WEST VIRGINIA CODE: §11-10A-13

§11-10A-13. Subpoenas; service; cost; fees; relief; disobedience; oath.

(a) The office of tax appeals has the power to issue subpoenas and subpoenas duces tecum requiring the attendance of witnesses and the production of books, papers, records, documents and testimony at the time and place specified. The office of tax appeals may exercise the power upon the request of any person who is a party to a hearing before the office of tax appeals.

(b) Every subpoena and subpoena duces tecum must be served at least five days before the return date thereof, by either personal service made by any person over eighteen years of age, or by registered or certified mail, but a return receipt signed by the person to whom subpoena or subpoena duces tecum is directed shall be required to prove service by registered or certified mail. Any party requesting a subpoena or subpoena duces tecum is responsible for service thereof and payment of any fee for service. Any person who serves any subpoena or subpoena duces tecum shall be entitled to the same fee as sheriffs who serve witness subpoenas for the circuit courts of this state.

(c) Fees for the attendance of witnesses subpoenaed shall be the same as for witnesses before the circuit courts of this state. All fees related to any subpoena or subpoena duces tecum issued at the request of a party to an administrative hearing shall be paid by the party who requested the subpoena or subpoena duces tecum be issued. All requests by parties for issuance of subpoena or subpoena duces tecum shall be in writing and shall contain a statement acknowledging that the requesting party agrees to pay the fees.

(d) Upon motion made promptly, and in any event before the time specified in a subpoena or subpoena duces tecum for compliance therewith, the circuit court of the county in which the hearing is to be held or the circuit court of the county in which the person upon whom any subpoena or subpoena duces tecum was served resides, has his her or its principal place of business or is employed, or the circuit court of the county in which any subpoena or subpoena duces tecum was served, or the judge of any circuit court in vacation, may grant any relief with respect to the subpoena or subpoena duces tecum which any circuit court, under the West Virginia rules of civil procedure, could grant, and for any of the same reasons, with respect to any subpoena or subpoena duces tecum issued from any circuit court.

(e) In case of disobedience to or neglect of any subpoena or subpoena duces tecum served on any person, or the refusal of any witness to testify to any matter regarding which he or she may be lawfully interrogated, the circuit court of the county in which the hearing is being held, or the circuit court of Kanawha County or of the county in which the person resides, has his her or its principal place of business or is employed, or the judge thereof in vacation, upon application of the chief administrative law judge of the office of tax appeals, may compel obedience by attachment proceedings for contempt as in the case of

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disobedience of the requirements of a subpoena or subpoena duces tecum issued from the circuit court for a refusal to testify therein.

(f) Witnesses subpoenaed under this section shall testify under oath or affirmation.

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