

**WEST VIRGINIA  
SECRETARY OF STATE  
JOE MANCHIN, III  
ADMINISTRATIVE LAW DIVISION**

Form #2

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2003 APR -8 A 9:13

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: State Tax Division TITLE NUMBER: 110

RULE TYPE: Procedural CITE AUTHORITY: W. Va. Code § 11-10-5

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 RULE BEING PROPOSED: 17A

TITLE OF RULE BEING PROPOSED: Tobacco Products Excise Tax On Floorstocks

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 May 8, 2003 AT 5:00 pm ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

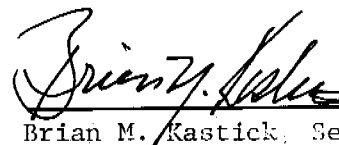
Legal Division

West Virginia Dept. of Tax & Revenue

P.O. Box 1005

Charleston, WV 25324-1005

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



Brian M. Kastick, Secretary of Tax & Revenue

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 110 Series 17A

Type of Rule:  Legislative  Interpretive  Procedural

1. Effect of Proposed Rule

|                       | Annual   | Annual   | Fiscal Year   | Fiscal Year    | Fiscal Year |
|-----------------------|----------|----------|---------------|----------------|-------------|
|                       | Increase | Decrease | Current       | Next           | Thereafter  |
| Estimated Total Cost  | \$0      | \$0      | \$1.6 million | -\$1.6 million | \$0         |
| Personal Services     | \$0      | \$0      | \$0           | \$0            | \$0         |
| Current Expense       | \$0      | \$0      | \$0           | \$0            | \$0         |
| Repairs & Alterations |          | \$0      | \$0           | \$0            | \$0         |
| Equipment             | \$0      | \$0      | \$0           | \$0            | \$0         |
| Other                 | \$0      | \$0      | \$1.6 million | -\$1.6 million | \$0         |

2. Explanation of above estimates:

The cost above reflects the estimated costs of allowing taxpayers to pay the tax on floor stocks of cigarettes and cigarette tax stamps on hand as of May 1, 2003 in one payment due no later than July 30, 2003. Without this rule, taxpayers would be required to pay one-third of the tax on floor stocks by May 31, 2003, one-third by June 30, 2003 and the remaining one-third by July 30, 2003. The rule will shift roughly \$1.6 million of the total \$2.5 million in floor stock tax attributable to a tax rate increase effective May 1, 2003 from FY 2003 to FY 2004.

3. Objectives of these rules:

The rule provides an alternative payment schedule for the tax on floor stocks of cigarettes and cigarette tax stamps. The tax on floor stocks is the result of a tax rate increase effective May 1, 2003.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

General Revenue Fund collections will be reduced by \$1.6 million in FY 2003 and increased by \$1.6 million in FY 2004.

B. Economic Impact on Political Subdivision; Specific Industries; Specific Groups of Citizens.

Taxpayers with an inventory of cigarettes or cigarette tax stamps on hand as of May 1, 2003, will be permitted to delay payment of the additional tax on the inventory by up to 60 days.

Rule Title: Title 110 Series 17A

C. Economic Impact on Citizens/Public at Large.

None.

Date: 4/2/03

Signature of Agency Head or authorized Representative

  
\_\_\_\_\_  
Rebecca Melton Craig, State Tax Commissioner

**110 C.S.R. 17A  
TOBACCO PRODUCTS EXCISE TAX ON FLOORSTOCKS**

**SUMMARY OF RULE**

This procedural rule provides the procedure and the alternative procedure for the payment of the Tobacco Products Excise Tax on floorstocks of cigarettes.

**110 C.S.R. 17A  
TOBACCO PRODUCTS EXCISE TAX ON FLOORSTOCKS**

**STATEMENT OF CIRCUMSTANCES**

Senate Bill 105, enacted March 7, 2003, increased the Tobacco Products Excise Tax. This tax is imposed on the floorstocks of cigarettes and cigarette tax stamps on hand on May 1, 2003. Because of the financial hardship that may be imposed on businesses that sell cigarettes, an alternate procedure for paying the tax is provided within this rule.

TITLE 110  
PROCEDURAL RULE  
STATE TAX DEPARTMENT

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SERIES 17A  
TOBACCO PRODUCTS EXCISE TAX ON FLOORSTOCK

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**§ 110-17A-1. General**

1.1. **Scope** – This rule provides the procedure for paying the rate increase for the Tobacco Products Excise Tax as that increase relates to floorstocks of cigarettes and cigarette tax stamps.

1.2. **Authority** – W. Va. Code § 11-10-5.

1.3. **Effective Date** –

1.4. **Filing Date** –

**§ 110-17A-2. Incorporation.**

2.1. The amendments to West Virginia Code §§ 11-17-3 and 11-17-4 as enacted in Senate Bill 105 on March 7, 2003 are incorporated herein by reference.

2.2. West Virginia Legislative Rule 110 C.S.R. 17, Tobacco Products Excise Tax, is incorporated herein by reference.

**§ 110-17A-3. Payment of Tobacco Products Excise Tax on floorstocks and tax stamps.**

3.1 Every wholesaler, subjobber, subjobber dealer, retail dealer and vending machine operator who, on May 1, 2003, has, on hand or in inventory, any cigarettes or cigarette tax stamps upon which the Tobacco Products Excise Tax or any portion of that Tax has been previously paid, shall on that date take a physical inventory of the cigarettes or cigarette tax stamps.

3.2. Within thirty days after taking the inventory required by the foregoing subsection 3.1, the wholesaler, subjobber, subjobber dealer, retail dealer and vending machine operator shall file a report of the inventory in the format required with the Tax Commissioner.

3.3 Every wholesaler, subjobber, subjobber dealer, retail dealer and vending machine operator that files the report required by the foregoing subsection 3.2 and that is required to pay additional Tobacco Products Excise Tax shall pay to the Tax Commissioner any additional Tobacco Products Excise Tax due in accordance with the following schedule;

3.3.1. One-third of the additional Tobacco Products Excise Tax at the time of filing the inventory report;

3.3.2. one-third of the additional Tobacco Products Excise Tax no later than June 30, 2003; and

3.3.3. one-third of the additional Tobacco Products Excise Tax no later than July 30, 2003.

3.4. Every wholesaler, subjobber, subjobber dealer, retail dealer and vending machine operator that files the report required by the foregoing subsection 3.2 and that is required to pay additional Tobacco Products Excise Tax shall be deemed to be in compliance with the requirements of West Virginia Code § 11-17-4 if payment of any additional tax due is made in one payment no later than July 30, 2003.

3.5. The payments as described in the foregoing 3.3 and a single payment of the additional tax as described in the foregoing subsection 3.4 shall qualify for the 4% discount authorized by West Virginia Code § 11-17-4.