

FILED

2005 MAY -2 P 3: 10

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2005



ENROLLED

House Bill No. 3236

(By Delegates Michael and Kominar)



Passed April 9, 2005

In Effect From Passage.

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2005 MAY -2 P 3: 10

OFFICE WEST VIRGINIA
SECRETARY OF STATE

E N R O L L E D

H. B. 3236

(BY DELEGATES MICHAEL AND KOMINAR)

[Passed April 9, 2005; in effect from passage.]

AN ACT to amend the code of West Virginia, 1931, as amended, by adding thereto two new sections, designated §22-3-11a and 22-3-32a, all relating generally to the special reclamation tax and special tax on coal production; clarifying that both of these taxes apply to production of thin seam coal and providing for payment thereof; and providing that the special reclamation is subject to the West Virginia Tax Crimes and Penalties Act and the West Virginia Tax Procedure and Administration Act.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto two new sections, designated §22-3-11a and §22-3-32a, all to read as follows:

ARTICLE 3. SURFACE COAL MINING AND RECLAMATION ACT.

§22-3-11a. Special reclamation tax; clarification of imposition of tax; procedures for collection and administration of tax; application of Tax Procedure and Administration Act and Tax Crimes and Penalties Act.

1 (a) It is the intent of the Legislature to clarify that from the
2 date of its enactment, the special reclamation tax imposed
3 pursuant to the provisions of section eleven of this article is
4 intended to be in addition to any other taxes imposed on
5 persons conducting coal surface mining operations including,
6 but not limited to the tax imposed by section thirty-two of this
7 article, the tax imposed by article twelve-b, chapter eleven of
8 this code, the taxes imposed by article thirteen-a of said chapter
9 eleven, and the tax imposed by article thirteen-v of said chapter.

10 (b) Notwithstanding any other provisions of section eleven
11 of this article to the contrary, under no circumstance shall an
12 exemption from the taxes imposed by article twelve-b, thirteen-
13 a or thirteen-v, chapter eleven of this code be construed to be an
14 exemption from the tax imposed by section eleven of this
15 article.

16 (c) When coal included in the measure of the tax imposed
17 by section eleven of this article is exempt from the tax imposed
18 by article twelve-b, chapter eleven of this code, the tax imposed
19 by section eleven of this article shall be paid to the tax commis-
20 sioner in accordance with the provisions of sections four
21 through fourteen, inclusive, article twelve-b, chapter eleven of
22 this code, which provisions are hereby incorporated by refer-
23 ence in this article.

24 (d) *General procedure and administration.* — Each and
25 every provision of the “West Virginia Tax Procedure and
26 Administration Act” set forth in article ten, chapter eleven of
27 the code applies to the special tax imposed by section eleven of
28 this article with like effect as if such act were applicable only
29 to the special tax imposed by said section eleven and were set
30 forth in extenso in this article, notwithstanding the provisions
31 of section three of said article ten.

32 (e) *Tax crimes and penalties.* — Each and every provision
33 of the “West Virginia Tax Crimes and Penalties Act” set forth
34 in article nine of said chapter eleven applies to the special tax
35 imposed by section eleven of this article with like effect as if
36 such act were applicable only to the special tax imposed by said
37 section eleven and set forth in extenso in this article, notwith-
38 standing the provisions of section two of said article nine.

**§22-3-32a. Special tax on coal; clarification of imposition of tax;
procedures for collection and administration of
tax.**

1 (a) It is the intent of the Legislature to clarify that from the
2 date of its enactment, the special tax on coal imposed pursuant
3 to the provisions of section thirty-two of this article is intended
4 to be in addition to any other taxes imposed on every person in
5 this state engaging in the privilege of severing, extracting,
6 reducing to possession or producing coal for sale profit or
7 commercial use including, but not limited to the tax imposed by
8 section eleven of this article, the tax imposed by article twelve-
9 b, chapter eleven of this code, the taxes imposed by article
10 thirteen-a of said chapter eleven and the tax imposed by article
11 thirteen-v of said chapter.

12 (b) Notwithstanding any other provisions of section thirty-
13 two of this article to the contrary, under no circumstance shall
14 an exemption from the taxes imposed by article twelve-b,
15 thirteen-a or thirteen-v, chapter eleven of this code be construed
16 to be an exemption from the tax imposed by section thirty-two
17 of this article.

18 (c) When coal included in the measure of the tax imposed
19 by section thirty-two of this article is exempt from the tax
20 imposed by article twelve-b, chapter eleven of this code, the tax
21 imposed by section thirty-two of this article shall be paid to the
22 tax commissioner in accordance with the provisions of sections

23 four through fourteen, article twelve-b, chapter eleven of this
24 code, which provisions are hereby incorporated by reference in
25 this article.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Nancy White

Chairman Senate Committee

D. Paul Browning

Chairman House Committee

Originating in the House.

In effect from passage.

David E. Adams

Clerk of the Senate

Gregory M. Boyd

Clerk of the House of Delegates

Carl Roy Tomblin

President of the Senate

Robert D. Hays

Speaker of the House of Delegates

The within is approved this the 2nd day of May, 2005.

[Signature]

Governor

PRESENTED TO THE
GOVERNOR

APR 26 2005

Time 4:35 p