

H. B. 2877

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(Originating in the House Committee on Small Business,
Entrepreneurship and Economic Development; and then to
the Committee on Finance)

[February 19, 2015]

A BILL to amend and reenact §11-10-5t and §11-10-5z of the Code of West Virginia, 1931, as amended; and to amend and reenact §11-13V-7 of said code, all relating to electronic filing of tax returns and electronic funds transfers in payment of taxes; and raising to \$25,000 the tax liability threshold amount at which taxpayers must file returns electronically or pay by electronic funds transfers.

Be it enacted by the Legislature of West Virginia:

That §11-10-5t and §11-10-5z of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §11-13V-7 of said code be amended and reenacted, all to read as follows:

ARTICLE 10. TAX PROCEDURE AND ADMINISTRATION ACT.

§11-10-5t. Payment by electronic fund transfers.

1 (a) The term “electronic funds transfer” means and includes
2 automated clearinghouse debit, automated clearinghouse credit,
3 wire transfer and any other means recognized by the Tax
4 Commissioner for payment of taxes.

5 (b) The Tax Commissioner may prescribe by emergency
6 rules, administrative notices, forms and instructions, and the
7 procedures and criteria to be followed by certain taxpayers in
8 order to pay taxes by electronic funds transfer methods.

9 (c) The rules shall set forth the following:

10 (1) Acceptable indicia of timely payment;

11 (2) Which type of electronic filing method or methods a
12 particular type of taxpayer may or may not use;

13 (3) Which types of taxes to which electronic filing
14 requirements apply for any given tax year and implementation

15 dates: *Provided*, That the type of tax to which electronic funds
16 transfer requirements apply during the first tax year is personal
17 income tax withholding by employers;

18 (4) The dollar amount of tax liability per year which, when
19 exceeded, requires or permits electronic funds transfer. Unless
20 and until a legislative rule is promulgated or this section is
21 amended, no person may be required to pay any tax by electronic
22 funds transfer if the amount owed for the tax during the
23 preceding year was less than \$120,000: *Provided*, That for tax
24 years beginning on or after January 1, ~~2011~~ 2016, no person may
25 be required to pay any tax by electronic funds transfer if the
26 amount owed for the tax during the preceding tax year was less
27 than ~~\$10,000~~ \$25,000;

28 (5) What, if any, exceptions are allowable, and alternative
29 methods of payment to be used for any exceptions;

30 (6) Procedures for making voluntary electronic funds
31 transfer payments;

32 (7) Any provisions needed to implement the civil penalty
33 created by this section; and

34 (8) Any other provisions necessary to ensure the timely
35 implementation of electronic funds transfer payments.

36 (d) In addition to any other additions and penalties which
37 may be applicable, there is a civil penalty for failing or refusing
38 to use an appropriate electronic funds transfer method when
39 required to do so. The amount of this penalty is three percent of
40 the total tax liability which is or was to be paid by electronic
41 funds transfer for any tax for which electronic funds transfer
42 methods are required to be used by the taxpayer.

43 (e) The provisions of this section are not intended to affect
44 the provisions of other sections of this chapter concerning filing
45 of returns or any other provisions which are not in direct conflict
46 with this section.

47 (f) The State Treasurer shall adopt any procedures or rules
48 necessary or convenient for implementing electronic funds
49 transfers of tax payments authorized by this section and rules
50 adopted by the Tax Commissioner. The treasurer shall draft any
51 procedures and rules adopted in consultation with the Tax
52 Commissioner and the procedures and rules may not conflict
53 with this section or rules adopted by the Tax Commissioner.

54 (g) The provisions of this section become effective on or
55 after January 1, 1998.

§11-10-5z. Electronic filing for certain persons.

1 (a) (1) For tax years beginning on or after January 1, 2009,
2 any person required to file a return for a tax administered under
3 the provisions of this article and who had total annual remittance
4 for any single tax equal to or greater than \$100,000 during the
5 immediately preceding taxable year shall file electronically all
6 returns for all taxes administered under this article.

7 (2) For tax years beginning on or after January 1, 2011, any
8 person required to file a return for a tax administered under the
9 provisions of this article and who had total annual remittance for
10 any single tax equal to or greater than \$10,000 during the
11 immediately preceding tax year shall file electronically all
12 returns for all taxes administered under this article.

13 (3) For tax years beginning on or after January 1, 2015:

14 (i) For returns that are required to be filed prior to January
15 1, 2016, any person required to file a return for a tax
16 administered under the provisions of this article and who had
17 total annual remittance for any single tax equal to or greater than

18 \$10,000 during the immediately preceding tax year shall file
19 electronically all such returns for all taxes administered under
20 this article.

21 (ii) For returns that are required to be filed on or after
22 January 1, 2016, any person required to file a return for a tax
23 administered under the provisions of this article and who had
24 total annual remittance for any single tax equal to or greater than
25 \$25,000 during the immediately preceding tax year shall file
26 electronically all returns for all taxes administered under this
27 article.

28 (b) The Tax Commissioner shall implement the provisions
29 of this section using any combination of notices, forms,
30 instructions and rules that he or she determines necessary. All
31 rules shall be promulgated pursuant to article three, chapter
32 twenty-nine-a of this code.

ARTICLE 13V. WORKERS' COMPENSATION DEBT REDUCTION ACT.

§11-13V-7. Periodic installment payments of taxes imposed by this article; exceptions.

1 (a) *General rule.* — Except as provided in subsection (b) of
2 this section, taxes levied by this article are due and payable in
3 periodic installments as follows:

4 (1) *Tax of \$50 or less per month.* — If a person's aggregate
5 annual tax liability under this article and article thirteen-a of this
6 chapter is reasonably expected to be \$50 or less per month, no
7 installment payments of tax are required under this section
8 during that taxable year.

9 (2) *Tax of more than \$1,000 per month.* — For taxpayers
10 whose aggregate estimated tax liability under this article and
11 article thirteen-a of this chapter exceeds \$1,000 per month, the
12 tax is due and payable in monthly installments on or before the
13 last day of the month following the month in which the tax
14 accrued: *Provided,* That the installment payment otherwise due
15 under this subdivision on or before June 30 each year shall be
16 remitted to the Tax Commissioner on or before June 15 each
17 year. When this subdivision applies, the taxpayer shall, on or
18 before the due date specified in this subdivision, make out an
19 estimate of the tax for which the taxpayer is liable for the
20 preceding month, sign the estimate and mail it together with a
21 remittance, in the form prescribed by the Tax Commissioner, of
22 the amount of tax due to the office of the Tax Commissioner:
23 *Provided, however,* That the installment payment otherwise due

24 under this paragraph on or before June 30 each year shall be
25 remitted to the Tax Commissioner on or before June 15.

26 (3) *Tax of \$1,000 per month or less.* — For taxpayers whose
27 estimated tax liability under this article is \$1,000 per month or
28 less, the tax is due and payable in quarterly installments on or
29 before the last day of the month following the quarter in which
30 the tax accrued. When this subdivision applies, the taxpayer
31 shall, on or before the last day of the fourth, seventh and tenth
32 months of the taxable year, make out an estimate of the tax for
33 which the taxpayer is liable for the preceding quarter, sign the
34 same and mail it together with a remittance, in the form
35 prescribed by the Tax Commissioner, of the amount of tax due
36 to the office of the Tax Commissioner.

37 (b) *Exception.* — Notwithstanding the provisions of
38 subsection (a) of this section, the Tax Commissioner, if he or she
39 considers it necessary to ensure payment of the tax, may require
40 the return and payment under this section for periods of shorter
41 duration than those prescribed in subsection (a) of this section.

42 (c) *Remittance by electronic funds transfer.* — When the
43 taxpayer's annual aggregate liability for tax under this article

44 and article thirteen-a of this chapter exceeds \$50,000 for the
45 prior tax year, payments of estimated tax required by this article
46 and article thirteen-a during the then current tax year shall be by
47 electronic funds transfer, in accordance with rules of the Tax
48 Commissioner and rules of the State Treasurer, except as
49 otherwise permitted by the Tax Commissioner: *Provided*, That
50 for tax years beginning on or after January 1, ~~2011~~ 2016, when
51 the taxpayer's annual aggregate liability for tax under this article
52 and article thirteen-a of this chapter exceeds ~~\$10,000~~ \$25,000 for
53 the prior tax year, payments of estimated tax required by this
54 article and article thirteen-a during the then current tax year shall
55 be by electronic funds transfer, in accordance with rules of the
56 Tax Commissioner and rules of the State Treasurer, except as
57 otherwise permitted by the Tax Commissioner.

(NOTE: The purpose of this bill is to raise to \$25,000 the tax liability threshold at which taxpayers must file and pay electronically.)

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.)

