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NOTICE OF AGENCY APPROVAL

LEGISLATIVE RULE: Guidelines For Assessors To Assure Fair And Uniform
Nonutility Personal Property Values

The attached legislative rule constitutes the official rule approved by
the State Tax Department
on 11th day of August, 1986 and filed pursuant to law with the West
Virginia Secretary of State and the Legislative Rule-Making Review
Committee.


STATE TAX COMMISSIONER

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SECRETARY OF STATE

APPROVED PROPOSED
WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE TAX DEPARTMENT
Chapter 11-1A
Series IV
(1986)

Filed: August 11, 1986

Guidelines For Assessors To Assure Fair And Uniform Nonutility Personal
Property Values

Title 110

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STATE TAX DEPARTMENT
Chapter 11-1A
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SECRETARY OF STATE

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*Guidelines for Assessors to Assure Fair and Uniform
Nonutility Personal Property Values*

Section 1. General.

1.1 Type of Regulation. -- These regulations are emergency legislative regulations as defined in W. Va. Code §§ 29A-1-2(d) and 29A-3-15(d).

1.2 Scope. -- These regulations relate to W. Va. Code § 11-1A-29a and provide guidelines to the several county assessors so as to ensure fair and uniform values of nonutility personal property within each county and among all counties in this State.

1.3 Authority. -- *W. Va. Code § 11-1A-29a and 29A-3-15(d)*
These emergency legislative regulations are issued under the authority of W. Va. Code §§ 11-1A-29a and 29A-3-15(d).

1.4 Filing Date. -- These emergency legislative regulations were promulgated and filed in the State Register on June 30, 1986, and were refiled as agency approved legislative regulations on August 11, 1986.

1.5 Effective Date. -- These emergency legislative regulations become effective immediately upon filing and are effective for a period of fifteen months thereafter.

1.6 Citation. -- These emergency legislative regulations may be cited as W. Va. Emerg. Leg. Reg. 11-1A, Ser. IV, § _____, page _____ (1986).

Section 2. Definitions. -- As used in this rule and unless the context clearly requires a different meaning, the following terms shall have the meanings ascribed herein, and shall apply in the singular or in the plural.

2.1 Appraisal or Appraisement, the Appraisal or the Appraisement. -- The terms "the appraisal" or "the appraisement", "appraisal" or "appraisement" shall mean the appraisement of property which was made or performed following the adoption of and pursuant to the amendment to Article X, Section 1b of the Constitution of West Virginia adopted in the year one thousand nine hundred eighty-two and also pursuant to article one-a of this chapter, and any modifications and revisions made thereto prior to the effective date of this article, subject however, to those exemptions subsequently granted by the amendments to Section 1a of said Article X of the Constitution adopted in the year one thousand nine hundred eighty-four.

2.2 Assessed Property or Taxable Property. -- The terms "assessed property" or "taxable property" shall mean and include all real estate and personal property or interests therein which were required to be appraised pursuant to Article X, Section 1b of the Constitution of this state, as amended in the year one thousand nine hundred eighty-two (except as may be exempted from ad valorem taxation by the provisions of Article X, Section 1a of the Constitution of this state as amended in the year one thousand nine hundred eighty-four) and any statute or statutes subsequently enacted which would implement such amendment and, with respect to real property, any and all improvements or structures thereon or attached thereto.

2.3 Assessed Value. -- The term "assessed value" shall mean any item of property is its assessed value after the certification of the first statewide reappraisal and shall be sixty percent of its appraised value of such item of property regardless of its class or species, except as hereinafter specifically provided in this article.

2.4 Electronic Data Processing System Network. -- The words "electronic data processing system network" and "network" shall mean the statewide electronic data processing system network required by W. Va. Code § 11-1A-21.

2.5 Intangible Personal Property. -- The words "intangible personal property" and "intangible property" shall have the same meaning ascribed to them in Section 11.11 of these regulations. See W. Va. Leg. Reg. 11-1A, Series IA, § 11.11(f)(12), page 148 (1984).

2.6 Personal Property. -- The words "personal property" as used in this rule, shall include all fixtures attached to land (if not included in the valuation of such land entered in the proper land book); all things of value, moveable and tangible, which are the subjects of ownership; all chattels (real and personal); and all notes, bonds, and accounts receivable, stocks and other similar intangible property that are subject to ad valorem property taxes. See W. Va. Code § 11-5-3.

2.7 Property. -- The term "property" shall mean and include both real and personal property, tangible as well as intangible, unless the context in which the term is used clearly requires a less inclusive meaning.

2.8 Protestor. -- The term "protestor" shall mean any taxpayer of ad valorem property tax in any West Virginia county who petitions the county commission to hold a hearing to hear challenges to the appraisal of property.

2.9 Tax Commissioner. -- The term "Tax Commissioner" shall mean the State Tax Commissioner of West Virginia or his delegate and the mailing address for the Tax Commissioner's office is: P. O. Box 2389, Charleston, WV 25328.

2.10 Value, Market Value, And True And Actual Value. -- The terms "value", "market value" and "true and actual value" shall have the same meaning and shall mean the price at or for which a particular parcel or species of property would sell if it were 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: Provided, that in determining 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 situate over a period of not less than three nor more than eight years next preceding the base year and in the case of a farm or farms shall be determined assuming such land is being used for farming purposes. In addition, the commissioner may, for purposes of appraisement of any tract or parcel of real property, or chattels, real or other species of property, real or personal, take into account one or more of the following factors: (1) The location of such property; (2) its site characteristics; (3) 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; (4) the quantity of size of the property and the impact which its sale may have upon surrounding properties; (5) if purchased within the previous eight years, the purchase price thereof and the date of each such purchase; (6) recent sale of, or other transactions involving, comparable property within the next preceding eight years; (7) the value of such property to its owner; (8) the condition of such property; (9) the income, if any, which the property actually produces and has produced within the next preceding eight years; and (10) any commonly accepted method of ascertaining the market value of any such property, including techniques and methods peculiar to any particular species of property if such technique or method is used uniformly and applied to all property of like species.

Section 3. Assessor's Activities.

3.1 Responsibilities Of The Assessor. -- It is the duty of the several county assessors, sheriffs, county commissions, and Tax Commissioner, to expend the maximum efforts to assist in ascertaining the true and actual value of all nonutility personal property as of the base year of 1983.

3.1.1 It also is their individual and collective duty to see to the proper and fair valuation of property within their respective counties in order to accomplish the objective of equal and uniform valuation for property tax purposes..

3.1.2 It is the responsibility and duty of each county assessor to see to the proper and accurate valuation of all nonutility personal property appraised pursuant to West Virginia Code § 11-1A-1 et seq.

3.2 Personal Property Review Guidelines. -- The State Tax Commissioner shall provide assessors with a list of all nonutility personal property. The assessor shall review this list and the appraised values therein and make such adjustments as will render the appraisal equal and uniform.

3.2.1 In order to make appropriate determinations so as to ensure an equal and uniform appraisal, the assessor should consider all available information to include but not be limited to the following items:

3.2.1.a Properly completed personal property returns filed by business property owners containing information with respect to items of personal property and value as of each July 1 assessment day, inclusive of July 1, 1983, preceding and succeeding years. These returns will provide comparative information as returns by the property owner relative to the true and actual value of the property as of each assessment day.

3.2.1.b Tax Department appraisals indicating the opinion of the Tax Department concerning the true and actual value of personal property as of a particular day. Since appraisals available from the Tax Department may vary with regard to the year upon which the estimate of value is based, assessors should be mindful that the objective of their statutory responsibility involves the determination of value as of 1983.

3.2.1.c Appraisal performed by the assessor' office indicating the true and actual value of personal property as of the date of the appraisal.

3.2.1.d Information involving estimates of value in addition to property returns, supplied by property owners. This information may consist of sale prices of individual properties or book values as indicated on the books and records of the business being appraised.

3.2.1.e Any financial statements made available by the business that would tend to indicate the value attributable to nonutility personal property assets of the business.

3.2.1.f Information obtained with respect to the nonutility personal property of a business as a result of a canvass conducted by the assessor's office through routine annual assessment activities.

3.2.1.g Information contained on the personal property books of the county indicating the assessed value of personal property. Care must be taken to insure that the assessed value contained on the property books is converted to an estimate of market value for ensuring a fair comparison.

3.2.2 In addition to the foregoing sources of value information, assessors are encouraged to communicate with each other concerning information which may relate to similar items located in and assessed throughout the several counties of the State. Assessors may further accept and solicit information with respect to value from other county offices and any other source where information relevant to determining the 1983 market value of property for appraisal purposes may reside.

3.2.3 Initial Appraisals -- Assessors judgment shall be weighed against the appraised value provided previously evidencing the initial appraised value of the statewide reappraisal. Changes in value based upon the assessor judgment will be made to the initial appraisal. In instances where no change is made by the assessor to an appraisal previously supplied evidencing a 1983 market value estimate, it will be presumed that the initial appraisal as provided is correct for purposes of the statewide reappraisal and will be used for determining property values for the first year of the statewide reappraisal, absent any change in circumstances involving the property subsequent to the base year affecting the value.

3.2.4 Field canvass. -- To the extent that resources permit, assessors are encouraged to canvass those business personal property accounts located in their county where information available is, in the judgment of the assessor, insufficient to form an opinion concerning the 1983 market value for appraisal purposes. A detailed inventory of the personal property should be obtained from the property owner.

3.3 Posting Of New Values. -- The assessor shall post any change in the value of any item of personal property to the county personal property appraisal list previously supplied by the Tax Commissioner.

3.3.1 The assessor shall proceed with all deliberate speed in the task of reviewing personal property values. In those instances where the assessor believes that the value contained in the initial appraisal is incorrect when compared to the estimate of value derived through the assessors efforts, the assessor shall provide or cause to be provided a notice of the new appraised value of personal property to the current owner thereof. This notice shall state the property identification number, the tax class, the owner's name, the old appraised value and the new appraised value. This notice should further advise the property owner of the appeal rights provided in accordance with W. Va. Code § 11-1B-1 et seq., and it shall allow sufficient opportunity to determine whether appeal to the county commission is appropriate.

3.3.2 The assessor shall make every effort to provide such notice to the current property owner by August 15, 1986, in order that the property

owner may file a petition for review of the valuation with the county commission on or before September 2, 1986. If the notice is received by the property owner on or after August 20, 1986, the property owner shall be provided from the date of such late notice a two week time period within which to file a petition for review; provided, however, that in no event may such petition for review be filed after September 15, 1986. If subsequent to September 2, 1986 or in the event of a late notice the running of the two week time period, the property owner discovers new information which will affect the property valuation, he may file a petition for review in accordance with the requirements and procedures provided in W. Va. Code § 11-1B-15.

3.3.3 Defense Of Value. -- The assessor shall be available to provide information with respect to the value of personal property subject to administrative appraisal review board activities when requested by the State Tax Commissioner, the property owner, the county commission, or other interested parties. The assessor may further provide assistance and information to the county commission with respect to any value resulting from the statewide property reappraisal, including those estimates of value of nonutility personal property provided by the assessor.

3.3.4 Notice Of Change Listing. -- The assessor shall prepare a list of personal property appraisal changes resulting from the required notice. This list shall indicate the owner, property identification number, and old and new appraised value. The assessor shall supply this list to the Tax Commissioner no later than October 1, 1986.

Section 4. Tax Commissioner Activities

4.1 Responsibilities Of The Tax Commissioner.

4.1.1 The Tax Commissioner shall review each assessor's work to ensure that guidelines and instructions developed by the Tax Commissioner were uniformly followed.

Section 5. Rights To A Hearing

5.1 Who Has A Right To A Hearing. -- The taxpayer, Tax Commissioner and protestor may each appeal the assessor's decision on the value of personal property pursuant to the procedures provided in W. Va. Code § 11-1A-1 et seq. and 11-1B-1 et seq.



State Tax Department
of West Virginia

Charleston 25305

ARCH A. MOORE, JR.
GOVERNOR

August 11, 1986

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CLERK OF WEST VIRGINIA
SECRETARY OF STATE

MICHAEL E. CARYL
COMMISSIONER

JOHN F. LEABERRY
ASSISTANT COMMISSIONER

The Honorable Ken Hechler
Secretary of State
State Capitol
Charleston, West Virginia 25305

Dear Mr. Hechler:

In accordance with W. Va. Code § 29A-3-9, the State Tax Department is today filing in the State Register the agency approved legislative rule which provides guidelines to the several county assessors so as to ensure fair and uniform values of nonutility personal property within each county and among all counties in this State.

This rule is promulgated pursuant to authority granted in W. Va. Code §§ 11-1A-29a and 29A-3-15(d).

This legislative rule was filed in the State Register as an emergency legislative rule on June 30, 1986. A public comment period commenced on the date of filing and continued until 5:00 p.m. on July 31, 1986. The emergency legislative rule was filed with the Legislative Rule-Making Review Committee on July 20, 1986. No comments have been received from the public. This legislative rule has not been modified subsequent to being filed as an emergency legislative rule.

Very truly yours,



Michael E. Caryl
State Tax Commissioner

MEC/jmt