

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #6

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE.**

AGENCY: STATE TAX DIVISION TITLE NUMBER: 110

AMENDMENT TO AN EXISTING RULE: YES , NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 6

TITLE OF RULE BEING AMENDED: POLLUTION CONTROL FACILITIES

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

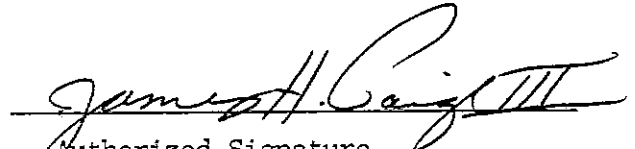
TITLE OF RULE BEING PROPOSED: _____

THE ABOVE RULE HAS BEEN AUTHORIZED BY THE WEST VIRGINIA LEGISLATURE.

AUTHORIZATION IS CITED IN (house or senate bill number) SB-186

SECTION 64-7-6(vv), PASSED ON MARCH 12, 1994

THIS RULE IS FILED WITH THE SECRETARY OF STATE. THIS RULE BECOMES EFFECTIVE ON
THE FOLLOWING DATE: MAY 1, 1994


Authorized Signature
James H. Paige III
Secretary of Tax and Revenue

KEN RECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
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STATE OF WEST VIRGINIA

SECRETARY OF STATE

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(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

March 15, 1994

John Montgomery
Tax Dept.
Bldg. 1, Rm.400W
State Capitol
Charleston, WV 25305

SB 186 authorizing, **Title 110, Series 6, Pollution Control Facilities**, passed the Legislature on **March 12, 1994**. It is now awaiting the Governor's signature.

You have sixty (60) days after the Governor signs SB 186, to final file the legislative rule with the Secretary of State's office. To final file your legislative rule, fill in the blanks on the enclosed form #6, the "Final Filing" form and file the form with our office with a promulgation history of the rule. Authorization for your legislative rule is cited in **SB 186** section **64-7-6(vv)**. The agency may set the effective date of the legislative rule up to ninety (90) days from the date the legislative rule is final filed with the Secretary of State's office. Please have an authorized signature on the bottom line.

*****IMPORTANT: IF YOUR AGENCY HAS COMPLETED THE LEGISLATIVE RULE ON A WORD PERFECT OR WORD PERFECT COMPATIBLE COMPUTER SYSTEM THAT USES A 3 1/2" OR 5 1/4" DISK, YOU MUST SUBMIT A CLEAN COPY, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, TO OUR OFFICE WHEN FINAL FILING THE RULE. STATE ON THE DISK THE FORMAT THE RULE IS IN AND THE TITLE IT IS FILED UNDER. THIS WILL MAKE IT QUICKER FOR US TO ENTER YOUR RULES ON THE LEGISLATIVE DATA BASE. REMEMBER THE TEXT OF THE COMPUTER FILED RULE MUST BE IDENTICAL - WORD FOR WORD, COMMA FOR COMMA, WITH ALL UNDERLINING AND STRIKE-THROUGHS TAKEN OUT, AS THE HARD COPY AUTHORIZED BY THE LEGISLATURE.**

After the final rule is entered into the legislative data base, the rule will be sent to the agency for review and proofing. Following confirmation or corrections, as the case may be, the Secretary of State shall submit to the agency a final version of the rule for their records.

If you have any questions or need any assistance, please do not hesitate to call our office.

Thank You
Administrative Law Division



State of West Virginia
Department of Tax and Revenue

GASTON CAPERTON
GOVERNOR

TAX DIVISION
P. O. Box 2389
Charleston, WV 25328-2389

JAMES H. PAIGE III
SECRETARY

PROMULGATION HISTORY

RULE TITLE: Pollution Control Facilities

TITLE NUMBER: 110

SERIES: 6

NOTICE FILED: July 13, 1993

HEARING DATE or
COMMENT PERIOD: July 13, 1993 - August 12, 1993

EMERGENCY RULE
E.R.D. NUMBER: N/A
E.R.D. DATE:

FILED AS AGENCY
APPROVED: August 16, 1993

LRMRC
ACTION: Approved
HEARING DATE: January 9, 1994

FILED AS MODIFIED: N/A

LEGISLATIVE
AUTHORIZATION: SB-186

EFFECTIVE DATE: May 1, 1994

LD:JM/lr
4-15-94

110-13C
 750 (ww) The legislative rules filed in the state register
 751 on the sixteenth day of August, one thousand nine
 752 hundred ninety-three, relating to the division of tax
 753 (business investment and jobs expansion tax credit,
 754 small business tax credit, corporate headquarters
 755 relocation tax credit), are authorized with the amend-
 756 ment set forth below:

757 On page thirty-nine, section 5.16.3.1, by striking
 758 section 5.16.3.1 and inserting in lieu thereof the
 759 following:

760 "This exception shall not be applicable if the taxpayer
 761 failed to provide information requested by the Depart-
 762 ment of Tax and Revenue, or its predecessor, the West
 763 Virginia Tax Department, or if the taxpayer had
 764 knowledge or should have had knowledge of informa-
 765 tion necessary for the Department of Tax and Reve-
 766 nue to make an informed analysis and determination
 767 pertaining to the actual application of the credit but
 768 failed to disclose such information to the Department."

110-36
 769 (xx) The legislative rules filed in the state register
 770 on the thirteenth day of August, one thousand nine
 771 hundred ninety-three, modified by the division of tax
 772 to meet the objections of the legislative rule-making
 773 review committee and refiled in the state register on
 774 the twelfth day of January, one thousand nine hun-
 775 dred ninety-four, relating to the division of tax
 776 (preneed cemetery companies), are authorized with
 777 the amendments set forth below:

778 "On page four, section 3.1, by striking out '\$400.00'
 779 and inserting in lieu thereof '\$200.00'."

110-6
 780 (yy) The legislative rules filed in the state register
 781 on the sixteenth day of August, one thousand nine
 782 hundred ninety-three, relating to the division of tax
 783 (pollution control facilities), are authorized with the
 784 amendment set forth below:

785 On page one, section 2.2 after the word "be" by
 786 inserting the following: "The definition of facilities
 787 eligible for salvage tax treatment shall be strictly
 788 construed so as to include only such equipment and
 789 devices as are installed primarily and immediately to

790 abate air or water pollution. These items of personal
791 property which may coincidentally comply with air or
792 water quality or effluent standards prescribed by or
793 promulgated under the laws of this state or the United
794 States, but which are primarily installed for plant
795 operations or are productive, or add to the economic
796 value of a business enterprise or have a market value
797 after installation in excess of salvage value, will not be
798 deemed eligible for salvage tax treatment.”

FILED

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AGENCY APPROVED

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATIVE REGULATIONS

DEPARTMENT OF TAX AND REVENUE

TITLE 110

SERIES 6

POLLUTION CONTROL FACILITIES

§ 110-6-1. General.

1.1 Scope. -- These regulations established general operating procedures for the tax treatment of pollution control facilities.

1.2 Authority. -- W. Va. Code § 11-6A-4.

1.3 Filing Date. -- ~~November 1, 1981~~ 1993

1.4 Effective Date. -- ~~November 1, 1981~~ 1993

§ 110-6-2. Definitions.

2.1 "Commissioner" means the State Tax Commissioner, or his delegate.

2.2 "Facility" or "Pollution Control Facility" means any personal property designed, constructed, or installed primarily for the purpose of abating or reducing water or air pollution or contamination by removing, altering, disposing, treating, storing, or dispersing the concentration of pollutants, contaminants, wastes or heat in compliance with air or water quality or effluent standards prescribed by or promulgated under the laws of this state or the United States, the design, construction, and installation of which personal property was approved as a pollution control facility by the Water Resources Division of the Department of Natural Resources or the Air Pollution Control Commission, as the case may be. ~~The definition of facilities eligible for salvage tax treatment shall be strictly construed so as to include only such equipment and devices as are installed primarily and immediately to abate air or water pollution. These items of personal property which may coincidentally comply with air or water quality or effluent standards prescribed by or promulgated under the laws of this state or the United States, but which are primarily installed~~

FM 20

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OFFICE OF THE ATTORNEY GENERAL
STATE OF TEXAS

~~for plant operations or are productive, or add to the economic value of a business enterprise or have a market value after installation in excess of salvage value, will not be deemed eligible for salvage tax treatment.~~

2.3 "Personal Property" means things of value, moveable and tangible, which are the subjects of ownership. This definition is found as a part of West Virginia Code § 11-5-3 and applied to all of Chapter 11.

2.4 "Moveable", as used in section 2.3, relates to a device or piece of equipment capable of being moved from one location to another.

2.5 "Salvage Value" means the price for which such facility would sell in place if voluntarily offered for sale by the owner thereof; that is to say, the scrap value of the material of an eligible facility less the cost of removal of said facility. Administratively, salvage value will be five percent of original cost.

§ 110-6-3. Approval as Pollution Control Facility.

3.1 Any owner or taxpayer requesting salvage valuation for a facility under the authority of W. Va. Code § 11-6A-3 must receive approval from the appropriate state agency governing the control of air or water pollution. The approval must state that the facility subject to salvage value consideration is designed, constructed or installed primarily for the purpose of abating air or water pollution, and does abate or reduce water or air pollution in compliance with air or water quality standards prescribed under the laws of this state or the United States.

§ 110-6-4. Allocation or Separation of Values.

4.1 Where the pollution control facility produces a profitable by-product or where a part of such facility is required for the operation of the business without regard to the requirements of state or federal air or water quality standards, the tax commissioner shall allocate or separate that portion of value attributable to the pollution control activity.

§ 110-6-35. Recommendation of Values to County Assessor.

35.1 Each county assessor will be notified before August December first of any eligible facility in his county on the preceding July first assessment day together with the salvage value of each such facility. Said notice will recommend that the

assessor use the salvage value provided as the appraised value of such facility.

§ 110-6-46. Annual List of Eligible Facility Items.

46.1 The tax commissioner, annually before July tenth, will prepare a list of apparatus, equipment and components which are eligible for salvage treatment under provisions of Article 6A, Chapter 11 of the Code and these regulations. Such list shall be revised annually to include items made eligible by administrative or judicial decision.

§ 110-6-57. Administrative Remedy.

57.1 Any taxpayer or government official claiming to be aggrieved or damaged by the tax commissioner by the inclusion or exclusion of a facility or any component thereof, may appeal such action to the commissioner. ~~The commissioner or his representative shall issue a written opinion stating the reason thereof.~~ Disputes concerning whether an item of personal property qualifies as a "facility" or "pollution control facility" as defined in section 2.2 above shall be deemed to be matters of classification or taxability and as such are appealable under the provisions of W. Va. Code § 11-3-24a.

SENATE BILL NO. 217

(By Senators Manchin, Anderson, Grubb, Macnaughtan
and Minard)

[Introduced January 31, 1994; referred to the
Committee on

EIM; FINANCE;

Judiciary

10 A BILL to amend and reenact section six, article seven, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 division of tax to promulgate legislative rules relating to
14 pollution control facilities.

15 Be it enacted by the Legislature of West Virginia:

16 That section six, article seven, chapter sixty-four of the
17 code of West Virginia, one thousand nine hundred thirty-one, as
18 amended, be amended and reenacted to read as follows:

19 ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND REVENUE TO
20 PROMULGATE LEGISLATIVE RULES.

21 §64-7-6. Department of tax and revenue; division of tax; and
22 state tax commissioner.

23 (a) The legislative rules filed in the state register on the
24 fifth day of January, one thousand nine hundred eighty-four,

1 relating to the state tax commissioner (appraisal of property for
2 periodic statewide reappraisals for ad valorem property tax
3 purposes), are authorized with the amendments set forth below:

4 On page 8, section 11.04(b)(2), definition of "Active Mining
5 Property," at the end of the first paragraph following the
6 period, by adding the following: "In the application of the
7 herein provided valuation formula on 'active mining property,'
8 the appropriate formula calculation will be based upon the actual
9 market to which the coal from that tract and seam is currently
10 being sold, whether it is 'metallurgical' or 'steam'."

11 On page 9, section 11.04(b)(3), definition of "Active
12 Reserves," at the end of the subsection, following the period, by
13 adding the following: "In the application of the herein provided
14 valuation formula on 'active reserves,' the appropriate formula
15 calculation will be based upon the actual market to which the
16 coal from that tract and seam is currently being sold, whether it
17 is 'metallurgical' or 'steam'."

18 On page 11, section 11.04(b)(11), definition of "Mineable
19 Coal," by striking the subsection and substituting in lieu
20 thereof the following: "(11) Mineable Coal. Coal which can be
21 mined under present day mining technology and economics."

22 On page 25, section 11.04(c)(2)(C), entitled "Property Tax
23 Component," by striking the subsection and inserting in lieu
24 thereof the following: "(C) Property Tax Component -- This

1 component will be derived by multiplying the assessment rate by
2 the statewide average of tax rates on Class III property."

3 On page 30, section 11.04(c)(4), entitled "Valuation of
4 Mined-Out/Unmineable/Barren Coal Properties," by striking the
5 numbers "\$5.00" and inserting in lieu thereof the following:
6 "\$1.00."

7 On page 31, section 11.04(c)(5)(B), by striking the words and
8 numbers "Five Dollars (\$5.00)" and inserting in lieu thereof the
9 following: "One Dollar (\$1.00)."

10 On page 53, section 11.05(h) by striking the symbol and
11 figures "\$5.00" and inserting in lieu the following:
12 "\$1.00)."

13 On page 73, section 11.06(h) by striking the symbol and
14 figures "\$5.00" and inserting in lieu the following: "\$1.00."

15 On page 81, section 11.07(e)(15)(B)(4) at the end of the
16 second sentence remove the period after the word "property" and
17 insert the words "unless the land is used for some other purpose
18 in which case it will be taxed according to its actual use."

19 On page 86, section 11.07(k) delete all of subsection (k).

20 On page 110, section 11.08(c)(4) by striking the symbol and
21 figures "\$5.00" and inserting in lieu thereof the following:
22 "\$1.00."

23 On page 111, section 11.08(c)(5)(B) by striking the symbol
24 and figures "\$5.00" and inserting in lieu thereof the following:
25 "\$1.00."

1 . . . And,

2 On page 115, section 11.09(a)(3) in the first sentence,
3 insert after the word "land" the words "excluding farmland."

4 (b) The legislative rules filed in the state register on the
5 twenty-eighth day of September, one thousand nine hundred
6 eighty-four, relating to the state tax commissioner (estimated
7 personal income tax), are authorized with the amendments set
8 forth below:

9 55.02(a)(2) (on page 182.2) line 18, after the word
10 "profession" strike the words "on his own account" and the
11 comma(,).

12 55.12(b)(1) (page 182.35) at the end of the section, change
13 the period to a comma, and add the following language: "and in
14 the case of a court appointed agent, a copy of the court order of
15 appointment is sufficient."

16 . . . And,

17 55.12(c) (page 182.36) after the word "for," strike the word
18 "erroneous."

19 (c) The legislative rules filed in the state register on the
20 twenty-eighth day of September, one thousand nine hundred
21 eighty-four, modified by the state tax commissioner to meet the
22 objections of the legislative rule-making review committee and
23 refiled in the state register on the fourteenth day of November,
24 one thousand nine hundred eighty-four, and on the twenty-first
25 day of March, one thousand nine hundred eighty-five, relating to

1 the state tax commissioner (estimated corporation net income
2 tax), are authorized.

3 (d) The legislative rules filed in the state register on the
4 twelfth day of March, one thousand nine hundred eighty-five,
5 relating to the state tax commissioner (identification and
6 appraisal of farmland subsequent to the base year of statewide
7 reappraisal), are authorized and directed to be promulgated with
8 the following amendments:

9 Title page, Subject; following the word "Farmland," insert
10 the words "and of Structures Situated Thereon."

11 Page i, Subject; following the word "Farmland," insert the
12 words "and of Structures Situated Thereon."

13 Page i, TABLE OF CONTENTS, Section 10; following the words
14 "Valuation of Farmland" add the words "and of Structures Situated
15 Thereon."

16 Page 10.1, Title; following the word "FARMLAND" insert the
17 words "AND STRUCTURES SITUATED THEREON."

18 Page 10.1, Section 10, Title; following the word "Farmland"
19 add the words "and Structures Situated Thereon."

20 Page 10.1, Section 10.01(b); following the word "farmland"
21 insert the words "and structures situated thereon."

22 Page 10.2, Section 10.02(a), first sentence; following the
23 word "farmland" insert the words "and structures situated
24 thereon."

1 Page 10.3, Section 10.02(b), first sentence; following the
2 word "farmland" insert the words "and structures situated
3 thereon." Delete the words "for purposes of the statewide
4 reappraisal."

5 Page 10.3, Section 10.02(b), last sentence; following the
6 word "farmland" insert the words "and structures situated
7 thereon."

8 Page 10.8, Section 10.04(5)(B), last sentence; delete the
9 period and add "or the incapability to be adapted to alternative
10 uses."

11 Page 10.9, Section 10.04(6), first sentence; following the
12 words "land currently being used" insert the words "as part of a
13 farming operation."

14 Page 10.9, Section 10.04(6), following the last sentence; add
15 the sentence "For the purposes of this definition, 'contiguous
16 tracts' are farmlands which are in close proximity, but not
17 necessarily adjacent: **Provided**, That all such contiguous tracts
18 are operated as part of the same farm management plan."

19 Page 10.10, Section 10.04(8), is amended to read in its
20 entirety as follows:

21 "(8) Farm buildings. -- The term 'farm buildings' shall mean
22 structures which directly contribute to the operation of the
23 farm, and shall include tenant houses and quarters furnished farm
24 employees without rent as a part of the terms of their
25 employment."

1 Page 10.11, Section 10.04; delete the word "November" and
2 insert in lieu thereof the word "September." Delete the period
3 following the word "valuation" and add the words, "for the
4 assessment year beginning July first of each year."

5 Page 10.11, Section 10.04, insert the following subdivision:
6 "(12) Application Form: The application form required to be
7 filed with the assessor on or before September first of each year
8 shall require certification that the farm complies with criteria
9 set forth in Section 10.05(c) of these regulations, and renewal
10 applications from year to year shall be sufficient upon statement
11 certifying that no change has been made in the use of farm
12 property which would disqualify 'farm use' classification for
13 assessment purposes." Renumber the subdivisions of Section 10.04
14 following the new 10.04(12); formerly 10.04(12) through
15 10.04(28), to 10.04(13) through 10.04(29), respectively.

16 Page 10.14, Section 10.04(28) (formerly 10.04(27)); following
17 the words "woodland products" insert a comma and the words "such
18 as nuts or fruits harvested" and add a comma following the words
19 "human consumption" on Page 10.15.

20 Page 10.16, Section 10.05, subsection (a), following the
21 words "land is used for farm purposes" by striking the period and
22 inserting in lieu thereof a colon and the following: "Provided,
23 That the true and actual value of all farm used, occupied and
24 cultivated by their owners or bona fide tenants shall be arrived
25 at according to the fair and reasonable value of the property for

1 the purpose for which it is actually used regardless of what the
2 value of the property would be if used for some other purpose;
3 and that the true and actual value shall be arrived at by giving
4 consideration to the fair and reasonable income which the same
5 might be expected to earn under normal conditions in the locality
6 wherein situated, if rented: **Provided, however,** That nothing
7 herein shall alter the method of assessment of lands or minerals
8 owned by domestic or foreign corporations."

9 Page 10.16, Section 10.05(b), first clause; following the
10 words "following factors shall be" insert the words "indicative
11 of but not conclusive" and delete the word "considered."

12 Page 10.16, Section 10.05(b)(2); delete the period and add
13 the words "such as soil conservation, farmland preservation or
14 federal farm lending agencies."

15 Page 10.17, Section 10.05(b)(7); delete the section and
16 insert in lieu thereof the words "(7) Whether or not the farmer
17 practices 'custom farming' on the land in question."

18 Page 10.17, Section 10.05(b)(9); following the word "type"
19 add a comma and insert the word "utility."

20 Page 10.17, Section 10.05(b)(11), first sentence; following
21 the word "sales" insert the words "for nonfarm uses."

22 Page 10.17, Section 10.05(b)(12)(A); following the words
23 "part of" insert the words "or appurtenant to."

24 Page 10.17, Section 10.05(b)(12)(B); following the words
25 "contiguous to" insert the words "or operated in common with."

1 Page 10.18, Section 10.05, subsection (c), the first sentence
2 of which is amended in its entirety to read as follows:
3 "Qualifying farmland and the structures situated thereon shall be
4 subject to farm use valuation," with primary consideration being
5 given to the income which the property might be expected to earn,
6 in the locality wherein situate, if rented."

7 Page 10.18, Section 10.05(b)(12)(B); delete the semicolons
8 and the words "it was purchased at the same time as the tract so
9 used." Delete the period following the word "purposes" and add
10 the words "or any nonfarm use."

11 Page 10.19, Section 10.05(c)(2); following the words
12 "Provided, That no" delete the word "reason" and insert in lieu
13 thereof the words "individual event."

14 Page 10.20, Section 10.05(c)(4)(C); following the words
15 "(1,000) minimum production value" insert the words "or the small
16 farm five hundred dollars (\$500) minimum production and sale."

17 Page 10.23, Section 10.05(d)(3)(B), third sentence; following
18 the word "If" insert the words "timber from." Delete the period
19 following the word "purpose" and add the words "or is being
20 converted to farm production uses."

21 Page 10.26, Section 10.05(f)(2) is amended in its entirety to
22 read as follows:

23 "(2) Farm buildings. -- Rental value of farm buildings and
24 other improvements on the farmland shall be valued by determining
25 the replacement cost of the building or structure by usual farm

1 construction practices, and farm labor standards and subtracting
2 therefrom depreciation.1 Both of these determinations shall be
3 made in accordance with the tax department's real property
4 appraisal manual2 as filed in the state register in accordance
5 with chapter 29A of the code of West Virginia, 1931, as amended,
6 and as it relates to agricultural buildings and structures. One
7 (1) acre of land shall be assigned to all buildings as a unit
8 situate on the property, regardless of the actual acreage
9 occupied by such buildings and shall be appraised at its farm-use
10 valuation based on the highest class of farmland present on the
11 farm."

12 Page 10.28, Section 10.05(f)(3)(B)(1); following the words
13 "or more of the" insert the word "usual."

14 Page 10.28, Section 10.05(f)(3)(B)(2); following the words
15 "(50%) of the" insert the word "usual."

16 Page 10.29, Section 10.05(f)(3)(C)(1)(a); following the words
17 "(50%) or more of the" insert the word "usual."

18 Page 10.29, Section 10.05(f)(3)(C)(1)(b); following the words
19 "(50%) of the" insert the word "usual."

20 Page 10.31, Section 10.05(f)(3)(C)(2)(b); following the last
21 sentence insert the sentence "An individual employed other than
22 in farming is not an unincorporated business."

23 Page 10.35, Section 10.07, Title; following the word
24 "Farmland" insert the words "and Structures Situated Thereon."

1 Page 10.35, Section 10.07(a), first sentence; following the
2 word "farmland" insert the words "and structures situated
3 thereon."

4 And,

5 Page 10.46, Subject; following the word "Farmland" insert the
6 words "and Structures Situated Thereon."

7 (e) The legislative rules filed in the state register on the
8 twenty-second day of May, one thousand nine hundred eighty-five,
9 relating to the state tax commissioner (rules governing the
10 operation of a statewide electronic data processing system
11 network, to facilitate administration of the ad valorem property
12 tax on real and personal property), are authorized.

13 (f) The legislative rules filed in the state register on the
14 twenty-sixth day of March, one thousand nine hundred eighty-six,
15 relating to the state tax commissioner (listing of interests in
16 natural resources for the first statewide reappraisal; provision
17 for penalties), are authorized.

18 (g) The legislative rules filed in the state register on the
19 twenty-sixth day of March, one thousand nine hundred eighty-six,
20 modified by the state tax commissioner to meet the objections of
21 the legislative rule-making review committee and refiled in the
22 state register on the twelfth day of February, one thousand nine
23 hundred eighty-seven, relating to the state tax commissioner
24 (review of appraisals by county commissions sitting as
25 administrative appraisal review boards), are authorized.

1 -- (h) The legislative rules filed in the state register on the
2 twenty-sixth day of March, one thousand nine hundred eighty-six,
3 modified by the state tax commissioner to meet the objections of
4 the legislative rule-making review committee and refiled in the
5 state register on the twelfth day of February, one thousand nine
6 hundred eighty-seven, relating to the state tax commissioner
7 (review of appraisals by a circuit court on certiorari), are
8 authorized with the following amendment:

9 On page 3, §18.3.1 is stricken in its entirety and a new
10 §18.3.1 is inserted in lieu thereof to read as follows:

11 "18.3.1 Who May Request Review. -- The property owner, Tax
12 Commissioner, protestor or intervenor may request the county
13 commission to certify the evidence and remove and return the
14 record to the circuit court of the county on a writ of
15 certiorari. Parties to the proceeding wherein review by the
16 circuit court is sought shall pay costs and fees as they are
17 incurred: Provided, That the circuit court upon rendering
18 judgment or making any order may award costs to any party in
19 accordance with the provisions of W. Va. Code §53-3-5."

20 (i) The legislative rules filed in the state register on the
21 twenty-sixth day of March, one thousand nine hundred eighty-six,
22 modified by the state tax commissioner to meet the objections of
23 the legislative rule-making review committee and refiled in the
24 state register on the twelfth day of February, one thousand nine
25 hundred eighty-seven, relating to the state tax commissioner

1 (administrative review of appraisals by the state tax
2 commissioner), are authorized.

3 (j) The legislative rules filed in the state register on the
4 eighteenth day of August, one thousand nine hundred eighty-six,
5 modified by the state tax commissioner to meet the objections of
6 the legislative rule-making review committee and refiled in the
7 state register on the twelfth day of February, one thousand nine
8 hundred eighty-seven, relating to the state tax commissioner
9 (additional review and implementation of property appraisals),
10 are authorized.

11 (k) The legislative rules filed in the state register on the
12 eleventh day of August, one thousand nine hundred eighty-six,
13 relating to the state tax commissioner (guidelines for assessors
14 to assure fair and uniform personal property values), are
15 authorized.

16 (l) The legislative rules filed in the state register on the
17 eighteenth day of August, one thousand nine hundred eighty-six,
18 modified by the state tax commissioner to meet the objections of
19 the legislative rule-making review committee and refiled in the
20 state register on the tenth day of December, one thousand nine
21 hundred eighty-six, relating to the state tax commissioner
22 (registration of transient vendors), are authorized.

23 (m) The legislative rules filed in the state register on the
24 fourth day of February, one thousand nine hundred eighty-six,
25 modified by the state tax commissioner to meet the objections of

1 the legislative rule-making review committee and refiled in the
2 state register on the fourteenth day of January, one thousand
3 nine hundred eighty-seven, relating to the state tax commissioner
4 (business and occupation tax), are authorized.

5 (n) The legislative rules filed in the state register on the
6 fourteenth day of August, one thousand nine hundred eighty-seven,
7 modified by the state tax commissioner to meet the objections of
8 the legislative rule-making review committee and refiled in the
9 state register on the fourth day of November, one thousand nine
10 hundred eighty-seven, relating to the state tax commissioner
11 (telecommunications tax), are authorized.

12 (o) The legislative rules filed in the state register on the
13 fourteenth day of August, one thousand nine hundred eighty-seven,
14 relating to the state tax commissioner (business franchise tax),
15 are authorized.

16 (p) The legislative rules filed in the state register on the
17 seventeenth day of August, one thousand nine hundred
18 eighty-seven, modified by the state tax commissioner to meet the
19 objections of the legislative rule-making review committee and
20 refiled in the state register on the twenty-second day of
21 January, one thousand nine hundred eighty-eight, relating to the
22 state tax commissioner (consumers sales and service tax and use
23 tax), are authorized.

24 (q) The legislative rules filed in the state register on the
25 fourteenth day of August, one thousand nine hundred eighty-seven,

1 modified by the state tax commissioner to meet the objections of
2 the legislative rule-making review committee and refiled in the
3 state register on the thirteenth day of January, one thousand
4 nine hundred eighty-eight, relating to the state tax commissioner
5 (appraisal of property for periodic statewide reappraisals for ad
6 valorem property tax purposes), are authorized.

7 (r) The legislative rules filed in the state register on the
8 fourteenth day of August, one thousand nine hundred eighty-seven,
9 modified by the state tax commissioner to meet the objections of
10 the legislative rule-making review committee and refiled in the
11 state register on the twelfth day of January, one thousand nine
12 hundred eighty-eight, relating to the state tax commissioner
13 (severance tax), are authorized.

14 (s) The legislative rules filed in the state register on the
15 second day of September, one thousand nine hundred eighty-eight,
16 modified by the state tax commissioner to meet the objections of
17 the legislative rule-making review committee and refiled in the
18 state register on the twenty-fourth day of February, one thousand
19 nine hundred eighty-nine, relating to the state tax commissioner
20 (solid waste assessment fee), are authorized.

21 (t) The legislative rules filed in the state register on the
22 twelfth day of August, one thousand nine hundred eighty-eight,
23 modified by the state tax commissioner to meet the objections of
24 the legislative rule-making review committee and refiled in the
25 state register on the twenty-first day of September, one thousand

1 nine hundred eighty-eight, relating to the state tax commissioner
2 (electronic data processing system network for property tax
3 administration), are authorized.

4 (u) The legislative rules filed in the state register on the
5 nineteenth day of September, one thousand nine hundred
6 eighty-eight, modified by the state tax commissioner to meet the
7 objections of the legislative rule-making review committee and
8 refiled in the state register on the twenty-fourth day of
9 February, one thousand nine hundred eighty-nine, relating to the
10 state tax commissioner (exemption of property from ad valorem
11 property taxation), are authorized.

12 (v) The legislative rules filed in the state register on the
13 sixteenth day of September, one thousand nine hundred
14 eighty-eight, modified by the state tax commissioner to meet the
15 objections of the legislative rule-making review committee and
16 refiled in the state register on the thirteenth day of January,
17 one thousand nine hundred eighty-nine, relating to the state tax
18 commissioner (consumers sales and service tax and use tax), are
19 authorized.

20 (w) The legislative rules filed in the state register on the
21 twenty-third day of June, one thousand nine hundred eighty-nine,
22 relating to the state tax department (personal income tax), are
23 authorized.

24 (x) The legislative rules filed in the state register on the
25 twenty-ninth day of June, one thousand nine hundred eighty-nine,

1 relating to the state tax department (severance tax), are
2 authorized.

3 (y) The legislative rules filed in the state register on the
4 fourth day of August, one thousand nine hundred eighty-nine,
5 modified by the state tax department to meet the objections of
6 the legislative rule-making review committee and refiled in the
7 state register on the eleventh day of December, one thousand nine
8 hundred eighty-nine, relating to the state tax department (solid
9 waste assessment fee), are authorized.

10 (z) The legislative rules filed in the state register on the
11 fourteenth day of August, one thousand nine hundred eighty-nine,
12 modified by the department of tax and revenue to meet the
13 objections of the legislative rule-making review committee and
14 refiled in the state register on the twelfth day of December, one
15 thousand nine hundred eighty-nine, relating to the department of
16 tax and revenue (business franchise tax), are authorized.

17 (aa) The legislative rules filed in the state register on the
18 eleventh day of August, one thousand nine hundred eighty-nine,
19 modified by the department of tax and revenue to meet the
20 objections of the legislative rule-making review committee and
21 refiled in the state register on the eleventh day of December,
22 one thousand nine hundred eighty-nine, relating to the department
23 of tax and revenue (business and occupation tax), are authorized.

24 (bb) The legislative rules filed in the state register on the
25 fourteenth day of August, one thousand nine hundred eighty-nine,

1 modified by the department of tax and revenue to meet the
2 objections of the legislative rule-making review committee and
3 refiled in the state register on the nineteenth day of January,
4 one thousand nine hundred ninety, relating to the department of
5 tax and revenue (consumers sales and service tax and use tax),
6 are authorized with the amendments set forth below:

7 On page eight, Section 2.28, after the word "as" by inserting
8 the words "art, science,".

9 On pages eight and nine, Section 2.28.1, after the word
10 "intellectual" by deleting the word "or" and inserting in lieu
11 thereof the words "physical and".

12 On page nine, Section 2.28.2, by deleting the words "or
13 instruction."

14 On page nine, Section 2.28.2, after the word "training" by
15 adding the word "or".

16 On page nine, Section 2.28.2, by deleting the words "or any
17 portion of a school curriculum classified as physical education."

18 On page nine, by deleting all of Section 2.28.2.1.

19 On page nine, Section 2.28.2.2, by deleting the section
20 number.

21 On page nine, Section 2.28.2.2, by deleting the words "or
22 instruction."

23 On page nine, Section 2.28.2.2, after the word "training" by
24 adding the word "or".

1 On page nine, Section 2.28.2.2, after the word "conditioning"
2 by inserting a period and striking the remainder of the sentence.

3 On page one hundred twelve, Section 59.2, after the words
4 "sales of the service of cremation" by adding the words "sales on
5 perpetual care trust fund deposits."

6 And,

7 On page one hundred twenty-eight, Section 91.2, after the
8 words "include food" by inserting the following: ", as defined
9 in section 2.30 of this rule,".

10 (cc) The legislative rules filed in the state register on the
11 eleventh day of August, one thousand nine hundred eighty-nine,
12 modified by the department of tax and revenue to meet the
13 objections of the legislative rule-making review committee and
14 refiled in the state register on the eleventh day of December,
15 one thousand nine hundred eighty-nine, relating to the department
16 of tax and revenue (motor carrier road tax), are authorized.

17 (dd) The legislative rules filed in the state register on the
18 eleventh day of August, one thousand nine hundred eighty-nine,
19 modified by the department of tax and revenue to meet the
20 objections of the legislative rule-making review committee and
21 refiled in the state register on the eleventh day of December,
22 one thousand nine hundred eighty-nine, relating to the department
23 of tax and revenue (gasoline and special fuel excise tax), are
24 authorized.

1 (ee) The legislative rules filed in the state register on the
2 eleventh day of August, one thousand nine hundred eighty-nine,
3 modified by the department of tax and revenue to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the eleventh day of December,
6 one thousand nine hundred eighty-nine, relating to the department
7 of tax and revenue (corporation net income tax), are authorized.

8 (ff) The legislative rules filed in the state register on the
9 eleventh day of August, one thousand nine hundred eighty-nine,
10 modified by the department of tax and revenue to meet the
11 objections of the legislative rule-making review committee and
12 refiled in the state register on the eleventh day of December,
13 one thousand nine hundred eighty-nine, relating to the department
14 of tax and revenue (soft drinks tax), are authorized.

15 (gg) The legislative rules filed in the state register on the
16 twenty-first day of February, one thousand nine hundred
17 ninety-one, relating to the state tax commissioner (business
18 investment and jobs expansion tax credit, corporations
19 headquarters relocation tax credit, and small business tax
20 credit), are authorized.

21 (hh) The legislative rules filed in the state register on the
22 twentieth day of December, one thousand nine hundred ninety,
23 modified by the state tax commissioner to meet the objections of
24 the legislative rule-making review committee and refiled in the
25 state register on the twenty-sixth day of April, one thousand

1 nine hundred ninety-one, relating to the state tax commissioner
2 (valuation of timberland and managed timberland), are authorized.

3 (ii) The legislative rules filed in the state register on the
4 twenty-second day of April, one thousand nine hundred ninety-one,
5 modified by the state tax commissioner to meet the objections of
6 the legislative rule-making review committee and refiled in the
7 state register on the sixteenth day of September, one thousand
8 nine hundred ninety-one, relating to the state tax commissioner
9 (bingo rules and regulations), are authorized.

10 (jj) The legislative rules filed in the state register on the
11 thirty-first day of July, one thousand nine hundred ninety-one,
12 modified by the state tax commissioner to meet the objections of
13 the legislative rule-making review committee and refiled in the
14 state register on the sixteenth day of September, one thousand
15 nine hundred ninety-one, relating to the state tax commissioner
16 (property transfer tax), are authorized.

17 (kk) The legislative rules filed in the state register on the
18 eighth day of August, one thousand nine hundred ninety-one,
19 modified by the division of tax to meet the objections of the
20 legislative rule-making review committee and refiled in the state
21 register on the seventh day of January, one thousand nine hundred
22 ninety-two, relating to the division of tax (municipal business
23 and occupation tax), are authorized with the amendments set forth
24 below:

1 On page forty-six, section 2g, by striking out all of
2 subsection 2g.3;

3 And,

4 On pages forty-six and forty-seven, by renumbering the
5 remaining subsections.

6 (ll) The legislative rules filed in the state register on the
7 eighth day of August, one thousand nine hundred ninety-one,
8 modified by the division of tax to meet the objections of the
9 legislative rule-making review committee and refiled in the state
10 register on the tenth day of January, one thousand nine hundred
11 ninety-two, relating to the division of tax (soft drinks tax),
12 are authorized with the amendments set forth below:

13 On page six, subsection 5.2, in the section heading, by
14 striking out the word "breakfast" and inserting in lieu thereof
15 "certain bottled";

16 And,

17 On page six, subsection 5.2, after the word "mixes" by
18 inserting the words "low-alcoholic brewed beverages such as near
19 beer."

20 (mm) The legislative rules filed in the state register on the
21 eighth day of August, one thousand nine hundred ninety-one,
22 modified by the division of tax to meet the objections of the
23 legislative rule-making review committee and refiled in the state
24 register on the tenth day of January, one thousand nine hundred

1 ninety-two, relating to the division of tax (corporation net
2 income tax), are authorized with the amendment set forth below:

3 On page twelve, subdivision 6.4.3, by striking out all of
4 subdivision 6.4.3.

5 (nn) The legislative rules filed in the state register on the
6 eighteenth day of June, one thousand nine hundred ninety-one,
7 modified by the state tax commissioner to meet the objections of
8 the legislative rule-making review committee and refiled in the
9 state register on the tenth day of January, one thousand nine
10 hundred ninety-two, relating to the state tax commissioner
11 (appraisal of producing and reserve oil and natural gas property
12 for periodic statewide reappraisals for ad valorem property tax
13 purposes), are authorized.

14 (oo) The legislative rules filed in the state register on the
15 ninth day of August, one thousand nine hundred ninety-one,
16 modified by the state tax commissioner to meet the objections of
17 the legislative rule-making review committee and refiled in the
18 state register on the tenth day of January, one thousand nine
19 hundred ninety-two, relating to the state tax commissioner
20 (severance tax), are authorized.

21 (pp) The legislative rules filed in the state register on the
22 eighth day of August, one thousand nine hundred ninety-one,
23 modified by the division of tax to meet the objections of the
24 legislative rule-making review committee and refiled in the state
25 register on the tenth day of January, one thousand nine hundred

1 ninety-two, relating to the division of tax (business franchise
2 tax), are authorized.

3 (qq) The legislative rules filed in the state register on the
4 eighth day of August, one thousand nine hundred ninety-one,
5 modified by the division of tax to meet the objections of the
6 legislative rule-making review committee and refiled in the state
7 register on the tenth day of January, one thousand nine hundred
8 ninety-two, relating to the division of tax (exceptions to
9 confidentiality of taxpayer information and disclosure of certain
10 taxpayer information), are authorized.

11 (rr) The legislative rules filed in the state register on the
12 ninth day of August, one thousand nine hundred ninety-one,
13 modified by the division of tax to meet the objections of the
14 legislative rule-making review committee and refiled in the state
15 register on the thirteenth day of January, one thousand nine
16 hundred ninety-two, relating to the division of tax (consumers
17 sales and service tax and use tax), are authorized with the
18 amendments set forth below:

19 On page six, by deleting all of subdivisions 2.25.2 and
20 2.25.4;

21 On page six, subsection 2.25 by renumbering the remaining
22 subdivisions;

23 On page forty-five, paragraph 8.1.1.1, after the words
24 "licensed social workers", by inserting "enrolled agents,
25 professional foresters,";

1 On page forty-five, paragraph 8.1.1.1, after the word
2 "electricians", by striking out the words "enrolled agents";

3 On page forty-five, paragraph 8.1.1.1, after the word
4 "musicians" by striking out the word "auctioneers,";

5 On page fifty-six, subdivision 9.2.19, after the word "laws"
6 by striking out the colon and inserting the following ", such as,
7 for example, sales by credit unions under W. Va. Code §31-10-33
8 the sale of services by owners, trainers or jockeys which are
9 essential to the effective conduct of a horse or dog racing
10 meeting under W. Va. Code §19-23-12, or the commission of an
11 auctioneer licensed under W. Va. Code §19-2C-1 et seq.:";

12 On page one hundred five, subsection 33.5, by striking out
13 the words "child care";

14 On page one hundred ten, subsection 38.1 after the words
15 "daily charge.", by inserting the following sentence: "The daily
16 charge subject to the consumers sales and service tax does not
17 include complimentary items such as shampoo, coffee and
18 newspapers given to guests by hotels and motels.";

19 On page one hundred forty-three, subsection 86.1, after the
20 word "auctioneer" by inserting the following "licensed under W.
21 Va. Code §19-2C-1 et seq.";

22 On page one hundred forty-three, subsection 86.1, after the
23 word "is" by inserting the word "not";

1 On page one hundred forty-three, subsection 86.2 after the
2 word "tax" by inserting the following "on the full sales price of
3 the sales";

4 On page one hundred forty-three, subsection 86.3, in the last
5 sentence after the word "services" by inserting the following "by
6 an auctioneer not licensed in accordance with the W. Va. Code
7 §19-2C-1 et seq.";

8 On page one hundred forty-three, subsection 86.3, in the last
9 sentence after the word "sold" by striking out the period and
10 adding the following ": Provided, That an auctioneer licensed in
11 accordance with W. Va. Code §19-2C-1 et seq. is not required to
12 collect sales tax on such fees or commissions.";

13 And,

14 On page one hundred forty-three, subsection 86.4, by striking
15 out the first sentence and inserting, in lieu thereof, the
16 following sentence: "An auctioneer is taxable on all of his or
17 her purchases except purchases for resale."

18 (ss) The legislative rules filed in the state register on the
19 eighteenth day of September, one thousand nine hundred
20 ninety-two, relating to the division of tax (bingo), are
21 authorized.

22 (tt) The Legislature hereby authorizes and directs the
23 division of tax to amend its rule relating to consumers sales and
24 service tax and use tax which were filed in the code of state

1 regulations (110 CSR 15) on the twenty-seventh day of April, one
2 thousand nine hundred ninety-two, with the following amendments:

3 On page fifty-eight, by striking out all of subparagraph
4 9.3.4.3.d and by renumbering the remaining subparagraph.; and,

5 On page one hundred eight, section 38.1, after the words
6 "daily charge." by striking out the words "The daily charge
7 subject to the consumers sales and service tax does not include
8 complimentary items such as shampoo, coffee and newspapers given
9 to guests by hotels and motels." and inserting in lieu thereof
10 the following:

11 "Notwithstanding the fact that persons engaged in the
12 rendering of a service are required to pay tax on their purchases
13 for use and/or consumption in rendering such services, the
14 purchase by hotels, motels, tourist homes and rooming houses of
15 complimentary items such as shampoos, coffee and newspapers given
16 to guests by such hotels, motels, tourist homes and rooming
17 houses are not taxable."

18 (uu) The legislative rules filed in the state register on the
19 sixteenth day of August, one thousand nine hundred ninety-three,
20 relating to the division of tax (pollution control facilities),
21 are authorized.

22

23 NOTE: The purpose of this bill is to authorize the Division
24 of Tax to promulgate legislative rules relating to pollution
25 control facilities.

26

27 Strike-throughs indicate language that would be stricken from
28 the present law, and underscoring indicates new language that
29 would be added.

09/27

B.

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H. B. 4230
Delegates Gallagher, Douglas, Compton, Huntwork,
(By Burk and Faircloth)
(Introduced January 31, 1994; referred to the
Committee on Finance then the Judiciary)

10 A BILL to amend and reenact section six, article seven, chapter
11 sixty-four of the code of West Virginia, one thousand nine
12 hundred thirty-one, as amended, relating to authorizing the
13 division of tax to promulgate legislative rules relating to
14 pollution control facilities.

15 Be it enacted by the Legislature of West Virginia:

16 That section six, article seven, chapter sixty-four of the
17 code of West Virginia, one thousand nine hundred thirty-one, as
18 amended, be amended and reenacted to read as follows:

19 ARTICLE 7. AUTHORIZATION FOR DEPARTMENT OF TAX AND REVENUE TO
20 PROMULGATE LEGISLATIVE RULES.

21 §64-7-6. Department of tax and revenue; division of tax; and
22 state tax commissioner.

23 (a) The legislative rules filed in the state register on the
24 fifth day of January, one thousand nine hundred eighty-four,

4230

1 relating to the state tax commissioner (appraisal of property for
2 periodic statewide reappraisals for ad valorem property tax
3 purposes), are authorized with the amendments set forth below:

4 On page 8, section 11.04(b)(2), definition of "Active Mining
5 Property," at the end of the first paragraph following the
6 period, by adding the following: "In the application of the
7 herein provided valuation formula on 'active mining property,'
8 the appropriate formula calculation will be based upon the actual
9 market to which the coal from that tract and seam is currently
10 being sold, whether it is 'metallurgical' or 'steam'."

11 On page 9, section 11.04(b)(3), definition of "Active
12 Reserves," at the end of the subsection, following the period, by
13 adding the following: "In the application of the herein provided
14 valuation formula on 'active reserves,' the appropriate formula
15 calculation will be based upon the actual market to which the
16 coal from that tract and seam is currently being sold, whether it
17 is 'metallurgical' or 'steam'."

18 On page 11, section 11.04(b)(11), definition of "Mineable
19 Coal," by striking the subsection and substituting in lieu
20 thereof the following: "(11) Mineable Coal. Coal which can be
21 mined under present day mining technology and economics."

22 On page 25, section 11.04(c)(2)(C), entitled "Property Tax
23 Component," by striking the subsection and inserting in lieu
24 thereof the following: "(C) Property Tax Component -- This

1 component will be derived by multiplying the assessment rate by
2 the statewide average of tax rates on Class III property."

3 On page 30, section 11.04(c)(4), entitled "Valuation of
4 Mined-Out/Unmineable/Barren Coal Properties," by striking the
5 numbers "\$5.00" and inserting in lieu thereof the following:
6 "\$1.00."

7 On page 31, section 11.04(c)(5)(B), by striking the words and
8 numbers "Five Dollars (\$5.00)" and inserting in lieu thereof the
9 following: "One Dollar (\$1.00)."

10 On page 53, section 11.05(h) by striking the symbol and
11 figures "\$5.00" and inserting in lieu the following:
12 "\$1.00)."

13 On page 73, section 11.06(h) by striking the symbol and
14 figures "\$5.00" and inserting in lieu the following: "\$1.00."

15 On page 81, section 11.07(e)(15)(B)(4) at the end of the
16 second sentence remove the period after the word "property" and
17 insert the words "unless the land is used for some other purpose
18 in which case it will be taxed according to its actual use."

19 On page 86, section 11.07(k) delete all of subsection (k).

20 On page 110, section 11.08(c)(4) by striking the symbol and
21 figures "\$5.00" and inserting in lieu thereof the following:
22 "\$1.00."

23 On page 111, section 11.08(c)(5)(B) by striking the symbol
24 and figures "\$5.00" and inserting in lieu thereof the following:
25 "\$1.00."

1 And,

2 On page 115, section 11.09(a)(3) in the first sentence,
3 insert after the word "land" the words "excluding farmland."

4 (b) The legislative rules filed in the state register on the
5 twenty-eighth day of September, one thousand nine hundred
6 eighty-four, relating to the state tax commissioner (estimated
7 personal income tax), are authorized with the amendments set
8 forth below:

9 55.02(a)(2)(on page 182.2) line 18, after the word
10 "profession" strike the words "on his own account" and the
11 comma(,).

12 55.12(b)(1)(page 182.35) at the end of the section, change
13 the period to a comma, and add the following language: "and in
14 the case of a court appointed agent, a copy of the court order of
15 appointment is sufficient."

16 And,

17 55.12(c)(page 182.36) after the word "for," strike the word
18 "erroneous."

19 (c) The legislative rules filed in the state register on the
20 twenty-eighth day of September, one thousand nine hundred
21 eighty-four, modified by the state tax commissioner to meet the
22 objections of the legislative rule-making review committee and
23 refilled in the state register on the fourteenth day of November,
24 one thousand nine hundred eighty-four, and on the twenty-first
25 day of March, one thousand nine hundred eighty-five, relating to

1 the state tax commissioner (estimated corporation net income
2 tax), are authorized.

3 (d) The legislative rules filed in the state register on the
4 twelfth day of March, one thousand nine hundred eighty-five,
5 relating to the state tax commissioner (identification and
6 appraisal of farmland subsequent to the base year of statewide
7 reappraisal), are authorized and directed to be promulgated with
8 the following amendments:

9 Title page, Subject; following the word "Farmland," insert
10 the words "and of Structures Situated Thereon."

11 Page 1, Subject; following the word "Farmland," insert the
12 words "and of Structures Situated Thereon."

13 Page 1, TABLE OF CONTENTS, Section 10; following the words
14 "Valuation of Farmland" add the words "and of Structures Situated
15 Thereon."

16 Page 10.1, Title; following the word "FARMLAND" insert the
17 words "AND STRUCTURES SITUATED THEREON."

18 Page 10.1, Section 10, Title; following the word "Farmland"
19 add the words "and Structures Situated Thereon."

20 Page 10.1, Section 10.01(b); following the word "farmland"
21 insert the words "and structures situated thereon."

22 Page 10.2, Section 10.02(a), first sentence; following the
23 word "farmland" insert the words "and structures situated
24 thereon."

1 Page 10.3, Section 10.02(b), first sentence; following the
2 word "farmland" insert the words "and structures situated
3 thereon." Delete the words "for purposes of the statewide
4 reappraisal."

5 Page 10.3, Section 10.02(b), last sentence; following the
6 word "farmland" insert the words "and structures situated
7 thereon."

8 Page 10.8, Section 10.04(5)(B), last sentence; delete the
9 period and add "or the incapability to be adapted to alternative
10 uses."

11 Page 10.9, Section 10.04(6), first sentence; following the
12 words "land currently being used" insert the words "as part of a
13 farming operation."

14 Page 10.9, Section 10.04(6), following the last sentence; add
15 the sentence "For the purposes of this definition, 'contiguous
16 tracts' are farmlands which are in close proximity, but not
17 necessarily adjacent: **Provided**, That all such contiguous tracts
18 are operated as part of the same farm management plan."

19 Page 10.10, Section 10.04(8), is amended to read in its
20 entirety as follows:

21 "(8) Farm buildings. -- The term 'farm buildings' shall mean
22 structures which directly contribute to the operation of the
23 farm, and shall include tenant houses and quarters furnished farm
24 employees without rent as a part of the terms of their
25 employment."

1 Page 10.11, Section 10.04; delete the word "November" and
2 insert in lieu thereof the word "September." Delete the period
3 following the word "valuation" and add the words, "for the
4 assessment year beginning July first of each year."

5 Page 10.11, Section 10.04, insert the following subdivision:
6 "(12) Application Form: The application form required to be
7 filed with the assessor on or before September first of each year
8 shall require certification that the farm complies with criteria
9 set forth in Section 10.05(c) of these regulations, and renewal
10 applications from year to year shall be sufficient upon statement
11 certifying that no change has been made in the use of farm
12 property which would disqualify 'farm use' classification for
13 assessment purposes." Renumber the subdivisions of Section 10.04
14 following the new 10.04(12); formerly 10.04(12) through
15 10.04(28), to 10.04(13) through 10.04(29), respectively.

16 Page 10.14, Section 10.04(28) (formerly 10.04(27)); following
17 the words "woodland products" insert a comma and the words "such
18 as nuts or fruits harvested" and add a comma following the words
19 "human consumption" on Page 10.15.

20 Page 10.16, Section 10.05, subsection (a), following the
21 words "land is used for farm purposes" by striking the period and
22 inserting in lieu thereof a colon and the following: "Provided,
23 That the true and actual value of all farm used, occupied and
24 cultivated by their owners or bona fide tenants shall be arrived
25 at according to the fair and reasonable value of the property for

1 the purpose for which it is actually used regardless of what the
2 value of the property would be if used for some other purpose;
3 and that the true and actual value shall be arrived at by giving
4 consideration to the fair and reasonable income which the same
5 might be expected to earn under normal conditions in the locality
6 wherein situated, if rented: Provided, however, That nothing
7 herein shall alter the method of assessment of lands or minerals
8 owned by domestic or foreign corporations."

9 Page 10.16, Section 10.05(b), first clause; following the
10 words "following factors shall be" insert the words "indicative
11 of but not conclusive" and delete the word "considered."

12 Page 10.16, Section 10.05(b)(2); delete the period and add
13 the words "such as soil conservation, farmland preservation or
14 federal farm lending agencies."

15 Page 10.17, Section 10.05(b)(7); delete the section and
16 insert in lieu thereof the words "(7) Whether or not the farmer
17 practices 'custom farming' on the land in question."

18 Page 10.17, Section 10.05(b)(9); following the word "type"
19 add a comma and insert the word "utility."

20 Page 10.17, Section 10.05(b)(11), first sentence; following
21 the word "sales" insert the words "for nonfarm uses."

22 Page 10.17, Section 10.05(b)(12)(A); following the words
23 "part of" insert the words "or appurtenant to."

24 Page 10.17, Section 10.05(b)(12)(B); following the words
25 "contiguous to" insert the words "or operated in common with."

1 Page 10.18, Section 10.05, subsection (c), the first sentence
2 of which is amended in its entirety to read as follows:
3 "Qualifying farmland and the structures situated thereon shall be
4 subject to farm use valuation, with primary consideration being
5 given to the income which the property might be expected to earn,
6 in the locality wherein situate, if rented."

7 Page 10.18, Section 10.05(b)(12)(B); delete the semicolons
8 and the words "it was purchased at the same time as the tract so
9 used." Delete the period following the word "purposes" and add
10 the words "or any nonfarm use."

11 Page 10.19, Section 10.05(c)(2); following the words
12 "Provided, That no" delete the word "reason" and insert in lieu
13 thereof the words "individual event."

14 Page 10.20, Section 10.05(c)(4)(C); following the words
15 "(1,000) minimum production value" insert the words "or the small
16 farm five hundred dollars (\$500) minimum production and sale."

17 Page 10.23, Section 10.05(d)(3)(B), third sentence; following
18 the word "If" insert the words "timber from." Delete the period
19 following the word "purpose" and add the words "or is being
20 converted to farm production uses."

21 Page 10.26, Section 10.05(f)(2) is amended in its entirety to
22 read as follows:

23 "(2) Farm buildings. -- Rental value of farm buildings and
24 other improvements on the farmland shall be valued by determining
25 the replacement cost of the building or structure by usual farm

1 construction practices, and farm labor standards and subtracting
2 therefrom depreciation.¹ Both of these determinations shall be
3 made in accordance with the tax department's real property
4 appraisal manual² as filed in the state register in accordance
5 with chapter 29A of the code of West Virginia, 1931, as amended,
6 and as it relates to agricultural buildings and structures. One
7 (1) acre of land shall be assigned to all buildings as a unit
8 situate on the property, regardless of the actual acreage
9 occupied by such buildings and shall be appraised at its farm-use
10 valuation based on the highest class of farmland present on the
11 farm."

12 Page 10.28, Section 10.05(f)(3)(B)(1); following the words
13 "or more of the" insert the word "usual."

14 Page 10.28, Section 10.05(f)(3)(B)(2); following the words
15 "(50%) of the" insert the word "usual."

16 Page 10.29, Section 10.05(f)(3)(C)(1)(a); following the words
17 "(50%) or more of the" insert the word "usual."

18 Page 10.29, Section 10.05(f)(3)(C)(1)(b); following the words
19 "(50%) of the" insert the word "usual."

20 Page 10.31, Section 10.05(f)(3)(C)(2)(b); following the last
21 sentence insert the sentence "An individual employed other than
22 in farming is not an unincorporated business."

23 Page 10.35, Section 10.07, Title; following the word
24 "Farmland" insert the words "and Structures Situated Thereon."

1 Page 10.35, Section 10.07(a), first sentence; following the
2 word "farmland" insert the words "and structures situated
3 thereon."

4 And,

5 Page 10.46, Subject; following the word "Farmland" insert the
6 words "and Structures Situated Thereon."

7 (e) The legislative rules filed in the state register on the
8 twenty-second day of May, one thousand nine hundred eighty-five,
9 relating to the state tax commissioner (rules governing the
10 operation of a statewide electronic data processing system
11 network, to facilitate administration of the ad valorem property
12 tax on real and personal property), are authorized.

13 (f) The legislative rules filed in the state register on the
14 twenty-sixth day of March, one thousand nine hundred eighty-six,
15 relating to the state tax commissioner (listing of interests in
16 natural resources for the first statewide reappraisal; provision
17 for penalties), are authorized.

18 (g) The legislative rules filed in the state register on the
19 twenty-sixth day of March, one thousand nine hundred eighty-six,
20 modified by the state tax commissioner to meet the objections of
21 the legislative rule-making review committee and refiled in the
22 state register on the twelfth day of February, one thousand nine
23 hundred eighty-seven, relating to the state tax commissioner
24 (review of appraisals by county commissions sitting as
25 administrative appraisal review boards), are authorized.

1 (h) The legislative rules filed in the state register on the
2 twenty-sixth day of March, one thousand nine hundred eighty-six,
3 modified by the state tax commissioner to meet the objections of
4 the legislative rule-making review committee and refiled in the
5 state register on the twelfth day of February, one thousand nine
6 hundred eighty-seven, relating to the state tax commissioner
7 (review of appraisals by a circuit court on certiorari), are
8 authorized with the following amendment:

9 On page 3, §18.3.1 is stricken in its entirety and a new
10 §18.3.1 is inserted in lieu thereof to read as follows:

11 "18.3.1 Who May Request Review. -- The property owner, Tax
12 Commissioner, protestor or intervenor may request the county
13 commission to certify the evidence and remove and return the
14 record to the circuit court of the county on a writ of
15 certiorari. Parties to the proceeding wherein review by the
16 circuit court is sought shall pay costs and fees as they are
17 incurred: Provided, That the circuit court upon rendering
18 judgment or making any order may award costs to any party in
19 accordance with the provisions of W. Va. Code §53-3-5."

20 (i) The legislative rules filed in the state register on the
21 twenty-sixth day of March, one thousand nine hundred eighty-six,
22 modified by the state tax commissioner to meet the objections of
23 the legislative rule-making review committee and refiled in the
24 state register on the twelfth day of February, one thousand nine
25 hundred eighty-seven, relating to the state tax commissioner

1 (administrative review of appraisals by the state tax
2 commissioner), are authorized.

3 (j) The legislative rules filed in the state register on the
4 eighteenth day of August, one thousand nine hundred eighty-six,
5 modified by the state tax commissioner to meet the objections of
6 the legislative rule-making review committee and refiled in the
7 state register on the twelfth day of February, one thousand nine
8 hundred eighty-seven, relating to the state tax commissioner
9 (additional review and implementation of property appraisals),
10 are authorized.

11 (k) The legislative rules filed in the state register on the
12 eleventh day of August, one thousand nine hundred eighty-six,
13 relating to the state tax commissioner (guidelines for assessors
14 to assure fair and uniform personal property values), are
15 authorized.

16 (l) The legislative rules filed in the state register on the
17 eighteenth day of August, one thousand nine hundred eighty-six,
18 modified by the state tax commissioner to meet the objections of
19 the legislative rule-making review committee and refiled in the
20 state register on the tenth day of December, one thousand nine
21 hundred eighty-six, relating to the state tax commissioner
22 (registration of transient vendors), are authorized.

23 (m) The legislative rules filed in the state register on the
24 fourth day of February, one thousand nine hundred eighty-six,
25 modified by the state tax commissioner to meet the objections of

1 the legislative rule-making review committee and refiled in the
2 state register on the fourteenth day of January, one thousand
3 nine hundred eighty-seven, relating to the state tax commissioner
4 (business and occupation tax), are authorized.

5 (n) The legislative rules filed in the state register on the
6 fourteenth day of August, one thousand nine hundred eighty-seven,
7 modified by the state tax commissioner to meet the objections of
8 the legislative rule-making review committee and refiled in the
9 state register on the fourth day of November, one thousand nine
10 hundred eighty-seven, relating to the state tax commissioner
11 (telecommunications tax), are authorized.

12 (o) The legislative rules filed in the state register on the
13 fourteenth day of August, one thousand nine hundred eighty-seven,
14 relating to the state tax commissioner (business franchise tax),
15 are authorized.

16 (p) The legislative rules filed in the state register on the
17 seventeenth day of August, one thousand nine hundred
18 eighty-seven, modified by the state tax commissioner to meet the
19 objections of the legislative rule-making review committee and
20 refiled in the state register on the twenty-second day of
21 January, one thousand nine hundred eighty-eight, relating to the
22 state tax commissioner (consumers sales and service tax and use
23 tax), are authorized.

24 (q) The legislative rules filed in the state register on the
25 fourteenth day of August, one thousand nine hundred eighty-seven,

1 modified by the state tax commissioner to meet the objections of
2 the legislative rule-making review committee and refiled in the
3 state register on the thirteenth day of January, one thousand
4 nine hundred eighty-eight, relating to the state tax commissioner
5 (appraisal of property for periodic statewide reappraisals for ad
6 valorem property tax purposes), are authorized.

7 (r) The legislative rules filed in the state register on the
8 fourteenth day of August, one thousand nine hundred eighty-seven,
9 modified by the state tax commissioner to meet the objections of
10 the legislative rule-making review committee and refiled in the
11 state register on the twelfth day of January, one thousand nine
12 hundred eighty-eight, relating to the state tax commissioner
13 (severance tax), are authorized.

14 (s) The legislative rules filed in the state register on the
15 second day of September, one thousand nine hundred eighty-eight,
16 modified by the state tax commissioner to meet the objections of
17 the legislative rule-making review committee and refiled in the
18 state register on the twenty-fourth day of February, one thousand
19 nine hundred eighty-nine, relating to the state tax commissioner
20 (solid waste assessment fee), are authorized.

21 (t) The legislative rules filed in the state register on the
22 twelfth day of August, one thousand nine hundred eighty-eight,
23 modified by the state tax commissioner to meet the objections of
24 the legislative rule-making review committee and refiled in the
25 state register on the twenty-first day of September, one thousand

1 nine hundred eighty-eight, relating to the state tax commissioner
2 (electronic data processing system network for property tax
3 administration), are authorized.

4 (u) The legislative rules filed in the state register on the
5 nineteenth day of September, one thousand nine hundred
6 eighty-eight, modified by the state tax commissioner to meet the
7 objections of the legislative rule-making review committee and
8 refiled in the state register on the twenty-fourth day of
9 February, one thousand nine hundred eighty-nine, relating to the
10 state tax commissioner (exemption of property from ad valorem
11 property taxation), are authorized.

12 (v) The legislative rules filed in the state register on the
13 sixteenth day of September, one thousand nine hundred
14 eighty-eight, modified by the state tax commissioner to meet the
15 objections of the legislative rule-making review committee and
16 refiled in the state register on the thirteenth day of January,
17 one thousand nine hundred eighty-nine, relating to the state tax
18 commissioner (consumers sales and service tax and use tax), are
19 authorized.

20 (w) The legislative rules filed in the state register on the
21 twenty-third day of June, one thousand nine hundred eighty-nine,
22 relating to the state tax department (personal income tax), are
23 authorized.

24 (x) The legislative rules filed in the state register on the
25 twenty-ninth day of June, one thousand nine hundred eighty-nine,

1 relating to the state tax department (severance tax), are
2 authorized.

3 (y) The legislative rules filed in the state register on the
4 fourth day of August, one thousand nine hundred eighty-nine,
5 modified by the state tax department to meet the objections of
6 the legislative rule-making review committee and refiled in the
7 state register on the eleventh day of December, one thousand nine
8 hundred eighty-nine, relating to the state tax department (solid
9 waste assessment fee), are authorized.

10 (z) The legislative rules filed in the state register on the
11 fourteenth day of August, one thousand nine hundred eighty-nine,
12 modified by the department of tax and revenue to meet the
13 objections of the legislative rule-making review committee and
14 refiled in the state register on the twelfth day of December, one
15 thousand nine hundred eighty-nine, relating to the department of
16 tax and revenue (business franchise tax), are authorized.

17 (aā) The legislative rules filed in the state register on the
18 eleventh day of August, one thousand nine hundred eighty-nine,
19 modified by the department of tax and revenue to meet the
20 objections of the legislative rule-making review committee and
21 refiled in the state register on the eleventh day of December,
22 one thousand nine hundred eighty-nine, relating to the department
23 of tax and revenue (business and occupation tax), are authorized.

24 (bb) The legislative rules filed in the state register on the
25 fourteenth day of August, one thousand nine hundred eighty-nine,

1 modified by the department of tax and revenue to meet the
2 objections of the legislative rule-making review committee and
3 refiled in the state register on the nineteenth day of January,
4 one thousand nine hundred ninety, relating to the department of
5 tax and revenue (consumers sales and service tax and use tax),
6 are authorized with the amendments set forth below:

7 On page eight, Section 2.28, after the word "as" by inserting
8 the words "art, science,".

9 On pages eight and nine, Section 2.28.1, after the word
10 "intellectual" by deleting the word "or" and inserting in lieu
11 thereof the words "physical and".

12 On page nine, Section 2.28.2, by deleting the words "or
13 instruction."

14 On page nine, Section 2.28.2, after the word "training" by
15 adding the word "or".

16 On page nine, Section 2.28.2, by deleting the words "or any
17 portion of a school curriculum classified as physical education."

18 On page nine, by deleting all of Section 2.28.2.1.

19 On page nine, Section 2.28.2.2, by deleting the section
20 number.

21 On page nine, Section 2.28.2.2, by deleting the words "or
22 instruction."

23 On page nine, Section 2.28.2.2, after the word "training" by
24 adding the word "or".

1 On page nine, Section 2.28.2.2, after the word "conditioning"
2 by inserting a period and striking the remainder of the sentence.

3 On page one hundred twelve, Section 59.2, after the words
4 "sales of the service of cremation" by adding the words "sales on
5 perpetual care trust fund deposits."

6 And,

7 On page one hundred twenty-eight, Section 91.2, after the
8 words "include food" by inserting the following: ", as defined
9 in section 2.30 of this rule,".

10 (cc) The legislative rules filed in the state register on the
11 eleventh day of August, one thousand nine hundred eighty-nine,
12 modified by the department of tax and revenue to meet the
13 objections of the legislative rule-making review committee and
14 refiled in the state register on the eleventh day of December,
15 one thousand nine hundred eighty-nine, relating to the department
16 of tax and revenue (motor carrier road tax), are authorized.

17 (dd) The legislative rules filed in the state register on the
18 eleventh day of August, one thousand nine hundred eighty-nine,
19 modified by the department of tax and revenue to meet the
20 objections of the legislative rule-making review committee and
21 refiled in the state register on the eleventh day of December,
22 one thousand nine hundred eighty-nine, relating to the department
23 of tax and revenue (gasoline and special fuel excise tax), are
24 authorized.

1 (ee) The legislative rules filed in the state register on the
2 eleventh day of August, one thousand nine hundred eighty-nine,
3 modified by the department of tax and revenue to meet the
4 objections of the legislative rule-making review committee and
5 refiled in the state register on the eleventh day of December,
6 one thousand nine hundred eighty-nine, relating to the department
7 of tax and revenue (corporation net income tax), are authorized.

8 (ff) The legislative rules filed in the state register on the
9 eleventh day of August, one thousand nine hundred eighty-nine,
10 modified by the department of tax and revenue to meet the
11 objections of the legislative rule-making review committee and
12 refiled in the state register on the eleventh day of December,
13 one thousand nine hundred eighty-nine, relating to the department
14 of tax and revenue (soft drinks tax), are authorized.

15 (gg) The legislative rules filed in the state register on the
16 twenty-first day of February, one thousand nine hundred
17 ninety-one, relating to the state tax commissioner (business
18 investment and jobs expansion tax credit, corporations
19 headquarters relocation tax credit, and small business tax
20 credit), are authorized.

21 (hh) The legislative rules filed in the state register on the
22 twentieth day of December, one thousand nine hundred ninety,
23 modified by the state tax commissioner to meet the objections of
24 the legislative rule-making review committee and refiled in the
25 state register on the twenty-sixth day of April, one thousand

1 nine hundred ninety-one, relating to the state tax commissioner
2 (valuation of timberland and managed timberland), are authorized.

3 (ii) The legislative rules filed in the state register on the
4 twenty-second day of April, one thousand nine hundred ninety-one,
5 modified by the state tax commissioner to meet the objections of
6 the legislative rule-making review committee and refiled in the
7 state register on the sixteenth day of September, one thousand
8 nine hundred ninety-one, relating to the state tax commissioner
9 (bingo rules and regulations), are authorized.

10 (jj) The legislative rules filed in the state register on the
11 thirty-first day of July, one thousand nine hundred ninety-one,
12 modified by the state tax commissioner to meet the objections of
13 the legislative rule-making review committee and refiled in the
14 state register on the sixteenth day of September, one thousand
15 nine hundred ninety-one, relating to the state tax commissioner
16 (property transfer tax), are authorized.

17 (kk) The legislative rules filed in the state register on the
18 eighth day of August, one thousand nine hundred ninety-one,
19 modified by the division of tax to meet the objections of the
20 legislative rule-making review committee and refiled in the state
21 register on the seventh day of January, one thousand nine hundred
22 ninety-two, relating to the division of tax (municipal business
23 and occupation tax), are authorized with the amendments set forth
24 below:

1 On page forty-six, section 2g, by striking out all of
2 subsection 2g.3;

3 And,

4 On pages forty-six and forty-seven, by renumbering the
5 remaining subsections.

6 (ll) The legislative rules filed in the state register on the
7 eighth day of August, one thousand nine hundred ninety-one,
8 modified by the division of tax to meet the objections of the
9 legislative rule-making review committee and refiled in the state
10 register on the tenth day of January, one thousand nine hundred
11 ninety-two, relating to the division of tax (soft drinks tax),
12 are authorized with the amendments set forth below:

13 On page six, subsection 5.2, in the section heading, by
14 striking out the word "breakfast" and inserting in lieu thereof
15 "certain bottled";

16 And,

17 On page six, subsection 5.2, after the word "mixes" by
18 inserting the words "low-alcoholic brewed beverages such as near
19 beer."

20 (mm) The legislative rules filed in the state register on the
21 eighth day of August, one thousand nine hundred ninety-one,
22 modified by the division of tax to meet the objections of the
23 legislative rule-making review committee and refiled in the state
24 register on the tenth day of January, one thousand nine hundred

1 ninety-two, relating to the division of tax (corporation net
2 income tax), are authorized with the amendment set forth below:

3 On page twelve, subdivision 6.4.3, by striking out all of
4 subdivision 6.4.3.

5 (nn) The legislative rules filed in the state register on the
6 eighteenth day of June, one thousand nine hundred ninety-one,
7 modified by the state tax commissioner to meet the objections of
8 the legislative rule-making review committee and refiled in the
9 state register on the tenth day of January, one thousand nine
10 hundred ninety-two, relating to the state tax commissioner
11 (appraisal of producing and reserve oil and natural gas property
12 for periodic statewide reappraisals for ad valorem property tax
13 purposes), are authorized.

14 (oo) The legislative rules filed in the state register on the
15 ninth day of August, one thousand nine hundred ninety-one,
16 modified by the state tax commissioner to meet the objections of
17 the legislative rule-making review committee and refiled in the
18 state register on the tenth day of January, one thousand nine
19 hundred ninety-two, relating to the state tax commissioner
20 (severance tax), are authorized.

21 (pp) The legislative rules filed in the state register on the
22 eighth day of August, one thousand nine hundred ninety-one,
23 modified by the division of tax to meet the objections of the
24 legislative rule-making review committee and refiled in the state
25 register on the tenth day of January, one thousand nine hundred

1 ninety-two, relating to the division of tax (business franchise
2 tax), are authorized.

3 (qq) The legislative rules filed in the state register on the
4 eighth day of August, one thousand nine hundred ninety-one,
5 modified by the division of tax to meet the objections of the
6 legislative rule-making review committee and refiled in the state
7 register on the tenth day of January, one thousand nine hundred
8 ninety-two, relating to the division of tax (exceptions to
9 confidentiality of taxpayer information and disclosure of certain
10 taxpayer information), are authorized.

11 (rr) The legislative rules filed in the state register on the
12 ninth day of August, one thousand nine hundred ninety-one,
13 modified by the division of tax to meet the objections of the
14 legislative rule-making review committee and refiled in the state
15 register on the thirteenth day of January, one thousand nine
16 hundred ninety-two, relating to the division of tax (consumers
17 sales and service tax and use tax), are authorized with the
18 amendments set forth below:

19 On page six, by deleting all of subdivisions 2.25.2 and
20 2.25.4;

21 On page six, subsection 2.25 by renumbering the remaining
22 subdivisions;

23 On page forty-five, paragraph 8.1.1.1, after the words
24 "licensed social workers", by inserting "enrolled agents,
25 professional foresters,";

1 On page forty-five, paragraph 8.1.1.1, after the word
2 "electricians", by striking out the words "enrolled agents";

3 On page forty-five, paragraph 8.1.1.1, after the word
4 "musicians" by striking out the word "auctioneers,";

5 On page fifty-six, subdivision 9.2.19, after the word "laws"
6 by striking out the colon and inserting the following ", such as,
7 for example, sales by credit unions under W. Va. Code §31-10-33
8 the sale of services by owners, trainers or jockeys which are
9 essential to the effective conduct of a horse or dog racing
10 meeting under W. Va. Code §19-23-12, or the commission of an
11 auctioneer licensed under W. Va. Code §19-2C-1 et seq.:";

12 On page one hundred five, subsection 33.5, by striking out
13 the words "child care";

14 On page one hundred ten, subsection 38.1 after the words
15 "daily charge.", by inserting the following sentence: "The daily
16 charge subject to the consumers sales and service tax does not
17 include complimentary items such as shampoo, coffee and
18 newspapers given to guests by hotels and motels.";

19 On page one hundred forty-three, subsection 86.1, after the
20 word "auctioneer" by inserting the following "licensed under W.
21 Va. Code §19-2C-1 et seq.";

22 On page one hundred forty-three, subsection 86.1, after the
23 word "is" by inserting the word "not";

1 On page one hundred forty-three, subsection 86.2 after the
2 word "tax" by inserting the following "on the full sales price of
3 the sales";

4 On page one hundred forty-three, subsection 86.3, in the last
5 sentence after the word "services" by inserting the following "by
6 an auctioneer not licensed in accordance with the W. Va. Code
7 §19-2C-1 et seq.";

8 On page one hundred forty-three, subsection 86.3, in the last
9 sentence after the word "sold" by striking out the period and
10 adding the following ": Provided, That an auctioneer licensed in
11 accordance with W. Va. Code §19-2C-1 et seq. is not required to
12 collect sales tax on such fees or commissioners.";

13 And,

14 On page one hundred forty-three, subsection 86.4, by striking
15 out the first sentence and inserting, in lieu thereof, the
16 following sentence: "An auctioneer is taxable on all of his or
17 her purchases except purchases for resale."

18 (ss) The legislative rules filed in the state register on the
19 eighteenth day of September, one thousand nine hundred
20 ninety-two, relating to the division of tax (bingo), are
21 authorized.

22 (tt) The Legislature hereby authorizes and directs the
23 division of tax to amend its rule relating to consumers sales and
24 service tax and use tax which were filed in the code of state

1 regulations (110 CSR 15) on the twenty-seventh day of April, one
2 thousand nine hundred ninety-two, with the following amendments:

3 On page fifty-eight, by striking out all of subparagraph
4 9.3.4.3.d and by renumbering the remaining subparagraph.; and,

5 On page one hundred eight, section 38.1, after the words
6 "daily charge." by striking out the words "The daily charge
7 subject to the consumers sales and service tax does not include
8 complimentary items such as shampoo, coffee and newspapers given
9 to guests by hotels and motels." and inserting in lieu thereof
10 the following:

11 "Notwithstanding the fact that persons engaged in the
12 rendering of a service are required to pay tax on their purchases
13 for use and/or consumption in rendering such services, the
14 purchase by hotels, motels, tourist homes and rooming houses of
15 complimentary items such as shampoos, coffee and newspapers given
16 to guests by such hotels, motels, tourist homes and rooming
17 houses are not taxable."

18 (uu) The legislative rules filed in the state register on the
19 sixteenth day of August, one thousand nine hundred ninety-three,
20 relating to the division of tax (pollution control facilities),
21 are authorized.

22
23 NOTE: The purpose of this bill is to authorize the Division
24 of Tax to promulgate legislative rules relating to pollution
25 control facilities.

26
27 Strike-throughs indicate language that would be stricken from
28 the present law, and underscoring indicates new language that
29 would be added.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

A. RENEE COE
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

Telephone: (304) 558-6000
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STATE OF WEST VIRGINIA

SECRETARY OF STATE

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94 MAY 9 PM 2:00

STATE TAX DEPARTMENT
LEGAL DIVISION

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

DONALD R. WILKES
Director, Corporations

(Plus all the volunteer
help we can get)

FAX: (304) 558-0900

TO: John Montgomery

AGENCY: Tax

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: May 6, 1994

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 6 TITLE: 110 Tax

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: John Montgomery

TITLE OF PERSON SIGNING: Attorney Legal Division

DATE: 7/4/94

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.