



**WEST VIRGINIA SECRETARY OF STATE**

**MAC WARNER**

**ADMINISTRATIVE LAW DIVISION**

**eFILED**

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Office of West Virginia  
Secretary Of State

**NOTICE OF PUBLIC COMMENT PERIOD**

AGENCY: Tax TITLE-SERIES: 110-21B

RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: CITIZEN TAX CREDIT FOR PROPERTY TAXES PAID

CITE STATUTORY AUTHORITY: W. Va. Code §11-21-21(c).

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/26/2018 5:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

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PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

The rule provides guidance on implementing West Virginia Code §11-21-21, which provides a refundable tax credit against personal income taxes for low-income individuals who are allowed the homestead exemption under West Virginia Code §11-6B-3. The refundable tax credit is equal to the amount of ad valorem property taxes paid up to the first \$20,000 of taxable assessed value of the homestead. Currently, low-income is defined as 150% or less of the federal poverty guideline determined by the United States Secretary of Health and Human Services and based upon the number of individuals residing in the household.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

The current rule requires the Tax Commissioner to issue an annual notice to all taxpayers. The amendment requires the notice to be sent to only those eligible taxpayers who have claimed the credit in the prior year, those newly eligible taxpayers, and by request for those who reasonably believe the taxpayer is eligible. The amendment will be a substantial savings in postage and administration.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

see B Impact on Residents

B. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

The proposed legislative rule changed the Taxpayer addressed by this rule by striking the word "senior" from "citizen." The rule also changes the notice of eligibility, forms, and instructions by only issuing notice to (1) eligible Taxpayers who claimed the credit in the prior year, (2) Taxpayers who are newly eligible for the credit, or (3) at a Taxpayer's request.

C. FISCAL NOTE DETAIL:

| Effect of Proposal                 | Fiscal Year                            |  |  |
|------------------------------------|--|--|--|
|                                    | 2018<br>Increase/Decrease<br>(use "-") | 2019<br>Increase/Decrease<br>(use "-") | Fiscal Year (Upon<br>Full<br>Implementation) |
| <b>1. Estimated Total Cost</b>     | 0                                      | 0                                      | 0  |
| Personal Services                  | 0                                      | 0                                      | 0  |
| Current Expenses                   | 0                                      | 0                                      | 0  |
| Repairs and Alterations            | 0                                      | 0                                      | 0  |
| Assets                             | 0                                      | 0                                      | 0  |
| Other                              | 0                                      | 0                                      | 0  |
| <b>2. Estimated Total Revenues</b> | 0                                      | 0                                      | 0  |

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

This rule is expected to result in net cost savings of approximately \$68,000 per year. Most of these savings will result from reduced printing and mailing services with some anticipated increase to programming costs. There should be no impact on revenues related to these rule changes.

**BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.**

Yes

**Elizabeth G Steiner -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.**

TITLE 110  
LEGISLATIVE RULE  
STATE TAX DEPARTMENT

SERIES 21B  
~~SENIOR~~ CITIZEN TAX CREDIT FOR PROPERTY TAXES PAID

**§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 W. Va. Code §11-21-21.

1.2. Authority. -- W. Va. Code §11-21-21(c).

1.3. Effective Date. -- ~~April 4, 2002.~~

1.4. Filing Date. -- ~~May 1, 2002.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon the expiration of five years from its effective 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 W. Va. Code §11-3-1 et seq.

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

2.4. "Department" means the West Virginia State Tax Department.

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

2.6. "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.

2.7. "Owner" means the person who possesses the homestead, whether in fee or for life. A person seized or entitled in fee subject to a mortgage or deed of trust is considered 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 is also the owner. Personal property mortgaged or pledged shall, for the purpose of taxation, be considered the property of the party in possession.

2.8. "Personal income tax" means the tax imposed by W. Va. Code §11-21-1 et seq.

2.9. "State" means the State of West Virginia.

2.10. "System" means the statewide data processing system for property tax administration authorized by W. Va. Code §11-1A-21.

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

2.12. "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.

2.13. "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 W. Va. 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, 2003.

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 in which the property owner resides. When an owner is 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 in which the property is located;

4.2.3. The tax district identifier for the tax district in which 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; and
- 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 have qualified 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.~~ only to (1) those eligible taxpayers who claimed the credit in the prior tax year, (2) those taxpayers who are newly eligible for the tax credit as determined by the Tax Commissioner, and (3) by request of a taxpayer who reasonably believes he or she is eligible and will file for the tax credit.

~~6.2.~~ 6.2. 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.~~ 6.3 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. W. Va. Code §11A-1-3 authorizes the payment of ad valorem taxes in two installments. The first installment is payable on or before September 1<sup>st</sup> and becomes delinquent on October 1<sup>st</sup>. The second installment is payable on or before the succeeding March 1<sup>st</sup> and becomes delinquent April 1<sup>st</sup>.

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 to this rule.

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        |