

# **WEST VIRGINIA LEGISLATURE**

**2019 REGULAR SESSION**

**Introduced**

## **Senate Bill 656**

BY SENATORS BLAIR AND TRUMP

[Introduced February 18, 2019; Referred  
to the Committee on Finance]



1 A BILL to amend and reenact §11-10-5t and §11-10-5z of the Code of West Virginia, 1931, as  
2 amended; and to amend and reenact §11-13V-7 of said code, all relating to electronic  
3 filing of tax returns and electronic funds transfers in payment of taxes; and raising to  
4 \$50,000 the tax liability threshold amount at which taxpayers must file returns  
5 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, ~~2016~~ 2019, no person may be required to pay any tax by

19 electronic funds transfer if the amount owed for the tax during the preceding tax year was less  
20 than ~~\$25,000~~ \$50,000;

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

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

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

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

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

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

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

40 (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.

## **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 this section, taxes levied by  
2 this article are due and payable in periodic installments as follows:

3           (1) *Tax of \$50 or less per month.* — If a person’s aggregate annual tax liability under this  
4 article and §11-13A-1 *et seq.* of this code is reasonably expected to be \$50 or less per month, no  
5 installment payments of tax are required under this section during that taxable year.

6           (2) *Tax of more than \$1,000 per month.* — For taxpayers whose aggregate estimated tax  
7 liability under this article and §11-13A-1 *et seq.* of this code exceeds \$1,000 per month, the tax is  
8 due and payable in monthly installments on or before the last day of the month following the month  
9 in which the tax accrued: *Provided,* That the installment payment otherwise due under this  
10 subdivision on or before June 30 each year shall be remitted to the Tax Commissioner on or  
11 before June 15 each year. When this subdivision applies, the taxpayer shall, on or before the due  
12 date specified in this subdivision, make out an estimate of the tax for which the taxpayer is liable  
13 for the preceding month, sign the estimate, and mail it together with a remittance, in the form  
14 prescribed by the Tax Commissioner, of the amount of tax due to the office of the Tax  
15 Commissioner: *Provided, however,* That the installment payment otherwise due under this  
16 subdivision on or before June 30 each year shall be remitted to the Tax Commissioner on or  
17 before June 15.

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

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

29           (c) *Remittance by electronic funds transfer.* — When the taxpayer’s annual aggregate  
30 liability for tax under this article and §11-13A-1 *et seq.* of this code exceeds \$50,000 for the prior  
31 tax year, payments of estimated tax required by this article and §11-13A-1 *et seq.* of this code  
32 during the then current tax year shall be by electronic funds transfer, in accordance with rules of  
33 the Tax Commissioner and rules of the State Treasurer, except as otherwise permitted by the Tax  
34 Commissioner: *Provided*, That for tax years beginning on or after January 1, ~~2016~~ 2019, when  
35 the taxpayer’s annual aggregate liability for tax under this article and §11-13A-1 *et seq.* of this  
36 code exceeds ~~\$25,000~~ \$50,000 for the prior tax year, payments of estimated tax required by this  
37 article and §11-13A-1 *et seq.* of this code during the then current tax year shall be by electronic  
38 funds transfer, in accordance with rules of the Tax Commissioner and rules of the State Treasurer,  
39 except as otherwise permitted by the Tax Commissioner.

NOTE: The purpose of this bill is to raise to \$50,000 the tax liability threshold at which taxpayers must file and pay electronically.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.