
WEST VIRGINIA CODE CHAPTER 11
ARTICLE 5

WV Legislature

§11-5-1. What personal property taxable.

All personal property belonging to persons residing in this state, whether such property be in or out of the state, and all personal property in the state, though owned by persons residing out of the state, shall be entered in the personal property book, and be subject to equal and uniform taxation, except as classified in section four, article eight of this chapter, unless especially exempted by law; but personal property of all classes, except as hereinbefore provided, belonging to the residents of this state, which is actually and permanently located in another state, and by the laws of such other state is subject to taxation and is actually taxed in such other state, shall not be entered on the personal property book, or be taxed in this state. But the shares of capital stock owned by residents of this state in corporations actually located in other states, and whose property is taxed by the laws of such other state, shall not be required to be listed for taxation. Any person who at any time before the assessment year transfers by loan, deposit or gift, any notes, bonds, bills and accounts receivable, stocks and other intangible personal property, which are subject to taxation to anyone, who does not return a list of taxation as of the day on which the assessment year commences including such property, transfers, loans, deposits or gifts, if made with intention of evading taxation, shall be deemed and treated as illegal and fraudulent and the assessor shall assess such property for taxation to the party who makes such transfers, loans, deposits or gifts as aforesaid.

§11-5-2. Personal property books.

In his personal property books the assessor shall enter the names and post-office addresses of the owners of personal property alphabetically arranged by districts, showing separately the values of:

- (1) All tangible personal property employed exclusively in agriculture including horticulture and grazing;
- (2) All products of agriculture (including livestock) while owned by the producer;
- (3) All notes, bonds, bills and accounts receivable, stocks and any other intangible personal property;
- (4) The total of one, two and three;
- (5) All other tangible personal property.

The Tax Commissioner may prescribe such itemization and further information as he deems necessary. The assessor shall make the same number of copies and extend the levies in the same way as he does with the landbook.

§11-5-3. Definitions.

The words "personal property," as used in this chapter includes all fixtures attached to land, if not included in the valuation of such land entered in the proper landbook; all things of value, moveable and tangible, which are the subjects of ownership; all chattels real and personal; all notes, bonds, and accounts receivable, stocks and all other intangible property.

"Agriculture" means the cultivation of the soil, including the planting and harvesting of crops and the breeding and management of livestock.

"Horticulture" means plant production of every character except forestry.

"Grazing" means the use of land for pasturage.

"Products of agriculture" means those things the existence of which follows directly from the activity of agriculture, horticulture or grazing, including dairy, poultry, bee and any other similar products, whether in the natural form or processed as an incident to the marketing of the raw material.

"Producer" means the person who is actually engaged in the agriculture, horticulture and grazing which gives existence and fruition to products of agriculture as distinguished from the broker or middleman.

"Tax year" means the calendar year following the July first assessment day or, in the case of a public service business assessed pursuant to article six of this chapter, the calendar year beginning on the January first assessment day.

"While owned by the producer" means while title is in the producer as above defined.

"Employed exclusively" means that the preponderant and the sole gainful use is for the designated purpose.

§11-5-4. In what district personalty assessed.

Every person required by law to list personal property for taxation shall list the tangible personal property in the tax district wherein it is on the first day of the assessment year, and chattels real in the tax district wherein the land to which they relate is located; and he shall list for taxation in the tax district in which he resides the notes, bonds, bills, and accounts receivable, stocks and other intangible personal property subject to taxation belonging to himself or under his charge or control, whether the same, or the evidence thereof be in or out of the state; but capital, and intangible property (except real estate and chattels real) employed in any trade or business (other than agriculture) belonging to a company whether it is incorporated or not, or to an individual, shall be assessed for taxation in the tax district wherein the principal office for the transaction of the financial concerns pertaining to such trade or business is located; or, if there be no such office, then in the district where the operations are carried on. Goods and chattels and other tangible personal property not exempt from taxation which may not be assessed for taxation in the tax district where the same were on the first day of the assessment year, but which have been removed therefrom, shall be assessed in the tax district where the same were on the first day of the assessment year; but the assessment and payment of taxes in any county or district in any year shall exonerate the owner of such property in any other county or district for such year: Provided, That in cases of the assessment of leasehold estates a sum equal to the valuations placed upon such leasehold estates shall be deducted from the total value of the estate, to the end that the valuation of such leasehold estate and the remainder shall aggregate the true and actual value of the estate.

§11-5-5. Valuation of credits and investments.

The value of any credit, if the solvency of the party liable therefor be doubtful or if the claim be disputed, shall be estimated at its probable worth; if it be payable in anything but money, its probable value in money, to be fixed by the assessor, is to be listed; if a solvent credit bear interest which has not been paid, the amount of principal and interest, calculated up to the first day of the assessment year of the year for which the assessment is made shall be listed; but if it do not bear interest, and be not due, the interest for the time it has run from the first day of the assessment until it be due and payable, may be deducted. Investment, in notes, bonds, bills, stocks and other intangible property, shall be rated by the assessor at their market price, or if there be no known market price, then at their proper value, according to the rule prescribed in this chapter.

§11-5-6. Property or stock of corporations.

When the property, stock or capital of any company, whether incorporated or not, is assessed to such company, no person owning any share, portion or interest therein, shall be required to list the same or be assessed with the valuation thereof.

WV Legislature

§11-5-7. Household furniture.

Nothing contained in this chapter shall be construed to require any person to furnish, or the assessor to take, a list of the several articles of such person's household and kitchen furniture, except as required under the provisions of section two of this article.

WV Legislature

§11-5-8. Assessment of transients selling goods.

Any transient person desiring to offer or furnish for sale, either by auction or otherwise, any goods or merchandise not assessed for the purpose of taxation in any county in this state, shall apply to the assessor of the county in which such goods or merchandise is about to be offered or furnished for sale, and have the value thereof ascertained and assessed with taxes, as like property is valued and assessed, and shall, before selling any of such goods or merchandise, pay to such assessor the taxes levied for the current year. If at the time of such valuation and payment of taxes the levies for the current year shall not have been ascertained, the assessor shall assess such valuation according to the rate of taxation levied for the previous assessment year, for all purposes for which such goods or merchandise is liable to be assessed for the current year, in the place where they are to be offered or furnished for sale. If the amount thus ascertained and paid is afterward ascertained to be in excess of the taxes levied for the current year, he shall have such excess refunded to him. The assessor shall at the time he so values such goods or merchandise and collects the taxes thereon, if his personal property book has not been completed and certified, enter such valuation therein, under the appropriate heading in the name of the owner of such goods or merchandise. If at the time of such valuation and collection of taxes thereon such personal property books shall have been completed and certified, he shall enter the same in the supplement to the copy of such book retained by him and in either event he shall furnish to the Auditor, to the clerk of the county court and to the municipality, if any, interested therein, respectively, certificates of such valuation and of the amount of taxes collected thereon by him. The Auditor and such clerk shall preserve such certificates in their respective offices, and, if the entry of such valuation and assessment of taxes thereon shall not have been made in the personal property book before copies thereof have been certified, they shall also enter the amount of such valuation so certified to them in the supplements to their respective copies of such personal property book. The assessor shall deliver to such person a receipt for the amount of taxes paid by him stating therein the character of the goods or merchandise on which such taxes were paid, the value assessed thereon, and the amount of taxes and the year for which the same were paid. Such receipt shall be signed by the assessor and attested by the clerk of the county court, and when so signed and attested shall operate as a discharge to such person holding the same for any further liability for taxes in any county of the state on account of such goods or merchandise for that year; but it shall not relieve him from all liability for taxes on account of goods or merchandise which he has not reported to the assessor to be valued, and on which he has not paid the taxes as herein provided. The assessor shall report to the clerk of the county court all taxes collected by him under this and the preceding section, upon property assessed by him after he has completed and certified his personal property book, and it shall be the duty of such clerk to charge the same against him in the supplement to the personal property book filed with such clerk. Any such person who shall violate any of the provisions of this section shall be guilty of a misdemeanor and, shall be fined not less than \$50 nor more than \$500. The assessor shall apportion the taxes collected by him under the provisions of this section, and shall account therefor to the county, district and municipality entitled thereto, according to the rate levied for the current year for each of them. Any assessor who shall fail to perform the duty

required of him by this section shall forfeit not less than \$25 nor more than \$100. If he shall fail to account for any taxes collected by him under the provisions of this section he shall be guilty of embezzlement, and shall, in addition to the foregoing penalty, be punished therefor according to law.

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§11-5-9. Ascertainment of property held under order of court.

The assessor shall ascertain from each person in his county, who acts under the order of any court as receiver or commissioner, the amount of all bonds, or other evidence of debt, under his control, and the style of the suit in which such fund belongs.

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§11-5-10. Entry of omitted personalty taxes.

If the assessor discovers that any taxes on personal property, other than bank deposits and money, were omitted in any former years, he shall proceed as provided in section five of article three of this chapter.

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§11-5-10a. Release of taxes, interest and charges, on bank deposits and money not assessed prior to November 4, 1958.

In view of the adoption of section one-a, amending article X of the Constitution of West Virginia, at the general election held on November 4, 1958, without any saving clause therein, and in order to give effect to the mandate of the people of the state, it is the intent and purpose of the Legislature to, and it hereby does, release all ad valorem taxes, interest, and charges on bank deposits and money unless an assessment therefor shall have been made, as provided in article three of this chapter, prior to November 4, 1958.

§11-5-11. Mobile homes used by the owner for residential purposes and located on land not owned by the mobile homeowner.

Mobile homes used and occupied by the owner thereof exclusively for residential purposes and located on land not owned by the owner of the mobile home shall be assessed on the personal property books as Class II property.

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§11-5-12. Mobile homes situate upon property owned by a person other than owner of mobile home.

Mobile homes situated upon property owned by a person other than the owner of the mobile home are classified as personal property whether or not the mobile home is permanently affixed to the real estate and, unless subject to assessment as Class II property under section eleven of this article or section two, article four of this chapter, are assessed as Class III or Class IV personal property, as may be appropriate in the circumstances.

A mobile home permanently attached to the real estate of the owner may not be classified as personal property if the owner has filed a canceled certificate of title with the clerk of the county commission and the clerk has recorded it in the same manner as deeds are recorded and indexed.

§11-5-13. Exemption of inventory and warehouse goods.

(a) Tangible personal property which is moving in interstate commerce through or over the territory of the State of West Virginia, or which was consigned from a point of origin outside the state to a warehouse, public or private, within the state for storage in transit to a final destination outside the state, whether specified when transportation begins or afterward, but in any case specified timely for exempt status determination purposes, shall not be deemed to have acquired a tax situs in West Virginia for purposes of ad valorem taxation and shall be exempt from such taxation, except as otherwise provided herein.

(b) Such property shall not be deprived of such exemption because while in the warehouse the personal property is assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled, or repackaged for delivery out of state, unless such activity results in a new or different product, article, substance or commodity, or one of different utility.

(c) Personal property of inventories of natural resources shall not be exempt from ad valorem taxation unless required by paramount federal law.

(d) The exemption allowed herein shall be phased in over a period of five consecutive assessment years, at the rate of one fifth of the assessed value of the property per assessment year, beginning July 1, 1987.

§11-5-13a. Application of exemption to finished goods in warehouse.

(a) This section is intended to clarify the intent of the Legislature and the citizens in establishing the exemption from ad valorem property taxation granted by section one-c, article ten of the West Virginia Constitution and section thirteen of this article as it pertains to goods held in warehouse facilities in this state awaiting shipment to a destination outside this state. This section codifies policies applied by agencies and departments of this state upon which persons have relied. It is the intent of the Legislature that the provisions of this section are to be liberally construed in favor of a person claiming exemption from tax pursuant to section one-c, article ten of the West Virginia Constitution, this section and section thirteen of this article.

(b) Goods which have been moved to a warehouse or storage facility, at which no substantial alteration takes place, to await shipment to a destination outside this state are deemed to be moving in interstate commerce over the territory of the state and therefore are exempt from ad valorem property tax and do not have a tax situs in West Virginia for purposes of ad valorem taxation.

(c) Notwithstanding subsection (b) of this section, personal property of inventories of natural resources shall not be exempt from ad valorem taxation unless required by federal law.

(d) This section is intended to be declarative of the law as of the enactment hereof and shall be fully retroactive.

§11-5-14. Assessment of motor vehicles previously titled jointly by married couples following final divorce order.

Beginning July 1, 1999, upon the presentment to the assessor of a certified copy of a final divorce order, entered under the provisions of section fifteen, article two, chapter forty-eight of this code, which grants the possession of a jointly titled motor vehicle to one of the parties of the divorce, the assessor shall list and assess that motor vehicle in the name of the person awarded possession of the vehicle in the final divorce order. If two jointly owned motor vehicles are involved in the divorce order and the vehicles are awarded exclusively to be titled one in the name of the husband and one in the name of the wife, the assessor shall apportion the assessment of the taxes owed on the vehicles between the husband and wife for the purposes of taxation on the vehicles so that the husband or wife will be responsible for the payment of taxes only on the vehicle awarded to him or her by the final divorce order. The assessor shall file notice of the apportionment with the county commission. Upon receipt of the notice, the county commission shall order that the taxes on the vehicles be apportioned in accordance with the apportionment set forth in the notice. The clerk of the county commission shall certify a copy of the order to the sheriff. Upon receipt of the order, the sheriff shall accept payment of the amount of tax apportioned to the motor vehicle awarded to the former spouse determined in the county commission's order, and the receipt issued by the sheriff for such payment shall constitute payment in full of the taxes due for the motor vehicle. No provision of this section may be construed to relieve the former spouse from liability for payment of any tax imposed on any other property of the former spouse.

§11-5-15. Dealer collection of fees on heavy equipment rental inventory.

1. Definitions - When used in this section, or in the administration of this section, the terms defined in this subsection shall have the meanings ascribed to them by this subsection, unless a different meaning is clearly required by the context in which the term is used or by specific definition.

(1) "Dealer of heavy equipment rental inventory" means a person or entity principally engaged in the business of short-term rental of property as described under North American Industrial Classification System code 532412, as published by the Bureau of Census.

(2) "Heavy equipment rental inventory" means the inventory of any construction, earthmoving or industrial equipment that is mobile and rented by a dealer of heavy equipment rental inventory including attachments for the equipment or other ancillary equipment or tools. Qualified heavy equipment property is mobile if it is not permanently affixed to real property and is capable of being moved to work sites.

(3) "Rental" or "renting" means the rental by a dealer of heavy equipment rental inventory:

(A) For period of less than one (1) year or for an undefined period; or

(B) Under a contract with unlimited terms.

(4) "Rental charge" means the total charge for the rental of heavy equipment rental inventory.

(b) For the purpose of the collection and remittance of property taxes on heavy equipment rental inventory, each dealer of heavy equipment rental inventory may, with respect to each rental of heavy equipment rental inventory, assign a fee to each item of heavy equipment rental inventory, state the amount of the fee assigned to the item of heavy equipment rental inventory as a separate line item on the invoice or other billing statement issued by the dealer to the renter, and collect the fee from the renter at the time the renter makes a rental payment to the dealer. The fee shall be in any amount not greater than two and one-half percent of the rental charge of each item of heavy equipment rental inventory.

(c) Any dealer of equipment rental inventory collecting the fee pursuant to subsection b of this section shall account for and hold those amounts separately from all other business receipts and shall use such amounts solely and exclusively for purposes of paying the property taxes levied upon its heavy equipment rental inventory.

(d) Any dealer collecting fees pursuant to subsection a of this section shall remit such amounts annually to the appropriate county sheriff on or before the thirtieth of September immediately following receipt of annual tax statements for the year in which the taxes collected pursuant to subsection a of this section took place. Any such remittances shall be credited against the dealer's property taxes attributable to the heavy equipment rental inventory for that year. Any fees remitted to any county in excess of the dealer's actual

property tax liability in the applicable tax year attributable to the heavy equipment rental inventory in that county shall be retained by the county having received the payments and no such excess shall be refunded to the dealer.

(e) Nothing in this section may be construed to exempt such heavy equipment rental inventory from property taxes.

(f) All fees collected from renters shall be excluded from any amounts subject to state or municipal sales or use taxes.