

ADMINISTRATIVE NOTICE

SUBJECT: Consumers Sales and Service Tax and Use Tax on Purchases by Motion Picture Theatres [110 C.S.R. 15; W.Va. Code §§ 11-15-1 et seq. and 11-15A-1 et seq.]

Pursuant to regulations approved on January 10, 1990 by the Legislative Rule-Making Review Committee, Section 110-15-2.16 of said regulations which contains the definition of "communication" has been modified to include motion picture theatres. Thus, purchases made by motion picture theatres are exempt from consumers sales and service tax and use tax if such purchases are directly used in the communication activity.

This change was made in the proposed legislative rules for the consumers sales and service tax and use tax which will be considered by the Legislature during its Regular Session which began January 10, 1990.

The emergency regulations for the consumers sales and service tax and use tax which were promulgated July 5, 1989 (refiled August 14, 1989) will not be formally amended by the Department of Tax and Revenue at this time. Nevertheless, in light of the change of policy made by this modification to Section 110-15-2.16 of the proposed regulations which have now been approved by the Rule-Making Review Committee, the Department of Tax and Revenue will not pursue compliance with or otherwise enforce the consumers sales and service and use tax on purchases made by motion picture theatres for direct use in their communication activities.

If any motion picture theatre has paid West Virginia consumers sales and service tax or use tax on such purchases, a claim for refund or credit (WV/CST-240) along with proof of payment of the tax may be filed with the Tax Commissioner. Such claim must be filed within two (2) years from the date the tax was paid. See W.Va. Code § 11-10-14(1).

To order Form WV/CST-240, (as well as any form or publication) call our automated form order system and request message #500. Telephone numbers are (304) 344-2068 or 1-800-422-2075 toll free within West Virginia. You may also order this form by writing to: Taxpayer Services Division, P.O. Box 3784, Charleston, West Virginia 25337-3784.

**FOR ASSISTANCE CALL: (304) 348-3333 OR
TOLL FREE WITHIN W.VA. 1-800-642-9016**

Charles O. Lorensen
State Tax Commissioner

Date: January 19, 1990