

WEST VIRGINIA  
SECRETARY OF STATE  
KEN HECHLER  
ADMINISTRATIVE LAW DIVISION

Form #2

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1991 JUL -2 AM 9:15

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: STATE TAX DIVISION TITLE NUMBER: 110

RULE TYPE: LEGISLATIVE; CITE AUTHORITY W.VA. CODE § 11-10-5

AMENDMENT TO AN EXISTING RULE: YES NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 10

TITLE OF RULE BEING PROPOSED: EXCEPTIONS TO CONFIDENTIALITY OF

TAXPAYER INFORMATION, DISCLOSURE OF CERTAIN TAXPAYER INFORMATION

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON AUGUST 1, 1991 AT 5:00 P.M.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

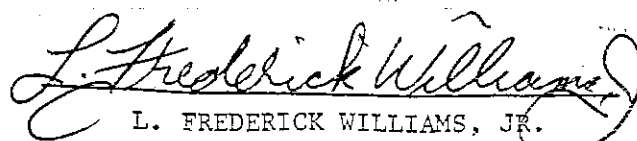
LEGAL DIVISION

DEPARTMENT OF TAX AND REVENUE

P. O. BOX 1005

CHARLESTON, WV 25324-1005

THE ISSUES TO BE HEARD SHALL BE  
LIMITED TO THIS PROPOSED RULE.

  
L. FREDERICK WILLIAMS, JR.  
STATE TAX COMMISSIONER

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

300



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State of West Virginia  
Department of Tax and Revenue

1991 JUL -2 AM 9:15

GASTON CAPERTON  
GOVERNOR

Charleston 25305

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE  
L. FREDERICK WILLIAMS, JR.  
SECRETARY

CONSENT TO FILE RULE

July 1, 1991.

To Whom It May Concern:

Title of Rule: Exceptions To Confidentiality Of Taxpayer  
Information, Disclosure Of Certain Taxpayer  
Information

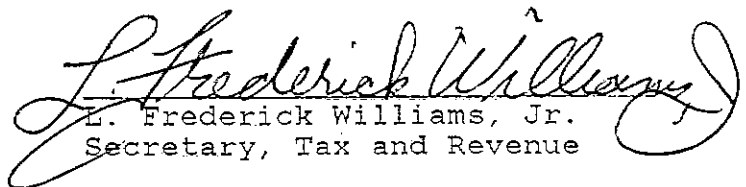
Title Number: 110

Series Number: 10

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Pursuant to West Virginia Code § 5F-2-2(a), the undersigned hereby consents to filing of the foregoing rule.

Signed this 1st day of July, 1991.

  
L. Frederick Williams, Jr.  
Secretary, Tax and Revenue

# FISCAL NOTE FOR PROPOSED RULES

Rule Title: Exceptions To Confidentiality Of Taxpayer Information,  
Disclosure Of Certain Taxpayer Information

Type of Rule:   X   Legislative        Interpretive        Procedural

Agency: State Tax Division Address: State Capitol; Charleston, WV 25305

1. Effect of Proposed Rule	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:

There should be no fiscal impact beyond that envisioned by the Legislature when it enacted S.B. 316.

3. Objectives of these rules:

These regulations explain and clarify W. Va. Code § 11-10-5s.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

There should be no economic impact beyond that envisioned by the Legislature when it enacted S.B. 316.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

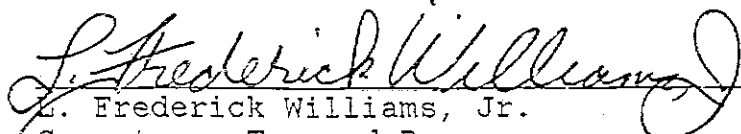
There should be no economic impact beyond that envisioned by the Legislature when it enacted S.B. 316.

C. Economic Impact on Citizens/Public at Large.

There should be no economic impact.

Date: July 1, 1991

Signature of Agency Head or Authorized Representative

  
 L. Frederick Williams, Jr.  
 Secretary, Tax and Revenue



**State of West Virginia  
Department of Tax and Revenue**

**GASTON CAPERTON**  
GOVERNOR

Charleston 25305

**L. FREDERICK WILLIAMS, JR.**  
SECRETARY

STATEMENT OF CIRCUMSTANCES

These regulations are promulgated as a direct result of the enactment of S.B. 316 in the 1991 Regular Legislative Session.

- PROPOSED  
WEST VIRGINIA LEGISLATIVE REGULATIONS  
DEPARTMENT OF TAX AND REVENUE  
TITLE 110  
SERIES 10  
1991

FILED  
JUL -2 AM 9:15  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

EXCEPTIONS TO CONFIDENTIALITY OF TAXPAYER INFORMATION,  
DISCLOSURE OF CERTAIN TAXPAYER INFORMATION

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§ 110-10-1. General.

1.1 Type of regulations. - These regulations are proposed legislative regulations as defined in W. Va. Code § 29A-3-1 et seq.

1.2 Scope. - These proposed legislative regulations explain and clarify Section 5s, article 10, chapter 11 of the West Virginia Code.

1.3 Authority. - W. Va. Code § 11-10-5.

1.4 Filing date. -

1.5 Effective date. -

1.6 Citation. - These proposed legislative regulations may be cited as 110 C.S.R. 10, § \_\_\_\_\_ (1991).

§ 110-10-2. --to § 110-10-5r. Reserved For Future Use.

§ 110-10-5s. - Disclosure Of Certain Taxpayer Information.

5s.1 Exceptions to confidentiality.

5s.1.1 Providing that such disclosure can be made without directly or indirectly revealing the amount of credit available to any particular taxpayer or tax return information as defined in W. Va. Code § 11-10-5d, other than the name and address of the taxpayer, the Tax Commissioner shall annually publish in the State Register on or before December 31, 1992 and on or before December 31 of each succeeding year, the name and address of every taxpayer receiving any tax credit allowed under articles 13C, 13D, 13E, 13F, 13G, or 13H of West Virginia Code, Chapter 11, for any tax year beginning on or after July 1, 1991, and under W. Va. Code § 5E-1-1 et seq., for any tax year beginning on or after January 1, 1991. See W. Va. Code § 5E-1-8(g). The Tax Commissioner shall publish in the State Register, along with the name and address of such taxpayers, the amount of credit asserted on a tax return after July 1, 1991, by amount category, for each such taxpayer.

5s.1.1.1 The categories by dollar amount of credit received, shall be as follows:

5s.1.1.1.a More than one dollar, but not more than fifty thousand dollars;

5s.1.1.1.b More than fifty thousand dollars, but not more than one hundred thousand dollars;

5s.1.1.1.c More than one hundred thousand dollars, but not more than two hundred fifty thousand dollars;

5s.1.1.1.d More than two hundred fifty thousand dollars, but not more than five hundred thousand dollars;

5s.1.1.1.f More than five hundred thousand dollars, but not more than one million dollars;

5s.1.1.1.g More than one million dollars.

**5s.1.1.2 Format.** - The disclosure mandated by W. Va. Code § 11-10-5s and this Section shall be substantially accomplished by constructing separate lists, each based upon the particular provision of the West Virginia Code, as set forth in Section 5s.1.1 of these regulations above, under which credit was allowed, and then setting forth the names and addresses of the taxpayers by amount category as set forth in Section 5s.1.1.1 of these regulations above.

5s.1.1.2.a Example:

**Taxpayers Asserting A Tax Credit Under W. Va. Code § 11-13C For A Tax Year Beginning On Or After July 1, 19xx Within The Following Amount Categories:**

More than \$1.00, but not more than \$50,000:

Taxpayer A	Address
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Taxpayer B	Address
------------	---------

Taxpayer C	Address
------------	---------

Taxpayer D	Address
------------	---------

Taxpayer E	Address
------------	---------

More than \$50,000, but not more than \$100,000:

Taxpayer F	Address
------------	---------

Taxpayer G	Address
------------	---------

Taxpayer H	Address
------------	---------

Taxpayer I	Address
------------	---------

More than \$100,000, but not more than \$250,000:

Taxpayer J	Address
Taxpayer K	Address
Taxpayer L	Address
Taxpayer M	Address

etc.

A separate list would be drawn up for taxpayers taking a tax credit under W. Va. Code § 11-13D. For example:

**Taxpayers Asserting A Tax Credit Under W. Va. Code § 11-13D For A Tax Year Beginning On Or After July 1, 19xx Within The Following Amount Categories:**

More than \$1.00, but not more than \$50,000:

Taxpayer A	Address
Taxpayer B	Address
Taxpayer C	Address
Taxpayer D	Address
Taxpayer E	Address

More than \$50,000, but not more than \$100,000:

Taxpayer F	Address
Taxpayer G	Address
Taxpayer H	Address
Taxpayer I	Address

More than \$100,000, but not more than \$250,000:

Taxpayer J	Address
Taxpayer K	Address
Taxpayer L	Address
Taxpayer M	Address

etc.

**5s.1.1.2.b .. Management information services facilities tax credit.** - By reason of the provisions of W. Va. Code § 11-13D-3c(g), taxpayers receiving the management information services facilities tax credit under W. Va. Code article 13D, chapter 11 will be listed separately from other taxpayers receiving credit under W. Va. Code article 13D, chapter 11 as taxpayers receiving credit under W. Va. Code § 11-13D-3c.

**5s.2 Compromises of tax disputes.**

**5s.2.1** The Tax Commissioner shall publish in the State Register the following information regarding any compromise of a pending civil tax case that occurs on or after March 7, 1991 in which the Tax Commissioner is required to seek the written recommendation of the Attorney General and the Attorney General has not recommended acceptance of such compromise or when the Tax Commissioner compromises any civil tax case for an amount that is more than two hundred and fifty thousand dollars less than the assessment of tax owed made by the Tax Commissioner:

**5s.2.1.1** The names and addresses of taxpayers that are parties to such compromise;

**5s.2.1.2** A summary of such compromise;

**5s.2.1.2.a** The summary of compromise shall contain:

- (1) The name and address of the taxpayers who are parties to the dispute;
- (2) The amount for which the controversy was compromised;
- (3) The amount of the tax assessed.
- (4) The article and chapter, or articles and chapters, of the West Virginia Code under which the disputed amount purportedly arose;
- (5) The taxable periods to which the disputed tax liability purportedly relates.
- (6) A basic summary of the legal issues involved in the dispute.
- (7) The basis and reasoning for the compromise.

**5s.2.1.3** Any written advice or recommendation rendered by the Attorney General regarding such compromise; and

**5s.2.1.4** Any written advice or recommendation rendered by the Tax Commissioner's staff.

**5s.2.2** The Tax Commissioner may disclose any relevant return information to the prosecuting attorney for the county in which venue lies for a criminal tax offense when there is reasonable cause, based upon and



substantiated by such information, to believe that a criminal tax law has been or is being violated.

5s.2.3 The Tax Commissioner may enter into written exchange of information agreements with the Commissioners of Labor, Employment Security and Workers' Compensation to disclose and receive return information. Such agreements shall be published in the State Register and shall only be for the purpose of facilitating premium collection, tax collection and facilitating licensure requirements directly enforced, administered or collected by the respective agencies. The provisions of this Section shall not be construed to preclude or limit disclosure of tax information authorized by any provision of the West Virginia Code. Any confidential return information so disclosed shall remain confidential in the hands of such other division (the Commissioners of Labor, Employment Security and Worker's Compensation) to the extent provided by W. Va. Code § 11-10-5d and by other applicable federal or State laws.

5s.2.4 Tax expenditure reports. - Beginning on January 15, 1991 and every fifteenth day of January thereafter, the Governor shall submit to the President of the Senate and the Speaker of the House of Delegates a tax expenditure report. Such report shall expressly identify all tax expenditures. Within three-years cycles, such reports shall be considered together to analyze all tax expenditures by describing the annual revenue loss and benefits of the tax expenditure based upon information available to the Tax Commissioner. For purposes of this Section, the term "tax expenditure" shall mean a provision in the tax laws administered under article 10, chapter 11 of the West Virginia Code including, but not limited to, exclusions, deductions, tax preferences, credits and deferrals designed to encourage certain kinds of activities or to aid taxpayers in special circumstances.

5s.2.4.1 The tax expenditure reports will be compiled as follows:

5s.2.4.1.a For the report to be submitted January 15, 1992, the tax expenditures which impact the West Virginia consumers sales and service tax and the West Virginia use tax will be analyzed.

5s.2.4.1.b For the report to be submitted January 15, 1993, the tax expenditures which impact the West Virginia personal income tax, corporation net income tax and business franchise tax will be analyzed.

5s.2.4.1.c For the report to be submitted January 15, 1994, the tax expenditures which impact the West Virginia property tax, business and occupation tax, telecommunications tax, severance tax, minimum severance tax, and excise taxes (such as the soft drink, excise tax and gasoline and special fuels excise tax) will be analyzed.

5s.2.4.2 Should it appear appropriate to the Tax Commissioner, the Tax Commissioner may, within his discretion, change the year in which any of the taxes and related expenditures described under Sections 5s.2.5.1.a, 5s.2.5.1.b and 5s.2.5.1.c are reported upon and analyzed to any other of the years addressed in such sections.

5s.2.4.3 The Tax Commissioner shall use final annual returns, rather than quarterly or monthly returns or reports, or estimated payments, in compiling the tax expenditure report.

5s.2.4.3.1 Because there may be a considerable time lag between when a tax expenditure may occur and when an annual tax return or other document reflecting that expenditure may be filed with the Tax Commissioner, the Tax Commissioner may make initial reports in any year showing tax expenditures as reported to him, and may then in subsequent years update such initial reports for those previous years showing more complete and accurate data which may have become available to him in such subsequent years.

**5s.2.5 Federal and State return information confidential.** - Notwithstanding any other provisions of this Section, no return information made available to the Tax Commissioner by the Internal Revenue Service or any department or agency of any other state may be disclosed to another person in any manner inconsistent with the provisions of Section 6103 of the Internal Revenue Code of 1986, as amended, or of such other states' confidentiality laws.