

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE


AGENCY: TAX DEPARTMENT TITLE NUMBER: 110
RULE TYPE: LEGISLATIVE; CITE AUTHORITY W.VA. CODE §§ 11-10-5 and 29A-3-15
AMENDMENT TO AN EXISTING RULE: YES NO
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____
TITLE OF RULE BEING AMENDED: _____
IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 13B
TITLE OF RULE BEING PROPOSED: TELECOMMUNICATIONS TAX

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON 5:00 p.m. AT August 10, 1987.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

STATE TAX COMMISSIONER
STATE TAX DEPARTMENT
WW-300
STATE CAPITOL
CHARLESTON, WV 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.


MICHAEL E. CARYL
STATE TAX COMMISSIONER

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

BRIEF SUMMARY OF PROPOSED RULE

TELECOMMUNICATIONS TAX

The Telecommunications Tax became effective July 1, 1987. This proposed rule provides necessary guidelines to taxpayers subject to the tax. This rule will help to assure taxpayer compliance and prevent taxpayer confusion.

WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE TAX DEPARTMENT
TITLE 110
SERIES 13B
(1987)

Filed: July 10, 1987

TELECOMMUNICATIONS TAX

EMERGENCY
WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE TAX DEPARTMENT
TITLE 110
SERIES 13B
(1987)

TELECOMMUNICATIONS TAX

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EMERGENCY
WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE TAX DEPARTMENT
TITLE 110
SERIES 13B
(1987)

Filed: July 10, 1987

§ 110-13B-1 General.

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

1.2 Scope. - These emergency legislative regulations explain and clarify the West Virginia Telecommunications Tax Act set forth at W. Va. Code § 11-13B-1 et seq.

1.3 Authority. - These emergency legislative regulations are issued under the authority of W. Va. Code §§ 11-10-5 and 29A-3-15.

1.4 Filing Date. - These emergency legislative regulations were promulgated and filed in the State Register on July 10, 1987. A public comment period will be held until August 10, 1987.

1.5 Effective Date. - These emergency legislative regulations become effective upon filing in the State Register.

1.6 Citations. - These emergency legislative regulations may be cited as 110 CSR 13B, § _____ (1987).

§ 110-13B-2 Definitions. - As used in these regulations and unless the context clearly requires a different meaning, the following terms shall have the meanings ascribed herein, and shall apply in the singular or in the plural.

2.1 Article 13B. - West Virginia Code § 11-13B-1 et seq.

2.2 Business. - The term "business" shall include all activities engaged in or caused to be engaged in or caused to be engaged in with the object of gain or economic benefit, either direct or indirect.

2.3 Communications Channel. - The term "communications channel" or "channel" means the smallest discrete circuit or other means whereby a message, conversation, data set or signal may be communicated, and which cannot be subdivided without destroying or diminishing its capacity to carry such communications.

2.3.1 Voice Grade Channel. - The term "voice grade channel" is a channel suitable for transmission of speech, digital or analog data, or

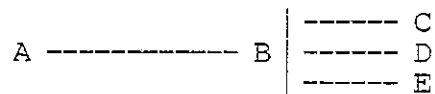
facsimile, with a frequency range of 0 to 4000 cycles per second (Hertz).

2.3.2 Voice Grade Equivalent (VGE). - The term "voice grade equivalent" means the equivalent of a channel suitable for the transmission of speech, digital or analog data, or facsimile, with a frequency range of 0 to 4000 cycles per second (Hz). For purposes of the telecommunications tax and except for telegraph channels, a voice grade equivalent is deemed to be a "communications channel." Every 4000 Hz of usable band width (capacity) including capacity used for signalling and supervision constitutes one channel, except that one telegraph channel is one channel for the purposes of the tax, because one voice grade channel can carry twelve telegraph channels.

2.4 Communications Pathway. - The term "communications pathway" means any conduit, wire, cable, microwave signal path, radio signal path or other pathway over which telecommunications can be carried and includes communications channel(s). The length of the communications pathway of satellite repeater facilities or other satellite communications facilities is deemed to be the shortest distance over the surface of the earth between the point on the earth from which signals are sent to the satellite and the point on the earth where such signals are received from the satellite.

2.4.1 A communications pathway consists of a signal conversion device at each end, transmitter, channel and receiver. Communication pathways include, but are not limited to telephone lines, microwaves, coaxial links, wave guides, satellites, lasers, cables and fiber optics.

2.4.2 A communication pathway is only counted once as such, regardless of the number of times it is used to make separate paths. For example, in the diagram below, Pathway AB splits into 3 sections: BC; BD and BE. Pathway AB would only be counted once although it is used three times in carrying a signal from point A to points C, D and E.



2.5 Delegate. - The term "delegate" and the phrase "or his delegate," when used in reference to the Tax Commissioner, means any officer or employee of the State Tax Department duly authorized by the Tax Commissioner directly, or indirectly, by one or more re-delegations of authority, to perform the function mentioned or described in Article 13B or regulations promulgated thereunder.

2.6 Gross Income. - The term "gross income" of a telephone company or communications carrier shall be defined as all gross income received from the provision of local exchange or long distance voice or data communication services but shall not include gross income from the provision of network access, billing or similar services provided to end users, other telephone

companies, or communications carriers. On or after July 1, 1988, the term "gross income" of a telephone company or communications carrier shall not include gross income from the provision of commodities or services which shall be determined by the Public Service Commission of West Virginia to be subject to competition. The Public Service Commission of West Virginia will submit to the Tax Commissioner, on or before December 31 of each calendar year, a listing of those commodities or services the trading in which it has determined to be subject to competition. Such listing shall constitute a conclusive determination for the purpose of defining "gross income" of a telephone company or communications carrier for the next succeeding calendar year.

2.6.1 For the purposes of this definition, commodity means something that is useful or serviceable as an article of merchandise, i.e., good, stock, produce, article of commerce, ware, merchandise, product, staple, article of trade, capital good, resource, personal property, or raw material.

2.6.2 Gross income does not include income received from the provision of commodities except to the extent stated above.

2.7 Person. - The term "person" or "company" are herein used interchangeably and include any individual, firm, partnership, mining partnership, joint venture, association, corporation, trust or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is declared by the context.

2.8 Sale. - The term "sale" includes any transfer of the ownership or title to property or any provision of a service, whether for money or an exchange for other property or services, or a combination thereof.

2.9 Tax Commissioner. - The term "Tax Commissioner" means the Tax Commissioner of the State of West Virginia, or his delegate.

2.10 Taxable Year. - The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the telecommunications tax liability is computed. "Taxable year" means, in case of a return made for a fractional part of a year under the provisions of Article 13B, or under further regulations promulgated by the Tax Commissioner, the period for which such return is made.

2.11 Taxpayer. - The term "taxpayer" means and includes any individual, partnership, joint venture, association, corporation, receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind engaged in telecommunications business activity.

2.12 Telecommunications. - The term "telecommunications" means all telephone, radio, light, lightwave, radio-telephone, telegraph and other communication, or means of communication, whether using voice communication,

computer data transmission, or other encoded symbolic information transfers. The term does not include commercial broadcast radio or television, cable television or amateur or citizen band radio or the use or accessing of telecommunications devices incidental to the provision of other services.

2.13 Telecommunications Business. - The term "telecommunications business" means and includes any business where the provision of telecommunication services for others is the essence of the business activities and, therefore, it does not include businesses which merely provide telecommunication services incidental to the provision of other services. The transmission of signals is the focus of a telecommunication business as opposed to providing access to a specialized body of information.

§ 110-13B-3 Tax Imposed on Telecommunications Businesses; Effective Date.

3.1 Tax Imposed. - Upon every telecommunications business selling or furnishing telegraph, telephone or other telecommunication service, there is imposed an annual privilege tax on account of the business, or other activities, of the taxpayer engaged in or carried on within the State, during the taxable year. The amount of taxes due shall be determined by application of rates against gross income, as specified in W. Va. Code § 11-13B-3 and in Section 3.2 of these regulations, effective on and after the 1st day of July, 1987.

3.1.1 Telecommunications Business. - The tax is imposed solely upon engaging in telecommunications businesses, and not upon persons who may engage in telecommunication activities incidental to the provision of other services such as:

3.1.1.1 data processing services, even though the provision of such services relies upon the transfer of data from one point to another, regardless of distance;

3.1.1.2 legal and medical services, even though such services in whole or in part are performed with, by or through telecommunications devices;

3.1.1.3 activities that utilize telecommunication devices to obtain permits or provide other materials or services for customers; i.e., a truckstop which contacts the State Tax Department and arranges for and obtains fuel permits for truckers through a facsimile reproduction machine or similar telecommunications devices.

3.1.1.4 airlines and aircraft which routinely use telecommunications in their flights are not, by virtue of such usage, a telecommunications business and are not subject to the communications tax.

3.1.1.5 companies providing specialized data base services to

their subscribers, which may only be accessed through telecommunication devices that transmit information from the data base location to the subscriber-customer.

3.1.2 Gross income earned through or as a result of merely leasing or selling telecommunications hardware, devices or equipment is not subject to the tax, even if sold or leased by a telecommunications company.

3.1.3 The provision of operator services is engaging in telecommunications business. For example, Telephone Company B employs operators located in Parkersburg, West Virginia, who provide such operator services as placing calls, information and directory service for residents and businesses located in Washington, D.C. This operator service would be subject to the telecommunications tax and, since it is one-point business, be apportioned.

3.2 Tax Rate. - The liability of a taxpayer under Article 13B shall be 4% of the sum of:

3.2.1 Its entire gross income from all telecommunications business beginning and ending within this State, regardless of where the signal or pathways may travel; and,

3.2.2 Its gross income apportioned to this State from all telecommunications business that either begins or ends in this State.

3.3 Exemptions. - The telecommunications tax and the provisions of Article 13B are not applicable to telecommunication services provided by municipalities, or by any other political subdivision of this State.

3.4 Apportionment of Certain Income of Telecommunications Companies. - Gross revenues of telecommunications companies derived from one point business in this State shall be apportioned to the State of West Virginia in the same proportion that the length of such company's communications pathways, weighted by the number of channels such pathways are capable of carrying, in West Virginia bear to the total length of such company's communications pathways, weighted by the number of channels such pathways are capable of carrying, located everywhere in the United States, its territories, and possessions. All in-state pathways are used in this calculation regardless whether they are used in single-point or double-point business.

3.4.1 The term "wire-mile" is the equivalent of a single metallic telephone or telegraph conductor one mile in length. Wire-mile equivalents is one way in which communication pathways can be measured. After determining the total wire-mile equivalents of the communication pathways, the number of communication channels each communication pathway is capable of carrying is used as a multiplier to arrive at a figure used in apportionment.

For example, telephone company A has 1,000 wire-mile equivalents of non-competitive lines throughout West Virginia and 200 wire-miles of competitive line-mile equivalents in West Virginia. The total non-competitive wire-miles of telephone company A located in the United States, its territories and possessions is 12,000. The total competitive wire-miles of the company located in the United States, its territories and possessions is 3,000. Five hundred of the wire-mile equivalents located in West Virginia have 15 channels and the remaining in-State pathways have ten channels. Three thousand, five hundred wire-mile equivalents of the total pathways of telephone company A located in the United States, its territories and possessions (including the 500 wire-mile equivalents located in West Virginia) have 15 channels. The remaining pathways of telephone company A and the remaining of these pathways the telephone company A located in the United States, its territories and possessions (including those located in West Virginia) have ten channels. All competitive lines of telephone company A have 15 channels.

The apportionment calculation is performed as follows:

<u>West Virginia</u>	<u>Total United States</u>
500 X 15 = 750	3,500 X 15 = 52,000
700 X 10 = 7,000	11,500 X 10 = 115,000
<u>7,750</u>	<u>167,000</u>

$$\frac{7,750}{167,000} = .04641$$

Therefore, 4.641% of telephone company A's single point business will be apportioned to the State of West Virginia for purposes of the telecommunications tax.

After July 31, 1988, the competitive lines will not be taxed and will drop completely out of the equation. The calculation will then be performed as follows:

<u>West Virginia</u>	<u>Total United States</u>
300 X 15 = 450	500 X 15 = 750
700 X 10 = 7,000	11,500 X 10 = 11,500
<u>7,450</u>	<u>12,250</u>

$$\frac{7,450}{12,250} = .06082$$

3.4.2 Another method by which a taxpayer may apportion

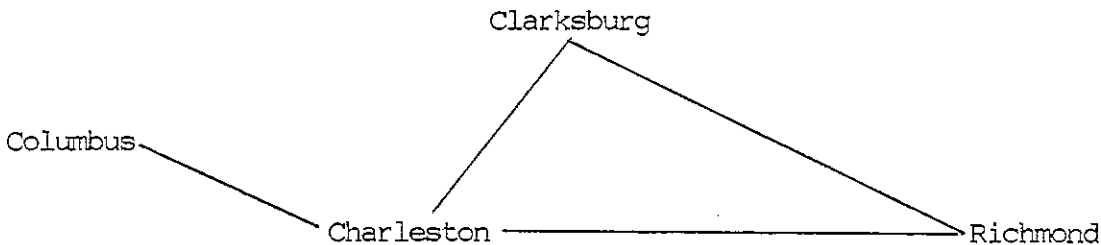
single-point business under the telecommunications tax is with a voice grade equivalent-mile, or VGE-mile. A voice grade equivalent is deemed a channel as defined in Section 2.3.2 of these regulations. Apportionment may be calculated on a VGE-mile basis.

A VGE-mile is a communication pathway one mile in length capable of carrying one voice grade channel. Every 0 to 4000 Hz of useable band width over the one-mile pathway is a VGE-mile. For example, the Bell L3 System shown below can carry 1860 voice channels, or 600 voice channels and a television channel.

- 12 telegraph channels = 1 voice channel (0 to 4 kHz)
- 12 voice channels = 1 channel group (60 to 80 kHz)
- 5 channel groups = 1 supergroup (312 to 552 kHz)
- 10 supergroups = 1 basic mastergroup
- 3 basic mastergroups occupy the Bell L3 System

A one-mile Bell L3 pathway would be 1860 VGE miles. A television channel is the equivalent of 1260 channels. A Bell L4 System contains 3600 voice channels (43,200 channels if used for telegraph). To calculate the apportionment of single-point business for the telecommunications tax, a telephone company first determines its total VGE-miles located in the United States, its territories and possessions. Next, the VGE-miles that company has located in west Virginia is determined.

For example, Telephone Company L serves the following cities: Charleston and Clarksburg, West Virginia, Columbus, Ohio and Richmond, Virginia. Telephone Company A's network resembles the diagram below.



MILEAGE-CHANNEL CHART

<u>Location</u>	<u>Type of Line</u>	<u>Mileage</u>	<u>Channels</u>
Charleston	Local Service		
	Wire Lines	150	12
Clarksburg	Local Service		
	Wire Lines	100	12

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Charleston-Clarksburg	Coaxial Cable	55	600
Clarksburg to Border	Coaxial Cable	30	600
Border to Richmond	Coaxial Cable	310	600
Charleston to Border	Microwave Chain	110	1860
Border to Richmond	Microwave Chain	280	1860
Charleston to Border	Coaxial Cable	60	600
Border to Columbus	Microwave Chain	120	1860

Telephone Company L's noncompetitive single-point business is \$2,519,000.
 The apportionment calculation is performed as follows:

Total West Virginia pathways and channels:

	<u>Mileage Channels</u>	<u>Total</u>
Charleston	150 X 12	1,800
Clarksburg	100 X 12	1,200
Charleston-Clarksburg	55 X 600	33,000
Clarksburg-Border	30 X 600	18,000
Charleston-Border	110 X 1860	204,600
Total		258,600

Total United States pathways:

	<u>Mileage Channels</u>	<u>Total</u>
Border to Richmond	310 X 600	186,000
Border to Richmond	280 X 1860	520,800
Border to Columbus	120 X 1860	223,200
West Virginia		258,600
Total		1,188,600

$$\frac{258,600}{1,188,600} = 0.2175668$$

Therefore, 21.75668% of Telephone Company L's single-point business will be apportioned to the State of West Virginia. The amount subject to the telecommunications tax would be \$548,050.76, and the tax would be \$21,922.03.

3.4.2.1 All apportionment calculations shall be carried to five places.

3.4.3 If the apportionment provisions used by a taxpayer do not fairly represent the extent of that taxpayer's telecommunications business

activities in this State, the taxpayer may petition, or the Tax Commissioner may require, in respect to the taxpayer's telecommunications business activities, a different method of apportionment.

§ 110-13B-4 Accounting Periods and Methods of Accounting.

4.1 Taxable Year. - For purposes of the telecommunications tax, a taxpayer's taxable year shall be the same as the taxpayer's taxable year for federal income tax purposes.

4.2 Change of Taxable Year. - If a taxpayer's taxable year is changed for federal income tax purposes, the taxpayer's taxable year for purposes of the telecommunications tax shall be changed to correspond with the taxpayer's taxable year for federal income tax purposes. The taxpayer shall file a copy of the authorization of such change from the Internal Revenue Service with its annual return for the taxable year filed under Article 13B.

4.3 Methods of Accounting.

4.3.1 Same as Federal. - A taxpayer's method of accounting for the telecommunications tax shall be the same as the taxpayer's method of accounting for federal income tax purposes. In the absence of any method of accounting for federal income tax purposes, the accrual method of accounting shall be used unless the Tax Commissioner, in writing, consents to use of another method.

4.3.2 Change of Accounting Methods. - If a taxpayer's method of accounting is changed for federal income tax purposes, his method of accounting for purposes of the telecommunications tax shall be also changed to be identical to that used by the taxpayer for federal income tax purposes. The taxpayer shall provide a copy of the authorization for such change from the Internal Revenue Service, with its annual return for the taxable year filed under this Article.

§ 110-13B-5 Annual Return.

5.1 On or before the expiration of one month after the end of the taxable year, every taxpayer subject to the telecommunications tax shall make and file an annual return for the entire taxable year showing such information as the Tax Commissioner may reasonably require in computing the amount of such taxes due for that taxable year. The filing of the return is required regardless of whether any tax is due for the taxable year.

§ 110-13B-6 Periodic Installment Payments of Tax.

6.1 General Rule. - Taxes levied under Article 13B shall be due and payable in periodic installments as follows:

6.1.1 Tax in Excess of \$1,000 Per Month. - For taxpayers whose estimated tax liability under the telecommunications tax exceeds \$1,000 per month, the tax shall be due and payable in monthly installments on or before the last day of the month following the month in which the tax accrued.

6.1.1.1 Each such taxpayer shall, on or before the last day of each month, make out an estimate of the tax for which the taxpayer is liable for the preceding month, sign the same and mail it together with the remittance, in the form prescribed by the Tax Commissioner and the amount of tax due to the Office of the Tax Commissioner.

6.1.1.2 In estimating the amount of tax due for each month, the taxpayer may deduct 1/12th of any applicable tax credits allowable for the taxable year, and 1/12th of any annual exemption allowed for such year.

6.1.2 Tax of \$1,000 Per Month or Less. - For taxpayers whose estimated tax liability under the telecommunications tax is \$1,000 per month or less, the tax shall be due and payable in quarterly installments on or before the last day of the month following the quarter in which the tax accrued.

6.1.2.1 Each such taxpayer shall, on or before the last day of the fourth, seventh and tenth months of the taxable year, make out an estimate of the tax for which the taxpayer is liable for the preceding quarter, sign the same and mail it together with the remittance, in the form prescribed by the Tax Commissioner, of the amount of the tax due to the Office of the Tax Commissioner.

6.1.2.2 In estimating the amount of tax due for each quarter, the taxpayer may deduct 1/4th of any applicable tax credits allowable for the taxable year and 1/4th of any annual exemption allowed for such year.

6.2 Exception. - Notwithstanding the provisions of this Section, the Tax Commissioner, if he deems it necessary to insure payment of the tax, may require the return and payment under this Section for periods of shorter duration than those prescribed above.

§ 110-13B-7 Extension of Time for Filing Returns.

7.1 The Tax Commissioner may, upon written request received on or prior to the due date of the annual return or any periodic estimate, grant a reasonable extension of time for filing any return or other document required by these regulations if good cause satisfactory to the Tax Commissioner is provided by the taxpayer. An extension of time for filing the return does not extend the time for payment of tax.

§ 110-13B-8 Extensions of Time for Paying Tax.

8.1 Amount Determined on Return. - The Tax Commissioner may extend the time for payment of the amount of the tax shown, or required to be shown, on any annual return required by these regulations (or for any periodic installment payments), for a reasonable period not to exceed six months from the date fixed for payment thereof.

8.2 Amount Determined as Deficiency. - Under these regulations, the Tax Commissioner may extend the time for the payment of the amount determined as a deficiency of the telecommunications tax for a period not to exceed eighteen months from the date fixed for payment of the deficiency. In exceptional cases, a further period of time not to exceed twelve months may be granted. An extension under this Subsection may be granted only where it is shown to the satisfaction of the Tax Commissioner that payment of a deficiency upon the date fixed for the payment thereof will result in undue hardship to the taxpayer.

8.3 No Extension for Certain Deficiencies. - No extension shall be granted under this Section for any deficiency if the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax.

§ 110-13B-9 Place for Filing Returns or Other Documents.

9.1 Tax returns, statements, or other documents, or copies thereof, required by these regulations shall be filed with the Tax Commissioner by delivery, in person or by mail, to his office in Charleston, West Virginia.

§ 110-13B-10 Time and Place for Paying Tax Shown on Returns.

10.1 General Rule. - The person required to make the annual return of the telecommunications tax shall, without assessment or notice and demand from the Tax Commissioner, pay such tax at the time and place fixed for filing the return.

10.2 Date Fixed for Payment of Tax. - The date fixed for payment of the telecommunications taxes shall be deemed to be a reference to the last day fixed for such payment (determined without regard to any extension of time for paying the tax).

§ 110-13B-10a Tax Credit for Business Investment and Jobs Expansion; Credit for Eligible Research and Development projects; Credit for Reducing Telephone Rates for Certain Low-Income Residential Customers; Rules.

10a.1 There shall be allowed as a credit against the telecommunications tax imposed by Article 13B, Chapter 11 for the taxable year, the amount determined under Articles 13C, 13D and 13G of Chapter 11 of the West Virginia Code, relating respectively to:

10a.1.1 Tax credit for business investment and jobs expansion;

10a.1.2 Tax credit for eligible research and development projects;

10a.1.3 Tax credit for reducing telephone utility rates for certain low-income residential customers.

10a.1.4 The tax imposed by Article 13B is subject to the credit set forth at Section 9-b, Article 15, Chapter 11 (Consumers Sales and Service Tax) and the credit set forth at Section 3-b, Article 15-A, Chapter 11 (Use Tax) of the West Virginia Code.

10a.2 These regulations shall prescribe the manner whereby the tax credits set forth in Sections 11-13C-1 et seq., 11-13D-1 et seq. and 11-13G-1 et seq. of the West Virginia Code shall be taken against the tax set forth in Section 11-13B-1 et seq. of the West Virginia Code.

10a.3 Order in Which Credits are Taken. The credits set forth in this Section shall be taken in the following order:

10a.3.1 First, the credit set forth in Section 10a.1.3 of these regulations, if any.

10a.3.2 Second, the credit set forth in Section 10a.1.2 of these regulations, if any.

10a.3.3 Third, the credit set forth in Section 10a.1.1 of these regulations, if any.

10a.3.4 Fourth, the credit set forth in Section 10a.1.4 of these regulations.

§ 110-13B-11. Signing of Returns and Other Documents.

11.1 General. - All applicable sections of the return must be completed and substantiating documents attached.

11.2 Signing of Corporation Returns. - The return of a corporation shall be signed by the president, vice president, treasurer, assistant treasurer, chief accounting officer or any other officer duly authorized so to act. In the case of a return made for a corporation by a fiduciary, such fiduciary shall sign the return. The fact that an individual's name is signed on the return is prima facie evidence that such individual is authorized to sign the return on behalf of the corporation.

11.3 Signing of Partnership Returns. - The return of a partnership shall be signed by any one of the partners. The fact that a partner's name is signed on

the return is prima facie evidence that such partner is authorized to sign the return on behalf of the partnership.

11.4 Signature Presumed Authentic. - The fact that an individual's name is signed to a return, statement or other document is prima facie evidence for all purposes that the return, statement or other document was actually signed by him.

11.5 Verification of Returns. - Except as otherwise provided by the Tax Commissioner, any return, declaration or other document required to be made under Article 13B or these regulations shall contain or be verified by a written declaration that it is made under the penalties of perjury.

§ 110-13B-12 Records.

12.1 Every taxpayer liable for reporting or paying the telecommunications tax shall keep such records, receipts, invoices, and other pertinent papers in such forms as the Tax Commissioner may reasonably require.

12.1.1 On or before February 29, 1988, every taxpayer liable for reporting or paying the telecommunications tax shall report to the Tax commissioner the total length of such taxpayer's communication pathways and the number of channels of such pathway. In determining this, all channels and pathways shall be presumed to be one-way, i.e., a one-channel wire shall be counted as one although information may travel through it in two directions.

12.2 Every taxpayer shall keep such records for not less than three years after the annual return is filed, unless the Tax Commissioner in writing authorizes earlier destruction thereof. An extension of time for making an assessment automatically extends the time period for keeping the records for all years subject to assessment covered in the agreement.

§ 110-13B-13 Preservation of Rights and the Liabilities of Taxpayers.

13.1 Tax liabilities, if any arising for taxable years or portions thereof ending prior to the first day of July, 1987, shall be determined, administered, assessed and collected as if the taxes imposed by Article 12A, Chapter 11 of the West Virginia Code had not been repealed; and the rights and duties of the taxpayer and the State of West Virginia shall be fully and completely preserved.

§ 110-13B-14 General Procedure and Administration.

14.1 Each and every provision of the "West Virginia Tax Procedure and Administration Act" set forth in Article 10, Chapter 11 of the West Virginia Code shall apply to the telecommunication tax with like effect as if said act were applicable only to the telecommunications tax and were set forth in extenso in Article 13B and these regulations.

§ 110-13B-15 Criminal Penalties.

15.1 Each and every provision of the "West Virginia Tax Crimes and Penalties Act" set forth in Article 9, Chapter 11 of the West Virginia Code shall apply to the telecommunications tax with like effect as if said act were applicable only to the telecommunications tax and were set forth in extenso in Article 13B and these regulations.

§ 110-13B-16 Severability.

16.1 If any provision of these regulations or the application thereof is for any reason adjudged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder of these regulations, but shall be confined in its operation to the provision thereof directly involved in the controversy in which such judgment shall have been rendered, and the applicability of such provision to other persons or circumstances shall not be affected thereby.

EMERGENCY
WEST VIRGINIA LEGISLATIVE REGULATIONS
STATE TAX DEPARTMENT
TITLE 110
SERIES 13B
(1987)

TELECOMMUNICATIONS TAX

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State Tax Department
of West Virginia

Charleston 25305

ARCH A. MOORE, JR.
GOVERNOR

MICHAEL E. CARYL
COMMISSIONER

July 10, 1987

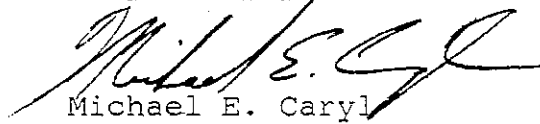
Honorable Ken Hechler
Secretary of State
State of West Virginia
Charleston, WV 25305

Dear Mr. Hechler:

Under the authority of W. Va. Code §§ 29A-3-15 and 11-10-5, the Tax Department is hereby filing in the State Register the attached emergency regulations for the Telecommunications Tax.

Also attached are Notice Of A Comment Period On A Proposed Rule and Notice Of An Emergency Rule. The public comment period will end at 5:00 p.m., August 10, 1987.

Very truly yours,


Michael E. Caryl
State Tax Commissioner

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Attachments