

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE TENNANT**

**ADMINISTRATIVE LAW DIVISION**

Form #5

Do Not Mark In this Box

FILED

2009 JUN 23 PM 4:00

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OF INTERPRETIVE RULE  
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: State Tax Department TITLE NUMBER: 110

CITE AUTHORITY W. Va. Code §11-10-5

RULE TYPE: PROCEDURAL \_\_\_\_\_ INTERPRETIVE X

EXEMPT LEGISLATIVE RULE \_\_\_\_\_

CITE STATUTE (s) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES \_\_\_\_\_ NO X

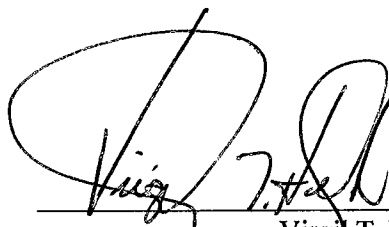
IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

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

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: 27

TITLE OF RULE BEING ADOPTED: Service Of Notice

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE  
EFFECTIVE DATE OF THIS RULE IS July 23, 2009



Virgil T. Helton  
Cabinet Secretary of the Department of Revenue

**PROPOSED  
TITLE 110  
ADOPTED RULE  
STATE TAX DEPARTMENT  
SERIES 27  
SERVICE OF NOTICE**

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SECRETARY OF STATE

**§110-27-1. General.**

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

1.2. Authority. West Virginia Code §11-10-5.

1.3. Effective Date. July 23, 2009.

1.4. Filing Date. June 23, 2009.

**§110-27-2. Service of Notice**

2.1. Subject to Service Rules. The following Tax Department Documents are subject to the service of notice requirements outlined in this rule.

2.1.1. Notice of Assessments. All notices of assessments shall be subject to the notice requirements of this rule.

2.1.2. Certain Business Registration Certificate Documents. All denials, revocations, and refusals to renew a Business Registration Certificate shall be subject to the notice requirements of this rule.

2.1.3. Certain Refund Documents. All denials of refunds, denials of interest, denials of claims for refund, and rejections of refund shall be subject to the notice requirements of this rule.

2.1.4. Amended Return Not Processed. All notices of Amended Returns that are not processed shall be subject to the notice requirements of this rule.

2.1.5. Other Required Documents. All documents required by the United States, or any agency, authority, commission or instrumentality of the United States, to be sent by certified mail shall be subject to the notice requirements of this rule to the extent this rule is in compliance with such requirements.

2.2. Method of Service. All documents outlined in Section 2.1 of these regulations

shall be served upon the taxpayer by personal or substituted service or by certified mail, unless such mail is refused or not claimed, upon which it may be served by regular mail. Each of these methods of service may be used at the discretion of the Tax Department and have no preference over the other method of service.

2.2.1. Service by personal or substituted service shall be valid if made by any method authorized by Rule 4 of the West Virginia Rules of Civil Procedure.

2.2.2. Service by certified mail shall be valid if accepted by the taxpayer, or if addressed to and mailed to the taxpayers usual place of business or usual place of abode or last known address on record with the Tax Department and accepted by any agent, officer, partner, employee, spouse, parent, stepparent, or child of the taxpayer over the age of eighteen.

2.2.2.1. Any document addressed and mailed in the above manner and accepted by any person shall be presumed to be accepted by such person unless proven otherwise by the taxpayer.

2.2.2.2. Any document addressed in the above manner, and which is refused or not claimed may then be served by regular mail if such notice is subsequently mailed by first class mail, postage prepaid, to the same address; and date of posting in the United States mail shall be the date of service.

**110 C.S.R. 27  
Service Of Notice**

**COMMENTS AND RESPONSES**

No public comments were received during the comment period for this rule.