

**STATE TAX  
DEPARTMENT**

**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-01, Appraisal of Property for Periodic Statewide Reappraisals for Ad Valorem Property Tax Purposes.**

Effective Date: April 4, 1988

Statutory authority: W. Va. Code §§11-1A-1(f); 11-1A-11

This rule addressed the first statewide reappraisal.

**A. Date of first promulgation addressing current topic:** November 18, 1983

**B. Date[s] of modifications subsequent to initial promulgation:** April 12, 1984;  
April 4, 1988

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule addresses a statutory regime that is no longer in effect.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-01A, Valuation of Farmland and Structures Situated Thereon for Ad Valorem Property Tax Purposes.**

Effective Date: July 26, 1991

Statutory authority: W. Va. Code §11-1C-5(b)

This rule clarifies and implements state law relating to the appraisal of farmland and structures situated thereon.

**A. Date of first promulgation addressing current topic:** July 26, 1991. Previous iterations of this rule dealt with other topics.

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be continued without change.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



Dave Hardy  
Secretary of Revenue



Dale W. Steager  
State Tax Commissioner

STATE TAX DEPARTMENT

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-01B, Listing of Interests in Natural Resources for Purposes of First Statewide Reappraisal.**

Effective Date: June 12, 1987

Statutory authority: W. Va. Code §11-1A-1(f)

This rule addressed the first statewide reappraisal.

**A. Date of first promulgation addressing current topic:** June 12, 1987

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule addresses a statutory regime that is no longer in effect.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-01C, Guidelines for Assessors to Assure Fair and Uniform NonUtility Personal Property Values.**

Effective Date: May 13, 1987

Statutory authority: W. Va. Code §11-1A-29a

This rule addressed the first statewide reappraisal.

**A. Date of first promulgation addressing current topic: May 13, 1987**

**B. Date[s] of modifications subsequent to initial promulgation: None**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule addresses a statutory regime that is no longer in effect.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-01E, Review of Appraisals by the County Commission Sitting as an Administrative Appraisal Review Board.**

Effective Date: June 12, 1987

Statutory authority: W. Va. Code §§11-1A-1(f); 29A-3-15

This rule addressed the first statewide reappraisal.

**A. Date of first promulgation addressing current topic:** June 12, 1987

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule addresses a statutory regime that is no longer in effect.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-01F, Additional Review and Implementation of Property Appraisals.**

Effective Date: May 13, 1987

Statutory authority: W. Va. Code §11-1A-1(f)

This rule addressed the first statewide reappraisal.

**A. Date of first promulgation addressing current topic: May 13, 1987**

**B. Date[s] of modifications subsequent to initial promulgation: None**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule addresses a statutory regime that is no longer in effect.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-01G, Review by Circuit Court on Certiorari.**

Effective Date: May 13, 1987

Statutory authority: W. Va. Code §11-1A-1(f)

This rule addressed the first statewide reappraisal.

**A. Date of first promulgation addressing current topic:** May 13, 1987

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule addresses a statutory regime that is no longer in effect.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-01H, Valuation of timberland and managed timberland.**

Effective Date: May 1, 1999

Statutory authority: W. Va. Code §§11-1C-5(a)(2)(B); 11-1C-11(c)(1); 11-1C-11b(c)

This legislative rule establishes the procedure for the classification and valuation of timberland and managed timberland.

**A. Date of first promulgation addressing current topic:** April 15, 1992

**B. Date[s] of modifications subsequent to initial promulgation:** May 1, 1999

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-011, Valuation of active and reserve coal property for ad valorem property tax purposes.**

Effective Date: May 1, 2006

Statutory authority: W. Va. Code §§11-1A-11; 11-1C-5(b)

This legislative rule clarifies and implements State law as it relates to the appraisal at market value of active and reserve coal properties.

**A. Date of first promulgation addressing current topic:** July 26, 1991

**B. Date[s] of modifications subsequent to initial promulgation:** May 1, 1999;  
June 1, 2005; May 1, 2006

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-01J, Valuation of producing and reserve oil and gas for ad valorem property tax purposes.**

Effective Date: June 1, 2005

Statutory authority: W. Va. Code §§11-1C-5(b); 11-1C-5a; and 11-1C-10(d)

This legislative rule provides the methodology the State Tax Commissioner shall use to determine the appraised value of producing and reserve oil and natural gas properties for ad valorem tax purposes.

**A. Date of first promulgation addressing current topic:** April 15, 1992

**B. Date[s] of modifications subsequent to initial promulgation:** May 1, 1999;  
June 1, 2005

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be modified, updated to address Marcellus-type wells.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities. However, well technology has advanced and the rule should be modified to reflect those changes. Litigation currently pending before the WV Supreme Court of Appeals may also necessitate

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

Taxpayers operating producing oil and gas wells or owning rights to oil and gas properties. County Assessors and County Commissions.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-01K, Valuation of natural resources other than coal, oil or natural gas for ad valorem tax purposes.**

Effective Date: May 1, 1999

Statutory authority: W. Va. Code §§11-1C-5(a); 11-1C-5a; and 11-1C-10(d)

This legislative rule provides the methodology the State Tax Commissioner shall use to determine the appraised value of natural resources properties other than coal, oil or natural gas ad valorem property tax purposes.

**A. Date of first promulgation addressing current topic:** July 26, 1991

**B. Date[s] of modifications subsequent to initial promulgation:** May 1, 1999

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-01M, Valuation of public utility property for ad valorem property tax purposes.**

Effective Date: May 1, 2001

Statutory authority: W. Va. Code §11-1C-5(b)

This legislative rule clarifies and implements State law as it relates to the appraisal, at market value, of vehicles, watercraft and aircraft for ad valorem property tax purposes.

**A. Date of first promulgation addressing current topic:** July 26, 1991

**B. Date[s] of modifications subsequent to initial promulgation:** May 1, 1999;  
May 1, 2001

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE  
RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY  
STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-01N, Valuation of vehicles, watercraft and aircraft for ad valorem property tax purposes.**

Effective Date: July 1, 1991

Statutory authority: W. Va. Code §11-1C-1, *et seq.*

This legislative rule clarifies and implements State law as it relates to the appraisal, at market value, of vehicles, watercraft and aircraft for ad valorem property tax purposes.

**A. Date of first promulgation addressing current topic:** July 26, 1991

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-01P, Valuation of commercial and industrial real and personal property for ad valorem property tax purposes.**

Effective Date: July 1, 2013

Statutory authority: W. Va. Code §11-1C-1, *et seq.*

This legislative rule clarifies and implements State law as it relates to the appraisal, at market value, of commercial and industrial real and personal property under W. Va. Code §11-1C-10.

**A. Date of first promulgation addressing current topic:** July 26, 1991

**B. Date[s] of modifications subsequent to initial promulgation:** July 1, 2013

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-1Q, Appointment of Special Assessors by the State Tax Commissioner.**

Effective Date: May 15, 2015

Statutory authority: W. Va. Code §11-3-1; §18-9A-11

This Legislative rule provides for the appointment of special assessors when a county assessor fails or refuses to assess property as required by the State Constitution.

**A. Date of first promulgation addressing current topic:** May 15, 2015

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule sets forth the circumstances in which a special assessor may be appointed, and the procedure to be followed in doing so.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-02, Electronic data processing system network for property tax administration.**

Effective Date: May 1, 1999

Statutory authority: W. Va. Code §§11-1C-4; 11-1A-21(d)

This legislative rule relates to the electronic data processing system network developed and utilized in the administration of the ad valorem property tax imposed on real and personal property.

**A. Date of first promulgation addressing current topic:** May 12, 1986

**B. Date[s] of modifications subsequent to initial promulgation:** May 1, 1989;  
May 1, 1999

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE  
RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY  
STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-3, Exemption of property from ad valorem property taxation.**

Effective Date: May 11, 1989

Statutory authority: W. Va. Code §11-3-9; §29A-3-1

This Legislative rule provides guidance on the implementation of property tax exemptions set forth in the State Constitution and Code §11-3-9.

**A. Date of first promulgation addressing current topic:** May 11, 1989

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be modified.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule needs to be modified to conform with statutory changes that have been enacted since the rule was first issued.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

County assessors, and owners of tax-exempt property, such as charity hospitals and state and local development authorities.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-3B, Procedures for when the tax commissioner orders a county assessor or county commission or both to comply with tax assessments.**

Effective Date: January 21, 1988

Statutory authority: W. Va. Code §11-1-2 & §11-1-6; also, current Code §18-9A-11(c) [former Code §18-9A-11(g)]

This procedural rule provides a mechanism for the Tax Commissioner to correct the values of property in the property books of any county in which the assessor has failed or refused to comply with the law in setting the valuation of property for assessment purposes.

**A. Date of first promulgation addressing current topic:** January 21, 1988

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be continued unchanged.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule is a necessary component of the West Virginia public school aid formula.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-04, Valuation of percentage of completion of improvements and infrastructure development in a recorded plan or plat.**

Effective Date: May 1, 2001

Statutory authority: W. Va. Code §11-3-1b(b)

This legislative rule establishes the valuation methodology for unsold lots contained in a recorded plan or plat or in an area designated for proposed land use by a county or municipal planning authority.

**A. Date of first promulgation addressing current topic:** May 1, 2001

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-06, Pollution control facilities.**

Effective Date: May 1, 2002

Statutory authority: W. Va. Code §11-6A-4

This legislative rule establishes general operating procedures for the tax treatment of pollution control facilities.

**A. Date of first promulgation addressing current topic:** July 28, 1974

**B. Date[s] of modifications subsequent to initial promulgation:** November 1, 1981; May 1, 1994; May 1, 1996; May 1, 2002

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



Dave Hardy  
Secretary of Revenue



Dale W. Steager  
State Tax Commissioner

STATE TAX DEPARTMENT

---

TAX DEPARTMENT REGULATORY REVIEW

**I. 110-06A- Solid Waste Assessment Fee**

Effective Date: April 2, 1990

Statutory authority: W. VA. CODE §20-5F-5a(f), §§29A-3-1 *et seq.* and §11-10-5

This Legislative Rule explains and clarifies West Virginia law as it relates to the administration of the solid waste assessment fee imposed by W. Va. Code §20-5F-5a.

**A. Date of first promulgation addressing current topic.**

May 1, 1989

**B. Date[s] of modifications subsequent to initial promulgation.**

This Rule was originally promulgated on May 1, 1989 and amended on April 2, 1990.

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

This Legislative Rule clarifies and explains the solid waste assessment fee that was imposed by W. Va. Code §20-5F-5a. Article 5F of Chapter 20 was repealed in 1994 with the enactment of House Bill 4065 (1994 Regular Session).

The Tax Department continues to administer a solid waste assessment fee imposed by W. Va. Code §22-15-11. That fee was imposed in 1994 in the same bill that repealed the previous solid waste assessment fee. However, as the Rule clarifies and explains the previous, repealed version of the solid waste assessment fee, the Rule is out of date.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

There should be no stakeholders, as the solid waste assessment fee that was imposed under W. Va. Code §20-5F-5a was repealed in 1994. Although when in effect, it effected those disposing of solid waste in solid waste disposal facilities in West Virginia as well as those operating the facility.

There is a solid waste assessment fee under W. Va. Code §22-15-11 although it is not addressed under the Rule as it is currently drafted.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-06D, Alternative-Fuel Motor Vehicle Tax Credit.**

Effective Date: March 22, 2014

Statutory Authority: W. VA. CODE §11-6D-8(b) (2011)

This legislative rule is intended to explain and clarify the Alternative-Fuel Motor Vehicle Tax Credit as set forth in W. Va. Code §§11-6D-1, et seq. This rule repeals and replaces all prior Alternative-Fuel Motor Vehicle Fuel rules.

The Alternative-Fuel Motor Vehicle Tax Credit became effective July 1, 1997 and expired June 6, 2006. W. Va. Code §§11-6D-1, et seq., was amended in 2011, and the Alternative-Fuel Motor Vehicle Tax Credit was reinstated, effective July 1, 2011. The Tax Credit was most recently amended and became effective April 13, 2013.

W. Va. Code §11-6D-1, et seq. provides a tax credit for qualified alternative-fuel motor vehicles and qualified alternative-fuel vehicle refueling infrastructures. The credit for qualified alternative-fuel vehicle home refueling infrastructures was eliminated.

**A. Date of first promulgation addressing current topic.**

October 28, 1996

**B. Date[s] of modifications subsequent to initial promulgation.** March 22, 2014

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

The rule should be continued, with possible amendments as reflected herein.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The title and SOS site say interpretive rule, while W. VA. CODE R. §110-6D-1.1 says it is a legislative rule.

There is a mistake in Paragraph 3.3.a.1. W. VA. CODE §11-6D-6(a) 2013) provides that, for taxable years beginning on or after January 1, 2011 and prior to January 1, 2014, when the qualified alternative fuel vehicle refueling infrastructure is available for public use, the 50% credit is **multiplied by 1.25** (*emphasis added*), and the maximum amount is \$312,500. The rule lists the credit as being 50% with a maximum of \$312,500. It should either mirror the statutory language, or reflect 62.5%, which is 50% multiplied by 1.25. (\$312,500 is \$250,000 multiplied by 1.25.)

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

No stakeholders would be affected since any corrections would be technical in nature.





**Dave Hardy**  
Secretary of Revenue

**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-06F, Property tax valuation of certain manufacturing property.**

Effective Date: May 1, 1999

Statutory authority: W. Va. Code §11-6F-5

This legislative rule explains and clarifies the special property tax valuation provisions set forth in W. Va. Code §11-6F-1, *et seq.*, which addresses qualified capital additions to manufacturing facilities.

**A. Date of first promulgation addressing current topic: May 1, 1999**

**B. Date[s] of modifications subsequent to initial promulgation: None**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule should be modified to address statutory changes that have occurred subsequent to the current rules effective date.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities. However, there have been amendments to underlying statute, which should be addressed in the rule.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

Manufacturing taxpayers making capital additions to facilities. County commissions and assessors.



Dave Hardy  
Secretary of Revenue



Dale W. Steager  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-10. Exceptions to Confidentiality of Taxpayer Information, Disclosure of Certain Taxpayer Information.**

Effective Date: April 15, 1992

Statutory authority: W. Va. Code §11-10-5s.

This legislative rule explains and clarifies W. Va. Code §11-10-5s, "Disclosure of Certain Taxpayer Information."

**A. Date of first promulgation addressing current topic:** April 15, 1992

**B. Date[s] of modifications subsequent to initial promulgation.** NA

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

The rule should be modified.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The legislative rule should be modified to reflect changes made to W. Va. Code § 11-10-5s. Provisions included in W. Va. Code § 11-10-5s, but not in 110CSR10, include the following:

1. The list of tax credits from which specific information about the taxpayers that claimed any of the credits is published by the Tax Commissioner in the State Register, is changed by the deletion of the tax credit allowed under article 13H, and increased by the addition of several more tax credits (i.e., 13Q, 13R, and 13S);
2. The Alcohol Beverage Control Commission is added to the list of state government agencies with which the Tax Department is authorized to enter into a written exchange of information agreement regarding the disclosure and receipt of tax return information;
3. The Tax Commissioner is authorized to enter into a written agreement with the State Treasurer to disclose business registration information;

4. The Tax Commissioner is authorized to disclose tax return information, relating to the sale of tobacco products to the Attorney General; and

5. The Tax Commissioner is authorized to enter into a written agreement with the State Auditor to disclose certain taxpayer information to facilitate participation in the federal offset program, the state offset program, and the collection of unpaid and delinquent tax liabilities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

Taxpayers who claim any of the tax credits under articles 13Q, 13R and 13S of Chapter 11 of the W. Va. Code; The Alcohol Beverage Control Commission, the State Treasurer, and the Attorney General.





Dave Hardy  
Secretary of Revenue

Dale W. Steager  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-10B, Payment of Taxes by Credit Card or Debit Card.**

Effective Date: May 1, 2002

Statutory authority: W. Va. Code §§11-10-5; 11-10-5n(e)

This legislative rule provides necessary direction relative to the payment by credit card or debit card of taxes administered by the State Tax Department.

**A. Date of first promulgation addressing current topic:** May 1, 2002

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be modified to account for newer technological methods of payment and in accordance with 2014 amendments to W. Va. Code §11-10-5n(d), which specifically empower the Tax Commissioner to "propose rules necessary to carry out this subsection and to provide guidelines and requirements necessary to ensure uniform administrative practices statewide to effect the intent of this subsection."

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The former version of W. Va. Code §11-10-5n(d) addressed bad checks or money orders. The 2014 changes to subsection (d) address checks, money orders and "any other commercially acceptable method of payment permitted under this article, its amendments and related rules." The rule should be updated to reflect the broader scope.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

Taxpayers who tender payment by any means authorized, when the payment is not actually made.



Dave Hardy  
Secretary of Revenue



Dale W. Steager  
State Tax Commissioner

## STATE TAX DEPARTMENT

### TAX DEPARTMENT REGULATORY REVIEW

#### I. 110-10D- Use and Acceptance of Electronic Records

Effective Date: January 25, 2016

Statutory authority: W. VA. CODE §§11-10-5, 11-10-5z(b) and 39A-3-2.

This Procedural Rule sets forth the practice and procedure established by the West Virginia State Tax Department for the use and acceptance of electronic records and electronic records that require the signature of an authorized person.

**A. Date of first promulgation addressing current topic.**

March 18, 2002.

**B. Date[s] of modifications subsequent to initial promulgation.**

March 8, 2009, May 16, 2011, December 30, 2011 and January 25, 2016.

#### II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.

Recommend that the rule be modified.

#### III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.

The Rule discusses the filing of a signed Form WV/EFT-1, Application for West Virginia Taxpayer Signature PIN, and a Form WV/EFT-2, Authorization Granting Electronic Signature Authority to a Third Party. *See*, W. Va. Code St. R. §110-10D-4 and §110-10D-5. These Forms are no longer in use by the Tax Department and have been replaced by an application process via myTaxes. Since the procedure has changed, the procedural rule should be modified.

Also, the Appendix attached to the Rule which lists the Tax Types with Electronic Filing Capabilities likely needs updated to include the Medical Cannabis Tax and Fireworks Safety Act. The List should be updated to match the Legislative Rule on Payment of Taxes by Electronic Funds Transfer, W. Va. Code §110-10F-1, *et seq.*, which is currently in the process of being updated.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

Those taxpayers that either choose or are required to file records electronically with the Tax Department.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-10E, Tax Shelter Voluntary Compliance Program.**

Effective Date: August 26, 2006

Statutory Authority: W. VA. CODE §11-10E-2(b)

This rule provides the guidelines the Tax Commissioner believes to be necessary to implement portions of the West Virginia Tax Shelter Voluntary Compliance Act of 2006, W. Va. Code §11-10E-1 et seq., as enacted by passage of House Bill 4630, in effect July 1, 2006.

**A. Date of first promulgation addressing current topic.**

August 26, 2006

**B. Date[s] of modifications subsequent to initial promulgation. None**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

We recommend this rule be repealed, with some sections merged into 110-10J.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The voluntary compliance program was in effect from 8/1/2006, through 11/1/2006. However, this rule contains information pertaining to tax shelters, which remain subject to administration and penalty pursuant to the IRC, W. VA. CODE §11-10E-1 et seq., W. VA. CODE R §110-10J-1 et seq., and this rule.

Definitions in this rule that are not in 110-10J include the following: department, eligible taxpayer, interest, penalty, section 165 loss, and voluntary compliance program. Granted, a few of these definitions only pertain the now defunct voluntary compliance program. In this rule, the definition of "transaction with a significant book tax difference" also includes 3.2.25.a, addressing termination of transaction.

The rules have similar, but not identical, content. In both rules, section 4 addresses reportable transactions, section 5 addresses disclosure of reportable transactions, and section 6 addresses registration of shelters. While 110-10E continues to address the voluntary compliance program, 110-10J continues to address Investor lists and penalties.

This rule lacks a sunset provision.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

No stakeholders would be affected since this program terminated through operation of law on November 1, 2006, and other relevant provisions would be merged into 110-10J.





**Dave Hardy**  
Secretary of Revenue

**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-10F, Payment of Taxes by Electronic Funds Transfer**

Effective: 3/23/2018

Statutory Authority: W.Va. Code §11-10-5t

This Legislative Rule is used by the West Virginia State Tax Department in the administration of W. Va. Code §11-10-5t, which authorizes the Tax Commissioner to require certain taxpayers to make tax payments by electronic funds transfer so that the funds will be immediately available to the State Treasury on the due date of payment.

**A. Date of first promulgation addressing current topic: 5/1/2003**

**B. Date[s] of modifications subsequent to initial promulgation.: 5/1/2012 and 3/23/2018**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be modified.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

Technological changes and processes outside the Tax Department's control have developed, necessitating amendment of the rule. Updates to terms used, notification to filers, and clarification of penalties for noncompliance are needed. The rule adds one new tax to which the rule applies.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

Taxpayers subject to the new Medical Cannabis Tax.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-10G, Alternative Resolution of Tax Disputes**

Effective Date: June 15, 2004

Statutory authority: W. Va. Code §§11-10-23 and 29A-3-1 *et seq.*

This legislative rule adopts and implements alternative dispute resolution mechanisms in order to encourage taxpayers to resolve tax disputes through voluntary settlements rather than litigation. If there is a conflict between this rule and other rules which have been previously promulgated, this rule governs.

**A. Date of first promulgation addressing current topic:** June 15, 2004

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

The Agency recommends the rule remains unchanged.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule provides an effective means to avoid litigation and come to mutual agreement.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



Dave Hardy  
Secretary of Revenue



Dale W. Steager  
State Tax Commissioner

STATE TAX DEPARTMENT

---

TAX DEPARTMENT REGULATORY REVIEW

**I. 110-10H, Tax Amnesty Program of 2004**

Effective Date: August 24, 2004

Statutory authority: Per the rule, W. VA. CODE §11-10H-4(b) is listed as the authority, but as that Article does not exist, the authority should be W. VA. CODE §11-10D-4(b)

According to the scope of this Interpretive Rule, this Rule provides the guidelines the Tax Commissioner believes to be necessary to implement the West Virginia Tax Amnesty Program of 2004, W. Va. Code §11-10H-1, *et seq.*, as enacted by passage of Enrolled Senate Bill 148, in effect June 11, 2004. However, the Tax Amnesty Program of 2004 is found under W. Va. Code §11-10D-1, *et seq.*, not §11-10H-1, *et seq.* as described in the Rule. W. Va. Code §11-10H-1, *et seq.*, does not exist.

**A. Date of first promulgation addressing current topic.** August 24, 2004

**B. Date[s] of modifications subsequent to initial promulgation.** None.

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that this rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule applied to a tax amnesty program that no longer exists. W. Va. Code §11-10D-5 provided that the Tax Commissioner was to provide a two-month amnesty period, which was from September 1, 2004 to November 1, 2004. See, W. Va. Code St. R. §110-10H-3.2.8. The amnesty applied to taxpayers who, during the amnesty program, filed an application on or before the last day of the second calendar month of the amnesty program and met the requirements under W. Va. Code §11-10D-7.

As this amnesty program has not existed since 2004 and is no longer applicable, it does not appear that this rule is necessary. Further, if the Rule were to be kept, it does not cite the correct Code sections.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

This rule applied to individuals eligible for the Tax Amnesty Program in 2004.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-10J, Abusive Tax Shelters.**

Effective Date: June 1, 2007

Statutory Authority: W. VA. CODE §§11-10E-2 and 11-10-5

This rule provides guidance relating to the disclosure and regulation of tax shelters created to avoid paying state income taxes.

**A. Date of first promulgation addressing current topic.** June 1, 2007

**B. Date[s] of modifications subsequent to initial promulgation.** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

We recommend this rule be continued. However, if 110-10E is repealed, then there might be definitions and procedures that might be useful to have in 110-10J.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

110-10E regulates the Tax Shelter Voluntary Compliance Program, which expired by operation of law during 2006, but it still contains some relevant information and provisions. In contrast, this rule provides guidance relating to the disclosure and regulation of tax shelters created to avoid paying state income taxes.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.** No stakeholders would be adversely affected if this rule either continues without change, or if this rule is amended to incorporate some of the provisions from 110-10E.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-10K, Combined Returns Pursuant to an Investigation by the Tax Commissioner.**

Effective Date: June 1, 2009

Statutory Authority: W. Va. Code §§11-10-5; 11-10-7d(b)

This rule provides guidance on the order of application of taxes combined pursuant to West Virginia Code §11-10-7d(b).

**A. Date of first promulgation addressing current topic.** June 1, 2009

**B. Date[s] of modifications subsequent to initial promulgation.** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Continue without change, or only minor changes

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

This rule sets forth the order of application of taxes combined pursuant to W. VA. CODE §11-10-7d(b) when assessments are issued. Section 4 references business franchise tax in subsections (2) and (3). The business franchise tax is no longer collected effective 1/1/2015 per W. VA. CODE §11-23-6(b)(11).

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

No stakeholders should be affected by continuing with no change or by minor revision, which are technical in nature.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-10L- Claiming Tax Refund or Credit**

Effective Date: January 25, 2015

Statutory authority: W. VA. CODE §§11-10-5 and 39A-3-2

This Procedural Rule sets forth the practice and procedure established by the West Virginia State Tax Department for filing a claim for refund or credit as provided in W. Va. Code §11-10-14.

**A. Date of first promulgation addressing current topic.** July 28, 2014

**B. Date[s] of modifications subsequent to initial promulgation.** January 25, 2015

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-12B, Registration of Transient Vendors**

Effective Date: June 12, 1987

Statutory authority: W. Va. Code §11-12-24

This regulation establishes the procedure to be followed by the Tax Commissioner in instituting forfeiture proceedings against the property of a transient vendor, as that term is defined in W. Va. Code §11-12-2, who fails to exhibit a valid business registration certificate as required by W. Va. §11-12-1 et seq.

**A. Date of first promulgation addressing current topic: June 12, 1987**

**B. Date[s] of modifications subsequent to initial promulgation: None**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Continue without change.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-12C, Preference for Determining Successful Bids.**

Effective Date: October 12, 1992

Statutory Authority: W. VA. CODE §§11-10-5, 5A-3-37

This interpretive rule provides an explanation and clarification of operative procedures for the "Jobs for West Virginians Act of 1990," being vendor preference for construction services in the amount of fifty thousand dollars (\$50,000) or more and competitively bid, and for purchases of commodities and printing competitively bid.

**A. Date of first promulgation addressing current topic.** February 15, 1992

**B. Date[s] of modifications subsequent to initial promulgation.** October 12, 1992

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

We recommend the rule remain unchanged, although some minor changes would not be inappropriate, as outlined below.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

W. VA. CODE §5A-3-37 in its entirety has not been repealed although the construction portion of the bidding preference was repealed during 2010. The construction preference was only for four years, 7/1/1990 through 6/30/1994. The commodities and printing portion of the statute and rule remains in effect.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



Dave Hardy  
Secretary of Revenue



Dale W. Steager  
State Tax Commissioner

STATE TAX DEPARTMENT

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-12D, Business registration certificate – suspension for failure to pay personal property taxes.**

Effective Date: May 1, 2006

Statutory Authority: W. VA. CODE §§11-10-5 and 11-12-5(b)(3)

This legislative rule explains and clarifies application of W. Va. Code §11-12-5, relating to the suspension, cancellation, or refusal to renew, or issue, a business registration certificate.

**A. Date of first promulgation addressing current topic.** May 1, 2006

**B. Date[s] of modifications subsequent to initial promulgation.** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend this rule be continued without change.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-13, Business and Occupational Tax.**

Effective Date: May 1, 1996

Statutory Authority: W. Va. Code §§11-10-5 and 29A-3-15.

This legislative rule explains and clarifies the West Virginia Business and Occupation Tax, W. Va. Code §11-13-1 et seq. This legislative rule is intended to repeal and reenact Tax Department, Business and Occupation Tax Rule, 110 C.S.R. 13.

**A. Date of first promulgation addressing current topic.** April 20, 1964

**B. Date[s] of modifications subsequent to initial promulgation.** 6/30/1964, 8/30/1964, 7/1/1965, 1/31/1968, 7/1/1974, 5/13/1987, 4/2/1990, 5/1/96

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

We recommend that the rule continue without revision, although minor revisions would not be inappropriate, as discussed below.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

In 1989 the activities of most businesses were removed from the State B & O tax. The rule was effective May 1, 1996. There have been minor revisions to the article since that time. A significant revision is the credit against tax based on the taxable generating capacity of a generating unit utilizing a turbine powered primarily by wind, set forth in W. VA. CODE §11-13-2p. This section does not require that a rule be drafted. However, based upon the general scope of this rule, this credit would be appropriate to include.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

No stakeholder would be affected, even if minor revisions were made because they would primarily address a credit already set forth by statute.



Dave Hardy  
Secretary of Revenue



Dale W. Steager  
State Tax Commissioner

STATE TAX DEPARTMENT

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-13A, Severance Tax**

Effective Date: April 15, 1992

Statutory authority: W. VA. CODE §11-13A-23(b) and §11-10-5

This Legislative Rule explains and clarifies the West Virginia Severance Taxes set forth at West Virginia Code §11-13A-1, *et seq.*

**A. Date of first promulgation addressing current topic.** April 4, 1988

**B. Date[s] of modifications subsequent to initial promulgation.**  
April 2, 1990; April 15, 1992.

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

This rule could be amended to reflect updates in the West Virginia Code.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

While this rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities, it could be updated to reflect changes that have been made to the West Virginia Code.

For example, W. Va. Code St. R. §110-13A-3 and §110-13A-4 discuss the severance tax on timber. The severance tax on timber was discontinued from the tax year 2010 until July 1, 2016. It was re-imposed after July 1, 2016 at a rate of one and fifty hundredths percent of the gross value of the timber produced, which is lower than the rate listed in the Rule. *See*, W. Va. Code §11-13A-3b(d). The severance tax on timber is scheduled to terminate again on and after July 1, 2019. *See*, W. Va. Code §11-13A-3b(e).

Also, the rule does not address the exception under W. Va. Code §11-13A-9(b)(2), which provides that taxpayers remitting severance tax on timber may deduct the \$500 credit under W. Va. Code §11-13A-10 only on annual returns. These taxpayers may not deduct any

portion of the annual tax credit when they determine the amount of periodic installment payments of timber severance tax due during their taxable year.

There are also some exemptions to the imposition of the severance tax on natural gas and oil for taxable periods after January 1, 2000, that are not addressed in the Rule, including the following exemptions:

(1) Free natural gas provided to any surface owner; (2) natural gas produced from any well which produced an average of less than five thousand cubic feet of natural gas per day during the calendar year immediately preceding a given taxable period; (3) oil produced from any oil well which produced an average of less than one-half barrel of oil per day during the calendar year immediately preceding a given taxable period; and (4) for a maximum period of ten years, all natural gas or oil produced from any well which has not produced marketable quantities of natural gas or oil for five consecutive years immediately preceding the year in which a well is placed back into production and thereafter produces marketable quantities of natural gas or oil.

W. Va. Code § 11-13A-3a(a).

Several of the tax credits listed in W. Va. Code St. R. §110-13A-10a have terminated. The tax credit for business investment and job expansion under W. Va. Code §11-13C-1, *et seq.*, terminated after 2002. Similarly, the tax credit for industrial expansion and revitalization and eligible research and development projections under W. Va. Code §11-13D-1, *et seq.*, terminated after 2002, except for electricity producers.

Other changes to the Severance Tax that were made after the promulgation of this Rule were sometimes dealt with in another rule rather than amending this rule. For example, the distribution of oil and gas severance taxes to the counties is addressed in W. Va. Code St. R. §110-13AA-1, *et seq.*, and the reduced severance tax rates on thin seams of coal are addressed in W. Va. Code St. R. §110-13AB-1, *et seq.*

#### **IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

The rule affects individuals that sever, extract and reduce to possession natural resources for sale or commercial use and would include producers of coal, oil, gas (including natural gas liquids), timber, coalbed methane, sand, gravel, limestone, sandstone and other natural resources.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-13AA- Information to be Utilized for Calculating the Distribution of Oil and Gas Severance Taxes**

Effective Date: July 28, 2014

Statutory authority: W. VA. CODE §11-13A-5a(c)

This Procedural Rule sets forth the procedures to be followed by the State Tax Department for distributing the municipal and county shares of the oil and gas severance taxes under W. Va. Code §11-13A-5a. The Rule provides that the Tax Department will deposit the funds into the specified accounts by October 1 of each year following the end of the taxable year, unless the Tax Commissioner determines that more data is necessary to ensure that the proper distribution is made. The Rule also provides that the Tax Department will treat the gas and oil as having been severed in the county in which the wellhead is located. The Tax Department will use the most recent reasonably complete oil and gas production data provided by the Division of Environmental Protection for this purpose.

**A. Date of first promulgation addressing current topic.** May 22, 1997

**B. Date[s] of modifications subsequent to initial promulgation.** October 1, 2001;  
July 28, 2014

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-13AB- Reduced Severance Tax Rates for Thin Seams of Coal**

Effective Date: October 17, 1997

Statutory authority: W. VA. CODE §11-10-5

This Interpretive Rule explains and clarifies the reduction in Severance Tax rates for coal mined in West Virginia by underground methods for seams of forty-five inches or less, for tax years beginning after April 11, 1997.

**A. Date of first promulgation addressing current topic.** October 17, 1997

**B. Date[s] of modifications subsequent to initial promulgation.** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-13DD, Farm-to-Food Bank Tax Credit.**

Effective Date: March 23, 2018

Statutory Authority: W. Va. Code §§11-13DD-5(a), (b).

This legislative rule sets forth the procedures and requirements for the State Tax Department's administration of the farm-to-food bank tax credit that is established by W. Va. Code §11-13DD-1 et seq.

**A. Date of first promulgation addressing current topic.** March 23, 2018

**B. Date[s] of modifications subsequent to initial promulgation.** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

We recommend that the rule continue without change.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

This rule is practically brand new and working well.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-13J, Tax Credit for Qualified Agricultural Equipment.**

Effective Date: June 1, 1997

Statutory Authority: W. VA. CODE §11-13K-5

This legislative rule implements W. Va. Code §11-13K-1 et seq. 11-13K-5 requires the Tax Commissioner to propose legislative rules for certification of qualified agricultural equipment and for administration of the tax credit for purchases of the equipment.

**A. Date of first promulgation addressing current topic.** June 1, 1997

**B. Date[s] of modifications subsequent to initial promulgation.** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

We recommend the rule continue with a possible minor change.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

There appears to be an error in this rule; Subsection 3.3 references W. VA. CODE §11-13J-1, which is the short title for the Neighborhood Investment Program. The Tax Credit for Agricultural Equipment used to be 11-13J.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.** No stakeholders would be affected if a minor technical correction were made.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-13P, Tax Credit for Medical Liability Insurance Premiums.**

Effective Date: May 1, 2003

Statutory Authority: W. VA. CODE §11-13P-8

This rule explains and clarifies the application of the tax credit for medical malpractice insurance premiums authorized by W. Va. Code §§11-13P-1 et seq. against the Health Care Provider Tax imposed by W. Va. Code §§11-27-1 et seq.

**A. Date of first promulgation addressing current topic.** 5/1/2003

**B. Date[s] of modifications subsequent to initial promulgation.** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

We recommend this rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

This credit terminated for TYE after December 31, 2004, per W. VA. CODE §11-13P-11 (2001) and W. VA. CODE R. §110-13P-3.1.2 (2003).

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.** There would be no effect on stakeholders since the credit has terminated by statute.



Dave Hardy  
Secretary of Revenue



Dale W. Steager  
State Tax Commissioner

STATE TAX DEPARTMENT

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-13Q, Commercial Patent Incentives Tax Credit.**

Effective Date: May 1, 2012

Statutory Authority: W. VA. CODE §11-13AA-10

This Legislative Rule is promulgated to provide for the general administration of the Commercial Patent Incentives Tax Act, W. Va. Code §§11-13AA-1, et seq. This Rule carries out the policy and purposes of the Statute, provides necessary clarification of the provisions of the Statute, and provides for the general administration of the Statute.

**A. Date of first promulgation addressing current topic.** June 1, 2011

**B. Date[s] of modifications subsequent to initial promulgation.** May 1, 2012

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

We recommend this rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

This credit terminated after 12/31/2016 per W. VA. CODE §11-13AA-13. I recommend this rule be repealed as of 12/31/2020 at the earliest, which will encompass and exceed the three-year period in which amended returns that claim this credit could be filed. Consideration should be given, however, for credits that are actively being claimed, carried-over, etc., when the termination date is set.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.** No stakeholder would be affected since the credit terminated by statute after 12/31/2016.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-13X, West Virginia Film Industry Investment Act.**

Effective Date: May 11, 2010

Statutory Authority: W. VA. CODE §§11-13X-9, 11-10-5, 11-10-5d(f)

This legislative rule was promulgated to provide for the general administration of the West Virginia Film Industry Investment Act, W. Va. Code §11-13X-1, et seq. This rule carries out the policy and purposes of the statute, provides necessary clarification of the provisions of the statute, and provides for the general administration of the statute.

**A. Date of first promulgation addressing current topic.** June 1, 2009

**B. Date[s] of modifications subsequent to initial promulgation.** May 11, 2010

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

We recommend this rule be continued without change.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

Although the tax credit for the Film Industry Investment Act was repealed, effective January 26, 2018, previously granted credits can still be claimed per W. VA. CODE §11-13X-13(c) (2018). The current rule remains helpful for the agency and affected taxpayers until the grandfathered credits are no longer available.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



Dave Hardy  
Secretary of Revenue



Dale W. Steager  
State Tax Commissioner

STATE TAX DEPARTMENT

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. W. Va. Code of St. R. §110-14, Gasoline and Special Fuel Excise Tax**

Effective Date: November 27, 1984

Statutory authority: W. Va. Code §§29A-3-15 and 11-10-5

The legislative rule explains and clarifies the West Virginia Gasoline and Special Fuel Excise Tax, as stated in W. Va. Code §11-14-1 et seq.

**A. Date of first promulgation addressing current topic:** August 1, 1964

**B. Date[s] of modifications subsequent to initial promulgation:** December 29, 1967; November 29, 1983; November 27, 1984

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend this rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

W. Va. Code §11-14-1 *et seq.* was repealed for tax periods beginning on and after January 1, 2004. The time limit on collecting any liabilities arising prior to January 1, 2004 would now be expired.

The Gasoline and Special Fuel Excise Tax Act is now, in large part, the Motor Fuel Excise Tax Act found in W. Va. Code §11-14C-1 *et seq.* and to a lesser degree in The International Fuel Tax Agreement (IFTA) codified at W. Va. Code §11-14B-1 *et seq.*

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

The stakeholders are already governed by the above code sections and the corresponding rules. The stakeholders would be the motor carriers (governed by IFTA), taxpayers under article 14C, namely, suppliers which include refiners, permissive suppliers, importer, exporter, terminal operators, blenders, distributors, producer/manufacturer and alternative-fuel provider, retailer or end user.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-14B, International Fuel Tax Agreement**

Effective Date: May 1, 1996

Statutory authority: W. Va. Code §§11-10-5 and 11-14B-12

This legislative rule applies to administration of the International Fuel Tax Agreement ("IFTA") in the State of West Virginia pursuant to W. Va. Code §11-14B-1, *et. seq.*, and to administration of the West Virginia Motor Carrier Road Tax set forth in W. Va. Code §11-14A-1, *et. seq.*

**A. Date of first promulgation addressing current topic:** May 1, 1996

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

The rule needs some modification.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule is necessary for the efficient administration of the International Fuel Tax Agreement (IFTA). However, the rule needs updated since the transition period is now historical. Section 4 provides information concerning the effective period for identification markers (decals) during the transition period of July 1, 1994 to December 31, 1995. This section could be updated.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

The rule only needs updated. The stakeholders are the motor carriers who operate within and without West Virginia.



Dave Hardy  
Secretary of Revenue



Dale W. Steager  
State Tax Commissioner

STATE TAX DEPARTMENT

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-14C, Motor Fuel Excise Tax**

Effective Date: October 1, 2015

Statutory authority: W. Va. Code §11-10-5

This interpretive rule explains and clarifies the Motor Fuel Excise Tax, set forth in W. Va. Code §§11-14C-1, et seq., 11-15-18b and 11-15A-13a. The rule sets forth the method to calculate the variable component of the Motor Fuel Excise Tax for conventional and alternative motor fuels. This rule addresses licensure and bonding requirements, reports and payment of the tax, floorstock reporting, and refunds.

**A. Date of first promulgation addressing current topic:** October 1, 2015

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Continue without change.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule clarifies the administration of the Motor Fuel Excise Tax. The rule sets out the method used for the annual determination of the average price of motor fuel. Without repeating the Code, the rule provides clarity and detail helpful for compliance by Taxpayers.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



Dave Hardy  
Secretary of Revenue



Dale W. Steager  
State Tax Commissioner

STATE TAX DEPARTMENT

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-15. Consumer Sales and Service Tax and Use Tax.**

Effective Date: July 15, 1993

Statutory authority: W. Va. Code § 11-10-5.

This legislative rule explains and clarifies both the West Virginia Consumers Sales and Service tax, in W. Va. Code § 11-15-1, *et seq.*, and the West Virginia Use Tax, in W. Va. Code § 11-15A1, *et seq.*

**A. Date of first promulgation addressing current topic:** June 25, 1969

**B. Date[s] of modifications subsequent to initial promulgation.** July 25, 1969, November 30, 1973, January 1, 1974, June 29, 1979, April 4, 1988, May 1, 1989, April 2, 1990, and May 1, 1992.

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

The rule should be amended to include changes to the consumers sales and service tax and use tax enacted after this rule was promulgated in 1993.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

NA.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

## STATE TAX DEPARTMENT

---

### TAX DEPARTMENT REGULATORY REVIEW

#### I. 110-15A, Baby-sitting Services Exemption

Effective Date: August 17, 1992

Statutory authority: W. Va. Code §11-10-5

This interpretive rule explains and clarifies the exemption from consumers sales tax provided in W. Va. Code §11-15-9(pp), as added by Com. Sub. for Senate Bill No. 348 (1992), exempting sales of baby-sitting services by individuals who baby-sit for profit provided the individual's gross receipts from providing baby-sitting services do not exceed \$5,000.00 in a taxable year.

**A. Date of first promulgation addressing current topic:** August 17, 1992

**B. Date[s] of modifications subsequent to initial promulgation:** None

#### II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.

The rule needs modified to be up to date. For example, the exemption is now codified at W. Va. Code §11-15-9(a)(35). The rule distinguishes the exemption formerly codified at W. Va. Code §11-15-9(p), an exemption for day care centers. That exemption no longer exists. The rule could be simplified as well.

#### III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.

The rule provides information helpful to a Taxpayer. However, the rule needs modified to update references and to simplify the information. The exemption is now codified at W. Va. Code §11-15-9(a)(35) rather than in W. Va. Code §11-15-9(pp). The rule distinguishes the exemption formerly codified at W. Va. Code §11-15-9(p), an exemption for day care centers. That exemption no longer exists. The rule could be part of the sales tax rule at 110 C.S.R. 15, should that rule be modified.

#### IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.

Individuals babysitting for payment with gross income of less than \$5,000.





**Dave Hardy**  
Secretary of Revenue

**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. DESCRIPTION OF EACH RULE UNDER THE AGENCY'S JURISDICTION.**

**110-15B, Nails and Fencing Exemption for Commercial Production of Agricultural Product**

Effective Date: August 17, 1992

Statutory authority: W. Va. Code §11-10-5

This interpretive rule explains and clarifies the exemption from consumers sales tax provided in W. Va. Code §11-15-9(i), as amended by Com. Sub. for Senate Bill No. 348 (1992), exempting sales of nails and fencing used or consumed in connection with the commercial production of an agricultural product, whether or not the fence is considered to be a permanent improvement to real property.

**A. Date of first promulgation addressing current topic:** August 17, 1992

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend this rule be continued without change.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-15C, Consumers Sales and Service Tax And Use Tax - Drugs, Durable Medical Goods, Mobility Enhancing Equipment And Prosthetic Devices Per Se Exemption; Motor Vehicles Per Se Exemption.**

Effective Date: May 11, 2010

Statutory Authority: W. Va. Code §§11-10-5 and 11-15-9i

This legislative rule explains and clarifies the exemption from consumers sales tax provided in W. Va. Code §11-15-9i as added by Com. Sub. for House Bill No. 2380 (2007), exempting the purchase by a health provider of certain drugs, durable medical goods, mobility enhancing equipment and prosthetic devices from the consumers sales and service tax. In addition, this legislative rule supercedes the rules for per se exemption from consumer sales tax for the lease or sale of motor vehicles.

**A. Date of first promulgation addressing current topic.** May 11, 2010

**B. Date[s] of modifications subsequent to initial promulgation.** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

We recommend that this rule either be repealed or revised.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

I would recommend that this rule either be repealed or revised in accordance with the provisions of W. VA. CODE §11-15-9(a)(11), as well as §11-15-9i as amended during 2016. The latter section does not provide for a rule and the code speaks for itself.

The discussion of motor vehicles is misplaced and is no longer necessary.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.** No stakeholder would be negatively affected by repeal or modification because the statute that governs this topic has been amended subsequent to the promulgation of the rule.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-15D, Services of Certain Community-Based Nonprofit Service Organizations Exempt from Tax.**

Effective Date: October 2, 1992.

Statutory authority: W. Va. Code §11-10-5

This interpretive rule clarifies the exemption from the consumers sales and service tax of certain services offered by non-profit community groups such as the YMCA, provided that the organization meets certain other statutory requirements, such as making services available free of charge for persons who are otherwise unable to pay.

**A. Date of first promulgation addressing current topic:** October 2, 1992

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be continued unchanged.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule provides guidance for certain non-profit organizations wishing to assert their statutory exemption from the consumers sales and service tax.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-15F - Sales Tax Holiday.**

Effective Date: August 2, 2004

Statutory authority: W. VA. CODE §11-10-5.

This Interpretive Rule clarifies, explains and implements the Sales Tax Holiday for purchases of certain clothing, computers, computer accessories, footwear and other school supplies as authorized by West Virginia Code §11-15-9g.

**A. Date of first promulgation addressing current topic.** August 2, 2002

**B. Date[s] of modifications subsequent to initial promulgation.** August 1, 2003;  
August 2, 2004

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

This Rule clarifies an exemption that existed for clothing, footwear and school supplies for a limited period in 2004. The sale had to take place during a period beginning at 12:01 a.m. on Friday, August 1, 2004 and ending at 12 midnight on the following Sunday, in August 2004. *See* W. Va. Code §11-15-9g. This Code provision had been updated twice, as similar exemptions had been permitted in 2002 and 2003.

As this exemption no longer exists, and hasn't existed since 2004, this Rule could be repealed. Even if the Legislature were to re-enact a similar exemption in the future, this Rule would need modification because this Rule specifically mentions the 2004 period for the exemption. *See*, W. Va. Code §110-15F-4, §110-15F-5, and §110-15F-6.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

No one should be affected by the repeal as the Rule dealt with sales tax holiday from 2004. However, establishments that sold clothing, footwear and school supplies were affected by the Rule when it was applicable, as were those individuals who made such purchases.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-15H - Consumer Sales and Service Tax and Use Tax – Reduced Sales Tax on Food.**

Effective Date: June 1, 2007

Statutory authority: W. VA. CODE §11-15-3a and §11-10-5.

This Legislative Rule explains and clarifies the application of the reduced Sales Tax on the sale of food and food ingredients. On January 1, 2006, the rate of Sales Tax and Use Tax was reduced to 5% on the sales, purchase and uses of food and food ingredients intended for human consumption. However, the reduced rate did not apply to prepared food. This rule clarifies what is considered prepared food and lists items that would be considered “food and food ingredients” and “prepared Food.”

**A. Date of first promulgation addressing current topic.** June 1, 2007

**B. Date[s] of modifications subsequent to initial promulgation.** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the Rule be modified.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

Since the promulgation of this Rule, the rate of the tax was further reduced and, as of June 20, 2013, the tax on the sales, purchase and uses of food and food ingredients has ceased. W. Va. Code §11-15-3a(a)(3).

However, the clarification that the Rule provides on what is considered prepared food items, as well as the lists of specific food items, may still be useful in determining whether an item should be considered “food and food ingredients” or “prepared food.” These items

are the basis of the Tax Department's TSD-419, which discusses the application of the sales tax to food. However, the Rule needs updated to reflect that the tax has currently ceased and is not reduced to 5%.

Furthermore, the numbering in the definition of "bundled transaction" needs corrected.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

Restaurants, grocery stores, bakeries and any establishment that may sell food or prepared food.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-15I, Consumer Sales and Service Tax and Use Tax Executive Orders Declaring Emergency and Exempting from Tax Mobile Homes and Similar Units and Building Materials Used and Consumed in Repair or Replacement of Residences and Businesses Damaged in a Disaster.**

Effective Date: June 1, 2005

Statutory authority: W. Va. Code §11-1C-5(b)

This Legislative rule explains and clarifies application of an Executive Order declaring a state of emergency that exempts from Consumers Sales and Service Tax and Use Tax purchases of mobile homes, house trailers, modular homes and similar units by and for persons rendered homeless by a disaster and the service of installing them, and purchases of building construction materials and supplies used or consumed in the repair, restoration, reconstruction or replacement of structures damaged in a disaster, during the period of time stated in the Executive Order.

**A. Date of first promulgation addressing current topic:** June 1, 2005

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

This rule has been invoked on several occasions since it was issued, and will predictably be invoked again in response to floods and similar disasters.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



Dave Hardy  
Secretary of Revenue



Dale W. Steager  
State Tax Commissioner

STATE TAX DEPARTMENT

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-15J. Per Se Exemption for Purchases by Contractors Performing Contracting for Government-Owned Water or Sewer Utilities or Public Service District Water or Sewer Utilities.**

Effective Date: November 15, 2011.

Statutory authority: W. Va. Code § 11-10-5, 11-15-9m.

This interpretive rule explains and clarifies the per se exemption from Consumers Sales and Service Tax and Use Tax for purchases by contractors providing services to government-owned or public service district water or sewer utilities.

This per se exemption became effective July 1, 2007 under W. Va. Code § 11-10-8d(b).

**A. Date of first promulgation addressing current topic:** November 15, 2011.

**B. Date[s] of modifications subsequent to initial promulgation.** None.

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

The rule should be continued without change.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

NA.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-15K, Aircraft Operated Under a Fractional Ownership Program.**

Effective Date: August 7, 2019 as an emergency rule; in process as a legislative rule

Statutory authority: W. Va. Code §11-15-9p

This legislative rule explains and clarifies administrative and procedural requirements for the consumer sales and service tax exemption for purchases of service and tangible personal property sold for the repair, remodeling and maintenance of aircraft operated under a fractional ownership program as forth under W. Va. Code §11-15-9p.

**A. Date of first promulgation addressing current topic:** August 7, 2018

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

This rule is new, as of August 7, 2018. No changes are necessary.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-16, Bingo.**

Effective Date: May 1, 2001.

Statutory authority: W. Va. Code §47-20-23

This legislative rule supplements the statutes, providing more specific and detailed guidance for organizations conducting charitable bingo games.

**A. Date of first promulgation addressing current topic:** March 1, 1982

**B. Date[s] of modifications subsequent to initial promulgation:** April 15, 1992;  
July 15, 1993; May 1, 1994; May 1, 1996; May 1, 2001

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE  
RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be modified.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule needs to be updated to conform with statutory changes that have been enacted since it was last promulgated.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY  
STAKEHOLDERS AFFECTED.**

Holders of charitable bingo licenses; possibly the State Lottery Commission.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

## STATE TAX DEPARTMENT

---

### TAX DEPARTMENT REGULATORY REVIEW

#### I. 110-17, Tobacco Products Excise Tax

Effective Date: May 1, 2002

Statutory authority: W. Va. Code §§29A-3-15 and 11-10-5

This rule establishes policies and operating procedures for administering the Tobacco Products Excise Tax.

**A. Date of first promulgation addressing current topic:** April 29, 1964

**B. Date[s] of modifications subsequent to initial promulgation:** February 15, 1967;  
May 1, 2001

#### II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.

The rule provides helpful guidance but may be improved with modification.

#### III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.

Much of the rule has valuable, indispensable guidance.

There may be some need to clarify restrictions on or requirements of stamping cigarettes, point of taxation on other tobacco products and other administrative, collection and enforcement issues.

If the rule is modified, guidance may be set forth to administer, collect and enforce the tobacco excise tax on e-cigarette liquid codified in W. V. Code §11-14C-4b, effective in 2016, after the last modification.

If the rule is modified, it could update and include guidance on taxing floorstocks, now found in a separate rule, Procedural Rule 110-17A.

#### IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.

Taxpayers liable for the tobacco products excise tax on cigarettes and on other tobacco products including manufacturers, wholesalers, jobbers and vending machine operators. If the rule is

amended, it may include the tax on e-cigarette liquids. The stakeholders for e-cigarette liquids are out-of-state sellers or manufacturers, and in-state manufacturers and vendors of e-cigarette liquids.



Dave Hardy  
Secretary of Revenue



Dale W. Steager  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-17A, Tobacco Products Excise Tax on Floorstocks**

Effective Date: June 16, 2003

Statutory authority: W. Va. Code §11-10-5

This rule provides the procedure for paying the rate increase for the Tobacco Products Excise Tax as that increase relates to floorstocks of cigarettes and cigarette tax stamps. The rule is specific to the rate change in 2003.

**A. Date of first promulgation addressing current topic:** June 16, 2003

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

The agency recommends either of the following:

1. Modify the rule so that it is applicable to any rate change, or
2. Modify W. Va. Legislative Rule 110 C.S.R. 17, incorporating the update of the procedure to report and remit the floorstocks tax and repealing W. Va. Code of St. R. §110-17A.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule provides guidance for the reporting and remittance of the tax increase at the time of a tobacco cigarette and other tobacco products rate change. However, the rule needs updated or, if repealed, then amended and made part of the rule governing Tobacco Products Excise Tax.

The rule incorporates the changes the Legislature made to W. Va. Code §§11-17-3 and 4 in 2003. In 2016 the Legislature placed the administration of floorstocks only in section 4 of the code. This makes references to W. Va. Code §11-17-3 out of date. The rule also incorporates W. Va. Legislative Rule 110 C.S.R. 17, "Tobacco Products Excise Tax." Both rules provide guidance for the same article.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

The stakeholders are the cigarette wholesalers, dealers, retail dealers and vending machine operators who are liable for the tax on the cigarette stamps.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-19, Soft Drinks Tax**

Effective Date: April 15, 1992

Statutory authority: W. Va. Code §11-10-5

These legislative regulations explain and clarify the West Virginia Soft Drinks Tax, as stated in W. Va. Code §11-19-1, et seq.

- A. Date of first promulgation addressing current topic:** June 27, 1964
- B. Date[s] of modifications subsequent to initial promulgation:** September 27, 1965, and April 2, 1990

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

The rule needs modified to be updated for current products and markets.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule is necessary for administrating, collecting and enforcing the soft drinks tax. However, the rule needs updated. The definitions need sharpened and exceptions clarified. The named drinks are no longer illustrative. The rule relies on a listing of soft drink products. The constant introduction of new drinks makes a listing not practical.

The rule was written when soft drinks were often made at a soda fountain and when packaging consisted of glass more than present day. Therefore, the rule needs to address the current market place. The rule does address an updated method of payment. This may need expanded.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

Soft drink manufacturers and bottlers as well as wholesalers bringing soft drinks to sell in West Virginia.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-21. Personal Income Tax.**

Effective Date: April 2, 1990.

Statutory authority: W. Va. Code § 11-21-1, *et seq.*; 29A-3-15.

This legislative rule explains and clarifies the West Virginia Personal Income Tax Act as stated in W. Va. Code §§11-21-1 *et seq.*

**A. Date of first promulgation addressing current topic:** July 7, 1980.

**B. Date[s] of modifications subsequent to initial promulgation.** 8/17/1981,  
6/29/1983, 6/14/1985, 4/2/1990

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

The rule should be amended.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

First, a number of amendments to W. Va. Code § 11-21-1 *et seq.* were enacted subsequent to 1989 that should be incorporated.

Second, the rule does not provide for allocation of nonbusiness income and apportionment of business income.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

Taxpayers subject to the imposition of the tax.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-21A, Personal Income Tax Low Income Exclusion.**

Effective Date: June 1, 1997

Statutory Authority: W. VA. Code §§11-21-51(a)(1); 11-21-71(a)

This legislative rule explains and clarifies the low-income exclusion set forth in Senate Bill 17 enacted by the West Virginia Legislature on January 23, 1996. The exclusion is codified in W. Va. Code §§11-21-10, 11-21-51 and 11-21-71.

**A. Date of first promulgation addressing current topic.**

Effective June 1, 1997

**B. Date[s] of modifications subsequent to initial promulgation. None**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Continue without any significant change

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

W. VA. CODE §11-21-51 (a)(1) provides the Tax Commissioner shall promulgate rules to specify circumstances when an individual is not required to file a return as the result of this credit. Section 6 of this rule provides as follows, "If an eligible taxpayer is not required to file a West Virginia personal income tax return pursuant to W. Va. Code §11-21-51, then he or she is not required to file a return pursuant to this rule. Otherwise, an eligible taxpayer under this rule shall to file a personal income tax return." This begs the question. Also, W. VA. CODE §11-21-71(a) is cited as authority for this rule. This subsection addresses withholding and provides, "The method of determining the amount to be withheld shall be prescribed by the Tax Commissioner, with due regard to the West Virginia withholding exemption of the employee and any low income exclusion allowed to such employee under section ten of this article and asserted in good faith by the employee." Section 5 of the rule provides, "If an eligible taxpayer is not subject to withholding of

taxes from wages pursuant to W. Va. Code §11-21-71, then he or she is not subject to withholdings pursuant to this rule. Otherwise, an eligible taxpayer under this rule is subject to withholding of taxes from wages.” This appears to also be circular.

However, I see no issue requiring that this rule be modified or repealed.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED. NA**



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-21B, Citizen Tax Credit for Property Taxes Paid.**

Effective Date: Amended rule not yet in effect, previously 5/1/2002

Statutory Authority: W. VA. CODE §11-21-21(c)

This rule provides necessary guidance on implementing the personal income tax credit available to certain citizens, as provided in W. Va. Code §11-21-21.

**A. Date of first promulgation addressing current topic.**

Effective date 5/1/2002

**B. Date[s] of modifications subsequent to initial promulgation.** Rule is undergoing re-promulgation process, agency approved 7/27/2018

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

We recommend that the updated version of this rule continue through the rule-making process.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The primary changes in the amended version are the removal of the word "senior" from the title and scope, the addition of sunset provisions, and changes in the notice of eligibility requirements by the Tax Department.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.** The stakeholders are those eligible to claim the credit and State Tax Department.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-21C, Method of Reporting the Alternative Method of Distribution of Qualified Rehabilitated Buildings Investment Credit.**

Effective Date: September 15, 2001

Statutory Authority: W. VA. CODE §11-21-8e(b)

This rule provides the method of reporting the alternative method for distribution of qualified rehabilitated buildings investment credit that is required by W. Va. Code §11-21-8e(b), as amended by Senate Bill No. 174 (2001 Regular Session), effective July 1, 2001, for taxable years beginning on or after January 1, 2001, as well as procedures for implementing other changes made to the credit by Senate Bill No. 174.

**A. Date of first promulgation addressing current topic.**

Effective September 15, 2001

**B. Date[s] of modifications subsequent to initial promulgation. None**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

We recommend that the updated version of this rule continue through the rule-making process.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The statutes governing this credit have been amended several times, most recently during the 2017 session. The initial scope of this rule addressed the alternative distribution method. Since House Bill 203 passed during 2017, it became necessary to promulgate rules that provide what information must accompany any claim for the tax credit for the determination that the taxpayer is not in arrears in the payment of any tax administered by the Tax Division, is not delinquent in the payment of any local or municipal tax, nor is the taxpayer delinquent in the payment of property taxes on the property containing the certified historic tax structure, and such other administrative requirements as the Tax Commissioner may specify. In addition, the transferability of the W. VA.

CODE §11-21-8a credit changed during 2002, which is after the initial rules became effective on 9/15/2001.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.** The only stakeholders are those who seek this credit, who are already subject to statutory amendments, and the State Tax Department.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 11-21D, Residential Solar Energy Tax Credit.**

Effective Date: May 11, 2010

Statutory Authority: W. VA. CODE §§11-13Z-1 et seq., 11-10-5

This rule is promulgated to provide for the general administration of the Residential Solar Energy Tax Credit, W. Va. Code §11-13Z-1, et seq.

**A. Date of first promulgation addressing current topic.**

Effective May 11, 2010

**B. Date[s] of modifications subsequent to initial promulgation. None**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

We recommend this rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

Pursuant to W. VA. CODE §11-13Z-1, any taxpayer who installs a solar energy system on or after July 1, 2009, shall be allowed a Personal Income Tax credit. However, pursuant to 11-13Z-3, no taxpayer shall take a credit pursuant to this article for a solar energy system installed after July 1, 2013. Also pursuant to section 3, this credit can be carried over until it is used. Therefore, I recommend this rule be repealed in ten years to give taxpayers the opportunity to utilize this open-ended credit, and then an additional three years to encompass the refund period, which comes to 2032.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.** No stakeholder should be affected because the credit was repealed by statute and the rule will not be repealed until all eligible credits have been awarded and used.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-22, Property Transfer Tax.**

Effective Date: March 23, 2018

Statutory authority: W. Va. Code §11-22-5

This Legislative rule establishes general operating procedures for the Property Transfer Tax. The most recent amendment of the rule changed the rates of tax that counties may charge for recording certain documents, to conform with a recent change in the statute.

**A. Date of first promulgation addressing current topic:** December 16, 1964

**B. Date[s] of modifications subsequent to initial promulgation:** February 2, 1968; April 15, 1992; March 23, 2018.

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule provides valuable guidance to county governments and real estate practitioners.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-23. Business Franchise Tax.**

Effective Date: April 15, 1992.

Statutory authority: W. Va. Code § 11-10-5.

This legislative rule explains and clarifies the West Virginia Business Franchise Tax set forth at W. Va. Code §§11-23-1 *et seq.*

**A. Date of first promulgation addressing current topic:** April 4, 1988.

**B. Date[s] of modifications subsequent to initial promulgation.** April 2, 1990.

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

The rule should be repealed for tax years beginning on and after January 1, 2015.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule should be repealed to reflect termination of the tax for taxable years beginning on or after January 1, 2015, as provided for in W. Va. Code § 11-23-6(b)(11).

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

NA.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-24. Corporation Net Income Tax.**

Effective Date: May 11, 2010.

Statutory authority: W. Va. Code § §29A-3-1 *et seq.*; 11-10-5.

This legislative rule explains and clarifies the West Virginia Corporation Net Income Tax set forth at W. Va. Code §§11-24-1 *et seq.*

**A. Date of first promulgation addressing current topic:** January 1, 1974.

**B. Date[s] of modifications subsequent to initial promulgation.** April 15, 1992, June 14, 1985, April 2, 1990, and April 15, 1992.

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

The rule should be continued without change.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

NA.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-26, Municipal Business and Occupational Tax.**

Effective Date: April 15, 1992

Statutory authority: W. Va. Code §§8-13-5; 11-10-5

This legislative rule explains and clarifies the West Virginia Municipal Business and Occupation Tax, West Virginia Code §8-13-5. The rule provides municipalities with guidance as to how the municipal business and occupation tax is to be administered.

**A. Date of first promulgation addressing current topic:** April 15, 1992

**B. Date[s] of modifications subsequent to initial promulgation:** None; an attempted modification filed with the Secretary of State on May 29, 2003 was withdrawn from consideration on July 22, 2003.

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-27- Service of Notice**

Effective Date: November 15, 2010

Statutory authority: W. VA. CODE §§11-10-5e and 11-10-5

This Interpretive Rule sets forth the interpretation, practice and procedure established by the West Virginia State Tax Department concerning service of notice, electronically or by certified mail, of particular assessments, notices, statements of account or other Tax Department documents administered under Chapter 11, Article 10 of the West Virginia Code.

**A. Date of first promulgation addressing current topic.**  
July 23, 2009

**B. Date[s] of modifications subsequent to initial promulgation.**  
November 15, 2010.

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-28- Municipal Sales and Use Tax Administration**

Effective Date: March 26, 2018

Statutory authority: W. VA. CODE §§11-10-11c

This Legislative Rule explains and clarifies administrative and procedural requirements and characteristics of municipal sales and use taxes imposed under the provisions of W. Va. Code §8-1-5a (Municipal Home Rule Program) and W. Va. Code §8-13C-1, et seq.

**A. Date of first promulgation addressing current topic.**

July 6, 2014.

**B. Date[s] of modifications subsequent to initial promulgation.**

This Rule was originally promulgated on July 6, 2014 and amended on March 26, 2018.

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule remain unchanged.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to municipalities seeking to impose a municipal sales and use tax. It also provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-29, Special Reclamation Tax Credit.**

Effective date: July 6, 2014

Statutory Authority: W. VA. CODE § 22-3-11(h)

This legislative rule sets forth the procedures and requirements for administration of the special reclamation tax credit as authorized by W. Va. Code §22-3-11 (g)(2)(A).

**A. Date of first promulgation addressing current topic.**

Effective July 6, 2014

**B. Date[s] of modifications subsequent to initial promulgation. None**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

We would recommend that either this rule either continue without change or minor revisions be considered. The DEP may have insight as to whether this rule needs amendment.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

Further, the rule states "the special reclamation tax credit is available to qualified operators for taxable years beginning **on or after July 12, 2013** (emphasis added)." W. VA. CODE §22-3-11(g)(3)(A) states, "The credit authorized pursuant to this subdivision is retroactive and may be claimed for reclamation or remediation performed on or after January 1, 2012: Provided, That for reclamation or remediation performed prior to July 13, 2013, no tax credit may be granted unless a written application for the tax credit was submitted to the Tax Commissioner prior to September 1, 2014." There appears to be inconsistent treatment, although this is likely a moot point due to the passage of time.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY  
STAKEHOLDERS AFFECTED. NA**



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-35, Charitable Raffle Boards and Games**

Effective Date: May 1, 1994.

Statutory authority: W. Va. Code §47-23-11

This legislative rule supplements the statutes, providing more specific and detailed guidance for the licensing of wholesalers and distributors of charitable raffle games by the State of West Virginia, and the enforcement of laws concerning the sales and handling of games.

**A. Date of first promulgation addressing current topic:** March 1, 1994

**B. Date[s] of modifications subsequent to initial promulgation:** none

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be modified.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule needs to be updated to conform with statutory changes that have been enacted since it was originally promulgated.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

Wholesalers and distributors of raffle boards and games; holders of charitable raffle licenses; possibly the State Lottery Commission.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-36. Preneed Cemetery Companies.**

Effective Date: May 1, 1994.

Statutory authority: W. Va. Code §§5F-2-2(a)(11); 5F-1-1(a)(1).

This legislative rule clarifies and implements state law as it relates to property, goods and services purchased by preneed cemetery companies and contracts for services to be rendered by such companies.

**A. Date of first promulgation addressing current topic:** May 1, 1994.

**B. Date[s] of modifications subsequent to initial promulgation.** None.

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

The rule should be continued without change.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

NA.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-37, Charitable Raffles**

Effective Date: May 1, 2001.

Statutory authority: W. Va. Code §47-21-21

This legislative rule supplements the statutes, providing more specific and detailed guidance for organizations conducting charitable raffle games in the State of West Virginia.

**A. Date of first promulgation addressing current topic: June 1, 1997**

**B. Date[s] of modifications subsequent to initial promulgation: May 1, 2001**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE  
RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be modified.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule needs to be updated to conform with statutory changes that have been enacted since it was originally promulgated.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY  
STAKEHOLDERS AFFECTED.**

Holders of charitable raffle licenses; possibly the State Lottery Commission.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-39. Electronic Filing and Payment of Special District Excise Tax.**

Effective Date: June 1, 2009.

Statutory authority: W. Va. Code §§7-22-12; 8-38-12; 11-10-5.

This legislative rule sets forth the procedures established by the West Virginia State Tax Department for the electronic filing of returns and payments for the special district excise tax.

**A. Date of first promulgation addressing current topic:** June 1, 2009.

**B. Date[s] of modifications subsequent to initial promulgation.** None.

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

The rule should be continued without change.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule in its present form provides guidance to taxpayers, administrators, field personnel and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

NA.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-40, Withholding or Denial of Personal Income Tax Refunds from Taxpayers Who Owe Municipal or Magistrate Court Costs**

Effective: 7/6/2014

Statutory Authority: W.Va. Code §§ 11-10-5 and 5s

This Legislative Rule specifies when the State Tax Commissioner may withhold an income tax refund from a taxpayer for failure to pay municipal or magistrate court fines, the amounts that may be withheld, and the order of priority for refund offsets when there are competing claims.

**A. Date of first promulgation addressing current topic: 6/1/2009**

**B. Date[s] of modifications subsequent to initial promulgation: 7/6/2014**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that this rule be unchanged.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The current rule provides guidance to Taxpayers, administrators, field personnel, and legal authorities.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-41, Railroad Diesel Locomotive Refundable Exemption from the Variable Rate Component of the Motor Fuel Excise Tax**

Effective Date: N/A

Statutory Authority: W. Va. Code §11-10-5

This procedural rule sets forth the procedure the State Tax Department will use in administering W. Va. Code §11-14C-9(d)(10). The rule includes requirements to apply for the refundable exemption from the variable rate component of the motor fuel excise tax for railroad diesel locomotives including time to apply for the refund, information required, and payment of any variable rate not refunded, if any.

**A. Date of first promulgation addressing current topic:**

The rule on the Secretary of State's Code of State Rules is an expired version which was not adopted. The Tax Commissioner is proposing an updated version.

**B. Date[s] of modifications subsequent to initial promulgation:**

A modification is being proposed which addresses changes the 2018 Legislature made to W. Va. Code §11-14C-31(c)(3) requiring petitions for the subject refund be filed quarterly on dates certain.

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

The agency recommends adoption of the proposed procedural rule.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The Railroad Refundable Exemption is complex. A procedural rule needs to be in place so that Taxpayers know how to comply with filing the tax and requesting the refund. The proposed procedural rule is necessary to provide guidance to Taxpayers, administrators, field personnel, and legal authorities.

The newly proposed procedural rule is necessary to administer the Railroad diesel Locomotive Refundable Exemption from the Variable Rate Component of the Motor Fuel Excise Tax (hereinafter, the "Railroad Refundable Exemption"). The rule which was allowed to expire anticipated that the tax and credit would be filed annually. In 2018, the Legislature modified W. Va. Code §11-14C-31(c)(3) to require that taxpayers file quarterly, on dates certain, for the refundable exemption.

The refundable exemption is capped at an aggregate amount of \$4,300,000 in any year for all Taxpayers claiming the exemption. If more than the cap is claimed in a year, then the refundable exemption is distributed proportionately. For any amount claimed above the cap in any one year, the Taxpayer may be able to request a refund for sales tax actually paid to another state under W. Va. Code §11-15A-10a. The rule sets out requirements and limitations to administer the Code's requirements. The rule also sets out the formula and information needed when a Taxpayer is able to request a refund under W. Va. Code §11-15A-10a.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

The recommendation is to have a new procedural rule. The stakeholders are the railroad diesel locomotives operating in and out of West Virginia.



Dave Hardy  
Secretary of Revenue



Dale W. Steager  
State Tax Commissioner

STATE TAX DEPARTMENT

TAX DEPARTMENT REGULATORY REVIEW

**I. 110-42, Personnel Rule for the Tax Division**

Effective Date: March 23, 2018

Statutory Authority: W. Va. Code §11B-1-8, *et seq.*

This legislative pertains to the State Tax Department's personnel practices and implements provisions of §11B-1-8 regarding classification plans, pay plans, open competitive examinations, promotions, layoff and recall, appointments, dismissals, demotions and other matters. The rule remains in effect until March 23, 2023.

**A. Date of first promulgation addressing current topic.** March 23, 2018

**B. Date[s] of modifications subsequent to initial promulgation.** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend the rule remain unchanged.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The rule provides guidance to Tax Department administration, employees, and potential employees. No problems have arisen since the adoption earlier this year. The Tax Department's Operations Division recommended the rule remain unchanged.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

N/A



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-50A, Exchange of Information Agreement Between Tax Division and Division of Environmental Protection**

Effective: 5/1/1995

Statutory Authority: W.Va. Code §§ 11-10-5 and 5s

This Legislative Rule authorizes certain information to be exchanged pursuant to a written interagency agreement between the Tax Division and the Division of Environmental Protection.

**A. Date of first promulgation addressing current topic: 5/1/1995**

**B. Date[s] of modifications subsequent to initial promulgation: N/A**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The current Rule is currently "In Progress" for repeal, having been incorporated into and consolidated with new Legislative Rule 110-50C.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

The result of repeal and replacement by new Legislative Rule 110-50C will be that no stakeholders are affected.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-50B, Exchange of Information Agreement Between the State Tax Division and The Alcohol Beverage Control Administration**

Effective: 5/1/2001

Statutory Authority: W.Va. Code §§ 11-10-5 and 5s; §§60-9-5(a) and 8(a)

This Legislative Rule authorizes certain information to be exchanged pursuant to a written interagency agreement between the Tax Division and the Alcohol Beverage Control Administration, both of which agencies are divisions of the Department of Revenue.

**A. Date of first promulgation addressing current topic: 5/1/1995**

**B. Date[s] of modifications subsequent to initial promulgation: N/A**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The current Rule is currently "In Progress" for repeal, having been incorporated into and consolidated with new Legislative Rule 110-50C.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

The result of repeal and replacement by new Legislative Rule 110-50C will be that no stakeholders are affected.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-50C, Exchange Of Information Pursuant To Written Agreement**

Effective: New Rule; In Progress

Statutory Authority: W.Va. Code §§11-10-5 and 5s; §§60-9-5(a) and 8(a); §21-1B-3; §29A-1-1 *et seq.*; and, §47-25-1 *et seq.*

This legislative rule authorizes certain information to be exchanged pursuant to a written interagency agreement between the Commissioner of the Tax Division of the Department of Revenue and the Secretary of the Department of Commerce, the Director of the Division of Forestry of the Department of Commerce, the Commissioners of the Public Service Commission, the Secretary of the Department of Environmental Protection, the Commissioner of the Alcohol Beverage Control Administration of the Department of Revenue, the Commissioner of the Division of Labor of the Department of Commerce, the Commissioner of the Insurance Commission of the Department of Revenue, the Commissioner of the Division of Motor Vehicles of the Department of Transportation, the Executive Director of Workforce West Virginia (Formerly the Bureau of Employment Programs), the Office of the Governor, the Director of the West Virginia Lottery, and, the State Fire Marshal.

**A. Date of first promulgation addressing current topic: N/A**

**B. Date[s] of modifications subsequent to initial promulgation: N/A**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

As this is a new rule, recommend that the rule be approved.

### **III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

This rule involves the addition of new agencies with which the Tax Department may exchange information while consolidating into it existing Rules 110-50A, 110-50B 110-50D, 110-50E, 110-50F permitting exchange of information with other state agencies.

### **IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

The Secretary of the Department of Commerce; The Director of the Division of Forestry of the Department of Commerce; and, The Commissioners of the Public Service Commission will be added to those agencies permitted to enter into exchange of information agreements with the Tax Department.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-50D, Exchange of Information Agreement Between Commissioner and Labor, Insurance Commission, Motor Vehicles, Bureau of Employment Programs and Office of The Governor**

Effective: 5/1/2008

Statutory Authority: W.Va. Code §§ 11-10-5 and 5s

This legislative rule authorizes certain information to be exchanged pursuant to a written interagency agreement between the Commissioner of the Tax Division of the Department of Revenue and the Commissioner of the Division of Labor of the Department of Commerce, the Commissioner of the Insurance Commission of the Department of Revenue, the Commissioner of the Division of Motor Vehicles of the Department of Transportation, the Commissioner of the Bureau of Employment Programs and the Office of the Governor.

**A. Date of first promulgation addressing current topic: 5/1/2008**

**B. Date[s] of modifications subsequent to initial promulgation: N/A**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The current Rule is currently "In Progress" for repeal, having been incorporated into and consolidated with new Legislative Rule 110-50C.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

The result of repeal and replacement by new Legislative Rule 110-50C will be that no stakeholders are affected.



Dave Hardy  
Secretary of Revenue



Dale W. Steager  
State Tax Commissioner

STATE TAX DEPARTMENT

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-50E, Exchange of Information Agreement Between the State Tax Department and The West Virginia Lottery**

Effective: 6/1/2011

Statutory Authority: W.Va. Code §§ 29A-1-1 *et seq.* and 11-10-5s

This rule authorizes certain information to be exchanged pursuant to a written interagency agreement between the State Tax Department and the West Virginia Lottery.

**A. Date of first promulgation addressing current topic: 6/1/2011**

**B. Date[s] of modifications subsequent to initial promulgation: N/A**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The current Rule is currently "In Progress" for repeal, having been incorporated into and consolidated with new Legislative Rule 110-50C.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

The result of repeal and replacement by new Legislative Rule 110-50C will be that no stakeholders are affected.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-50F, Exchange of Information Agreement Between the State Tax Department and The Office of The State Fire Marshal**

This rule authorizes certain information to be exchanged pursuant to a written interagency agreement between the State Tax Department and the Office of the State Fire Marshal.

Effective: 6/1/2011

Statutory Authority: W.Va. Code §§ 11-10-5 and 5s

**A. Date of first promulgation addressing current topic: 6/1/2011**

**B. Date[s] of modifications subsequent to initial promulgation: N/A**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The current Rule is currently "In Progress" for repeal, having been incorporated into and consolidated with new Legislative Rule 110-50C.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

The result of repeal and replacement by new Legislative Rule 110-50C will be that no stakeholders are affected.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 110-50G, Exchange of Information Agreement Between the State Tax Department and the Department of Commerce, the Department of Transportation and the Department of Environmental Protection:**

This rule authorizes certain information to be exchanged pursuant to a written interagency agreement between the State Tax Department and the Office of the State Fire Marshal.

Effective: 5/1/2012

Statutory Authority: W.Va. Code §§ 11-10-5 and 5s

**A. Date of first promulgation addressing current topic: 5/1/2012**

**B. Date[s] of modifications subsequent to initial promulgation: N/A**

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be repealed.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The current Rule is currently "In Progress" for repeal, having been incorporated into and consolidated with new Legislative Rule 110-50C.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

The result of repeal and replacement by new Legislative Rule 110-50C will be that no stakeholders are affected.



**Dave Hardy**  
Secretary of Revenue



**Dale W. Steager**  
State Tax Commissioner

**STATE TAX DEPARTMENT**

---

**TAX DEPARTMENT REGULATORY REVIEW**

**I. 119-301, Telemarketing.**

Effective Date: April 9, 1999

Statutory authority: W. Va. Code §§29A-3-15, 46A-6F-301 and 46A-6F-303

This legislative rule establishes telemarketing registration fees and factors the Secretary of Tax and Revenue considers when assessing civil administrative penalties.

**A. Date of first promulgation addressing current topic:** April 9, 1999

**B. Date[s] of modifications subsequent to initial promulgation:** None

**II. RECOMMENDATION OF THE AGENCY REGARDING WHETHER THE RULE SHOULD BE UNCHANGED, MODIFIED OR REPEALED.**

Recommend that the rule be modified.

**III. REASONS FOR THE RECOMMENDATION BY THE AGENCY.**

The West Virginia Telemarketing Act is 20 years old and in need of updating and technical corrections. When the statute is amended, this rule will need to be amended to stay consistent with the statute.

**IV. IF RECOMMENDATION IS FOR MODIFICATION OR REPEAL, IDENTIFY STAKEHOLDERS AFFECTED.**

Telemarketers.