

WEST VIRGINIA
SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

DO NOT WRITE IN THIS BOX
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JUL 9 9 48 AM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: State Tax Division TITLE NUMBER: 110

RULE TYPE: Legislative; CITE AUTHORITY W. Va. Code §§ 11-21-51(a)(1) & 11-21-71(a)

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 2

TITLE OF RULE BEING AMENDED: _____

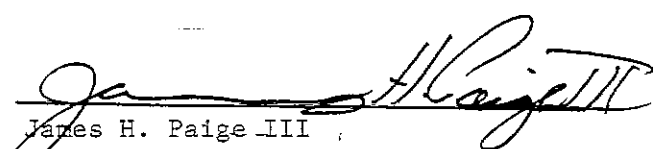
IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 21.1

TITLE OF RULE BEING PROPOSED: Personal Income Tax Low Income Exclusions

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 August 8, 1996 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

WV Dept. of Tax & Revenue
Legal Division
P.O. Box 1005
Charleston, WV 25324-1005

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


James H. Paige III

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

3.60



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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE
JAMES H. PAIGE III
SECRETARY

GASTON CAPERTON
GOVERNOR

State of West Virginia
Department of Tax and Revenue

TAX DIVISION
P. O. Box 2389
Charleston, WV 25328-2389

CONSENT TO FILE RULE

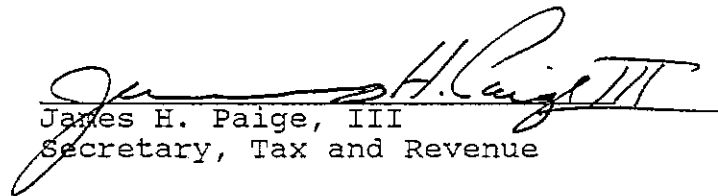
July 8, 1996

To Whom It May Concern:

Title of Rule: Personal Income Tax Low Income Exclusions
Title Number: 110
Series Number: 21.1

Pursuant to West Virginia Code § 5F-2-2(a), the undersigned hereby consents to the filing of the foregoing rule.

Signed this 8th day of July, 1996.


James H. Paige, III
Secretary, Tax and Revenue

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Personal Income Tax Low Income Exclusions

Type of Rule: 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
<u>ESTIMATED TOTAL COST</u>	\$	\$	\$	\$	\$
PERSONAL SERVICES	0	0	0	0	0
CURRENT EXPENSE	0	0	0	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:

There should be no additional administrative expenses.

3. Objectives of these rules:

This rule clarifies the low income exclusion to the Personal Income Tax.

Rule Title: Personal Income Tax Low Income Exclusions

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

There should be very little impact on State government.

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

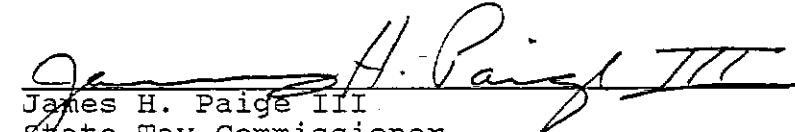
None.

C. Economic Impact on Citizens/Public at Large.

This rule affects those taxpayers earning less than \$10,000 a year.

Date: July 8, 1996

Signature of Agency Head or Authorized Representative


James H. Paige III
State Tax Commissioner



State of West Virginia
Department of Tax and Revenue

GASTON CAPERTON
GOVERNOR

TAX DIVISION
P. O. Box 2389
Charleston, WV 25328-2389

JAMES H. PAIGE III
SECRETARY

SUMMARY OF LOW INCOME EXCLUSION RULE

This rule clarifies the application of the low income exclusion to the Personal Income Tax.

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JUL 9 9 48 AM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

PROPOSED
WEST VIRGINIA LEGISLATIVE RULE
DEPARTMENT OF TAX AND REVENUE
STATE TAX DIVISION
TITLE 110
SERIES 21.1
1996

PERSONAL INCOME TAX LOW INCOME EXCLUSIONS

§ 110-21.1-1. General.

1.1 **Scope.** - This legislative rule explains and clarifies the low income exclusion set forth in Senate Bill 17 enacted by the West Virginia Legislature on January 23, 1996. The exclusion is codified in West Virginia Code §§ 11-21-10, 11-21-51 and 11-21-71.

1.2 **Incorporations.** - This low income exclusion rule should be read in pari materia with the legislative rule concerning personal income tax set forth in Series 21, 110 C.S.R. § 11-21-1 et seq. The legislative rule in 110 C.S.R. §§ 110-21-51 (Returns and Liabilities) and 110-21-71 (Requirement of Withholding Tax From Wages) are specifically incorporated by reference as if fully set forth herein.

1.3 **Authority.** - W. Va. Code §§ 11-21-51(a)(1) and 11-21-71(a).

1.4 **Filing Date.**

1.5 **Effective Date.**

§ 110-21.1-2. Definitions.

As used in this rule and unless the context clearly requires a different meaning, the following terms shall have the meaning ascribed herein, and shall apply in the singular or in the plural.

2.1 The term "eligible taxpayer" means:

2.1.1 An unmarried individual with a federal adjusted gross income of \$10,000.00 or less;

2.1.2 A husband and wife who file a joint return with a total federal adjusted gross income of \$10,000.00 or less; and

2.1.3 A husband or wife who files a separate return and that spouse has a federal adjusted gross income of \$5,000.00 or less.

2.2 For the purposes of this deduction, the term "earned income" includes:

2.2.1 Wages, salaries, tips and other employee compensation as set forth on the eligible taxpayer's W-2 form; and

2.2.2 Net earnings from self-employment activity as defined in Section 1402(a) of the Internal Revenue Code minus any deduction available to the taxpayer pursuant to Section 164 of the Internal Revenue Code.

2.3 For the purposes of this deduction, the term "earned income" excludes:

2.3.1 Income attributable to a taxpayer on the basis of a divorce decree or separation agreement to distribute community property;

2.3.2 Income received from a pension, IRA distributions, 401(k) distributions, payments or distributions from a deferred compensation plan, retirement annuity, or any other retirement plan;

2.3.3 Any annuity; and

2.3.4 Income received by a taxpayer while that taxpayer was an inmate at a penal institution.

§ 110-21.1-3. Eligible taxpayers may deduct earned income from federal adjusted gross income to the extent included therein as set forth below in order to determine the taxpayer's West Virginia taxable income.

§ 110-21.1-4. Amount of Deduction. - Eligible taxpayers may deduct the following maximum amounts of earned income from federal adjusted gross income to the extent included therein.

4.1 For tax years beginning after December 31, 1996:

4.1.1 Individual taxpayers: \$10,000.00;

4.1.2 Married taxpayers filing jointly: \$10,000.00; and

4.1.3 Married taxpayers filing separately: \$5,000.00 each spouse who qualifies as an eligible taxpayer.

4.2 For the tax year beginning January 1, 1996, eligible taxpayers may only deduct earned income received after June 30, 1996, from federal adjusted gross income to the extent included therein, as follows:

4.2.1 Individuals: \$5,000.00;

4.2.2 Married individuals filing jointly: \$5,000.00; and

4.2.3 Married individuals filing separately: \$2,500.00 each spouse who qualifies as an eligible taxpayer.

§ 110-21.1-5. Withholding.

If an eligible taxpayer is not subject to withholding of taxes from wages pursuant to West Virginia Code § 11021071, then he shall not be subject to withholdings pursuant to this rule. Otherwise, an eligible taxpayer under this rule shall be subject to withholding of taxes from wages.

§ 110-21.1-6. Filing of a Return.

If an eligible taxpayer is not required to file a West Virginia personal income tax return pursuant to West Virginia Code § 11-21-51, then he shall not be required to file a return pursuant to this rule. Otherwise, an eligible taxpayer under this rule shall be required to file a personal income tax return.