

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Enrolled**

**Senate Bill 656**

BY SENATORS BLAIR AND TRUMP

[Passed March 9, 2019; to take effect July 1, 2019]



1 AN ACT to amend and reenact §11-10-5t and §11-10-5z of the Code of West Virginia, 1931, as  
2 amended, all relating to electronic filing of tax returns and electronic funds transfers in  
3 payment of taxes; and raising to \$50,000 the tax liability threshold amount at which  
4 taxpayers must file returns electronically or pay by electronic funds transfers.

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

**ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.**

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

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

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

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

8 (1) Acceptable indicia of timely payment;

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

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

14 (4) The dollar amount of tax liability per year which, when exceeded, requires or permits  
15 electronic funds transfer. Unless and until a legislative rule is promulgated or this section is  
16 amended, no person may be required to pay any tax by electronic funds transfer if the amount  
17 owed for the tax during the preceding year was less than \$120,000: *Provided*, That for tax years  
18 beginning on or after January 1, 2019, no person may be required to pay any tax by electronic  
19 funds transfer if the amount owed for the tax during the preceding tax year was less than \$50,000;

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

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

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

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

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

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

34 (f) The State Treasurer shall adopt any procedures or rules necessary or convenient for  
35 implementing electronic funds transfers of tax payments authorized by this section and rules  
36 adopted by the Tax Commissioner. The Treasurer shall draft any procedures and rules adopted  
37 in consultation with the Tax Commissioner and the procedures and rules may not conflict with this  
38 section or rules adopted by the Tax Commissioner.

39 (g) The provisions of this section become effective on or 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, any person required to file a  
2 return for a tax administered under the provisions of this article and who had total annual  
3 remittance for any single tax equal to or greater than \$100,000 during the immediately preceding  
4 taxable year shall file electronically all returns for all taxes administered under this article.

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

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

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

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

18           (iii) For returns that are required to be filed on or after January 1, 2019, any person  
19 required to file a return for a tax administered under the provisions of this article and who had  
20 total annual remittance for any single tax equal to or greater than \$50,000 during the immediately  
21 preceding tax year shall file electronically all returns for taxes administered under this article.

22           (b) The Tax Commissioner shall implement the provisions of this section using any  
23 combination of notices, forms, instructions, and rules that he or she determines necessary. All  
24 rules shall be promulgated pursuant to §29A-3-1 *et seq.* of this code.



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

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

To take effect July 1, 2019.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2019.

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*Governor*