promulgate emergency and legislative rules, in accordance with the provisions of article three, chapter twenty-nine-a of this code, as necessary to effectuate the purposes of this article.

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