WEST VIRGINIA CODE CHAPTER 11 ARTICLE 6K

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§11-6K-1. Time and basis of assessments; true and actual value; and returns of property to Tax Commissioner.

(a) All industrial property and natural resources property shall be assessed annually as of the assessment date at sixty percent of its true and actual value.

(b) If required by the Tax Commissioner, all owners or operators of natural resources property, except oil-producing property, natural gas-producing property and managed timberland, shall, on or before May 1 preceding the July 1 assessment date, make a return to the Tax Commissioner and, if requested in writing by the assessor of the county where situated, to the county assessor, at a time and in the form specified by the Tax Commissioner, of all applicable natural resources property owned by them. Tax returns required to be filed pursuant to this section may be filed electronically in the discretion of the Tax Commissioner. The Tax Commissioner may require the filing of all information which would be useful in valuing the property covered by the returns. Upon written application by the taxpayer filed prior to the due date of any return required to be filed by this section, the Tax Commissioner may for reasonable cause shown grant an extension of no more than one month in the due date of any return.

(c) If required by the Tax Commissioner, all owners or operators of industrial property, oil-producing property and natural gas-producing property, shall, on or before August 1 of the assessment year, make a return to the Tax Commissioner and, if requested in writing by the assessor of the county where situated, to the county assessor, at a time and in the form specified by the Tax Commissioner, of all industrial property, oil-producing property and natural gas-producing property, owned by them. Tax returns required to be filed pursuant to this section may be filed electronically in the discretion of the Tax Commissioner. The Tax Commissioner may require the filing of all information which would be useful in valuing the property covered by the returns. Upon written application by the taxpayer filed prior to the due date of any return required to be filed by this section, the Tax Commissioner may for reasonable cause shown grant an extension of no more than one month in the due date of any return.

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§11-6K-2. Definitions.

As used in this article:

(1) "Active coal mining property" means a mineable bed of coal on a property or portion of a property involved in a permitted mining operation. Each and every bed of coal being mined in a permitted mining operation is a separate active mining property.

(2) "Industrial property" means the real and personal property integrated as a functioning unit intended for the assembling, processing and manufacturing of finished or partially finished products.

(3) "Managed timberland" means surface real property, except farm woodlots, of not less than ten contiguous acres which is devoted primarily to forest use and which, in consideration of its size, has sufficient numbers of commercially valuable species of trees to constitute at least forty percent normal stocking of forest trees which are well distributed over the growing site, and that is certified as managed timberland by the Division of Forestry.

(4) "Natural gas-producing property" means the property from which natural gas has been produced or extracted at any time during the calendar year preceding the assessment date. Natural gas producing-property includes the property interest or interests underlying an area of up to one hundred twenty-five acres of surface per well for property with active wells on the parcel.

(5) "Natural resources property" means any of the following: Active coal mining property, reserve coal property, natural gas-producing property, oil-producing property, managed timberland or other natural resources property.

(6) "Oil-producing property" means property from which oil has been produced or extracted at any time during the calendar year preceding the assessment date. Oil-producing property includes the interest or interests underlying an area of up to forty acres of surface per well with one or more active wells on the parcel.

(7) "Operator" means an individual, limited liability company, partnership, corporation, joint venture or other enterprise which proposes to or does locate, drill, produce, manage or abandon any oil and/or natural gas well or which is engaged in actively obtaining or preparing to obtain coal and/or its by-products from the earth's crust on an active coal mining property.

(8) "Reserve coal property" means any property for which coal rights are part of the owned estate and which is not part of an active coal mining property.

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§11-6K-3. Form and manner of making return; failure to timely make return; penalties.

(a) All returns required to be made to the Tax Commissioner under this article shall be made in conformity with any reasonable requirements of the Tax Commissioner of which the person making the return shall have had notice, and shall be made upon forms prescribed by the Tax Commissioner who is invested with full power and authority to prescribe the forms required from any owner, operator or producer that may be of use to the Tax Commissioner in determining the true and actual value of the properties of the owners, operators or producers.

(b) All returns shall be signed and sworn to by the owner, operator or producer if a natural person, or, if the owner, operator or producer shall be a limited liability company, corporation, partnership, joint venture or other enterprise, shall be signed and sworn to by its president, vice president, secretary or other individual authorized to act on behalf of the taxpayer.

(c) If any owner, operator or producer fails to make a return within the time required by section one of this article, it shall be the duty of the Tax Commissioner to take steps as necessary to compel compliance and to enforce any and all penalties imposed by law for failure to do so.

(d) Any owner, operator or producer, whether a natural person, limited liability company, corporation, partnership, joint venture or other enterprise, willfully failing to make a return within thirty days from the day it is herein required shall be guilty of a misdemeanor and, upon conviction thereof, fined $100 for each month the failure continues. In addition, any penalties provided in this chapter or elsewhere in this code relating to failure to list any property or to file any return or report for ad valorem taxation purposes may be applied to any owner of property required to make a return pursuant to this section.

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§11-6K-4. Review of returns; procuring information for tentative appraisals; tentative appraisals by Tax Commissioner; notification to taxpayers.

(a) All returns delivered to the Tax Commissioner shall be examined by him or her, and if found insufficient in form, defective, imperfect or not in compliance with law, he or she shall compel the person delivering the return to make it in proper and sufficient form in all respects as required by law.

(b) If any owner, operator or producer fails to make a required return, the Tax Commissioner shall proceed to obtain the facts and information required to be furnished by the returns.

(c) For the purposes of ascertaining the correctness of any return filed pursuant to this article or of valuing the property of any industrial taxpayer or natural resources property owner or operator, the Tax Commissioner may exercise all of the powers and authority granted to him or her by sections five-a, five-b and five-c, article ten of this chapter.

(d) Using information provided on the returns and all other pertinent evidence, information and data the Tax Commissioner has been able to procure, the Tax Commissioner shall annually value and make tentative appraisals of all industrial property and natural resources property as provided in section ten, article one-c of this chapter.

(e) (1) On or before October 15 of the assessment year, the Tax Commissioner shall complete the preparation of tentative appraisals of all industrial property and natural resources property and shall notify the affected owner or operator of the amount of the tentative appraisals: Provided, That in the case of oil property, natural gas property and managed timberland, the Tax Commissioner shall complete the preparation of tentative appraisals and notify the affected owner or operator by December 1 of the assessment year, and: Provided, however, That no notification shall be required where the total increase in the aggregate amount of the tentative appraisals to the affected owner or operator does not exceed $1,000 and the total tentative appraisals did not increase by more than ten percent from the prior year's appraisals. Notification may, at the reasonable discretion of the Tax Commissioner, be:

(A) By written notice deposited in the United States mail, addressed to the owner or operator at the principal office or place of business of the owner or operator;

(B) By electronic notification; or

(C) By any other means designed to communicate the tentative appraisal information to the owner or operator in a timely and efficient manner and in a convenient useable form.

(2) Any notice required to be provided under this section to an owner or operator shall also be provided by the Tax Commissioner to the assessor of the county in which the property is located. The Tax Commissioner shall retain in his or her office true copies of tentative appraisals and of the underlying work sheets used to compute the tentative appraisals, all of

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which shall be available for inspection by any owner or operator or his or her duly authorized representative.

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§11-6K-5. Informal petition to Tax Commissioner for review of tentative appraisals.

(a) A taxpayer who is of the opinion that the tentative appraisal of its industrial property or natural resources property, except oil property, natural gas property and managed timberland, does not reflect the true and actual value of the property or is otherwise improperly valued may, after receiving its tentative appraisal and on or before November 15 of the assessment year, informally petition the Tax Commissioner requesting a review of the tentative appraisal. Likewise, an assessor who is of the opinion that the tentative appraisal of any industrial property or natural resources property, except oil property, natural gas property and managed timberland, located in the county does not reflect the true and actual value of the property or is otherwise improperly valued may, after receiving the tentative appraisal and on or before November 15 of the assessment year, informally petition the Tax Commissioner requesting a review of the tentative appraisal. The Tax Commissioner may require the petition be made on a written form prescribed by the Tax Commissioner. At the time a petition is filed by a taxpayer with the Tax Commissioner, the petitioner shall provide a copy of the petition to the assessor of the county in which the property is located. At the time a petition is filed by an assessor with the Tax Commissioner, the petitioner shall provide a copy of the petition to the taxpayer involved.

(b) At the petitioner's request, the Tax Commissioner or his or her representative shall meet with the petitioner or the petitioner's representative to discuss the petition at a time and place designated at least five working days in advance by the Tax Commissioner after the petition is filed. If the petitioner is unable to appear and meet with the Tax Commissioner at the time and place set by the Tax Commissioner, the petitioner may submit written evidence to support the petition if it is submitted before the date of the meeting.

(c) The Tax Commissioner shall consider and rule on each informal petition filed under this section on or before January 15 of the tax year. If the Tax Commissioner agrees with the petition he or she shall modify the tentative appraisal accordingly. The Tax Commissioner shall then notify the petitioner and assessor of the county in which the property is located in writing of his or her decision and shall include supporting data that the assessor might need to evaluate the appraisal.

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§11-6K-6. Final appraisal of industrial property and natural resources property by Tax Commissioner; appraisals sent to assessors; appeals of Tax Commissioner's appraisals.

(a) The Tax Commissioner shall finalize the tentative appraisals made pursuant to section four of this article and make his or her final appraisals of industrial property and natural resources property on or before December 15 of the assessment year.

(b) On or before December 15 of the assessment year, the Tax Commissioner shall forward each industrial property and natural resources property appraisal to the county assessor of the county in which that property is located. In so doing, The Tax Commissioner shall identify those appraisals that may still be under review under section five of this article. The assessor shall then multiply each appraisal by sixty percent and include the resulting assessed value in the land book or the personal property book, as appropriate for each tax year. The Tax Commissioner shall supply supporting data that the assessor might need to evaluate the appraisal.

(c) Any taxpayer claiming to be aggrieved by any assessment made pursuant to this article may appeal the assessment as provided under the provisions of article three of this chapter: Provided, That if the assessment exceeds sixty percent of the final appraisal by the Tax Commissioner, the taxpayer may notify the Tax Commissioner in writing of this error, whereupon he or she shall, if the error is confirmed, instruct the assessor in writing to lower the assessment to sixty percent of the final appraisal. The assessor shall, upon receipt of instruction from the Tax Commissioner, lower the assessment as required.

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§11-6K-7. Effective date.

The provisions of this article enacted in the year 2010 shall be effective for the assessment years and the tax years beginning on or after July 1, 2011.

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§11-6K-8. Rules.

The Tax Commissioner is hereby authorized to promulgate emergency rules and other rules in accordance with the provisions of article three, chapter twenty nine-a of this code as necessary or convenient for administration and interpretation of this article.

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