WEST VIRGINIA CODE: §11-10-22

§11-10-22. Information returns and due date thereof.

(a) Information returns required. -- The Tax Commissioner shall develop a representative statistical sample of persons who have business registration certificates under article twelve of this chapter. This sample shall be broad enough to reasonably predict revenues and to project how the recommendations of the Governor's commission on fair taxation would impact different classifications of businesses, as well as the various forms of doing business in which those business activities are conducted. Persons included in the sample shall file an information return reporting information for the calendar year ending December 31, 1999, and for the calendar year ending December 31, 2000. When a business files its federal tax returns on a fiscal year basis, the business include in its information return information for its fiscal years ending within the calendar years 1999 and 2000, respectively, except as otherwise prescribed in the rule promulgated pursuant to subsection (d) of this section.

(b) Due date. -- Information returns shall be due on the day the federal tax return or federal informational return is due during calendar year 2001, determined by including any extension of time to file the return. This information return shall be filed with the business's West Virginia form 112, 112S, 120, 141, or, in the case of a sole proprietor, form 140. When the business is not required to file any of these West Virginia forms, the information return shall be filed as a separate document on or before the fifteenth day of the fifth month following the close of its year for tax accounting or financial accounting purposes ending December 31, 1999, or ending within calendar year 2000 but prior to December 31, 2000, unless the Tax Commissioner grants an extension of time to file the information return. Information returns shall be filed in the form and pursuant to instructions prescribed by the Tax Commissioner. These returns shall require information as if the recommendations of the Governor's commission on fair taxation were in effect for the period covered by each information return.

(c) Notification. -- On or before July 1, 2000, the Tax Commissioner shall notify each person selected to be a member of the statistical sample of the selection, and advise the person of the process by which the person will be receiving forms and instructions for filing an informational return after authorization of the same pursuant to subsection (d) of this section.

(d) Legislative rules. --

(1) The Tax Commissioner shall propose legislative rules for promulgation pursuant to article three, chapter twenty-nine-a of this code. Notwithstanding any provision of article three, chapter twenty-nine-a of this code to the contrary, the Tax Commissioner shall submit finally approved proposed rules, including amendments, to the legislative rule-making and review committee on or before August 31, 2000.

WV Legislature

(2) The proposed rules shall include the actual content of information return to be completed and filed by each person selected to be a member of the statistical sample, as well as the actual content of the instructions to be used by the person to complete the information return, proposed by the Tax Commissioner. The information required to be provided in the information return shall be, to the extent possible, only information that can be obtained by a selected member of the statistical sample from other tax or regulatory filings made by the selected member.

(3) The proposed rules shall, for the review of the Legislature, separately identify any additional information not obtainable from the filings described in subdivision (2) of this subsection that can be obtained from a selected member of the statistical sample, in the least expensive and intrusive manner for the selected person, that the Tax Commissioner determines is necessary for an adequate state fiscal analysis of the impact of the recommendations of the Governor's commission on fair taxation.

(4) The proposed rules shall, for the review of the Legislature, separately identify any additional information not obtainable from the filings described in subdivision (2) of this subsection that can be obtained from a selected member of the statistical sample, in the least expensive and intrusive manner for the selected person, that the Tax Commissioner determines is necessary for an adequate state economic analysis of the impact of the recommendations of the Governor's commission on fair taxation.

(e) Incentive to file. -- To encourage the filing of complete and accurate information returns, the Tax Commissioner shall allow a $200 tax credit for each required information return that is filed electronically, within the meaning of article five, chapter thirty-nine of this code, and a credit of $150 for each such paper return filed. This credit shall be claimed against the person's liability for tax under article twenty-three of this chapter. Unused credit may be claimed against the person's liability for income tax under article twenty-one or twenty-four of this chapter for the tax year of the person in which the information return is filed. Alternatively, the Tax Commissioner may refund the amount of this credit to any person required to file information returns under this section.

(f) Civil money penalty. -- Any person required to file an information return under this section who fails to file the return timely, determined with regard to any authorized extension of time for filing, or who files a return that is materially incorrect or incomplete shall pay a money penalty of $1,000 for each return that is not filed timely or that is filed timely but is materially inaccurate or incomplete. The Tax Commissioner is authorized to waive this penalty. This penalty shall be collected in the same manner as the penalties imposed by section nineteen of this article are collected.

(g) Confidentiality. --

(1) Information returns and information return information filed under this section shall be treated as returns and return information under the provisions of section five-d of this article. Such returns and return information shall be open to inspection by or disclosure to

WVLegislature

officers and employees of the Department of Tax and Revenue whose official duties require such inspection or disclosure for the purpose of, but only to the extent necessary in, preparing economic or financial forecasts, projections, analyses, and statistical studies and conducting related activities.

(2) Persons authorized to receive information under this subdivision shall be treated as officers and employees of the state under the provisions of section five-d of this article. Inspection or disclosure of information returns and information return information shall also be permitted pursuant to a contract between the proper officer of this state and a university in this state when the purpose of the disclosure is to prepare economic or financial forecasts, projections, analyses, and statistical studies and conducting related activities regarding the recommendations of the Governor's commission on fair taxation.

(3) Except as otherwise provided in this section, no person who receives an information return or information return information under this section shall disclose the return or return information to any person other than the taxpayer to whom it relates except in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

WV Legislature