

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #3

DO NOT MARK IN THIS BOX

FILED

Aug 16 10 11 AM '96

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: State Tax Division TITLE NUMBER: 110

CITE AUTHORITY W. Va. Code §§ 11-21-51(a)(1) and 11-21-71(a)

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

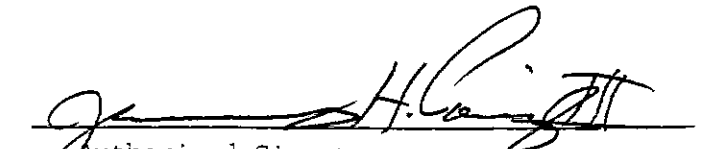
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

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

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

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.


Authorized Signature
James H. Paige III
State Tax Commissioner

4.00

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.

DATE: August 16, 1996

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: State Tax Division

LEGISLATIVE RULE TITLE: Personal Income Tax Low Income Exclusion.

1. Authorizing statute(s) citation: West Virginia Code §§ 11-21-51(a) (1) & 11-21-71(a)

2. a. Date filed in State Register with Notice of Comment Period:

July 9, 1996

b. What other notice, including advertising, did you give of the comment period?

None

c. Date of Public Comment period: July 9, 1996 - August 8, 1996

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached _____ No comments received X

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

August 16, 1996

f. Name and phone number(s) of agency person(s) to contact for additional information:

Wayne Williams 558-5330

John Montgomery 558-5330

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing: _____

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefore?

d. Attach findings and detminations and reasons:

Attached _____



State of West Virginia
Department of Tax and Revenue

TAX DIVISION

P. O. Box 2389

Charleston, WV 25328-2389

GASTON CAPERTON
GOVERNOR

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.

FILED

AGENCY APPROVED
WEST VIRGINIA LEGISLATIVE RULE
DEPARTMENT OF TAX AND REVENUE

AUG 16 10 11 AM '96

STATE TAX DIVISION

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

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.



FILED

AUG 16 10 11 AM '96

GASTON CAPERTON
GOVERNOR

State of West Virginia
Department of Tax and Revenue

TAX DIVISION

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

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

CONSENT TO FILE RULE

August 16, 1996

To Whom It May Concern:

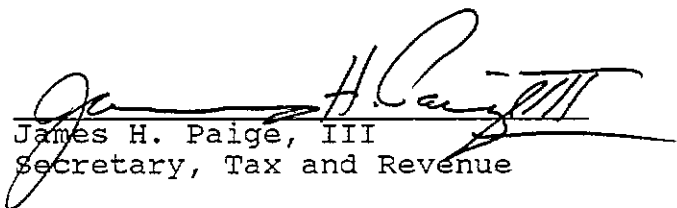
Title of Rule: Personal Income Tax Low Income Exclusions

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 16th day of August, 1996.


James H. Paige, III
Secretary, Tax and Revenue