WEST VIRGINIA CODE: §11-13A-3e

§11-13A-3e. Imposition of tax on privilege of extracting and recovering material from refuse, gob piles or other sources of waste coal to produce coal.

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

(1) That some mining operations in this state process coal to create a saleable clean coal product;

(2) That the by-product, waste or residue created from processing coal is commonly deposited in what are known as refuse or gob piles;

(3) That, as a result of technological developments and other factors, the material contained in some refuse or gob piles located in this state can be recovered and further processed to produce saleable clean coal; and

(4) That, under the existing laws of this state, coal produced from processing material contained in refuse, gob piles, slurry ponds, pond fines or other sources of waste coal would be subject to the annual privilege tax imposed on the severance of coal pursuant to section three of this article and the minimum severance tax imposed by section three, article twelve-b of this chapter.

Based on the findings in this subsection, the Legislature concludes that an incentive to extracting and recovering material contained in refuse, gob piles and other sources of waste coal located in this state and subsequently processing, washing and preparing this material to produce coal should be implemented to encourage the production of this coal from refuse or gob piles located in this state.

(b) Imposition of tax. -– In lieu of: (i) The annual privilege tax imposed on the severance of coal imposed by section three of this article; (ii) the additional tax on severance, extraction and production of coal imposed by section six of this article; and (iii) the minimum severance tax imposed by section three, article twelve-b of this chapter for the privilege of engaging or continuing within this state in the business of extracting and recovering material from a refuse, gob pile or other sources of waste coal and subsequently processing, washing and preparing this extracted or recovered material to produce coal for sale, profit or commercial use, there is hereby levied and shall be collected from every person exercising that privilege an annual privilege tax.

(c) Rate and measure of tax. -– The tax imposed in subsection (b) of this section is two and one-half percent of the gross value of the coal produced, as shown by the gross proceeds derived from the sale of the coal 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 extracting and recovering material from refuse, gob piles or other sources of waste coal located in this state and subsequently processing, washing and preparing this extracted and recovered material to produce coal for sale, profit or commercial use and shall be in addition to all other taxes imposed by law: Provided, That the tax imposed by this section is in lieu of the tax imposed by sections three and six of this article and section three, article twelve-b of this chapter.

(e) Exemption. -- The tax imposed in subsection (b) of this section shall not apply to any electrical power cogeneration plant burning material from its wholly owned refuse or gob pile.

(f) Dedication of taxes collected, creation of fund. --

(1) There is continued in the State Treasury a fund entitled the "waste coal-producing counties fund" which shall be a revolving fund that shall carry over each fiscal year. The taxes collected under the provisions of this section shall be deposited in the waste coal-producing counties fund and are dedicated to the county commissions of the counties in which the refuse, gob piles or other sources of waste coal are located from which taxable waste coal production has occurred during the year for use in economic development and infrastructure improvements. The economic and infrastructure projects are to be in accordance with the rules promulgated under the synthetic fuel-producing counties grant fund program, as determined by the director of the West Virginia Development Office: Provided, That the county shall use ninety percent of the funds for infrastructure improvement and ten percent of the funds for economic development.

(2) Moneys in the waste coal-producing counties fund shall be distributed by the State Treasurer annually to the counties in which the refuse, gob piles or other sources of waste coal are located, from which taxable waste coal production has occurred during the year, in an amount prorated to the number of tons of taxable waste coal produced in each county during the preceding year. The distribution shall be paid separate from any other payment of moneys to the county by the treasurer. For purposes of this subdivision, the term "ton" means two thousand pounds.

(3) The office of chief inspector shall annually determine that counties' expenditures of moneys distributed under this section is in compliance with the requirements of this section.

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