

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

Form #5

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2003 MAY 15 A 9:44

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: State Tax Division TITLE NUMBER: 110

CITE AUTHORITY: W. Va. Code § 11-10-5

RULE TYPE: PROCEDURAL X INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE _____

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

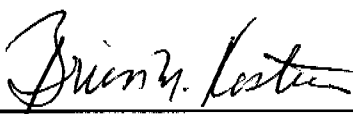
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 17A

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

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS June 16, 2003
May 23, 2003



Brian M. Kastick, Secretary of Tax & Revenue

TITLE 110
PROCEDURAL RULE
STATE TAX DEPARTMENT

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SERIES 17A
TOBACCO PRODUCTS EXCISE TAX ON FLOORSTOCKS

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.

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

A public comment period was established for the time period April 8, 2003 through May 8, 2003. No comments were received.