



FILED

1965 APR -3 AM 11:25

DEPT. OF STATE VIRGINIA
SECRETARY OF STATE

STATE OF WEST VIRGINIA
SECRETARY OF STATE
Charleston 25305

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

BARBARA STARCHER
Deputy Secretary of State

RICHARD S. STEPHENSON
Deputy Secretary of State

Telephone: (304) 345-4000
Corporations: 345-8000

WILLIAM H. HARRINGTON
Chief of Staff

RICH O. HARTMAN
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

VIRGINIA SKEEN
Special Assistant

(Plus all the volunteer
help we can get)

PROPOSED RULES

STATE REGISTER FILING

=====

AGENCY State Tax Department

CONTACT PERSON Dale Steager PHONE 348 -5330

TYPE OF RULE Emergency - LEGISLATIVE

TITLE OF RULE Listing of interests in natural resources for purposes of the first statewide reappraisal as required by W. Va. Code §§ 11-1A-4, 11-1A-5 and 11-1A-26, and provision of penalties for failure to file the required return as authorized by W. Va. Code § 11-1A-25.

CHAPTER 11 ARTICLE 1A SERIES 1A

AUTHORITY 11-1A-1(f)

CHECK APPLICABLE ITEMS BELOW TO SHOW KIND OF ACTION BEING TAKEN

NEW RULE

NOTICE OF HEARING

AMENDMENTS TO EXISTING RULE

NOTICE OF AGENCY APPROVAL
(legislative rules only)

REPEAL OF EXISTING RULE

NOTICE OF AGENCY ADOPTION
(interpretive & procedural rules only)

NOTE: ALL FILINGS REQUIRE ONLY ONE COPY, EXCEPT FINAL FILING OF RULES WHICH REQUIRES AN ORIGINAL AND A COPY.

FINAL FILING

FIRST EMERGENCY FILING

SECOND EMERGENCY FILING



State Tax Department
of West Virginia

Charleston 25305

FILED

1985 APR -3 AM 11:25

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

ARCH A. MOORE, JR.,
GOVERNOR

April 3, 1985

Honorable Ken Hechler
Secretary of State
State Capitol Building
Charleston, WV 25305

Dear Mr. Hechler:

Pursuant to the provisions of Chapter 29A, Article 3 of the West Virginia Code of 1931, as amended, I hereby submit two (2) copies of Emergency Legislative Rules and Regulations promulgated by this Department relating to the listing of interests in natural resource properties on returns provided by this Department for purposes of appraising such property interests during the statewide reappraisal, and providing penalties for those who either have not filed or have falsely answered and filed the return required by this Department.

As required by W. Va. Code § 29A-3-15 (1982), sixteen (16) copies of these emergency rules and regulations will forthwith be delivered to the Legislative Review and Rule Making Committee.

These emergency regulations take effect April 3, 1985.

Very truly yours,



Michael E. Caryl
State Tax Commissioner

MEC/jms

Attachment

STATEMENT OF EMERGENCY

Whereas, W. Va. Code § 11-1A-4 (1983) requires that every person who owned property situated in this State on July 1, 1983, to, on or before December 1, 1983, prepare a return itemizing and describing such property, whether real or personal, and to file such return with the assessor of the assessment district wherein such property was located, except that those returns listing property of the public service commission businesses are required to be filed with the State Tax Commissioner.

Whereas, under the authority of W. Va. Code §§ 11-1A-1(f) and 29A-3-15, the Tax Commissioner promulgated and on October 4, 1984 filed in the State Register W. Va. Emerg. Leg. Reg. 11--A, Series 1A, § 4 (1984) which provided for the listing of property interests in natural resources located under the surface.

Whereas, W. Va. Code § 11-1A-4 (1983) requires the Tax Commissioner to design the form for this special one-time return and to provide means for the orderly listing of all property not excepted from listing under the provisions of W. Va. Code 11-1A-4 (1983).

Whereas, W. Va. Code § 11-1A-4 (1983) requires

that a similar return, itemizing and listing such property, be also made, at the same time, by every person holding, possessing or controlling real and personal property (tangible and intangible) as executor, receiver, agent, partner, attorney, president or accounting officer of a corporation, consignee, broker or in any representative or fiduciary capacity.

Whereas, even though W. Va. Code § 11-1A-5 excepts from listing real property assessed and listed upon the land books of the county assessor for 1983 or 1984 taxes, it is not known whether all real property has been so assessed and listed.

Whereas, there is no statutory requirement that there be recorded all leases entered into for the purposes of exploration, development, exploitation or removal from the surface or from below the surface of the ground, coal, oil and gas, minor minerals or other natural resources.

Whereas, W. Va. Code § 11-1A-8 (1983) requires that the property required to be described and listed pursuant to W. Va. Code § 11-1A-4 (1983) and the real property entered on land books for the 1983 and 1984 tax years, be categorized and systematically inventoried for the express purpose of ascertaining what the

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

previously assessed value for each item was or would have been as of July 1, 1983, such being done in accordance with guidelines, standards and procedures specified by the Tax Commissioner and entered into a statewide data bank established by the Tax Commissioner for such purposes.

Whereas the Tax Commissioner has entered into a contract with a private concern for the purpose of designing and developing the statewide data processing system network with such network forecast to be operational on or before July 1, 1985...

Whereas, W. Va. Code § 11-1A-23 (1983) specifies that property tax returns and return information filed or supplied pursuant to articles 1A, 3, 4, 5, or 6, Chapter 11 of the West Virginia Code, "shall be confidential and except as authorized by this section, no officer or employee of the state tax department, county assessors, county commissions and the board of public works shall disclose any return or return information obtained by him ... in any matter in connection with his service as such an officer, member or employee..."; excepted from this confidentiality provision is the itemized description of property listed pursuant to W. Va. Code §§ 11-1A-4, 11-1A-6 and

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

11-1A-26. This exception is to allow any person to ascertain that all property subject to assessment has been subject to appraisal during the first statewide reappraisal.

Whereas, it is imperative that in order for the statewide reappraisal to be complete, the Tax Commissioner must ask questions to assure that all natural resources, including leases to provide for the extraction of same, be listed on the return to be filed.

Whereas, the return form upon which was to be listed the interest owned or leased in natural resources was sent on or before October 15, 1984, to all prospective taxpayers by the Tax Commissioner and the return was to be returned directly to the Tax Commissioner on or before December 15, 1984.

Whereas, all persons possessing an interest in natural resources properties have not complied with the requirement of filing with the Tax Commissioner the return listing such property interests, even though such return was required to be filed on or before December 15, 1984.

Whereas, W. Va. Code §§ 11-1A-25 and 11-3-10 provide monetary penalties for refusal to answer or to falsely answer any question asked by the Tax Com-

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

missioner when such question or questions relate to the listing of real estate interests for the purpose of taxation.

Whereas, W. Va. Code §§ 11-1A-25 and 11-3-10, deny the taxpayer all remedies provided by law for the correction of any appraisal made by the Tax Commissioner when such appraisal is the result of the taxpayer's refusal to answer or to falsely answer any question asked by the Tax Commissioner when such question or questions relate to the listing of real estate interests for the purpose of taxation.

Whereas, the Tax Commissioner determined that an emergency exists requiring immediate promulgation of legislative regulations pertaining in general to the appraisal listing returns and in specific to those appraisal listing returns not properly filed, in order to comply with the time limitations prescribed by W. Va. Code § 11-1A-4, and to prevent substantial harm to the public interest.

Wherefore, the Tax Commissioner determined that it was and is in the best interest of persons owning, holding, possessing or controlling interests in real property and the natural resources located therein and of this State for the following emergency regulations

to be filed in the State Register, in order that the provisions thereof become effective immediately upon filing, as provided in W. Va. Code 29A-3-15, so that the Tax Commissioner may promulgate regulations on: property to be listed upon the appraisal return; to whom and by when the return is to be sent, to whom and by when the return is to be returned, and to assure equal and uniform taxation by providing for the filing of all returns; confidentiality of appraisal returns and the safekeeping measures to be utilized in protecting that confidentiality; application of the forfeiture penalty and other penalties provided by law for failing to file an appraisal return or for failure to file a complete appraisal return; and on other problems identified in this Statement of Emergency, in order to preserve and protect the integrity of the statewide reappraisal and the public's confidence therein which are essential to obtaining equal and uniform appraisal of the natural resources located in or under the real property in this State.



KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

BARBARA STARCHER
Deputy Secretary of State

RICHARD S. STEPHENSON
Deputy Secretary of State

Telephone: (304) 345-4000
Corporations: 342-8000

WILLIAM H. HARRINGTON
Chief of Staff

RICH O. HARTMAN
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

VIRGINIA SKEEN
Special Assistant

(Plus all the volunteer
help we can get)

STATE OF WEST VIRGINIA
SECRETARY OF STATE

Charleston 25305

NOTICE OF EXPIRATION OF AN EMERGENCY RULE

AGENCY: State Tax Department

RULE TITLE: Listing of Interests in Natural Resources for Purposes of the
First Statewide Reappraisal.

THE ABOVE EMERGENCY RULE WILL EXPIRE ON December 29, 1986

PURSUANT TO WEST VIRGINIA CODE 29A-3-15 THE ABOVE EMERGENCY RULE HAS
BEEN IN EFFECT FOR THE MAXIMUM TIME PERIOD OF FIFTEEN MONTHS. THIS
EMERGENCY RULE WAS FILED ON April 3, 1985. THE PROPOSED
RULE IS SCHEDULED TO BE PRESENTED TO THE 1987 LEGISLATURE.

Rich O. Hartman, Director
Administrative Law Division

STATE OF WEST VIRGINIA
1986 DEC 23 PM 5:45
FILED