

1 AN ACT relating to severance taxes.

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

3 ➔Section 1. KRS 143A.030 is amended to read as follows:

4 The taxes imposed in KRS 143A.020 do not apply to ~~fluorspar~~, lead, zinc, and barite
5 severed for any purposes or to rock, limestone, or gravel used for privately maintained
6 but publicly dedicated roads or limestone when sold or used by the taxpayer for
7 agricultural purposes so as to qualify for exemption from sales and use taxes as provided
8 in KRS 139.480.

9 ➔Section 2. KRS 143A.010 is amended to read as follows:

10 As used in this chapter:

11 (1) "Department" means the Department of Revenue;

12 (2) "Natural resource" means all forms of minerals, including but not limited to rock,
13 stone, limestone, shale, gravel, sand, clay, fluorspar, natural gas, and natural gas
14 liquids, which are contained in or on the soils or waters of this state. For purposes
15 of this chapter, "natural resource" does not include coal and oil which are taxed
16 under KRS 143.020 and 137.120;

17 (3) "Severing" or "severed" means the physical removal of the natural resource from
18 the earth or waters of this state by any means; however, "severing" or "severed"
19 shall not include the removal of natural gas from underground storage facilities into
20 which the natural gas has been mechanically injected following its initial removal
21 from the earth;

22 (4) (a) "Taxpayer" means and includes any individual, partnership, joint venture,
23 association, corporation, receiver, trustee, guardian, executor, administrator,
24 fiduciary, or representative of any kind engaged in the business of severing
25 and/or processing natural resources in this state for sale or use. In instances
26 where contracts, either oral or written, are entered into whereby persons,
27 organizations, or businesses are engaged in the business of severing and/or

1 processing a natural resource but do not obtain title to or do not have an
2 economic interest therein, the party who owns the natural resource or has an
3 economic interest is the taxpayer.

4 (b) For purposes of this chapter, a taxpayer possesses an economic interest in a
5 natural resource where the taxpayer has acquired by investment any interest in
6 a natural resource and secures, by any form of legal relationship, income
7 derived from the severance or processing of the natural resource, to which he
8 or she must look for a return of his or her capital. A party who has no capital
9 investment in the natural resource or who only receives an arm's length
10 royalty shall not be considered as having an economic interest;

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

12 (a) For natural resources severed and/or processed and sold during a reporting
13 period, gross value is the amount received or receivable by the taxpayer;

14 (b) For natural resources severed and/or processed, but not sold during a reporting
15 period, gross value shall be determined as follows:

16 1. If the natural resource is to be sold under the terms of an existing
17 contract, the contract price shall be used in computing gross value; and

18 2. If there is no existing contract, the fair market value for that grade and
19 quality of the natural resource shall be used in computing gross value;

20 (c) In a transaction involving related parties, gross value shall not be less than the
21 fair market value for natural resources of similar grade and quality;

22 (d) In the absence of a sale, gross value shall be the fair market value for natural
23 resources of similar grade and quality;

24 (e) If severed natural resources are purchased for the purpose of processing and
25 resale, the gross value is the amount received or receivable during the
26 reporting period reduced by the amount paid or payable to the taxpayer
27 actually severing the natural resource;

- 1 (f) If severed natural resources are purchased for the purpose of processing and
2 consumption, the gross value is the fair market value of processed natural
3 resources of similar grade and quality reduced by the amount paid or payable
4 to the taxpayer actually severing the natural resource;
- 5 (g) In all instances, the gross value shall not be reduced by any taxes including
6 the tax levied in KRS 143A.020, royalties, sales commissions, or any other
7 expense; and
- 8 (h) In all instances, transportation expense incurred in transporting a natural
9 resource shall not be considered as gross income from the property;
- 10 (6) "Processing" includes but is not limited to breaking, crushing, cleaning, drying,
11 sizing, or loading or unloading for any purpose. "Processing" shall not include the
12 act of unloading or loading for shipment natural resources that have not been
13 severed, cleaned, broken, crushed, dried, sized or otherwise treated in Kentucky;
- 14 (7) "Related parties" means two (2) or more persons, organizations, or businesses
15 owned or controlled directly or indirectly by the same interests; and
- 16 (8) (a) "Transportation expense" means:
- 17 1. The amount paid by a taxpayer to a third party for transporting natural
18 resources; and
- 19 2. The expenses incurred by a taxpayer using his or her own facilities in
20 transporting natural resources from the point of extraction to a
21 processing plant, tipple, or loading dock.
- 22 (b) "Transportation expense" shall not include:
- 23 1. The cost of acquisition, improvements, and maintenance of real
24 property;
- 25 2. The cost of acquisition and operating expenses of mining and nonmining
26 loading or unloading facilities; or
- 27 3. The cost of acquisition and operating expenses of equipment used to

- 1 load or unload the natural resource at the point of extraction, processing
- 2 facility, or mining and nonmining loading facility.