WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1989

ENROLLED

SENATE BILL NO. 622

Originating in the Committee
(By Senator

PASSED April 6, 1989
In Effect from Passage
AN ACT to amend and reenact sections one and two-e, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the business and occupation tax; providing definitions relating to net number of dekatherms injected and withdrawn from a storage reservoir and amending definition of storage reservoir; and amending the calculation of the rate of tax imposed on persons engaging or continuing in state in the gas storage business.

Be it enacted by the Legislature of West Virginia:

That sections one and two-e, article thirteen, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 13. BUSINESS AND OCCUPATION TAX.

§11-13-1. Definitions.

1 (a) General. — When used in this article, or in the administration of this article, the terms defined in subsection (b) shall have the meanings ascribed to them by this section, unless a different meaning is
clearly required by either the context in which the
term is used or by specific definition.

(b) Terms defined.

(1) “Person” or the term “company,” herein used
interchangeably, includes any individual, firm,
copartnership, joint adventure, association, corpora-
tion, trust or any other group or combination acting as
a unit, and the plural as well as the singular number,
unless the intention to give a more limited meaning is
disclosed by the context.

(2) “Sale,” “sales” or “selling” includes any transfer
of or title to property or electricity, whether for
money or in exchange for other property.

(3) “Taxpayer” means any person liable for any tax
hereunder.

(4) “Gross income” means the gross receipts of the
taxpayer, received as compensation for personal
services and the gross receipts of the taxpayer derived
from trade, business, commerce or sales and the value
proceeding or accruing from the sale of tangible
property (real or personal), or service, or both, and all
receipts by reason of the investment of the capital of
the business engaged in, including rentals, royalties,
fees, reimbursed costs or expenses or other
emoluments however designated and including all
interest, carrying charges, fees or other like income,
however denominated, derived by the taxpayer from
repetitive carrying of accounts, in the regular course
and conduct of his business, and extension of credit in
connection with the sale of any tangible personal
property or service, and without any deductions on
account of the cost of property sold, the cost of
materials used, labor costs, taxes, royalties paid in cash
or in kind or otherwise, interest or discount paid or
any other expenses whatsoever.

(5) “Gross proceeds of sales” means the value,
whether in money or other property, actually proceed-
ing from the sale of tangible property without any
deduction on account of the cost of property sold or
expenses of any kind.

(6) “Business” shall include all activities engaged in
or caused to be engaged in with the object of gain or
economic benefit, either direct or indirect. “Business”
shall include the rendering of gas storage service by
any person for the gain or economic benefit of any
person, including, but not limited to, the storage
operator, whether or not incident to any other busi-
ness activity.

(7) “Gas” means either natural gas unmixed, or any
mixture of natural and artificial gas or any other gas.

(8) “Storage reservoir” means that portion of any
subterranean sand or rock stratum or strata into
which gas has been injected for the purpose of storage
prior to the first day of March, one thousand nine
hundred eighty-nine.

(9) “Gas storage service” means the injection of gas
into a storage reservoir, the storage of gas for any
period of time in a storage reservoir, or the with-
drawal of gas from a storage reservoir. Such gas may
be owned by the storage operator or any other person.

(10) “Net number of dekatherms of gas injected”
means the sum of the daily injection of dekatherms of
gas in excess of the sum of the daily withdrawals of
dekatherms of gas during a tax month.

(11) “Net number of dekatherms of gas withdrawn”
means the sum of the daily withdrawal of dekatherms
of gas in excess of the sum of the daily injection of
dekatherms of gas during a tax month.

(12) “Gas storage operator” means any person who
operates a storage reservoir or provides a storage
service as defined herein, either as owner or lessee.

(13) “Month” or “tax month” means the calendar
month.

(14) “Dekatherm” means the thermal energy unit
equal to one million British thermal units (BTU’s) or
the equivalent of one thousand cubic feet of gas having
a heating content of one thousand BTU’s per cubic
foot.

(15) "Taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which tax liability is computed under this article. "Taxable year" means, in case of a return made for a fractional part of a year under the provisions of this article, or under regulations promulgated by the tax commissioner, the period for which such return is made.

§11-13-2e. Business of gas storage; effective date.

(a) Rate of tax. — Upon every person engaging or continuing within this state in any gas storage business utilizing one or more gas storage reservoirs located within this state, the tax imposed by section two of this article shall be equal to five cents multiplied by the sum of either (1) the net number of dekatherms of gas injected into such a gas storage reservoir during a tax month or (2) the net number of dekatherms of gas withdrawn from such a gas storage reservoir during a tax month, whichever is applicable for that month, whether or not such gas is owned by, or is injected or withdrawn for, the storage operator or any other person. Fractional parts of dekatherms shall be included in the measure of tax as provided in regulations promulgated by the tax commissioner.

(b) Effective date. — The measure of tax under this section shall include gas injected into, or withdrawn from, a gas storage reservoir after the twenty-eighth day of February, one thousand nine hundred eighty-nine.

(c) Administration; installment payments. — The tax due under this section shall be administered, collected and enforced as provided in this article and articles nine and ten of this chapter. The tax due under this section shall be remitted in periodic installments as provided in section four of this article, except that such periodic installment payments shall be remitted on or before the twentieth day of the month following the month or quarter in which the tax accrues.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 26th day of April, 1939.

Governor