

PROPERTY TAXES

1. Property Tax (W. Va. Code §§11-1C; 11-2;11-3;11-4;11-5;11-6; 11-6A; 11-8;18-9A; and Chapter 11A)
2. Excise Tax on the Privilege of Transferring Real Property (W. Va. Code §11-22)

The Property Tax and the Property Transfer Tax are collected at the county level, but county officials collecting these taxes are supervised by the Department of Tax and Revenue. The Property Tax is levied on property as it stands, and the Property Transfer Tax is imposed on property as it is transferred.

Property can be divided into two categories: real and personal. Although there are many practical and legal distinctions involved, real property is, in general, land and anything permanently attached to land, and personal property is, in general, all other objects or rights that can be owned. Personal property can also be categorized as tangible and intangible. Generally, intangible property consists of rights to, or claims against, other property or services. Taxation of property owned or operated as a public utility business differs from taxation of all other property in many administrative aspects. The principal differences are that the process of taxation takes longer for public utility property and State government is more involved than local government in the taxation of public utility property. All further reference in this section to property taxation will be to the taxation of property that is not owned or operated as a public utility business.

PROPERTY TAX

The West Virginia Property Tax is administered by county officials and officials of several State government agencies. Although the Department of Tax and Revenue plays a major role in the administration of this tax, less than one-half of one percent of the Property Tax collected goes to State government. The primary beneficiaries of the Property Tax are county boards of education.

It is the responsibility of each property owner to pay property taxes. Property taxes are paid to the sheriff of each of the fifty-five counties. Each county and municipality can impose its own rates of property taxation within the limits set by the West Virginia Constitution. The West Virginia Legislature sets the rate of tax of county boards of education. This rate is used by all county boards of education Statewide. However, the total tax rate for county boards of education may differ from county to county due to excess levies.

West Virginia law defines the following classes of property for tax purposes.

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| Class I | a. | All tangible personal property used exclusively in agriculture, including horticulture and grazing; |
| | b. | All products of agriculture, including livestock, while owned by the producer, and |
| | c. | All notes, bonds, bills, and accounts receivable, stocks and any other intangible personal property |
| Class II | a. | All property owned, used and occupied by the owner exclusively for residential purposes, and |

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- b. All farms, including land used for horticulture and grazing, which are occupied and cultivated by their owners or bona fide tenants

Class III All real and personal property situated outside of municipalities, exclusive of Classes I and II

Class IV All real and personal property situated inside of municipalities, exclusive of Classes I and II

Property Values

Property is assessed according to its use, location and value as of July 1. The amount of tax paid on property depends upon the following:

1. the assessed value of the property as determined by a county assessor, and
2. the rate of tax levied against each \$100 of assessed valuation.

The assessed value of property must be 60 percent of the properties' true and actual value. In most cases, that value is defined as the amount of money the property would be worth in a sale between a willing buyer and a willing seller.¹

In order to have property in West Virginia fairly and equally valued, all property is to be reappraised once every three years, and annual adjustments are to be made to the assessments for those for which a change in value is determined. All property, except farms and managed timberland property, is to be assessed annually at 60 percent of its then current fair market value.

Farmland that is used, occupied and cultivated by the owner or a bona fide tenants to be valued at the fair and reasonable value of such property for farmland use, regardless of what the value of the property would be if it was used for another purpose.

Managed timberland is to be valued based on the use and productive potential of such timberland. Managed timberland is defined to be any surface real property of not less than ten contiguous acres that is devoted primarily as forest use and which, in consideration of its size, has sufficient numbers of commercially valuable species of trees that are well distributed over the growing site and that is managed pursuant to a plan provide in W. Va. Code §11-1C-10. The property must be devoted primarily to forest use. In order for property to qualify as managed timberland, the owner must annually certify in writing to the Division of Forestry that the property meets the definition of managed timberland and is managed according to the plan provided for in W. Va. Code §11-1C-10. Timberland that does not quality as managed timberland is to be valued at its market value.

Each assessor is required to maintain current values on the real and personal property within the county by having a member of his staff visit each parcel of real property in repeating three-year cycles to determine if any changes have occurred in the value of the property. The assessor must make any adjustments that are necessary to maintain accurate current valuations of all real and personal property.

¹ Information on classified assessed valuations by county can be found in Classified Assessed Valuations published by the Chief Inspector Division of the Department of Tax and Revenue.

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The State Tax Commissioner is required to determine the fair market value of all industrial property and all natural resource property in the State. The State Tax Commissioner values these properties according to rules approved by the West Virginia Legislature.

The State Tax Commissioner also is responsible for the valuation of public utility property and all types of property that are to be included in the operating property of a public utility. Only real and personal property that is an integral part of the public utility's function as a utility are to be included as operating property and assessed by the Board of Public Works.

The State Tax Commissioner is required to develop an inventory of all natural resource properties, except managed timberland, on a county-by-county basis.

Reduced Assessment Property

The following types of property may qualify for a special reduced property valuation:

1. pollution abatement facilities;
2. molds, jigs, dies and templates, and
3. certified capital additions to manufacturing facilities.

These properties are appraised at salvage value.

Tax Rates

The West Virginia Legislature sets the rate of tax for county boards of education. This rate is used by all county boards of education Statewide. The Department of Tax and Revenue supervises and otherwise assists counties and municipalities in their work of assessment and tax rate determination. The first step toward determination of tax rates for county commissions and municipalities is the preparation of tentative budgets by county and municipal governments. These tentative budgets show not only estimated expenditures and receipts but also the tax rates necessary to produce the receipts. Budgets and tax rates must then be approved by the State Tax Commissioner, and public hearings must be held before the final budgets and tax rates can be adopted. The State Tax Commissioner reports the approved tax rates for each taxing authority to the county assessor. County boards of education must adopt a budget that details the expenditures to be made from revenues generated by the Property Tax rate approved by the West Virginia Legislature and other revenues. Each assessor then applies these tax rates to all items of taxable property listed in the county's real and personal property books. When this process is complete, each assessor must deliver copies of these books with their new tax rates to the sheriff of the county enabling the sheriff can begin the process of tax collection.

Maximum tax rates are shown in the table below for each of the taxing authorities and are given in terms of each of the four tax rate categories of property.

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MAXIMUM PROPERTY TAX RATES

Rates are given in cents per \$100

Taxing Authority	Class I	Class II	Class III	Class IV
State	0.25¢	0.50¢	1.00¢	1.00¢
County	14.30	28.60	57.20	57.20
Schools	22.95	45.90	91.80	91.80
Municipal	<u>12.50</u>	<u>25.00</u>	<u>N.A.</u>	<u>50.00</u>
	50.00¢	100.00¢	150.00¢	200.00¢

Amendments to the State Constitution provide that these maximum rates can be temporarily exceeded by all the taxing authorities except State government. The voters of each taxing authority must approve any excess levy of tax proposed for their municipality, school board or county. The average actual tax rates per \$100 of assessed valuation for the 1996 tax year, expressed in rounded dollars, are shown in the following table.

ACTUAL 1996 PROPERTY TAX RATES¹

Rates are given in dollars per \$100 of assessed valuation

	<u>Low</u>	<u>Average</u>	<u>High</u>
Class I	\$.3549	\$.68	\$.8810
Class II	.7098	1.23	1.7620
Class III	1.2220	2.23	2.8456
Class IV	1.4196	2.94	3.5240

Statewide, the average rate for all property was \$1.96 per \$100 of assessed valuation.

When an annual appraisal or general valuation of property would result in an increase in total projected Property Tax revenues for county commissions and municipalities of 1 percent or more, the rate of levy is to be reduced proportionately for all classes of property for the forthcoming tax year so that the new levy rate will produce no more than 101 percent of the previous year's projected Property Tax revenues plus an additional amount to fund the on-going work of the assessor not to exceed 2 percent. Additional property value due to new construction or improvements to existing real property are not to be included when considering increases in projected revenue and calculating the new levy rate. Special levies are not to be included in this reduced levy rate calculation. The governing body of a county or municipality may increase the tax rate resulting from the reduced levy rate calculation above as long as a public hearing is conducted before such action. Any such increase cannot have the effect of exceeding the prior year's tax revenue by more than 10 percent.

When any appraisal of general valuation or property would produce a statewide aggregate assessment that would cause an increase of 1 percent or more in the total Property Tax revenue for county boards of education, the levy is to be reduced uniformly Statewide and proportionately for

¹ More detailed information on Property Tax rates by county can be found in Rates of Levy published by the Chief Inspector Division of the Department of Tax and Revenue.

all classes of property for the forthcoming year to produce no more than 101 percent of the previous year's projected Statewide aggregate Property Tax revenues plus an additional amount to fund the on-going work of the assessor not to exceed 2 percent. However, the Legislature may take action to increase the reduced rate by holding a public hearing.

Exemptions

Although all property is presumed to be taxable unless shown otherwise, there are many exemptions from the Property Tax. Some of these exemptions are based on the ownership of the property while others are based on the use of the property. A partial list of types of properties that may be exempt from ad valorem property taxation follows:

1. property that belongs to the United States government unless the United States government permits the State to tax it;
2. property that belongs exclusively to the State;
3. property that belongs exclusively to any county, district, city, village or town in this State when it is used for public purposes;
4. property that belongs exclusively to any political subdivision of any other state when it is used exclusively for public purposes;
5. property used for area redevelopment purposes by nonprofit corporations when such property is not leased for profit;
6. fire engines and implements for extinguishing fires and property used exclusively for the safekeeping of these engines and implements and for meetings of fire companies;
7. property used exclusively for divine worship;
8. cemeteries, except for certain personal property of commercial cemeteries, including any sites of unmarked graves certified as such by the Division of Culture and History;
9. parsonages and the household goods and furniture pertaining thereto;
10. mortgages, bonds and other debt securities in the hands of bona fide owners and holders when the securities are issued and sold by churches and religious societies for the purposes of gaining money to be used in the erection of church buildings to be used exclusively for divine worship or to pay indebtedness thereon;
11. property that belongs to, or which is held in trust for, colleges, seminaries, academies and free schools when it is used for the educational, literary or scientific purposes, including books, equipment, annuities and furniture;
12. public and family libraries;
13. property used for charitable purposes and not held or leased out for profit;
14. all property that belongs to any public institution for the education of the deaf, mute or blind or to any hospital when the property is not held or leased out for profit;
15. houses of refuge and lunatic or orphan asylums;
16. homes for children or for the aged, friendless or infirm when such homes are not for private profit;

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17. all property on hand to be used in the subsistence of livestock on hand at the beginning of the assessment
18. household goods to the value of \$200 whether or not they are used for profit;
19. bank deposits and money;
20. household goods (personal property and goods commonly found within the house and items to care for the house and its surrounding property) and personal effects (articles and items of personal property commonly worn on or about the body or carried and normally associated with the person) when they are not held or used for profit;
21. non-living items of food reserved by a family for its own use;
22. property used for purposes of distributing water or providing sewer services by duly chartered nonprofit corporations when such property is not held, leased or used for profit;
23. property used for the public purpose of distributing natural gas when the property is owned by a duly chartered nonprofit corporation and is not held, leased out or used for profit;
24. personal and real property of a municipality or a county acquired and constructed for the purposes of a waterworks system or electrical power system and any leasehold interest in such systems held by other persons, and
25. tangible personal property that is moving in interstate commerce through West Virginia, or which was consigned from a point of origin outside the State to a warehouse within the State for storage in transit to final destination outside the State.

The preceding list is not an exhaustive list of exemptions; it shows only some of the possible types of exemptions.

In addition, the Wayport Authority is not required to pay any Property Taxes on any project or any property acquired and used by that Authority as a wayport. A wayport is defined as an airport where passengers and cargo are transferred between flights that is not located in a major metropolitan area. In lieu of the payment of Property Taxes to local governments, the Wayport Authority is required to make an annual payment equal to the amount of Property Taxes otherwise payable.

Homestead Exemption

This program provides for a \$20,000 exemption against the total assessed value of a single-family dwelling, including mobile or manufactured homes, owned and occupied as a residence by any person who is at least sixty-five years old or totally and permanently disabled and who has legally resided in and paid taxes on a homestead in this State for two consecutive taxable years before filing for this exemption. However, if an owner receives a similar exemption for a homestead in another state, then the owner is ineligible for the Homestead Exemption in West Virginia.

If a resident of West Virginia establishes a residence in another state or country and returns to West Virginia within five years, then the resident may be allowed a Homestead Exemption in West Virginia if the person was a resident of this State for two calendar years out of the ten calendar years immediately preceding the tax year for which the Homestead Exemption is sought.

When a member of the United States military forces maintains West Virginia as his state of residence throughout his military service and returns to this State and purchases a homestead upon

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his retirement or earlier separation from the military service due to permanent and total physical or mental disability, that person is deemed to satisfy the residency test and shall be allowed a Homestead Exemption if the person otherwise qualifies.

Only one exemption can be granted for each owner-occupied residence. Elderly homeowners may apply for this exemption annually at the office of their county assessor from July 1 through October 1 provided that the applicant will be at least sixty-five years old by June 30 of the following year. A person who is totally and permanently disabled may also apply for the Homestead Exemption from July 1 through October 1. Once the application of a person sixty-five years of age or older is approved, registration in later years is unnecessary. A person who is permanently and totally disabled does not need to refile in subsequent years if he signs a statement that he will notify the assessor within thirty days if he ceases to be eligible for the exemption based on such disability.

Taxation of Intangible Personal Property

In 1997, the West Virginia Legislature passed legislation that would phase-out the Property Tax on intangible personal property (Class I) over a period of six years. The following phase-out will apply to intangible personal property:

Assessment Date	Tax Year	Assessment Ratio		Phase-out		Adjusted Rate
July 1, 1997	1998	60%	x	50%	=	30%
July 1, 1998	1999	60%	x	40%	=	24%
July 1, 1999	2000	60%	x	30%	=	18%
July 1, 2000	2001	60%	x	20%	=	12%
July 1, 2001	2002	60%	x	10%	=	6%
July 1, 2002	2003	60%	x	0%	=	0%

During this period when the Property Tax on intangible personal property is being phased-out, banks are allowed an adjustment to their bank shares tax. A reduction against the bank shares tax for separately assessed personal property of banking institutions is provided as follows:

Tax Year	Adjustment
1998	16.66% of assessed value bank tangible personal property
1999	33.32% of assessed value bank tangible personal property
2000	49.98% of assessed value bank tangible personal property
2001	66.64% of assessed value bank tangible personal property
2002	83.21% of assessed value bank tangible personal property

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DISTRIBUTION OF PROPERTY TAXES LEVIED BY TAX YEARS¹

	For The State	For Counties	For School Boards	For Municipalities	Total
1986	1,556,140	98,860,930	287,267,092	31,043,517	418,727,679
1987	1,623,595	105,535,343	298,414,447	33,034,647	438,608,032
1988	1,663,326	108,958,026	306,754,778	34,851,542	452,227,672
1989	1,737,713	116,967,083	320,691,195	37,033,586	476,429,577
1990	1,842,208	124,156,986	347,149,258	39,633,719	512,782,171
1991	1,979,396	134,300,793	347,327,617	42,468,379	553,076,085
1992	2,254,729	146,539,085	414,531,790	46,022,019	609,347,623
1993	2,526,893	160,342,570	457,217,400	50,510,845	670,597,708
1994	2,883,449	172,163,376	484,093,621	54,392,443	713,532,890
1995	2,995,793	176,875,508	497,361,861	54,988,991	732,182,153
1996	3,142,369	189,758,086	523,086,694	58,790,115	774,777,264

DISTRIBUTION OF PROPERTY TAXES LEVIED FOR TAX YEAR 1996¹

	By the State	By Counties	By School Boards	By Municipalities	Total
On Real Estate	\$1,537,758	\$92,860,521	\$255,979,093	\$28,769,687	\$379,147,058
On Personal Property	1,172,940	70,830,276	195,250,572	21,944,362	289,198,149
On Public Utility Property	<u>431,671</u>	<u>26,067,290</u>	<u>71,857,030</u>	<u>8,076,067</u>	<u>106,432,057</u>
	\$3,142,369	\$189,758,086	\$523,086,694	\$58,790,115	\$774,777,264

¹ These amounts reflect the total amount of taxes billed.

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DISTRIBUTION OF PROPERTY TAXES LEVIED BY PERCENTAGES¹

	On Real Estate	On Personal Property	On Public Utilities Property	Total
1986	38.20%	45.10%	16.70%	100.00%
1987	38.60%	45.60%	15.80%	100.00%
1988	38.80%	45.60%	15.60%	100.00%
1989	38.80%	45.70%	15.50%	100.00%
1990	38.80%	46.40%	14.80%	100.00%
1991	40.16%	45.48%	14.36%	100.00%
1992	43.12%	42.74%	14.14%	100.00%
1993	46.28%	39.91%	13.81%	100.00%
1994	50.78%	35.73%	13.49%	100.00%
1995	49.88%	36.25%	13.88%	100.00%
1996	48.94%	37.33%	13.74%	100.00%

	For The State	For Counties	For School Boards	For Municipalities	Total
1986	0.37%	23.61%	68.61%	7.41%	100.00%
1987	0.37%	24.06%	68.04%	7.53%	100.00%
1988	0.37%	24.09%	67.83%	7.71%	100.00%
1989	0.37%	24.55%	67.32%	7.76%	100.00%
1990	0.36%	24.21%	67.70%	7.73%	100.00%
1991	0.36%	24.28%	67.68%	7.68%	100.00%
1992	0.37%	24.05%	68.03%	7.55%	100.00%
1993	0.38%	23.91%	68.18%	7.53%	100.00%
1994	0.40%	24.13%	67.84%	7.62%	100.00%
1995	0.40%	24.16%	67.93%	7.51%	100.00%
1996	0.41%	24.49%	67.51%	7.59%	100.00%

¹ These amounts reflect the total amount of taxes billed.

PROPERTY TRANSFER TAX

The Excise Tax on the Privilege of Transferring Real Property is a hybrid tax for two reasons. It is administered by the State Tax Department and by the county clerks, and it consists of an excise tax to be paid to the State and an excise tax to be paid to the treasury of the county where the transfer is to be recorded. Excise stamps purchased from the county clerk are to be affixed to all documents, such as deeds, which transfer rights to, or interests in rights to, real property from one person to another prior to recording. "Person" is also understood to mean association or corporation.

The tax must be paid either by the person who transfers the property or by the person to whom the transfer is made. Transfers from trustees of estates or from county clerks for real estate sold for taxes must be paid by the person to whom the transfer is made.

There are many exemptions from this tax, which fall into four main categories:

1. those principally for the benefit of individuals, which are as follows:
 - a. wills,
 - b. leases,
 - c. testamentary or inter vivos trusts,
 - d. deeds of partition,
 - e. quitclaim or corrective deeds made without consideration,
 - f. mortgages or deeds of trust given as security for a debt,
 - g. transfers between husband and wife,
 - h. transfers made between parent(s) and child(ren) without consideration,
 - i. certain transfers made between parent(s) and child(ren) and the spouse(s) of the child(ren) without consideration,
 - j. transfers in which the value transferred is \$100 or less, and
 - k. transfers made between any person and a 'straw' party without consideration;
2. those principally for the benefit of corporations, which are as follows:
 - a. deeds made pursuant to corporate mergers, and
 - b. deeds made from a subsidiary corporation to its parent corporation for no consideration other than surrender of stock;
3. transfers by gift, dedication deed or condemnation proceeding to or from the United States government or the West Virginia government, including any agencies, instrumentalities or political subdivisions of either, and
4. gifts to or transfers from or between certain voluntary charitable and educational organizations.

The State portion of this tax is levied at the rate of \$1.10 for each \$500 of value or any fraction of that amount. The county portion of the tax is a minimum of 55 cents on each \$500 of value or any fractional part of that amount. County commissions may increase that rate of \$1.10 per \$500 or any fractional part of that amount. The percentage of income to State government attributable to the Property Transfer Tax is substantially higher than that of the Property Tax.

If the rights to, or the interests in the rights to, the real property to be transferred constitute a gift or if they are made without consideration, then the value of the transfer document is determined by the actual monetary value of the property transferred. All other transfers require the value of the

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document to be determined by the full consideration paid or to be paid, including any claims against or in favor of the property.

Proportional valuations must be made when transfers of real property lie partly inside and partly outside West Virginia and/or when some of the transfer is made up of personal property. Tax on the transfer of property which lies in two counties must be paid only to one of the counties. Both parts of this tax are embodied in a single State-issued series of stamps or by use of another proof of purchase approved by the State Tax Commissioner.

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PROPERTY TRANSFER TAX COLLECTIONS

Fiscal Year	Net Revenue
1985-1986	\$3,222,933
1986-1987	3,890,130
1987-1988	3,579,677
1988-1989	3,937,797
1989-1990	3,780,130
1990-1991	3,631,005
1991-1992	3,658,022
1992-1993	4,599,272
1993-1994	4,656,857
1994-1995	4,861,499
1995-1996	4,934,594
1996-1997	5,317,541