

SB450

FILED

2002 MAR 21 P 6:44

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
*REGULAR SESSION, 2002*



**ENROLLED**

SENATE BILL NO. 450

(By Senators MINARD AND KESSLER )



PASSED MARCH 7, 2002

In Effect Sixty Days From Passage

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**Senate Bill No. 450**

(BY SENATORS MINARD AND KESSLER)

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[Passed March 7, 2002; in effect ninety days from passage.]

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AN ACT to amend and reenact section six, article forty-three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to insurance tax returns and payment of quarterly insurance premium taxes.

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

That section six, article forty-three, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

**ARTICLE 43. INSURANCE TAX PROCEDURES ACT.**

**§33-43-6. Returns.**

- 1 (a) Any person who is subject to a tax in a given taxable
- 2 year shall file a return for that tax and that taxable year,
- 3 even if the person has no tax liability for that taxable year.

4 (1) Each return shall be filed by the applicable filing  
5 date. The commissioner, at his or her discretion, may  
6 accept a return after the filing date.

7 (2) Should a taxpayer file more than one return for the  
8 same tax, only the return last filed shall be effective. The  
9 commissioner, at his or her discretion, may approve the  
10 withdrawal of a return by the taxpayer.

11 (b) Each return shall be executed by the taxpayer in a  
12 manner prescribed by the commissioner. Each return so  
13 executed shall constitute a sworn statement by the signa-  
14 tory that, to the best of his or her knowledge and belief,  
15 the information provided in the return or in any support-  
16 ing materials which accompany the return is true and  
17 accurate.

18 (c) All returns shall be prepared on forms prescribed by  
19 the commissioner. If no form has been prescribed for a  
20 particular tax, the return may be in a form chosen by the  
21 taxpayer but shall clearly set forth the following informa-  
22 tion: The taxpayer's name, address and telephone number;  
23 the identification number used by the taxpayer in filing  
24 federal income tax returns; the tax and taxable year to  
25 which the return applies; and all information used to  
26 calculate the tax liability of the taxpayer.

27 (d) For purposes of this article, a return is not regarded  
28 as filed if:

29 (1) It is not filed by the applicable filing date, unless the  
30 commissioner accepts the return; or

31 (2) It has not been received by the commissioner; or

32 (3) It has not been properly executed by the taxpayer; or

33 (4) It is not in the proper form; or

34 (5) It is incomplete or inaccurate in any material respect;  
35 or

36 (6) It is not accompanied by supporting material re-  
37 quired by the commissioner; or

38 (7) It is withdrawn by the taxpayer with the approval of  
39 the commissioner; or

40 (8) It is not accompanied by the payment for any tax due.

41 (e) If a tax is to be paid in installments, the taxpayer  
42 shall file an appropriate return for each period for which  
43 an installment payment is calculated, even if the taxpayer  
44 is not required to make an installment payment for that  
45 period. The returns shall satisfy all requirements estab-  
46 lished for annual returns by this section except that the  
47 filing date for an installment return is the date prescribed  
48 for the installment payment for the period described by  
49 the return. Failure of a taxpayer to make quarterly  
50 payments, if required, of at least one fourth of either the  
51 total tax paid during the preceding calendar year or eighty  
52 percent of the actual tax liability for the current calendar  
53 year is considered the same as a failure or refusal to pay  
54 the estimated taxes and subjects the taxpayer to the  
55 penalties provided in this article.

56 (f) If a taxpayer has failed to file a return by the applica-  
57 ble filing date or has filed a false or fraudulent return, the  
58 commissioner may use any information which is available  
59 to him or her to determine the taxpayer's tax liability:  
60 *Provided*, That a determination of tax liability by the  
61 commissioner pursuant to this subsection does not relieve  
62 the taxpayer of the duty to file a true, accurate and  
63 complete return and does not reduce or preclude any  
64 penalty based upon the taxpayer's failure to file.

65 (g) A taxpayer to whom a credit has been issued may  
66 apply the credit as payment for any like tax due to be  
67 remitted by the taxpayer upon written notice to the  
68 commissioner stating the amount of the credit to be so  
69 applied.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*[Signature]*  
.....  
Chairman, Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*[Signature]*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*[Signature]*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

The within is approved this the 21<sup>st</sup>  
Day of March, 2002.

*[Signature]*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/15/02

Time 5:30 pm