

HB 4088

FILED

2008 MAR 31 PM 12: 25

CELESTINE BROWN
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2008



ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 4088**

(By Delegates Ireland, Anderson, Romine, Hartman,
Stemple, C. Miller, Blair, Evans and Williams)



Passed March 8, 2008

In Effect Ninety Days from Passage

ENROLLED

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COMMITTEE SUBSTITUTE

FOR

H. B. 4088

COMMISSIONER OF REVENUE
STATE OF WEST VIRGINIA

(BY DELEGATES IRELAND, ANDERSON, ROMINE, HARTMAN,
STEMPLE, C. MILLER, BLAIR, EVANS AND WILLIAMS)

[Passed March 8, 2008; in effect ninety days from passage.]

AN ACT to amend and reenact §11-6C-1, §11-6C-2, §11-6C-3, §11-6C-4 and §11-6C-5 of the Code of West Virginia, 1931, as amended, all relating to a change in the calculation of farm equipment dealers inventory to an average monthly basis rather than the inventory as of the first day of July.

Be it enacted by the Legislature of West Virginia:

That §11-6C-1, §11-6C-2, §11-6C-3, §11-6C-4 and §11-6C-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 6C. SPECIAL METHOD FOR APPRAISING
DEALER VEHICLE INVENTORY.**

§11-6C-1. Inventory included within scope of article.

1 Notwithstanding any other provisions of law, inventory
2 of vehicles, as that term is defined in section one, article one,
3 chapter seventeen-b of this code that is held for sale or lease
4 by new or used vehicle dealers licensed under the provisions
5 of article six, chapter seventeen-a of this code, or held for
6 sale or lease by daily passenger car rental businesses licensed
7 under the provisions of article six-d of said chapter, inventory
8 of motorboats, as that term is defined in section one, article
9 six of said chapter, that is held for sale or lease by a
10 recreational vehicle dealer, as that term is defined in said
11 section, that is licensed under the authority of section three,
12 article six of said chapter, and farm equipment dealers'
13 inventory, consisting of individual units of personal new or
14 used property, each unit of which, upon its sale to a retail
15 purchaser, must, as a matter of law, be titled in the name of
16 the retail purchaser and registered with the Division of Motor
17 Vehicles, shall be appraised for assessment purposes, as set
18 forth in this article: *Provided*, That house trailers and
19 factory-built homes shall be included within the scope of this
20 article.

21 For the purposes of this article, 'farm equipment' means
22 equipment exclusively used in planting, cultivating,
23 irrigation, and harvesting of agricultural products, but not
24 marketing of such products. The term "farm equipment"
25 includes, but is not limited to, the following equipment, and
26 also includes attachments and repair parts for the following
27 equipment: tractors; crawler tractors (other than bulldozers);
28 walking tractors; cultivators; plows; harrows; power tillers;
29 rotary tillers; spading machines; subsoilers; plastic mulch
30 layers; planters and planting machines; seeders; mechanical
31 transplanters; manure spreaders; fertilizer spreaders;
32 insecticide and fertilizer sprayers; irrigation equipment;
33 harvesters; fixed and portable belt and screw type conveyors

34 exclusively used in agriculture; cotton pickers; hullers;
35 swathers; windrowers; balers; bale movers exclusively used
36 in agriculture; hay conditioners; hay mowers; mowing
37 machines; mower/conditioners; hay rakes; hay tedders; feed
38 grinders; grain carts; rock pickers; milking machines and
39 milking machine components, animal trailers, to the extent
40 that they constitute tangible personal property, apiary
41 equipment. Provided, that the term 'farm equipment' does not
42 include: (1) property that is not tangible personal property,
43 (2) building materials and equipment that is installed into a
44 building or structure so as to be converted upon installation
45 into a fixture or into real property, (3) cars, trucks,
46 motorcycles and any other self-propelled machines designed
47 primarily for the transportation of persons or property on a
48 street or highway, (4) trailers, or towed machines or
49 apparatus designed primarily for the transportation of persons
50 or property on a street or highway, (5) fork lifts, backhoes,
51 earth movers, bulldozers, end loaders, power shovels,
52 excavators or other equipment primarily designed to be used
53 in earth moving, excavation or construction activity, or in the
54 activity of warehouse materials handling and (6) airplanes,
55 and other aircraft, and (7) all terrain vehicles, motorcycles
56 and other off road vehicles primarily designed for
57 recreational use; and 'farm equipment dealers' means a
58 person, partnership, corporation, association or other form of
59 business enterprise which primarily sells farm equipment as
60 defined above.

61 This article does not apply to units of inventory which are
62 included in fleet sales, transactions between dealers or
63 classified as heavy duty trucks of sixteen thousand pounds or
64 more gross vehicular weight. For purposes of this article,
65 inventory subject to the provisions of this article shall be
66 denoted "dealer vehicle inventory", "dealer motorboat
67 inventory", "daily passenger rental car inventory", "farm

68 equipment dealers inventory" and "house trailer and
69 factory-built homes inventory".

**§11-6C-2. Method for determining market value of dealer
vehicle inventory, dealer motorboat inventory,
farm equipment dealers inventory, daily
passenger rental car inventory and house trailer
and factory-built homes inventory.**

1 (a) For purposes of appraisal, the market value of dealer
2 vehicle inventory, dealer motorboat inventory and farm
3 equipment dealers inventory, as of the first day of July of
4 each year, shall be the gross sales or total annual sales of
5 such inventory made by such dealer during the preceding
6 calendar year, divided by twelve, for a dealer with respect to
7 which or whom sales were made during the entire preceding
8 year. For the purposes of this article, "gross sales" or "total
9 annual sales" means the amount received in money, credits,
10 property, services or other consideration from sales within
11 this state without deduction on account of the cost of the
12 property sold, amounts paid for interest or any other expenses
13 whatsoever. Gross sales or total annual sales shall not be
14 reduced by the value of an item of tangible personal property
15 which is traded in for the purpose of reducing the purchase
16 price of the item purchased. In the case of dealers who were
17 not in business during the entire calendar year immediately
18 preceding the first day of July of that calendar year, the
19 assessor shall estimate the market value of such inventory
20 based on such data as may be available to him or her:
21 *Provided*, That the assessor may extrapolate estimates using
22 such sales data as may be available and reliable when sales
23 are made for a period of three months or more during the
24 prior year: *Provided, however*, That there shall be excluded
25 from the appraisal calculations the value of those units which
26 were not physically held as inventory by the owner of the

27 inventory at any time during the preceding year. In all cases,
28 the market value, so derived, shall serve as the basis for
29 calculating the appraised value.

30 (b) For purposes of appraisal, the market value of daily
31 passenger rental car inventory, as of the first day of July of
32 each year, shall be the gross value of all daily passenger
33 rental cars made available by a daily passenger rental car
34 business on the first day of each month of the immediately
35 preceding calendar year: *Provided*. That the daily passenger
36 rental car business shall add together the gross values and
37 divide that sum by twelve. For purposes of this article,
38 "gross value" means the lowest value for each vehicle as
39 shown in a nationally accepted used car guide determined by
40 the Tax Commissioner. To calculate the "gross value" of any
41 vehicle that does not appear in a nationally accepted used car
42 guide, the Tax Commissioner shall determine the percent of
43 the manufacturer's suggested retail price for each such
44 vehicle held as a daily passenger rental car without deduction
45 on account of the cost of any inventory, amounts paid for
46 interest or any other expenses whatsoever. In the case of
47 daily passenger rental car businesses that were not in
48 business during the entire calendar year immediately
49 preceding the first day of July of that calendar year, the
50 assessor shall estimate the market value of such daily
51 passenger rental car inventory based on such data as may be
52 available to him or her: *Provided, however*, That the assessor
53 may extrapolate estimates using the daily passenger rental car
54 data that is made available and reliable when rentals were
55 made for a period of three months or more during the prior
56 year: *Provided further*, That there shall be excluded from the
57 appraisal calculations the value of those units which were not
58 physically held as daily passenger rental car inventory by the
59 owner of the daily passenger rental car inventory at any time
60 during the preceding year. In all cases, the gross value of

61 daily passenger rental car inventory, so derived, shall serve
62 as the basis for calculating the appraised value of the
63 inventory. For purposes of this article, "daily passenger
64 rental car inventory" includes all motor vehicles licensed as
65 a Class A motor vehicle as defined in section one, article ten,
66 chapter seventeen-a of this code.

67 (c) For purposes of appraisal, the market value of house
68 trailer and factory-built homes inventory, as of the first day
69 of July of each year, shall be the gross sales or total annual
70 sales of such inventory made by such dealer during the
71 preceding calendar year, divided by twelve, for a dealer with
72 respect to which or whom sales were made during the entire
73 preceding year. For the purposes of this article, "gross sales"
74 or "total annual sales" means the amount received in money,
75 credits, property, services or other consideration from sales
76 within this state without deduction on account of the cost of
77 the property sold, amounts paid for interest or any other
78 expenses whatsoever. Gross sales or total annual sales shall
79 not be reduced by the value of an item of tangible personal
80 property which is traded in for the purpose of reducing the
81 purchase price of the item purchased. In the case of dealers
82 who were not in business during the entire calendar year
83 immediately preceding the first day of July of that calendar
84 year, the assessor shall estimate the market value of such
85 inventory based on such data as may be available to him or
86 her: *Provided*, That the assessor may extrapolate estimates
87 using such sales data as may be available and reliable when
88 sales are made for a period of three months or more during
89 the prior year: *Provided, however*, That there shall be
90 excluded from the appraisal calculations the value of those
91 units which were not physically held as inventory by the
92 owner of the inventory at any time during the preceding year.
93 In all cases, the market value, so derived, shall serve as the
94 basis for calculating the appraised value.

§11-6C-3. Owner to file return estimating market value.

1 The owner of dealer vehicle inventory, daily passenger
2 rental car inventory, dealer motorboat inventory, farm
3 equipment dealers inventory, or house trailer and
4 factory-built homes inventory shall report the market value
5 of such inventory, derived as set forth in section two of this
6 article, to the assessor, as a part of the return required by law
7 to be filed annually pursuant to the provisions of this chapter.

**§11-6C-4. Determination of tax on dealer vehicle inventory,
daily passenger rental car inventory, dealer
motorboat inventory, farm equipment dealers
inventory or house trailer and factory-built homes
inventory.**

1 The annual amount of tax levied upon the dealer vehicle
2 inventory, daily passenger rental car inventory, dealer
3 motorboat inventory, farm equipment dealers inventory or
4 house trailer and factory-built homes inventory pursuant to
5 article eight of this chapter shall be based upon the market
6 value as determined pursuant to this article, times the
7 assessment percentage then provided by law.

**§11-6C-5. Intent of this article; Tax Commissioner to
promulgate rules.**

1 (a) This article is adopted to address the lack of
2 uniformity, audit difficulties and business management issues
3 arising in this state with respect to the assessment of the
4 personal property held as new and used dealer vehicle
5 inventory, daily passenger rental car inventory, dealer
6 motorboat inventory, farm equipment dealers inventory or
7 house trailer and factory-built homes inventory.
8 Accordingly, the Legislature finds and declares that the

9 adoption of this article will provide a more reliable and
10 uniform method of determining market value of dealer
11 vehicle inventory, daily passenger rental car inventory, dealer
12 motorboat inventory, farm equipment dealers inventory or
13 house trailer and factory-built homes inventory; minimize
14 audit problems associated with such property; provide a
15 predictable revenue stream for levying bodies; maximize the
16 owner's ability to manage inventory; and provide clear
17 guidance to local authorities by superseding the wide variety
18 of otherwise lawful appraisal methods now in use in this
19 state.

20 (b) The Tax Commissioner shall have the power to
21 promulgate such rules as may be necessary to implement the
22 provisions of this article.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



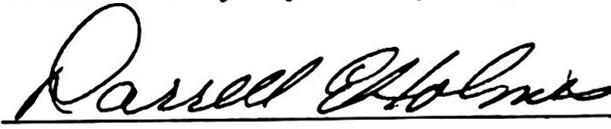
Chairman Senate Committee



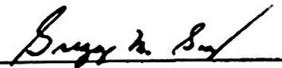
Chairman House Committee

Originating in the House.

In effect ninety days from passage.



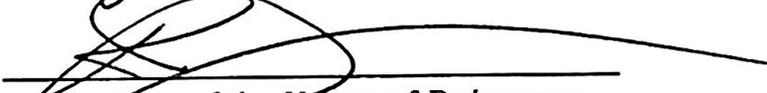
Clerk of the Senate



Clerk of the House of Delegates

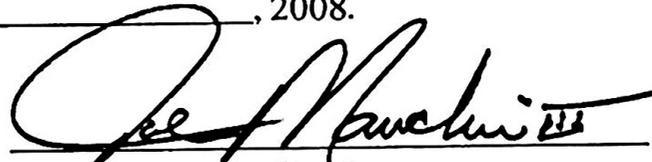


President of the Senate



Speaker of the House of Delegates

The within is approved this the 28th
day of March, 2008.



Governor

PRESENTED TO THE
GOVERNOR

MAR 20 2008

Time 2:10 pm