

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #4

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SECRETARY OF STATE

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: State Tax Department TITLE NUMBER: 110

CITE AUTHORITY W.Va. Code §§ 11-10-5, 11-1A-21(d) and 29A-3-1

AMENDMENT TO AN EXISTING RULE: YES X NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED: Electronic Data Processing System
Network For Property Tax Administration

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED:

TITLE OF RULE BEING PROPOSED:

THE ABOVE PROPOSED LEGISLATIVE RULE, FOLLOWING REVIEW BY THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE IS HEREBY MODIFIED AS A RESULT OF REVIEW AND COMMENT BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE. THE ATTACHED MODIFICATIONS ARE FILED WITH THE SECRETARY OF STATE.


Michael E. Caryl
State Tax Commissioner

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OFFICE OF THE SECRETARY OF STATE

MODIFIED
WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE TAX DEPARTMENT
TITLE 110
SERIES 2
1986

Filed: June 30, 1988

§ 110-2-1. General.

1.1 General.-These agency approved regulations are amendments to a legislative rule as defined in W. Va. Code § 29A-1-2(d).

1.2 Scope.-These agency approved amended legislative regulations relate to the electronic data processing system network developed and utilized in the administration of the ad valorem property tax imposed on taxable real and personal property.

1.3 Authority.-These agency approved amended legislative regulations are issued under the authority of W. Va. Code §§ 11-10-5, 11-1A-21(d) and 29A-3-1.

1.4 Filing Date.-These agency approved amended legislative regulations were proposed and filed in the State Register on June 30, 1988. A public comment period commenced upon filing and continued until 5:00 p.m. on July 31, 1988. After public comment, these agency approved amended legislative regulations were filed on August 12, 1988 in the State Register and with the Legislative Rule-Making Review Committee. No comments were received.

1.5 Effective Date.-These proposed amended legislative regulations take effect immediately upon passage by the Legislature.

1.6 Citation.-This legislative rule may be cited as 110 C.S.R. 2, § ____ (1986).

§ 110-2-2. Purpose of Rule.-This legislative rule is promulgated pursuant to the authority of W. Va. Code § 11-1A-21(d) wherein the Tax Commissioner is authorized to promulgate reasonable rules to govern the operation of the statewide electronic data processing system network. This legislative rule describes the operation of the network, the

county operation requirements, and network expense sharing for equipment and facilities.

§ 110-2-3. Definitions.--As used in this rule, the following terms shall have the meanings ascribed herein, and shall apply in the singular or in the plural.

3.1 Account.--The term "account" shall mean for each county one entry on the land books or one entry on the personal property books.

3.2 Assessment.--The terms "assessed value" and "assessment" shall mean sixty percent (60%) of the market value of the property. See W. Va. Const. Art. X, § 1b and W. Va. Code § 11-1A-3.

3.3 Compatibility.--The term "compatibility" pertains to computers on which the same computer program can be run without appreciable alterations.

3.4 Central Processing Unit Seconds or CPU Seconds.--The term "Central Processing Unit Seconds" (CPU Seconds) means the amount of CPU time, measured in seconds, to complete an instruction or set of instructions.

3.5 Data Base.--The term "data base" shall mean a collection of information stored and organized in a precise manner so that the information can be used in the performance of various program instructions.

3.6 Disk I/O.--Transfer of parts or all of a record image to or from a magnetic disk device plus its relating index record (on-line CICS application only).

3.7 Disk Storage.--The term "disk storage" shall mean magnetic storage in which data are stored by magnetic recording on the flat surfaces of one or more disks.

3.8 File.--The term "file" shall mean a collection of data sets that are organized and stored, either on disk or tape as a unit, and are used to read and write information in an orderly fashion.

3.9 Hardware.--The term "hardware" shall mean the host computer itself peripheral equipment (terminals, printers, data storage devices, telecommunications equipment, etc.).

3.10 Host Computer.--The term "host computer" shall mean the computer that provides the primary services within a network.

3.11 Information System Services Division or ISSD.--The term "Information System Services Division" (ISSD), Department of Finance and Administration is the agency within State Government responsible for the administration and technical support of the statewide network and host computer used in the reappraisal project and system. ISSD is also responsible for determining the rate of charges for the data processing services which it provides. See W. Va. Code § 5A-7-1 et seq.

3.12 Network.--The terms "network" or "electronic data processing system network" shall mean the statewide electronic data processing system network required by W. Va. Code § 11-1A-21.

3.13 On-Line.--The term "on-line" shall mean the hardware which is in direct contact with the host computer which responds to and takes instructions from a user.

3.14 Password.--The term "password" shall mean the unique identification word assigned to each user and which, when entered, will allow the user to supply or retrieve information.

3.15 Print I/O.--Causing or creating of a line of print either on a hard copy or on a magnetic device.

3.16 Printlines.--The term "printlines" shall mean the number of lines printed for each document requested by specific users.

3.17 Property Books.--The term "property books" shall mean the official land and personal property books maintained by the respective county assessors which contain the appropriate information for each account.

3.18 Statewide Reappraisal.--The term "statewide reappraisal" shall mean the periodic reappraisal of all property in this State required by W. Va. Const. Art. X, § 1b and W. Va. Code §§ 11-1A-1 and 11-1A-19.

3.19 Tape I/O.--Transfer of a block of data to or from a magnetic tape. A block of data may contain one or several records images.

3.20 Tape Storage.--The term "tape storage" shall mean the computer storage medium similar to magnetic tape used in an ordinary sound tape recorder and upon which is recorded portions of the data base.

3.21 Commissioner or Tax Commissioner.--The terms "Commissioner" or "Tax Commissioner" shall mean the Tax Commissioner of the State of West Virginia or his delegate. See W. Va. Code §§ 11-1-1 and 11-1A-3(d).

§ 110-2-4. Network Development Responsibility.

4.1 The Tax Commissioner shall devise and cause to be established an electronic data processing system network to facilitate the administration of the ad valorem property tax imposed on real and personal property (tangible and intangible), with information obtained from the statewide property reappraisal to be entered in the network and to be maintained in a current mode through additional information being entered by the respective county assessor.

4.2 In developing the network, the Tax Commissioner shall assure that all operational activities are thoroughly and completely planned. This includes but is not limited to the following operational activities:

4.2.1 The Commissioner shall determine the most appropriate hardware and associated equipment to be utilized in the network, assuring such hardware and associated equipment is fully tested, functions properly and is compatible within the network.

4.2.2 The Commissioner shall assure that the computer software is properly designed to meet operational standards and that it is fully tested prior to acceptance and utilization.

~~4-2-2-1---The software for the computer-assisted personal property appraisal system must be compatible with the software and hardware utilized by the State in its other computer assisted functions.~~

~~4-2-2-2---The design of the personal property portion of the tax accounting system must provide certain common data elements such as social security account number and federal employer identification numbers in such a way as to allow on-line access of information on a taxpayer basis.~~

~~4-2-2-3---The software shall be designed in such a manner so as to facilitate integration on a taxpayer basis as between real property and personal property.~~

4.2.3 The Commissioner shall assure the development of necessary and appropriate operational manuals, forms and training programs for state and county personnel.

4.2.4 The Commissioner shall coordinate activities and information with appropriate county officials to assure the availability of facilities suitable to accommodate network equipment.

4.2.5. The Commissioner shall enter into appropriate maintenance agreements in order to assure continued network operations.

~~4.2.6. The Commissioner shall assure the network is in full and complete operation on or before July 1, 1985.~~

§ 110-2-5. County Responsibility.

5.1 Equipment Leasing.-Each county shall acquire, at its expense, the data processing equipment which is required by the Commissioner and which is to be located in each county.

5.1.1 A county may acquire the required recommended equipment on a lease or lease/purchase basis through the State procurement system or it may purchase or lease the required or recommended equipment on its own.

5.1.2 If the county does not utilize the equipment recommended and required by the Commissioner, the county assessor must demonstrate the complete compatibility of any other equipment he acquires in lieu of, or in addition to that which is recommended or required for use.

5.1.3 If a county assessor later chooses to utilize other compatible equipment through the State lease/purchase process, the county assessor must first either locate a buyer for the equipment to be replaced, or agree to use the equipment for other purposes and continue to be liable for the monthly payments: Provided, That if a buyer for the equipment is located, such buyer must become responsible for the payment of any outstanding obligation on the equipment being replaced.

~~5.1.4. The State Tax Department and the State Department of Finance and Administration shall prepare and file in the State Register a compilation of equipment compatibility requirements for assessors desiring to have alternate equipment to be utilized in connection with the network. The Tax Commissioner shall investigate thoroughly technological changes prior to these changes being incorporated into the network or becoming a requirement of the network.~~

~~5.1.5~~ 5.1.4 Upon completion of payment for equipment acquired on the lease/purchase basis through the State purchasing system, the equipment shall revert to the county at its option.

5.2 County Personnel and Other Equipment.-Each county shall provide, at its expense, the necessary staffing and operating personnel and all other communication equipment, to allow on-line interaction with the host computer or such other computer as the Tax Commissioner may designate.

5.3- County Network Charges.--Each county shall be charged by the Tax Commissioner for its proportionate share of the cost for use of the network, host computer and other related services.

5.3.1 The Tax Commissioner shall provide an estimate of fiscal year Network charges by March 15 preceding the start of each fiscal year, for county budgetary purposes.

5.3.2 The Tax Commissioner will bill each county based on the measures in this regulation: Provided, That no county's bill will exceed its budget estimate by more than ten percent (10%) unless the county's CPU usage is more than twelve percent (12%) above the previous fiscal year level and/or unless the county acquires and uses additional terminal and/or printer devices after the estimate has been made.

5.3.3 ---The payments referred to in the immediately preceding paragraph shall, upon receipt by the State, be deposited in the State Treasury into a revolving fund known as the "County Tax Fund."

5.3.4-----The--quarterly--statement--rendered--to--the respective- county- commissions- shall- be- composed- of- six- (6) charges,--the-total-of-which-shall-be-the-amount-to-be-paid-to-the Tax- Commissioner- within- thirty- days- (30)- after- the- quarterly statement-is-rendered-

5.3.4 The Tax Commissioner shall cause a quarterly statement to be rendered to the respective county commissions. The total amount of such quarterly statement shall be paid to the Tax Commissioner within thirty days (30) after the quarterly statement is rendered. The quarterly statement will be composed of the following cost attributable to each county for the period specified on the quarterly statement.

5.3.4.1 Equipment Hardware Charges.-- Equipment Hardware charges shall be the cost attributable to each county for the equipment acquired through the State lease/purchase process.

5.3.4.2---Insurance---Charges.--Insurance---charges shall- include- the- cost- of- necessary- and- required- insurance- on equipment- leased- or- acquired- through- the- State- lease- purchase process- for- use- in- the- network.---The- State- shall- offer- a- blanket insurance- policy- which- will- provide- coverage- in- case- of- loss- of equipment- through- theft,-- casualty,-- fire- or- any- other- occurrence. The- respective- counties- shall- have- the- option- to- participate- in the- policy- provided- by- the- State- or- to- obtain- appropriate insurance- coverage- independently.--- Provided,-- That- for- those counties--which--determine--not--to--participate--in--the--policy provided- by- the- State,-- they- must- provide- a- statement- that- an

~~appropriate insurance policy has been and will continue to be maintained. -- Provided however, That in case of any county which determines to not participate in the blanket insurance policy provided by the State and which does not obtain or maintain an appropriate insurance policy which provides coverage suitable to the Tax Commissioner, the county commission shall indemnify the State for the amount of any loss to any equipment which otherwise would be covered by the blanket insurance policy provided by the State.~~

5-3-4-3 5.3.4.2 Hardware Maintenance
Charges. - Maintenance charges shall include the actual monthly maintenance cost incurred by the county: Provided, That the equipment is acquired through the State lease/purchase program. If the county should acquire appropriate equipment through other means, it shall enter into its own maintenance agreement and it will not be billed by the State for any required maintenance activities.

5-3-4-4 5.3.4.3 Data Circuit Charges. - Data circuit charges are the charges attributable to each county for the telephone line connection between the county and the State host computer. The charge will be based on the number of accounts in each county with one account being one entry on the land books and/or one entry on the personal property books. The number of accounts used for the quarterly billing will be the number of accounts within each county at the time the estimate was made for the annual fiscal year network charges. The formula for computing the data line charges for each county will be composed of four elements and functions as follows:

TDC = Total Data Line Charges, All Counties
TPA = Total Property Tax Accounts, All Counties
CPA = County Property Tax Accounts
CDC = County Data Line Share Charge
 $(CPA \div TPA) \times TDC = CDC$

5-3-4-5 5.3.4.4 Storage Charges. - Storage charges are charges for the amount of space utilized within ISSD for both disk storage and tape storage. In effect, the counties rent disk or tape storage space for the respective number of accounts. It is an actual physical measurement calculated by ISSD. The formula for computing the storage charges for each county will be composed of four elements and functions as follows:

TSC = Total Storage Cost, All Counties
TPA = Total Property Tax Accounts, All Counties
CPA = County Property Tax Accounts
CSC = County Storage Cost
 $(CPA \div TPA) \times TSC = CSC$

5-3-4-6 5.3.4.5 CPU Charges.-The CPU charge is compiled of the number of Input/Output transactions, the number of CPU seconds, the number of print lines and other activities. Each of these elements is measured by ISSD and the total charge passed directly through the respective counties. CPU charges not attributable to a specific county, such as file maintenance for the entire network, will be billed in the following manner. The formula for computing CPU charges used for file maintenance for the entire network will function as follows:

TCPU = Total CPU Cost, All Counties
TPA = Total Property Tax Accounts
CPA = County Property Tax Accounts
CCPU = County CPU Cost
 $(CPS \div TPA) \times TCPU = CCPU$

5-3-4-7 5.3.4.6 System Support Charges.-The system support charge is the cost of dedicated personnel to keep the system operational and includes the cost of processing reports to determine market conditions and other factors necessary to maintain updated cost tables for property evaluation. The formula for computing this charge will function as follows:

TSSC = Total System Support Charges, All Counties
TPA = Total Property Tax Accounts
CPA = County Property Tax Accounts
CSSC = County System Support Cost
 $(CPA \div TPA) \times TSSC = CSSC$

5-3-4-8 5.3.4.7 Miscellaneous Charges.-The miscellaneous charge is the cost for each county ordering data processing supplies, such as the cost for computer paper used in county assessor's printers. This cost is the actual charge passed from supplier to the Tax Department.

5-3-4-9 5.3.4.8 Network Charges.-The network charge is the cost based on the number of devices, i.e. terminals and printers, that are attached to the statewide network. The actual charge, determined by ISSD, is passed to each county based on the number of devices each county may have attached to the network.

§ 110-2-6. Network Operations.

6.1 State Responsibility.-Responsibilities of the Tax Commissioner in development and operation of the network shall include:

6.1.1 The Tax Commissioner shall assure that the data accumulated during the statewide reappraisal is entered into

the system prior to the point in time when the respective county assessors will be provided access to the network.

6.1.2 The Tax Commissioner will assure that all appropriate assessment rules, tables, cost lists, modifiers, etc. are entered into the system prior to the point in time when the respective county assessors will be provided access to the system.

6.1.3 The State Tax Department will not have the authority to change certain county data such as prior assessed values. Data errors detected by the State Tax Department through edits will be forwarded to the respective county assessor who in turn will correct the erroneous information.

6.1.4 The Tax Commissioner shall make available to every taxpayer, upon his request, through the network, the description and appraised value of each parcel of real property during the statewide reappraisal and the method used to determine the appraised value.

6.2 County Responsibility.-Responsibilities of each county in the development and operation of the network shall include:

6.2.1 Each assessor shall enter all changes in the description, status, classification and value of real property and personal property situated in his county, such changes to be made no later than the calendar month following the month during which the changes occurred.

6.2.1.1 Only counties have authority to change any information relating to their own parcels and accounts.

6.2.1.2 No county possesses authority to change any information considered to be the domain or property of the State.

6.2.2 County assessors shall, not later than March 15, 1985, convert, or cause to be converted, at county expense, any 1985 tax year assessment information not in the data files of the Tax Commissioner, and which was not the primary responsibility of the Tax Commissioner or any of his contractors to convert, for purposes of the statewide reappraisal and the preparing of a system of assessments utilizing the results of the reappraisal.

6.2.3 Beginning with the tax collection year 1985, all landbooks and personal property books shall be produced through the network described in this regulation. ~~Provided, That-for-tax-collection-year-1985-only,-the-Tax-Commissioner-may allow-property-books-to-be-produced-by-other-means-~~

§ 110-2-7. Network Security And Safeguards.

7.1 General.-The Tax Commissioner shall assure that the network and the data base is at all times safe and secure, and that safeguards are adequate to prevent unauthorized access.

7.1.1 Password.-A password shall be required for all users of the network. Each password for each user shall be unique. The password shall be utilized to control the usage of network functions and to assist in the monitoring of each user's activity in the network.

7.1.2 User Name.-The user name is associated with the password. Each assessment record updated by a user will also cause an audit record to be written which includes the user name. The user name will appear on audit reports to indicate the data changed by that user.

~~7.1.3-----District--Name--The--district--name--of--each
taxing- district- and- corporation- will- be- integrated- into- the
system-and-only-users-with-a-need-to-know-information-relative-to
the- properties- located- in- the- respective- taxing- district- or
corporation-- will-- have-- access-- to-- information-- about-- such
properties-~~

~~7.1.4~~ 7.1.3 Assessors.-Assessors in one county shall not be able to access information on properties located in another county without permission from the assessor of the county. Assessors in one county shall not be able to change information on properties located in another county.

7.2 Secrecy Of Returns And Return Information.-Property tax returns and return information filed or supplied pursuant to W. Va. Code §§ 11-1A-1 et seq., 11-3-1 et seq., and information obtained by subpoena or subpoena duces tecum issued under the provisions of W. Va. Code § 11-1A-1 et seq. shall be confidential.

7.2.1 No officer or employee of the State Tax Department, county assessors, county commissions or the board of public works shall disclose any returns or return information obtained by him in any manner in connection with his service as such an officer, member or employee unless he is subpoenaed.

7.2.2 In order to ascertain that all property subject to assessment has been subjected to appraisal, the itemized description of the property listed shall not be confidential.

7.2.3 The Tax Commissioner and all assessors shall withhold from public disclosure:

7.2.3.1 the specific description of,

7.2.3.1.a burglar alarms and other similar security systems held by any person, and

7.2.3.1.b stocks, bonds and other personal property held by a natural person; and

7.2.3.2 information claimed by any taxpayer to constitute a trade secret or confidential patent information.

7.2.4 Property descriptions withheld from public disclosure under the authority of the immediately preceding paragraph subdivision 7.2.3 shall be subject to production and inspection for the purpose of any review, protest or intervention in the appraisal or assessment process, and under such reasonable limitations as the board of review, board of equalization and review or court shall require.

7.2.5 For the purposes of this subsection 7.2 and for the succeeding subsections, the term officer or employee includes any former officer, member or employee.

7.3 Disclosure Of Information.

7.3.1 Information made confidential by the immediately preceding subsection 7.2 shall be open to inspection by or disclosure to officers, members and employees of the State Tax Department, county assessors, county commissions and members of the board of public works whose official duties require such inspection or disclosure for property tax administration purpose. This information shall be open to inspection by the property owner providing such information and to his duly authorized representative.

7.3.2 Information made confidential by the foregoing subsection 7.2 may be described in a judicial or administrative proceeding to collect or ascertain the amount of tax due: Provided, That such disclosure may occur only if:

7.3.2.1 the taxpayer is a party to the proceedings; or

7.3.2.2 such return information is directly related to a transactional relationship between a person who is a party to the proceedings and the taxpayer and such relationship directly affects the resolution of an issue in the proceeding.

7.4 Reciprocal Exchange Of Information.-The Tax Commissioner may permit the proper officer, or his authorized representative, of the United States, the District of Columbia or



WEST VIRGINIA LEGISLATURE
LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

Room M-438, State Capitol
Charleston, West Virginia 25305
(304) 340-3286

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SECRETARY OF STATE

Senator Larry A. Tucker, Co-Chairman
Delegate Thomas A. Knight, Co-Chairman

August 31, 1988

M. E. Mowery, Counsel
Debra A. Graham, Associate Counsel
Marie Nickerson, Receiving Clerk

NOTICE OF ACTIONS TAKEN BY LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

TO: ✓Ken Hechler, Secretary of State, State Register

TO: Mr. Michael E. Caryl, Commissioner
State Tax Department
State Capitol
Charleston, WV 25305

FROM: Legislative Rule-Making Review Committee

PROPOSED RULE: Electronic Data Processing System Network for
Property Tax Administration

The Legislative Rule-Making Review Committee recommends that the West Virginia Legislature:

1. Authorize the agency to promulgate the Legislative Rule
 - (a) as originally filed
 - (b) as modified by the agency X
2. Authorize the agency to promulgate part of the Legislative rule; a statement of reasons for such recommendation is attached. _____
3. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
4. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached. _____
5. Recommends that the rule be withdrawn; a statement of reasons for such recommendation is attached. _____

Pursuant to Code 29A-3-11(c), this notice has been filed in the State Register and with the agency proposing the rule.

cc: John Montgomery, Esquire