

Updating the West Virginia Property Tax

**Prepared for
Joint Select Committee on Tax Reform
West Virginia Legislature**

**By
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Background

Lewis Distinguished Professor of Business Emeritus

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And

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Qualifications

Member, WV Property Valuation and Training Commission (PVC)

International Association of Assessing Officers

- **Assessment Administration Specialist (AAS)**
- **Senior Instructor Courses in Property Assessment**
- **Committee on Excellence in Assessment Administration**
- **Accredited Appraiser**

Co-Vice Chair, Gov. Underwood's Fair Tax Commission

Committee Chair, Gov. Manchin's Tax Reform Project

State and Local Tax Revenue (000) Est.

State Revenue (000)

Property Taxes Levied (000)

Property Taxes by Type

- **Personal** **\$528,808**
- **Real** **\$847,500**
- **Public Utility** **\$206,434**

Property Taxes by Level of Government

- **Schools** **\$1,060,323**
- **County** **\$427,943**
- **Municipalities** **\$114,742**
- **State** **\$6,763**

Topics

- **Accessing and charging for digital maps**
- **Tax exempt real property**
- **Taxation of severed mineral interests**
- **K-12 school finance and the sales ratio study**

Accessing and Charging for Tax Maps

Access & Charging for Digital Maps

- **Digital maps of all real property are to be maintained by all county assessors.**
- **Code covers access and sale of digital maps, but does not cover access or sale of digital maps**
- **Currently no uniform policy in code**
- **SB 498 passed the Senate unanimously but died in House Government Organizations. Only change was to 11-1C-7 (e)(1)**
- **All fees remain the same including those to the Court House Facilities Improvement Fund**

Tax Exempt Property

The Two Way Test

- **The organization owning the property has been granted tax-exempt status under section 501(c)(3) of the internal Revenue Code.**
- **The real property is used exclusively for charitable purposes and is not leased for profit.**

Wellsburg Unity Apartments Inc. V. County Commission of Brook County, 503 S.E. 2d 851 (1998)

Tax Exempt Property

Despite long portions of Constitution (Article X ,10), Code (11-3-9) and Rules (110-CSR-3) levying property taxes on “tax exempt” organizations remains an area of inconsistent interpretation and application.

Being designated either by the IRS (26 USC 501(c)(3) or(c)(4)or the State as “non-profit” DOES NOT automatically provide and exemption from the WV property tax. It is a necessary condition, but is not sufficient by itself to justify an exemption.

Exempt Property WV Code 11-3-9

- **Property belonging to the U.S., West Virginia, county, district, city village or town or belong to the same in any other state used for public purposes.**
- **Used exclusively for divine worship**
- **Cemeteries**
- **Property belonging or held in trust for colleges, seminaries, academies and free schools if used for educational, literary or scientific purposes**
- **Libraries**

Problem Terms for Exempt Real Property

- **Charitable**
- **Used for exempt purpose**
- **Used exclusively**
- **Used Immediately**
- **Profit**

Exempted Property

- **Property used for a public purpose of distributing electricity, water, natural gas or sewer service by a non-profit organization**
- **Property used for area economic development purposes if not held for profit**
- **Property belonging to a benevolent organizations**
- **Houses of refuge, mental health, orphanages, children, aged, friendless or infirm not conducted for profit.**
- **The Boy Scout Summit (pays 1¼ % gross receipts PILOT)**

But

- **“Notwithstanding any other provisions of this section...This section does not exempt from taxation any property owned by (exempt organizations) unless such property or the dividends, interest, rents or royalties derived therefrom, is used primarily and immediately for the purposes of the corporations or organizations” 110-9-30(d)**
- **County assessors are required to place a value on the property but no taxes can be levied. (11-3-9(a)(13))**

Charity

- **“...for the benefit of an indefinite number of persons, either by bringing their hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them to establish themselves for life, or by erecting or maintaining public building or works, or otherwise lessening the burdens of government...is promotive of science or tends to the education, enlightenment, benefit or amelioration of the condition of mankind or the diffusion of useful knowledge, or is for the public convenience is a charity” (110 CSR 3 2.10)**

Non-Profit

- **“Non-profit” or “not-for-profit” used with a view to producing no profit on total aggregate operations other than that which is used or held for current or planned future use in furtherance of the charitable purposes of the organization. Charities and other operating property not used for profit are not precluded from exacting charges upon beneficiaries for service rendered, not are they precluded from deriving profits from total aggregate operations or from individual beneficiaries on a case by case so long as total aggregate annual operation produce no significant economic benefit or inurement to private individuals or entities apart from those which are necessarily incorporated into the operation of the charitable activity.” (110 CRS 3 2.40)**

Some Results

- **The majority of the counties (55%) do not exempt church parking lots even if the revenue goes exclusively to support the charitable activities of the church**
- **A fraternal organization has a restaurant, bar and dance floor in competition with local business, 75% said the entire building would be exempt. (Under WV law can't split property-primary use rule)**
- **Only a small portion of the assessors would exempt a retirement village if the residents had to "buy" their quarters, but almost all would exempt the "health care" portion**

More Results

- **A charitable foundation owns a building and rents out part of it to a for-profit entity. 44% said they would exempt the entire building 56% said they would only tax the for-profit part.**
- **A for-profit company owns a building which it leases to a non-profit: All agreed the building would be taxable.**
- **A non-profit organization owns a camp and charges sliding fees for its use based on income, both for-profit and non-profit entities use the camp: 58% would exempt (so long as money was used to support the organization) 42 percent would not**

Recent Issue

- **A non-profit hospital was building a new facility which was not completed on the date of assessment and therefore was not being used for a charitable purpose at that time. Should the unfinished building be taxable?**

Property Taxation of Mineral Interests

Taxation of Minerals and Severed Mineral Interests

- **WV now has the highest taxes on minerals of any major mineral producing state (severance, property, corporate income, remediation).**
- **In the future taxes on minerals are likely to be a less productive source of revenue for the state and local governments.**
- **WV taxes production (severance) and reserves (property).**
- **Estimated that upwards of 90% of the mineral interests in the State are severed from the surface.**

The “Double Whammy”

- **Property values on mineral reserves are determined by the State Property Tax Department and provided to the counties**
- **The valuations are determined using a formula which is similar to how fee appraisers would value a mineral property for investment using a discounted cash flow methodology**
- **The two most Important drivers in the formula are the prices for the minerals and the discount rate used.**
- **As mineral prices go down or stay down and as interest rates increase the value of reserve minerals will decrease.**

Issues

- **Property taxes on severed mineral interests in coal and natural gas are not collected in the same manner.**
 - **Property taxes on severed interests on coal are collected from the operator and taken from the royalty received by the owner**
 - **Property taxes on severed interests on natural gas are to be collected from the royalty owner.**
 - **Due to the wide dispersion of severed mineral interests in natural gas there are many small (and some large) property taxes which go uncollected**

Unpaid Property Taxes on Severed Mineral Interests

- **If pursued unpaid property taxes on severed mineral interests and subject to the same process as are other tax liens**
- **Consideration should be given to allowing severed mineral interest upon which there are unpaid taxes to revert to the surface owner.**
- **This would be in partial payment for any loss of income or inconvenience which the surface owner may have suffered due to the extraction of the mineral from beneath his surface ownership**

State Aid to K-12 Education

Public School Support Program (PSSP)

- **The amount of state aid under the PSSP for each county school district is calculated using a complex formula**
 - **An amount for each district is determined which is to be paid from two sources: local property tax effort and state aid.**
 - **The difference between the amount raised from the local levy is paid by the state. This is automatic, requires no legislative action and is the largest single item in the State Budget**
- **The local effort is determined by taking the required levy times the assessed valuation.**
- **The amount of state aid can be increased by lowering the level of assessed valuation. (Competitive underassessment)**

Calculation of State Aid

- **Under Article X of the State Constitution all taxable property is to be assessed at 60% of its market value**
- **Whether 60% is achieved is determined by the Sales Ratio Study**
 - **Sales ratio study compares the selling prices of qualified property to the appraised values on those properties**
 - **A 10% differential is allowed meaning that the sales ratio can be anywhere from 54%-66% and be valid**
 - **Most counties are now at 54%**

Changes in Determination of Local Effort

- **In 2014 18-9A-11(b) was changed to eliminate the use of the sales ratio study to equalize assessments across the state for PSSP aid.**
- **This opens the door to return to competitive underassessment.**
- **The State Tax Commission does have the authority to raise county assessments to the 60% level, but this is not mandatory. 18-9A-11(c)**

Contact Information

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