

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

Form #2

Do Not Mark In this Box

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 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.

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 July 26, 2007 AT 12:00 noon. 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.

Rob Alsop
Cabinet Secretary of the Department of Revenue

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

**PROPOSED
TITLE 110
WEST VIRGINIA LEGISLATIVE RULE
STATE TAX COMMISSION**

**SERIES 50D
2007**

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 the that 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.

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.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

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.

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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: _____

Signature of Agency Head or Authorized Representative

Virgil T. Helton, Acting State Tax Commissioner