

# ENROLLED

## H. B. 2877

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(BY DELEGATE(S) MILLER, WILLIAMS,  
FAIRCLOTH, ROWE, HILL, STANSBURY,  
ESPINOSA, AND WESTFALL)

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[Passed March 14, 2015;  
in effect ninety days from passage.]

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AN ACT 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, 2016, no person may be  
25 required to pay any tax by electronic funds transfer if the amount  
26 owed for the tax during the preceding tax year was less than  
27 \$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, 2016, when the  
51       taxpayer's annual aggregate liability for tax under this article  
52       and article thirteen-a of this chapter exceeds \$25,000 for the  
53       prior tax year, payments of estimated tax required by this article  
54       and article thirteen-a during the then current tax year shall be by  
55       electronic funds transfer, in accordance with rules of the Tax  
56       Commissioner and rules of the State Treasurer, except as  
57       otherwise permitted by the Tax Commissioner.

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

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 2015.

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*Governor*

