



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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7/15/2019 4:57:35 PM

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: Tax TITLE-SERIES: 110-50C
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: 110-50C Exchange of Information Pursuant to Written Agreement

PRIMARY CONTACT

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CITE STATUTORY AUTHORITY: W. Va. Code §§11-10-5 and 5s; §§60-9-5(a) and 8(a); §21-1B-3; §29A-1-1 et seq.; and, §47-25-1 et seq.

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

W. Va. Code §§11-10-5 establishes the confidentiality of taxpayer information, but provides for exceptions, while 11-10-5s permits establishment of exchange of information agreements with state agencies named in properly promulgated legislative rules. Together, these two provisions establish the necessary authority for exchange of information. §§60-9-5(a) and 8(a) require cooperation between the Tax Commissioner and Alcohol Beverage Control Commissioner for enforcement and administrative purposes necessitating exchange of information. §21-1B-3 authorizes the Labor Commissioner, or his or her designated representative, to access information maintained by any other State agency (including the Tax Department) for the limited purpose of confirming the validity of a workers legal status or authorization to work. §29A-1-1 et seq. provides for delegation of certain legislative powers to other departments and agencies of government with appropriate legislative review of that exercise of such delegated legislative authority and with established procedures for Legislative Oversight of the exercise of executive rule-making authority. §47-25-1 et seq promotes efficiency and facilitates the exchange of information between the State Tax Commissioner and the State Fire Marshal who are jointly responsible for administering and enforcing the provisions of that article.

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 6/13/2019

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 7/13/2019

COMMENTS RECEIVED: No

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: No

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

N/A

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

The agency approved rule will enable the State Tax Department and the West Virginia Council for Community and Technical College Education to exchange information as set out in the Interagency Agreement. The information shared will enable the Tax Department and the West Virginia Council for Community and Technical College Education to facilitate verification of residency requirements as set forth by Chapter 18C, Article 1 of the West Virginia Code.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

West Virginia Code §18C-9-1 et seq. was enacted during the 2019 Legislative session in HB 2515 to create the WV Invests Grant program. Qualification for grants under the program is dependent upon meeting certain state residency requirements. To assist in the verification of these residency requirements, the West Virginia Council for Community and Technical College Education must request and receive from the State Tax Department certain confidential tax information. Exchange of confidential tax information pursuant to written agreement is authorized by West Virginia Code §11-10-5s(b)(4).

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

A. ECONOMIC IMPACT ON REVENUES OF 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 OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

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.

C. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2019 Increase/Decrease (use "-")	2020 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	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
2. Estimated Total Revenues	0	0	0

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

N/A

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

Yes

Allen R Prunty -- 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 DIVISION

SERIES 50C
EXCHANGE OF INFORMATION PURSUANT TO WRITTEN AGREEMENT

§110-50C-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 Secretary of the Department of Commerce, the Director of the Division of Forestry of the Department of Commerce, the Commissioners of the Public Service Commission, the Secretary of the Department of Environmental Protection, the Commissioner of the Alcohol Beverage Control Administration of the Department of Revenue, 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 Executive Director of Workforce West Virginia (Formerly the Bureau of Employment Programs), the Office of the Governor, the Director of the West Virginia Lottery, ~~and~~, the State Fire Marshal, and the West Virginia Council for Community and Technical College Education.

1.2. Authority. -- This legislative rule is promulgated under authority of W. Va. Code §§11-10-5 and 5s; §§60-9-5(a) and 8(a); §21-1B-3; §29A-1-1 *et seq.*; and, §47-25-1 *et seq.*

1.3. Filing Date. -- ~~April 9, 2019~~

1.4. Effective Date. -- ~~May 9, 2019~~

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.

§110-50C-2. Purposes.

2.1. W. Va. 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.

2.2. 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 Secretary of the Department of Commerce, the Director of the Division of Forestry of the Department of Commerce, the Commissioners of the Public Service Commission, the Secretary of the Department of Environmental Protection, the Commissioner of the Alcohol Beverage Control Administration of the Department of Revenue, 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 Executive Director of Workforce West Virginia (Formerly the Bureau of Employment Programs), the Office of the Governor, the Director of the West Virginia Lottery, ~~and~~, the State Fire Marshal, and the West Virginia Council for Community and Technical College Education 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.

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

3.1. The Commissioner of the Tax Division of the Department of Revenue and the Secretary of the Department of Commerce, the Director of the Division of Forestry of the Department of Commerce, the Commissioners of the Public Service Commission, the Secretary of the Department of Environmental Protection, the Commissioner of the Alcohol Beverage Control Administration of the Department of Revenue, 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 Executive Director of Workforce West Virginia (Formerly the Bureau of Employment Programs), the Office of the Governor, the Director of the West Virginia Lottery, ~~and~~ the State Fire Marshal, and the West Virginia Council for Community and Technical College Education 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.

§110-50C-4. Consolidation of Rules.

4.1. Previously promulgated Legislative Rule 110-50A (Department of Environmental Protection), effective date May 1, 1995, has been consolidated into this rule to promote efficiency and to facilitate the exchange of information in addition to that information provided to the Division of Environmental Protection pursuant to the existing information exchange agreement authorized by Section 9 of the Solid Waste Assessment Fee Regulations, 110 C.S.R. 6A.

4.2. Previously promulgated Legislative Rule 110-50B (Alcohol Beverage Control Administration), effective date May 1, 2001, has been consolidated into this rule to promote efficiency.

4.3. Previously promulgated Legislative Rule 110-50D (Division of Labor, Office of the Insurance Commissioner, Division of Motor Vehicles, and WorkForce (formerly the Bureau of Employment Programs)), effective date May 1, 2008, has been consolidated into this rule to promote efficiency. Additionally, W. Va. Code §21-1B-3 authorizes the Labor Commissioner, or his or her designated representative, to access information maintained by any other State agency (including the Tax Department) for the limited purpose of confirming the validity of a worker's legal status or authorization to work.

4.4. Previously promulgated Legislative Rule 110-50E (Lottery), effective date June 1, 2011, has been consolidated into this rule to promote efficiency.

4.5. Previously promulgated Legislative Rule 110-50F (State Fire Marshal), effective date June 1, 2011, has been consolidated into this rule to promote efficiency and to facilitate the exchange of information between the State Tax Commissioner and the State Fire Marshal who are jointly responsible for administering and enforcing the provisions of W. Va. Code §47-25-1 *et seq.*, the Reduced Cigarette Ignition Propensity Standards and Fire Prevention Act ("the Act").

§110-50C-5. Publication.

5.1. 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 by the Tax

Commissioner in the State Register on or before the effective date of the agreement or any revision or amendment of the agreement.