

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 3006**

4 (By Delegates Nelson, E., Ashley, Anderson, Boggs, Williams,  
5 White, H., Storch, Gearheart, Bates, Espinosa and O'Neal)  
6

7 (Originating in the House Committee on Finance)

8 [February 27, 2015]  
9

10 A BILL to amend and reenact §11-10-17a of the Code of West Virginia, 1931, as amended, relating  
11 to the determination of the adjusted rate of interest by the Tax Commissioner for the  
12 administration of tax deficiencies and overpayments for tax years beginning after December  
13 31, 2016.

14 *Be it enacted by the Legislature of West Virginia:*

15 That §11-10-17a of the Code of West Virginia, one thousand nine hundred thirty-one, as  
16 amended, be amended and reenacted to read as follows:

17 **ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.**

18 **§11-10-17a. Determination of rate of interest.**

19 (a) **In general.** -- The annual rate of interest established under this section shall be such  
20 adjusted rate as is established by the Tax Commissioner under ~~subsection~~ subsections (b) and (c) :  
21 *Provided, That for taxable years beginning prior to January 1, 2017, such annual rate shall ~~never~~ not*  
22 *be less than eight percent per annum.*

23 (b) *Adjustments of interest rate prior to January 1, 2017.*

24 (1) *Establishment of adjusted rate.* -- If the adjusted prime rate charged by banks (rounded

1 to the nearest full percent):

2 (A) During the six-month period ending on September 30, of any calendar year; or

3 (B) During the six-month period ending on the thirty-first day of March of any calendar year,  
4 differs from the interest rate in effect under this section on either such date, respectively, then the  
5 Tax Commissioner shall establish, within fifteen days after the close of the applicable six-month  
6 period, an adjusted rate of interest equal to such adjusted prime rate.

7 (2) *Effective date of adjustment.* -- Any such adjusted rate of interest established under  
8 paragraph (1) shall become effective:

9 (A) On January 1, of the succeeding year in the case of an adjustment attributable to  
10 paragraph (1)(A) above; and on

11 (B) The first day of July of the same year in the case of an adjustment attributable to  
12 paragraph (1)(B).

13 (c) *Adjustment of interest rate after December 31, 2016.* -- Each year, the Tax Commissioner  
14 shall fix the adjusted rate to equal the adjusted prime rate charged by banks (rounded to the nearest  
15 hundredth of a percent) plus three percentage points per annum as of the first business day of  
16 December, for which an adjusted prime rate is determined, in the preceding year and it shall be  
17 effective January 1.

18 ~~(d)~~ (d) *Definition of "adjusted prime rate."* -- For purposes of ~~subsection~~ subsections (b) and  
19 (c), the term "adjusted prime rate charged by banks" means the average predominant prime rate  
20 quoted by commercial banks to large businesses, as determined by the board of Governors of the  
21 Federal Reserve System.

22 ~~(e)~~ (e) *Application of change in interest rate.*

23 (1) *To deficiencies.* -- The interest rate in effect at the time of assessment or when the

1 payment of delinquent tax is made shall not be applied retroactively to the date the tax was due.  
2 Interest on moneys owed by the taxpayer shall be the sum of the interest amounts calculated for each  
3 year or part thereof from the date prescribed for payment (determined without regard to any  
4 extensions) to the date the payment is made using the interest rate in effect for each respective year  
5 or part thereof.

6 (2) *To overpayments.* -- The interest rate in effect at the time an overpayment of tax is  
7 refunded, or a credit therefor is established, by the Tax Commissioner, shall not be applied  
8 retroactively to the date the claim for refund or credit was filed with the Tax Commissioner. Interest  
9 on moneys owed to taxpayers shall be the sum of the interest amounts calculated for each year or part  
10 thereof from date the claim for refund or credit was filed with the Tax Commissioner until date the  
11 refund is paid or credit therefor is established (such dates determined as provided in section  
12 seventeen) using the interest rate in effect for each respective year or part thereof.

13