

**WEST VIRGINIA
SECRETARY OF STATE
BETTY IRELAND
ADMINISTRATIVE LAW DIVISION**

Form #3

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SECRETARY OF STATE
STATE OF WEST VIRGINIA

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

AGENCY: State Tax Department TITLE NUMBER: 110

CITE AUTHORITY W. Va. Code §§11-10-5 and 11-10-5s

AMENDMENT TO AN EXISTING RULE: YES _____ NO X

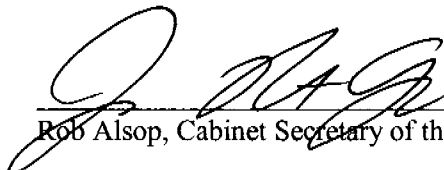
IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 50D

TITLE OF RULE BEING PROPOSED: Exchange of Information Agreement Between the Commissioner of the Tax Division of the Department of Revenue and the Commissioner of the Division of Labor of the Department of Commerce, the Commissioner of the Insurance Commission of the Department of Revenue, the Commissioner of the Division of Motor Vehicles of the Department of Transportation, the Commissioner of the Bureau of Employment Programs and the Office of the Governor.

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.


Rob Alsop, Cabinet Secretary of the Department of Revenue

APPENDIX B

FISCAL NOTE FOR AGENCY APPROVED RULE

Rule Title: Exchange of information agreement between the Commissioner of the Tax Division of the Department of Revenue and the Commissioner of the Division of Labor of the Department of Commerce, the Commissioner of the Insurance Commission of the Department of Revenue, the Commissioner of the Division of Motor Vehicles of the Department of Transportation, the Commissioner of the Bureau of Employment Programs and the Office of the Governor.

Type of Rule: Legislative Interpretive Procedural

Agency: Tax Department
 Address: 1001 Lee Street
Charleston, WV 25301

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	0	0	0	0	0
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 increase in costs to provide information requested as a result of the rule becoming effective.

3. Objectives of these rules:

West Virginia Code § 21-1B-3 authorizes the Commissioner of the Labor Division to obtain information from other government agencies for the purpose of confirming the legal

RULE TITLE: Exchange of information agreement between the Commissioner of the Tax Division of the Department of Revenue and the Commissioner of the Division of Labor of the Department of Commerce, the Commissioner of the Insurance Commission of the Department of Revenue, the Commissioner of the Division of Motor Vehicles of the Department of Transportation, the Commissioner of the Bureau of Employment Programs and the Office of the Governor.

status of workers and the authorization of those individuals to work in West Virginia. Information maintained by the Tax Division will be of substantial assistance in accomplishing the statutory directive. Additionally, the ability to share Tax Division information with certain other agencies will also be of substantial assistance.

The Tax Commissioner is prohibited by West Virginia Code § 11-10-5s from sharing any confidential taxpayer information without an authorization from the Legislature in the form of a legislative rule. This rule seeks to satisfy that requirement in that it authorizes the Tax Commissioner to enter into an agreement for the purpose of sharing information between the specified agencies so as to facilitate identifying and confirming the legal status of workers and the authorization of those individuals to work in West Virginia.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

From the perspective of the Tax Department, there should be no economic impact on State government. Other agencies involved in the information sharing should provide relevant information in this regard.

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

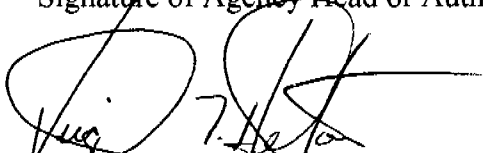
From the perspective of the Tax Department, there should be no economic impact on political subdivisions, specific industries, or specific groups of citizens. Other agencies involved in the information sharing should provide relevant information in this regard.

C. Economic Impact on Citizens/Public at Large.

From the perspective of the Tax Department, there should be no economic impact on citizens or the public at large. Other agencies involved in the information sharing should provide relevant information in this regard.

Date: 7/26/87

Signature of Agency Head or Authorized Representative



Virgil T. Helton, State Tax Commissioner

**AGENCY APPROVED
110 C.S.R. 50D**

EXCHANGE OF INFORMATION AGREEMENT BETWEEN THE COMMISSIONER OF THE TAX DIVISION OF THE DEPARTMENT OF REVENUE AND THE COMMISSIONER OF THE DIVISION OF LABOR OF THE DEPARTMENT OF COMMERCE, THE COMMISSIONER OF THE INSURANCE COMMISSION OF THE DEPARTMENT OF REVENUE, THE COMMISSIONER OF THE DIVISION OF MOTOR VEHICLES OF THE DEPARTMENT OF TRANSPORTATION, THE COMMISSIONER OF THE BUREAU OF EMPLOYMENT PROGRAMS AND THE OFFICE OF THE GOVERNOR.

**STATEMENT OF CIRCUMSTANCES
AND
SUMMARY OF RULE**

West Virginia Code § 21-1B-3 authorizes the Commissioner of the Labor Division to obtain information from other government agencies for the purpose of confirming the legal status of workers and the authorization of those individuals to work in West Virginia. Information maintained by the Tax Division will be of substantial assistance in accomplishing the statutory directive. Additionally, the ability to share Tax Division information with certain other agencies will also be of substantial assistance.

The Tax Commissioner is prohibited by West Virginia Code § 11-10-5s from sharing any confidential taxpayer information without an authorization from the Legislature in the form of a legislative rule. This rule seeks to satisfy that requirement in that it authorizes the Tax Commissioner to enter into an agreement for the purpose of sharing information between the specified agencies so as to facilitate identifying and confirming the legal status of workers and the authorization of those individuals to work in West Virginia.

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 27, 2007

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) Legal Division, State Tax Department, P.O. Box 1005

Charleston, WV 25324-1005

Contact Person: John Montgomery 558-5330

EMERGENCY RULE TITLE: Exchange of Information Agreement Between the Commissioner of the Tax Division of the Department of Revenue and the Commissioner of the Division of Labor of the Department of Commerce, the Commissioner of the Insurance Commission of the Department of Revenue, the Commissioner of the Division of Motor Vehicles of the Department of Transportation, the Commissioner of the Bureau of Employment Programs and the Office of the Governor.

1. Authorizing statute(s) citation W. Va. Code §§ 11-10-5 & 11-10-5s

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 26, 2007

b. What other notice, including advertising, did you give of the hearing:
Available on Tax Department webpage

c. Date of Public Hearing(s) *or* Public Comment Period ended:
12:00 noon on July 26, 2007

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)

July 27, 2007

- 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 E. Montgomery, Managing Attorney, Legal Division, State Tax Department

P.O. Box 1005, Charleston, WV 25324-1005

Telephone: (304) 558-5330 Fax: (304) 558-8728

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:

N/A

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

N/A

- d. Attach findings and determinations and reasons:

N/A

AGENCY APPROVED

TITLE 110
WEST VIRGINIA LEGISLATIVE RULE
STATE TAX DIVISION

SERIES 50D
2007

RECEIVED

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SECRETARY OF STATE
STATE OF WEST VIRGINIA

EXCHANGE OF INFORMATION AGREEMENT BETWEEN THE COMMISSIONER OF THE TAX DIVISION OF THE DEPARTMENT OF REVENUE AND THE COMMISSIONER OF THE DIVISION OF LABOR OF THE DEPARTMENT OF COMMERCE, THE COMMISSIONER OF THE INSURANCE COMMISSION OF THE DEPARTMENT OF REVENUE, THE COMMISSIONER OF THE DIVISION OF MOTOR VEHICLES OF THE DEPARTMENT OF TRANSPORTATION, THE COMMISSIONER OF THE BUREAU OF EMPLOYMENT PROGRAMS AND THE OFFICE OF THE GOVERNOR.

§110-50D-1. General.

1.1 **Scope.** - This legislative rule authorizes certain information to be exchanged pursuant to a written interagency agreement between the Commissioner of the Tax Division of the Department of Revenue and the Commissioner of the Division of Labor of the Department of Commerce, the Commissioner of the Insurance Commission of the Department of Revenue, the Commissioner of the Division of Motor Vehicles of the Department of Transportation, the Commissioner of the Bureau of Employment Programs and the Office of the Governor.

1.2 **Authority.** - This legislative rule is promulgated under authority of W. Va. Code §§11-10-5 and 5s.

1.3 **Filing Date.** -

1.4 **Effective Date.** -

§110-50D-2. Purposes.

West Virginia Code §11-10-5s(b)(4) authorizes the West Virginia State Tax Commissioner to promulgate legislative rules regarding a written exchange of information agreement with another State agency if the purpose of the agreement is to facilitate premium collection, tax collection or licensure requirements directly enforced, administered or collected by the other State agency or the Tax Commissioner. Additionally, West Virginia Code §21-1B-3 authorizes the Labor Commissioner, or his or her designated representative, to access information maintained by any other State agency for the limited purpose of confirming the validity of a worker's legal status or authorization to work.

The purpose of this legislative rule is to comply with West Virginia Code §11-10-5s(b)(4) in order to permit the Commissioner of the Tax Division of the Department of Revenue and the Commissioner of the Division of Labor of the Department of Commerce, the Commissioner of the Insurance Commission of the Department of Revenue, the Commissioner of the Division of Motor Vehicles of the Department of Transportation, the Commissioner of the Bureau of Employment Programs and the Office of the Governor, to more efficiently and effectively perform their responsibilities for tax collection and licensing, including determining whether businesses are licensed to do business in West Virginia and that the taxes of those businesses are current, and verifying the legal status of workers employed in those businesses.

§110-50D-3. Disclosure of Certain Information Authorized.

3.1 The Commissioner of the Tax Division of the Department of Revenue and the Commissioner of the Division of Labor of the Department of Commerce, the Commissioner of the Insurance Commission of the Department of Revenue, the Commissioner of the Division of Motor Vehicles of the Department of Transportation, the Commissioner of the Bureau of Employment Programs and the Office of the Governor may, in order to accomplish the purposes set forth in Section two of this legislative rule, exchange information pursuant to a written agreement specifying the type and manner of information to be exchanged and containing appropriate provisions for safeguarding any confidential tax information received pursuant to the agreement.

3.2 A copy of any exchange of information agreement entered into pursuant to this rule, including any subsequent revision(s) of the agreement, or amendment(s) to the agreement, shall be filed in the State Register on or before the effective date of the agreement or any revision or amendment of the agreement.