

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**Introduced**

## **Senate Bill 461**

BY SENATORS FERNS AND CLINE

[Introduced February 1, 2018; Referred  
to the Committee on Finance]

1 A BILL to amend and reenact §11-14C-31 of the Code of West Virginia, 1931, as amended,  
 2 relating to petitions for tax refunds; and extending the time period to file a petition for motor  
 3 fuel excise tax refunds.

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

**ARTICLE 14C. MOTOR FUEL EXCISE TAX.**

**§11-14C-31. Claiming refunds.**

1 (a) Any person seeking a refund pursuant to §11-14C-9(c) or §11-14C-9(d) of this code  
 2 shall present to the commissioner a petition for refund in the form required by the commissioner  
 3 and provide the information required by the commissioner. The Tax Commissioner may require  
 4 the petitioner to provide the original or duplicate original sales slips or invoices from the distributor  
 5 or producer or retail dealer, as the case may be, showing the amount of the purchases, together  
 6 with evidence of payment thereof, and a statement stating how the motor fuel was used: *Provided,*  
 7 That sales slips or invoices marked "duplicate" are not acceptable: *Provided, however,* That  
 8 certified copies of sales slips or invoices are acceptable: *Provided further,* That copies of sales  
 9 slips and invoices may be used with any application for refund made under authority of §11-14C-  
 10 9(c) of this code when the motor fuel is used to operate tractors and gas engines or threshing  
 11 machines for agricultural purposes: *And provided further,* That a refund claim made under the  
 12 authority of §11-14C-9(c)(1) of this code and a refund claim made under the authority of §11-14C-  
 13 9(d)(1) of this code shall be accompanied by such verification as prescribed by the Tax  
 14 Commissioner: *And provided further,* That billing statements and electronic invoices are  
 15 acceptable in lieu of original invoices at the discretion of the Tax Commissioner: *And provided*  
 16 *further,* That the person claiming a refund under §11-14C-9(c) or §11-14C-9(d) of this code shall  
 17 retain for at least three years following the postmark date of the application for refund a copy of  
 18 the invoices, sales slips and billing statements for which the refund was claimed.

19 (b) Any person claiming a refund pursuant to section thirty of this article shall file a petition  
 20 in writing with the commissioner. The petition shall be in the form and with supporting records as

21 required by the commissioner and made under the penalty of perjury.

22 (c) The right to receive any refund under the provisions of this section is not assignable  
23 and any assignment thereof is void and of no effect. No payment of any refund may be made to  
24 any person other than the original person entitled to claim the refund except as otherwise  
25 expressly provided in this article. The commissioner shall cause a refund to be made under the  
26 authority of this section only when the claim for refund is filed with the commissioner within the  
27 following time periods:

28 (1) A petition for refund under §11-14C-30 of this code, other than for evaporation loss,  
29 shall be filed with the commissioner within three years from the end of the month in which: (A)  
30 The tax was erroneously or illegally paid; (B) the gallons were exported or lost by casualty; or (C)  
31 a change of rate took effect;

32 (2) A petition for refund under §11-14C-30 of this code for evaporation loss shall be filed  
33 within three years from the end of the year in which the evaporation occurred;

34 (3) A petition for refund under §11-14C-9(c) or §11-14C-9(d) of this code shall be filed with  
35 the commissioner ~~on or before the last day of January, April, July and October~~ within three years  
36 from the end of the calendar year for purchases of motor fuel during the ~~immediately preceding~~  
37 ~~calendar quarter~~ calendar year. *Provided*, That any application for refund made under authority  
38 of §11-14C-9(c) or §11-14C-9(d) of this code when the motor fuel is used to operate tractors and  
39 gas engines or threshing machines for agricultural purposes shall be filed within 12 months from  
40 the month of purchase or delivery of the motor fuel: *Provided, however*, That all persons  
41 authorized to claim a refundable exemption under the authority of §11-14C-9(c)(1) through §11-  
42 14C-9(c)(1)(6) inclusive, §11-14C-9(d)(1) §11-14C-9(d)(6), of this code shall do so no later than  
43 August 31 for the purchases of motor fuel made during the preceding fiscal year ending June 30.

44 (d) Any petition for a refund not timely filed is not construed to be or constitute a moral  
45 obligation of the State of West Virginia for payment. Every petition for refund is subject to the  
46 provisions of §33-10-14 of this code.

47           (e) The commissioner may make any investigation considered necessary before refunding  
48 to a person the tax levied by §11-14C-5 of this code. The commissioner may also subject to audit  
49 the records related to a refund of the tax levied by section five of this article.

NOTE: The purpose of this bill is to extend the time period to file a petition for motor fuel excise tax refunds.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.