

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

Form #3

Do Not Mark In this Box

FILED

2001 JUL 23 P 1:21

OFFICE 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 § 11-21-21(c)

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

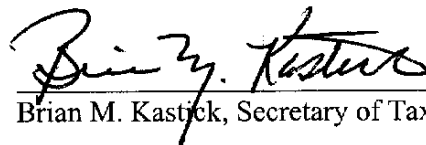
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 21B

TITLE OF RULE BEING PROPOSED: Senior Citizen Tax Credit for Property Taxes Paid

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.



Brian M. Kastick, Secretary of Tax & Revenue

24.60

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Senior Citizens Tax Credit for Property Taxes Paid

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>	\$11,250,000	\$	\$	\$11,250,000	\$11,220,000
PERSONAL SERVICES	70,000	0	0	70,000	70,000
CURRENT EXPENSE	60,000	0	0	60,000	60,000
REPAIRS & ALTERNATIONS	0	0	0	0	0
EQUIPMENT	20,000	0	0	20,000	0
OTHER	11,100,000	0	0	11,100,000	11,090,000

2. Explanation of above estimates:

The cost of the refundable credit is estimated to be \$11,000,000 per year. Recurring Personal Services, Current Expense and a portion of the Other costs are for the notification of eligible taxpayers and the processing of returns and credit applications. The Equipment costs and a portion of the Other costs represent one-time expenditures for office machines and work space for the additional personnel and for initial computer program modifications.

Rule Title: Senior Citizen Tax Credit for Property Taxes Paid

3. Objectives of these rules:

To explain and implement the Personal Income Tax Credit available to senior citizens who pay property tax on a residence qualified for the Homestead Exemption.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

There may be a Personal Income Tax revenue reduction.

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

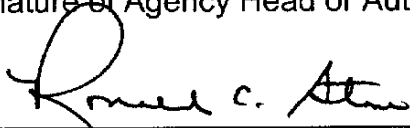
Low income persons that qualify for the Homestead Exemption will benefit.

C. Economic Impact on Citizens/Public at Large.

None

Date:

Signature of Agency Head or Authorized Representative



Ronald C. Stone, Acting State Tax Commissioner

110 C.S.R. 21B
SENIOR CITIZEN TAX CREDIT FOR PROPERTY TAXES PAID
RULE SUMMARY

This rule provides necessary guidance applicable to the statutory authorization for senior citizens to obtain a tax credit for property taxes paid on the first \$10,000 of taxable assessed value of a homestead in this State.

To accomplish the foregoing, the assessor of the county wherein the homestead is located is to determine whether the taxpayer qualifies for the Homestead Exemption. If so, applicable information is entered into the statewide data processing system for property tax administration. The information in the system is then used to determine whether the taxpayer is eligible for the credit. If so, appropriate notices are made and forms and instructions are provided.

110 C.S.R.21B
SENIOR CITIZEN TAX CREDIT FOR PROPERTY TAXES PAID
STATEMENT OF CIRCUMSTANCES

House Bill 102 enacted West Virginia Code § 11-21-21, Senior citizens tax credit for property tax paid on first \$10,000 of taxable assessed value of a homestead in this State. Subsection (c) requires a legislative rule to explain and implement the tax credit. This rule satisfies that requirement.

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: July 12, 2001

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) State Tax Division, Room W-300, State Capital Bldg., Charleston, WV 25325

LEGISLATIVE RULE TITLE: Senior Citizens Tax Credit for Property Taxes Paid

-
1. Authorizing statute(s) citation W. Va. Code § 11-21-21(c)

 2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
May 25, 2001

 - b. What other notice, including advertising, did you give of the hearing?
Available on Tax Department's web page.

 - c. Date of ~~Public Hearing(s)~~ or Public Comment Period ended:
June 30, 2001

 - 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)

- f. **Name, title, address and phone/fax/e-mail numbers** of agency person(s) to receive all written correspondence regarding this rule: (Please type)

John Montgomery, Attorney, Legal Division

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

Phone: 558-5330, FAX 558-8728,

e-mail JMontgomery@tax.state.wv.us

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

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 or comment period:

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

d. Attach findings and determinations and reasons:

Attached

AGENCY APPROVED
LEGISLATIVE RULE
STATE TAX DEPARTMENT
TITLE 110
SERIES 21B

FILED

2001 JUL 23 P 1:21

SENIOR CITIZEN TAX CREDIT FOR PROPERTY TAXES PAID

OFFICE WEST VIRGINIA
SECRETARY OF STATE

§ 110-21B-1. General

1.1. Scope – This rule provides necessary guidance on implementing the personal income tax credit available to certain senior citizens, as provided in West Virginia Code § 11-21-21.

1.2. Authority – West Virginia Code § 11-21-21(c).

1.3. Effective Date –

1.4. Filing Date –

§ 110-21B-2. Definitions. When used in this rule and unless the context clearly requires a different meaning, the following terms have the meaning ascribed in this section.

2.1. "**Ad valorem tax**" means the tax imposed upon the value of property as authorized by West Virginia Constitution Article X, Section 1.

2.2. "**Assessed value**" means the value of property as determined under West Virginia Code § 11-3-1 et seq.

2.3. "**Code**" means the Code of West Virginia of one thousand nine hundred thirty-one, as amended.

2.4. "**Commissioner**" means the West Virginia Tax Commissioner, or his or her delegate.

2.5. "**Department**" means the West Virginia State Tax Department.

2.6. "**Homestead**" means a single family residential house, including a mobile or manufactured or modular home, and the land surrounding such structure; or a mobile or manufactured or modular home regardless of whether the land upon which such mobile or manufactured or modular home is situated is owned or leased.

2.7. "**Low income**" means federal adjusted gross income for the taxable year that is 150% or less of the federal poverty guideline for the year in which property tax was paid, based upon the number of individuals in the family unit residing in

the homestead, as determined by the United States Secretary of Health and Human Services.

2.8. "**Owner**" means the person who is possessed of the homestead, whether in fee or for life. A person seized or entitled in fee subject to a mortgage or deed of trust shall be deemed the owner. A person who has an equitable estate of freehold, or is a purchaser of a freehold estate who is in possession before transfer of legal title shall also be deemed the owner. Personal property mortgaged or pledged shall, for the purpose of taxation, be deemed the property of the party in possession.

2.9. "**Personal income tax**" means the tax imposed by West Virginia Code § 11-21-1 et seq.

2.10. "**State**" means the State of West Virginia.

2.11. "**System**" means the statewide data processing system for property tax administration authorized by West Virginia Code § 11-1C-21.

2.12. "**Taxable assessed value**" means the assessed value of the homestead remaining after application of the homestead exemption.

2.13. "**Taxes paid**" means the aggregate of regular levies, excess levies and bond levies of property taxes extended against not more than ten thousand dollars of the taxable assessed value of a homestead that are paid during the calendar year, determined after application of any discount for early payment of taxes but before application of any penalty or interest for late payment of property taxes for a property tax year that begins on or after January 1, 2002.

2.14. "**Taxpayer**" means an owner who qualifies for the homestead exemption and is required to file a personal income tax return or is liable for the payment of personal income tax.

§ 110-21B-3. Senior citizen tax credit.

3.1. A low income taxpayer who under the authority of West Virginia Code § 11-6B-1 et seq., is allowed a homestead exemption from ad valorem tax shall be allowed a credit against West Virginia personal income tax in an amount equal to the ad valorem property taxes paid by that person on up to the first \$10,000 of taxable assessed value of the homestead.

3.1.1. The credit commences for ad valorem taxes paid for property tax years that begin on or after January 1, 2002.

3.1.2. The credit may only be claimed by a taxpayer that qualifies under subsection 3.1 of this rule and only on the annual personal income tax return filed by that taxpayer.

§ 110-21B-4. Qualification for Homestead Exemption.

4.1. The determination as to whether a property owner qualifies for the homestead exemption shall be made by the assessor of the county wherein the property owner resides. When qualified, the homestead exemption attaches to the homestead occupied by the qualified owner.

4.2. If the property owner qualifies for the homestead exemption, the assessor shall enter the following information about the qualifying property into the System

4.2.1. The name and address of the owner.

4.2.2. The county identifier for the county wherein the property is located.

4.2.3. The tax district identifier for the tax district wherein the property is located.

4.2.4. The map number where the property may be found.

4.2.5. The parcel number for the property.

4.2.6. The assessed value of the property after application of the homestead exemption.

4.2.7. The gross property tax on the property after application of the homestead exemption.

4.3. The assessor shall maintain the information required in subsection 4.2 of this rule.

§ 110-21B-5. Determination of eligibility.

5.1. The Commissioner shall, using the information entered into the System by the assessor, annually determine the taxpayers that qualify for the homestead exemption.

5.1.1. The Commissioner shall also determine the amount of the tax credit available to the respective taxpayers. The amount of the tax credit shall be based upon the information in the System.

§ 110-21B-6. Notice of eligibility, forms and instructions.

6.1. The Commissioner shall annually issue a taxpayer specific notice to be communicated to the respective taxpayers. The notice shall state the amount of credit that, based upon the information applicable to a given tax year in the System, may be available to the taxpayer.

6.2. The Department shall prepare appropriate forms and instructions to be used for calculating the actual amount of credit claimed by the taxpayer.

§ 110-21B-7. Calculation of Credit.

7.1. The definition of "taxes paid" requires that the amount subject to the credit be determined after application of any discount for early payment but before application of any penalty or interest for late payment.

7.1.1. West Virginia Code § 11A-1-3 authorizes the payment of ad valorem taxes in two installments. The first installment is payable on or before September 1st and becomes delinquent on October 1st. The second installment is payable on or before the succeeding March 1st and becomes delinquent April 1st.

7.1.2. Taxes paid on or before the date they are payable are subject to a 2 ½% discount. Delinquent taxes are subject to accrued interest at the rate of 9% per year, and the accrued interest is added to the delinquent taxes until the taxes plus interest are paid.

7.1.3. "Taxes paid" therefore is the amount remaining either after the tax amount due is reduced by the application of the discount or before the tax amount due is increased by the addition of any interest or penalties.

7.2. Examples are found in the appendix.

APPENDIX

Example 1.

The credit available (when the taxpayer pays the property tax liability after the date for eligibility to receive a 2 ½ % discount) for eligible property with an assessed value of \$30,000 is calculated as follows.

Assessed value of eligible property as found on county property book.	\$30,000
Homestead Exemption	20,000
Taxable assessed value	10,000
Average tax rate (varies by county)	.0123
Property tax due the county sheriff	\$123.00*
Tax credit available to eligible owner	\$123.00

*paid after discount period expires

Example 2.

The credit available (when the taxpayer pays the property tax liability on or before the date for eligibility to receive a 2 ½% discount) for eligible property with an assessed value of \$25,000 is calculated as follows.

Assessed value of eligible property as found on county land book	\$25,000
Homestead Exemption	20,000
Taxable assessed value	5,000
Average tax rate (varies by county)	.0123
Property tax due the county sheriff	59.96*
Tax credit available to eligible owner	59.96

*paid before discount expires

Example 3.

The credit available for eligible property with an assessed value of \$19,000 is calculated as follows.

Assessed value of eligible property as found on county land book	\$19,000
Homestead Exemption	20,000
Taxable assessed value	0
Property taxes due the county sheriff	0
Tax credit available	0