WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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

AGENCY: Tax Department TITLE NUMBER: 110

CITE AUTHORITY W. Va. Code §§ 11-10-5 & 11-10-22

AMENDMENT TO AN EXISTING RULE: YES ______ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: ______

TITLE OF RULE BEING AMENDED: ______

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 10A

TITLE OF RULE BEING PROPOSED: Information Return Required for Analysis of Recommendations of Governor's Commission on Fair Taxation

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

Joseph M. Palmer

Joseph M. Palmer, Acting Secretary of Tax and Revenue

SCANNED

$4.80

QUESTIONNAIRE

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

DATE: August 18, 2000

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) State Tax Department, Room W-301, Capital Bldg., Charleston, WV 25324

LEGISLATIVE RULE TITLE: *Information Return Required for Analysis of Recommendations of Governor's Commission on Fair Taxation*

1. Authorizing statute(s) citation W. Va. Code §§ 11-10-5 & 11-10-22

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

   June 30, 2000

   b. What other notice, including advertising, did you give of the hearing?

   Filed on Tax Department's web site

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

   July 31, 2000

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

   Attached ________ No comments received ___X___

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

August 18, 2000

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

John Montgomery, Attorney Supervisor, Legal Division

State Tax Department, P.O. Box 1005, Charleston, WV 25324-1005

Phone: 558-5330, FAX 558-8728, e-mail JMontgomery@tax.state.wv.us

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

Keith Larson, Attorney, Legal Division

State Tax Department, P.O. Box 1005, Charleston, WV 25324-1005

Phone: 558-5330, FAX 558-8729, e.mail KLarson@tax.state.wv.us

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

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

N/A

b. Date of hearing or comment period:

____

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

____

d. Attach findings and determinations and reasons:

Attached ____

RULE SUMMARY

110 C.S.R.10A

INFORMATION RETURN REQUIRED FOR ANALYSIS OF RECOMMENDATIONS OF GOVERNOR'S COMMISSION ON FAIR TAXATION

This rule provides the procedure to be used in obtaining needed information for analysis when considering recommendations of the Governor's Commission on Fair Taxation. West Virginia Code § 11-10-22(d) requires the Tax Commissioner to develop an information tax return to be filed by selected taxpayers.

The rule provides definitions for "business," "Commission," "information return," "materially inaccurate or incomplete information return," and "Commission's recommendations." The rule states when and to whom the return will be sent, the financial incentive to complete and file the return, and the financial penalty for failure to timely file a materially complete and correct return.

CIRCUMSTANCE OF RULE

110 C.S.R. 10A

INFORMATION RETURN REQUIRED FOR ANALYSIS OF RECOMMENDATIONS OF GOVERNOR'S COMMISSION ON FAIR TAXATION

The Legislature on March 11, 2000, enacted Committee Substitute for Senate Bill 161 which enacted West Virginia Code § 11-10-22. The bill provides the means to analyze information obtained through the use of an information tax return for purposes of the Governor's Commission on Fair Taxation. Section 11-10-22 (d) requires the Tax Commissioner to propose legislative rules that include the actual content of the information return to be completed and filed. This rule satisfies the legislative requirements stated in Section 11-10-22(d).

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Information Return Required for Analysis of Recommendations of Governor's Commission on Fair Taxation

Type of Rule: X Legislative ___Interpretive ____Procedural

Agency: State Tax Division
Address: P.O. Box 1005
Charleston, WV 25324-1005

1. Effect of Proposed Rule

	ANNUAL		FISCAL YEAR		
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	$400,000	$	$400,000	$	$
PERSONAL SERVICES	0	0	50,000	0	0
CURRENT EXPENSE	0	0	350,000	0	0
REPAIRS & ALTERNATIONS	0	0	0	0	0
EQUIPMENT	0	0	0	0	0
OTHER	0	0	0	0	0

2. Explanation of above estimates:

The $400,000 will affect costs of printing and mailing 11,300 information tax returns, the processing of the returns, and the analysis of the data received.

3. Objectives of these rules:

To provide taxpayers and the Legislature with information on the process by which the State will analyze potential changes in tax policy associated with the recommendations of the Governor's Commission on Fair Taxation, and to provide tax information to better analyze tax law changes.

Rule Title: Information Return Required for Analysis of Recommendations of Governor's Commission on Fair Taxation

4. Explanation of Overall Economic Impact of Proposed Rule.

   A. Economic Impact on State Government.

      $2,000,000 of the necessary $2,400,000 was appropriated; however, an additional $400,000 of expense is projected

   B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

      Negligible

   C. Economic Impact on Citizens/Public at Large.

      Negligible

Date: August 18, 2000

Signature of Agency Head or Authorized Representative

Joseph M. Palmer

Joseph M. Palmer, State Tax Commissioner

AGENCY APPROVED
WEST VIRGINIA LEGISLATIVE RULE
DEPARTMENT OF TAX AND REVENUE
STATE TAX DEPARTMENT

TITLE 110
SERIES 10A

INFORMATIONAL RETURN REQUIRED FOR ANALYSIS OF RECOMMENDATIONS OF GOVERNOR'S COMMISSION ON FAIR TAXATION.

§ 110-10a-1. General.

1.1 **Scope.** - This rule supplements W. Va. Code § 11-10-22, which requires certain businesses to file Informational returns which are to be used solely to analyze the fiscal and economic effects if the Recommendations of the Commission on Fair Taxation are implemented. W. Va. Code § 11-10-22(d) requires the Tax Commissioner to submit finally approved legislative rules no later than August 31, 2000.

1.2 **Authority.** - W. Va. Code §§ 11-10-5d and 22.

1.3 **Filing Date.** -

1.4 **Effective Date.** -

§ 110-10A-2. Background and Overview of the Informational Return.

2.1 On July 25, 1997, Governor Underwood created the Commission on Fair Taxation to review and make recommendations for improving State and local taxes in West Virginia. In December, 1999, the Commission submitted its Recommendations to the Governor. One of the general recommendations was enactment of a broad based tax system with fewer taxes and tax preferences in order to promote tax neutrality and consistency and economic development.

2.2 One of the specific recommendations was enactment of the Single Business Tax (SBT), which is a broad based tax imposed on the privilege of doing business in West Virginia, to replace the Business Franchise Tax, Corporate Charter Tax, Corporation Net Income Tax and Business Registration Tax. The SBT would apply to all business enterprises regardless of their type of organization. Businesses would be taxed on the basis of their economic activity rather than on the basis of their organization. The SBT would be imposed on inputs of both labor and capital, as measured by the amount of compensation, rents, interest, depreciation payments and profit made in a given year. The SBT would permit deductions for the cost of capital expenditures before application of the rate of tax, and would exempt small businesses from filing a return.

2.3 On March 11, 2000, Committee Substitute for Senate Bill 161 was enacted. The legislation was effective as of June 9, 2000. That bill enacted W. Va. Code § 11-10-22, "Information returns and due date thereof," which requires this rule.

§ 110-10A-3. Definitions.

As used in this rule and unless the context clearly requires a different meaning, the following terms have the meaning ascribed in this section.

3.1 **"Business"** means any person, organization or entity which has the business registration certificate required by W. Va. Code § 11-12-1 et seq., including a non-profit enterprise or organization.

3.2 **"Commission"** means the Commission on Fair Taxation.

3.3 **"Informational return"** means the return required by W. Va. Code § 11-10-22, including the instructions for properly completing and returning the return.

3.3.1 The informational return and the information on that return shall be treated the same as "return" and "return information" as defined in W. Va. Code § 11-10-5d "Confidentiality and disclosure of returns and return information," subject to the provisions of W. Va. Code § 11-1B-22.

3.4 **"Materially inaccurate or incomplete informational return"** means an informational return containing no information or information which is incorrect, incomplete or otherwise deficient to such a degree that the information cannot be used in predicting revenues and revenue impact on different classifications and forms of business by those organizations or agencies that are charged with the economic and revenue analysis of information return filings for the purpose of assessing the potential impact of the Commission's recommendations.

3.5 **"Recommendations"** or **"Commission's recommendations"** means the "Recommendations to the Governor – December 1999" of The Governor's Commission on Fair Taxation.

§ 110-10-4. Informational return requirements.

4.1 In order to obtain the information needed to make an adequate static analysis of the fiscal and economic revenue impact on the State of implementing the Commission's recommendations, the informational return in the Appendix will be mailed to each member of a representative sample of businesses which have current business registration certificates. The representative sample will be a stratified random sample based on types of organization, classification of business conducted and amount of tax payments. The size of the sample will depend on the response rate of the ten thousand or more businesses for which an informational return is required. To maximize the response rate, W. Va. Code § 11-10-22 provides for both a financial incentive for accurate, complete and timely filing of the return, and a substantial financial penalty for failure to file or for the filing of a materially inaccurate, materially incomplete or untimely return.

4.2 Informational returns will be required only after businesses in the sample have been notified, not later than July 1, 2000, that they have been selected to be members of the sample, and after the Legislature has approved the returns by authorizing this rule.

4.3 For businesses required to file the informational return, calendar year businesses shall file the informational return for calendar years 1999 and 2000, and fiscal year businesses shall file the return for their fiscal years ending in 1999 and 2000.

4.4 The due date of the informational return for tax years ending in 1999 and 2000 shall be the same as the date the business's federal income tax return or federal information return is due in calendar year 2001, including filing extensions, which is also the due date for its West Virginia business tax return Form 112, Form 112S, Form 120, Form 141 or Form 140, as the case may be. However, if the business is not required to file any of these tax returns, the informational return shall be filed on or before the fifteenth day of the fifth month following the close of its year for tax accounting or financial accounting purposes ending during the 2000 calendar year. However, in no case will the due date of an informational tax return occur prior to ninety days following the date of Legislative authorization of this rule.

4.4.1 W. Va. Code § 11-10-22(b) provides that the Tax Commissioner may grant extensions of time to file the informational return. Any businesses required by W. Va. Code § 11-10-22(b) to file a return by the fifth month following the close of its tax year for tax accounting or financial accounting purposes ending in 1999, is hereby extended until the fifth month following the close of its calendar or fiscal tax year ending In the year 2000.

4.5 **Fiscal Analysis**. - The following information necessary for an adequate state fiscal analysis of the impact of the Commission's recommendations cannot be obtained from information in the State business tax computer system for tax years ending in 1999 and 2000:

4.5.1 Federal tax return information on gross business receipts, wages and compensation paid, health and life insurance labor compensation payments, federal or state mandated labor compensation payments (e.g., FICA tax), other not elsewhere classified labor compensation payments, interest paid, rents and royalties paid and federal taxable income before net operating loss deduction. The taxable income information is available on a non-system file for some but not all business organizations.

4.5.2 Business records on annual West Virginia capital investment and depreciation attributable to such capital investment

4.5.3 Local government property tax records/liability for taxes on real property, personal property, business inventories, automobiles and machinery and equipment

4.5.4 State business tax return information on annual corporation net income tax liability, business franchise tax liability, corporate license tax liability, insurance premium tax liability, multi-state apportionment components and a list of subsidiaries for consolidated filers. Information for some taxpayers is partially available in existing sample files or other non-system files; however, this information is neither complete nor timely.

4.6 The following information could be useful, but is not absolutely necessary for an adequate state fiscal analysis, and is not requested on the informational tax return:

4.6.1 Useful information not requested on the return includes: total employment in West Virginia; a "break-out" or separate accounting of rents paid on real property, rents paid on personal property and royalties paid; a break-out between West Virginia capital investment in buildings and West Virginia capital investment in machinery and equipment; and the total value of existing investment tax credits.

4.6.2 Reliable information not readily obtainable through the informational return process includes business purchases of various professional services, contracting services and utility services. Businesses may not have standardized accounting systems to easily break out these purchases from other purchasing activities on an annual basis.

4.7 **Economic Analysis.** - Although it does not appear that the State Tax Department will itself perform an economic analysis of the impact of the Commission's recommendations, the following information not available from the State business tax computer system and listed in Section 4.4 will be required by the university which prepares economic or financial forecasts, projections, analyses, and statistical studies and related activities pursuant to W. Va. Code § 11-10-22(g)(2):

> Gross business receipts, wages and compensation paid, health and life insurance labor compensation payments, federal or state mandated labor compensation payments (e.g., FICA tax), other not elsewhere classified labor compensation payments, interest paid, rents and royalties paid, federal taxable income before net operating loss deduction, annual West Virginia capital investment, depreciation attributable to such capital investment, real property tax, personal property tax, business inventory tax, automobile property tax, machinery and equipment property tax,

annual corporation net income tax liability, business franchise tax liability, corporate license tax liability, insurance premium tax liability, and multi-state apportionment components

4.7.1 Any tax return, tax return information, informational return or informational return information obtained by employees, officials, independent contractors or agents of the university, however designated, shall remain confidential and shall not be disclosed to anyone other than Tax Department employees and officials to whom disclosure is authorized, except as aggregate data in economic or financial forecasts, projections, analyses and statistical studies pursuant to W. Va. Code §§ 11-10-5d(g) and 22.

4.8 **Financial Incentive** – Each business in the selected sample which files a complete and accurate information return that is timely received is entitled to a financial incentive payment, payable by check, in the amount of $150 for a paper return filed by mail or other acceptable conventional means, or $200 for a return filed by electronic means, if the capability for filing and receipt of electronically filed returns is established by the Tax Department in future. The incentive payment check will be issued in the tax year in which the return is filed, and will typically be issued to the Taxpayer within 90 days of the receipt of an accurate, complete and timely filed informational return. Not more than one check will be issued for any Taxpayer's filing of an information return, notwithstanding the filing of multiple, redundant or amended returns.

4.8.1 The financial incentive payment may be taken as a credit asserted against certain tax liabilities of a business that has filed a complete, accurate and timely information return only with prior written authorization of the Tax Department pursuant to the filing of a written request by the Taxpayer, which must be filed at least 60 days prior to the due date of the tax return on which the credit is asserted, determined without extensions of time to file.

4.8.2 Any such authorized credit shall be claimed in the tax year in which the return is filed, first against the Taxpayer's liability for Business Franchise Tax, and if there is any unused credit remaining after application against the Business Franchise Tax, then against the Taxpayer's Personal Income Tax or Corporate Net Income Tax liability.

4.8.3 Incentive payments are only available to business organizations that are included within the Tax Department's selected random sample.

4.8.4 The informational return requirement and financial incentives are only available after Legislative authorization of this rule. If these rules are not authorized by the Legislature, no financial incentive shall be paid or payable.

4.9 **Financial Penalty**. -- If a business required to file an informational return (1) fails to do so in a timely manner, or (2) files an informational return that is materially incorrect or incomplete, or (3) both, the business is subject to a $1000 civil penalty.

4.9.1 However, the Tax Commissioner may waive this penalty if the business in a timely manner corrects the failure, inaccuracy or incompleteness (hereafter "infraction") or shows that the infraction is due to reasonable cause and not due to willful neglect.

4.9.3 This penalty shall be paid on notice and demand by the Tax Commissioner and in the same manner as tax.

4.9.4 A business shall be required to pay the penalty only after (1) being notified of its infraction with reasonable specificity in writing; (2) not correcting its infraction within thirty calendar days after notification of its failure; (3) receiving a notice of assessment for the penalty as provided by W. Va. Code § 11-10-8; and (4) exhausting or forgoing its rights to an administrative hearing and to a judicial appeal under W. Va. Code § 11-10-1, et seq.

WEST VIRGINIA DEPARTMENT OF TAX AND REVENUE
P.O. Box 2389
Charleston, WV 25328-2389

IN-STATE INFORMATIONAL RETURN

Tax Year Beginning ______________, _____, Ending ______________, _____	Business Activity
Business Name:	FEIN or TID or SSN:
Mailing Address:	Organizational Status Corporation ___ S Corporation ___ Partnership ___ Sole-Proprietor ___ LLC or LLP ___ Fiduciary ___ Nonprofit ___ Other ___
City, Town or Post Office County State Zip Code	
Check if: Consolidated _____ Separate _____	
Contact Person:	
Phone:	

Business Activity Summary		1999	2000
1.	What were your total **Gross Business Receipts**? (e.g., Line1c of Federal Form 1120)		
2a.	What were your total payments on behalf of or for the benefit of employees and officers (amount reported on Federal Form 940)? **Wages and Compensation Paid**		
2b.	What were your total payments made on behalf of or for the benefit of employees to health or life insurance plans, payments for health and welfare and non-insured benefit plans and payments of fees for the administration of health and welfare and non-insured benefit plans? **Contributions Paid**		
2c.	What were your total contributions made on behalf of or for the benefit of employees for FICA (Social Security and Medicare), Workers' Compensation insurance, or State and Federal Unemployment Compensation Fund? **Contributions Paid**		
2d.	Were any payments made for the benefit of employees that are not included on lines **2a-2c**? For example, payments to supplemental unemployment benefit trusts; payments to individuals not currently working; payments to dependents and heirs for labor services rendered by an individual? **Contributions Paid**		
3.	What were the amounts deducted on your Federal tax return for **Interest Paid** [not including interest payments made by a financial intermediary]? (e.g., Line 18 of Federal form 1120)		
4.	What were the amounts deducted on your Federal tax return for **Rents and Royalties Paid**? (e.g., Line 16 of Federal form 1120)		
5.	What were the amounts shown as **Federal Taxable Income** before the net operating loss deduction on your Federal tax return? (e.g., Line 28 of Federal form 1120)		
6.	What was the total value of your **West Virginia Capital Investment** (i.e., WV investment subject to Federal depreciation) made in 1999 and 2000?		
7.	What was the total value of your **Federal Depreciation** claimed on your 1999 and 2000 **West Virginia Capital Assets** [Line 6 investment] in 1999 and 2000, respectively?		

Current Tax Summary		1999	2000
1.	What were your **total West Virginia Real Property Tax liabilities** in 1999 and 2000?		
2.	What were your **total West Virginia Personal Property Tax liabilities** in 1999 and 2000?		
3.	What is your 1999 and 2000 West Virginia property tax liability attributable to **Business Inventories?**		
4.	What is your 1999 and 2000 West Virginia property tax liability attributable to **Automobiles?**		
5.	What is your 1999 and 2000 West Virginia property tax liability attributable to **Machinery and Equipment?**		
6.	What were your **total West Virginia Corporation Net Income Tax** liabilities in 1999 and 2000?		
7.	What were your **total West Virginia Business Franchise Tax** liabilities in 1999 and 2000?		
8.	What were your **total West Virginia Corporate License Tax liabilities** in 1999 and 2000?		
9.	What were your **total West Virginia Health Care Provider Tax** liabilities in 1999 and 2000?		
10.	What were your total **West Virginia Insurance Premium Tax** liabilities in 1999 and 2000?		

I certify this return to be true and correct to the best of my knowledge.

Signature

Title

Date

WEST VIRGINIA DEP TAX AND REVENUE

Charle: !8-2389

INSTRUCTIONS FOR 1999-2000 WEST VIRGINIA MULTI-STATE INFORMATIONAL TAX RETURN

For on-line filing, visit our web site at www.state.wv.us/taxdiv

The Governor's Commission on Fair Taxation recommended the:

- Elimination of personal property taxes on automobiles
- Elimination of personal property taxes on business inventories
- Elimination of personal property taxes on machinery
- Elimination of personal property taxes on equipment
- Elimination of corporation net income tax
- Elimination of business franchise tax
- Elimination of health care provider taxes
- Elimination of corporate license tax
- Elimination of telecommunications tax
- Elimination of state business and occupation tax (most industries)
- Elimination of insurance premiums tax
- Elimination of business registration fees
- Elimination of auto privilege tax
- Elimination of soft drink excise tax

- Implementation of a single business tax
- Replacement of sales and use tax with expanded general excise tax
- Replacement of personal income tax with progressive income tax

You have been selected as part of a stratified random sample of roughly 11,000 Taxpayers to participate in an informational tax return filing process. This request for tax information from your tax records for both the 1999 and 2000 tax years will aid both the Legislature and Taxpayers in the judgment of the merits of the above-mentioned tax change proposals. Each business in the sample which files a complete and accurate information return which is timely received is entitled to a credit paid as a refund in the amount of $150 for a paper return, or $200 for an electronic return. There is also a $1,000 civil penalty for failure to file this return.

For questions or information, contact us at: (304) 558-3333 or 1-800-982-8297

INSTRUCTIONS FOR 1999-2000 WEST VIRGINIA MULTI-STATE INFORMATIONAL TAX RETURN

For on-line filing, visit our web site at www.state.wv.us/taxdiv

GENERAL INFORMATION

Before You Begin

Before preparing your informational return, complete all federal tax forms. These forms may include:

- **Individuals, Partnerships or Fiduciaries** - U.S. *1040, 1041, 1065* and related *Schedules C, C-EZ, D, E, K* and *4797*
- **Corporations** - U.S. *1120, 1120A, 1120S* and *Schedule K*, and U.S. *940.*
- **Limited Liability Companies** (LLC) -- federal forms listed above depending on how you have elected to file your federal return. You will need to reference these federal forms to complete your informational return.

What Is Business Activity?

Business activity includes:

1. Sale or rental of property, whether the property is real, personal, tangible or intangible. For example:
   - rental of a house or lease of a car, or
   - sale or rental of property used in a business activity (e.g., the sale of an income-generating apartment complex).
2. Performance of services for gain, including services performed outside West Virginia. For example:
   - services provided by an independent contractor (e.g., a building contractor or plumber).

When Is My Informational Return Due?

Returns are generally due as follows:

- **Corporation** returns are generally due on or before the 15th day of the 3rd month after the end of your tax year.
- **Individual and Partnership** returns are generally due on or before the 15th day of the 4th month after the end of your tax year.
- **Non-Profit** returns are generally due on or before the 15th day of the 5th month after the end of your tax year.

However, the earliest return due date is no earlier than 90 days following the date of passage of Legislative Regulations to implement the Informational Return Requirement.

What If I Need More Time to File

If additional time is needed to file your informational return, you may request an extension by filing a copy of your federal tax return extension request with the Tax Commissioner or by making a formal request for extension to the Tax Commissioner in writing. Your extension application must be postmarked on or before the original due date of your return. Note that a federal extension to file represents an automatic extension to file the Informational Tax Return.

How Do I Format Amounts I Enter on Informational Return Forms?

1. **Losses:** Report losses and negative amounts in brackets. For example [14,569].
2. **Percentages:** Carry all percentages to six decimal places. Do not round percentages. For example 24.154256 percent becomes 24.1542 percent (.241542).
3. **Round dollar amounts:** Report all amounts in whole dollars. Round up amounts of 50¢ or more. Round down amounts of 49¢ or less.

Who Must Sign the Return?

All returns must be signed and dated by the taxpayer or the taxpayer's authorized agent. This may be the owner, partner, corporate officer, officer's agent or association member.

To Request Forms

1. Internet:
   - **www.state.wv.us/taxdiv.** The West Virginia Tax Department web site has forms and other useful information.
2. Telephone numbers:
   - **1-800-982-8297 or (304)-558-3333.** Call to request copies of forms or to have forms faxed directly to you. Also, the Tax Department's regional offices have extra copies of forms.

INSTRUCTIONS FOR INFORMATIONAL RETURN

Lines not listed are explained on the form.

Taxable Year. If you operate on a fiscal year, enter the beginning and ending dates (month and year) of your annual accounting period. For periods less than 12 months, enter the beginning and ending dates that correspond to the taxable period you reported to the IRS.

Business Activity. Enter your primary business activity conducted in West Virginia [e.g., farming, coal mining, construction, transportation, chemical manufacturing, wholesale trade, retail trade, banking, professional service, business service].

FEIN or TID or SSN. Enter your federal employer identification number (FEIN) or the West Virginia Tax Department (TID) number assigned. If your organization type is individual, your account number may be the same as your Social Security number. Be sure to use the same account number on this form as is used on your federal and state tax returns.

Organization Status - Check the box that describes your organization type. If you are a Limited Liability Company that is taxed as a Corporation, check Corporation. If you are a Limited Liability Company that is taxed as a Partnership, check LLC or LLP.

<u>Business Activity Summary</u>

Line 1, Gross Receipts. Enter your total gross business receipts for both 1999 and 2000 Use the following checklist to be sure you have totaled your receipts correctly.

Gross Receipts Checklist

Include receipts from:

- Sale of products;
- Services performed;
- Gratuities stipulated on a bill;
- Sales tax collected on the sale of tangible personal property;
- Dividends and interest received by a financial organization;
- Gross commissions earned;
- Rents;
- Royalties
- Professional services;
- Sales of scrap and other similar items;
- Client reimbursed expenses not obtained in an agency or other representative capacity;
- Gross proceeds from inter-company sales.

Exclude receipts from:

- Wages, salaries or other compensation received as an employee;
- Proceeds from the sale of assets used in a business activity (dispositions of assets are reported on form C-8000D);
- Cash discounts allowed and taken on sales;
- Proceeds from the sale of merchandise returned by customers when the sale price is refunded or equivalent credit is granted;
- Voluntary tips;
- Security deposits (unless retained);
- Distributive income from a partnership, S-corporation or LLC received as a partner, shareholder or member.

Line 2a – What were your total Wages and Compensation Payments in 1999 and 2000?

Enter total payments (including the cash value of all consideration other than cash), made on behalf of or for the benefit of employees and officers. Report these payments on a cash-only basis, i.e. include only the actual payments made during the year. For most filers this is the amount reported on U.S. *940* for the taxable year. **Payments** include salaries, wages, fees, bonuses, commissions and other payments that are subject to or specifically exempt or excepted from federal income tax withholding. This includes payments for casual services, but does not include payments to independent contractors or fees paid for services as a director of a corporation. **Employee** is a person from whom an employer is required to withhold federal income taxes (IRC Section 340l(c)). Include any payments made on behalf of or for the benefit of employees or officers on a cash or accrual basis consistent with your method of federal income tax reporting.

Line 2b – What were your total contributions made on behalf of employees to Health and Life Insurance Plans in 1999 and 2000?

Include payments to health or life insurance plans for employees, payments for health and welfare and non-insured benefit plans, and payment of fees for the administration of health and welfare and non-insured benefit plans.

Line 2c – What were your total employer contributions made on behalf of employees for mandated federal and state employee benefit programs (e.g., FICA) in 1999 and 2000?

Line 2d – What were your total payments made for the benefit of employees that were not otherwise included on Lines 2a, 2b and 2c in 1999 and 2000?

Also, include any payments made for the benefit of employees such as: payments to supplemental unemployment benefit trusts; payments to individuals not currently working; payments to dependents and heirs for labor services rendered by an individual.

Line 3 - What were your Interest Expenses for 1999 and 2000? Enter interest claimed as a deduction on your federal return. Do not include any interest payments made by a financial organization to depositors or investors.

Line 4 - What were your Rent and Royalty Expenses for 1999 and 2000? Enter rent and royalty payments claimed as a deduction on your federal return.

Line 5 – What was your federal taxable income prior to any net operating loss deduction as shown on your 1999 and 2000 federal income tax returns? If your federal taxable income was less than zero, enter $0 on this line.

Line 6 – What was the total value of your West Virginia Capital Investment made in 1999 and 2000? Enter the value of total purchases of buildings, machinery, equipment and other capital investment normally subject to federal depreciation that were placed into service in West Virginia in those respective years. West Virginia capital investment that is expensed under IRC Section 179 should be included. However, capital investment placed into service outside of West Virginia <u>should not</u> be included in these calculations.

Line 7 – What was the value of the federal depreciation deduction associated with your West Virginia Capital Investment made in 1999 and 2000? Enter the value of federal depreciation solely attributable to the capital asset values accounted for on Line 6. This includes the immediate (permitted under IRC Section 179) or accelerated write-off of tangible assets. However, depreciation on investments made prior to 1999 should not be included. In addition, depreciation associated with capital investments placed into service outside of West Virginia <u>should not</u> be included in these calculations

<u>CURRENT TAX SUMMARY</u>

Line 1 – West Virginia Real Property Tax Liabilities. Enter your total real property taxes paid (e.g., taxes on land, improvements to realty and buildings) to all counties in West Virginia in 1999 and 2000.

Line 2 – West Virginia Personal Property Tax Liabilities. Enter your total personal property taxes paid (e.g., taxes on inventory, furniture, cars, tools, machinery and equipment) to all counties in West Virginia in 1999 and 2000.

Line 3 – West Virginia Personal Property Tax on Business Inventories. Enter your total personal property taxes paid on business inventory to all counties in West Virginia in 1999 and 2000.

Line 4 – West Virginia Personal Property Tax Liabilities. Enter your total personal property taxes paid on automobiles to all counties in West Virginia in 1999 and 2000.

Line 5 – West Virginia Personal Property Tax Liabilities. Enter your total personal property taxes paid on tools, machinery and equipment to all counties in West Virginia in 1999 and 2000.

Line 6 – What was your total West Virginia Corporation Net Income Tax liability in 1999 and in 2000 (e.g., amount on Line 21 of the 1999 WV/CNT-112)?

Line 7 – What was your total West Virginia Business Franchise Tax liability in 1999 and in 2000 (e.g., amount on Line 22 of the 1999 WV/BFT-120)?

Line 8 – If you are a corporation, what was your total West Virginia Corporate License Tax liability in 1999 and in 2000?

Line 9 – If you are a health care service provider, what was your total West Virginia liability for health care provider taxes in 1999 and in 2000?

Line 10, If you are an insurance company, what were your total West Virginia Insurance Premium Tax liabilities in 1999 and in 2000?

1999 MULTI-STATE APPORTIONMENT FACTORS* & *2000 MULTI-STATE APPORTIONMENT FACTORS

Complete both the 1999 and 2000 multi-state apportionment factors schedules. Unless you were subject to a special apportionment rule (e.g., single receipts factor for financial institutions), your entries should be similar to the information supplied for your 1999 and 2000 Corporation Net Income Tax/Business Franchise Tax returns.

Part 1. *Property Factor.* Property includes all real and tangible personal property owned or rented and used during the taxable year to produce business income. Property used in connection with the items of non-business income shall be excluded from the factor. Property must be included in the property factor if it is actually used or is available for or capable of being used during the taxable year. Property held as reserves, standby facilities or reserve sources of materials must be included. Property or equipment under construction (except goods in process that can be inventoried) must be excluded until it is actually used to generate business income. Movable property, such as tools, construction equipment and trucks, used both within and without West Virginia, shall be included in the numerator of the fraction on the basis of total time within the state during the taxable year. Property owned is valued at original cost. Property rented is valued at eight times the net annual rental rate. Leasehold improvements are considered property owned and are included at their original cost. Generally, original cost is the basis of the property for federal income tax purposes at the time of acquisition and adjusted by subsequent capital additions or improvements and partial dispositions by reason of sale, exchange, abandonment, etc. As a general rule, property is included in the factor by averaging its values at the beginning and ending of the taxable period. Determine the property factor by entering the appropriate amounts in lines 1a through 1l. Enter West Virginia property in the first column and property everywhere in the second column.

Part 2. ***Payroll Factor.*** The payroll factor shall include the total amount of compensation paid to employees during the taxable year. The total amount paid is determined upon the basis of the taxpayer's accounting method for federal income tax purposes. If you have adopted the accrual method of accounting for federal purposes, all compensation shall be deemed to have been paid. Compensation means wages, salaries, commissions and other forms of remuneration paid to employees for personal services. Payments made to an independent contractor or any other person not properly classified as an employee are excluded. Only amounts paid directly to employees are included in the payroll factor. The **denominator** of the payroll factor is the total compensation paid by the taxpayer during the taxable year, as shown on the federal income tax return filed with the Internal Revenue Service and as reflected in the schedule of wages and salaries and that portion of the cost of goods sold which reflect compensation. The **numerator** of the payroll factor is the total amount paid in this state during the taxable year by the taxpayer for compensation. Compensation is paid in this state if any of the following tests, applied consecutively, are met: (A) The employee's service is performed entirely within this state; (B) The employee's service is performed both within and without this state, but the service performed without this state is "incidental" to the employee's service within this state (the word incidental means any service which is temporary or transitory in nature, or which is rendered in connection with an isolated transaction); (C) If the employee's services are performed both within and without this state, the employee's compensation will be attributed to this state: (1) If the employee's base of operations is in this state; or (2) If there is no base of operations in any state in which part of the service is performed, but the place from which the service is directed or controlled is in this state; or (3) If the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the employees residence is in this state. Base of operation is the place from which the employee starts their work and to which they customarily return in order to receive instructions or communications from customers or others, or to replenish stock or other materials, repair equipment, or perform any other functions necessary to the exercise of their trade or profession at some other point or points. Determine the payroll factor by entering the appropriate amounts in lines 2a through 2d. Enter West Virginia payroll in the first column and payroll everywhere in the second column.

Part 3. ***Sales Factor.*** Your entries should be identical to the information supplied for your 1999 and 2000 Corporation Net Income Tax/Business Franchise Tax returns. The term "sales" means all gross receipts of the taxpayer that are business income. Thus, the sales factor includes all gross receipts derived from transactions and activity in the regular course of your trade or business, less returns and allowances. Do not include interest or dividends from obligations of the United States government, which are exempt from taxation in West Virginia, or gross receipts from an activity that produced allocated non-business income. The **denominator** of the sales factor includes all gross receipts derived from transactions and activity in the regular course of your trade or business, that was reflected in your gross income reported and as appearing on your federal income tax return, unless otherwise excluded. A taxpayer will be subject to a tax in another state if the taxpayer has Due Process and Commerce Clause nexus with that state. If you are subject to tax in another State other than West Virginia, sales of tangible personal property delivered or shipped to a purchaser within a state in which you are not taxed (e.g. under Public Law 86-272) are to be included in the denominator. The **numerator** of the sales factor includes all gross receipts attributable to West Virginia and derived from transactions and activity in the regular course of your trade or business. All interest income, service charges or time-price differential charges incidental to such gross receipts must be included regardless of the place where the accounting records are maintained or the location of the contract or other evidence of indebtedness.

SALES OF TANGIBLE PERSONAL PROPERTY. Gross receipts from sales of tangible personal property are in West Virginia: (1) If the property is received in West Virginia by the purchaser (except sales to the United States government) regardless of the F.O.B. point or other conditions of sales; or (2) If the property is shipped from an office, store, warehouse, factory or other place of storage in West Virginia and the purchaser is the United States government. Sales within West Virginia are generally determined on a destination basis. If the purchaser picks up or otherwise receives the property in West Virginia, the sale is treated as taking place in this state. If the property is delivered by common carrier or other means of transportation, the place at which the property is received after all transportation is completed is the place where the sale took place. Direct delivery in West Virginia; other than for purposes of transportation, to a person or firm designated by a purchaser, constitutes delivery to the purchaser in West Virginia regardless of where title passes or other conditions of sale. Direct delivery outside West Virginia, to a person or firm designated by a purchaser, does not constitute delivery to a person in this state.

OTHER SALES. Gross receipts from transactions other than sales of tangible personal property are attributable to West Virginia: (1) If the income producing activity which gives rise to the receipts is performed entirely in West Virginia; or (2) If the income producing activity is performed both in and outside West Virginia and a greater portion of the income producing activity is performed in this state than in any other state, based on costs of performance; or (3) If the sale constitutes business income to the taxpayer, or the taxpayer is a financial organization subject to the special apportionment rules. Refer to West Virginia Code §11-24-7 for a discussion of income producing activity and costs of performance. Gross receipts from the sale, lease, rental or licensing of real property are in West Virginia if the real property is located in this state. Gross receipts from the rental, lease or licensing of tangible personal property are in West Virginia if the property is located in this state. If such property is both within and without West Virginia during the rental, lease or licensing period, gross receipts attributable to West Virginia shall be determined based upon the total time within the state during the taxable year. Gross receipts for the performance of personal services are in West Virginia if such services are performed in this state. Determine the sales factor by entering the appropriate amounts in lines 3a through 3d. Enter West Virginia sales in column 1 and sales everywhere in column 2.

SUBSIDIARY SCHEDULE FOR CONSOLIDATED FILERS

If you file a consolidated West Virginia return, list the name and federal employer identification number for each member of your group. If you need extra space, please attach an additional spreadsheet of all your members and their identification numbers.

If this Informational Return is electronically filed with complete and accurate information, then you will receive a payment from the State of $200 within 90 days of receipt of your return. The payment will be sent to the attention of the contact person on your return at the address on your return. In lieu of this payment, you may submit a written request to apply the $200 as a credit against your business franchise or state income tax liability. However, you will receive a direct payment from us in the absence of such request.

If you mail your complete and accurate Informational Return to West Virginia Tax Department, P.O. Box 902, Charleston, WV 25323-0902, you receive a payment from the State of $150 within 90 days of receipt of your return. The payment will be sent to the attention of the contact person on your return at the address on your return. In lieu of this payment, you may submit a written request to apply the $150 as a credit against your business franchise or state income tax liability. However, you will receive a direct payment from us in the absence of such request. If the return is sent to any other address other than P.O. Box 902, there may be a lengthy time before your $150 payment is processed.

WEST VIRGINIA DEPARTMENT OF TAX AND REVENUE
P.O. Box 2389
Charleston, WV 25328-2389

MULTI-STATE INFORMATIONAL RETURN

Tax Year Beginning ____________, _____, Ending ____________, _____	Business Activity
Business Name:	FEIN or TID or SSN:
Mailing Address:	Organizational Status Corporation ___ S Corporation ___ Partnership ___ Sole-Proprietor ___ LLC or LLP ___ Fiduciary ___ Nonprofit ___ Other ___
City, Town or Post Office County State Zip Code	
Check if: Consolidated _____ Separate _____	
Contact Person:	
Phone:	

	Business Activity Summary	1999	2000
1.	What were your total **Gross Business Receipts**? (e.g., Line1c of Federal Form 1120)		
2a.	What were your total payments on behalf of or for the benefit of employees and officers (amount reported on Federal Form 940)? **Wages and Compensation Paid**		
2b.	What were your total payments made on behalf of or for the benefit of employees to health or life insurance plans, payments for health and welfare and non-insured benefit plans and payments of fees for the administration of health and welfare and non-insured benefit plans? **Contributions Paid**		
2c.	What were your total contributions made on behalf of or for the benefit of employees for FICA (Social Security and Medicare), Workers' Compensation insurance, or State and Federal Unemployment Compensation Fund? **Contributions Paid**		
2d.	Were any payments made for the benefit of employees that are not included on lines **2a-2c**? For example, payments to supplemental unemployment benefit trusts; payments to individuals not currently working; payments to dependents and heirs for labor services rendered by an individual? **Contributions Paid**		
3.	What were the amounts deducted on your Federal tax return for **Interest Paid** [not including interest payments made by a financial intermediary]? (e.g., Line 18 of Federal form 1120)		
4.	What were the amounts deducted on your Federal tax return for **Rents and Royalties Paid**? (e.g., Line 16 of Federal form 1120)		
5.	What were the amounts shown as **Federal Taxable Income** before the net operating loss deduction on your Federal tax return? (e.g., Line 28 of Federal form 1120)		
6.	What was the total value of your **West Virginia Capital Investment** (i.e., WV investment subject to Federal depreciation) made in 1999 and 2000?		
7.	What was the total value of your **Federal Depreciation** claimed on your 1999 and 2000 **West Virginia Capital Assets** [Line 6 investment] in 1999 and 2000, respectively?		

Current Tax Summary		1999	2000
1.	What were your **total West Virginia Real Property Tax liabilities** in 1999 and 2000?		
2.	What were your **total West Virginia Personal Property Tax liabilities** in 1999 and 2000?		
3.	What is your 1999 and 2000 West Virginia property tax liability attributable to **Business Inventories?**		
4.	What is your 1999 and 2000 West Virginia property tax liability attributable to **Automobiles?**		
5.	What is your 1999 and 2000 West Virginia property tax liability attributable to **Machinery and Equipment?**		
6.	What were your **total West Virginia Corporation Net Income Tax** liabilities in 1999 and 2000?		
7.	What were your **total West Virginia Business Franchise Tax** liabilities in 1999 and 2000?		
8.	What were your **total West Virginia Corporate License Tax** liabilities in 1999 and 2000?		
9.	What were your **total West Virginia Health Care Provider Tax** liabilities in 1999 and 2000?		
10.	What were your **total West Virginia Insurance Premium Tax** liabilities in 1999 and 2000?		

Subsidiary Schedule for Consolidated Filers		
1.	Who are the members of your consolidated group (Please List Below)?	
	Name	FEIN/TID
	a.	
	b.	
	c.	
	d.	
	e.	

1999 Multi-State Apportionment Factors (Enter Whole Dollars)		WEST VIRGINIA	EVERYWHERE
1.	**Property** (original cost)		
	a. Inventories		
	b. Buildings		
	c. Leasehold improvements		
	d. Machinery and Equipment		
	e. Furniture and Fixtures		
	f. Delivery Equipment		
	g. Land		
	h. Other assets		
	i. Movable property		
	j. Less: Construction in process		
	k. Total owned property		
	l. Rental property (8 x annual rate)		

2.	**Payroll**		
	a. Cost of goods sold		
	b. Compensation of officers		
	c. Salaries and wages		
	d. All other		
3.	**Sales-Business Income**		
	a. From within West Virginia		
	b. Sales from West Virginia to United States		
	c. From outside WV		
	d. P.L. 86-272 Sales		

2000 Multi-State Apportionment Factors (Enter Whole Dollars)

		WEST VIRGINIA	EVERYWHERE
1.	**Property** (original cost)		
	a. Inventories		
	b. Buildings		
	c. Leasehold improvements		
	d. Machinery and Equipment		
	e. Furniture and Fixtures		
	f. Delivery Equipment		
	g. Land		
	h. Other assets		
	i. Movable property		
	j. Less: Construction in process		
	k. Total owned property		
	l. Rental property (8 x annual rate)		
2.	**Payroll**		
	a. Cost of goods sold		
	b. Compensation of officers		
	c. Salaries and wages		
	d. All other		
3.	**Sales-Business Income**		
	a. From within West Virginia		
	b. Sales from West Virginia to United States		
	c. From outside West Virginia		
	d. P.L. 86-272 Sales		

I certify this return to be true and correct to the best of my knowledge.

Signature

Title

Date

WEST VIRGINIA DEP TAX AND REVENUE

Charle: 28-2389

INSTRUCTIONS FOR 1999-2000 WEST VIRGINIA IN-STATE INFORMATIONAL TAX RETURN

For on-line filing, visit our web site at www.state.wv.us/taxdiv

The Governor's Commission on Fair Taxation recommended the:

- Elimination of personal property taxes on automobiles
- Elimination of personal property taxes on business inventories
- Elimination of personal property taxes on machinery
- Elimination of personal property taxes on equipment
- Elimination of corporation net income tax
- Elimination of business franchise tax
- Elimination of health care provider taxes
- Elimination of corporate license tax
- Elimination of telecommunications tax
- Elimination of state business and occupation tax (most industries)
- Elimination of insurance premiums tax
- Elimination of business registration fees
- Elimination of auto privilege tax
- Elimination of soft drink excise tax

- Implementation of a single business tax
- Replacement of sales and use tax with expanded general excise tax
- Replacement of personal income tax with progressive income tax

You have been selected as part of a stratified random sample of roughly 11,000 Taxpayers to participate in an informational tax return filing process. This request for tax information from your tax records for both the 1999 and 2000 tax years will aid both the Legislature and Taxpayers in the judgment of the merits of the above-mentioned tax change proposals. Each business in the sample which files a complete and accurate information return which is timely received is entitled to a credit paid as a refund in the amount of $150 for a paper return, or $200 for an electronic return. There is also a $1,000 civil penalty for failure to file this return.

For questions or information, contact us at: (304) 558-3333 or 1-800-982-8297

INSTRUCTIONS FOR 1999-2000 WEST VIRGINIA IN-STATE INFORMATIONAL TAX RETURN

For on-line filing, visit our web site at www.state.wv.us/taxdiv

GENERAL INFORMATION

Before You Begin

Before preparing your informational return, complete all federal tax forms. These forms may include:

- **Individuals, Partnerships or Fiduciaries** - U.S. *1040, 1041, 1065* and related *Schedules C, C-EZ, D, E, K* and *4797*
- **Corporations** - U.S. *1120, 1120A, 1120S* and *Schedule K*, and U.S. *940*.
- **Limited Liability Companies** (LLC) – federal forms listed above depending on how you have elected to file your federal return. You will need to reference these federal forms to complete your informational return.

What Is Business Activity?

Business activity includes:

1. Sale or rental of property, whether the property is real, personal, tangible or intangible. For example:
   - rental of a house or lease of a car, or
   - sale or rental of property used in a business activity (e.g., the sale of an income-generating apartment complex).
2. Performance of services for gain, including services performed outside West Virginia. For example:
   - services provided by an independent contractor (e.g., a building contractor or plumber).

When Is My Informational Return Due?

Returns are generally due as follows:

- **Corporation** returns are generally due on or before the 15th day of the 3rd month after the end of your tax year.
- **Individual and Partnership** returns are generally due on or before the 15th day of the 4th month after the end of your tax year.
- **Non-Profit** returns are generally due on or before the 15th day of the 5th month after the end of your tax year.

However, the earliest return due date is no earlier than 90 days following the date of passage of Legislative Regulations to implement the Informational Return Requirement.

What If I Need More Time to File

If additional time is needed to file your informational return, you may request an extension by filing a copy of your federal tax return extension request with the Tax Commissioner or by making a formal request for extension to the Tax Commissioner in writing. Your extension application must be postmarked on or before the original due date of your return. Note that a federal extension to file represents an automatic extension to file the Informational Tax Return.

How Do I Format Amounts I Enter on Informational Return Forms?

1. **Losses:** Report losses and negative amounts in brackets. For example [14,569].
2. **Percentages:** Carry all percentages to six decimal places. Do not round percentages. For example 24.154256 percent becomes 24.1542 percent (.241542).
3. **Round dollar amounts:** Report all amounts in whole dollars. Round up amounts of 50¢ or more. Round down amounts of 49¢ or less.

Who Must Sign the Return?

All returns must be signed and dated by the taxpayer or the taxpayer's authorized agent. This may be the owner, partner, corporate officer, officer's agent or association member.

To Request Forms

1. Internet:
   - **www.state.wv.us/taxdiv.** The West Virginia Tax Department web site has forms and other useful information.
2. Telephone numbers:
   - **1-800-982-8297 or (304)-558-3333.** Call to request copies of forms or to have forms faxed directly to you. Also, the Tax Department's regional offices have extra copies of forms.

INSTRUCTIONS FOR INFORMATIONAL RETURN

Lines not listed are explained on the form.

Taxable Year. If you operate on a fiscal year, enter the beginning and ending dates (month and year) of your annual accounting period. For periods less than 12 months, enter the beginning and ending dates that correspond to the taxable period you reported to the IRS.

Business Activity. Enter your primary business activity conducted in West Virginia [e.g., farming, coal mining, construction, transportation, chemical manufacturing, wholesale trade, retail trade, banking, professional service, business service].

FEIN or TID or SSN. Enter your federal employer identification number (FEIN) or the West Virginia Tax Department (TID) number assigned. If your organization type is individual, your account number may be the same as your Social Security number. Be sure to use the same account number on this form as is used on your federal and state tax returns.

Organization Status - Check the box that describes your organization type. If you are a Limited Liability Company that is taxed as a Corporation, check Corporation. If you are a Limited Liability Company that is taxed as a Partnership, check LLC or LLP.

Business Activity Summary

Line 1, Gross Receipts. Enter your total gross business receipts for both 1999 and 2000 Use the following checklist to be sure you have totaled your receipts correctly.

Gross Receipts Checklist

Include receipts from:

- Sale of products;
- Services performed;
- Gratuities stipulated on a bill;
- Sales tax collected on the sale of tangible personal property;
- Dividends and interest received by a financial organization;
- Gross commissions earned;
- Rents;
- Royalties
- Professional services;
- Sales of scrap and other similar items;
- Client reimbursed expenses not obtained in an agency or other representative capacity;
- Gross proceeds from inter-company sales.

Exclude receipts from:

- Wages, salaries or other compensation received as an employee;
- Proceeds from the sale of assets used in a business activity (dispositions of assets are reported on form C-8000D);
- Cash discounts allowed and taken on sales;
- Proceeds from the sale of merchandise returned by customers when the sale price is refunded or equivalent credit is granted;
- Voluntary tips;
- Security deposits (unless retained);
- Distributive income from a partnership, S-corporation or LLC received as a partner, shareholder or member.

Line 2a – What were your total Wages and Compensation Payments in 1999 and 2000?

Enter total payments (including the cash value of all consideration other than cash), made on behalf of or for the benefit of employees and officers. Report these payments on a cash-only basis, i.e. include only the actual payments made during the year. For most filers this is the amount reported on U.S. *940* for the taxable year. **Payments** include salaries, wages, fees, bonuses, commissions and other payments that are subject to or specifically exempt or excepted from federal income tax withholding. This includes payments for casual services, but does not include payments to independent contractors or fees paid for services as a director of a corporation. **Employee** is a person from whom an employer is required to withhold federal income taxes (IRC Section 340l(c)). Include any payments made on behalf of or for the benefit of employees or officers on a cash or accrual basis consistent with your method of federal income tax reporting.

Line 2b – What were your total contributions made on behalf of employees to Health and Life Insurance Plans in 1999 and 2000?

Include payments to health or life insurance plans for employees, payments for health and welfare and non-insured benefit plans, and payment of fees for the administration of health and welfare and non-insured benefit plans.

Line 2c – What were your total employer contributions made on behalf of employees for mandated federal and state employee benefit programs (e.g., FICA) in 1999 and 2000?

Line 2d – What were your total payments made for the benefit of employees that were not otherwise included on Lines 2a, 2b and 2c in 1999 and 2000?

Also, include any payments made for the benefit of employees such as: payments to supplemental unemployment benefit trusts; payments to individuals not currently working; payments to dependents and heirs for labor services rendered by an individual.

Line 3 - What were your Interest Expenses for 1999 and 2000? Enter interest claimed as a deduction on your federal return. Do not include any interest payments made by a financial organization to depositors or investors.

Line 4 - What were your Rent and Royalty Expenses for 1999 and 2000? Enter rent and royalty payments claimed as a deduction on your federal return.

Line 5 – What was your federal taxable income prior to any net operating loss deduction as shown on your 1999 and 2000 federal income tax returns? If your federal taxable income was less than zero, enter $0 on this line.

Line 6 – What was the total value of your West Virginia Capital Investment made in 1999 and 2000? Enter the value of total purchases of buildings, machinery, equipment and other capital investment normally subject to federal depreciation that were placed into service in West Virginia in those respective years. West Virginia capital investment that is expensed under IRC Section 179 should be included. However, capital investment placed into service outside of West Virginia <u>should not</u> be included in these calculations.

Line 7 – What was the value of the federal depreciation deduction associated with your West Virginia Capital Investment made in 1999 and 2000? Enter the value of federal depreciation solely attributable to the capital asset values accounted for on **Line 6**. This includes the immediate (permitted under IRC Section 179) or accelerated write-off of tangible assets. However, depreciation on investments made prior to 1999 should not be included. In addition, depreciation associated with capital investments placed into service outside of West Virginia <u>should not</u> be included in these calculations

<u>CURRENT TAX SUMMARY</u>

Line 1 – West Virginia Real Property Tax Liabilities. Enter your total real property taxes paid (e.g., taxes on land, improvements to realty and buildings) to all counties in West Virginia in 1999 and 2000.

Line 2 – West Virginia Personal Property Tax Liabilities. Enter your total personal property taxes paid (e.g., taxes on inventory, furniture, cars, tools, machinery and equipment) to all counties in West Virginia in 1999 and 2000.

Line 3 – West Virginia Personal Property Tax on Business Inventories. Enter your total personal property taxes paid on business inventory to all counties in West Virginia in 1999 and 2000.

Line 4 – West Virginia Personal Property Tax Liabilities. Enter your total personal property taxes paid on automobiles to all counties in West Virginia in 1999 and 2000.

Line 5 – West Virginia Personal Property Tax Liabilities. Enter your total personal property taxes paid on tools, machinery and equipment to all counties in West Virginia in 1999 and 2000.

Line 6 – What was your total West Virginia Corporation Net Income Tax liability in 1999 and in 2000 (e.g., amount on Line 21 of the 1999 WV/CNT-112)?

Line 7 – What was your total West Virginia Business Franchise Tax liability in 1999 and in 2000 (e.g., amount on Line 22 of the 1999 WV/BFT-120)?

Line 8 – If you are a corporation, what was your total West Virginia Corporate License Tax liability in 1999 and in 2000?

Line 9 – If you are a health care service provider, what was your total West Virginia liability for health care provider taxes in 1999 and in 2000?

Line 10, If you are an insurance company, what were your total West Virginia Insurance Premium Tax liabilities in 1999 and in 2000?

If this Informational Return is electronically filed with complete and accurate information, then you will receive a payment from the State of $200 within 90 days of receipt of your return. The payment will be sent to the attention of the contact person on your return at the address on your return. In lieu of this payment, you may submit a written request to apply the $200 as a credit against your business franchise or state income tax liability. However, you will receive a direct payment from us in the absence of such request.

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DAG

ANALYSIS OF PROPOSED LEGISLATIVE RULES

Agency: State Tax Department

Subject: Information Return Required for Analysis of Recommendations of Governor's Commission on Fair Taxation, 110CSR10A

PERTINENT DATES

Filed for public comment: June 30, 2000
Public comment period ended: July 31, 2000
Filed following public comment period: August 18, 2000
Filed LRMRC: August 18, 2000
Filed as emergency:

FILED
AUG 25 2 25 PM '00
OFFICE OF WEST VIRGINIA SECRETARY OF STATE

Fiscal Impact: $400,000

ABSTRACT

The proposed rule is new. Committee Substitute for Senate Bill 161, enacted on March 11, 2000, required the Tax Commissioner to promulgate the proposed rule regarding informational returns required for analysis of recommendations of the Governor's Commission on Fair Taxation. The following is a section-by-section synopsis of the proposed rule.

Section 1 is the standard general section, setting forth the scope, authority, filing date and effective date of the proposed rule.

Section 2 contains background information on the legislation and an overview of the informational return which technically is unnecessary.

Section 3 contains definitions.

Section 4 relates to informational return requirements. It contains requirements from the statute. It also extends the time to file the informational return for businesses required to file a return by the fifth month following the close of its tax year for tax accounting or financial accounting purposes in 1999 to the fifth month following the close of its calendar or fiscal tax year ending in the year 2000.

This section also sets forth information necessary for an adequate fiscal analysis which cannot be obtained from information in the computer system. It also sets forth information that is not absolutely necessary, but useful.

This section also sets forth information that is not available from the computer system that will be required by the university which prepares economic or financial forecasts, projections, analyses and statistical studies.

This section also sets forth provision regarding the financial incentives which are provided for in the statute.

Finally, this section contains provisions regarding financial penalties provided for in the statute.

Appendix 1 is the in-state informational return and the instructions for completing the return.

Appendix 2 is the multi-state informational return and the instructions for completing the return.

AUTHORITY

Statutory authority: W.Va. Code, §11-10-22, which provides, in part, as follows:

> ...(d) *Legislative rules.* --
>
> (1) The tax commissioner shall propose legislative rules for promulgation pursuant to article three, chapter twenty-nine-a of this code. Notwithstanding any provision of article three, chapter twenty-nine-a of this code to the contrary, the tax commissioner shall submit finally approved proposed rules, including amendments, to the legislative rule-making and review committee on or before the thirty-first day of August, two thousand...

ANALYSIS

I. <u>HAS THE AGENCY EXCEEDED THE SCOPE OF ITS STATUTORY AUTHORITY IN APPROVING THE PROPOSED LEGISLATIVE RULE?</u>

No.

II. <u>IS THE PROPOSED LEGISLATIVE RULE IN CONFORMITY WITH THE INTENT OF THE STATUTE WHICH THE RULE IS INTENDED TO IMPLEMENT, EXTEND, APPLY, INTERPRET OR MAKE SPECIFIC?</u>

Yes.

III. <u>DOES THE PROPOSED LEGISLATIVE RULE CONFLICT WITH OTHER CODE PROVISIONS OR WITH ANY OTHER RULE ADOPTED BY THE SAME OR A DIFFERENT AGENCY?</u>

No.

IV. <u>IS THE PROPOSED LEGISLATIVE RULE NECESSARY TO FULLY ACCOMPLISH THE OBJECTIVES OF THE STATUTE UNDER WHICH THE PROPOSED RULE WAS PROMULGATED?</u>

Yes.

V. <u>IS THE PROPOSED LEGISLATIVE RULE REASONABLE, ESPECIALLY AS IT AFFECTS THE CONVENIENCE OF THE GENERAL PUBLIC OR OF PERSONS AFFECTED BY IT?</u>

Yes.

VI. <u>CAN THE PROPOSED LEGISLATIVE RULE BE MADE LESS COMPLEX OR MORE READILY UNDERSTANDABLE BY THE GENERAL PUBLIC?</u>

No.

VII. <u>WAS THE PROPOSED LEGISLATIVE RULE PROMULGATED IN COMPLIANCE WITH THE REQUIREMENTS OF CHAPTER 29A, ARTICLE 3 AND WITH ANY REQUIREMENTS IMPOSED BY ANY OTHER PROVISIONS OF THE CODE?</u>

Yes.

VIII. <u>OTHER</u>

Counsel has technical modifications to suggest.