

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #3

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: State Tax Department TITLE NUMBER: 110

CITE AUTHORITY W. Va. Code §7-22-12 and 8-38-12

AMENDMENT TO AN EXISTING RULE: YES _____ NO X _____

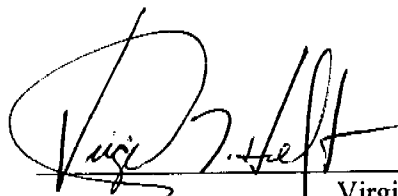
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 39

TITLE OF RULE BEING PROPOSED: Electronic Filing and Payment of Special District Excise Tax

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Virgil T. Helton
Cabinet Secretary of the Department of Revenue

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: August 28, 2008

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) West Virginia State Tax Department
1001 Lee St. East
Charleston, WV 25301

LEGISLATIVE RULE TITLE: Title 110, Series 39

1. Authorizing statute(s) citation W. Va. Code 7-22-12 and 8-38-12

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:

June 27, 2008

b. What other notice, including advertising, did you give of the hearing?

None.

c. Date of Public Hearing(s) *or* Public Comment Period ended:

July 28, 2008 at 5pm

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)

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Mark Morton, General Counsel for Revenue Operations

304-558-5330

fax: 304-558-8728

email: MMorton@tax.state.wv.us

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of hearing or comment period:

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached

SUMMARY OF TITLE 110, SERIES 39 LEGISLATIVE RULE

The proposed 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.

The proposed rule also applies to the collection of the tax on sales of tangible personal property and selected services within the special excise district. The proposed bill requires that returns for the special excise district be filed electronically on a form provided by the State Tax Department, regardless of the amounts due.

The proposed rule further requires that payments of the special district excise tax and the consumers sales and service tax on sales within the special excise district be remitted by electronic funds transfer (EFT).

The proposed rule authorizes the Tax Commissioner to enter into information exchange agreements with the county or municipal authorities responsible for administering the special district excise taxes. Additionally, the proposed rule requires the Tax Commissioner to provide information to the trustee of economic opportunity district development bonds issued pursuant to chapter seven, article twenty-two, or chapter eight, article thirty-eight of the West Virginia Code.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Electronic Filing and Payment of Special District Excise Tax (110 CSR 39)

Type of Rule: X Legislative Interpretive Procedural

Agency: State Tax Department

Address: 1001 Lee Street

Charleston, WV 25301

Phone Number: (304) 558-5330

Email:

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The rule, as written, specifies procedures requiring that Special District Excise Tax returns and payments shall be filed electronically. Since the proposed rule merely alters the method of payment of the Special District Excise Tax, approval of the rule will have no impact on costs and revenue of the State.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	\$0	\$0	\$0
Personal Services	\$0	\$0	\$0
Current Expenses	\$0	\$0	\$0
Repairs & Alterations	\$0	\$0	\$0
Assets	\$0	\$0	\$0
Other	\$0	\$0	\$0
2. Estimated Total Revenues	\$0	\$0	\$0

Rule Title: Electronic Filing and Payment of Special District Excise Tax (110 CSR 39)

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues:

Approval of this proposed rule will not increase or decrease revenue or costs.

MEMORANDUM

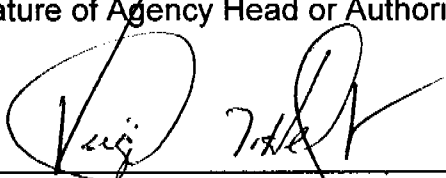
Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

Since the proposed rule merely alters the method of payment of the Special District Excise Tax and not the payment itself, there will no net fiscal impact. However, the electronic filing of returns and payments may enhance the timing of revenue transfers to the special districts.

Date: _____

8/29/08

Signature of Agency Head or Authorized Representative:



Virgil T. Helton, Cabinet Secretary
West Virginia Department of Revenue

Legislative TITLE 110
~~PROCEDURAL RULE~~
STATE TAX DEPARTMENT

SERIES 39
ELECTRONIC FILING AND PAYMENT
OF SPECIAL DISTRICT EXCISE TAX

§110-39-1. General.

1.1. Scope -- This 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.

1.2. Authority. -- W. Va. Code §7-22-12 and §8-38-12.

1.3. Filing Date. -- --.

1.4. Effective Date. -- --.

§110-39.2. Tax Types Covered.

2.1. This rule shall apply to the special district excise tax for municipalities authorized in §7-22-12 of the West Virginia Code and the special district tax for counties authorized in §8-38-12 of the West Virginia Code.

2.2. This rule shall also apply to any sales tax collected within the special excise district on sales of tangible personal property or selected services, as defined in title 110, series 15 of the West Virginia Code of State Rules.

§110-39.3. Electronic filing of returns.

3.1. Returns for the special district excise tax shall be filed on a form provided by the State Tax Department. Returns for any sales tax collected within the special excise district shall also be filed on a form provided by the State Tax Department. The forms shall be filed electronically, in accordance with the procedures set forth in title 110, series 10D of the West Virginia Code of State Rules, which shall be read and applied in extenso with this rule. Notwithstanding any provision of the West Virginia Code or the West Virginia Code of State Rules to the contrary, all of the returns of taxes covered by this rule shall be filed electronically, regardless of the amounts due.

§110-39-4. Electronic payment of tax.

4.1. Payments of the special district excise tax shall be by electronic funds transfer, in accordance with the procedures set forth in title 110, series 10F of the West Virginia Code of State Rules, which shall be read and applied in extenso with this rule.

4.2. Payments of any sales tax collected within the special excise district shall be by electronic funds transfer, in accordance with the procedures set forth in title 110, series 10F of the West Virginia Code of State Rules, which shall be read and applied in extenso with this rule.

4.3. Notwithstanding any provision of the West Virginia Code or the West Virginia Code of State Rules to the contrary, all of the taxes covered by this rule shall be paid electronically, regardless of the amounts due.

§110-39-5. Information sharing.

5.1. The Tax Commissioner may enter into written exchange of information agreements with the municipal or county authorities responsible for the administration of special district excise taxes to disclose and receive return information. Such agreements shall be published in the State Register and shall only be for the purpose of facilitating administration and collection of the special district excise tax. 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 agency to the extent provided by W. Va. Code §11-10-5d and by other applicable federal or State laws.

5.2. Notwithstanding the provisions of section five-d, article ten, chapter eleven of this code:

5.2.1. So long as bonds are outstanding pursuant to article twenty-two, chapter seven or article thirty eight, chapter eight of the West Virginia Code, the Tax Commissioner shall provide on a monthly basis to the trustee for bonds issued pursuant to that article, information on returns submitted pursuant to this rule; and,

5.2.2. The Tax Commissioner or the trustee may share the information so obtained with the county commission, municipality or district board and with the bondholders and bond counsel for bonds issued pursuant to article twenty-two, chapter seven or article eight, chapter thirty-eight.

5.2.3. The Tax Commissioner and the trustee may enter into a written agreement in order to accomplish the exchange of information.