

1 AN ACT relating to natural resources severance and processing taxes.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 143A.010 is amended to read as follows:

4 As used in this chapter:

- 5 (1) "Department" means the Department of Revenue;
- 6 (2) "Natural resource" means all forms of minerals including but not limited to rock,
7 stone, limestone, shale, gravel, sand, clay, natural gas, and natural gas liquids which
8 are contained in or on the soils or waters of this state. For purposes of this chapter,
9 "natural resource" does not include coal and oil which are taxed under KRS 143.020
10 and 137.120;
- 11 (3) "Severing" or "severed" means the physical removal of the natural resource from the
12 earth or waters of this state by any means; however, "severing" or "severed" shall
13 not include the removal of natural gas from underground storage facilities into
14 which the natural gas has been mechanically injected following its initial removal
15 from the earth;
- 16 (4) (a) "Taxpayer" means and includes any individual, partnership, joint venture,
17 association, corporation, receiver, trustee, guardian, executor, administrator,
18 fiduciary, or representative of any kind engaged in the business of severing
19 and/or processing natural resources in this state for sale or use. In instances
20 where contracts, either oral or written, are entered into whereby persons,
21 organizations or businesses are engaged in the business of severing and/or
22 processing a natural resource but do not obtain title to or do not have an
23 economic interest therein, the party who owns the natural resource or has an
24 economic interest is the taxpayer.
- 25 (b) For purposes of this chapter, a taxpayer possesses an economic interest in a
26 natural resource where the taxpayer has acquired by investment any interest in
27 a natural resource and secures, by any form of legal relationship, income

1 derived from the severance or processing of the natural resource, to which he
2 must look for a return of his capital. A party who has no capital investment in
3 the natural resource or who only receives an arm's length royalty shall not be
4 considered as having an economic interest;

5 (5) "Gross value" is defined as follows:

- 6 (a) For natural resources severed and/or processed and sold during a reporting
7 period, gross value is the amount received or receivable by the taxpayer;
- 8 (b) For natural resources severed and/or processed, but not sold during a reporting
9 period, gross value shall be determined as follows:
- 10 1. If the natural resource is to be sold under the terms of an existing
11 contract, the contract price shall be used in computing gross value; and
- 12 2. If there is no existing contract, the fair market value for that grade and
13 quality of the natural resource shall be used in computing gross value;
- 14 (c) In a transaction involving related parties, gross value shall not be less than the
15 fair market value for natural resources of similar grade and quality;
- 16 (d) In the absence of a sale, gross value shall be the fair market value for natural
17 resources of similar grade and quality;
- 18 (e) If severed natural resources are purchased for the purpose of processing and
19 resale, the gross value is the amount received or receivable during the
20 reporting period reduced by the amount paid or payable to the taxpayer
21 actually severing the natural resource;
- 22 (f) If severed natural resources are purchased for the purpose of processing and
23 consumption, the gross value is the fair market value of processed natural
24 resources of similar grade and quality reduced by the amount paid or payable
25 to the taxpayer actually severing the natural resource;
- 26 (g) In all instances, the gross value shall not be reduced by any taxes including the
27 tax levied in KRS 143A.020, royalties, sales commissions, or any other

1 expense; and

2 (h) In all instances, transportation expense incurred in transporting a natural
3 resource shall not be deducted from gross value ~~considered as gross income~~
4 ~~from the property~~;

5 (6) "Processing" includes but is not limited to breaking, crushing, cleaning, drying,
6 sizing, or loading or unloading for any purpose. "Processing" shall not include the
7 act of unloading or loading for shipment natural resources that have not been
8 severed, cleaned, broken, crushed, dried, sized or otherwise treated in Kentucky;

9 (7) "Related parties" means two (2) or more persons, organizations or businesses
10 owned or controlled directly or indirectly by the same interests; and

11 (8) (a) "Transportation expense" means:

12 1. The amount paid by a taxpayer to a third party for transporting natural
13 resources; and

14 2. The expenses incurred by a taxpayer using his own facilities in
15 transporting natural resources from the point of extraction to a
16 processing plant, tipple, or loading dock.

17 (b) "Transportation expense" shall not include:

18 1. The cost of acquisition, improvements, and maintenance of real
19 property;

20 2. The cost of acquisition and operating expenses of mining and nonmining
21 loading or unloading facilities; or

22 3. The cost of acquisition and operating expenses of equipment used to
23 load or unload the natural resource at the point of extraction, processing
24 facility, or mining and nonmining loading facility.

25 ➔Section 2. This Act applies to periods beginning on or after July 1, 2019.