

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

Form #3

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SECRETARY OF STATE
WEST VIRGINIA

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

AGENCY: State Tax Department TITLE NUMBER: 110

CITE AUTHORITY W. Va. Code §11-10-5

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

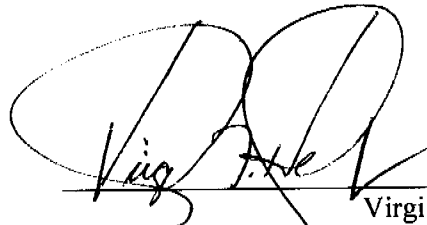
TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 1L

TITLE OF RULE BEING PROPOSED: Repeal of Valuation of Intangible Personal Property Including Stock, Accounts

Receivable and Stock in Banks and Capital of Savings and Loan Associations

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



Virgil T. Helton
Cabinet Secretary of the Department of Revenue

QUESTIONNAIRE

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

DATE: August 29, 2008

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

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

LEGISLATIVE RULE TITLE: Title 110, Series 1L

1. Authorizing statute(s) citation W. Va. Code 11-10-5

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

May 20, 2008

b. What other notice, including advertising, did you give of the hearing?
None.

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

July 3, 2008 at 5pm

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 29, 2008 before 3pm

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

Mark Morton, General Counsel for Revenue Operations
304-558-5330
fax: 304-558-8728
email: MMorton@tax.state.wv.us

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

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

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

b. Date of hearing or comment period:

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

d. Attach findings and determinations and reasons:

Attached

SUMMARY OF LEGISLATIVE RULE 110-1L

The proposed rule repeals Title 110, Series 1L, relating to the valuation of intangible personal property. West Virginia no longer taxes such property, therefore the rule is unnecessary.

1. Effect of Proposed Rule

	Annual Increase	Annual Decrease	Fiscal Year Current	Fiscal Year Next	Fiscal Year Thereafter
Estimated Total Cost	\$0	\$0	\$0	\$0	\$0
Personal Services	\$0	\$0	\$0	\$0	\$0
Current Expense	\$0	\$0	\$0	\$0	\$0
Repairs & Alterations		\$0	\$0	\$0	\$0
Equipment	\$0	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$0	\$0	\$0

2. Explanation of above estimates:

The Property Tax on intangibles was previously repealed by Statute. Therefore, the repeal of the legislative Rules concerning the taxation of intangibles has no fiscal impact.

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TITLE 110
LEGISLATIVE RULE
TAX DEPARTMENT

SIC 1100 STATE
STATE OF WEST VIRGINIA

SERIES 1L

REPEAL OF VALUATION OF INTANGIBLE PERSONAL PROPERTY INCLUDING STOCK,
ACCOUNTS RECEIVABLE AND STOCK IN BANKS AND CAPITAL OF SAVINGS AND LOAN
ASSOCIATIONS FOR AD VALOREM PROPERTY TAX PURPOSES

~~§110-1L-1. General.~~

~~1.1. Scope. -- These regulations clarify and implement state law as it relates to the appraisal at market value of certain species of intangible personal property. Because these regulations provide context modifications of relevant parts of 110 C.S.R. 1 and such regulations with context modifications were adopted by the Tax Commissioner, W. Va. Code §11-1C-5(b) eliminates the requirement that this filing be subject to the procedural requirements in W. Va. Code §29A-3-1 et seq.~~

~~1.2. Authority. -- W. Va. Code §11-1C-1 et seq.~~

~~1.3. Filing Date. -- July 26, 1991~~

~~1.4. Effective Date. -- July 26, 1991.~~

~~§110-1L-2. Property subject to this rule.~~

~~All Class I intangible property subject to statewide reappraisal having a taxable situs in this State shall be valued in accordance with this rule. The term "Class I Intangible Property" means and includes only notes, bonds, bills and accounts receivable, stock and other similar intangible personal property. Provided, That it does not include:~~

~~2.1. Money and bank deposits which West Virginia Constitution art. X § 1a exempts from tax.~~

~~2.2. Bonds and other evidences of debt of this State, or of a political subdivision or authority thereof, which West Virginia Const. art. X, § 1 permits the Legislature to exempt from tax and which by law have been exempted from tax. See Appendix B for a list of statutes exempting these obligations and securities from tax.~~

~~2.3. Bonds and other evidences of debt which are direct obligations of the United States, or of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from ad valorem property taxation by the states and their political subdivisions.~~

~~2.4. Any other note, bond, bill, account receivable, stock or other evidence of debt that does not have a taxable situs in this State.~~

~~2.5. Shares of capital stock owned by residents of this State in corporations actually located in other states, and whose property is taxed by the laws of such other states, are exempt from tax under W. Va. Code §11-5-1 (1961).~~

~~2.6. Any share, portion or interest owned by any person in a company, whether incorporated or not, when the property, stock or capital thereof is assessed to such company, is exempt from tax under W. Va. Code §11-5-5.~~

~~§110-1L-3. Definitions:~~

~~As used in these regulations and unless the context clearly requires a different meaning, the following terms shall have the meaning ascribed herein, and shall apply in the singular or in the plural:~~

~~3.1. "Bank Deposits" means a deposit of money with any person engaged in the business of banking. It includes money on deposit in a checking, time, interest or savings account, and certificates of deposit (including money market certificates and All Savers Certificates). The term "Person Engaged in the Business of Banking" means and includes banks, building and loan associations, industrial banks, industrial loan companies, supervised lenders, credit unions and all other similar institutions, whether persons, firms or corporations, which are by law under the jurisdiction and supervision of the West Virginia Commissioner of Banking, the Federal Reserve Board or the United States Comptroller of the Currency.~~

~~3.2. "Bills Receivable" and "Accounts Receivable" mean debts owed to a person that arise in the normal course of business dealings and are not supported by negotiable paper.~~

~~3.2.1. Open account. — Type of credit extended by a seller to buyer which permits buyer to make purchases without a note or security and it is based on an evaluation of the buyer's credit. Such account may be mutual, or provide open credit or open-end credit.~~

~~3.2.2. Open credit. — Line of credit extended up to a certain amount by a merchant, bank or supplier so as to permit borrowings or purchases to such amount without posting security or reestablishing credit limit.~~

~~3.2.3. Open-end credit. — Credit cards and "Revolving Charges" where one can pay a part of what he owes each month on several different purchases.~~

~~3.2.4. Trade acceptance. — A trade acceptance means a draft drawn by a seller which is presented for signature (acceptance) to the buyer at the time goods are purchased and which then becomes the equivalent of a note receivable of the seller and the note payable of the buyer.~~

~~3.2.5. Bills and accounts receivable. — The term "Bills and Accounts Receivable" embraces only contract obligations, express or implied, owing to a person on open account. Bills and accounts receivable subject to appraisal includes the following:~~

~~3.2.5.1. Trade accounts, trade acceptances, open book accounts and charge accounts acquired in connection with any trade or business.~~

~~3.2.5.2. Revolving type charge accounts, even though interest may be required on the balance~~

due:

~~3.2.5.3. Credit balances (including credits resulting from "Short Sale" transactions) on accounts with investment brokers and security dealers.~~

~~3.2.5.4. Dealer reserves and finance reserves which are due from a person engaged in the business of banking.~~

~~3.2.5.5. The total amount of periodic or progress billings (excluding retainage) to which a contractor is entitled under terms of contracts in progress.~~

~~3.2.5.6. Accounts receivable of all persons and businesses whether operating on a cash basis or accrual basis for income tax purposes.~~

~~3.2.5.7. Accounts receivable of professional associations and professional persons (doctors, dentists, attorneys, accountants, etc.) when such accounts represent amount owing to them for professional services.~~

~~3.2.5.8. Loans to affiliated companies and other intercompany receivables of corporations which are not evidenced by a note or similar instrument. See Section 6.2.1 for loans secured by a note.~~

~~3.2.5.9. Accrued rent which is due and payable but not received on or before the valuation date.~~

~~3.2.5.10. Royalties which are due but not received on or before valuation date.~~

~~3.2.5.11. Receivables of banks under retail credit card plans.~~

~~3.2.5.12. Accounts receivable which have a business commercial or taxable situs in West Virginia, even though such accounts may be owned by a nonresident or foreign corporation. See Section 6.4 for rule regarding situs.~~

~~3.2.15.13. Loans and other receivables which are not evidenced by a note or similar instrument.~~

3.3. "Bonds" means a certificate or evidence of debt on which the issuing company or governmental body promises to pay the bondholders a specified amount of interest for a specified length of time, and to repay the loan on the expiration date. In every case a bond represents debt. Commonly, bonds are secured by a mortgage or lien on specific property.

3.3.1. "Bonds" includes annuity bonds, bearer bonds, callable bonds, chattel mortgage bonds, collateral trust bonds, convertible bonds, corporate bonds, coupon bonds, debenture bonds, general mortgage bonds, general obligation bonds, government bonds, guaranteed bonds, improvement bonds, income bonds, state bonds and subordinate bonds.

3.3.2. Bonds subject to appraisal include the following:

3.3.2.1. Bonds of both domestic and foreign corporations.

~~3.3.2.2. Bonds of other states and their political subdivisions.~~

~~3.3.2.3. Bonds of public housing authorities organized under the laws of other states.~~

~~3.3.2.4. Bonds and other similar debt instruments which are obligations of nonexempt quasi governmental agencies, commercial banks or other mortgage lenders, even though such instruments may be guaranteed as to payment by the United States Government.~~

~~3.3.2.5. Bonds issued by commercial banks or other financial institutions.~~

~~3.4. "Business Situs" means 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 this State.~~

~~3.5. "Cash" includes all United States and foreign currency and coin. Individual coin collections are treated as cash and exempt, unless the collection is being held or maintained for the purpose of future profit. In such case, the collection is valued as tangible personal property. Coin collections of dealers are considered to be inventory and are also valued as tangible personal property.~~

~~3.6. "Commercial Domicile" means the state or other location where a corporation or other business has established its principal office or chief place of business.~~

~~3.7. "Credit Card" means any instrument or device, whether known as a credit card, credit plate, or by any other name, issued with or without a fee by an issuer for the use of the cardholder in obtaining money, goods, services, or any other thing of value.~~

~~3.8. "Debenture" means a bond or promissory note backed by the general credit of a corporation and usually is not secured by a mortgage or lien on any specific property.~~

~~3.8.1. Convertible debenture. → A debenture which may be changed or converted into some other security (e.g. stock) usually at the option of the holder.~~

~~3.8.2. Convertible subordinate debenture. → A debenture which is subject or subordinate to prior payment of other indebtedness but which may be converted into another form of security.~~

~~3.8.3. Sinking fund debenture. → A debenture which is secured by periodic payments into a sinking fund, commonly managed by a trustee for purposes of retiring such debt.~~

~~3.8.4. Subordinate debenture. → A debenture which is subject to or subordinate to prior payment of other indebtedness.~~

~~3.9. "Domestic Corporation" means any corporation organized and chartered under the laws of West Virginia.~~

~~3.10. "Evidence of Debt" means a written instrument entered into by two (2) or more parties whereby one~~

~~(1) party acknowledges in writing a debt of money as owing or payable to another party.~~

~~3.11. "Foreign Corporation" means any corporation organized and chartered under the laws of another state or foreign country.~~

~~3.12. "Intangible Personal Property" or "Intangible Property" means personal property which is not in itself valuable, but derives its value from that which it represents.~~

~~3.13. "Letter of Credit" means a letter whereby one person requires some other person to advance money or give credit to a third (3rd) person, and promises to repay the same to the person making the advancement.~~

~~3.14. "Money" means and includes cash, personal and business checks, cashiers' checks, certified checks, postal money orders, travelers' checks and express checks, bank credit card (Master Card, Visa, etc.) sales drafts or sales slips held by a merchant or other party for deposit with a bank, and other items commonly thought of and understood to be money. It does not include notes, bonds, bills and accounts receivable, stock and any other similar intangible personal property. See 48 Op. Att'y. Gen. 63 (1959); W. Va. Code §11-5-3 (1961), defining "Personal Property," and §11-8-5 (1961), classifying property for ad valorem property taxation.~~

~~3.15. "Notes" means and includes any writing signed by the maker, containing an unconditional promise to pay a sum certain in money, on demand or at a definite time. The note may be payable to a named person(s) or to bearer, and may be either negotiable or non-negotiable. "Note" includes circular notes (letters of credit), collateral notes, demand notes, installment notes, joint and several notes, mortgage notes, negotiable notes, secured notes, time notes and unsecured notes. The term "Note" does not include money, documents of title or investment securities. Notes subject to appraisal include the following:~~

~~3.15.1. Personal and business notes receivable.~~

~~3.15.2. Notes and evidence of debt whether secured or unsecured.~~

~~3.15.3. Mortgage notes receivable.~~

~~3.15.4. Notes of debt held by corporations which represent amounts due from subsidiary or affiliated corporations.~~

~~3.15.5. Commercial paper and participation certificates, whether originally issued or resold.~~

~~3.15.6. All loans and other receivables which are evidenced in writing by a note.~~

~~3.16. "Other similar intangible personal property" means any other evidence of indebtedness that is not a note, bond, bill and account receivable or stock. It includes the following:~~

~~3.16.1. Conditional sales contracts - written agreements whereby title to property sold remains with the seller until paid in full.~~

~~3.16.2. Investment contracts and accumulation plans.~~

~~3.16.3. Land sales contracts.~~

~~3.16.4. Repurchase agreements issued by financial institutions, notwithstanding that such may be secured by tax exempt government securities.~~

~~3.17. "Property Situated in this State" means and includes:~~

~~3.17.1. Property having legal situs in this State; or~~

~~3.17.2. In the case of a person with a place of business located in this State and authorized to do business in this State and one (1) or more other states of the United States or any foreign country:~~

~~3.17.2.1. Any intangible property brought into this State from time to time or otherwise deemed to have situs in this State for purposes of ad valorem property taxation, and~~

~~3.17.2.2. Any intangible property held by such person, wherever evidenced thereof is situate.~~

~~3.18. "Stock" means the capital or principal fund of a corporation or joint stock company derived from contributions of subscribers or the sale of shares. "Stock" is distinguishable from "Bonds" and, ordinarily from "Debenture," in that it gives the right of ownership in part of the assets of the corporation and the right to interest in any surplus after payment of debt. It includes the following: preferred stock, assessable stock, blue-chip stock, bonus stock, callable preferred stock, common stock, control stock, convertible stock, cumulative preferred stock, cumulative stock, donated stock, letter stock, listed stock, nonassessable stock, nonecumulative preferred stock, nonecumulative stock, nonvoting stock, no par stock, participation preferred stock, participation stock, par value stock, penny stock, premium stock, redeemable stock, registered stock, restricted stock, stock options, stock rights, stock warrants, treasury stock, unlisted stock and voting stock.~~

~~3.18.1. The term "Stock" includes the following:~~

~~3.18.1.1. Stock of both domestic and foreign corporations:~~

~~3.18.1.2. Unregistered stock, restricted stock, letter stock and stock which is closely held and not traded on the market.~~

~~3.18.1.3. Shares and units of ownership of mutual funds, investment trusts and investment funds, the value of which may not be reduced in whole or in part by reason of the nontaxable or exempt status of securities or obligations held in the fund or trust.~~

~~3.18.1.4. Shares and units held in brokerage accounts, including those purchased on margin.~~

~~3.18.1.5. Shares and units held or controlled, or both, by fiduciaries (executors, administrators, pension plans, guardians, etc.) which are reportable by the fiduciary.~~

~~3.18.1.6. Shares of stock owned by corporations in affiliated or subsidiary corporations.~~

~~3.18.1.7. Shares of stock in holding companies, including bank and insurance holding companies.~~

~~3.18.1.8. 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.~~

~~3.18.1.9. 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 in another state.~~

~~3.19. "Taxable Situs" means the state where intangible personal property is subject to taxation.~~

~~3.20. "Value," "Market Value" and "True and Actual Value" mean the price at or for which a particular 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.~~

~~§110-1L-4. Situs of Intangible.~~

~~4.1. In general. - All intangible personal property owned by residents of West Virginia is generally 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 intent of this provision 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.~~

~~4.2. Considerations. - Criteria applicable in determining whether intangible property has a tax situs in West Virginia includes the following:~~

~~4.2.1. All intangible personal property owned by natural persons who are 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 currently physically located) unless the owner establishes that it has a tax situs in another state and that ad valorem property taxes are actually paid in that other state.~~

~~4.2.2. 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 (regardless of where such intangible property was originally acquired or where it is currently located) unless such person establishes that it has a tax situs in another state and that ad valorem property taxes are actually paid in that other state.~~

~~4.2.3. 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, That any intangible property of such corporations which (i) has acquired a business situs in another state, and (ii) is lawfully subjected to that state's intangible property tax is not subject to appraisal in West Virginia.~~

~~4.2.4. 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, 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 were approved or evidence thereof is currently located if such debt or debts were created or acquired as a result of any one (1) or more of the following:

4.2.4.1. ~~The selling of property in West Virginia by an officer, employee or agency having or reporting to an office or other business location in this State.~~

4.2.4.2. ~~The delivery of property in West Virginia from a factory, warehouse or other stock of goods located in this State.~~

4.2.4.3. ~~Services performed in West Virginia by an officer, employee or agent having or reporting to an office or other business location in this State.~~

4.2.4.4. ~~The lending of money in West Virginia by an officer, employee or agent having or reporting to an office or other business location in this State.~~

4.2.5. ~~W. Va. Code §11-5-6 (1933) provides that "when the property, stock or capital of any company, whether incorporated or not, is assessed to such company, no person owning any share, portion or interest therein shall be required to list the same or be assessed with the valuation thereof."~~

4.2.6. ~~Shares and units sold prior to the date of valuation are not subject to appraisal. However, if the proceeds from such sales are not received before the date of valuation, the person has an account receivable (credit balance) which is subject to appraisal.~~

~~§110-1L-5. Valuation of Class I Intangibles:~~

~~Class I intangible personal property shall be valued in the following manner in order to assure that the appraised value of such property is determined in an "Equal" and "Uniform" manner throughout this State:~~

~~5.1. Notes:~~

~~5.1.1. Valuation of notes unsecured by realty. → The value of a note is presumed to be the amount of the unpaid principal as of the valuation date. The taxpayer may establish a lesser value by submitting to the Tax Commissioner satisfactory evidence that the note is worth less than the unpaid amount because of the debtor's insolvency or similar reason:~~

~~5.1.2. Valuation of notes secured by realty. → All notes for the payment of money which are secured by a written lien upon West Virginia real property shall be valued at the principal amount of the indebtedness evidenced by the note. The principal amount of indebtedness shall equal the amount of the loan financed, including any miscellaneous charges included in the amount financed, but shall not include unearned and unaccrued interest over the term of the loan. Such value may be reduced if the taxpayer submits to the Tax Commissioner satisfactory evidence that the note's face value is not the market value of the note.~~

~~5.1.3. Accrued interest. → Any accrued interest due on a note that is not paid on or before the valuation date, shall be included when determining the appraised value of the note.~~

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~~5.1.4. Burden of proof. The burden of proof shall be on the person seeking a lower or higher value than that determined under the preceding paragraphs to show by cogent evidence that such value is not the market value of the note.~~

~~5.2. Bonds and debentures:~~

~~5.2.1. The appraised 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 on the valuation date.~~

~~5.2.2. The appraised value of bonds and debentures traded over-the-counter is the closing bid price as quoted by the over-the-counter market on the valuation date.~~

~~5.2.3. If bonds and debentures are not regularly traded and quoted values are not available, the appraised value is the amount of the unpaid principal or face amount of the bond or debenture, unless cogent evidence is furnished to prove that the actual value is different than that amount.~~

~~5.2.4. Any accrued interest due on bonds and debentures should be included in determining their appraised value.~~

~~5.2.5. The burden of proof shall be on the person seeking a lower or higher value than that determined under the preceding paragraphs to show the cogent evidence that such value is not the market value of the bond or debenture.~~

~~5.2.6. When the valuation date is not a business day, then the closing price on the last business day preceding the valuation date shall be the appraised value.~~

~~5.2.7. 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.~~

~~5.3. Bills and accounts receivable:~~

~~5.3.1. The appraised value of all accounts receivable is the face value of such receivables as reflected on the books and records of the owner.~~

~~5.3.2. In determining the face value of accounts receivable, a reasonable deduction will be allowed for uncollectible accounts, provided such deduction is based on generally accepted accounting principles.~~

~~5.3.3. The appraised value of any account receivable which is in dispute or which is due from a party whose solvency is doubtful shall be estimated at its probable value.~~

~~5.3.4. Any accrued interest due on accounts receivable should be included in determining the appraised value of such receivables.~~

~~5.3.5. The burden of proof shall be on the person seeking a lower or higher value than the determined under the preceding paragraphs to show by cogent evidence that such value is not the market value of the bill~~

~~or account receivable.~~

~~5.4. Shares of stock. (Except bank stock.)~~

~~5.4.1. The appraised value of stocks listed and traded on a stock exchange is the closing price of such stocks on the valuation date as quoted by the stock exchange.~~

~~5.4.2. The appraised value of stocks traded over the counter is the closing "Bid Price" on that valuation date as quoted by over-the-counter security dealers.~~

~~5.4.3. If stocks are not listed or regularly traded on the open market, the appraised value shall be appraised by determining an average (weighted by the volume of sales) between the highest and lowest prices in arms-length sales during a reasonable period before the valuation date.~~

~~5.4.4. If the appraised value of stocks cannot be established by use of Section 5.4.1, 5.4.2 or 5.4.3 of these regulations, an appraised value should be determined in accordance with generally accepted appraisal 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.~~

~~5.4.5. Generally no reduction is allowed in determining the appraised value of shares of stock because they are unregistered or restricted as to right of sale. However, there may be situations where some discount should be allowed in order to determine that market value of stock. The burden of proof shall be on the owner or holder thereof to prove by cogent evidence that a discount should be allowed and what the amount thereof should be.~~

~~5.4.6. The so-called "Blockage Rule" (a reduction in the value of shares of stock due to the number or volume of shares owned) will generally not be used in establishing appraisal value. However, there may be situations where some discount should be allowed in order to determine the market value of the stock. The burden of proof shall be on the owner or holder thereof to show by cogent evidence that a discount should be allowed and the amount of the discount.~~

~~5.4.7. The appraised value of shares of stock will generally not be increased or decreased because such shares represent either a majority or minority interest. However, there may be situations where some discount should be allowed in order to determine the market value of the stock. The burden of proof shall be on the owner or holder thereof to prove by cogent evidence that a discount should be allowed and the amount of the discount.~~

~~5.4.8. If listed market values or quotations are not used to compute the appraisal value of shares of stock, a statement should be attached to the property tax report explaining the method used in appraising or determining the appraised value of such stocks.~~

~~5.4.9. Indebtedness incurred to purchase shares of stock may not be considered as a deduction in determining the appraised value of such shares.~~

~~5.4.10. The burden of proof shall be on the person seeking a lower or higher value than that~~

determined under the preceding paragraphs to show by cogent evidence that such value is not the market value of the stock:

~~5.5. Shares of bank stock:~~

~~5.5.1. West Virginia bank stock. W. Va. Code §11-3-14 (1933) requires that the value of shares of stock in a West Virginia banking institution, national banking association or industrial loan company shall be ascertained according to the best information which the appraiser may obtain. Valuation of such stock shall reflect consideration of the method set forth in Section 5.4, with the following exception:~~

~~5.5.1.1. A proportion share of the value of real estate owned by a West Virginia banking institution, national banking or industrial loan company shall be deducted from the total value of the bank stock (determined before any decreasing modification is made). Real estate shall be valued in the same manner as other commercial real property.~~

~~5.5.1.2. In order to eliminate the direct or indirect effect which debt obligations of the United States that are exempt from property taxes have on the value of bank stock, a proportionate share of the value of such debt obligation of the United States, shall be deducted from the total value of the bank stock (determined before any decreasing modification is made).~~

~~5.5.2. Out-of-state bank stock:~~

~~5.5.2.1. Bank stock in banks, banking institutions and banking associations held by West Virginia residents representing ownership in banks located outside the State of West Virginia shall be valued in the same manner as stock held in West Virginia banks.~~

~~5.5.2.2. Whenever the stock represents ownership in banks located outside the State of West Virginia, and such stock is subject to intangible personal property tax by another state, with such taxes actually paid to such other state, the stock shall not be valued for taxation in this State.~~

~~5.6. Stock or capital of West Virginia building and loan associations and savings and loan associations. W. Va. Code §11-3-14a (1959) requires that the capital of West Virginia building and loan and savings and loan associations, and federal savings and loan associations, as well as the capital of such associations located in other states, shall be valued in the same manner as out-of-state bank stock.~~

~~5.7. Other similar intangible personal property:~~

~~5.7.1. The appraisal value of "Other Similar Intangible Personal Property" for which specific valuation procedures are not provided shall be determined in accordance with generally accepted appraisal principles. Established market values shall be used for intangible property regularly traded (e.g. stock, bonds, etc.). Otherwise, factors customarily considered in determining intrinsic value shall be used.~~

~~5.7.2. Burden of proof. The burden of proof shall be on the person seeking a lower or higher value than that determined under the preceding paragraph to show by cogent evidence that such value is not the market value of the property.~~

~~§110-1L-6. Taxpayer Return.~~

~~6.1. 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.~~

~~6.2. 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.~~

~~6.3. All banks and savings and loan associations, shall prepare property tax returns in duplicate. One (1) 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.~~

~~6.4. All other taxpayers shall prepare one (1) 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.~~

~~6.5. All other property appraisal returns required by this rule shall be filed no later than November 1st of each year.~~

~~6.8. The Tax Commissioner, for good cause shown, may grant an extension of filing deadlines. No assessor may grant such an extension of a deadline.~~