

1 **H. B. 2877**

2
3 (By Delegates Miller, Williams, Faircloth, Rowe, Hill, Stansbury, Espinosa, and Westfall)

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

6
7 [February 19, 2015]

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

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

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

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

22 **§11-10-5t. Payment by electronic fund transfers.**

23 (a) The term “electronic funds transfer” means and includes automated clearinghouse debit,

1 automated clearinghouse credit, wire transfer and any other means recognized by the Tax
2 Commissioner for payment of taxes.

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

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

7 (1) Acceptable indicia of timely payment;

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

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

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

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

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

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

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

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

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

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

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

17 **§11-10-5z. Electronic filing for certain persons.**

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

22 (2) For tax years beginning on or after January 1, 2011, any person required to file a return

1 for a tax administered under the provisions of this article and who had total annual remittance for
2 any single tax equal to or greater than \$10,000 during the immediately preceding tax year shall file
3 electronically all returns for all taxes administered under this article.

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

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

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

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

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

17 **§11-13V-7. Periodic installment payments of taxes imposed by this article; exceptions.**

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

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

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

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

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

1 (c) *Remittance by electronic funds transfer.* — When the taxpayer's annual aggregate liability
2 for tax under this article and article thirteen-a of this chapter exceeds \$50,000 for the prior tax year,
3 payments of estimated tax required by this article and article thirteen-a during the then current tax
4 year shall be by electronic funds transfer, in accordance with rules of the Tax Commissioner and
5 rules of the State Treasurer, except as otherwise permitted by the Tax Commissioner: *Provided*, That
6 for tax years beginning on or after January 1, ~~2011~~ 2016, when the taxpayer's annual aggregate
7 liability for tax under this article and article thirteen-a of this chapter exceeds ~~\$10,000~~ \$25,000 for
8 the prior tax year, payments of estimated tax required by this article and article thirteen-a during the
9 then current tax year shall be by electronic funds transfer, in accordance with rules of the Tax
10 Commissioner and rules of the State Treasurer, except as otherwise permitted by the Tax
11 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.)