

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

Form #2

Do Not Mark In this Box
2008 JUN 27 PM 3:43

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: State Tax Department TITLE NUMBER: 110

RULE TYPE: Legislative CITE AUTHORITY W. Va. Code §11-10-7(d)(b)

AMENDMENT TO AN EXISTING RULE: YES _____ NO X _____

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

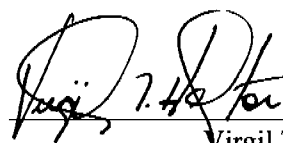
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 13X

TITLE OF RULE BEING PROPOSED: Film Industry Investment Tax Credit

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 July 28, 2008 AT 5:00 pm. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

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

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



Virgil T. Helton
Cabinet Secretary of the Department of Revenue

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

**TITLE 110
LEGISLATIVE RULE
STATE TAX DEPARTMENT**

2000 JUN 27 PM 3:48

**SERIES 13X
FILM INDUSTRY INVESTMENT TAX CREDIT**

§110-13X-1. General.

1.1. Scope. -- This rule addresses administration by the West Virginia State Tax Department of the West Virginia tax credit authorized under the Film Industry Investment Act, West Virginia Code §11-13x-1 *et seq.*

1.2. Authority. -- W. Va. Code §§ 11-10-5 and 11-13x-1 *et seq.*

1.3. Filing Date. --

1.4. Effective Date. --

§110-13X-2. Uses of credit; transferability.

3.1. The tax credit may be applied to reduce taxes imposed by articles twenty-three (business franchise tax), twenty-four (corporate net income tax) and twenty-one (personal income tax) of Chapter 11 of the W. Va. Code in the tax year the investment is placed in service after approval of the project by the Film Office (with potential carry forward for an additional 2 years). The credit may be taken into account in computing estimated payments.

3.2. In the event of a transfer or sale of unused credit, the duty of compliance with all applicable statutes and rules relating to application and use of the credit, including any liability for recomputation or recapture of the credit, first falls on the seller or transferor, rather than the presumed innocent buyer, or credit transferee. However, both the seller and the buyer are jointly and severally liable for any statutory violations relating to entitlement, use and application of the credit and any recomputation or recapture thereof.

3.3. After approval by the Film Office of any transfer, sale or assignment of the tax credit, pursuant to W.Va. Code §11-13X-8, the transferee shall acquire the amount of credit that remains available under that article. The transferor and the transferee or transferees may apply the credit against tax in the year of the transfer, and succeeding years in accordance with the amount of credit to which each is entitled, but the dollar amount of credit available to each shall not be exceeded or duplicated.

Brief Summary for 110-13X

The proposed rule sets forth guidance on the tax credit authorized by the Film Industry Investment Act, West Virginia Code §11-13X-1 *et seq.*

110 C.S.R. 13X
FILM INDUSTRY INVESTMENT TAX CREDIT
STATEMENT OF CIRCUMSTANCES

The West Virginia State Legislature authorized a tax credit for certain taxpayers in West Virginia Code §11-13X-1 *et seq*, known as the Film Industry Investment Act. The proposed legislative rule sets forth the application of the credit and procedures for the transfer, sale, or assignment of such credits.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Film Industry Investment Tax Credit (110 CSR 13X)

Type of Rule: X Legislative Interpretive Procedural

Agency: State Tax Department

Address: 1001 Lee Street

Charleston, WV 25301

Phone Number: (304) 558-5330

Email:

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The rule, as written, provides clarification of the application of the Film Industry Investment Tax Credit to selected taxes and of the transfer or sale of unused credit. Since the rule does not alter the amount of Film Industry Investment Tax Credit available, approval of the rule will have no impact on State costs and revenue.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	\$0	\$0	\$0
Personal Services	\$0	\$0	\$0
Current Expenses	\$0	\$0	\$0
Repairs & Alterations	\$0	\$0	\$0
Assets	\$0	\$0	\$0
Other	\$0	\$0	\$0
2. Estimated Total Revenues	\$0	\$0	\$0

Rule Title: Film Industry Investment Tax Credit (110 CSR 13X)

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues:

Approval of this proposed rule will not increase or decrease revenue or costs.

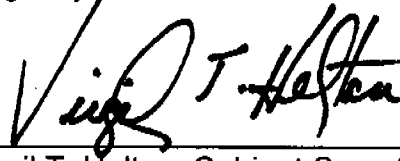
MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The intent of this proposed rule is to provide clarification of the application of the Film Industry Investment Tax Credit to selected taxes and of the transfer or sale of unused credit. Since the amount of Film Industry Investment Tax Credit will not change, there is no net fiscal impact.

Date: 6/27/08

Signature of Agency Head or Authorized Representative:

A handwritten signature in black ink, appearing to read "Virgil T. Helton", written over a horizontal line.

Virgil T. Helton, Cabinet Secretary
West Virginia Department of Revenue