



STATE OF WEST VIRGINIA
OFFICE OF THE SECRETARY OF STATE
CHARLESTON 25305

A. JAMES MANCHIN
SECRETARY OF STATE

STATE REGISTER FILING

I, Herschel H. Rose III, Commissioner,
Title or Position
Tax, hereby submit to record in
Department or Division

the State Register on 8 1/2" x 11" paper two (2) copies of

- (X) proposed rules and regulations concerning topics of material not covered by existing rules and regulations;
() proposed rules and regulations superseding rules and regulations already on file;
(X) notice of hearing;
() findings and determinations;
() rules and regulations; or
() other - specify (LEGISLATIVE(X) PROCEDURAL () INTERPRETIVE () RULE

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE Sept. 1, 1983
Administrative Law Division

This filing pertains to

Chapter 11
Article 1A
Series 1A
Section _____
Page No. _____

- (X) proposed rules and regulations are required to go to Legislative Rule Making Committee;
() proposed rules and regulations are excluded from Legislative Rule Making Committee;

September 1, 1983
Date Submitted

Herschel H. Rose III
Signature of Person Authorizing



State Tax Department
of West Virginia

Charleston 25305

JOHN D. ROCKEFELLER IV
GOVERNOR

HERSCHEL H. ROSE III
TAX COMMISSIONER

JOHN M. FARMER
ASSISTANT COMMISSIONER

GARY A. GORRELL
DEPUTY COMMISSIONER

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NOTICE OF PUBLIC HEARING

Pursuant to Chapter 29, Article 3 of the Code of West Virginia of 1931, as amended, the State Tax Department will convene a public hearing at 10:00 a.m. on October 5, 1983, in Parlor D, Charleston Civic Center, Charleston, West Virginia for the purpose of receiving public comment on the merits of the proposed legislative rule describing the methods whereby the Tax Commissioner will determine the market value, during the first statewide reappraisal, of all classes and species of property, except residential and farm surface real property, for ad valorem property tax purposes. Proposed W. Va. Leg. Reg. 11-1A, Ser. IA (1984).

At this public hearing presentations will be limited to written material as permitted by W. Va. Code § 29-3-5. All written materials shall be submitted in duplicate, and the last day for submitting written material shall be October 14, 1983. Submissions shall be addressed as follows:

State Tax Commissioner
Capitol Building, WW300
Charleston, West Virginia 25305

A copy of the proposed legislative rule may be obtained by writing to the State Tax Commissioner.

Submitted to the State Register on September 1, 1983.


HERSCHEL H. ROSE III
STATE TAX COMMISSIONER

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 9/1/83
Administrative Law Division



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A. JAMES MANCHIN
SECRETARY OF STATE

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State Tax Department of West Virginia

Charleston 25305

FISCAL NOTE

Re: Fiscal note to proposed W. Va. Leg. Reg. 11-1A,
Ser. 1A (1984).

The purpose of these proposed legislative regulations is to clarify and implement W. Va. Code §11-1A-11 which requires the tax commissioner to promulgate a legislative rule describing the methods by which all real and personal property except residential and farm surface real property will be appraised during the statewide reappraisal.

In compliance with W. Va. Code §29A-3-4, the itemized cost of implementing these proposed amendments as they relate to this State and to persons affected by these rules and regulations is as follows.

A. Cost to State.

The administrative costs associated with implementing these proposed legislative regulations are projected to be \$440,190.

B. Cost to Local Governments.

The administrative costs associated with implementing these proposed legislative regulations are projected to be \$255,000.

C. Cost to Taxpayers.

The costs to taxpayers associated with implementing these proposed legislative regulations will be nominal.

Submitted to the State Register on September 1, 1983 in compliance with W. Va. Code §29A-3-5 and §29A-3-9.


HERSCHEL H. ROSE III
STATE TAX COMMISSIONER

ADMINISTRATIVE COSTS DUE
TO IMPLEMENTATION OF
REGULATIONS FILED SEPTEMBER 1, 1983

PERSONAL SERVICES

(1) Clerk (Motor Vehicles, Watercraft, Aircraft 6 mos. @ \$635)	\$ 3,810
(1) Clerk (Intangibles 12 mos. @ \$635)	7,620
(20) Clerks (Misc. 12 mos. @ \$635)	152,400
(10) Data Entry Clerks (Night Shift - 12 mos. @ \$635)	76,200
	<u>\$240,030</u>

OTHER EXPENSES

Computer Services

—Merging Tape (Motor Vehicles)	\$ 50,000
—Data Entry, file maintenance, CPU time, print cost, storage cost (Tape and/or disk) (Natural Resources & Intangibles - 1 million records)	30,000
	<u>\$ 80,000</u>

Forms

Printing Cost

—Intangibles (1,200,000 forms)	
—Natural Resources (800,000 forms)	\$ 50,000

Delivery	\$ 1,400
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\$ 51,400

Manuals

(56) Boats	\$ 1,500
(56) Heavy Trucks	1,500
(56) Mobile homes	1,500
(56) Motorcycles	1,500
(56) Recreational Vehicles	1,500
(100) Intangibles	2,500

\$ 10,000

Office Equipment

(22) Calculators	\$ 1,650
(22) Chairs	2,310
(2) Desks	400
Filing Space (Cabinets and Shelves)	25,000
Supplies	1,000
(10) Tables	2,000

\$ 32,360

Office Space

3,000 sq. feet at \$8
@ 12 mos.

\$ 24,000

\$ 24,000

Telephone Fees

\$ 2,400

\$ 2,400

Total

440,190

ADDITIONAL COST TO ASSESSORS

Postage (1.5 million forms x 17¢)

\$255,000

NOTE: Unless otherwise specified, these figures reflect administrative costs projected to be incurred by the Local Government Relations Division of the State Tax Department during the first year of implementation of property tax regulations filed September 1, 1983.

PROPOSED
WEST VIRGINIA ADMINISTRATIVE REGULATIONS
STATE TAX DEPARTMENT
LEGISLATIVE

Chapter 11-1A
Series 1A
(1984)

Subject: Appraisal of Property for Periodic Statewide
Reappraisals for Ad Valorem Property Tax Purposes.

FILED IN THE OFFICE OF
A. JAMES MANCHIN
SECRETARY OF STATE
THIS DATE 9/1/83
Administrative Law Division

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PROPOSED

WEST VIRGINIA ADMINISTRATIVE REGULATIONS

STATE TAX DEPARTMENT

LEGISLATIVE

Chapter 11-1A
Series 1A
(1984)

Subject: Appraisal of Property for Periodic Statewide
Reappraisals for Ad Valorem Property Tax Purposes.

Section 1. General.

1.01. Type of Regulations. -- These regulations are "legislative rules" as defined in W. Va. Code § 29A-1-2(d) (1982).

1.02. Scope. -- These regulations clarify and implement state law as it relates to the appraisal at market value of certain species of real and personal property, W. Va. Code § 11-1A-1 et seq.

1.03. Authority. -- These regulations are issued under the authority of W. Va. Code §§ 11-1A-1(f) and 11-1A-11 (1983).

1.04. Filing Date. -- These proposed legislative regulations were in the Secretary of State's Office on September 1, 1983.

1.05. Effective Date. -- These regulations become effective thirty days after passage of an act by the Legislature authorizing their promulgation.

State Tax Department
Leg. Reg. 11-1A
Series 1A

1.06. Citation. -- These regulations may be cited
as: W. Va. Leg. Reg. 11-1A, Series 1A § _____, page
_____ (1984).

Sections 2 through 10 are reserved.

Section 11.01

Section 11. Valuation of Certain Classes or Species of
Property.

11.01. General. -- W. Va. Code § 11-1A-11 requires that on or before September 1, 1983, the Tax Commissioner shall propose a legislative rule for submission to the Legislature as provided in W. Va. Code § 29A-3-1 et. seq. This rule shall describe in detail the methods whereby the Tax Commissioner will determine the market value of all real and personal property, except residential and farm surface real property, during the first statewide reappraisal.

Section 11.02

11.02. Scope. -- These regulations constitute absolute methodologies for valuing each species of property except residential and farm surface real property, in all counties in which such property occurs or is located. Because of the requirement in W. Va. Const. art. X, §§ 1 and 1b, that ad valorem property taxes be equal and uniform throughout the State, these regulations are mandatory and binding upon the Tax Commissioner and his employees, county assessors and their employees, county commissions sitting as boards of equalization and review and administrative appraisal review boards and the Board of Public Works, until amended or repealed by the Tax Commissioner in the manner prescribed by law or abrogated by statutory amendment or decision of the West Virginia Supreme Court of Appeals. See W. Va. Code § 11-1A-24 (1983). The objective of these regulations is the appraisal of all real and personal property at "market value."

Section 11.03

11.03. Annual Updating. -- These regulations shall be reviewed annually for necessary updating of the methods described in order to properly reflect future changes in statutory and case law, further clarification of existing laws, and policies and procedures of the State Tax Department adopted to implement such laws. Whenever these regulations require the Tax Commissioner to annually determine factors such as capitalization rates, royalty rates multipliers, stumpage price, etc. notice of his determinations shall be given to the public by filing notice of the determination(s) in the State Register; and sending a copy of the notice to each assessor.

Section 11.04

11.04. Valuation of Active and Reserve Coal Properties.

(a) General. -- Coal is one of the several estates in real property which may be owned either as a separate interest or in conjunction with other interests, usually as fee ownership or as minerals ownership. If coal is owned as a separate estate, West Virginia property tax law requires such ownership to be listed, valued and taxed based on its true and actual value. If an interest in coal is part of a greater interest in a given tract of property, the value of the coal shall be included in the appraised value of the greater interest. Coal may be owned without being mined. Coal rights may exist where no coal is actually present, or where the coal is unmineable or mined out. For valuation purposes this regulation classifies coal property ownership into the following categories:

- (1) Active
- (2) Active reserves
- (3) Inactive reserves
- (4) Mined-out/Unmineable/Barrén

(b) Definitions.

(1) Active Mining Property. -- This term refers to a seam of coal on a parcel involved in a mining operation. For the purposes of determining active

Section 11.04(b)

mining property, contiguous parcels under one ownership or owned or leased by closely related businesses shall be treated as one parcel. The active mining portion of any seam on a parcel is 750 acres, or the entire unmined mineable portion of the seam on the parcel, whichever is less. If more than one seam on a parcel is being actively mined, then each actively mined seam on a parcel is 750 acres, or the entire unmined mineable portion of the seam on the parcel, whichever is less.

(2) Active Reserves. -- This term means and includes the entire residual part of the coal seam or seams which are actively being mined in excess of the active mining acreage; or the number of acres corresponding to twenty-five (25) years of production [considering the number of "tons produced" as defined in paragraph (11)], whichever is less.

(3) Barren. -- Those properties where coal rights are separately owned, and the existence of one or more coal seams has not been established.

(4) Inactive Reserves. -- Inactive reserves are those seams of coal which are mineable and merchantable but are not being produced in an active mining operation.

(5) Life of Mining Operation. -- The life of the

Section 11.04(b)

mining operation is equal to the number of active mining acres divided by the number of acres corresponding to the annual tons produced. The maximum life of a mine shall be fifteen (15) years for deep mines and ten (10) years for surface mines.

(6) Merchantable Coal. -- Coal which is ordinarily used for sale, and can usually be sold at a profit. See Tressler Coal Min. Co. v. Klefeld, 125 W. Va. 301, 24 S.E.2d 98 (1943).

(7) Mineable Coal. -- Coal which could be profitably mined by judicious methods. See Tressler Coal Min. Co. v. Klefeld, 125 W. Va. 301, 24 S.E.2d 98 (1943); See also Atwater & Co. v. Fall Rivers Pocahontas Collieries Co., 119 W. Va. 549, 195 S.E. 99 (1937).

(8) Mined-Out. -- A seam of coal which is determined to be depleted by prior mining operations.

(9) Multiplier. -- The sum of the projected annual income stream during the estimated life of the mining operation discounted in each year by a capitalization rate. Multipliers will be determined annually by the Tax Commissioner.

(10) Royalty Rate. -- The rate determined annually by the Tax Commissioner for each of the four (4) different coal mining operations, that is deemed

Section 11.04(b)

to be paid to the owner of the coal estate for the right to extract and sell the coal. See Section 11.04(c)(1)(B) for how royalty rate will be determined.

(11) Tons Produced. -- The annual rate of coal production, in tons per fiscal year ending June 30th of each calendar year, generally determined by a weighted average of three (3) years production. See Section 11.04(c)(1) for methodology for determining tons of coal produced.

(12) Unmineable Coal. -- A seam of coal which is determined through geological, economical or technological data to not be mineable using present mining practices.

(c) Valuation Methods.

(1) Method for Determining Value of Active Mining Property.

(A) General. -- The value of active mining acreage shall be the number of tons produced times a royalty rate times a multiplier. The most recent year's production shall be multiplied by .4; the previous two years' production shall each be multiplied by .3; the resulting three figures shall be added together to produce

Section 11.04(c)

a weighted average annual production.

(1) Strike Affecting Production; Production Year of Less Than Twelve Months. -- When any of the three production years is affected by a general strike with a duration of more than sixty (60) days, or where production in any of the three (3) years does not involve ten (10) months of production, that year shall be dropped from the computation and the production from the remaining one or two years shall be weighted equally. An exception to this rule will be when each of the three (3) years' production totals involve less than ten (10) months of mining activity. In this instance, production amounts will be calculated under § 11.04(c)(1)(A).

(2) New Mine. -- When production has begun within two (2) years of the effective appraisal date, the available production data shall be weighted equally in determining the annual production. For only one year of activity, total

Section 11.04(c)

production shall be multiplied by 1.0;
for two years of activity, each year of
production shall be multiplied by .5 with
the resulting two figures added together.

(B) Royalty Rate. -- The Tax Commissioner shall annually determine royalty rates for each of the following categories of coal mining operations which reflect typical, current, arms-length contractual agreements. The categories of royalty rates are as follows:

- (1) Deep mines, steam coal;
- (2) Deep mines, metallurgical coal;
- (3) Surface and auger mines, steam coal; and
- (4) Surface and auger mines, metallurgical coal.

(C) Capitalization Rate. -- The capitalization rate shall be determined annually by the Tax Commissioner through the use of accepted standard methods for calculating such rates. The Tax Commissioner shall annually publish in the State Register the appropriate multipliers that are derived through the capitalization rate and various

Section 11.04(c)

lives of the mining operations.

(2) Valuation of Active Reserves. -- The value per acre of active reserves shall be ten percent (10%) of the active mining value per acre multiplied by the number of acres of active reserves. To determine the active mining value per acre, divide the active mining value (tons produced times the appropriate multiplier times the royalty rate) by the total acres of the active mining property. In no event shall the value of active reserves be less than the inactive reserve value per acre.

(3) Valuation of Inactive Reserves.

(A) General. -- Inactive reserves shall be valued considering the inactive reserve region within which the coal property is located, and the number of acres of inactive reserves. Ownership of contiguous parcels totaling: 300 acres or less shall be valued, per seam, using a "Low" regional value; 301 to 999 acres shall be valued, per seam, using a "Mid" regional value; and 1,000 acres or more shall be valued, per seam, using a "High" regional value. Annually, the Tax

Section 11.04(c)

Commissioner shall determine these regional values after a review of current, arms-length sales of properties in the region.

(B) Inactive Reserve Regions. -- To determine the value of inactive reserve coal properties, such properties have been classified according to the following geographic regions:

(1) Region 1 - Brooke, Harrison, Marion, Marshall, Monongalia, and Ohio Counties.

(2) Region 2 (No present mining) - Cabell, Calhoun, Doddridge, Hancock, Pocahontas, Putnam, Roane, Tyler, Wetzel, and Wirt Counties and the northwest portion of Kanawha County.

(3) Region 3 - Barbour, Grant, Mineral, Preston, Randolph, Taylor, Tucker, and Upshur Counties.

(4) Region 4 - Braxton, Clay, Gilmer, Greenbrier, Lewis, Mason, Nicholas, and Webster Counties.

(5) Region 5 - Boone, Fayette, Lincoln, Logan, McDowell, Mercer, Mingo, Raleigh, Summers, Wayne, and Wyoming Counties and

Section 11.04(c)

the southeast portion of Kanawha County.

(C) Multiple Seam Parcels. -- For parcels containing more than one mineable, merchantable seam, the inactive portion of the seam(s)

being mined are assigned 100% of the value determined by the method summarized in § 11.04(c)(3). The remaining unmined, inactive seams shall then be ranked according to their mineable-merchantable acreages. The largest seam and the second largest seam are each assigned 100% of the value determined by the method summarized in § 11.04(c)(3). The third largest unmined, inactive seam is valued at 75% of the amount as determined by the methods summarized in § 11.04(c)(3). Subsequent seams are each valued at 50% of the amount determined by the method summarized in § 11.04(c)(3). The final valuation of inactive reserves on a parcel is the sum of each of the individual valuations.

(4) Valuation of Mined-Out/Unmineable/Barren Coal Properties. -- Properties in this category shall be valued at \$5.00 per surface acre.

Section 11.04(c)

(5) Summary of Valuation Methods.

Table 1. Valuation of Coal Property

(A) Each seam on those properties with mineable/merchantable coal shall be valued as follows.

Active Mining Acres

(Average Annual Coal Production In Tons)	X	(Royalty Rate Per Ton)	X	(Multiplier)	=	(Active Coal Real Property Value)
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Active Reserve Acres

(Total Active Reserve Acres)	X	(.10 Per Acre Value of Active Coal Property or Inactive Reserve Value Whichever is More.)	=	(Active Reserve Coal Property Value)
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Inactive Reserves

(Total Inactive Reserve Acres)	X	(Regional Per Acre Inactive Reserves Value)	=	(Inactive Coal Reserves Real Property Value)
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(B) Coal properties having no mineable, merchantable coal seams shall be valued by multiplying the deed description acreage of the parcel by Five Dollars (\$5.00).

(C) The total value for active coal properties will be the addition of the active

Section 11.04(c)

mining acres value(s), active reserve value(s), and the inactive reserve value(s).

(D) The total value for non-active coal properties will be the addition of the inactive reserve value(s) and/or the mined-out, unmineable, barren acres value.

Section 11.05

11.05. Valuation of Producing and Reserve Oil
Properties.

(a) General. -- Oil is one of the several estates in real property which may be owned either as a separate interest or in conjunction with other interests, usually as fee ownership, oil and gas ownership or as minerals ownership. If oil is owned as a separate estate, West Virginia property tax law requires such ownership to be listed, valued and taxed based on its true and actual value. If the interest in oil is part of a larger interest in a tract of property, the value of the oil interest shall be included in the value of the larger interest. Oil may be owned without being produced. Oil rights may exist where no oil is actually present, or where the oil is unproducable or depleted.

(b) Categories for Valuing Oil Bearing Properties. -- Parcels of property thought to bear oil or having the oil mineral interest separated from the fee of the property will be classified as oil producing property, assigned oil reserves or unassigned oil reserves.

(c) Definitions.

(1) "Oil producing property" means the interest or contiguous interests having common or related party ownership from which oil is being or has been produced or extracted. Oil producing property is

Section 11.05(c)

limited to the interest or interests underlying an area of up to 40 acres of surface with an active or shut-in well on the parcel.

(2) "Assigned oil reserve property" means properties in an area of potential production, as determined by the Tax Department, but from which there has been no past production of oil, or the part of a parcel from which there has been past or current production that lies outside an oil producing property.

(3) "Unassigned oil reserve property" means ~~properties~~ properties outside of the area of potential production, as determined by the Tax Department, in which the oil mineral interest has been conveyed separately from the rest of the property.

(4) "Working interest" means the fractional interest in oil production owned by the operator. Generally this will be seven-eighths of production. Owner operated wells are treated entirely as working interest.

(5) "Royalty interest" means fractional interest in oil production retained by the oil rights owner. Generally this will be one-eighth of

Section 11.05(c)

production. Overriding royalties will be treated entirely as a royalty interest.

(6) "Flush production" means the production of oil from any well on a producing oil property whose initial production date is two years or less prior to the date of valuation.

(7) "Settled production" means the production of oil from all wells on an oil producing property whose initial production date is more than two years prior to the date of valuation.

(d) Methods of Valuation.

(1) General. -- For oil producing property, its value shall be determined by a formula which applies a multiplier to the average daily production of the well(s). Where ownership is split through a lease or royalty arrangement, different multipliers will be used for the working interest and the royalty interest. Each term in this computation is discussed below.

(2) Average Daily Production. -- The average daily production of an oil well is its production rate, measured in terms of oil field standard 42 gallon barrels, for the year preceding the annual tax assessment date, divided by the

Section 11.05(d)

number of full or partial days of well production. For wells having no production in the year preceding the assessment date, the most recent year in which there has been production shall be used.

(3) Percentage Interest in the Oil. -- Where the ownership of oil in place is owned jointly through a lease or other arrangement, the compensation to the owner of the property is derived by designating a percentage of the production to be the royalty payment to the owner. The remainder is the working interest. The percentage by which the working interest is contractually separated from the royalty interest is recognized in arriving at each party's value for ad valorem taxation.

(4) Average Industry Market Price. -- The Tax Commissioner will annually derive from information available to him an average industry market price of oil to be used in the formula described in this regulation for computation of the value of oil bearing property for ad valorem tax purposes.

(5) Average Industry Well Operating Expenses. -- The Tax Commissioner will annually derive from information available to him an average industry

Section 11.05(d)

well operating expense to be used in the formula described in this regulation for computation of the value of oil bearing property for ad valorem tax purposes.

(6) Capitalization Rate. -- The capitalization rate will be determined annually by the Tax Commissioner through the use of accepted standard methods for calculating such rates.

(7) Multipliers. -- The multiplier serves to combine mathematically the effects of market price of oil, standard well operating expenses, working and royalty interest, the productive life of an oil well and a capitalization rate which recognizes a discounted present worth of money which will not be received until a future date. This multiplier will not be constant for all oil producing properties. This is because the factors of expected life of a well and rate of decline in production work independently of the actual average daily production.

Separate multipliers shall be derived for each of the following twelve (12) categories:

- (1) Working interest with an average daily production in settled production of between 0

Section 11.05(d)

and .75 barrels per day of oil.

(2) Working interest in settled production for average daily production of between .76 and 2 barrels per day.

(3) Working interest in settled production for average daily production of more than 2 barrels per day.

(4) Working interest in flush production for average daily production of between 0 and .75 barrels per day.

(5) Working interest in flush production for average daily production of between .76 and 2 barrels per day.

(6) Working interest in flush production for average daily production of over 2 barrels per day.

(7) Royalty interest in settled production for average daily production between 0 and .75 barrels per day.

(8) Royalty interest in settled production for average daily production between .76 and 2 barrels per day.

(9) Royalty interest in settled production for average daily production in excess of 2

Section 11.05(d)

barrels per day.

(10) Royalty interest in flush production for average daily production between 0 and .75 barrels per day.

(11) Royalty interest in flush production of average daily production of between .76 and 2 barrels per day.

(12) Royalty interest in flush production for average daily production of 2 barrels per day.

(e) Summary of Method of Valuing Oil Producing Property. -- Each active oil property in West Virginia will be valued in the following way:

(Average Daily			(Value of Oil
Production)	X	(Multiplier)	= Producing Property)

(f) Valuation of Assigned Reserves. -- The value per acre of assigned reserves shall be determined by the formula:

Value	=	Annual Lease Payment		X	Multiplier
		Per Acre			

The multiplier is the present worth of one dollar based on the capitalization rate for the expected term of the lease. The Tax Commissioner will annually conduct a review of current oil lease agreements transacted at arms-length

Section 11.05(g)

for use in this formula. The capitalization rate will be determined annually by the Tax Commissioner through the use of accepted standard methods for calculating such rate.

(g) Valuation of Unassigned Reserves. -- A valuation schedule for unassigned reserves will be prepared in chart form on a regional basis by the Tax Commissioner. These regions, as well as the value per acre applied to the unassigned reserves, will be published and provided annually to local assessors by the Tax Commissioner. These determinations (regions as well as values) will be made through a review of the non-dry well completions in all 55 counties.

(h) Valuation of Properties and/or Wells That Produce Both Oil and Gas. -- The valuation of these producing properties and/or wells shall be determined by use of the methods described in § 11.05 for oil and § 11.06 for gas. These values shall be summed to result in the overall value of the oil and gas producing acreage.

Section 11.06

11.06. Valuation of Producing and Reserve Natural
Gas Properties.

(a) General. -- Natural gas is one of the several estates in real property which may be owned either as a separate interest or in conjunction with other interests, usually as fee ownership, oil and gas ownership or as minerals ownership. If gas is owned as a separate estate, West Virginia property tax law requires such ownership to be listed, valued and taxed based on its true and actual value. If interests in gas is part of a larger interest in a tract of property, the value of the gas interest shall be included in the value of the larger interest. Gas may be owned without being produced. Gas rights may exist where no gas is actually present, or where the gas is unproducable or depleted.

(b) Categories for Valuing Natural Gas Bearing Properties. -- Parcels of property thought to bear natural gas or having the natural gas mineral interest separated from the fee of the property will be classified as natural gas producing property, assigned natural gas reserves or unassigned natural gas reserves.

(c) Definitions.

(1) "Natural gas producing property" means the interest or contiguous interests having common or

Section 11.06(c)

related party ownership from which natural gas is or has been produced or extracted. Natural gas producing property is limited to the interest or interests underlying an area of 125 acres of surface with an active or shut in wellhead on the parcel.

(2) "Assigned natural gas reserve property" means properties in an area of potential production, as determined by the Tax Department, but from which there has been no past production of natural gas, or the part of a parcel from which there has been past or current production that lies outside an area of 125 acres of surface with its center being an active or formerly active wellhead.

(3) "Unassigned natural gas reserve property" means properties outside of the area of potential production, as determined by the Tax Department, in which the natural gas mineral interest has been conveyed separately from the rest of the property.

(4) "Working interest" means the fractional interest in gas production owned by the operator. Generally this will be seven-eighths of production. Owner operated wells are treated entirely as working interest.

Section 11.06(c)

(5) "Royalty interest" means fractional interest in gas production retained by the gas rights owner. Generally this will be one-eighth of production. Overriding royalties will be treated entirely as a royalty interest.

(6) "Flush production" means the production of gas from any well on a natural gas producing property whose initial production date is two years or less prior to the date of valuation.

(7) "Settled production" means the production of gas from all wells on a natural gas producing property whose initial production date is more than two years prior to the date of valuation.

(d) Methods of Valuation.

(1) General. -- The value of natural gas producing property, shall be determined by a formula which applies a multiplier to the average daily production of the well(s). Where ownership is split through a lease or royalty arrangement, different multipliers will be used for the working interest and the royalty interest. Each term in this computation is hereinafter defined.

(2) Percentage Interest in the Natural Gas. -- The ownership of natural gas in place is fre-

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quently owned jointly through a lease or other arrangement. The compensation to the owner of the property is normally derived by designating a percentage of the production to be the lease, rental or royalty payment to the owner. The percentage by which the working interest is separated from the royalty interest is recognized in arriving at each party's value for ad valorem taxation.

(3) Average Industry Well Operating Expenses. --

The Tax Commissioner will annually derive from information available to him an average industry well operating expense to be used in the formula described here and by regulation for the computation of the value of natural gas bearing property for ad valorem tax purposes.

(4) Capitalization Rate. -- The capitalization rate will be determined annually by the Tax Commissioner through the use of accepted standard methods for calculating such rates.

(5) Multipliers. -- The multiplier combines mathematically the effects of market price of natural gas, standard well operating expenses, working and royalty interest, the productive life,

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of an natural gas well and a capitalization rate which recognizes a discounted present worth of money which will not be received until a future date.

Separate multipliers shall be established by the Tax Commissioner for the following four (4) categories:

- (1) Working interest in settled production.
- (2) Working interest in flush production.
- (3) Royalty interest in settled production.
- (4) Royalty interest in flush production.

(e) Summary of Method for Valuing Active Natural Gas Producing Property. -- Each active natural gas well in West Virginia will be valued in the following way:

(Gross Receipts Less Royalties)	X	(Multiplier)	=	(Working Interest Value of Natural Gas Producing Property)
(Royalties)	X	(Multiplier)	=	(Royalty Interest Value of Natural Gas Producing Property)

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(f) Valuation of Assigned Reserves. -- The value per acre of assigned reserves shall be determined by the formula:

$$\text{Value} = \frac{\text{Annual Lease Payment}}{\text{Per Acre}} \times \text{Multiplier}$$

The multiplier is the present worth of one dollar based on the capitalization rate for the expected term of the lease. The Tax Commissioner will annually conduct a review of current gas lease agreements transacted at arms-length for use in this formula. The capitalization rate will be determined annually by the Tax Commissioner through the use of accepted standard methods for calculating such rate.

(g) Valuation of Unassigned Reserves. -- A valuation schedule for unassigned reserves will be prepared in chart form on a regional basis by the Tax Commissioner. These regions, as well as the value per acre to be applied to the unassigned reserves, will be published and provided annually to local assessors by the Tax Commissioner. These determinations (regions as well as values) will be made through a review of the non-dry well completions in all 55 counties.

(h) Valuation of Properties and/or Wells That Produce Both Gas and Oil. -- The valuation of these producing properties and/or wells shall be determined by use of the methods described in § 11.06 for gas and § 11.05 for

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oil. These values shall be summed to result in the overall value of the gas and oil producing acreage.

Section 11.07(a)

11.07. Valuation of Timberland.

(a) General. -- The appraised value (market value) of timberland shall be determined on the basis of the capability of the soil to produce a timber crop. Soil quality, expressed as a site index, is therefore the primary criterion influencing the appraised value (market value) of timberland. Other variables having an effect on timberland values, such as topography and accessibility, are recognized through the use of the appropriate stumpage prices in the area in which the timberland is located. These factors will be reviewed annually by the Tax Commissioner for necessary updating of the method described in order to properly reflect future changes in the market values of timberland.

(b) Timber Productivity Maps. -- The Tax Commissioner shall prepare, or cause to be prepared, timber productivity maps indicating Timberland Productivity Class of forest land soils as Excellent to Very Good, Good to Fair, or Poor.

(c) Timber Productivity Classes. -- Timber productivity classes shall be based on site index and the ability of the site to yield timber, measured in thousands of board feet (MBF) per acre (Scribner rule) or cords per acre at the end of a rotation of eighty (80) years.

(d) Appraised Value of Timberland. -- The appraised value (market value) per acre of timberland shall be cal-

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culated by dividing average annual net income by the capitalization rate. [Details of the procedure for determining appraised value are found in paragraph (f)].

(e) Definitions. -- As used in this regulation, the following terms shall have the meanings ascribed herein unless the context in which the term is used clearly requires another meaning.

(1) "Average annual gross income" means the gross income per acre calculated by dividing the end-of-rotation income by eighty (80) years.

(2) "Average annual net income" means the average annual gross income per acre minus the management cost per acre.

(3) "Capitalization rate" means the rate determined annually by the Tax Commissioner through the use of accepted standard methods for calculating such rates.

(4) "Christmas Trees" means evergreen trees commonly known as Christmas trees, including fir, hemlock, spruce and pine trees, that will be sold for use as Christmas trees.

(5) "Forest land" is a broad term describing land whose dominant characteristic is the support of tree growth.

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(6) "End-of-rotation income potential" means the amount of income per acre calculated by multiplying the end-of-rotation volume by the stumpage price.

(7) "Gross income" means the end-of-rotation (80 years) gross income potential determined for each productivity class using the following formula:

Yield (MBF and/or Cords Per Acre) x Stumpage Price = Gross Income.

(8) "Management costs" means the cost determined annually by the Tax Commissioner to be the average cost per acre to the owner of maintaining and protecting a producing forest property. This will be determined as an average for the entire State or by regions, or by Timberland Productivity Classes and will be deducted from gross annual per acre income to obtain net annual income per acre.

(9) "Orchard" means a systematic planting of fruit trees as opposed to individual plantings for ornamental purposes.

(10) "Owner of timber" means any person who owns an interest in timber, including a sublessor and an owner of a contract right to cut timber. Such owner of timber must have a right to cut timber

Section 11.07(e)

for sale on his own account or for use in his, hers or its trade or business in order to own an interest in timber that is subject to ad valorem property taxes.

(11) "Site index" means a method of measuring the productivity of a site to grow trees. It is the height that average dominant and codominant trees will attain at a given age. For ad valorem property tax purposes, it shall be the height of upland oaks at fifty (50) years of age.

(12) "Stumpage price" means the market value of standing trees (on the stump) prior to felling and removal, and is expressed in dollars per unit of volume (MBF or cords). For appraisal purposes, real stumpage price will be assumed to be stable over time, and shall be calculated by the Tax Commissioner from quarterly reports prepared by the Department of Natural Resources and other available sources. A five-year moving average shall be computed in order to minimize the effects of short-term fluctuations. Stumpage price shall be computed by region of the State in order to reflect regional differences in markets, topography, and accessibility.

Section 11.07(e)

(13) "Timber" means and includes trees of any marketable species, whether planted or of natural growth, standing or down, located on public or privately owned land, which are suitable for commercial or industrial use.

(14) "Timberland" means:

(A) a parcel, or contiguous parcels, of at least ten (10) acres, that is (1) stocked with trees of any size or species capable of producing a usable crop of wood, or formerly having such tree cover within the last three years, (2) not currently developed or being used for non-forestry purposes, and (3) devoted primarily to the production, in reasonable commercial quantities, of timber and timber products.

(B) The following types of land, however, are not considered to be timberland:

(1) A parcel, or contiguous parcels, on which there is standing timber that is less than ten (10) acres;

(2) Property withdrawn from wood products production for use as parks, orchards, pasture, tillable fields, nurseries, Christmas

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tree plantations, or other uses which may result in the existence of tree cover but where commercial utilization of the trees for wood products is precluded;

(3) Homesites or building sites, including adjacent areas which are occupied by trees used for ornamental purposes;

(4) Farm woodlots or forest land that is part of a farm and which is used primarily to support the needs of the farm for timber, fuel, and other farming purposes.

(5) Property legally zoned for uses other than timberland;

(6) Land within corporate limits.

(15) "Timberland productivity classes" means timberland classified as Class 1 (excellent to very good), Class 2 (good to fair), or Class 3 (poor), according to Site Index.

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Timberland Productivity Classes

Timberland Productivity Class	Site Index	Yield Per Acre over 80 Years*	
		MBF	Cords
Class 1 (Excellent to very good)	80 (75 or more)	14.5	10.5
Class 2 (Good to fair)	70 (65-74)	9.7	14.9
Class 3 (Poor)	50 (less than 65)	1.5	20.7

*Scribner rule. Source: Schnur, G. Luther.
USDA Tech. Bul. No. 560. 1937

The Tax Commissioner may annually adopt a
different timber scale and to revise yield
annually as standards of timber utilization
change or as new information becomes available
on timber yields of forest stands.

(16) "Timberland productivity maps" means those
maps prepared showing the productivity class of
all timberland in this State. The primary source
of information for preparation of these maps shall
be the Soil Survey, published by United States
Department of Agriculture (USDA) Soil Conservation
Service:

(A) In those counties where soil surveys are
not yet prepared, the best available infor-
mation shall be used.

(B) For Webster and Pocahontas Counties:

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G. R. Trimble, Jr., "An Equation for Predicting Oak Site Index Without Measuring Soil Depth", Journal of Forestry, 62:325-327.

(C) For Wetzel, Doddridge, Braxton, Clay, and Gilmer Counties: L. R. Auchmoody and H. Clay Smith, Oak Soil-Site Relationships in Northern West Virginia. (USDA For. Serv. Res. Paper NE 434, 1979.)

(D) For Wayne, Lincoln, Boone, Logan, Mingo, and McDowell Counties: Unpublished results of research at West Virginia University (1983).

(17) "Topography and accessibility" means the steepness of slope and degree of remoteness from timber products markets, respectively. These two factors may raise the cost of timber harvesting and thereby reduce the stumpage price of timber. They may therefore be used as supplemental criteria in the determination of value.

(f) Procedure for Determining Value. -- The following is a step-by-step procedure for determining the appraised value (market value) of timberland.

(1) All timberland is mapped according to productivity class See Section 11.07(e)(15) on USGS

Section 11.07(f)

7.5 minutes quadrangle sheets (1" = 2000'). The timberland productivity maps are then enlarged to a scale of 1" = 400' in order to conform to the scale of tax maps.

(2) Average stumpage price (5 year moving average) is determined by county or groups of counties from Department of Natural Resources quarterly reports and other information.

(3) End-of-rotation (80 years) gross income potential per acre is determined for each productivity class using the following formula.
Yield (MBF and/or cords per acre) x stumpage price
= gross income.

(4) Annual gross income potential per acre is determined using the following formula. Gross income potential per acre ÷ 80 years = annual gross income potential per acre.

(5) Annual net income potential per acre is determined by deducting management cost per acre from annual gross income potential per acre.

(6) Market value per acre is determined by capitalizing the net annual income per acre.

(7) A table is prepared showing market value of timberland by productivity classes.

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(8) Mylar maps are prepared showing tax parcels and timberland productivity class.

(9) The appraised (market value) value of the property is calculated using the maps and table of timberland values. If a parcel contains two or more productivity classes, total value will be determined on a proportional basis, as in the following example: 100 acre parcel, of which:

30 acres in Class 1	
45 acres in Class 2	
25 acres in Class 3	
Appraisal =	30 AC x Class 1 Value
	+45 AC x Class 2 Value
	+25 AC x Class 3 Value
	Total Appraised Value Timberland

(g) Summary of Method of Determining Appraised Value. --

The formula to be used in determining the appraised value of property categorized as timberland is as follows:

$$\text{Appraised Value Per Acre} = \frac{\text{Total Yield per acre x stumpage price} - \text{Management Cost Per Acre}}{\frac{80 \text{ Years}}{\text{Capitalization Rate}}}$$

(h) Valuation of less Than 10 Acres. -- A parcel, or contiguous parcels, of forest land totalling less than ten (10) acres shall not be considered to be timberland and

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shall be valued based upon market comparables, without considering the productivity capacity of the site for timber yield.

(i) Valuation of Farm Wood Lots. -- Farm wood lots and the parts of a farm which are in timber shall be included in the valuation of farm property under W. Va. Code § 11-1A-10, except when the timberland is a separate parcel or tract entered in the landbooks, and except when the primary use of the farmland is in commercial forestry or the growing of timber for commercial purposes. See W. Va. Code § 11-1A-3(f).

(j) Timberland Improvements. -- Improvements such as roads and service buildings that are a required (usual) part of timber management operations shall not be subject to an additional appraisal over and above the appraisal of the timberland. Improvements that are not a necessary part of the timber management operations, such as dwellings, cottages, hunting camps, and other recreational facilities, shall be subject to additional appraisals.

Section 11.08

11.08. Valuation of Other Active Natural Resources

(a) General.

(1) Other active natural resource interests, such as limestone, fireclay, dolomite, industrial sandstone, aggregate sandstone, sand and gravel, and salt are some of the several estates in real property which may be owned either as a separate interest or else owned in conjunction with other interests, usually as fee ownership or as minerals ownership. If the other active natural resource interest is owned as a separate estate, West Virginia property tax law requires such ownership to be listed, valued and taxed based on its true and actual value. If the other active natural resource interests are part of a greater interest in a given tract of property, the value of the natural resource interest(s) should be included in the appraised value of the greater interest.

(2) Other West Virginia natural resource interests, such as lead and zinc, manganese, iron ore, radioactive minerals, and oil shale, which at present are not being actively mined shall be valued in accordance with this regulation, when such interests are separated from the fee interest

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or begin being actively mined.

(3) These other natural resource interests may be owned without being mined. These other natural resources, rights may exist where the other natural resource is not actually present, or where the other natural resource is unmineable or mined out.

(4) For valuation purposes, this regulation classifies other natural resource property ownership into the following categories:

- (A) Active
- (B) Active Reserves
- (C) Inactive Reserves
- (D) Mined-Out/Unmineable/Barren

(b) Definitions.

(1) Active Acreage.

(A) Surface Limestone. The active acreage of a surface limestone mine shall be derived by multiplying 5 (years) times the mined acreage used to determine the "tons produced."

(B) Deep Limestone. -- For a deep limestone mine the active acreage shall be derived by multiplying 10 (years) times the mined acreage used to determine the "tons produced."

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(C) Sandstone. The active acreage of a surface sandstone mine shall be derived by multiplying 5 (years) times the mined acreage used to determine the "tons produced."

(D) Surface Clay and Shale. -- The active acreage of a surface clay and shale mine shall be derived by multiplying 5 (years) times the mined acreage used to determine the "tons produced."

(E) Deep Clay and Shale. -- For a deep clay and shale mine the active acreage shall be derived by multiplying 10 (years) times the mined acreage used to determine the "tons produced."

(F) Sand and Gravel. -- The active acreage of a sand and gravel mine shall be derived by multiplying 5 (years) times the mined acreage used to determine the "tons produced."

(G) Salt. The active acreage around each salt well shall be a maximum of 35 acres. After a well's first year of production, active acreage shall be derived by subtracting the acreage used to determine the "tons produced" from 35 acres.

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(2) Active Mining Property. -- This term refers to the natural resource on a parcel involved in a mining operation. For the purposes of determining active mining property, contiguous parcels under one ownership or owned or leased by closely related businesses shall be treated as one parcel. The active mining acreage of any mineral on a parcel shall be calculated by multiplying the number of acres mined annually times the determined life of the mine. If this calculation, however, results in an acreage figure that is higher than the total mineable acreage of that natural resource on that parcel, the lower figure shall be used. This calculation shall be made of each "other natural resource" activity being mined on the parcel.

(3) Active Mining Value Per Acre. -- To determine the active mining value per acre, divide the active mining value (tons produced times the appropriate multiplier times the royalty rate) by the total acres of the active mining property.

(4) Active Reserves. -- This term means the remaining mineable acreage of the natural resource being mined in excess of the active mining acreage.

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The active reserve acreage calculations will be dependent upon the type of mining operation.

A. Surface Mines. -- For surface mining operations, the active reserve acreage shall be determined by subtracting the active acreage from the total mineable acreage remaining in the mining permit application.

B. Deep Mines. -- For deep mining operations, the active reserve acreage shall be determined by multiplying the active acreage by two. However, if the mineable other natural resource acreage remaining on the parcel or contiguous parcels is less than the acreage calculated, the remaining acreage shall be used.

(5) Barren. -- This term means and includes those properties where a specific other natural resource right is separately owned, but the existence of the other natural resource has not been established.

(6) Inactive Reserves. -- Inactive reserve is the term assigned to the acreage that is involved in a permit application to the Department of Natural Resources, or is involved in a lease agreement for

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mining, when no mining has taken place during the preceding assessment year.

(7) Life of Mining Operation. -- The life of the mining operation shall be equal to the number of active mining acres divided by the number of acres mined to obtain the annual tons produced. The maximum mine life shall be five (5) years for surface mines involving limestone, sandstone, clay and shale, and sand and gravel and ten (10) years for deep mines involving limestone, clay and shale, and salt wells.

(8) Merchantable Natural Resource. A merchantable natural resource is one ordinarily extracted for sale and can usually be sold at a profit, or which is extracted for use in the manufacture of other products (e.g., salt for use in making paint and chemicals).

(9) Mineable Natural Resource. -- A mineable natural resource is one which could be profitably mined by judicious methods.

(10) Mined-Out. -- A mined-out natural resource is one determined to have been depleted by prior mining operations.

(11) Multiplier. -- A multiplier is the sum of the

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projected annual income stream during the estimated life of the mining operation discounted by a capitalization rate. Multiplier will be determined annually by the Tax Commissioner.

(12) Royalty Rate. -- The rate determined annually by the Tax Commissioner for each of the four (4) different older natural resource mining operations, that is deemed to be paid to the owner of the natural resource in place for the right to extract and sell or use the natural resource. See Section 11.04(c)(1)(B) for how royalty rate will be determined.

(13) Tons produced. -- Tons produced means the annual rate of other natural resource production, in tons per fiscal year ending June 30th of each calendar year generally determined by a weighted average of three (3) years production. See Section 11.08(c)(1).

(14) Unmineable Natural Resource. -- An unmineable natural resource is one which is determined and shown through geological, economical or technological data to not to be mineable using present mining practices.

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(c) Valuation Methods.

(1) Method for Determining the Value of an Active
Other Natural Resource Property.

(A) General. -- The value of the active mining acreage shall be the number of tons produced times a royalty rate times a multiplier. The most recent year's production shall be multiplied by .4; the previous two years' production shall each be multiplied by .3; the resulting three figures shall be added together to produce a weighted average annual production.

(1) Strike Affecting Production; Production Year of Less Than Twelve Months. -- When any of the three production years is affected by a general strike with a duration of more than sixty (60) days, or where production in any of the three (3) years does not include ten (10) months of production, that year shall be dropped from the computation and the production from the remaining one or two years shall be weighted equally. An exception to this,

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rule will be when each of the three (3) years' production totals involve less than ten (10) months of mining activity. In this instance, production amounts will be calculated under Section 11.08(c)(1).

(2) New Mine. -- When production has begun within two (2) years of the effective appraisal date, the available production data will be weighted equally in determining the annual production. For only one year of activity, total production shall be multiplied by 1.0; for two years of activity, each year of production shall be multiplied by .5, with the resulting two figures added together.

(B) Royalty Rate. -- For use in the formula prescribed by this regulation, a royalty rate will be determined for each of the different types of minerals and types of mining operations. These will include specific royalty rates for (1) limestone (dolomite) surface mine; (2) limestone (dolomite) deep mine; (3) sandstone (industrial) surface mine; (4) sandstone (aggregate) surface mine; (5) clay

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and shale surface mine; (6) clay and shale deep mine; (7) sand and gravel surface mine; and (8) salt wells. The Tax Commissioner shall annually determine royalty rates for each of the above categories of mining operations which reflect typical, current, arms-length contractual agreements.

(C) Capitalization Rate. -- The capitalization rate shall be determined annually by the Tax Commissioner through the use of accepted standard methods for calculating such rates. The Tax Commissioner shall annually publish in the State Register the appropriate multipliers that are derived through the capitalization rate and various lives of the mining operations.

(2) Valuation of Active Reserves. -- The value per acre of active reserves shall be ten percent (10%) of the active mining value per acre multiplied by the number of acres of active reserves. To determine the active mining value per acre, divide the active mining value (tons produced times the appropriate multiplier times the royalty rate by the total acres of the active mining

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property. In no event shall the value of active reserves be less than the inactive reserve value per acre.

(3) Valuation of Inactive Reserves.-- A valuation schedule for inactive reserves of limestone, sandstone (industrial), sandstone (aggregate), clay and shale, sand and gravel, and salt shall be determined annually by the Tax Commissioner after a review of current arms-length sales of other natural resource which reflect the "willing buyer-willing seller concept."

(4) Valuation of Mined Out Unmineable/Barren Other Natural Resource Properties. -- Properties in this category shall be valued at \$5.00 per surface acre.

(5) Summary of Valuation of Methods.

Valuation of
Other Natural Resources

(A) Properties with mineable/merchantable
natural resources shall be valued as follows:

Active Mining Acres

(Average Annual Natural Resource Production in Tons) X (Royalty Rate Per Ton) X (Multiplier) = (Active Natural Resource Real Property Value)

Active Reserve Acres (Part of Active Operation)

(Total Active Reserve Acres) X (Value Per Active Reserve Acre) X 10% = (Active Reserve Other Natural Resource Property Value)

Inactive Reserve Acres (Leased or Permitted Acres - No Mining)

(Total Inactive Reserve Acres) X (Inactive Reserve Value Per Acre) = (Inactive Reserve Other Natural Resource Property Value)

(B) Other natural resource properties having
no mineable, merchantable natural resources
shall be valued by multiplying the deed
description acreage of the parcel by five
dollars (\$5.00).

(C) The total value for other natural
resource properties will be the addition of
the active mining value, active reserve
value, inactive reserve value and mined-
out/unmineable/barren value.

Section 11.09.

11.09. Valuation of Commercial and Industrial
Real Property.

(a) General. -- This regulation describes the method for determining the appraised value (market value) of commercial and industrial real property other than natural resource real property, land utilized for farming purposes and operating public utility property.

(1) The appraised value (market value) of commercial and industrial real property is the price at or for which a particular parcel would sell if it was sold to a willing buyer by a willing seller in an arms-length transaction without either the buyer or the seller being under any compulsion to buy or sell. In determining appraised value, primary consideration shall be given to the trends of price paid for like or similar property in the area or locality wherein such property is situated over a period of not less than three (3) nor more than eight (8) years preceding the base year of the statewide reappraisal. Additionally, for purposes of appraisal of any tract or parcel of real property used for commercial or industrial purposes, including chattels real, the appraisal shall consider the following factors:

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- (A) The location of such property;
- (B) Its site characteristics;
- (C) The ease of alienation thereof, considering the state of its title, the number of owners thereof, and the extent to which the same may be the subject of either dominant or servient easements;
- (D) The quantity of size of the property and the impact which its sale may have upon surrounding properties;
- (E) If purchased within the previous eight years, the purchase price thereof and the date of each such purchase;
- (F) Recent sale of, or other transactions involving, comparable property within the next preceding eight years;
- (G) The value of such property to its owner;
- (H) The condition of such property;
- (I) The income, if any, which the property actually produces and has produced within the next preceding eight years; and
- (J) Any commonly accepted method of ascertaining the market value of any such property, including techniques and method

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peculiar to any particular species of property if such technique or method is used uniformly and applied to all property of like species.

(2) There are two types of improvements which are considered in the appraisal process; these are improvements to the land and improvements on the land.

(A) Improvements to the land are land improvements, the value of which are included in the value of the land. Some examples of these improvements include privately owned drainage systems, driveways, walks etc.

(B) Improvements on the land are buildings and structures. They are valued separate and apart from the land.

(3) In addition to improvements, other important considerations affecting the value of land are:

- (A) Location,
- (B) Size,
- (C) Shape,
- (D) Topography,
- (E) Accessibility,

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- (F) Present use,
- (G) Highest and best use,
- (H) Easements,
- (I) Zoning,
- (J) Availability of utility,
- (K) Income imputed to land and
- (L) Supply and demand for land of a particular type.

(4) Each of these factors should be considered in the appraisal of a specific parcel. Some, however, may be given more weight than others.

(b) Generally Accepted Appraisal Methods Used to Establish the Value of Industrial and Commercial Real Properties.

(1) In determining an estimate of fair market value, the tax commissioner will consider and use where applicable, three generally accepted approaches to value: (A) cost, (B) income, and (C) market data.

A. Cost Approach. -- To determine fair market value under this approach, replacement cost is reduced by the amount of depreciation. In applying the cost approach, the Tax Commissioner will consider three types of

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depreciation: physical deterioration, functional obsolescence, and economic obsolescence.

B. Income Approach. -- A property's present worth is directly related to its ability to produce an income over the life of the property. The selection of an overall capitalization rate will be derived from current available market data by dividing annual net income by the current selling price of comparable properties. The present fair market value of the property shall then be determined by dividing the annual economic rent by the capitalization rate.

C. Market Data Approach. -- The market data approach will be applied by considering the selling prices of comparable properties.

(2) Correlation. -- Once generated, the various estimates of value may be considered in determining a final value estimate. However, the income approach is ordinarily inappropriate for properties such as franchised restaurants, governmental properties, hospitals, etc. In these cases, the cost and/or market approaches may be more suitable

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in estimating fair market value.

When possible, the most accurate form of appraisal should be used, but because of the difficulty in obtaining necessary data from the taxpayer, or due to the lack of comparable commercial and/or industrial properties, choice between the alternative appraisal methods may be limited.

(3) Industrial and Commercial Site Classification. For purposes of valuing active and residual industrial and commercial land in West Virginia, valuing sites shall be separated into four broad categories: heavy industrial sites, light industrial or commercial sites, industrial parks, and mine sites. These sites shall be further classified when appropriate into active and residual portions. These classifications will be considered when applying and establishing the valuation method to the industrial and/or commercial properties.

(c) Definitions.

(1) Active Industrial or Commercial Land. That portion of land used for industrial and commercial purposes.

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(2) Capitalization Rate. -- A rate used to convert an estimate of future income to an estimate of present market value.

(3) Commercial Property. -- Income producing real property used primarily but not exclusively for the sale of goods or services, including but not limited to offices, warehouses, retail stores, apartment buildings, restaurants and motels.

(4) Cost Approach. -- The appraisal process in which replacement cost of improvements, less all types of depreciation, is added to a land value in determining an estimate of the fair market value for improved real property.

(5) Economic Obsolescence. -- A loss in value of a property arising from "outside forces" such as changes in use, legislation that restricts or impairs property rights, or changes in supply and demand relationships.

(6) Economic Rent. -- The rental amount which a space or property would attain in the open market at the time of appraisal, whether it is lower, higher or the same as the actual contract rent.

(7) Fair Market Value. -- The highest price in terms of money that a property will bring in a

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competitive and open market, assuming that the buyer and seller are acting prudently and knowledgeably, allowing sufficient time for the sale and assuming that the price is not affected by undue stimulations.

(8) Functional Obsolescence. -- The loss of value due to factors such as excess capacity, changes in technology, flow of material, seasonal use, part-time use or other like factors. The inability to perform adequately the functions for which an item was designed.

(9) Heavy Industrial Site. -- An industrial site containing more than five (5) acres of physical plant.

(10) Income Approach. -- The appraisal process of discounting an estimate of future income into an expression of present worth.

(11) Industrial Parks. -- A parcel or group of parcels dedicated primarily to commercial and industrial development.

(12) Light Industrial or Commercial Site. -- An industrial site containing five (5) or less acres of land.

(13) Market Data Approach. -- The appraisal process

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of examining sales data and translating such data into an estimate of present worth.

(14) Mine Sites. -- A parcel of land containing the mine portal and/or shaft, parking lots, water treatment facilities, mine fan areas, refuse piles and preparation plant sites.

(15) Physical Deterioration. -- A loss in value due to wear and tear.

(16) Replacement Cost. -- The cost of constructing a building or improvement having the same utility, but using modern materials, design, and workmanship.

(17) Residual Industrial or Commercial Land. -- That portion of a parcel of real estate that is currently non-productive in terms of the industrial or commercial activity located thereon. This classification of land would include land held for industrial expansion, land marginally suitable for industrial use and excess acreage.

(d) Valuation of Leaseholds in Industrial and Commercial Real Properties.

(1) General.

(A) A leasehold in real property is taxable for ad valorem property tax purposes

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if it has a separate and independent value from the freehold. Great A&P Tea Co., Inc. v. Davis, W. Va., 278 S.E.2d 352 (1981).

Where leaseholds are of short duration, the rent paid will usually reflect income to the owner of the freehold commensurate with the fair market value of the real property.

Under ordinary conditions, the leasehold itself will not have any ascertainable market value. Consequently, in the normal circumstance, the appraised value of the freehold subject to a leasehold shall be determined in the same manner that the appraised value of similar commercial or industrial real property not subject to a leasehold is determined.

(B) However, under circumstances involving long-term leaseholds where the leasehold is itself a marketable asset of value, the leasehold shall be valued as hereinafter provided in this regulation. The leasehold interest being a chattel real shall be listed and taxed as Class III or Class IV tangible personal property depending on the location of the

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freehold. See W. Va. Code §§ 11-5-3, 11-5-4 and 11-8-5.

(C) The appraised value of a freehold estate shall be the appraised value of the freehold determined without regard to the leasehold, minus the appraised value of the leasehold.

(2) Definitions.

(A) Leasehold. -- (Also known as a leasehold estate.) An interest in real property created by a lease contract. The leasehold is the right to occupy and use the property for the term fixed in the lease, at a stated rental, and subject to conditions set forth in the contract.

(B) Net Rental. -- An agreement specification whereby the lessor receives an annual rent net to him, with the lessee paying all property taxes, insurance and cost of building maintenance, as well as operating expenses.

(C) Gross Lease. -- A lease agreement wherein the lessor pays all fixed charges (property taxes, maintenance, etc.).

(D) Property Residual Method of Valuation. --

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This method assumes that, at the expiration of the term of the lease, even though the building may have little value, the land will have a reversionary value. Both the income stream for the estimated useful life of the building and the reversionary interest in the land are discounted to present worth. This method is applicable where the building is old, the site under-improved, or the improvements have a short remaining useful or economic life.

(E) Leased Fee. -- The interest remaining in one who has granted possession and occupancy to another for a designated term under a lease contract. Generally, it is the interest of the owner in his property after it has been leased.

(F) Freehold Estate. -- An estate in land or other real property, of uncertain duration; that is, either of inheritance or which may possibly last for the life of a tenant at the least. For an estate to be freehold it must possess two characteristics:

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- (1) Immobility.
- (2) Indeterminate duration (no fixed termination of the interest.)
- (3) In valuing a leasehold:
 - (A) The total value of the property must be estimated and then allocated among the various interests in the property under the terms of the lease; and
 - (B) The appraiser must determine whether or not value has been created as a result of a favorable lease, in addition to the total value of the property.
- (4) In deciding whether a leasehold has value, and if so, what value to assign, the appraiser must:
 - (A) Estimate the value of the entire property, as though not encumbered by the lease, then
 - (B) Estimate the value of one of the partial interests, either the leasehold estate of the lessee or the leased fee of the lessor,
 - (C) The value of the partial interest thus arrived at is deducted from the value

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of the entire property to obtain the value of the other partial interest.

(5) To value a leasehold interest, the appraiser shall consider the present (discounted) worth of the rent saving, when the contractual rent at the time of appraisal is less than the current market rent. If the land is improved by the lessee, then the value of the leasehold interest shall be the value of the saving in ground rent, if any, in addition to the value (not cost) of the improvements of the lessee. If the contractual rent is greater than the currently established market rent, the present worth of the difference shall be subtracted from the value of the improvement.

(6) When a property is under long-term lease to a prime tenant, such as a nationally-known chain store concern, and the estimated useful life of the building exceeds the term of the lease, the "property residual technique" of evaluation may be used along with other generally accepted appraisal techniques, i.e., cost and market data approaches.

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11.10. Valuation of Commercial and Industrial
Personal Property.

(a) General. -- The object of these regulations is to provide absolute methodologies for appraising commercial and industrial furniture, fixtures, machinery, equipment, inventory, material and supplies.

(b) Definitions.

(1) Economic Obsolescence. -- A loss in value of a property arising from "outside forces" such as changes in use, legislation that restricts or impairs property rights, or changes in supply and demand relationships.

(2) Functional Obsolescence. -- Loss of value due to an inability to perform adequately the function for which commercial and industrial personal property was designed.

(3) Physical Deterioration. -- A loss in value due to natural wear and tear of commercial and industrial personal property resulting from age, use, abuse, etc.

(c) Situs.

(1) The situs of commercial and industrial furniture, fixtures, machinery, equipment, inventory, material and supplies shall depend upon an analy-

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sis of the residence of the owner, and the location of the personal property and whether the personal property is subject to personal property taxation by another state and is taxed by the other state.

(2) All commercial and industrial personal property belonging to persons or corporations residing in this State, whether such property be in or out of the State shall be taxable, as personal property, unless the property be actually and permanently located in another state, and is subject to taxation as personal property and is actually taxed as personal property in the other state.

(3) All commercial and industrial personal property located within this State, though owned by persons or corporations residing in another state shall be taxable as personal property by this State.

(d) Valuation of Commercial and Industrial Personal Property.

(1) In determining an estimate of fair market value, three approaches to fair value will be considered and used where applicable: (A) cost,

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(B) income, and (C) market. (For appropriate definitions and discussion of these methods, see §§ 11.09(a)(3)(9) and 10, and 11.08 (c)(1)(A)(B) and (C).

(2) Correlation -- Once generated, the various estimates of value will be considered in arriving at a final value estimate. However, the income approach to value is generally considered inappropriate in determining fair market value estimates of personal property for franchised restaurants, governmental properties, hospitals, etc. In these cases, the cost and/or market approaches may be more suitable in estimating fair market value.

When possible, an audit appraisal method should be used, but because of the difficulty in obtaining necessary accounting data from the taxpayer, or due to the lack of comparable commercial and/or industrial personal properties, a physical appraisal method may be necessary.

(3) Adjustments -- When physically inspecting commercial and industrial personal property for appraisal, the local assessor should take into consideration three types of depreciation; physi-

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cal deterioration, economic obsolescence and functional obsolescence.

(4) Valuation of Common Commercial and Industrial Personal Property. --Frequently encountered

commercial and industrial personal properties common to numerous businesses within a taxing district shall be valued using current appraisal manuals furnished by the Tax Commissioner to local assessors. Some examples of such personal property are restaurant equipment, retail outlet equipment, and hotel and office furniture.

(5) Valuation of Specialized Industrial Equipment.

(A) Specialized industrial equipment must be valued using the most accurate information available from the taxpayer, e.g. original cost, date of acquisition, depreciation, salvage value, condition, etc. Comparable appraisals may be obtained from the Tax Commissioner, when actual cost information is not available.

(B) The Tax Commissioner will provide and periodically update lists of industrial machinery and equipment common to certain

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industrial enterprises. These lists will assist local assessors by familiarizing them with industrial processes, equipment terminology, and equipment values.

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11.11 Intangible Personal Property Subject To
Ad Valorem Taxation in West Virginia.

(a) General. -- All intangible personal property, unless otherwise exempt by law, having a taxable situs in West Virginia is subject to ad valorem taxation. The general classifications of such intangible property are as follows:

(1) Shares of Stock. -- This includes, but is not limited to, the following:

(A) Capital stock, common stock and preferred stock of both domestic and foreign corporations;

(B) Unregistered stock, restricted stock, letter stock and stock which is closely held and not traded on the market;

(C) Shares and units of ownership of mutual funds, investment trusts and investment funds;

(D) Units of ownership of "money market" funds and similar funds, including such funds where the owner is authorized to issue drafts against the funds as a means of disposing of units;

(E) Shares and units held in brokerage accounts, including those purchased on mar-

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gin;

(F) Shares and units held and/or controlled by fiduciaries (executors, administrators, trustees, guardians, etc.) which are reportable by the fiduciary;

(G) Shares of stock owned by corporations in affiliated or subsidiary corporations;

(H) Shares and units acquired through purchase, gift, inheritance or any other means as of the date of valuation, even if the certificates have not been received and are not in the owner's possession;

(I) Shares and units owned by or registered to residents of West Virginia as of the valuation date, even though such certificates may be physically located outside the state.

(2) Bonds and Debentures. -- This includes, but is not limited to, the following:

(A) Bonds and debentures of both domestic and foreign corporations;

(B) Bonds and debentures of other states and their political subdivisions;

(C) Bonds of public housing authorities organized under the laws of other states;

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(D) Bonds and other similar debt instruments which are obligations of nonexempt quasi governmental agencies, even though such instruments may be guaranteed as to payment by the U. S. Government;

(E) Bonds and debentures issued by commercial banks.

(3) Notes and Other Evidences of Debt. -- This includes, but is not limited to, the following:

(A) Personal and business notes receivable;

(B) Notes and evidences of debt whether

-----secured or unsecured;

(C) Mortgage notes receivable;

(D) Conditional Sales contracts - written agreements whereby title to property sold remains with the seller until paid in full;

(E) Notes and evidences of debt held by corporations which represent amounts due from subsidiary or affiliated companies;

(F) Commercial paper and participation certificates;

(G) Investment contracts and accumulation plans;

(H) Repurchase agreements issued by financial

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institutions, notwithstanding that such may be secured by exempt governmental securities;

(I) Accrued interest due on notes and other evidences of debt;

(J) All loans and other receivables which are evidence in writing by a note or similar instrument.

(4) Accounts Receivable. -- This includes, but is not limited to, the following:

(A) Trade accounts, open book accounts and charge accounts acquired in connection with any trade or business;

(B) Revolving type charge accounts, even though interest may be required on the balance due;

(C) Credit balances on accounts with investment brokers and security dealers;

(D) Amounts due from investment brokers and security dealers representing the proceeds from the sale of securities;

(E) Accounts receivable of all persons and businesses whether operating on a cash basis or accrual basis for income tax purposes;

(F) Accounts receivable of professional

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associations and professional persons
(doctors, dentists, attorneys, accountants,
etc.) when such accounts represent amounts
owing to them for professional services;

(G) Loans to affiliated companies and other
inter-company receivables of corporations
which are not evidenced by a note or similar
instrument;

(H) Undistributed profits due from Subchapter
S corporations;

(I) Dealer reserves and finance reserves due
from banks, finance companies and credit
companies;

(J) Salaries, commissions, bonuses and divi-
dends declared and payable but not received;

(K) Claims for refund which have been ap-
proved for payment;

(L) Loans and other receivables which are not
evidenced by a note or similar instrument.

(5) Beneficial Interest in a Foreign Trust. --

This type of intangible property is the owner-
ship of a property right, or rights, in the prin-
cipal and/or income of a trust or trust estate
located outside West Virginia and/or administered

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by a nonresident trustee. Examples of a "beneficial interest in a foreign trust" subject to taxation in West Virginia include, but are not limited to, the following:

(A) A resident beneficiary of a foreign trust with an irrevocable right to receive all or a portion of the income from the trust for life;

(B) A resident beneficiary of a foreign trust with an irrevocable right to receive all or a portion of the income from the trust for a specified period of time, and then a right to receive a like portion of the corpus or principal of the trust;

(C) A resident beneficiary of a foreign trust with an irrevocable right to receive income from the trust for a specified period of time with no further rights to income or corpus;

(D) A resident beneficiary of a foreign trust with an irrevocable right to the present possession of all or a portion of the corpus or principal of the trust;

(E) A resident grantor of a foreign trust with a present right to revoke the trust at

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his option.

(6) Other Intangible Personal Property. -- This includes all other intangible personal property not otherwise enumerated or exempt by law, including stock warrants, stock options, patents, copyrights, trademarks, franchises, secret processes, goodwill, etc.

(b) Definitions. -- When used in these regulations:

(1) Business situs. -- The state where intangible personal property was acquired, used or otherwise has become localized in the conduct of a business activity so as to come within the protection of the state.

(2) Commercial Domicile. -- The state or other location where a corporation or other business has established its principal office or chief place of business.

(3) Domestic Corporation. -- Any corporation organized and chartered under the laws of West Virginia.

(4) Evidence of Debt. -- A written instrument entered into by two or more parties whereby one party acknowledges in writing a debt of money as owing or payable to another party.

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(5) Foreign Corporation. -- Any corporation organized and chartered under the laws of another state or foreign county.

(6) Intangible Personal Property or Intangible Property. -- Personal property which is not in itself valuable, but derives its value from that which it represents.

(7) Money. -- Cash, personal and business checks, cashiers' checks, certified checks, postal money orders, travelers' checks and express checks are considered to be money. In further defining this term, money should not be technically restricted, but construed in its general popular use and understanding.

(8) Shares of Stock. -- Capital stock, common stock and preferred stock issued by a corporation; shares and units of mutual funds; shares and units of ownership of investment funds and investment trusts; and other similar investment securities.

(9) Taxable Situs. -- The state where intangible personal property is subject to taxation.

(10) Taxable Value. -- The monetary value of intangible personal property which is subject to ad valorem taxation.

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(c) Situs. -- Generally, all intangible personal property owned by residents of West Virginia is considered to have a taxable situs in this State. In addition, intangible property acquired by a nonresident as a result of business activities conducted in West Virginia or otherwise having a business situs in this State, is also deemed to have a taxable situs in this State. The stated intent is to assure that nonresidents transacting business in this State and availing themselves of the laws of this State, either directly or through an agent, pay the same tax that would be imposed on residents in the same business. Criteria applicable to the taxable situs of intangible property in West Virginia includes, but is not limited to, the following:

(1) All intangible personal property owned by individual residents of West Virginia is considered to have a taxable situs in this State regardless of where such intangible property was originally acquired or where it is physically located;

(2) All intangible property held or controlled by an administrator, executor, trustee, guardian, receiver or other fiduciary domiciled in this State is considered to have a taxable situs in this State.

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(3) All intangible personal property owned by a domestic corporation or by a foreign corporation having its commercial domicile in West Virginia is considered to have a taxable situs in this State; provided, however, that any intangible property of such corporations which has acquired a business situs in another state and is subject to an intangible property tax and actually pays the intangible property tax levied by such other state may be excluded from taxation in West Virginia.

(4) In the case of a foreign corporation having its commercial domicile outside of West Virginia, any intangible personal property acquired in the conduct of business activities carried on in this State, or otherwise having a business situs in this State, is considered to have a taxable situs in West Virginia. Specifically, accounts receivable, notes receivable and other evidences of debt of such foreign corporations doing business in West Virginia are considered to have a taxable situs in this State, regardless of where they are located or approved, if they were created or acquired as a result of any one or more of the following:

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- (A) The selling of property in West Virginia by an officer, employee or agent having or reporting to an office in this State;
- (B) The delivery of property in West Virginia from a factory, warehouse or other stock of goods located in this State;
- (C) Services performed in West Virginia by an officer, employee or agent having or reporting to an office in this State;
- (D) The lending of money in West Virginia by an officer, employee or agent having or reporting to an office in this State.

(d) Valuation and Appraisal Methodology for Intangible Personal Property. -- In order to assure that intangible personal property in West Virginia shall be valued and appraised for ad valorem tax purposes in an "equal" and "uniform" manner, the following rules and methods for valuing intangible property have been established.

(1) Shares of Stock. (Except bank stock.)

- (A) The taxable value of stocks listed and traded on a stock exchange is the closing price of such stocks as quoted by the stock exchange.
- (B) The taxable value of stocks traded over-

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the-counter is the closing "bid price" as quoted by over-the-counter security dealers.

(C) If stocks are not listed or regularly traded on the open market, the taxable value should be appraised by determining an average between the highest and lowest prices in arms-length sales during a reasonable period before the valuation date.

(D) If the taxable value of stocks cannot be established by use of A, B or C above, an appraised value should be determined in accordance with generally accepted accounting principles, giving consideration to such factors as adjusted book value, corporate earnings, nature and history of the business, dividend record, and comparison with the market price of stocks of comparable businesses.

(E) No reduction is allowed in determining the taxable value of shares of stock because they are unregistered or restricted as to right of sale.

(F) The so-called "blockage rule" (a reduction in the value of shares of stock due to

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the number or volume of shares owned) may not be used in establishing taxable value.

(G) The taxable value of shares of stock should not be increased or decreased because such shares represent either a majority or minority interest.

(H) If listed market values or quotations are not used to compute the taxable value of shares of stock, a statement should be attached to the property tax report explaining the method used in appraising or determining the taxable value of such stocks.

(I) Indebtedness to purchase shares of stock may not be considered as a deduction in determining the taxable value of such shares.

(2) Shares of Bank Stock.

(A) West Virginia Bank Stock. W. Va. Code § 11-3-14 requires that the true and actual value of West Virginia bank, banking institutions or banking associations stock be ascertained according to the best information which the local assessor may obtain.

(i) Valuation of such stock shall reflect consideration of the method set

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forth in § 11.10(d), with the following exception:

- (ii) The value of real estate owned by the West Virginia bank, banking institution or association shall be deducted in determining the value of the stock, and separately valued and assessed as real property.
- (iii) The value of debt obligations of the State of West Virginia and its political subdivisions, the United States and agencies of the State of West Virginia and the United States Government shall be deducted in determining the value of the stock, unless the issuing authority consents to the taxation of its obligations.
- (iv) Bank deposits and money are exempt from taxation and shall be deducted in determining the value of bank stock.

W. Va. Const. art. X, § 1a.

(B) Out-of-State Bank Stock. -- Bank stock in banks, banking institutions and banking associations held by West Virginia residents

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representing ownership in banks located outside the State of West Virginia shall be valued the same as stock held in West Virginia banks with the following exceptions:

- (i) The value of debt obligations of the State of West Virginia and its political subdivisions, the United States and agencies of the State of West Virginia and the United States Government shall be deducted in determining the value of the stock, unless the
-----issuing authority consents to the taxation of its obligation.
- (ii) Whenever the stock represents ownership in banks located outside the State of West Virginia, and it is subject to intangible personal property tax by another state, and such taxes are actually paid to another state, such shares shall be valued for taxation.
- (iii) Bank deposits and money are exempt from taxation and shall be deducted in determining the value of bank stock.

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(3) Capital of West Virginia Building and Loan Associations and Savings and Loan Associations. -- The capital of West Virginia building and loan and savings and loan associations, as well as the capital of such associations located in other states shall be valued in the same manner as bank stock [See § 11.11(a)(2).]

(4) Bonds and Debentures.

(A) The taxable value of bonds and debentures which are listed and traded on a security exchange is the closing price of such bonds and debentures as quoted by the exchange.

(B) The taxable value of bonds and debentures traded over-the-counter is the closing bid price as quoted by the over-the-counter market.

(C) If bonds and debentures are not regularly traded and quoted values are not available, the taxable value is the amount of the unpaid principal or face amount of the bond or debenture, unless acceptable evidence is furnished to prove that the actual value is less than that amount.

(D) Any accrued interest due on bonds and

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debentures should be included in determining their taxable value.

(E) The value of debt obligations of the State of West Virginia and its political subdivisions, the United States of America, and agencies of the State of West Virginia and the United States of America, shall be exempt from taxation, unless the issuing authority consents to the taxation of its obligations.

(5) Notes and other Evidences of Debt.

—(A) The taxable value of all notes and other evidences of debt is the amount of the unpaid balance or unpaid principal, unless acceptable evidence is furnished to prove that the actual value is less than that amount.

(B) Any accrued interest due on notes and other evidences of debt should be included in determining their taxable value.

(6) Accounts Receivable.

(A) The taxable value of all accounts receivable is the face value of such receivables as reflected on the books and records of the owner.

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(B) In determining the face value of accounts receivable, a reasonable deduction will be allowed for uncollectable accounts, provided such deduction is based on generally accepted accounting principles.

(C) The taxable value of any account receivable which is in dispute or which is due from a party whose solvency is doubtful should be estimated at its probable value.

(D) Any accrued interest due on accounts receivable should be included in determining the face value of such receivables.

(7) Beneficial Interest in a Foreign Trust.

(A) Whenever it is necessary to determine the taxable value of a beneficial interest in a foreign trust where a resident beneficiary has an irrevocable right to receive income from the trust for life, or an irrevocable right to receive all or a portion of the income for a specified period of time and then a right to receive the same portion of the property in the corpus of the trust, then the taxable value of the beneficial interest is determined by use of a "Present Worth of

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Annuities Table" in connection with "Mortuary Tables".

(B) Whenever it is necessary to determine the taxable value of a beneficial interest in a foreign trust where the resident beneficiary has an irrevocable right to receive income from the trust for a specified period of time with no further rights to income or corpus, then the taxable value of the beneficial interest is determined by use of a "Present Worth of Annuities Table".

—(C) Whenever it is necessary to determine the taxable value of a beneficial interest in a foreign trust where a resident beneficiary or a resident grantor of the trust has a right to the present possession of all or a portion of the property in the corpus of the trust, then the taxable value of the beneficial interest is the same as the value of that property in the corpus of the trust to which the beneficiary or grantor has right of present possession.

(D) Methods for determining the taxable value of any beneficial interest in a foreign trust

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not described in A, B or C of this rule may be obtained from the office of each County Tax Assessor in the State.

(E) The "Present Worth of Annuities Table" and the "Mortuary Tables" needed for computing a beneficial interest in a foreign trust may be obtained from the offices of each county tax assessor in the State.

(F) The "Mortuary Tables" are used to determine life expectancy and, therefore, the number of years a beneficiary has a right to income for life. The "Present Worth of Annuities Table" is used to determine the present value of a right to receive income of one dollar for a specified number of years. These tables shall be provided to local assessors by the Tax Commissioner.

(8) Other Intangible Personal Property. -- The taxable value of all other intangible personal property for which specific valuation procedures are not provided should be determined in accordance with generally accepted accounting principles. Established market values should be used for intangible property regularly traded (stock

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warrants, stock options, etc.); otherwise, factors customarily considered in determining intrinsic value should be used.

(9) Exemptions. -- Bank deposits and money are exempt from ad valorem property taxation. W. Va. Const. art. X, § 1a.

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11.12. Valuation of Public Utility Property.

(a) General. -- These regulations establish general valuation methods for the appraisal of the various types of property subject to taxation as public utilities, and general rules for distinguishing between operating and non-operating public utility property for ad valorem taxation purposes.

(b) Definition.

(1) Bands of Investment Technique. -- A synthesis of capital components used in financing an investment.

(2) Capitalization Rate. -- A rate, used to convert an estimate of income to an estimate of market value.

(3) Cost Approach. -- The appraisal process in which cost of the property being valued is considered in determining an estimate of fair market value. As a general rule, original cost will always be used to value public utility operating property, however, when such original cost is not available, replacement cost or reproduction cost may be considered.

(4) Economic Obsolescence. -- A loss in value of a property arising from factors such as changes

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in use, legislation that restricts or impairs property rights, or changes in supply and demand relationships.

(5) Fair Market Value. -- The highest price in terms of more than a property will bring in a competitive and open market, assuming that the buyer and seller are acting prudently and knowledgeably, allowing sufficient time for the sale and assuming that the price is not affected by undue stimulations.

(6) Final Assessed Values. -- Values established by the Board of Public Works as required by W. Va. Code § 11-6-11.

(7) Functional Obsolescence. -- A loss in value of a property due to changes in style, taste, or technology.

(8) Income Approach. -- The appraisal process of discounting an estimate of future benefits into an expression of present worth.

(9) Market Data Approach. -- The appraisal process of examining sales data and translating such data into an estimate of present worth.

(10) Market Comparables Technique. -- A process of reviewing recently sold properties that are

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similar in important respects to a subject property in order to arrive at an estimate of value.

(11) Original Cost. -- The initial cost paid for constructing or acquiring property.

(12) Physical Deterioration. -- A loss in value due to wear and tear in service.

(13) Public Service Corporation. -- Business entities contemplated by of W. Va. Code § 11-6-1 et. seq.

(14) Rate Base. -- That group of accounts or derivatives thereof, from the Uniform System of Accounts, on which a public utility is allowed a return on investment.

(15) Regulation. -- The process wherein fees charged for public utility services are reviewed by applicable federal and state regulatory bodies.

(16) Replacement Cost. -- The cost, including material, labor, and overhead, that would be incurred in constructing an improvement having the same utility to its owner as the improvement in question, without necessarily reproducing exactly any particular characteristic of the property.

(17) Reproduction Cost. -- The cost, including material, labor, and overhead, that would be

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incurred in constructing an improvement having exactly the same characteristics as the improvement in question.

(18) Return on Investment. -- A margin of profit generally expressed as a percentage of investment capital.

(19) Stock and Debt Technique. -- A process of reviewing market trading prices of securities in order to arrive at an estimate of value.

(20) Tentative Assessments. -- Property valuation estimates furnished by the Tax Commissioner to the Board of Public Works in accordance with W. Va. Code § 11-6-9.

(21) Uniform System of Accounts. -- The most current system of accounting developed and required by state and federal regulatory bodies.

(22) Unit Rule -- An appraisal of an integrated property as a whole without any reference to the values of its component parts.

(23) Operating Property. -- Utility operating property is property used for purposes immediately connected with providing the respective utility service. The Tax Commissioner construes "purposes immediately connected with providing utility

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service" to be synonymous with properties considered by regulatory bodies in constructing the utility rate base for rate making purposes. The tax commissioner will therefore give primary consideration to whether property is included in utility operating property classification as reflected in the applicable uniform system of accounts when deciding operating non-operating property issues.

(c) Situs.

(1) Generally, when the cost approach is used, operating properties physically located in West Virginia will be considered for tax purposes; however,

(2) When the income approach is used, the unit of value shall be allocated to the State of West Virginia using gross operating plant data after which

(3) Apportionment of physical plant tax revenues, considering the location in the various taxing districts, will be made by the West Virginia State Auditor's Office.

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(d) Valuation of Operating Public Utility Property.

(1) Unit Method. -- The Tax Commissioner provides tentative assessments based on fair market value of operating property of public service corporations to be used as a guide by the Board of Public Works in establishing final assessed values for property tax purposes. In this regard the Tax Commissioner will use the "Unit Rule" where applicable in furnishing tentative valuation estimates for the Board's consideration.

(2) Generally Accepted Appraisal Methods. -- In determining tentative assessments the Tax Commissioner will consider, and use where applicable, three generally accepted approaches to value: (A) cost, (B) income, and (C) market data. Application of these approaches will recognize the impact of regulation on the value of utility operating property where applicable.

(A) Cost Approach. -- Recognizing that public service corporations are predominantly cost regulated, when the cost approach is used in the valuation process, original cost less applicable depreciation will be employed. In applying the cost approach, the Tax Commis-

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sioner will consider three types of depreciation; (a) physical deterioration, (b) functional obsolescence, and (c) economic obsolescence.

(B) Income Approach. -- In developing income approach valuations, the Tax Commissioner will estimate capitalization rates considering the interrelationships of the income to be capitalized and the capitalization rate. In this regard, net operating income after taxes, but before interest, on long-term debt will be given primary consideration as the point on the income stream to be capitalized. The bands of investment technique will be employed in estimating appropriate capitalization rates.

(C) Market Data Approach. -- Recognizing that a sufficient number of sales of public service corporations do not occur to enable application of the market data technique, the tax commissioner will consider the substitute stock and debt technique. The stock and debt technique will be used in instances where a utility class possesses actively traded

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stocks and bonds that enable reasonable valuation estimates to be made.

(D) Correlation. -- Once generated, the various estimates of value will be correlated into a final value estimate. The income approach value will generally be given primary consideration in the correlation process.

(3) Classifications of Public utility and Common Carrier Operating Properties.

(A) Electric Utilities. -- Operating property for electric utilities shall primarily include such properties as are considered by the Federal Energy Regulatory Commission (FERC) as part of the rate base for rate making purposes. In determining which properties are properly included as operating public utility property, the most recent FERC Uniform System of Accounts prescribed for Electric Utilities shall be used.

(B) Gas Utilities. -- Operating property for natural gas utilities shall primarily include such properties as are considered by the Federal Energy Regulatory Commission (FERC) as part of the rate base for rate making

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purposes. In determining which properties are properly included as operating public utility property, the most recent FERC Uniform System of Accounts prescribed for Natural Gas Utilities shall be used.

(C) Gas Pipeline Utilities. - Operating property for natural gas utilities shall primarily include such properties as are considered by the Federal Energy Regulatory Commission (FERC) as part of the rate base for rate making purposes. In determining which properties are properly included as operating public utility property, the most recent FERC Uniform System of Accounts prescribed for Gas Pipeline Utilities shall be used.

(D) Telephone companies. - Operating property for telephone carriers shall primarily include such properties as are considered by the Federal Communications Commission (FCC) as part of the rate base for rate making purposes. In determining which properties are properly included as operating public utility property, the most recent FCC Uniform System

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of Accounts prescribed for Telephone Utilities shall be used.

(E) Telegraph Carriers. -- Operating property for telegraph carriers shall primarily include such properties as are considered by the Federal Communications Commission (FCC) as part of the rate base for rate making purposes. In determining which properties are properly included as operating public utility property, the most recent FCC Uniform System of Accounts for Wire-Telegraph and Ocean-Cable Carriers shall be used.

(F) Airline Companies. -- Operating property for air carriers shall primarily include such properties as are considered as operating property by the Civil Aeronautics Board (CAB). In determining which properties are properly included as operating property, the most recent CAB Uniform System of Accounts and Reports for Certified Air Carriers shall be used.

(G) Interstate Motor Carriers. -- Operating property for interstate motor carriers shall primarily include such properties as are

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considered as operating property by the Interstate Commerce Commission (ICC). In determining which properties are properly included as operating property, the most recent ICC Uniform System of Accounts for Common and Contract Motor Carriers of Passengers, and the most recent ICC Uniform System of Accounts for Class I and Class II Motor Carriers of Property shall be used.

(H) Interstate Railroads. -- Operating property for interstate railroads shall primarily include such properties as are considered as operating property by the Interstate Commerce Commission (ICC). In determining which properties are properly included as operating property, the most recent ICC Uniform System of Accounts for Railroad Companies shall be used.

(I) Intrastate Railroads. -- Operating property for intrastate railroads shall primarily include such properties as are considered by the West Virginia Public Service Commission (PSC) as operating property. In determining which properties are properly

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included as operating property, the most recent Uniform System of Accounts for Railroad Companies as prescribed by the Interstate Commerce Commission shall be used.

(J) Intrastate Motor Carriers. -- Operating property for motor carriers shall primarily include such properties as are considered as operating property by the West Virginia Public Service Commission. In determining which properties are properly included as operating property, motor carriers shall use the most recent Uniform System of Accounts for Common and Contract Motor Carriers adopted by the PSC.

(K) Water Utilities. -- Operating property for water utilities shall primarily include such properties as are considered by the Public Service Commission as part of the rate base for rate making purposes. In determining which properties are properly included as operating public utility property, water utilities shall use the most recent Uniform System of Accounts of the National Association of Regulatory Utility Commissioners

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for Class A and B, and Class C and D water utilities.

(L) Sewer Utilities. -- Operating property for sewer utilities shall primarily include such properties as are considered by the Public Service Commission as part of the rate base for rate making purposes. In determining which properties are properly included as operating public utility property, sewer utilities shall use the most recent Uniform System of Accounts of the National Association of Regulatory Utility Commissioners for Class A and B, and Class C and D sewer utilities.

(M) Carline Companies. -- Operating property for carline companies shall include consideration of Rolling Stock used in transportation of freight or passengers.

(N) Reorganization of Regulatory Bodies. -- In the event that there should be a reorganization of federal or state regulatory bodies, and any of the above public service corporations would be required to report to an agency other than that listed above or in the

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event that there should be any other utilities deemed taxable by the board of public works; operating property for such public service corporations shall include such properties as would be considered as operating by the appropriate state or federal regulatory body in the prescribed uniform system of accounts.

(O) Exceptions. -- Circumstances may arise where properties may be considered operating by the appropriate regulatory body but a portion of the property may be devoted to non-utility use. The Tax Commissioner may in these instances where deemed appropriate classify a portion of the property as non-operating and require that the non-operating portion so determined be assessed by the county assessor. In these instances adjustment to the public utility appraisal will be made to remove from the West Virginia unit values a proportionate value for such non-operating property.

Section 11.13(a)

11.13. Valuation of Vehicles, Watercraft and
Aircraft.

(a) General. -- This regulation provides the absolute methodology for valuing all vehicles, watercraft and aircraft.

(b) Definitions.

(1) Vehicles. -- The term "vehicle" shall include, but is not limited to, automobiles, trucks, truck tractors, trailers, motor homes, campers, motorcycles, motorbikes and mopeds.

(2) Assessment Day. -- The term "assessment day" means the first day of July of each assessment year for ad valorem property tax purposes.

(c) Valuation of Automobiles.

(1) The Tax Commissioner shall merge a computer listing of all passenger automobiles registered in the State of West Virginia by owner of record on the assessment day of each year, with a computer tape listing the values of all vehicles as reflected by a current National Automobile Dealers' Association (NADA) appraisal guide. The result of this program will be a list of motor vehicle owners on assessment day for each county, together

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with the motor vehicles they own, and an exact appraised value for each motor vehicle. This appraised value will be the base retail value as listed by the NADA appraisal guide.

(2) The county assessor shall review the annual appraisal list of motor vehicles. When a motor vehicle which is subject to assessment has been omitted from the appraisal list, the assessor shall use the current NADA appraisal guide furnished by the Tax Commissioner for the month of July of the current assessment year to ascertain the base retail value of the vehicle.

(3) Vehicle models over eighteen years old which are not covered by NADA appraisal guides shall be valued by the assessor in the following manner:

(A) Vehicles displaying "antique auto" license plates shall be individually appraised using the best information available.

(B) All other vehicles over eighteen years old will be valued at a standard value of \$200.

(d) Valuation of Trucks, Recreational Vehicles, Motorcycles, Mopeds and Other Vehicles.

(1) The local assessor shall use a current ap-

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praisal guide published by NADA, or other recognized authority, and furnished by the Tax Commissioner for the month of July of the current assessment year to ascertain the base retail value of such vehicles.

(2) Older vehicle models in this classification which are excluded from recognized appraisal guides because of their age, shall have their last appraised value depreciated by ten percent (10%) per year until the value reaches two hundred dollars (\$200). Thereafter, the appraised value will remain constant for so long as the vehicle is owned by the taxpayer.

(e) Valuation of Watercraft. -- The Tax Commissioner shall annually purchase a nationally recognized comprehensive price listing service for watercraft such as power boats, bass boats, canoes, row boats, pontoon boats, cabin cruisers, etc. The Tax Commissioner shall supply this listing to each county assessor beginning July 1, 1985, for use in determining the appraised value of watercraft.

(f) Valuation of Airplanes.

(1) The Tax Commissioner shall purchase and furnish to county assessors an aircraft appraisal guide from a nationally recognized authority. The

Section 11.13(f)

Tax Commissioner shall supply this listing to each county assessor beginning July 1, 1985, for use in determining the appraised value of the aircraft.

(2) The local assessors shall determine the appraised value of special radio equipment and radar and other avionic equipment purchased and installed in the aircraft. The total appraised value of the aircraft shall be determined based on the retail value of both the aircraft and its navigational equipment.

Section 11.14(a)

11.14. Taxpayer Returns.

(a) The Tax Commissioner shall print taxpayer return forms. Such forms shall be furnished to each assessor who will distribute said forms to taxpayers for completion and return.

(b) To assure equality and uniformity in administration, no assessor or taxpayer shall substitute or supplement any other form for the Tax Commissioner's prescribed returns, without the prior approval of the Tax Commissioner. All such approvals granted by the Tax Commissioner prior to the effective date of this rule is hereby withdrawn.

(c) Taxpayers reporting coal, oil, natural gas, timber, and other natural resources, properties, and all banks and savings and loan associations shall prepare property tax returns in duplicate. One copy shall be filed with the assessor of the county wherein the property lies; the other copy shall be filed with the State Tax Commissioner, P. O. Drawer 2389, State Capitol, Charleston, West Virginia 25305.

(e) All other taxpayers shall prepare one copy of appropriate property tax returns and file it with the assessor of the county wherein the real property lies, or where the taxpayer lives when reporting personal property.

(f) Public utility and common carrier property tax returns shall be filed no later than May 1st of each year.

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(g) All other property appraisal returns required by this rule shall be filed no later than November 1st of each year.

(h) The Tax Commissioner, for good cause shown, may grant an extension of filing deadlines. No assessor may grant such an extension of a deadline.

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PROPOSED
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STATE TAX DEPARTMENT
LEGISLATIVE
CHAPTER 11-1A
SERIES 1A
(1984)

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