WEST VIRGINIA CODE: §11-1-1

§11-1-1. Office of Tax Commissioner continued and designated the state Tax Division; appointment, term, oath and bond of commissioner; powers and duties generally; sections of division; assistant Tax Commissioner; authorization of criminal background checks conducted by Tax Commissioner for prospective employees; assistant attorneys general to assist commissioner.

(a) The Office of the Tax Commissioner is continued in all respects as previously constituted in the state government, but is hereby designated as the state Tax Division of the Department of Revenue.

(b) The Tax Commissioner is the chief executive officer of the state Tax Division and shall be appointed by the Governor, by and with the advice and consent of the Senate, to serve at the will and pleasure of the Governor for the term for which the Governor was elected and until a successor has been appointed and has qualified.

(c) The Tax Commissioner, before entering upon the duties of office, shall take the oath or affirmation prescribed by section 5, article IV of the Constitution. The Tax Commissioner shall give bond with good security, to be approved by the Governor, in the penalty of $15,000. The Tax Commissioner shall be repaid his or her actual disbursements for traveling expenses. The Tax Commissioner shall be provided with an office in a state owned or leased building and with furniture, office equipment and any necessary clerical assistance.

(d) The Tax Commissioner has control and supervision of the state Tax Division and is responsible for the work of each of its sections or other subunits. Each section or bureau shall be headed by a director appointed by the Tax Commissioner and who is responsible to the Tax Commissioner for the work of his or her section or bureau. The Tax Commissioner may create any sections or bureaus and employ any necessary staff or employees to administer the state tax laws for which the Tax Commissioner or Tax Division is responsible, within the amount of expenditures appropriated for operation of the Tax Division by the Legislature. The Tax Commissioner has authority to appoint an assistant Tax Commissioner who shall be his or her principal assistant. The powers and duties vested in the Tax Commissioner by this chapter and any other provisions of law may be delegated by the Tax Commissioner to the assistant or other employees, but the Tax Commissioner is responsible for all official acts of his or her delegates.

(e) Background checks.

(1) The commissioner is authorized to conduct a criminal records check through the West Virginia State Police and a national criminal history check through the Federal Bureau of Investigation, and such other police or investigative organization or agency as the Tax Commissioner may designate.

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(2) Investigations may be conducted for:

(A) Applicants or prospective applicants for employment with the Tax Division,

(B) Current and preexisting employees of the Tax Division,

(C) Applicants or prospective applicants for contract employment with the Tax Division,

(D) Current and preexisting contractors that work with or for the Tax Division, and

(E) Any other person or entity that may handle, review or possess federal tax information or state tax information.

(3) These investigations may be conducted for the purpose of determining whether an applicant for employment with the Tax Division, or an individual, company or entity, that is being evaluated as a potential contractor with the Tax Division, is suitable for such employment, or for the purpose of determining suitability of an individual to be granted access to federal tax information, that is subject to the disclosure restrictions of 26 U.S.C. § 6103, or for any other lawful purpose.

(4) Background investigations of any individual, corporation, limited liability company, partnership or other entity or organization, or of any officer, owner, representative, agent, employee or principal of any such corporation, limited liability company, partnership or other entity or organization pursuant to this section may include, but not be limited to:

(A) Federal Bureau of Investigation (FBI) fingerprint results;

(B) A check of an individual's criminal history in all states of the United States;

(C) A check of the criminal history in all states of the United States of a corporation, limited liability company, partnership or other entity or organization, or of any officer, owner, representative, agent, employee or principal of any such corporation, limited liability company, partnership or other entity or organization; and

(D) Investigation of records of local law-enforcement agencies where the individual has lived, worked, or attended school within the preceding five years, or longer, as the Tax Commissioner may determine, to identify:

(i) Any arrests of the individual or of an officer, owner, representative, agent or principal of a corporation, limited liability company, partnership or other entity or organization.

(ii) Any criminal record of a corporation, limited liability company, partnership or other entity or organization, or of any officer, owner, representative, agent, employee or principal of any such corporation, limited liability company, partnership or other entity or organization.

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(iii) Misbehavior or trends of misbehavior that may not have been reported to the FBI database, but which provide information regarding character and suitability of an individual to hold a responsible employment position or to receive and handle federal tax information or state tax information.

(iv) The citizenship and residency of an individual.

(v) Validation of an individual's eligibility to legally work in the United States.

(5) The result of any criminal records or criminal history check shall be sent to the commissioner, and any other state or federal agency having a lawful interest in the results of such an investigation, as designated by the Tax Commissioner.

(f) The Tax Commissioner, if he or she considers the action necessary, may request the Attorney General to appoint assistant attorneys general who shall perform duties as required by the Tax Commissioner. The Attorney General, in pursuance of the request, may select and appoint assistant attorneys general, with the consent of the Tax Commissioner, to serve during the will and pleasure of the Attorney General, and the assistants shall be paid out of any funds made available for that purpose by the Legislature to the state Tax Division.

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