

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #2

Do Not Mark In this Box

2010 JUN -3 PM 3: 35

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE**

AGENCY: State Tax Department TITLE NUMBER: 110

RULE TYPE: Legislative CITE AUTHORITY W. Va. Code §§ 11-10-5 and 5s(b)(4)

AMENDMENT TO AN EXISTING RULE: YES \_\_\_\_\_ NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

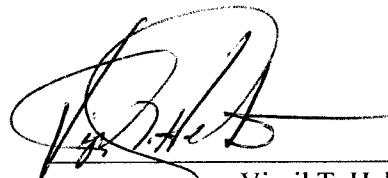
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: 50F

TITLE OF RULE BEING PROPOSED: Exchange of Information Agreement between the State Tax Department and the Office of the State Fire Marshal.

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 7/6/10 AT 5:00 pm. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

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

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



Virgil T. Helton  
Cabinet Secretary of the Department of Revenue

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

**110 C.S.R. 50F**

**INTERAGENCY AGREEMENT BETWEEN  
THE STATE TAX DEPARTMENT  
AND  
THE OFFICE OF THE STATE FIRE MARSHAL**

**SUMMARY OF PROPOSED RULE**

The proposed rule will enable the State Tax Department and the Office of the State Fire Marshal to exchange information as set out in the Interagency Agreement. The information to be shared will enable the State Tax Department and State Fire Marshal to administer and enforce and to facilitate premium collection, tax collection and licensure requirements including but not limited to the requirements of the Reduced Cigarette Ignition Propensity Standard and Fire Prevention Act, W. Va. Code §§ 47-25-1 *et seq.* and the Tobacco products Excise Tax, W. Va. Code §§ 11-17-1 *et seq.*

**WEST VIRGINIA LEGISLATIVE RULE**

**110 C.S.R. 50F**

**INTERAGENCY AGREEMENT BETWEEN  
THE STATE TAX DEPARTMENT  
AND  
THE OFFICE OF THE STATE FIRE MARSHAL**

**STATEMENT OF CIRCUMSTANCES**

The West Virginia Legislature passed the Reduced Cigarette Ignition Propensity Standard and Fire Prevention Act ("The Act") codified in West Virginia Code §47-25-1 *et seq.* The Act requires the State Tax Department and the Office of the State Fire Marshal to administer and enforce The Act. The Tax Commissioner and the State Fire Marshal are authorized to promulgate rules to effectuate The Act. An exchange of information agreement is needed for The Act as well as the administration, enforcement, tax collection and stamp requirements of the cigarette excise tax.

This rule is authorized by West Virginia Code § 11-10-5s(b)(4).

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Exchange of Information Agreement between the State Tax Department and the Office of the State Fire Marshal

Type of Rule:  X  Legislative      Interpretive      Procedural

Agency:  State Tax Department

Address:  1001 Lee Street   
 Charleston, WV 25301

Phone Number:  (304) 558-5330  Email:

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

The rule, as written, authorizes certain information to be exchanged pursuant to a written interagency agreement between the State Tax Department and the Office of the State Fire Marshal.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
Estimated Total Cost	\$0	\$0	\$0
Personal Services	\$0	\$0	\$0
Current Expenses	\$0	\$0	\$0
Repairs & Alterations	\$0	\$0	\$0
Assets	\$0	\$0	\$0
Other	\$0	\$0	\$0
2. Estimated Total Revenues	\$0	\$0	\$0

Rule Title: Exchange of Information Agreement between the State Tax Department and the Office of the State Fire Marshal

**3. Explanation of above estimates (including long-range effect):**

Please include any increase or decrease in fees in your estimated total revenues:

Approval of this proposed rule will not increase or decrease revenue or costs.

**MEMORANDUM**

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The rule, as written, authorizes certain information to be exchanged pursuant to a written interagency agreement between the State Tax Department and the Office of the State Fire Marshal. Since the rule merely allows for the exchange of information, the rule does not have any net fiscal impact.

Date: \_\_\_\_\_

\_\_\_\_\_  
Virgil T. Helton  
Cabinet Secretary of the Department of Revenue

FILED

2010 JUN -3 PM 3: 35

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**PROPOSED  
TITLE 110  
LEGISLATIVE RULE  
STATE TAX DEPARTMENT**

**SERIES 50F  
EXCHANGE OF INFORMATION AGREEMENT BETWEEN THE  
STATE TAX DEPARTMENT AND THE OFFICE OF THE STATE FIRE MARSHAL**

**§ 110-50F-1. General.**

1.1 Scope. – This rule authorizes certain information to be exchanged pursuant to a written interagency agreement between the State Tax Department and the Office of the State Fire Marshal.

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

1.3. Filing Date.

1.4. Effective Date.

**§110-50F-2. Purpose.** The State Tax Commissioner and the State Fire Marshal are jointly responsible for administering and enforcing the provisions of West Virginia Code § 47-25-1 *et seq.*, the Reduced Cigarette Ignition Propensity Standards and Fire Prevention Act (“the Act”). Both the State Tax Commissioner and the State Fire Marshal have rule making authority to carry out the provisions of the Act. This rule will facilitate administering and enforcing the provisions of the Act and premium collection, tax collection or licensure in accordance with the requirements of West Virginia Code §11-10-5s(b)(4).

**§110-50F-3. Disclosure of Certain Information Authorized.**

3.1. In accordance with W. Va. Code §11-10-5s(b)(4), the State Tax Commissioner and the State Fire Marshal may, in order to accomplish the purposes set forth in section two of this rule, exchange information pursuant to a written agreement specifying the type and manner of information to be exchanged and containing provisions for safe guarding any confidential information received pursuant to the agreement.

3.2. The State Tax Commissioner shall file a copy of any exchange of information agreement entered into pursuant to this rule, including any subsequent revision of the agreement, or amendment, in order to allow an opportunity for public comment.

**INTERAGENCY AGREEMENT ON EXCHANGE OF INFORMATION BETWEEN THE STATE  
TAX DEPARTMENT AND THE OFFICE OF THE STATE FIRE MARSHAL FOR THE  
ADMINISTRATION AND ENFORCEMENT OF THE REDUCED CIGARETTE IGNITION  
PROPENSITY STANDARDS AND FIRE PREVENTION ACT**

**STATEMENT OF PURPOSE**

It is the intention of this Agreement and the parties hereto to implement a written interagency exchange of information agreement.

The Tax Commissioner and the Fire Marshal are jointly responsible for administering and enforcing the provisions of West Virginia Code § 47-25-1 *et seq.*, the Reduced Cigarette Ignition Propensity Standards and Fire Prevention Act ("the Act"). Both the Tax Commissioner and the Fire Marshal have rule making authority to carry out the provisions of the Act. To facilitate that objective, the administrators of the respective agencies, acting under authority vested in or delegated to them, will consult from time to time regarding their respective programs, problems and information needs and will establish mutually agreeable programs for exchanging information and providing mutual assistance as provided hereinafter. The parties hereby affirm that this agreement is entered into for the purpose of facilitating premium collection, tax collection or licensure in accordance with the requirements of West Virginia Code §11-10-5s(b)(4).

**SPECIFIC AGREEMENTS**

In furtherance of the above-stated purposes, the parties agree as follows:

1. Mutually acceptable techniques and methods of information sharing will be developed when and as required by the appropriate officials of the respective agencies, within the overall objectives of providing the most useful data minimal additional expense and minimal interruption of operations.
2. Each party agrees to take all appropriate steps to protect from unauthorized disclosure the information obtained pursuant to this Agreement and to maintain a current list of those personnel who have authority to obtain disclosure of information as agreed herein. No party shall be obligated to furnish information to personnel who are not so designated. Upon the occurrence of any change in employment, position, duties, or other relevant matters which affect the right or authority of any employee or officer to request or receive information under the Agreement, the State Tax Commissioner or the State Fire Marshal, as appropriate, shall promptly give notice of such fact to the other party. Nothing contained herein shall be construed to prevent the use of information obtained by virtue of this Agreement by non-designated personnel of either party, for official purposes only, after such information has been received by the designated personnel of that party. However, such non-designated personnel shall be apprised of the need to protect the confidentiality of such information and of the criminal sanctions provided by W. Va. Code § 11-10-5d for unauthorized disclosures of tax return information.
3. Under no circumstances shall confidential information received by either party from the Internal Revenue Service or identifying a confidential informant or which could seriously impair any civil or criminal investigation, be exchanged under this Agreement.

4. All information, irrespective of type or form, shall be used solely for the purposes stated above and shall not be made public or used except to the extent and in the manner permitted by applicable statutes, rules, regulations and this Agreement. Each agency will promptly provide notice to the other agency of any additions or changes, as they occur, in such statutes, rules and regulations that may affect use of the information addressed in this agreement.
5. This agreement may be modified or terminated at the discretion of either the Tax Commissioner or the Fire Marshal due to changes in statutes and regulations or whenever such action is deemed appropriate. Each agency shall provide prompt written notification to the other agency prior to making any unilateral modification or termination.
6. If for any reason one party is unable to comply with any one or more of the terms of this Agreement, the parties shall mutually agree on the extent to which this Agreement shall continue in effect or, in the absence of such mutual agreement, this Agreement shall become null and void in its entirety with respect to that party, with prejudice to any action previously taken hereunder and without affecting the Agreement with respect to the other party.
7. Neither party to this Agreement shall charge the other for costs incurred in information exchange activities under this Agreement, unless mutually agreed in writing as an addendum to this Agreement.
8. This Agreement becomes effective between the agencies immediately upon the signing by both of the Tax Commissioner and the Fire Marshal, and remains effective under subsequent Tax Commissioners and the Fire Marshals unless and until changed or terminated as provided herein.
9. Each of the undersigned hereby states and represents that he is authorized to enter into this Agreement and to furnish the information and assistance contemplated hereby, and that the fulfillment of his obligations hereunder will not violate any provision of State or federal law, including, without limitation, provisions respecting confidentiality of information.

This agreement is hereby approved and ratified by the undersigned:

\_\_\_\_\_

State Tax Commissioner

\_\_\_\_\_

Date

\_\_\_\_\_

State Fire Marshall

\_\_\_\_\_

Date