

1 **ENROLLED**

2 **H. B. 2877**

3
4 (By Delegates Miller, Williams, Faircloth, Rowe, Hill, Stansbury, Espinosa, and Westfall)

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6 [Passed March 14, 2015; in effect ninety days from passage.]
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10 AN ACT to amend and reenact §11-10-5t and §11-10-5z of the Code of West Virginia, 1931, as
11 amended; and to amend and reenact §11-13V-7 of said code, all relating to electronic filing
12 of tax returns and electronic funds transfers in payment of taxes; and raising to \$25,000 the
13 tax liability threshold amount at which taxpayers must file returns electronically or pay by
14 electronic funds transfers.

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

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

18 **ARTICLE 10. TAX PROCEDURE AND ADMINISTRATION ACT.**

19 **§11-10-5t. Payment by electronic fund transfers.**

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

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

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

5 (1) Acceptable indicia of timely payment;

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

8 (3) Which types of taxes to which electronic filing requirements apply for any given tax year
9 and implementation dates: *Provided*, That the type of tax to which electronic funds transfer
10 requirements apply during the first tax year is personal income tax withholding by employers;

11 (4) The dollar amount of tax liability per year which, when exceeded, requires or permits
12 electronic funds transfer. Unless and until a legislative rule is promulgated or this section is
13 amended, no person may be required to pay any tax by electronic funds transfer if the amount owed
14 for the tax during the preceding year was less than \$120,000: *Provided*, That for tax years beginning
15 on or after January 1, 2016, no person may be required to pay any tax by electronic funds transfer
16 if the amount owed for the tax during the preceding tax year was less than \$25,000;

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

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

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

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

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

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

9 (f) The State Treasurer shall adopt any procedures or rules necessary or convenient for
10 implementing electronic funds transfers of tax payments authorized by this section and rules adopted
11 by the Tax Commissioner. The treasurer shall draft any procedures and rules adopted in consultation
12 with the Tax Commissioner and the procedures and rules may not conflict with this section or rules
13 adopted by the Tax Commissioner.

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

15 **§11-10-5z. Electronic filing for certain persons.**

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

20 (2) For tax years beginning on or after January 1, 2011, any person required to file a return
21 for a tax administered under the provisions of this article and who had total annual remittance for
22 any single tax equal to or greater than \$10,000 during the immediately preceding tax year shall file

1 electronically all returns for all taxes administered under this article.

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

3 (i) For returns that are required to be filed prior to January 1, 2016, any person required to
4 file a return for a tax administered under the provisions of this article and who had total annual
5 remittance for any single tax equal to or greater than \$10,000 during the immediately preceding tax
6 year shall file electronically all such returns for all taxes administered under this article.

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

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

14 **ARTICLE 13V. WORKERS' COMPENSATION DEBT REDUCTION ACT.**

15 **§11-13V-7. Periodic installment payments of taxes imposed by this article; exceptions.**

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

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

21 (2) *Tax of more than \$1,000 per month.* — For taxpayers whose aggregate estimated tax
22 liability under this article and article thirteen-a of this chapter exceeds \$1,000 per month, the tax is

1 due and payable in monthly installments on or before the last day of the month following the month
2 in which the tax accrued: *Provided*, That the installment payment otherwise due under this
3 subdivision on or before June 30 each year shall be remitted to the Tax Commissioner on or before
4 June 15 each year. When this subdivision applies, the taxpayer shall, on or before the due date
5 specified in this subdivision, make out an estimate of the tax for which the taxpayer is liable for the
6 preceding month, sign the estimate and mail it together with a remittance, in the form prescribed by
7 the Tax Commissioner, of the amount of tax due to the office of the Tax Commissioner: *Provided*,
8 however, That the installment payment otherwise due under this paragraph on or before June 30 each
9 year shall be remitted to the Tax Commissioner on or before June 15.

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

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

21 (c) *Remittance by electronic funds transfer.* — When the taxpayer's annual aggregate liability
22 for tax under this article and article thirteen-a of this chapter exceeds \$50,000 for the prior tax year,

1 payments of estimated tax required by this article and article thirteen-a during the then current tax
2 year shall be by electronic funds transfer, in accordance with rules of the Tax Commissioner and
3 rules of the State Treasurer, except as otherwise permitted by the Tax Commissioner: *Provided*, That
4 for tax years beginning on or after January 1, 2016, when the taxpayer's annual aggregate liability
5 for tax under this article and article thirteen-a of this chapter exceeds \$25,000 for the prior tax year,
6 payments of estimated tax required by this article and article thirteen-a during the then current tax
7 year shall be by electronic funds transfer, in accordance with rules of the Tax Commissioner and
8 rules of the State Treasurer, except as otherwise permitted by the Tax Commissioner.