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Legislative Rule Making



State Tax Department
of West Virginia

ARCH A. MOORE, JR.
GOVERNOR

Charleston 25305

MICHAEL E. CARYL
COMMISSIONER

NOTICE OF AGENCY APPROVAL

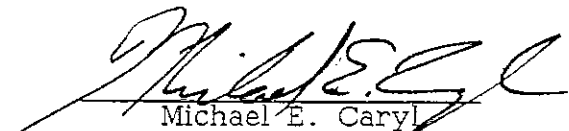
LEGISLATIVE RULE: Administrative Review Of Appraisals By
The Tax Commissioner

Review Of Appraisal By The County
Commission Sitting As An Administrative
Appraisal Review Board

Review By Circuit Court On Certiorari

✓ Listing Of interests In Natural Resources For
Purposes Of The First Statewide Reappraisal
As Required By W. Va. Code §§ 11-1A-4,
11-1A-5 And 11-1A-26, And Provision Of
Penalties For Failure To File The Required
Return As Authorized By W. Va. Code
§ 11-1A-25

The attached legislative rules constitute the official rules
approved by the State Tax Department on the 26th day of March,
1986, and filed pursuant to law with the West Virginia Secretary of
State and the Legislative RuleMaking Review Committee.


Michael E. Caryl
State Tax Commissioner

FILED

Attachments

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MAR 27 1986

Legislative Rule-Making

State Tax Department
of West Virginia

ARCH A. MOORE, JR.
GOVERNOR

Charleston 25305

MICHAEL E. CARYL
COMMISSIONER

March 26, 1986

Honorable M. E. Mowery, Counsel
Legislative Rule-Making Review Committee
West Virginia Legislature
State Capitol
Charleston, WV 25305

Re: Filing of Agency Approved Regulations

Dear Mr. Mowery:

Attached please find fifteen (15) copies of the following Tax Department Agency Approved Regulations.

Administrative Review Of Appraisals By The Tax
Commissioner

Review Of Appraisal By The County Commission
Sitting As An Administrative Appraisal Review
Board

Review By Circuit Court On Certiorari

Listing Of Interests In Natural Resources For
Purposes Of The First Statewide Reappraisal As
Required By W. Va. Code §§ 11-1A-4, 11-1A-5 and
11-1A-26, And Provision Of Penalties For Failure
To File The Required Return As Authorized By
W. Va. Code § 11-1A-25.

These regulations were filed in the State Register with Notice of a Public Comment Period on September 27, 1985. These regulations are this day filed as Agency Approved Regulations with the Secretary of State and the Legislative Rule-Making Review Committee.

Very truly yours,

Michael E. Caryl
State Tax Commissioner

MEC/jms

Enclosures

FISCAL NOTE FOR PROPOSED RULES

Rule Title:

Administrative Review Of Appraisals By The Tax Commissioner

Review Of Appraisal By The County Commission Sitting As An Administrative Appraisal Review Board

Review By Circuit Court On Certiorari

Listing Of Interests In Natural Resources For Purposes Of The First Statewide Reappraisal As Required By W. Va. Code §§ 11-1A-4, 11-1A-5 and 11-1A-26, And Provision Of Penalties For Failure To File The Required Return As Authorized By W. Va. Code § 11-1A-25

Type of Rule: Legislative

Agency: State Tax Department; Capitol Building; Charleston, WV 25305

1. <u>Effect of Proposed Rule</u>	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services	-0-	-0-	-0-	-0-	-0-
Current Expense	-0-	-0-	-0-	-0-	-0-
Repairs and Alterations	-0-	-0-	-0-	-0-	-0-
Equipment	-0-	-0-	-0-	-0-	-0-
Other	-0-	-0-	-0-	-0-	-0-

2. Explanation of above estimates: The Tax Department does not feel there will be any change in the budgetary impact as envisioned by the Legislature when it enacted W. Va. Code § 11-1A-1 et seq.
3. Objectives of these rules: The objectives of these rules is to establish the regulatory process whereby all interests in natural resources properties are properly listed for taxation purposes and that challenges to the appraised values as a result of the first statewide reappraisal are uniformly processed.


DATE: MARCH 26, 1986
TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE
FROM: STATE TAX DEPARTMENT
LEGISLATIVE RULE TITLE:

Administrative Review Of Appraisals By The Tax Commissioner
Review Of Appraisal By The County Commission Sitting As An
Administrative Appraisal Review Board

Review By Circuit Court On Certiorari

Listing Of Interests In Natural Resources For Purposes Of The
First Statewide Reappraisal As Required By W. Va. Code
§§ 11-1A-4, 11-1A-5 and 11-1A-26, And Provision Of Penalties
For Failure To File The Required Return As Authorized By
W. Va. Code § 11-1A-25

1. Authorizing statute(s) citation W. Va. Code §§ 11-1A-1(f) and 29A-3-15(d)
2. a. Date filed in State Register with Notice of Public Comment
Period: September 27, 1985
b. What other notice, including advertising, did you give of the
hearing? None
c. Date of hearing(s): September 27, 1985 through November 15, 1985
d. Attach list of persons who appeared at hearing, comments
received, amendments, reasons for amendments.
Attached _____ No comments received X
e. Date you filed in State Register the agency approved proposed
Legislative Rule following public hearing: (be exact)
March 26, 1986
f. Name and phone number of agency person to contact for
additional information:
John Montgomery 348-5330


Michael E. Carr
State Tax Commissioner

APPROVED PROPOSED
WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE TAX DEPARTMENT
Chapter 11-1A
Series 1A
(1985)

Filed: March 26, 1986

Listing Of Interests In Natural Resources For Purposes Of The First
Statewide Reappraisal As Required By W. Va. Code §§ 11-1A-4,
11-1A-5 And 11-1A-26, And Provision Of Penalties For Failure To File
The Required Return As Authorized By W. Va. Code § 11-1A-25.

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~~APPROVED PROPOSED~~ *E*
~~WEST VIRGINIA LEGISLATIVE REGULATIONS~~
~~STATE TAX DEPARTMENT~~
~~Chapter 11-1A~~ *E 1B*
~~Series IA~~
(1985)

~~Filed: March 26, 1986~~

~~Section 4.~~ *E* Listing Of Interests In Natural Resources For Purposes Of The First Statewide Reappraisal As Required By W. Va. Code §§ 11-1A-4, 11-1A-5 And 11-1A-26, And Provision Of Penalties For Failure To File The Required Return As Authorized By W. Va. Code § 11-1A-25.

~~Section 4.1.~~ *E* General.

~~4.1.1~~ *E* Type of Regulations. -- These are emergency legislative regulations as defined in W. Va. Code §§ 29A-1-2(d) and 29A-3-15.

~~4.1.2~~ *E* 1.1 Scope. -- These emergency legislative regulations provide for the listing of interests in natural resources located under the surface, such listing to be on the return issued by the Tax Commissioner, and establishing penalties for those persons who fail to file the required return by April 15, 1985.

~~4.1.3~~ *E* 1.2 Authority. -- These emergency legislative regulations are issued under the authority of W. Va. Code §§ 11-1A-1(f) and 29A-3-15(d).

~~4.1.4~~ *E* 1.3 Filing Date. -- These emergency legislative regulations were promulgated and filed in the State Register on April 3, 1985, and refiled on September 27, 1985.

~~4.1.5~~ *E* 1.4 Effective Date. -- These emergency legislative regulations take effect on October 1, 1985 and are effective for a period of 15 months thereafter.

~~4.1.6~~ *E* Citation. -- These emergency legislative regulations may be cited as: W. Va. Emerg. Leg. Reg. 11-1A, Series IA, § _____, page _____ (1985).

Section 4.2 Identification of Property to be Appraised; Persons Required to Make Returns.

4.2.1 General. -- The form designed or designated and provided by the Tax Commissioner shall be utilized for the orderly listing of all freehold interests in subsurface natural resources in West Virginia for the purpose of the first statewide reappraisal.

4.2.2 Definitions. -- For the purpose of article 1A, chapter 11 of the West Virginia Code, the following terms shall have the meaning ascribed herein unless the context in which the term is used clearly requires another meaning.

4.2.2.1 "Person" means and includes individuals as well as corporations, societies, associations and partnerships. See W. Va. Code § 2-2-10(i) (1973) defining generally terms used in the West Virginia Code.

4.2.2.2 "Subsurface natural resources" means both known deposits of coal, oil, natural gas and minor minerals located below the surface of the earth and those deposits for which mining and/or drilling permits have been obtained.

4.2.2.3 "Tax Commissioner" is the State Tax Commissioner of West Virginia or his designate, and the mailing address for the Tax Commissioner's office is P.O. Box 2389, Charleston, WV 25328.

4.2.3 Due Date of Return. -- On or before October 15, 1984, the Tax Commissioner shall mail to all prospective taxpayers the tax return to be utilized for the listing of freehold interests in all real property having subsurface natural resources. Every person who on July 1, 1983, owned, held, possessed or controlled a freehold interest in real property containing subsurface natural resources shall prepare and file on or before December 15, 1984, the return itemizing and describing such property. If required by the Tax Commissioner, a supplemental appraisal return shall be filed within thirty days after written demand therefore is mailed, postage prepaid to the last known address of the person who owned, held, possessed or controlled a freehold interest in the above stated property. All returns required by this section to be filed shall be filed directly with the Tax Commissioner.

4.2.4 Persons Required to File Return.

4.2.4.1 The return required is a written list of questions which the Tax Commissioner may ask of taxpayers under the authority of W. Va. Code § 11-3-10 (1983) and which is described in the foregoing section 4.2.3, and it shall be filed by every person who on July 1, 1983, owned a freehold interest in subsurface natural resources,

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such persons among other means being determined as those who as of July 1, 1983, had applied for or had been granted mining and/or drilling permits through the Department of Natural Resources or the Department of Mines. Additionally, the return shall be filed by every person who held, possessed or controlled a freehold interest in sub-surface natural resources on July 1, 1983, as:

- ~~4.2.4.1a~~ executor;
- ~~4.2.4.1b~~ administrator;
- ~~4.2.4.1c~~ guardian;
- ~~4.2.4.1d~~ trustee;
- ~~4.2.4.1e~~ receiver;
- ~~4.2.4.1f~~ agent;
- ~~4.2.4.1g~~ partner;
- ~~4.2.4.1h~~ attorney;
- ~~4.2.4.1i~~ president or accounting officer of a corporation;
- ~~4.2.4.1j~~ consignee;
- ~~4.2.4.1k~~ broker; or
- ~~4.2.4.1l~~ any other person who holds, possesses or controls such an interest in any representative or fiduciary capacity.

~~4.2.4.2~~ The return required by the Tax Commissioner under the authority of W. Va. Code § 11-3-10 (1983) and described in the foregoing section 4.03 shall be made and the information furnished:

~~4.2.4.2a~~ With respect to an individual who is deceased, by his or her executor, administrator or other person charged with the property of such decedent;

~~4.2.4.2b~~ With respect to a person under a disability who is unable to make a return, by a duly authorized agent, other person charged with the care of the person or property of such individual: Provided, That this subdivision shall not apply in the case of a receiver appointed by authority of law in possession of only a part of the property of such an individual;

~~4.2.4.2c~~ With respect to a case where a receiver,

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trustee in bankruptcy, or assignee by order of a court of competent jurisdiction, by operation of law or otherwise in possession of or holds title to all or substantially all of the property or business of a corporation, whether or not such property or business is being operated, such receiver, trustee, or assignee shall make the return for such corporation in the same manner and form as corporations are required to make such returns;

~~4.2.4.2d~~ With respect to property of an estate or a trust, the return shall be made by the fiduciary thereof; and

~~4.2.4.2e~~ With respect to property of a married person who is absent from the State, the return shall be made by his or her spouse.

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Section 4.3 Failure To List Property, Etc.; Collection of Penalties and Forfeitures.

4.3.1 In General. -- Any person whose duty it is to list any freehold interest in subsurface natural resources for the purpose of appraisal shall forfeit not less than \$25.00 nor more than \$100.00 if such person shall have:

4.3.1.1 Refused to furnish a proper list,

4.3.1.2 Refused to list within the time required by law and within thirty (30) days after written demand therefore,

4.3.1.3 Refused to answer any question asked by the assessor or the tax commissioner,

4.3.1.4 Answered falsely any question asked by the assessor or the tax commissioner, or

4.3.1.5 Refused to deliver any other statement required by law.

4.3.2. Additional Penalties. -- In addition to the foregoing statutory penalties, if such person shall have failed to properly file the return by April 15, 1985, a true list of all interests in natural resources which should be appraised:

4.3.2.1 The tax commissioner shall forthwith proceed to appraise the value of such interest or interests;

4.3.2.2 The person shall forfeit one percent (1%) of the value of the interest or interests not returned or otherwise taxed in this state; and,

4.3.2.3 The person shall be denied all remedy provided by law for the correction of any appraisal made by the tax commissioner.

4.3.3 Apportionment of Funds Collected. -- The sheriff shall apportion among all taxing units entitled to the funds all funds collected: Provided, such apportionment shall be in proportion to the rates of taxation for each such levying unit for the year in which the judgment was obtained bears to the sum of the rates of all.

4.3.4 Lien Preference. -- A judgment recovered under W. Va. Code § 11-1A-25 and pursuant to article two, chapter eleven A of this code shall be a lien in preference to any other lien, from the time of service of notice, and it shall be a lien upon all real estate and personal property of the defaulting taxpayer, regardless of when acquired.

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Series IA

APPROVED PROPOSED
WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE TAX DEPARTMENT
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Listing Of Interests In Natural Resources For Purposes Of The First
Statewide Reappraisal As Required By W. Va. Code §§ 11-1A-4,
11-1A-5 And 11-1A-26, And Provision Of Penalties For Failure To File
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