
PART SEVEN — BUSINESS AND TAXATION CODE

ARTICLE 740. Reciprocal Exchange of Tax Information

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CROSS REFERENCES

Confidentiality and disclosure of returns and return information—see WV Code 11-10-5d

740.01 Purpose.

The purpose of this article is to aid in the administration, collection, and documentation of municipal Business and Occupation Taxes (Article 735), Room Occupancy Taxes (Article 753), and liquor sales taxes (Article 721) by providing for the exchange of tax information (West Virginia Code § 11-10-5d(i-j)) between the State of West Virginia and the Corporation of Harpers Ferry, a political subdivision thereof. (WV Code 11-10-5d[i-j]. Passed 12-10-2012.)

740.02 Exchange of information.

The State of West Virginia (the “State”) and the Corporation of Harpers Ferry (the “Town”) hereby agree that they shall, in accordance with the terms and conditions contained herein, exchange, disclose to and permit the other party to inspect and make copies of tax information in its possession, but only to the extent necessary in the administration and enforcement of the requesting party’s tax laws and for the assessment and collection of taxes owed and due. The Town’s request for tax information from the State will focus only on that information related to Business and Occupation (B&O) taxes, Room Occupancy Taxes, liquor sales taxes and related taxes assessed by the Town. (WV Code 11-10-5d[i-j]. Passed 12-10-2012.)

740.03 Information subject to exchange.

- (a) Tax information subject to this Article shall include reports, declarations and returns, or copies thereof, filed with the West Virginia Tax Commissioner or the Town, provided:
 - (1) That this information is limited to Business and Occupation tax, sales tax from single location businesses, Room Occupancy Taxes, and liquor sales taxes; and
 - (2) That this information shall be furnished only to the extent necessary for the administration and enforcement of the requesting party’s tax laws; and
 - (3) That this information shall be disclosed only to individuals authorized under this Article, subject to the penalties for unlawful disclosure set forth in West Virginia Code § 11-10-5d(c) and Article 740.07 of these Ordinances.
- (b) Under no circumstances shall the tax information exchanged include any information or data secured from the Federal Government, from another state or the District of Columbia, or from any other municipality or local government unit. (Passed 12-10-2012.)

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740.04 Disclosure to other governmental units.

Neither party to this Article shall disclose any tax information obtained by virtue of this Article to the Federal Government, to another state, to other agencies or departments of the receiving party, or to any other local government unit or municipality without the consent of the party from which the tax information is obtained. (Passed 12-10-2012.)

740.05 Persons entitled to secure information.

- (a) Each time the State or Town develops a need to request tax information, as outlined in this Article, the parties to this Article shall furnish, in writing, on official letterhead, the names, addresses and other needed information of the personnel authorized to request, inspect and receive tax information under the terms of this Article. Only persons who are State or Town officers or employees, subject to the penalties for unlawful disclosure set forth in WV Code 11-10-5d(c) and Section 740.07 of this Article, shall be included. Whenever the Town requests tax information from the State, the written request is to be directed to the West Virginia Tax Commissioner. The request should be as specific as possible regarding the type of tax information requested.
- (b) The State Tax Commissioner or the appropriate Town authority shall promptly give written notice to the other party of any change in employment, duties or other relevant matters which affect a designated person's right to request, inspect and receive information under this Article. Such information shall be included within the tax information request as contained in Section 740.03(a) of this Article. Unless otherwise indicated, as per the requirements of this sub-section, the Mayor will serve as the principal authority and signatory to requests from the Town. (WV Code 11-10-5d[c]. Passed 12-10-2012.)

740.06 Withholding of tax information.

Either party to the procedures contained within this Article may withhold or refuse to exchange tax information:

- (a) If disclosure of such information would be detrimental to its ability to enforce or administer its tax laws, or to the assessment and collection of taxes; or
- (b) If disclosure of such tax information would interfere with or seriously impair any pending audit or litigation; or
- (c) If the security measures practiced by the requesting party are insufficient to ensure the confidentiality of the tax information requested. (Passed 12-10-2012.)

740.07 Security and protection of return information.

- (a) It shall be the obligation of the party who requested and received tax information, under this Article, to protect the confidentiality and secrecy of that information.
- (b) Any officer or employee of the Town who makes an unauthorized disclosure of tax information received under this Article shall be guilty of a misdemeanor and, upon conviction, fined not more than one thousand dollars (\$1,000.00), or imprisoned for not more than one year, or both, together with the costs of prosecution.
- (c) For purposes of this Article "unauthorized disclosure" shall mean the release to any persons of any tax information obtained by virtue of this Article, unless the person receiving the information is the authorized and designated official(s) of the Town who is using the tax information only for the purpose of administering Business and Occupation taxes, sales tax, liquor sales tax, or Room Occupancy Tax, or the person who filed the return has authorized, in writing, their release, thereby waiving their right

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to privacy, secrecy, and confidentiality. The Town's Mayor retains the exclusive authority to name those Town officials who are authorized to access such tax information in performance of official Town business. The authorized list of approved Town officials will become a permanent record that is retained and updated by the Mayor. (WV Code 11-10-5d[a]. Passed 12-10-2012.)

740.08 Effective dates.

Section 740.07 of this Ordinance shall become effective on January 15, 2013 and the remainder of the ordinance on January 31, 2013.