

STATE OF WEST VIRGINIA  
DIGEST OF REVENUE SOURCES

FISCAL YEAR JULY 1, 2018 to JUNE 30, 2019

VOLUME I of 2



WEST VIRGINIA LEGISLATIVE AUDITOR  
BUDGET DIVISION



Compiled  
December 2019

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# STATE OF WEST VIRGINIA



## DIGEST OF REVENUE SOURCES FISCAL YEAR JULY 1, 2018 to JUNE 30, 2019

*STATE OF WEST VIRGINIA*

*DIGEST OF REVENUE SOURCES*

*FISCAL YEAR JULY 1, 2018 to JUNE 30, 2019*

*Compiled by*

*Budget Division*

*Legislative Auditor's Office*

## **Forward**

*This yearly publication is a compilation of the various types of revenues that are available to the state of West Virginia in any given fiscal year from July 1 to June 30.*

*It consists of four types of revenues:*

- *General revenues collected in the form of taxes; such as personal income tax, corporate net income taxes, business and occupation taxes and consumer sales and use taxes.*
- *State Road Fund revenues such as motor fuel excise taxes and license taxes.*
- *Lottery Fund revenues generated from lottery activities such as the racetrack video lottery and table games, and miscellaneous games, power ball and scratch off tickets sold by retail licensees.*
- *Special revenue funds generated from agency collections for goods and services provided to public and other agencies, fees, permits and licenses, and federal funds such as grants and federal fund appropriations. This special revenue section also contains trust account funds such as pension funds.*

*The front sections of the book provide detailed information on general revenue, state road fund, and lottery collections. The back section of the book is a listing of special revenue funds. The special revenue section lists the funds in organization order. The investment balances are also given for funds that are authorized by statute to carry investments with either the state treasury or investment management board.*

*State of West Virginia*

*Digest of Revenue Sources*

*Fiscal Year 2018 to 2019*

*Charleston, West Virginia*

*December 2019*

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TWELVE YEAR HISTORY OF GENERAL REVENUE  
COLLECTIONS  
STATE OF WEST VIRGINIA

General Revenue Collections Fiscal Year 2018-2019

|  |                    |
|--|--------------------|
| Personal Income Tax                        | \$2,096,907,291.00 |
| Consumers Sales and Use Tax                | 1,370,156,717.00   |
| Severance Tax                              | 462,451,099.00     |
| Corporate Income/Business Franchise        | 198,031,543.00     |
| HB 102 Lottery Transfers                   | 65,000,000.00      |
| Business and Occupation Tax                | 124,522,937.00     |
| Tobacco Products Tax                       | 171,223,757.00     |
| Insurance Tax                              | 129,111,390.00     |
| Interest Income                            | 27,775,939.00      |
| Departmental Collections                   | 22,756,031.00      |
| Liquor Profit Transfers                    | 23,039,469.00      |
| Miscellaneous Receipts                     | 8,096,167.00       |
| Senior Tax Credit Reimbursement<br>Lottery | 9,456,073.00       |
| Beer Tax and Licenses                      | 7,627,625.00       |
| Property Transfer Tax                      | 12,852,830.00      |
| Property Tax                               | 7,038,597.00       |
| Liquor License Renewal                     | 0.00               |
| Special Revenue Transfer                   | 17,123,327.00      |
| Business Registration Tax                  | 766,943.00         |
| Miscellaneous Transfers                    | 2,124,236.00       |
| Charter Tax                                | 10,102.00          |
| Video Lottery Transfers                    | 363,780.00         |
| Estate & Inheritance Tax                   | 0.00               |
| Total General Revenue                      | \$4,756,335,853.00 |



General Revenue Collections Fiscal Year 2017-2018

|  |                    |
|--|--------------------|
| Personal Income Tax                        | \$1,919,570,132.00 |
| Consumers Sales and Use Tax                | 1,247,030,837.00   |
| Severance Tax                              | 345,913,518.00     |
| Corporate Income/Business Franchise        | 110,068,206.00     |
| HB 102 Lottery Transfers                   | 65,000,000.00      |
| Business and Occupation Tax                | 115,003,005.00     |
| Tobacco Products Tax                       | 177,839,164.00     |
| Insurance Tax                              | 124,229,559.00     |
| Interest Income                            | 7,845,596.00       |
| Departmental Collections                   | 22,554,135.00      |
| Liquor Profit Transfers                    | 21,119,926.00      |
| Miscellaneous Receipts                     | 22,194,993.00      |
| Senior Tax Credit Reimbursement<br>Lottery | 10,000,000.00      |
| Beer Tax and Licenses                      | 7,463,136.00       |
| Property Transfer Tax                      | 12,036,497.00      |
| Property Tax                               | 7,315,437.00       |
| Liquor License Renewal                     | 0 .00              |
| Special Revenue Transfer                   | 26,395,257.00      |
| Business Registration Tax                  | 698,079.00         |
| Miscellaneous Transfers                    | 2,512,685.00       |
| Charter Tax                                | 10,701.00          |
| Video Lottery Transfers                    | 456,585.00         |
| Estate & Inheritance Tax                   | 100.00             |
| Total General Revenue                      | \$4,245,257,548.00 |

General Revenue Collections Fiscal Year 2016-2017

|  |                    |
|--|--------------------|
| Personal Income Tax                        | \$1,813,866,403.00 |
| Consumers Sales and Use Tax                | 1,222,282,625.00   |
| Severance Tax                              | 321,030,777.00     |
| Corporate Income/Business Franchise        | 116,305,568.00     |
| HB 102 Lottery Transfers                   | 65,000,000.00      |
| Business and Occupation Tax                | 111,884,545.00     |
| Tobacco Products Tax                       | 194,646,681.00     |
| Insurance Tax                              | 120,163,288.00     |
| Interest Income                            | 6,044,685.00       |
| Departmental Collections                   | 19,133,778.00      |
| Liquor Profit Transfers                    | 26,317,206.00      |
| Miscellaneous Receipts                     | 10,070,990.00      |
| Senior Tax Credit Reimbursement<br>Lottery | 10,000,000.00      |
| Beer Tax and Licenses                      | 7,999,596.00       |
| Property Transfer Tax                      | 11,987,994.00      |
| Property Tax                               | 7,248,153.00       |
| Liquor License Renewal                     | 0 .00              |
| Special Revenue Transfer                   | 99,793,387.00      |
| Business Registration Tax                  | 666,057.00         |
| Miscellaneous Transfers                    | 1,587,393.00       |
| Charter Tax                                | 15,933.00          |
| Video Lottery Transfers                    | 464,503.00         |
| Estate & Inheritance Tax                   | 240.00             |
| Total General Revenue                      | \$4,166,509,802.00 |

General Revenue Collections Fiscal Year 2015-2016

|  |                    |
|--|--------------------|
| Personal Income Tax                        | \$1,803,310,886.00 |
| Consumers Sales and Use Tax                | 1,231,044,200.00   |
| Severance Tax                              | 276,440,503.00     |
| Corporate Income/Business Franchise        | 143,605,086.00     |
| HB 102 Lottery Transfers                   | 83,355,000.00      |
| Business and Occupation Tax                | 119,174,498.00     |
| Tobacco Products Tax                       | 100,273,876.00     |
| Insurance Tax                              | 117,358,892.00     |
| Interest Income                            | 2,508,514.00       |
| Departmental Collections                   | 19,029,134.00      |
| Liquor Profit Transfers                    | 18,312,642.00      |
| Miscellaneous Receipts                     | 20,976,199.00      |
| Senior Tax Credit Reimbursement<br>Lottery | 10,000,000.00      |
| Beer Tax and Licenses                      | 7,995,545.00       |
| Property Transfer Tax                      | 10,618,462.00      |
| Property Tax                               | 6,957,305.00       |
| Liquor License Renewal                     | 70,724.00          |
| Special Revenue Transfer                   | 128,913,944.00     |
| Business Registration Tax                  | 676,183.00         |
| Miscellaneous Transfers                    | 1,245,845.00       |
| Charter Tax                                | 2,560.00           |
| Video Lottery Transfers                    | 808,524.00         |
| Total General Revenue                      | \$4,102,678,522.00 |

General Revenue Collections Fiscal Year 2014-2015

|  |                     |
|--|---------------------|
| Personal Income Tax                        | \$ 1,840,056,422.00 |
| Consumers Sales and Use Tax                | 1,228,221,103.00    |
| Severance Tax                              | 414,172,499.00      |
| Corporate Income/Business Franchise        | 186,101,080.00      |
| HB 102 Lottery Transfers                   | 92,600,000.00       |
| Business and Occupation Tax                | 120,521,715.00      |
| Tobacco Products Tax                       | 102,163,206.00      |
| Insurance Tax                              | 116,162,598.00      |
| Interest Income                            | 2,342,693.00        |
| Departmental Collections                   | 18,223,108.00       |
| Liquor Profit Transfers                    | 18,361,384.00       |
| Miscellaneous Receipts                     | 16,458,113.00       |
| Senior Tax Credit Reimbursement<br>Lottery | 10,000,000.00       |
| Beer Tax and Licenses                      | 7,773,253.00        |
| Property Transfer Tax                      | 11,041,554.00       |
| Property Tax                               | 6,678,574.00        |
| Liquor License Renewal                     | 451,328.00          |
| Special Revenue Transfer                   | 0.00                |
| Business Registration Tax                  | 746,924.00          |
| Miscellaneous Transfers                    | 11,055,583.00       |
| Charter Tax                                | 43,149.00           |
| Telecommunications Tax                     | 0.00                |
| Estate and Inheritance                     | 7,178.00            |
| Video Lottery Transfers                    | 628,212.00          |
| Total General Revenue                      | \$ 4,203,809,676.00 |

General Revenue Collections fiscal year 2013-2014

|  |                     |
|--|---------------------|
| Personal Income Tax                        | \$ 1,664,066,171.00 |
| Consumers Sales and Use Tax                | 1,173,096,511.00    |
| Severance Tax                              | 488,685,518.00      |
| Corp. Income and Business Franchise        | 203,508,473.00      |
| HB 102 Lottery Transfers                   | 92,600,000.00       |
| Business and Occupation Tax                | 120,142,546.00      |
| Tobacco Products Tax                       | 101,779,766.00      |
| Insurance Tax                              | 115,763,259.00      |
| Interest Income                            | 1,218,745.00        |
| Departmental Collections                   | 17,510,584.00       |
| Liquor Profit Transfers                    | 15,155,048.00       |
| Miscellaneous Receipts                     | 30,013,360.00       |
| Senior Tax Credit Reimbursement<br>Lottery | 10,000,000.00       |
| Beer Tax and Licenses                      | 8,301,702.00        |
| Property Transfer Tax                      | 10,391,897.00       |
| Property Tax                               | 6,651,832.00        |
| Liquor License Renewal                     | 451,328.00          |
| Special Revenue Transfer                   | 44,707,000.00       |
| Business Registration Tax                  | 697,842.00          |
| Miscellaneous Transfers                    | 767,346.00          |
| Racing Fees                                | -0-                 |
| Charter Tax                                | 227,757.00          |
| Telecommunications Tax                     | (260,588.00)        |
| Estate and Inheritance                     | -0-                 |
| Video Lottery Transfers                    | 628,508.00          |
| TOTAL                                      | 4,106,104,604.00    |

General Revenue Collections fiscal year 2012-2013

|  |                     |
|--|---------------------|
| Personal Income Tax                        | \$ 1,745,566,591.00 |
| Consumers Sales and Use Tax                | 1,193,289,992.00    |
| Severance Tax                              | 409,672,785.00      |
| Corp. Income and Business Franchise        | 238,129,821.00      |
| HB 102 Lottery Transfers                   | 92,600,000.00       |
| Business and Occupation Tax                | 127,111,826.00      |
| Tobacco Products Tax                       | 107,021,658.00      |
| Insurance Tax                              | 112,746,727.00      |
| Interest Income                            | 3,466,504.00        |
| Departmental Collections                   | 16,373,731.00       |
| Liquor Profit Transfers                    | 16,321,225.00       |
| Miscellaneous Receipts                     | 5,037,906.00        |
| Senior Tax Credit Reimbursement<br>Lottery | 10,000,000.00       |
| Beer Tax and Licenses                      | 8,414,729.00        |
| Property Transfer Tax                      | 8,776,174.00        |
| Property Tax                               | 6,148,781.00        |
| Liquor License Renewal                     | 451,328.00          |
| Business Registration Tax                  | 692,394.00          |
| Miscellaneous Transfers                    | 1,271,936.00        |
| Racing Fees                                | -0-                 |
| Charter Tax                                | 61,550.00           |
| Telecommunications Tax                     | 60,516.00           |
| Estate and Inheritance                     | 1,823.00            |
| Video Lottery Transfers                    | 920,391.00          |
| TOTAL                                      | 4,104,138,388.00    |

General Revenue Collections fiscal year 2011-2012

|  |                     |
|--|---------------------|
| Personal Income Tax                        | \$ 1,688,963,133.00 |
| Consumers Sales and Use Tax                | 1,215,973,366.00    |
| Severance Tax                              | 467,901,853.00      |
| Corp. Income and Business Franchise        | 188,085,447.00      |
| HB 102 Lottery Transfers                   | 127,900,000.00      |
| Business and Occupation Tax                | 121,031,382.00      |
| Tobacco Products Tax                       | 109,609,465.00      |
| Insurance Tax                              | 109,665,255.00      |
| Interest Income                            | 2,705,375.00        |
| Departmental Collections                   | 16,540,654.00       |
| Liquor Profit Transfers                    | 15,358,303.00       |
| Miscellaneous Receipts                     | 3,483,389.00        |
| Senior Tax Credit Reimbursement<br>Lottery | 10,000,000.00       |
| Beer Tax and Licenses                      | 8,416,390.00        |
| Property Transfer Tax                      | 8,127,577.00        |
| Property Tax                               | 6,051,316.00        |
| Liquor License Renewal                     | 451,328.00          |
| Business Registration Tax                  | 1,192,959.00        |
| Miscellaneous Transfers                    | 528,487.00          |
| Racing Fees                                | -0-                 |
| Charter Tax                                | 74,137.00           |
| Telecommunications Tax                     | 96,367.00           |
| Estate and Inheritance                     | 15,937.00           |
| Video Lottery Transfers                    | 1,132,807.00        |
| TOTAL                                      | 4,103,304,926.00    |

General Revenue Collections fiscal year 2010-2011

|  |                     |
|--|---------------------|
| Personal Income Tax                        | \$ 1,593,168,829.00 |
| Consumers Sales and Use Tax                | 1,148,243,766.00    |
| Severance Tax                              | 440,874,576.00      |
| Corp. Income and Business Franchise        | 302,977,776.00      |
| HB 102 Lottery Transfers                   | 127,900,000.00      |
| Business and Occupation Tax                | 127,591,014.00      |
| Tobacco Products Tax                       | 110,760,444.00      |
| Insurance Tax                              | 107,202,349.00      |
| Interest Income                            | 12,042,699.00       |
| Departmental Collections                   | 15,839,617.00       |
| Liquor Profit Transfers                    | 15,200,485.00       |
| Miscellaneous Receipts                     | 11,924,420.00       |
| Senior Tax Credit Reimbursement<br>Lottery | 9,553,377.00        |
| Beer Tax and Licenses                      | 8,478,815.00        |
| Property Transfer Tax                      | 8,107,846.00        |
| Property Tax                               | 6,016,025.00        |
| Liquor License Renewal                     | 14,611,331.00       |
| Business Registration Tax                  | 2,239,181.00        |
| Miscellaneous Transfers                    | 331,589.00          |
| Racing Fees                                | 20,810.00           |
| Charter Tax                                | 150,963.00          |
| Telecommunications Tax                     | 22,520.00           |
| Estate and Inheritance                     | (93.00)             |
| Video Lottery Transfers                    | 527,770.00          |
| TOTAL                                      | 4,063,786,110.00    |



General Revenue Collections Fiscal Year 2009-2010

|                                     |                     |
|-------------------------------------|---------------------|
| Personal Income Tax                 | \$ 1,446,852,095.00 |
| Consumers Sales and Use Tax         | 1,095,686,166.00    |
| Severance Tax                       | 400,590,519.00      |
| Corporate Income/Business Franchise | 232,859,163.00      |
| Business and Occupation Tax         | 133,386,079.00      |
| HB 102 Lottery Transfers            | 127,900,000.00      |
| Cigarette Tax                       | 110,640,447.00      |
| Insurance Tax                       | 103,677,133.00      |
| Interest Income                     | 11,906,752.00       |
| Departmental Collections            | 14,806,907.00       |
| Liquor License Renewal              | 21,544,114.00       |
| Liquor Profit Transfers             | 14,557,551.00       |
| Property Transfer Tax               | 7,933,085.00        |
| Refundable Credit Lottery           | 8,370,988.00        |
| Beer Tax and Licenses               | 8,434,752.00        |
| Smokeless Tobacco Tax               | 3,487,899.00        |
| Property Tax                        | 5,833,626.00        |
| Business Franchise Fees             | 2,125,209.00        |
| Miscellaneous Transfers             | 239,287.00          |
| Racing Fees                         | 335,929.00          |
| Miscellaneous Receipts              | 5,883,594.00        |
| Charter Tax                         | 175,549.00          |
| Telecommunications Tax              | 76,375.00           |
| Estate and Inheritance              | 100,284.00          |
| Video Lottery Transfers             | 968,619.00          |
| Total General Revenue               | \$ 3,758,372,124.00 |

General Revenue Collections Fiscal Year 2008-2009

|                                     |                     |
|-------------------------------------|---------------------|
| Personal Income Tax                 | \$ 1,557,403,317.00 |
| Consumers Sales and Use Tax         | 1,110,017,434.00    |
| Severance Tax                       | 359,578,255.00      |
| Corporate Income/Business Franchise | 270,237,027.00      |
| Business and Occupation Tax         | 150,292,700.00      |
| HB 102 Lottery Transfers            | 127,900,000.00      |
| Cigarette Tax                       | 108,903,702.00      |
| Insurance Tax                       | 103,322,336.00      |
| Interest Income                     | 21,855,175.00       |
| Departmental Collections            | 14,597,288.00       |
| Liquor Profit Transfers             | 16,960,842.00       |
| Property Transfer Tax               | 8,537,130.00        |
| Refundable Credit Lottery           | 7,371,723.00        |
| Beer Tax and Licenses               | 8,638,146.00        |
| Smokeless Tobacco Tax               | 6,190,897.00        |
| Property Tax                        | 5,615,784.00        |
| Business Franchise Fees             | 1,936,116.00        |
| Miscellaneous Transfers             | 129,636.00          |
| Racing Fees                         | 480,348.00          |
| Miscellaneous Receipts              | 19,852,836.00       |
| Charter Tax                         | 423,696.00          |
| Telecommunications Tax              | 229,556.00          |
| Estate and Inheritance              | 28,687.00           |
| Video Lottery Transfers             | 1,049,231.00        |
| Total General Revenue               | \$ 3,901,551,860.00 |

General Revenue Collections 2007-2008

|                                     |                     |
|-------------------------------------|---------------------|
| Personal Income Tax                 | \$ 1,518,746,238.00 |
| Consumers Sales                     | 991,993,789.00      |
| Severance Tax                       | 338,176,521.00      |
| Corporate Income/Business Franchise | 388,017,365.00      |
| Use Tax                             | 117,828,102.00      |
| Business and Occupation Tax         | 150,822,471.00      |
| HB 102 Lottery Transfers            | 77,900,000.00       |
| Cigarette Tax                       | 109,152,254.00      |
| Insurance Tax                       | 103,196,255.00      |
| Interest Income                     | 52,713,407.00       |
| Departmental Collections            | 16,219,539.00       |
| Liquor Profit Transfers             | 15,211,048.00       |
| Property Transfer Tax               | 11,698,879.00       |
| Refundable Credit Lottery           | 7,325,477.00        |
| Beer Tax and Licenses               | 8,665,762.00        |
| Smokeless Tobacco Tax               | 5,516,525.00        |
| Property Tax                        | 5,349,986.00        |
| Business Franchise Fees             | 2,291,866.00        |
| Miscellaneous Transfers             | 642,958.00          |
| Racing Fees                         | 993,500.00          |
| Miscellaneous Receipts              | 1,208,787.00        |
| Charter Tax                         | 3,950,720.00        |
| Telecommunications Tax              | 303,160.00          |
| Estate and Inheritance              | 46,046.00           |
| Video Lottery Transfers             | 317,565.00          |
| Total General Revenue               | \$ 3,928,288,220.00 |

# GENERAL REVENUE FUND

# **BUSINESS AND OCCUPATION PRIVILEGE TAX**

First year enacted 1921

West Virginia Code Citation:

Chapter 11, Article 13, Sections 1 through 31 inclusive

## **Brief History of Business and Occupation Tax**

Historically, the Business and Occupation Tax applied to all persons, corporations, partnerships and associations engaged in business in West Virginia. Since inception of the tax, the statutes imposing this gross receipts tax have been amended at various times. The first major change was in 1967, when the legislature amended the statute to include professional persons previously not subject to this tax. In 1971, banking and financial institutions were also made subject to the tax. In 1985, the legislature restructured the State tax system repealing the Business and Occupation Tax as it applied to all businesses except for public service or utility businesses (11-13-2d) and the business of generating and producing electric power (11-13-2m). The repeal was effective on July 1, 1987. The Business and Occupation Taxes were replaced with a system of Severance, Business Franchise and Corporate Net Income Taxes. The Business and Occupation Taxes at the local government levels were retained (8-13-5).

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## **Current Summary**

The current Business and Occupation Tax does not affect the number of businesses that it affected before the major statutory changes effective July 1, 1987. The current tax is levied on public utilities, gas storage operators, and electric power producers. The rates vary according to the type of activity. Electric power companies fall into different categories based upon whether the company is a producer or non-producer. Producers pay a tax based upon taxable generating capacity, while non-producers or distributors pay a tax based on kilowatt-hours of sales to domestic consumers. Natural gas storage utilities pay a rate based upon net dekatherms, while natural gas utilities pay a rate based upon gross income, as do water utilities, street and interurban and electrical railways, and toll bridge companies.

---

## **Persons Required to File Returns and Pay Tax**

Currently, the following businesses are subject to the Business and Occupation Tax: (a) Public service businesses; (b) Utility businesses; (c) Businesses which generate and

produce electrical power; (d) Businesses which sell electric power; and (e) natural gas storage operators.

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#### Exemptions to Business and Occupation Tax

1. Electricity generation that is not for profit, commercial use or sale.
  2. Electric power related to selected manufacturing processes.
  3. Retired or inactive generating units.
  4. New generating units are taxable at 40% of official capacity.
  5. Units relying on wind powered turbines are taxable at 12% of capacity.
  6. Nonprofit water and sewer companies governed by the West Virginia Public Service Commission that are organized and operated for the exclusive benefit of their members.
  7. Street, interurban, and electric railway services.
- 

#### Credits Allowed Against Business and Occupation Tax

1. Tax credit for business investment and jobs expansion (WV Code 11-13C-1 et seq.)
  2. Tax credit for industrial expansion and industrial revitalization and (WV Code 11-13D-1 et seq.)
  3. Tax credit for reducing electric and natural gas utility rates for low income residential customers (WV Code 11-13F-1 et seq.)
- 

#### Allocation and Use:

Proceeds are deposited to the General Revenue Fund

---

Rates for Business and Occupation Tax

| Code Authority   | Type of Business  | Rate                                 |
|------------------|---|--------------------------------------|
| 11-13-2d. (a)(2) | Water companies   | 4.40% gross                          |
| 11-13-2d. (a)(3) | Electric company producer of electric for public service or utility business  | 4.00% gross - Superseded by 11-13-2o |
| 11-13-2d. (a)(3) | Electric company that is a non-producer of electric for public service or utility business                                    | 3.00% gross – Superseded by 11-13-2o |
| 11-13-2d. (a)(3) | Electric company which also sells to a plant location of a manufacturing facility with a demand of 200,000 kilowatts per hour | 2.00% gross Superseded by 11-13-2o   |
| 11-13-2d. (a)(4) | Natural gas utility   | 4.29% gross                          |
| 11-13-2d. (a)(5) | Toll Bridge company   | 4.29% gross                          |
| 11-13-2d. (a)(6) | All other public utility businesses   | 2.86 % of gross                      |
| 11-13-2e. (a)    | Natural gas storage business  | \$0.05 per net dekatherm             |
| 11-13-2f. (a)    | Synthetic fuel from coal for sale, profit, commercial use   | \$0.50 per ton of synthetic fuel     |
| 11-13-2o (b)(1)  | Electric company generating for sale/profit/commercial use  | \$22.78 per kilowatt                 |
| 11-13-2o (b)(1)  | Electric company generating for sale/profit/commercial use utilizing a flue gas desulfurization system                        | \$20.70 per kilowatt                 |
| 11-13-2o(b)(2)   | Electric distributor of power not produced in WV  | \$0.019 per kilowatt                 |
| 11-13-2o(b)(2)   | Electric distributor of power not produced in WV sold to a manufacturing facility   | \$0.005 per kilowatt                 |

BUSINESS AND OCCUPATION TAX COLLECTIONS SINCE 1989

| FISCAL YEAR | NET AMOUNT COLLECTED | PERCENTAGE OF CHANGE PER YEAR |
|-------------|----------------------|-------------------------------|
| 1990-1991   | 192,403,995.00       |                               |
| 1991-1992   | 186,532,398.00       | -3.05%                        |
| 1992-1993   | 184,219,907.00       | -1.24%                        |
| 1993-1994   | 211,715,803.00       | 14.93%                        |
| 1994-1995   | 196,743,759.00       | -7.07%                        |
| 1995-1996   | 190,274,017.00       | -3.29%                        |
| 1996-1997   | 179,822,618.00       | -5.49%                        |
| 1997-1998   | 177,098,573.00       | -1.51%                        |
| 1998-1999   | 182,606,688.00       | 3.11%                         |
| 1999-2000   | 167,944,888.00       | -8.00%                        |
| 2000-2001   | 177,362,771.00       | 5.58%                         |
| 2001-2002   | 173,712,450.00       | -2.06%                        |
| 2002-2003   | 178,415,433.00       | 2.71%                         |
| 2003-2004   | 177,395,094.00       | -0.57%                        |
| 2004-2005   | 182,460,781.00       | 2.86%                         |
| 2005-2006   | 185,456,897.00       | 1.64%                         |
| 2006-2007   | 180,748,060.00       | -2.54%                        |
| 2007-2008   | 150,822,471.00       | -16.56%                       |
| 2008-2009   | 150,292,700.00       | -0.35%                        |
| 2009-2010   | 133,386,079.00       | -11.25%                       |
| 2010-2011   | 127,591,014.00       | -4.34%                        |
| 2011-2012   | 121,031,382.00       | -5.14%                        |
| 2012-2013   | 127,111,826.00       | 5.02%                         |
| 2013-2014   | 120,142,546.00       | -5.48%                        |
| 2014-2015   | 120,521,715.00       | 0.32%                         |
| 2015-2016   | 119,174,498.00       | -1.13%                        |
| 2016-2017   | 111,884,545.00       | -6.52%                        |
| 2017-2018   | 115,003,005.00       | 2.71%                         |
| 2018-2019   | 124,522,937.00       | 8.27%                         |



## **CONSUMERS SALES TAX AND SERVICE TAX and USE TAX**

First year enacted 1933

West Virginia Code Citation:

Chapter 11, Article 15, Sections 1 to 34 inclusive

Chapter 11, Article 15A, Sections 1 to 29 inclusive

Chapter 11, Article 15B, Sections 1 to 37 inclusive

### **Brief History of Consumers Sales and Service Tax and complementary Use Tax**

The original Consumers Sales and Service Tax was enacted in 1933 and has been amended numerous times. Over the years the rates, exemptions, and credits have changed. The statute has very specifically narrowed the definitions applying to Consumers Sales and Service Tax law. The complementary Use Tax was enacted in 1951.

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### **Current Summary**

The current Consumers Sales and Service Tax and Use Tax applies to all sales or leases of tangible personal property and the furnishing of services in West Virginia unless a specific exemption applies to the sale, lease, or service. The Consumers Sales and Service Tax generally applies to sales, leases, and services whose origination and destination occur within the State, while the complementary Use Tax is imposed upon the use within West Virginia of tangible personal property and services bought or leased outside West Virginia for use or consumption within this State. The Use Tax complements the Consumers Sales and Service Tax, and Use Tax due is remitted on the same form as the Consumers Sales and Service Tax.

Goods and services taxable under either the Consumers Sales and Service Tax or the Use Tax are subject to a 6 percent tax rate. The tax is collected from the purchaser by the person offering the goods or service. The seller then submits the tax to the West Virginia State Tax Department. The law provides that the purchaser shall pay the tax to the seller. No compensation or profit is allowed for the collection of the tax.

The tax on food and food ingredients for home consumption was reduced over a number of years and was completely eliminated effective July 1, 2013. However, purchases and uses by consumers of prepared food, food sold through vending machines, and soft drinks are subject to the 6 percent tax.

During the 2003 legislative session, the Main Street Fairness Act of 2003 was passed. It is based upon a national effort by state governments to equalize the competition between sellers with retail stores within the state and out-of-state sellers that sell to West Virginia consumers via the Internet, telephone or mail order. This legislation enables the State Tax Commissioner to sign the national Streamlined Sales and Use Tax Agreement.

Legislation in 2013 expanded the definition of business presence in West Virginia to include any presence in the State such as a customer call center.

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#### Persons Required to File Returns and Pay Tax

All individuals, corporations, partnerships, associations or other groups engaged in the business of selling tangible property at retail or dispensing certain selected services, excepting personal and professional services and services provided by a corporation subject to the control of the Public Service Commission. The tax is required by statute to be collected from the purchaser. The vendor is then responsible for remitting the tax collected to the State Tax Department. The vendor cannot absorb the tax. If the vendor does not collect the tax, the vendor shall be personally liable for the amount not collected. If the purchaser refuses to pay the tax or does not present the vendor with a valid certificate of exemption, or uses a false certificate, or utilizes the merchandise purchased in such a manner as would precipitate the loss of the exemption, then the purchaser is personally liable for the amount of Consumers Sales and Service Tax computed on the purchase. No profit shall accrue to any vendor as a result of collection of the tax, nor can any fee be charged by the vendor for collection and remitting the tax.

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#### Exemptions as enumerated in WV Code §11-15-9

- (1) Sales of gas, steam and water delivered to consumers through mains of pipes and sales of electricity.
- (2) Sales of textbooks required to be used in any of the schools of West Virginia or any institution in West Virginia which qualifies as a nonprofit or educational institution subject to the West Virginia Department of Education and the Arts, the Board of Trustees of the University System of West Virginia or the board of directors for colleges located in this State.
- (3) Sales of property or services to this State, its institutions or subdivisions, governmental units, institutions or subdivisions of other states.
- (4) Sales of vehicles which are titled by the Division of Motor Vehicles and which are subject to the tax imposed by section four, article three, chapter seventeen-a of the West Virginia Code.
- (5) Sales of property or services to churches provided that the churches make no charges for the services they render. Provided that the exemption applies only to services, equipment, supplies, food for meals and materials directly used or consumed by these organizations and does not apply to purchases of gasoline or special fuel.
- (6) Sales of tangible personal property or services to a corporation or organization with a current registration certificated issued under WV Code Chapter 11, Article 12, which is exempt from federal income tax under Section 501(c) (3) or ( c) (4) of the Internal Revenue Service Code of 1986 and which is an organization described in WV Code §11-15-9(a)(6)(A) through WV Code §11-15-9(a)(6)(E).
- (7) Isolated sales transactions in which any taxable good or service is sold that would not occur in the ordinary course of business in repeated and successive transactions.

- (8) Sales of tangible personal property or of any taxable services rendered for use or consumption in connection with the commercial production of an agricultural product the ultimate sale of which is subject to taxation. Sales of tangible personal property and services to be used or consumed in the construction of or permanent improvement to real property are not exempt. Sales of gasoline and special fuel are not exempt. Nails and fencing shall not be considered improvements to real property.
- (9) Sales of tangible personal property to a person for the purpose of resale in the form of personal property. Provided that sales of gasoline and special fuel by distributors and importers are taxable except when the sale is to another distributor for resale. Also provided that sales of building materials or supplies or other property to a contractor which is to be installed in, or affixed to or incorporated by that person or his or her agent into any real property, building or structure is not exempt.
- (10) Sales of newspapers when delivered to consumers by route carriers.
- (11) Sales of drugs, durable medical goods, mobility enhancing equipment and prosthetic devices dispensed upon prescription and sales of insulin to consumers for medical purposes.
- (12) Sales of radio and television broadcasting time, preprinted advertising circulars and newspaper and outdoor advertising space for the advertisement of goods or services.
- (13) Sales and services performed by day care centers.
- (14) Casual and occasional sales of property or services not conducted in a repeated manner or in the ordinary course of repetitive and successive transactions of like character by a corporation or organization which is exempt from tax under Section 501 (c) (3) of the Internal Revenue Code of 1986 as amended.
- (15) Sales of property or services to a school which has which has approval from the Board of Trustees of the University System of West Virginia or the Board of Directors of the State College System to award degrees, which has its principal campus in West Virginia and which is exempt from federal and state income taxes under IRS Code Section 501 (c) (3).
- (16) Sales of lottery tickets and materials by licensed lottery sales agents and lottery retailers authorized by the lottery commission under the provisions of WV Code (29-22-1 et seq.).
- (17) Leases of motor vehicles titled pursuant to the provisions of WV Code (17A-3-1 et seq.) to lessees for a period of thirty or more consecutive days.
- (18) Sales of propane to consumers for the purpose of heating poultry houses.
- (19) Any sales of tangible personal property or services purchased and lawfully paid for with food stamps pursuant to the federal food stamp program codified in 7 U.S.C. & 2011 et seq., as amended, or with drafts issued by the West Virginia special supplement food program for women, infants and children codified in 42 U.S.C. & 1786.
- (20) Sales of tickets for activities sponsored by elementary and secondary schools and secondary schools located within West Virginia.
- (21) Sales of electronic data processing services and related software: Provided that for the purposes of this subdivision "electronic data processing services" means:
  - (A) The processing of another's data, including all processes incident to processing of data such as keypunching, keystroke verification, rearranging or sorting previously documented data for the purpose of data entry or automatic processing and changing the medium on which data is sorted, whether these processes are

- done by the same person or several persons; and (B) providing access to computer equipment for the purpose of processing data or examining or acquiring data stored in or accessible to the computer equipment.
- (22) Tuition charged for attending educational summer camps.
  - (23) Dispensing of services performed by one corporation, partnership or limited liability company for another corporation, partnership or limited liability company when the entities are members of the same controlled group or are related taxpayers as defined in Section 267 [26 U.S.C. and 267] of the Internal Revenue Code.
  - (24) Purchases of food for the following are exempt:
    - (A) Food purchased or sold by private schools, public schools, school sponsored student organizations or school sponsored parent-teacher associations to students enrolled in such school or to employees of such school during normal school hours; but not those sales of food made to the general public.
    - (B) Food purchased or sold by private or public colleges and universities or by a student organization officially recognized by the university or college to students enrolled in the college or university when the sales are made on a contract basis so that a fixed price is paid for consumption of food products for a specific period of time without respect to the amount of food actually consumed by the particular individual contracting for the sale and no money is paid at the time the food product is sold or consumed.
    - (C) Food purchased or sold by a charitable or private nonprofit organization, a nonprofit organization or a government agency under a program to provide food to low income persons at or below cost.
    - (D) Food sold by a charitable or private nonprofit organization or a governmental agency under a program operating in West Virginia for a minimum of five years to provide food at or below cost to individuals who perform a minimum of two hours of community service for each unit of food purchased from the organization.
    - (E) Food sold in an occasional sale by a charitable or nonprofit organization including volunteer fire departments and rescue squads, if the purpose of the sale is to obtain revenue for the functions and activities of the organization and the revenue obtained is actually expended for that purpose.
    - (F) Food sold by any religious organization at a social or other gathering conducted by it or under its auspices, if the purpose of selling the food is to obtain revenue for the functions and activities of the organization and the revenue obtained from selling the food is actually used in carrying on those functions and activities. Provided, That those purchases made by the organizations are not exempt as a purchase for resale.
    - (G) Food sold by volunteer fire departments and rescue squads that are exempt from federal income taxes under Section 501 (c) (3) or (c) (4) of the IRS Code of 1986, as amended, when the purpose of the sale is to obtain revenue for the functions and activities of the organization and the revenue obtained is exempt for federal income tax and actually expended for that purpose.
  - (25) Sales of food by little leagues, midget football leagues, youth football or soccer leagues, band boosters or other school or athletic booster organizations supporting activities for grades kindergarten through twelve and similar types of organizations, including scouting groups and church youth groups, if the purpose in selling the food is to obtain revenue for the functions and activities of the groups.

- (26) Charges for room and meals by fraternities and sororities to their members.
- (27) Sales of or charges for the transportation of passengers in interstate commerce.
- (28) Sales of tangible personal property or services to any person which West Virginia is prohibited from taxing under the laws of the United States or under the Constitution of West Virginia.
- (29) Sales of tangible personal property or services to any person who claims exemption from the tax imposed by WV Code 11-15A-1 et seq.
- (30) Charges for the services of opening and closing a burial plot.
- (31) Sales of livestock, poultry or other farm products in their original state by the producer of the livestock, poultry or other farm products or a member of the producers immediate family who is not otherwise engaged in making retail sales of tangible personal property; and sales of livestock sold at public sales sponsored by breeders or registry associations or livestock auction markets.
- (32) Sales of motion picture films to motion picture exhibitors for exhibition if the sale of tickets or the charge for admission to the exhibition of the film is subject to the tax imposed by WV Code 11-15. Also sales of coin operated video arcade machines or video arcade games to a person engaged in the business of providing the machines to the public for a charge upon which the tax is imposed by WV Code 11-15, that is remitted to the Tax Commissioner.
- (33) Sales of aircraft repair, remodeling and maintenance services when the services are to an aircraft operated by a certified or licensed carrier of persons or property or by a governmental entity, or to an engine or other component part of an aircraft operated by a certified or licensed carrier or persons or property, or by a governmental entity. Also sales of tangible personal property that is permanently affixed or permanently attached as a component part of an aircraft, and tools and equipment used in the repair remodeling or maintenance of these aircraft.
- (34) Charges for memberships or services provided by health and fitness organizations relating to personalized fitness programs.
- (35) Sales of services by individuals who baby-sit for profit not to exceed five thousand dollars in gross income in a taxable year.
- (36) Sales of services by public libraries or by libraries at academic institutions or libraries in institutions of higher learning.
- (37) Commissions received by a manufacturer's representative.
- (38) Sales of primary opinion research services when: (1) provided to an out of state client, (2) results of the opinion research are transferred to the client on means of interstate commerce, for use by the client outside the state of West Virginia, (3) the transfer of results is indispensable to the service.
- (39) Sales of property or services to persons within the state when those sales are for the purposes of the production of value-added products.
- (40) Sales of music instructional services by a music teacher and artistic services or artistic performances pursuant to a contract with a retail establishment.
- (41) Charges to a member by a membership association or organization which is exempt from paying federal income taxes under Section 501 (c) (3) or (c) (6) of the Internal Revenue Code.

- (42) Sales of governmental services or governmental materials by county assessors, county sheriffs, county clerks or circuit clerks in the normal course of local government operations.
- (43) Direct or subscription sales by the Division of Natural Resources of the magazine currently entitled "Wonderful West Virginia", and the publication entitled "Goldenseal", and the journal currently entitled "West Virginia History", by the Division of Culture and History.
- (44) Sales of soap to be for used car wash facilities.
- (45) Commissions received by a travel agency from out of state vendors.
- (46) The service of providing technical evaluations for compliance with federal and state environmental standards provided by environmental and industrial consultants who have formal certification through the West Virginia Department of Environmental Protection or the West Virginia Bureau of Public Health or both.
- (47) Sales of tangible personal property and services by volunteer fire departments and rescue squads that are exempt from federal income taxes under Section 501(c)(3) or (c)(4) of the Internal Revenue Code, if the sole purpose of the sale is to obtain revenue for the functions and activities of the organization.
- (48) Lodging franchise fees, including royalties, marketing fees, reservation system fees or other fees imposed by a lodging franchiser as a condition of the franchise agreement.
- (49) Sales of regulation size United States flag and the regulation size West Virginia flag for display.

#### Additional exemptions

Sales of liquors and wine to private clubs for resale.

Purchases of tangible personal property and services for direct use in research and development.

Sales and services subject to Special District Excise Tax.

Sales of computer hardware and software directly incorporated into manufactured products; certain leases; sales of electronic data processing service; sales of computer hardware and software directly used in communication; sales of educational software; sales of internet advertising; sales of high-technology business services directly used in fulfillment of a government contract; sales of tangible personal property for direct use in a high-technology business or internet advertising business.

Purchases by a health care provider of drugs, durable medical goods, mobility enhancing equipment and prosthetic devices to be dispensed upon prescription and intended for use in the diagnosis, cure, mitigation, treatment or prevention of injury or disease.

Sales of clothing and clothing accessories by organizations that are exempt from federal income taxes under Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code of 1986, as amended, and that have annual revenue obtained from the sales of less than \$40,000.

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#### Credits Consumers Sales and Service Tax

Tourism development project tax credits

#### Credits Use Tax

There is a credit against the Use Tax imposed by WV Code §11-15A-10a on the use of a particular item of tangible personal property, custom software or service equal to the amount, if any, of sales tax lawfully paid to another state for the purchase of that property or service.

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#### Allocation and Use:

Proceeds are to be deposited to the general revenue fund with the following exceptions:

Taxes collected on sales of gasoline and special fuel shall be deposited to the state road fund.

Taxes collected on sales of wine and liquor shall be deposited into a revolving fund designated Drunk Driving Prevention Fund.

School Major Improvement Fund receives monthly the amount of \$416,667.00.

School Construction Fund receives monthly the amount of \$2,268,083.00

Prepaid wireless calling service sales taxes are dedicated to the Public Service Commission in lieu of the wireless enhanced 911 fee imposed by WV Code §24-6-6b on such service.

As of Fiscal Year 2018, the amount of sales tax on materials used in highway construction that is included in contract costs paid by the Division of Highways is reimbursed to the state road fund. This reimbursement was eliminated effective January 1, 2018.

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#### Rates for Consumers Sales and Service Tax and Use Tax:

Six percent

Calculation of tax on fractional parts of a dollar: The computation shall be carried to the third decimal place and the tax rounded up to the next whole cent whenever the third decimal place is greater than 4 and rounded down when the third decimal place is four or less.

Consumers Sales and Service Tax Collections for Fiscal Years 1962-1963 through 2007-2008

| Fiscal Year | Special Revenue | General Revenue  | % Difference Year to Year |
|-------------|-----------------|------------------|---------------------------|
| 1962-1963   |                 | \$ 43,496,081.00 |                           |
| 1963-1964   |                 | 45,863,244.00    | 5.44%                     |
| 1964-1965   |                 | 48,538,261.00    | 5.83%                     |
| 1965-1966   |                 | 53,636,247.00    | 10.50%                    |
| 1966-1967   |                 | 56,802,900.00    | 5.90%                     |
| 1967-1968   |                 | 60,819,509.00    | 7.07%                     |
| 1968-1969   |                 | 65,260,452.00    | 7.30%                     |
| 1969-1970   |                 | 74,269,162.00    | 13.80%                    |
| 1970-1971   |                 | 76,648,852.00    | 3.20%                     |
| 1971-1972   |                 | 83,437,998.00    | 8.86%                     |
| 1972-1973   |                 | 91,593,628.00    | 9.77%                     |
| 1973-1974   |                 | 100,072,484.00   | 9.26%                     |
| 1974-1975   |                 | 109,486,253.00   | 9.41%                     |
| 1975-1976   |                 | 123,870,438.00   | 13.14%                    |
| 1976-1977   |                 | 134,479,895.00   | 8.57%                     |
| 1977-1978   |                 | 146,639,899.00   | 9.04%                     |
| 1978-1979   |                 | 161,906,079.00   | 10.41%                    |
| 1979-1980   |                 | 159,439,520.00   | (1.52)%                   |
| 1980-1981   |                 | 152,636,112.00   | (4.27)%                   |
| 1981-1982   |                 | 233,307,933.00   | 52.85%***                 |
| 1982-1983   |                 | 241,054,635.00   | 3.32%                     |
| 1983-1984   |                 | 251,972,096.00   | 4.53%                     |
| 1984-1985   |                 | 268,301,712.00   | 6.48%                     |
| 1985-1986   |                 | 276,075,676.00   | 2.90%                     |
| 1986-1987   |                 | 291,183,559.00   | 5.47%                     |
| 1987-1988   |                 | 330,516,349.00   | 13.51%                    |
| 1988-1989   | 58,240,432.00   | 370,337,006.00   | 12.05%                    |
| 1989-1990   | 60,000,000.00   | 494,553,427.00   | 33.54%***                 |
| 1990-1991   | 60,000,000.00   | 536,559,244.00   | 8.49%                     |
| 1991-1992   | 60,000,000.00   | 569,162,318.00   | 6.08%                     |
| 1992-1993   | 5,000,000.00    | 652,286,754.00   | 14.60%                    |
| 1993-1994   | 0.00            | 681,773,813.00   | 4.52%                     |
| 1994-1995   | 0.00            | 743,516,382.00   | 9.06%                     |
| 1995-1996   | 12,000,000.00   | 745,521,884.00   | 0.27%                     |
| 1996-1997   | 22,000,000.00   | 775,185,438.00   | 3.98%                     |



|                   |               |                  |         |
|-------------------|---------------|------------------|---------|
| 1997-1998         | 22,747,216.00 | 794,339,205.00   | 2.47%   |
| 1998-1999         | 23,553,560.00 | 829,024,041.00   | 4.37%   |
| 1999-2000         | 26,044,634.00 | 845,796,851.00   | 2.02%   |
| 2000-2001         | 28,396,640.00 | 852,512,206.00   | 0.79%   |
| 2001-2002         | 28,646,788.00 | 885,943,323.00   | 3.92%   |
| 2002-2003         | 30,895,826.00 | 894,511,172.00   | 0.97%   |
| 2003-2004         | 31,082,213.00 | 927,991,725.00   | 3.74%   |
| 2004-2005         | 33,310,316.00 | 960,172,426.00   | 3.47%   |
| 2005-2006         | 33,315,296.00 | 1,012,450,612.00 | 5.44%   |
| 2006-2007         | 32,907,754.00 | 1,002,596,110.00 | (0.97)% |
| 2007-2008         | 46,375,556.00 | 991,993,789.00   | (1.06)% |
| 2008-2009 & Later | ****          | ****             | ****    |

\*\*\*Rate increases

\*\*\*\*Combined with Use Tax below

Use Tax Collections for Fiscal Years 1990-1991 through 2007-2008

| Fiscal Year       | Amount Collected |
|-------------------|------------------|
| 1990-1991         | \$ 30,690,019.00 |
| 1991-1992         | 33,569,318.00    |
| 1992-1993         | 39,994,719.00    |
| 1993-1994         | 45,417,592.00    |
| 1994-1995         | 49,949,253.00    |
| 1995-1996         | 51,766,887.00    |
| 1996-1997         | 56,055,464.00    |
| 1997-1998         | 61,936,792.00    |
| 1998-1999         | 68,165,168.00    |
| 1999-2000         | 71,252,502.00    |
| 2000-2001         | 75,630,943.00    |
| 2001-2002         | 76,812,587.00    |
| 2002-2003         | 83,842,976.00    |
| 2003-2004         | 93,373,188.00    |
| 2004-2005         | 102,950,409.00   |
| 2005-2006         | 113,315,058.00   |
| 2006-2007         | 126,934,815.00   |
| 2007-2008         | 117,828,102.00   |
| 2008-2009 & Later | *****            |

\*\*\*\*\*Combined with Consumers Sales and Service Tax below

Consumers Sales and Service Tax and Use Collections from Fiscal Year 2008-Present

| Fiscal Year | Special Revenue  | General Revenue     | % Difference Year to Year (General Revenue) |
|-------------|------------------|---------------------|---|
| 2008-2009   | \$ 48,652,914.00 | \$ 1,110,017,434.00 | 0.02%                                       |
| 2009-2010   | 47,552,221.00    | 1,095,686,166.00    | -1.29%                                      |
| 2010-2011   | 47,760,082.00    | 1,148,243,766.00    | 4.80%                                       |
| 2011-2012   | 46,710,759.00    | 1,215,973,366.00    | 5.90%                                       |
| 2012-2013   | 45,055,027.00    | 1,193,289,992.00    | -1.87%                                      |
| 2013-2014   | 33,667,675.00    | 1,173,096,511.00    | -1.69%                                      |
| 2014-2015   | 45,612,551.00    | 1,228,221,103.00    | 4.70%                                       |
| 2015-2016   | 35,117,090.00    | 1,231,044,200.28    | 0.23%                                       |
| 2016-2017   | 42,131,624.00    | 1,222,282,624.78    | -0.71%                                      |
| 2017-2018   | 44,932,369.00    | 1,247,030,836.50    | 2.02%                                       |
| 2018-2019   | 33,800,064.14    | 1,370,156,717.47    | 9.87%                                       |

\*Special Revenue includes transfers to the School Construction and School Major Improvement Funds along with transfers to the Public Service Commission for local E-911 services. Special Tax Increment Financing District Tax collections are not included in the above collection summary.

# WEST VIRGINIA PERSONAL INCOME TAX

First year enacted 1961

West Virginia Code Citation:

Chapter 11, Article 21, Sections 1 through 96 inclusive

Chapter 11, Article 6D, Sections 1 through 9 inclusive (as pertains to the Alternative Fuel Tax Credit applicable to Personal Income Tax liability).

Chapter 11, Articles 13A through 13Z (as pertains to certain tax credits applicable to Personal Income Tax liability)

Chapter 11, Article 13AA, Section 5 (as pertains to Commercial Patent Incentives Tax Credit applicable to Personal Income Tax liability)

## Brief History of West Virginia Personal Income Tax

The original Personal Income Tax was enacted in 1961 and has been amended numerous times. Over the years the rates, deductions, and exemptions have changed. The statute has been amended various times to include many tax credits, generally expiring within a defined period.

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## Current Summary

The West Virginia Personal Income Tax applies to all individuals who earn or receive income in this State. Legislation is enacted annually to update the West Virginia Income Tax law to be in conformity with the federal individual income tax law. The starting point for the calculation of the West Virginia Personal Income Tax is federal adjusted gross income. The lowest marginal tax rate is 3 percent on income of \$10,000 or less (\$5,000 or less for Taxpayers using a married-filing separate status) and the highest marginal rate is 6.5 percent on income of \$60,000 or more (\$30,000 or more for Taxpayers using a married-filing separate status). There are three intermediate marginal rates.

Two provisions lessen the tax burden on lower income Taxpayers. A low-income exclusion was enacted in 1996 for Taxpayers whose federal adjusted gross income was \$10,000 or less ((\$5,000 or less for married-filing separate) that provided that the Taxpayer could deduct the amount of earned income (i.e., wages, salaries, tips, etc.) included in their federal adjusted gross income. A Family Tax Credit (WV Code §11-21-22) was enacted in 2006 that essentially eliminated the Personal Income Tax for Taxpayers whose family income was below the federal poverty guideline for their family size. The Family Tax Credit also reduced the tax for families whose income was slightly above the federal poverty guidelines.

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## Persons Required to File Returns and Pay Tax

The tax, as its name implies, is a Personal Income Tax upon each resident individual, estate or trust, or each nonresident individual, estate or trust whose income, whole or in part, was derived from West Virginia sources, except nonresidents whose income is taxed in resident state and which state provides similar exemptions to residents of the state of West Virginia.

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## Exemptions Personal Income Tax

As of January 1, 1987, the Personal Income Tax exemption for an individual is \$2,000.00; it applies to the number of federal exemptions allowed on the federal income tax return for that same year. A surviving spouse who has not remarried at any time before the end of the taxable year for which the return is being filed may claim an additional exemption of \$2,000 for the two taxable years following the year of death of his/her spouse. Individuals who are claimed as a dependent on another person's return are entitled to a \$500 exemption.

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## Basis for Computation of Personal Income Tax

The adjusted gross income on the federal Personal Income Tax is the basis for State income tax. However, there are modifications increasing and decreasing this basis.

Modifications that increase federal adjusted gross income are as follows:

- (1) Interest income on obligations of any state other than this state or of a political subdivision in another state.
- (2) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from State income taxes.
- (3) Deduction allowed when determining federal adjusted income that is not allowed as a deduction under WV Code (11-21-1 et seq.).
- (4) Interest on indebtedness incurred or continued to purchase or carry obligations or securities the income from which is exempt from tax by WV Code 11-21, to the extent of determining federal adjusted gross income.
- (5) Interest on a depository institution tax exempt savings certificate which is allowed as an exclusion from federal gross income under Section 128 of the Internal Revenue Code.
- (6) The amount of a lump sum distribution for which the taxpayer has elected under Section 402(e) of the Internal Revenue Code of 1986, as amended, to be separately taxed for federal income tax purposes.
- (7) Amounts withdrawn from a medical savings account established by or for an individual under WV Code (33-15-20) or WV Code (33-16-15) that are used for a purpose other than medical expenses.

Modifications that decrease federal adjusted gross income are as follows:

- (1) Interest income on obligations of the United States and its possessions to the extent includable in gross income for federal tax purposes.
- (2) Interest or dividend income on obligations or securities of any authority, commission or instrumentality of the United States or of the state of West Virginia to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States or of the State of West Virginia including federal interest or dividends paid to shareholders of a regulated investment company, under Section 852 of the Internal Revenue Code.
- (3) Any amount included in federal adjusted gross income for federal income tax purposes for the taxable year that is not included in federal adjusted gross income under WV Code (11-21-1 et seq.).
- (4) The amount of any refund or credit for overpayment of income taxes imposed by this state, or any other taxing jurisdiction, to the extent properly included in gross income for federal income tax purposes.
- (5) Annuities, retirement allowances, returns of contributions and any other benefit received under the WV Public Employees Retirement System, the WV Teachers Retirement System, Federal Civil Service, and all forms of military retirement, including regular armed forces, reserves and National Guard including any survivorship annuities derived to the extent includable in gross income for federal tax purposes. Modification cannot exceed \$2,000.00.
- (6) All benefits received under the West Virginia Department of Public Safety Death, Disability, and Retirement Fund or retirement income received as pensions or annuities from any qualified West Virginia or local police deputy sheriffs' or firefighters' retirement system.
- (7) For taxable years beginning January 1, 2003, an additional \$20,000.00 of military retirement pay from regular armed forces, reserves and National Guard, and survivor's annuities to the extent included for federal income tax purposes. Beginning January 1, 2018, all military retirement pay is excluded from Personal Income Tax.
- (8) Federal adjusted income in the amount of \$ 8,000.00 received from any source by any person who has attained the age of 65, or by any person certified by the proper authority as permanently and totally disabled, regardless of age. Provided that: the total amount in the previous modifications does not exceed \$8,000.00. If the total amount of modifications is less than \$8,000.00 the amount allowed in this section is the difference between \$8,000.00 and the sum of the previous modifications. A surviving spouse is eligible for this modification, subject to the same limits.
- (9) The first \$2,000 of deposits made to medical savings accounts offset by any withdrawals made for purposes other than payment of medical expenses if the medical savings account qualifies under West Virginia law but not under federal law for such treatment.

Additional modifications reducing federal adjusted gross income are: deductions for long term care insurance under WV Code §11-21-12c; payments made under a prepaid tuition contract or other college savings plan under WV Code (18-30-1 et seq.); pension income less than guaranteed amount under a retirement plan that had a maximum benefit guarantee that was terminated under WV Code §11-21-12d; active duty military pay under Executive Order of the President of the United States in "Operation Enduring

Freedom” or for domestic security duty under WV Code §11-21-12e(b); amounts for travel on WV toll roads paid electronically through the use of Parkway Authority Commuter (PAC) cards under WV Code §11-21-12h, and contributions to a qualified trust for maintained for the benefit of a child with autism under WV Code §11-21-12i.

Additional modifications increasing federal adjusted gross income are: amounts deducted on federal returns under Section 199 of the Internal Revenue Code (WV Code §11-21-12g); and amounts previously deducted for prepaid tuition and college savings plans that are subsequently withdrawn and not used for qualified expenses under WV Code §18-30-1 et seq. and WV Code §11-21-12f.

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#### Tax Credits That May be Applied to the Personal Income Tax

- (1) Senior citizen’s tax credit for property tax paid on first \$20,000.00 of taxable assessed value of a homestead.
- (2) Homestead excess property tax credit for WV owner-occupied residential real property taxes paid in excess of 4 percent of an individual’s income.
- (3) Low income family tax credit.
- (4) Credit for income tax paid to other states.
- (5) Credit for qualified historic rehabilitated buildings investment.
- (6) Credit for nonfamily adoption.

There are various other tax credits that may be applied to the Personal Income Tax. However, these credits can only be applied after the credit has first been applied to business taxes such as Corporation Net Income Tax liability. Examples are: Economic Opportunity Tax Credit, (11-13Q-7); Neighborhood Investment Program Tax Credit (11-13J-6); Apprenticeship Training Tax Credit (11-13W-1); Tax Credit for Agricultural Equipment (11-13K-2); WV Film Industry Investment Act Credit (11-13X-8).

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## Allocation and Use

Deposited in the general revenue fund and appropriated by the West Virginia legislature.

The 2016 Regular Session enacted many changes to prior appropriations of Personal Income Tax revenues. Effective February 1, 2016, the \$10.6 million monthly transfer (exclusive of the months of July, August, and September) to the Old Workers Compensation Fund created in WV Code §23-2C-1 et seq. and as required under WV Code §11-21-96 and WV Code §4-11A-18 ceased. Beginning July 1, 2016 and as described in WV Code §11-21-96, \$30 million annually will be appropriated to pay the unfunded liability of the West Virginia Retiree Health Benefit Trust Fund created in WV Code §5-16D-2. These funds will be transferred monthly for the months of October, November, December, January, February, and March in the amount of \$5 million per month. This transfer will continue each year until the Governor has certified to the Legislature that an independent actuary has determined that the unfunded liability has been provided for in its entirety.

A special fund entitled the "Special Income Tax Reserve Fund" is allowed to accumulate funds for the adequate cash flow coverage of post income tax refunds.

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## History of Personal Income Tax Collections

| Fiscal Year | General Revenue Fund Collections | % Change fiscal year | Special Revenue |
|-------------|----------------------------------|----------------------|-----------------|
| 1960-1961   | \$860,118.95                     |                      |                 |
| 1961-1962   | 20,958,721.48                    | 2,336.72%            |                 |
| 1962-1963   | 17,205,286.00                    | -17.91%              |                 |
| 1963-1964   | 18,061,340.19                    | 4.98%                |                 |
| 1964-1965   | 20,705,848.06                    | 14.64%               |                 |
| 1965-1966   | 23,729,308.55                    | 14.60%               |                 |
| 1966-1967   | 27,118,803.48                    | 14.28%               |                 |
| 1967-1968   | 28,195,860.16                    | 3.97%                |                 |
| 1968-1969   | 30,959,002.18                    | 9.80%                |                 |
| 1969-1970   | 40,061,163.76                    | 29.40%               |                 |
| 1970-1971   | 59,102,102.83                    | 47.53%               |                 |
| 1971-1972   | 89,151,925.00                    | 50.84%               |                 |
| 1972-1973   | 88,458,220.00                    | - 0.78%              |                 |
| 1973-1974   | 99,563,461.00                    | 12.55%               |                 |
| 1974-1975   | 119,237,542.00                   | 19.76%               |                 |
| 1975-1976   | 140,106,549.00                   | 17.50%               |                 |
| 1976-1977   | 164,671,243.00                   | 17.53%               |                 |
| 1977-1978   | 182,941,328.00                   | 11.09%               |                 |
| 1978-1979   | 217,332,934.00                   | 18.80%               |                 |
| 1979-1980   | 252,363,558.00                   | 16.12%               |                 |

|           |                  |         |                |
|-----------|------------------|---------|----------------|
| 1980-1981 | 268,097,421.00   | 6.23%   | 0.00           |
| 1981-1982 | 305,963,677.00   | 14.12%  | 0.00           |
| 1982-1983 | 310,581,897.00   | 1.51%   | 0.00           |
| 1983-1984 | 400,389,033.00   | 28.92%  | 0.00           |
| 1984-1985 | 432,480,145.00   | 8.02%   | 0.00           |
| 1985-1986 | 423,704,227.00   | -2.03%  | 0.00           |
| 1986-1987 | 454,992,491.00   | 7.38%   | 0.00           |
| 1987-1988 | 394,183,876.00   | -13.36% | 0.00           |
| 1988-1989 | 467,419,856.00   | 18.58%  | 0.00           |
| 1989-1990 | 516,862,534.00   | 10.58%  | 17,500,000.00  |
| 1990-1991 | 576,340,030.00   | 11.51%  | 2,614,958.00   |
| 1991-1992 | 612,508,664.00   | 6.28%   | -13,816,482.00 |
| 1992-1993 | 621,175,512.00   | 1.42%   | 15,000,000.00  |
| 1993-1994 | 669,694,241.00   | 7.81%   | 0.00           |
| 1994-1995 | 709,923,304.00   | 6.01%   | 10,000,000.00  |
| 1995-1996 | 750,889,201.00   | 5.77%   | -26,955.00     |
| 1996-1997 | 786,190,006.00   | 4.70%   | 10,869,235.00  |
| 1997-1998 | 866,107,054.00   | 10.17%  | 12,359,217.00  |
| 1998-1999 | 919,879,941.60   | 6.21%   | 0.00           |
| 1999-2000 | 965,720,755.45   | 4.98%   | 6,625,035.00   |
| 2000-2001 | 1,020,689,767.05 | 5.69%   | 0.00           |
| 2001-2002 | 1,034,665,203.47 | 1.37%   | 3,766,000.00   |
| 2002-2003 | 1,055,522,753.00 | 2.02%   | 5,000,000.00   |
| 2003-2004 | 1,068,212,080.00 | 1.20%   | 6,700,000.00   |
| 2004-2005 | 1,170,087,478.00 | 9.54%   | 1,900,000.00   |
| 2005-2006 | 1,297,720,394.00 | 10.91%  | 47,000,000.00  |
| 2006-2007 | 1,360,511,071.00 | 4.84%   | 53,400,000.00  |
| 2007-2008 | 1,518,746,238.00 | 11.63%  | 95,400,000.00  |
| 2008-2009 | 1,577,403,317.00 | 2.55%   | 95,400,000.00  |
| 2009-2010 | 1,446,852,095.00 | -7.10%  | 95,400,000.00  |
| 2010-2011 | 1,593,168,829.00 | 10.11%  | 95,400,000.00  |
| 2011-2012 | 1,688,963,133.00 | 6.01%   | 95,400,000.00  |
| 2012-2013 | 1,745,566,591.00 | 3.35%   | 50,380,681.00  |
| 2013-2014 | 1,664,066,171.00 | -4.67%  | 106,400,000.00 |
| 2014-2015 | 1,840,056,422.00 | 10.58%  | 92,400,000.00  |
| 2015-2016 | 1,803,310,886.00 | -2.00%  | 42,400,000.00  |
| 2016-2017 | 1,813,867,003.00 | 0.59%   | 30,000,000.00  |
| 2017-2018 | 1,919,570,132.00 | 5.83%   | 36,000,000.00  |
| 2018-2019 | 2,096,807,291.00 | 9.23%   | 42,000,000.00  |

History of Personal Income Tax Collections Continued



## **LIQUOR PROFITS**

First year enacted 1955

West Virginia Code Citation:

Chapter 60, Articles 1-8 inclusive

### **Brief History**

Sales of alcoholic liquor at both the wholesale and retail level were at the control of the state until the early 1990s. The state of West Virginia formerly owned and operated the retail outlets. The Alcohol Beverage Control Administration (originally known as the West Virginia Liquor Control Commission) controlled the wholesale and retail sales of alcohol. The WV Legislature and WV Retail Liquor Licensing Board established retail liquor outlets, market zones and 10-year franchise licensees throughout West Virginia, subject to local option election in the county or municipality.

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### **Current Summary**

The Alcohol Beverage Control Administration currently sells liquor on the wholesale market only. The legislature changed the statute during the 1990 session. Retail liquor is sold by retail licensees only. Potential licensees submit sealed competitive bids to the state Retail Liquor Licensing Board. In 2000, bids from West Virginia residents were given a five percent preference. The first licenses issued when the statute changed expired on July 1, 2000. In the fiscal year before July 1, 2000, the bidding process re-opened and the new licenses were issued to the highest bidders. The 2010 rebid began on July 1, 2010. New licenses are issued on a ten-year cycle.

In June 2009, the legislature changed some of the license classifications before the July 1, 2010 issuance of newly bid licenses. The new license categories are A and B. The A license is a freestanding liquor retail outlet and the B license is a mixed retail liquor outlet.

Before opening the retail license bidding procedure, the Retail Liquor Licensing Board will have determined the minimum bids for each license based upon a review of the sales of that outlet or outlets. There are other factors to be considered in determining the minimum acceptable bids. The board also considers the revenues projected by the governor's official revenue estimates from liquor license renewal.

In addition to the initial bid amount paid to the Commissioner for the purchase of the retail license for ten years, there is an annual license fee required. Class A license fee is \$2,000.00 per annum and a Class B license fee is \$ 2,000.00 per annum.

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## **License and Fees:**

### **License Fees in General WV Code (60-4-5, 60-4-7a, 60-6-12, 60-4-15, and 60-4-22):**

Distilleries \$1,500.00 per annum

Wineries \$ 1,500.00 per annum

Resident Brewers \$ 500.00-\$1,500.00 per annum

Brewer/Importer \$ 1,500.00 per annum

Bottling Plants \$ 100.00 per annum

Whole sale druggists \$ 50.00 per annum

Institutions \$ 10.00 per annum

Industrial Use \$ 50.00 per annum

Industrial Plants Producing Alcohol \$250.00 per annum

Retail Druggists \$ 10.00 per annum

Farm Wineries \$ 50.00 per annum

Mini-distilleries \$ 50.00 per annum

Ethyl alcohol permit \$00.00 per annum

Ethyl alcohol (scientific, experimental, institutional) \$10.00 per annum

Ethyl alcohol (industrial) \$50.00 per annum

Sacramental wine \$00.00 per annum

Liquor representative and wine representative \$100.00 per annum

Transportation permit \$10.00 for 1<sup>st</sup> permit and \$1 for additional permit

### **Licenses and Fee Applicable to Wine WV Code (60-8-3)**

Suppliers License \$ 150.00 per annum

Distributor's License \$ 2,500.00 Plus \$ 2,500.00 for each warehouse or location per annum

Retailer's License \$ 150.00 per annum

Wine Specialty Shop License \$ 250.00 per annum

Wine Tasting License \$ 150.00 per annum

### **Licenses and Fee Applicable to Wine WV Code (60-8-3) Continued**

Private Wine Bed and Breakfast \$ 150.00 per annum

Private Wine Restaurant License \$250.00 per annum

Private Wine Spa License \$ 150.00 per annum

Wine Sampling License \$150.00 per annum

Direct Shippers License \$ 150.00 wine only; \$250.00 for wine, sherry, port, Madeira per annum

Multi capacity winery or multi capacity farm winery \$ 300.00 per annum

Special one-day license for heritage fairs and festivals \$00.00

Special one-day license to nonprofits/charitable \$00.00 per annum

Special ten-day license for fairs, festivals and events \$ 250.00

Professional Baseball Stadium Wine license \$ 250.00 per annum

College Division I Stadium license \$250.00 per annum

Curbside Delivery \$250 per annum

Wine Gift Basket \$250 per annum

Operational Fee \$100 per annum

Reactivation Fee \$150 if licensee fails to renew by June 30th

### **Licenses to Private Clubs WV Code (60-7-6)**

Fraternal, veteran, nonprofit social club license \$750.00 per annum

Private clubs other than fraternal, veteran or nonprofit \$ 1,000.00 per annum if membership less than 1,000; \$ 2,500.00 if more than 1,000 members

Private Club off-premises wine sales \$ 100.00 per annum

Private Golf Club 18 Holes \$4,000.00 per annum

Private Golf Club 9 Holes \$2,000 per annum

Private Hotel \$4,000 per annum

Private Resort hotel ranges from \$7,5000.00 to \$22,500.00 per annum depending on various requirements in the code

Private Club Botte Sales \$1,000 per annum

Private Liquor Fair and Festival \$750 per annum

## Licenses to Private Clubs WV Code (60-7-6) Continued

Operational Fee \$100 per annum

Reactivation Fee \$150 if licensee fails to renew by June 30th

## Wine Liter Tax WV Code (60-8-4)

There is a tax of twenty-six and four hundred six thousandths cents per liter. It is levied by the WV Tax Department. It is levied upon all wine sold by suppliers to distributors and including all wine sold and sent to West Virginia adult residents from direct shippers, except wine sold to the commissioner.

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### Allocation and Use

Monies from liquor bailment revenue and liquor licensing received by the commissioner are deposited into the Main (operating) Fund. All receipts accruing to and available for the general revenue fund in excess of the requirements of the operating fund and the license fee and additional sales taxes imposed by WV Code Chapter 60 shall be remitted to the State Treasurer within fifteen days next after the end of the calendar month (WV Code 60-3-17).

The five percent of purchase sales tax imposed in WV Code, 60-3A-21, on the retail sale of alcoholic liquors is distributed to the county or municipality where it is collected. The Tax Commissioner collects and remits the money to the State Treasurer and the State Treasurer remits it quarterly to the counties and municipalities.

Wine liter taxes are deposited to the general revenue fund (WV Code 60-8-24) by the Tax Commissioner. Wine license fees in the amount of the first \$200,000 are deposited into a special revolving fund, the Tax Commissioner's Wine Tax Administration Fund; remaining monies collected are deposited to the Alcohol Beverage Control Commissioner's Wine License Special Fund.

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### Liquor Profits Net Yield History

| YEAR    | SALES AND OTHER INCOME | COST OF MERCHANDISE | EXPENSES    | WVABCA TOTAL TRANSFERS TO GENERAL REVENUE |
|---------|------------------------|---------------------|-------------|---|
| 1968-69 | 44,342,723.            | 28,042,569.         | 5,102,695.  | 11,197,459.                               |
| 1969-70 | 47,153,832.            | 29,191,008.         | 5,386,369.  | 12,576,455.                               |
| 1970-71 | 51,341,485.            | 31,802,916.         | 5,872,341.  | 13,666,228.                               |
| 1971-72 | 56,075,407.            | 34,672,074.         | 6,155,179.  | 15,248,154.                               |
| 1972-73 | 59,832,264.            | 37,001,592.         | 7,381,277.  | 15,449,295.                               |
| 1973-74 | 61,174,549.            | 37,077,580.         | 8,495,937.  | 15,601,032.                               |
| 1974-75 | 66,779,226.            | 41,498,956.         | 9,318,875.  | 15,961,395.                               |
| 1975-76 | 71,259,548.            | 44,617,335.         | 9,724,489.  | 16,917,724.                               |
| 1976-77 | 73,780,404.            | 44,979,328.         | 11,104,267. | 17,696,809.                               |

|           |                 |             |             |                |
|-----------|-----------------|-------------|-------------|----------------|
| 1977-78   | 78,906,307.     | 47,691,663. | 11,410,351. | 19,804,293.    |
| 1978-79   | 83,373,767.     | 50,493,739. | 12,581,791. | 20,298,237.    |
| 1979-80   | 89,108,438.     | 52,776,744. | 13,597,304. | 22,734,390.    |
| 1980-81   | 89,490,821.     | 53,149,962. | 14,519,769. | 21,821,090.    |
| 1981-82   | 79,432,700.     | 44,938,088. | 15,385,022. | 19,109,590.    |
| 1982-83   | 72,748,806.     | 38,777,448. | 14,994,557. | 18,976,801.    |
| 1983-84   | 65,753,411.     | 33,762,024. | 14,593,920. | 17,397,467.    |
| 1984-85   | 61,688,074.     | 32,152,634. | 14,965,813. | 14,569,627.    |
| 1985-86   | 59,920,457.     | 32,947,051. | 15,899,917. | 11,073,489.    |
| 1986-87   | 58,386,513.     | 32,849,573. | 17,099,031. | 8,437,909.     |
| 1987-88   | 55,267,793.     | 32,205,264. | 15,801,271. | 7,261,258.     |
| 1988-89   | 54,550,525.     | 31,255,275. | 15,288,118. | 8,007,132.     |
| 1989-90   | 55,339,302.     | 30,702,638. | 14,934,483. | 9,702,181.     |
| 1990-91   | 72,663,428.     | 37,437,762. | 11,492,666. | 23,733,000.*** |
| 1991-92   | 47,433,750.     | 36,150,292. | 4,680,970.  | 6,602,488.     |
| 1992-93   | 48,096,545.     | 36,147,115. | 4,482,029.  | 7,467,401.     |
| 1993-94   | 47,849,164.     | 35,718,969. | 4,468,518.  | 7,661,677.     |
| 1994-95   | 47,319,627.     | 35,350,620. | 4,903,737.  | 7,065,270.     |
| 1995-96   | 47,367,552.     | 35,431,456. | 4,634,981.  | 7,301,115.     |
| 1996-97   | 48,771,329.     | 34,709,210. | 7,049,876.  | 7,012,243.     |
| 1997-98   | 48,680,680.     | 36,367,280. | 5,267,956.  | 7,154,351.     |
| 1998-99   | 48,956,431.     | 36,599,539. | 5,256,759.  | 7,100,133.     |
| 1999-2000 | 53,838,749.     | 36,465,913. | 5,509,508.  | 7,293,321.     |
| 2000-2001 | 50,268,755.     | 41,567,103. | 4,723,006.  | 7,262,832.     |
| 2001-2002 | 55,279,804.     | 41,243,911. | 6,558,124.  | 7,447,768.     |
| 2002-2003 | 57,901,094.     | 42,870,342. | 6,957,853.  | 7,265,000.     |
| 2003-2004 | 62,522,190.     | 45,481,361. | 6,555,323.  | 9,800,000.     |
| 2004-2005 | 64,480,089.     | 46,898,232. | 6,765,773.  | 11,033,400.    |
| 2005-2006 | 68,677,903.     | 50,139,976. | 6,728,583.  | 11,508,649.    |
| 2006-2007 | 72,257,877.     | 53,142,892. | 6,776,139.  | 13,211,351.    |
| 2007-2008 | 76,799,222.     | 56,166,110. | 7,345,114.  | 15,220,048.    |
| 2008-2009 | 83,133,180.     | 60,689,412. | 7,524,778.  | 16,960,842.    |
| 2009-2010 | 82,978,958.     | 60,355,462. | 6,916,896.  | 14,557,551.    |
| 2010-2011 | 87,529,131.     | 63,745,087. | 6,304,910.  | 15,200,485.    |
| 2011-2012 | 91,055,993.     | 67,156,911. | 6,594,025.  | 15,354,525.    |
| 2012-2013 | 93,379,971.     | 68,147,898. | 6,057,319.  | 16,321,225.    |
| 2013-2014 | 91,572,536.     | 68,668,120. | 6,369,498.  | 15,147,700.    |
| 2014-2015 | 93,943,633.     | 71,196,224. | 6,234,967.  | 18,361,383.    |
| 2015-2016 | 92,566,204.     | 70,544,836. | 6,327,138.  | 18,312,640.    |
| 2016-2017 | 92,971,225.     | 70,189,754. | 6,230,893.  | 26,317,206**** |
| 2017-2018 | 97,362,294***** | 71,755,286. | 6,407,222.  | 21,119,925.    |
| 2018-2019 | 103,326,409.    | 75,672,456. | 6,432,854.  | 23,039,469.    |

\*\*\*Statute change removing Alcohol Beverage Control Commissioner from retail sales.

\*\*\*\*Includes a non-recurring \$7,000,000.00 transfer.

\*\*\*\*\*Liquor mark-up changed to 32% (from 28%) on May 1, 2017.

Liquor 10 Year Franchise License Renewal Revenue (retail outlets rebid at ten-year intervals):

| Fiscal Year | Amount           |
|-------------|------------------|
| 1999-2000   | \$ 19,000,000.00 |
| 2000-2001   | 3,200,000.00     |
| 2009-2010   | 21,544,144.00    |
| 2010-2011   | 14,611,331.00    |
| 2011-2012   | 451,328.00       |
| 2012-2013   | 451,328.00       |
| 2013-2014   | 451,328.00       |
| 2014-2015   | 451,328.00       |
| 2015-2016   | 70,724.00        |
| 2016-2017   | 00.00            |
| 2017-2018   | 00.00            |
| 2018-2019   | 00.00            |

NOTE: This does not include the annual \$2,000 license per retail outlet per annum.

## **BEER TAX AND LICENSES**

First Year Enacted 1933

West Virginia Code Citation:

Chapter 11, Article 16, Sections 1-29 inclusive

### **Brief History**

The tax was originally levied in 1933 at a rate of \$1.00 for each barrel (31 gallons), whether sold in barrels or other containers. In 1937, the tax was increased to \$1.375 per barrel. In 1947, it was raised to \$2.75 per barrel.

In 1951, in order to aid in the payment of veterans' bonus bonds, the tax was raised to \$5.50 per barrel. License fees and bonding requirements were added to the statute. In 1966 the legislature repealed the dedication of the tax to the veterans' bonus bonds, but kept the rate at \$5.50 per barrel.

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### **Current Summary**

This tax is currently authorized by Chapter 11, Article 16, of the West Virginia Code. It is referred to as the "Nonintoxicating Beer Act." The current statute was written in 1986. "Nonintoxicating beer" is defined by the code to mean all natural cereal malt beverages or products of the brewing industry commonly referred to as beer, lager beer, ale and all other mixtures and preparations produced by the brewing industry, including malt coolers and nonintoxicating craft beers with no caffeine infusion or any additives masking or altering the alcohol effect containing at least one half of one percent alcohol by volume, but not more than nine and six-tenths of alcohol by weight, or twelve percent by volume, whichever is greater, all of which are hereby declared to be nonintoxicating. A distinction is specifically made in the code between liquors as regulated by Chapter 60, Article 1 and "nonintoxicating beers" as regulated by Chapter 11, Article 16; there are no common characteristics for the two classifications of regulated beverages.

The source of revenue is from the sale of licenses for the sale, distribution, manufacturing, bottling, processing and serving of nonintoxicating beer. The other source is a barrel tax on each thirty-one gallons of beer manufactured.

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### **Persons Required to File Returns and Pay Tax**

License tax is payable by any persons selling, serving, delivering or otherwise dispensing nonintoxicating beer; and persons manufacturing, processing for sale or bottling nonintoxicating beer. There are two types of licenses. Class A licenses are for

establishments selling nonintoxicating beers to be consumed on the premises and for social, fraternal and private clubs operating as nonprofit. Class B licenses are for establishments selling at retail for consumption away from the selling premises, such as grocery stores, party supply stores, caterers, and delicatessens; these sales are sealed containers only.

Barrel tax is payable by brewers manufacturing or producing nonintoxicating beer within this state for sale within the state and by distributors who are the original consignees of nonintoxicating beer manufactured or produced outside of this state or who bring nonintoxicating beer into this state. Statute exempts nonintoxicating beer brewed by resident brewers and sold at brewpubs from the Beer Barrel Tax so long as these brewers, on an annual basis, do not manufacture more than 25,000 barrels and do not self-distribute more than 10,000 barrels. This exemption from the barrel tax includes nonintoxicating beer sold for off-premises consumption (e.g., growlers) so long as the transaction is not sale for resale.

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Rates for Licenses and Barrel Taxes

| Category of License            | License Fee Annually |
|--------------------------------|----------------------|
| Class A Retailer               | \$ 150.00            |
| Class A Club                   | 150.00               |
| Class A Railroad               | 10.00                |
| Class B Grocery, Caterer, Deli | 150.00               |
| Distributors                   | 1,000.00             |
| Resident Brewer                |                      |
| Less than 12,500 Barrels       | 500.00               |
| 12,501-25,000 Barrels          | 1,000.00             |
| More than 25,000 Barrels       | 1,500.00             |
| Brewpub                        | 500.00               |
| Class S Fairs and Festivals    | 250.00               |
| Growler license fee            | 100.00               |
| Curbside Delivery              | 250.00               |
| Operational Fee                | 100.00               |
| Reactivation Fee               | 150.00               |
| Floor Plan Extension           | 150.00               |
| Private Hotel                  | 150.00               |
| Private Golf Club 9 Holes      | 150.00               |
| Private Golf Club 18 Holes     | 150.00               |
| Brewer/Importer                | 1,500.00             |

Barrel Tax: Barrel tax is \$5.50 upon each barrel of 31 gallons and in like ratio upon each part barrel, whether in barrels or other containers.



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## Allocation and Use

License taxes and barrel taxes are deposited with the State Treasurer and credited to the general revenue fund. The expenses of administration and enforcement shall be paid out of the taxes, but shall not exceed fifteen percent of the amount collected.

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## History of Collections

| Fiscal Year | Amount Collected | % Change / Year |
|-------------|------------------|-----------------|
| 1985-1986   | \$7,470,695.44   | -0.59%          |
| 1986-1987   | 7,628,040.08     | 2.11%           |
| 1987-1988   | 7,579,700.55     | -0.63%          |
| 1988-1989   | 7,251,816.21     | -4.33%          |
| 1989-1990   | 7,710,017.25     | 6.32%           |
| 1990-1991   | 7,865,752.49     | 2.02%           |
| 1991-1992   | 7,703,052.19     | -2.07%          |
| 1992-1993   | 7,691,250.13     | -0.15%          |
| 1993-1994   | 7,896,724.71     | 2.67%           |
| 1994-1995   | 7,846,089.79     | -0.64%          |
| 1995-1996   | 7,621,849.97     | -2.86%          |
| 1996-1997   | 7,659,017.06     | 0.49%           |
| 1997-1998   | 7,787,888.03     | 1.68%           |
| 1998-1999   | 7,884,096.91     | 1.24%           |
| 1999-2000   | 7,999,743.12     | 1.47%           |
| 2000-2001   | 7,950,964.27     | -0.61%          |
| 2001-2002   | 8,267,252.70     | 3.98%           |
| 2002-2003   | 8,383,828.00     | 1.41%           |
| 2003-2004   | 8,313,353.00     | -0.84%          |
| 2004-2005   | 8,332,550.00     | 0.23%           |
| 2005-2006   | 8,547,760.44     | 2.58%           |
| 2006-2007   | 8,433,927.00     | -1.33%          |
| 2007-2008   | 8,665,762.00     | 2.75%           |
| 2008-2009   | 8,638,146.00     | -0.32%          |
| 2009-2010   | 8,434,752.00     | -2.35%          |
| 2010-2011   | 8,478,815.00     | 0.52%           |
| 2011-2012   | 8,416,390.00     | -0.73%          |
| 2012-2013   | 8,414,729.00     | -0.02%          |
| 2013-2014   | 8,301,702.00     | -1.34%          |
| 2014-2015   | 7,773,253.00     | -6.36%          |

| Fiscal Year | Amount Collected | % Change / Year |
|-------------|------------------|-----------------|
| 2015-2016   | 7,995,545.00     | 2.86%           |
| 2016-2017   | 7,999,596.00     | 0.05%           |
| 2017-2018   | 7,463,136.00     | -6.71%          |
| 2018-2019   | 7,627,625.00     | 2.21%           |

## **TOBACCO PRODUCTS EXCISE TAX**

First year enacted 1947

Formerly known as the Cigarette Tax; renamed on April 13, 2001.

West Virginia Code Citation:

Chapter 11, Article 17, Sections 1-23

### **Brief History**

The Cigarette Tax Act was originally enacted by the 1947 legislature. It imposed a tax of one-half cent upon the sale of ten cigarettes.

The code was amended many times with rates being raised in small increments and portions of the proceeds being dedicated to veterans' bonds and the general school fund. In 1966, the legislature repealed dedication to the veterans' bonds. In 1978, the legislature repealed dedication to the school fund.

At enactment, the Legislature established the rate of five-tenths of a cent per package of ten cigarettes. This rate increased in small increments until 1978, when the rate increased to seventeen cents per package of twenty. The rate did not increase again until the 2003 legislative session, when it was raised to fifty-five cents per package of twenty. The 2016 Special Session raised the rate again to one dollar and twenty cents per package of twenty effective July 1, 2016.

In 2001, the tax was amended to include all tobacco products, not just cigarettes. Other tobacco products include snuff, chewing tobacco, and tobacco products meant to be consumed by means other than smoking, and products such as pipe tobacco and cigars. These products were taxed at a rate of 7 percent of the wholesale price. The rate was increased in the 2016 Special Session to 12 percent of the wholesale price effective July 1, 2016.

The 2016 Special Session also introduced a new Tobacco Products Tax on e-cigarette liquids. This amendment, as described in WV Code §11-17-4b, imposes a tax of 7.5 cents per milliliter of e-cigarette liquid effective July 1, 2016.

The levying of any tobacco products tax by municipalities or other governmental subdivisions is expressly prohibited by WV Code (§11-17-4a).

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### **Persons Required to Pay Tax and File Returns**

The tax on cigarettes is paid by the purchase of stamps. The stamps or impressions are affixed to the cigarette package. The stamps or impressions are purchased from the State Tax Commissioner by the wholesaler.

The tax imposed upon other tobacco products is paid using an invoice method prescribed by the State Tax Commissioner.

On or before the fifteenth day of each month, manufacturers, importers, common carriers, wholesalers, sub-jobbers, retail dealers and agents or vending machine operators shall when required by the State Tax Commissioner, file a report covering the business transacted in the previous month providing any information the Commissioner determines necessary for the assessment of taxes. The amount of tax due is submitted with the return. Returns must be filed even though no business may have been conducted or no tax is due.

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#### Rates

Current rates are: (1) One dollar and twenty cents per package of twenty cigarettes. (2) Twelve percent of the wholesale price for other tobacco products. (3) Seven and one-half cents per milliliter of e-cigarette liquid.

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#### Allocation and Use

To be deposited to the general revenue fund of the State of West Virginia and appropriated by the legislature.

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#### History of Cigarette Tax Collections

| Fiscal Year         | Rate per Pack | Amount Collected |
|---------------------|---------------|------------------|
| 1990-1991           | .17           | \$ 31,839,833.00 |
| 1991-1992           | .17           | 32,282,841.00    |
| 1992-1993           | .17           | 32,798,123.00    |
| 1993-1994           | .17           | 33,595,995.00    |
| 1994-1995           | .17           | 34,008,497.00    |
| 1995-1996           | .17           | 33,651,705.00    |
| 1996-1997           | .17           | 33,988,488.00    |
| 1997-1998           | .17           | 33,476,517.00    |
| 1998-1999           | .17           | 33,077,659.00    |
| 1999-2000           | .17           | 32,344,669.00    |
| 2000-2001           | .17           | 31,838,476.00    |
| 2001-2002           | .17           | 32,219,157.00    |
| 2002-2003***        | .17           | 30,122,586.00    |
| 2002-2003***        | .55           | 14,939,793.00    |
| 2003-2004           | .55           | 102,876,773.00   |
| 2004-2005           | .55           | 98,065,896.00    |
| 2005-2006           | .55           | 107,118,357.00   |
| 2006-2007           | .55           | 106,570,122.00   |
| 2007-2008           | .55           | 109,152,254.00   |
| 2008-2009           | .55           | 108,903,702.00   |
| 2009-2010 and later | See below     | See below        |

History of Other Tobacco Products Tax Collections

| Fiscal Year         | Rate                  | Amount Collected |
|---------------------|-----------------------|------------------|
| 2001-2002           | 7% of wholesale price | \$ 2,217,252.00  |
| 2002-2003           | 7% of wholesale price | 4,627,101.00     |
| 2003-2004           | 7% of wholesale price | 4,731,793.00     |
| 2004-2005           | 7% of wholesale price | 4,758,872.00     |
| 2005-2006           | 7% of wholesale price | 4,909,270.00     |
| 2006-2007           | 7% of wholesale price | 4,822,604.00     |
| 2007-2008           | 7% of wholesale price | 5,516,525.00     |
| 2008-2009           | 7% of wholesale price | 6,190,897.00     |
| 2009-2010 and later | See below             | See below        |

Combined Tobacco Products Excise Tax (former Cigarette Tax and Other Tobacco Products Tax) from Fiscal Year 2010:

| Fiscal Year | Tax Rate per Pack of 20 Cigarettes | Tax Rate – Other Tobacco Products | Amount Collected  |
|-------------|------------------------------------|-----------------------------------|-------------------|
| 2009-2010   | .55                                | 7% of wholesale price             | \$ 114,128,347.00 |
| 2010-2011   | .55                                | 7% of wholesale price             | 110,760,444.00    |
| 2011-2012   | .55                                | 7% of wholesale price             | 109,021,658.00    |
| 2012-2013   | .55                                | 7% of wholesale price             | 107,021,658.00    |
| 2013-2014   | .55                                | 7% of wholesale price             | 101,779,766.00    |
| 2014-2015   | .55                                | 7% of wholesale price             | 102,163,206.00    |
| 2015-2016   | .55                                | 7% of wholesale price             | 100,273,876.00    |

Combined Tobacco Products Tax including E-cigarette Liquid\*

| Fiscal Year | Tax Rate per Pack of 20 Cigarettes | Tax Rate – Other Tobacco Products | Tax Rate- E-cigarette Liquid | Amount Collected   |
|-------------|------------------------------------|-----------------------------------|------------------------------|--------------------|
| 2016-2017   | 1.20                               | 12% of wholesale price            | .075 per milliliter          | \$194,646,681.00** |
| 2017-2018   | 1.20                               | 12% of wholesale price            | .075 per milliliter          | 177,839,164.00     |
| 2018-2019   | 1.20                               | 12% of wholesale price            | .075 per milliliter          | 171,223,757.00     |

\*Tax rate increases for cigarettes and other tobacco products and the implementation of a tax on e-cigarette liquids when into effect July 1, 2016.

\*\*Includes one-time floor stock tax revenues of approximately \$11,683,162.00

Tobacco Products Tax and E-Cigarette Excise Tax Collections Breakout

| <b>Fiscal Year</b> | <b>Cigarette Tax</b> | <b>Other Tobacco Products</b> | <b>E-Cigarette Liquids</b> | <b>Net Collections</b> |
|--------------------|----------------------|-------------------------------|----------------------------|------------------------|
| 1990-1991          | 32,218,638.00        | 0.00                          | 0.00                       | 32,218,638.00          |
| 1991-1992          | 31,839,833.00        | 0.00                          | 0.00                       | 31,839,833.00          |
| 1992-1993          | 32,282,841.00        | 0.00                          | 0.00                       | 32,282,841.00          |
| 1993-1994          | 32,798,123.00        | 0.00                          | 0.00                       | 32,798,123.00          |
| 1994-1995          | 32,595,995.00        | 0.00                          | 0.00                       | 32,595,995.00          |
| 1995-1996          | 34,008,497.00        | 0.00                          | 0.00                       | 34,008,497.00          |
| 1996-1997          | 33,651,705.00        | 0.00                          | 0.00                       | 33,651,705.00          |
| 1997-1998          | 33,988,488.00        | 0.00                          | 0.00                       | 33,988,488.00          |
| 1998-1999          | 33,476,518.00        | 0.00                          | 0.00                       | 33,476,518.00          |
| 1999-2000          | 33,077,660.00        | 0.00                          | 0.00                       | 33,077,660.00          |
| 2000-2001          | 32,344,669.00        | 0.00                          | 0.00                       | 32,344,669.00          |
| 2001-2002          | 31,838,476.00        | 0.00                          | 0.00                       | 31,838,476.00          |
| 2002-2003***       | 32,219,157.00        | 2,217,252.00                  | 0.00                       | 34,436,409.00          |
| 2002-2003***       | 45,062,379.00        | 4,627,101.00                  | 0.00                       | 49,689,480.00          |
| 2003-2004          | 102,876,773.00       | 4,731,793.00                  | 0.00                       | 107,608,566.00         |
| 2004-2005          | 98,065,896.00        | 4,758,872.00                  | 0.00                       | 102,824,768.00         |
| 2005-2006          | 107,118,357.00       | 4,909,270.00                  | 0.00                       | 112,027,627.00         |
| 2006-2007          | 106,570,122.00       | 4,822,604.00                  | 0.00                       | 111,392,726.00         |
| 2007-2008          | 109,152,254.00       | 5,516,525.00                  | 0.00                       | 114,668,779.00         |
| 2008-2009          | 108,903,702.00       | 6,190,897.00                  | 0.00                       | 115,094,599.00         |
| 2009-2010          | 110,640,447.00       | 3,487,899.00                  | 0.00                       | 114,128,346.00         |
| 2010-2011          | 104,301,812.00       | 6,458,631.00                  | 0.00                       | 110,760,443.00         |
| 2011-2012          | 102,648,896.00       | 6,960,569.00                  | 0.00                       | 109,609,465.00         |
| 2012-2013          | 99,829,842.00        | 7,191,817.00                  | 0.00                       | 107,021,659.00         |
| 2013-2014          | 94,618,301.00        | 7,161,465.00                  | 0.00                       | 101,779,766.00         |
| 2014-2015          | 95,100,934.00        | 7,062,272.00                  | 0.00                       | 102,163,206.00         |
| 2015-2016          | 92,551,777.00        | 7,722,099.00                  | 0.00                       | 100,273,876.00         |
| 2016-2017          | 179,672,416.00       | 13,969,726.00                 | 1,004,539.00               | 194,646,681.00         |
| 2017-2018          | 162,044,456.00       | 14,432,467.00                 | 1,362,241.00               | 177,839,164.00         |
| 2018-2019          | 154,998,376.00       | 14,495,881.00                 | 1,729,500.00               | 171,223,757.00         |

# BUSINESS REGISTRATION TAX

First year enacted 1863 and entitled "General License Tax"

Entitled "Business Franchise Registration Tax" from 1970-1986

West Virginia Code Citation

Chapter 11, Article 12, Sections 1-26; and Section 75, Section 85-86

Current Summary

The Business Registration Tax applies to all forms of business activity conducted in the state of West Virginia whether it is in the form of sole proprietors, corporations, or partnerships. Businesses were required to pay a \$30 registration fee once every two years. However, beginning July 1, 2010, the registration fee is now a one-time fee for a permanent registration certificate.

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## Persons Required to Pay Tax

A license is required to engage in or operate within the state of West Virginia, any businesses, activities, trades or employments enumerated in WV Code (11-12).

Special sections of the article pertain to persons who are transient vendors, collection agencies, employment agencies, or selling drug paraphernalia as defined in WV Code (47-19-3).

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## Exemptions from payment of tax

- A person who had gross income from a business of less than \$ 4,000.00 a taxable year.
  - Any organization which qualifies for exemption from federal income taxes under Section 501 of the Internal Revenue Code of 1986.
  - The State of West Virginia or any political subdivision selling tangible personal property, admissions or services, when those activities compete with or may compete with the activities of another person.
  - The United States or any agency of, which is exempt from taxation by the State.
  - A person engaged in agriculture and farming.
  - A foreign retailer who is not a retailer engaged in business in West Virginia who enters into an agreement with the State Tax Commissioner to voluntarily collect and remit Use Tax on sales to West Virginia customers.
  - Judicial sales directed by court order.
  - Sales for delinquent taxes of real or personal property.
  - The conduct of charitable bingo by a person licensed under WV Code (47-20-1).
  - The conduct of a charitable raffle by any person.
  - The conduct of a horse or dog race meeting by a licensed racing association.
  - The operation of a pari-mutuel system of wagering for horse or dog racing at a licensed facility.
  - The sale of any commodity during the conduct of horse or dog racing.
  - The services of owners, jockeys, trainers which are essential to the operation of the racing meeting.
  - Occasional or casual sales of property and services.
-

## Rate

A registration certificate fee is \$30.00.

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## Allocation and Use

As of July 1, 1971, collections are deposited to the credit of the State general revenue fund. Previously the collections were used to fund free schools in the State and deposited to the general school fund.

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## History of Collections Business Registration Tax Since 1991

| Fiscal Year | Collections    |
|-------------|----------------|
| 1990-1991   | \$1,734,609.00 |
| 1991-1992   | 1,525,406.00   |
| 1992-1993   | 1,483,648.00   |
| 1993-1994   | 1,411,352.00   |
| 1994-1995   | 1,685,101.00   |
| 1995-1996   | 1,575,270.00   |
| 1996-1997   | 1,582,981.00   |
| 1997-1998   | 2,072,346.00   |
| 1998-1999   | 2,345,788.85   |
| 1999-2000   | 2,003,319.43   |
| 2000-2001   | 1,322,680.12   |
| 2001-2002   | 1,923,971.94   |
| 2002-2003   | 1,576,563.00   |
| 2003-2004   | 1,630,825.00   |
| 2004-2005   | 1,953,552.42   |
| 2005-2006   | 1,818,860.49   |
| 2006-2007   | 1,290,955.00   |
| 2007-2008   | 2,291,866.00   |
| 2008-2009   | 1,936,116.00   |
| 2009-2010   | 2,125,209.00   |
| 2010-2011   | 2,239,181.00   |
| 2011-2012   | 1,192,959.00   |
| 2012-2013   | 692,394.00     |
| 2013-2014   | 697,842.00     |
| 2014-2015   | 746,924.00     |
| 2015-2016   | 676,183.00     |
| 2016-2017   | 666,057.00     |
| 2017-2018   | 698,079.00     |
| 2018-2019   | 766,943.00     |



## CORPORATE LICENSE TAX

REPEALED EFFECTIVE JULY 1, 2008

First year enacted 1939

This tax was also known as the Charter Tax

WV Code Chapter 11, Article 12C, Sections 1-12 (Repealed)

### Current Summary

Effective July 1, 2008, the Corporate License Tax was repealed. It was a license tax upon the corporate charter for the fiscal year from July 1, to June 30. The tax was based upon the corporation's authorized capital stock. It was required to be paid annually even if no business was transacted.

The Secretary of State collected the first year's assessment upon application for a certificate of incorporation. Thereafter the annual tax was collected by the State Tax Commissioner.

Legislation in 2008 repealed the tax on the capital stock. It was replaced with an annual report fee of \$25.00 which is paid to and collected by the Secretary of State.

The repeal did not allow amnesty for taxable years ending prior to July 1, 2008, WV Code (11-12C-13). Minor annual collections in recent years reflect reinstatements of corporations who failed to pay renewal fees accruing prior to July 1, 2008.

The Corporate License Tax collected by the State Tax Commissioner is deposited into the General Revenue Fund. The first year Corporate License Tax previously collected by the Secretary of State and the current annual report fee are used by the Secretary of State for costs associated with maintaining up to date information on corporate registrations.

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### History of Collections of Corporate License Tax (Charter Tax)

#### General Revenue Fund

| Fiscal Year | Amount Collected |
|-------------|------------------|
| 1990-1991   | \$ 3,884,340.05  |
| 1991-1992   | 3,634,283.13     |
| 1992-1993   | 3,563,736.03     |
| 1993-1994   | 2,928,119.12     |
| 1994-1995   | 4,116,596.27     |
| 1995-1996   | 4,659,110.96     |
| 1996-1997   | 4,591,053.10     |
| 1997-1998   | 5,349,863.25     |
| 1998-1999   | 5,064,761.95     |
| 1999-2000   | 5,135,215.49     |

|  |              |
|--|--------------|
| 2000-2001  | 3,777,897.67 |
| 2001-2002  | 4,959,290.27 |
| 2002-2003  | 5,127,355.00 |
| 2003-2004  | 5,953,280.00 |
| 2004-2005  | 6,690,261.00 |
| 2005-2006  | 5,361,113.00 |
| 2006-2007  | 6,918,318.00 |
| 2007-2008  | 3,950,720.00 |
| 2008-2009 First year of repeal WV Code (11-12C-13) | 423,696.00   |
| 2009-2010 WV Code (11-12C-13)                      | 175,549.00   |
| 2010-2011 WV Code (11-12C-13)                      | 150,963.00   |
| 2011-2012 WV Code (11-12C-13)                      | 74,137.00    |
| 2012-2013 WV Code (11-12C-13)                      | 61,550.00    |
| 2013-2014 WV Code (11-12C-13)                      | 227,757.00   |
| 2014-2015 WV Code (11-12C-13)                      | 43,149.00    |
| 2015-2016 WV Code (11-12C-13)                      | 2,560.00     |
| 2016-2017 WV Code (11-12C-13)                      | 15,933.00    |
| 2017-2018 WV Code (11-12C-13)                      | 10,701.00    |
| 2018-2019 WV Code (11-12C-13)                      | 10,102.00    |

History of Collections of Corporate License Tax (Charter Tax) Continued

# PROPERTY TRANSFER TAX

First Year Enacted 1959

West Virginia Code Citation

Chapter 11, Article 22, Sections 1 through 10 inclusive

Current Summary

This is an excise tax imposed upon the privilege of transferring title to real estate. It includes any deed, instrument, or writing whereby any real property within the State or any interest therein shall be granted, conveyed or otherwise transferred to the grantee, purchaser, or any other person.

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Persons Required to File Return and Pay Tax

Every person who accepts, delivers or presents for recording any document, or in whose behalf any document is delivered, accepted or presented for recording by the county commission must pay the tax. When any instrument is presented for recording, the county clerk shall determine the amount of tax due. It is required that the instrument subject to the tax have the amount of consideration received for the property recorded on the document along with a signed declaration that the property was conveyed for that consideration.

Evidence of payment of the tax is in the form of stamps affixed to the document.

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Rate of Property Transfer Tax

The State portion of the transfer tax is \$1.10 for each \$500.00 of value or fraction thereof. The county portion of the tax is a minimum of 55 cents on each \$500 of value or any fractional part of that amount. Effective July 1, 2017, county commissions may increase that rate to at most \$1.65 per \$500 of value, or any fractional part of that amount. The tax is payable at the time of delivery, acceptance or presenting for recording of the document. In addition to this assessment, there is a \$20.00 recording fee, which is assessed on the transfer of title to real estate. County commissions also have the authority to levy an additional transfer tax of up to \$1.10 per \$500 of value for a designated farm protection land use program. Therefore, the total State and local tax rate ranges between a minimum of \$1.65 for each \$500 of value, or fraction thereof, to a maximum of \$3.85 for each \$500 of value.

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## Allocation and Use

The State portion is deposited in the general revenue fund and appropriated by the legislature. The \$20.00 recording fee is paid to the West Virginia Affordable Housing Trust Fund.

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### Property Transfer Tax Collections Since 1991

| Fiscal Year | Amount Collected for State Use |
|-------------|--------------------------------|
| 1990-1991   | \$ 3,631,005.00                |
| 1991-1992   | 3,658,022.00                   |
| 1992-1993   | 4,599,272.00                   |
| 1993-1994   | 4,656,857.00                   |
| 1994-1995   | 4,861,499.00                   |
| 1995-1996   | 4,934,594.00                   |
| 1996-1997   | 5,317,541.00                   |
| 1997-1998   | 6,023,891.00                   |
| 1998-1999   | 6,387,740.00                   |
| 1999-2000   | 6,507,868.00                   |
| 2000-2001   | 6,621,182.00                   |
| 2001-2002   | 7,314,554.00                   |
| 2002-2003   | 8,365,472.00                   |
| 2003-2004   | 10,128,603.00                  |
| 2004-2005   | 12,171,339.00                  |
| 2005-2006   | 13,658,145.00                  |
| 2006-2007   | 12,248,630.00                  |
| 2007-2008   | 11,698,879.00                  |
| 2008-2009   | 8,537,130.00                   |
| 2009-2010   | 7,933,085.00                   |
| 2010-2011   | 8,107,846.00                   |
| 2011-2012   | 8,127,577.00                   |
| 2012-2013   | 8,776,174.00                   |
| 2013-2014   | 10,391,897.00                  |
| 2014-2015   | 11,041,554.00                  |
| 2015-2016   | 10,618,462.00                  |
| 2016-2017   | 11,987,994.00                  |
| 2017-2018   | 12,036,497.00                  |
| 2018-2019   | 12,852,830.00                  |

# PROPERTY TAX

First Year Enacted 1863

West Virginia Code Citation

Chapter 11, Article 1A, Sections 1-30 inclusive; Chapter 11, Article 1B, Sections 1-19 inclusive; Chapter 11, Article 1C, Sections 1-14 inclusive; Chapter 11, Article 2, Sections 1-9 inclusive, Section 11; Chapter 11, Article 3, Sections 1-33 inclusive; Chapter 11, Article 4, Sections 1-20 inclusive; Chapter 11, Article 5, Sections 1-14 inclusive; Chapter 11, Article 6, Sections 1-7 inclusive, Sections 9-27 inclusive; Chapter 11, Article 6A, Sections 1-5 inclusive; Chapter 11, Article 6B, Sections 1-12 inclusive; Chapter 11, Article 6C, Sections 1-5 inclusive; Chapter 11, Article 6E, Sections 1-6 inclusive; Article 6F, Sections 1-6 inclusive; Chapter 11, Article 6G, Sections 2-18 inclusive; Chapter 11, Article 6H, Sections 1-7 inclusive; Chapter 11, Article 6J, Sections 1-7 inclusive; Chapter 11, Article 6K, Sections 1-8 inclusive, Chapter 11, Article 8, Article 8, Sections 1-16 inclusive, Section 16A repealed (Effective June 6, 2014), Sections 17-33 inclusive

## General Provisions

Property taxes or ad valorem taxes are levied upon all real and personal property. It is one of the oldest forms of taxation. Through history, ad valorem taxes were the chief source of revenue for governments. The constitution of the State has limited and specified law on ad valorem taxes (WV Constitution, Article X). Amendments allow voter ratification in each county for increases above the maximum rate set in law. State government cannot increase the rate.

Revenues derived from property taxes accrue to the State, counties, municipalities, and county school boards. Rates vary among the counties as do the percentages of assessed appraised valuations.

Real estate is assessed at the place of location, and personal property is assessed at the domicile of the owner, but goods, wares and chattels may be assessed in the district where they are located on the assessment date. Chattel interests in real and personal property are now deemed to be tangible personal property and are taxed as such.

There are special assessment methods for valuation applied to certain manufacturing production property and capital additions to that property. Natural resources are also valued by a special assessment method. The State Tax Commissioner is responsible for these valuations.

There are also special assessment procedures for managed timberland that is used for commercial production (WV Code 11-1C-11a).

Public service utilities send their returns to the State Tax Commissioner. The property of such companies is apportioned throughout the several counties in which it operates and is then subdivided into the municipal districts within the county. The State Auditor computes the taxes, based upon the assessed valuation made by the Board of Public Works and by using the tax levies as approved by the levying bodies in each county. Taxes are collected by the State Auditor and distributed to the counties.

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## Basis and Rate of Tax

Each county assessor is responsible for assessing real and personal property in the county. The real properties are re-evaluated every three years. The assessed valuations are 60 percent of the actual market value of the property.

Maximum Rates: Class I (intangible personal property, exempted in 2003; agriculture products, and tangible property used in agricultural production, exempted in 2008) Fifty Cents per \$100.00 of valuation. Class II (all property owned, used and occupied by the owner for residential purposes, all farm lands) One Dollar per \$100.00 of valuation. Class III (All real and personal property outside of municipalities, exclusive of Classes I and II) One Dollar and Fifty Cents per \$100.00 of valuation. Class IV (All real and personal property inside of municipalities, exclusive of Classes I and Class II) Two Dollars per \$100.00 of valuation.

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## Exemptions

Property of the United States government, unless the United States government permits the State of West Virginia to tax it.

Property of the State of West Virginia.

Property owned by any county, district, city, village or town in this state and used for public purposes. Also, property acquired by such political subdivision in a lease agreement.

Property located in this state belonging to any city, town, village, county or any other political subdivision of another state and used for public purposes.

Property used exclusively for divine worship.

Parsonages and the household goods and furniture pertaining to the above divine worship category.

Mortgages, bonds or other evidence of indebtedness held by owners from churches and religious organizations for the sole purpose of securing money to be used in the construction of buildings used exclusively for divine worship.

## Cemeteries

Property which belongs to or held in trust for colleges, seminaries, academies and free schools which is used for the educational and scientific purposes of the institution. This includes books, equipment, and furniture.

Property which belongs to or which is held in trust for colleges and universities located in West Virginia. Also, any public or private nonprofit foundation or corporation which receives contributions exclusively for such college or university, if the property or

## Exemptions Continued

dividends, interest, rents or royalties derived are used or dedicated to educational purposes of institution.

Public and family libraries

Property used for charitable purposes and not leased for profit.

Property used for the public purposes of distributing electricity, water or natural gas or providing sewer service by a chartered nonprofit corporation and not leased for profit.

Property used for economic development purposes and not leased for profit.

Real estate not exceeding one acre and the buildings situated upon the property that are used by any college or university as a literally hall or dormitory or clubroom which is not used for profit.

Property owned by benevolent associations.

Property belonging to any public institution for the education of the deaf, dumb or blind or hospital not leased for profit.

Houses established as refuge and mental health facilities or an orphanage.

Homes established for children, aged, or infirm not for profit.

Fire engines and equipment for fighting fires and storage for those engines and equipment are exempt.

Personal property in the form of household goods and personal effects such as clothing used by taxpayer and not held for profit. Food used for taxpayer consumption.

Money held in bank deposits and cash.

All implements, equipment, machinery, vehicles, supplies, crops and livestock used to engage in commercial farming.

Property owned by a nonprofit organization whose primary purpose is youth development by means of adventure, educational or recreational activities for young people, at nonprofit constructed facility built with the expenditure of not less than \$100 million, which is leased or used to generate revenue for the nonprofit organization whether or not the property is used by the nonprofit organization for its nonprofit purpose, and tangible personal property that is moving in interstate commerce through West Virginia, or which was consigned from a point of origin outside the State to a warehouse within the State for storage in transit to a final destination outside the State.

The homestead exemption program provides for a \$20,000 exemption against the total assessed value of a single-family dwelling, including mobile or manufactured homes, owned and occupied as a residence by any person who is at least sixty-five years of age or totally and permanently disabled and who has legally resided in and paid taxes on a homestead in West Virginia for two consecutive taxable years before filing for this exemption. However, if an owner receives a similar exemption for a homestead in another state, then the owner is ineligible for the Homestead Exemption in West Virginia.

Homeowners who, as a result of illness, accident, or infirmity, reside with a family member or are residents of a nursing home, personal care home, rehabilitation center or similar facility, retain a Homestead Exemption and Class II property designation for their property as long as the property is not used for any other purposes.

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#### Allocation and Use

Property taxes are distributed by the sheriff of each county to:

- The county for all county purposes including indebtedness.
- School districts, for current school purposes.
- Municipalities for municipal purposes including indebtedness.
- The State Auditor to be deposited to the general revenue fund and appropriated by the legislature.



TAXES LEVIED BY PURPOSE SINCE 1991

| TAX YEAR | STATE     | COUNTY      | SCHOOL        | MUNICIPAL   | TOTAL         |
|----------|-----------|-------------|---------------|-------------|---------------|
| 1991     | 1,979,396 | 134,300,793 | 374,327,617   | 42,468,379  | 553,076,185   |
| 1992     | 2,254,729 | 146,539,085 | 414,531,790   | 46,022,019  | 609,347,623   |
| 1993     | 2,526,893 | 160,342,570 | 457,217,400   | 50,510,845  | 670,597,708   |
| 1994     | 2,883,449 | 172,163,376 | 484,093,621   | 54,392,444  | 713,532,890   |
| 1995     | 2,955,793 | 176,875,508 | 497,361,861   | 54,988,991  | 732,182,153   |
| 1996     | 3,142,369 | 189,758,086 | 523,086,694   | 58,790,115  | 774,777,264   |
| 1997     | 3,269,976 | 197,275,867 | 542,989,068   | 62,188,364  | 805,723,275   |
| 1998     | 3,406,615 | 207,532,831 | 563,272,930   | 64,594,347  | 838,806,723   |
| 1999     | 3,503,517 | 216,807,588 | 583,180,923   | 66,465,779  | 869,957,798   |
| 2000     | 3,591,931 | 223,235,061 | 595,968,742   | 69,015,910  | 891,901,644   |
| 2001     | 3,712,765 | 233,618,515 | 617,188,410   | 73,431,355  | 927,951,045   |
| 2002     | 3,876,624 | 244,966,374 | 641,954,188   | 74,896,389  | 965,693,575   |
| 2003     | 4,030,060 | 255,917,924 | 664,880,677   | 72,256,039  | 1,000,084,700 |
| 2004     | 4,091,846 | 259,730,081 | 677,790,889   | 76,104,651  | 1,017,717,467 |
| 2005     | 4,362,526 | 275,742,359 | 715,225,221   | 79,589,482  | 1,074,919,588 |
| 2006     | 4,783,634 | 297,356,091 | 743,951,606   | 95,626,862  | 1,141,718,193 |
| 2007     | 5,351,156 | 328,290,839 | 843,356,672   | 100,366,489 | 1,277,365,156 |
| 2008     | 5,666,782 | 344,661,969 | 890,294,171   | 92,885,200  | 1,333,508,122 |
| 2009     | 5,928,225 | 367,903,396 | 932,299,107   | 95,891,365  | 1,402,022,093 |
| 2010     | 6,066,031 | 381,380,523 | 956,427,263   | 98,782,883  | 1,442,656,700 |
| 2011     | 6,042,911 | 387,113,752 | 928,104,721   | 97,901,570  | 1,419,162,954 |
| 2012     | 6,262,238 | 398,867,977 | 989,885,613   | 101,052,748 | 1,497,068,576 |
| 2013     | 6,675,579 | 421,381,573 | 1,048,140,348 | 106,210,093 | 1,582,407,593 |
| 2014     | 6,763,028 | 427,943,271 | 1,060,323,290 | 114,742,034 | 1,609,771,623 |
| 2015     | 7,101,572 | 451,667,378 | 1,112,862,839 | 115,300,456 | 1,686,932,245 |
| 2016     | 7,331,082 | 468,108,037 | 1,142,098,247 | 117,964,445 | 1,735,501,812 |
| 2017     | 7,148,195 | 458,660,607 | 1,114,318,926 | 120,173,101 | 1,700,300,829 |
| 2018     | 7,229,615 | 466,043,977 | 1,119,904,486 | 122,042,535 | 1,715,220,613 |
| 2019     | 7,574,445 | 488,161,393 | 1,202,263,893 | 125,829,554 | 1,823,829,554 |

STATE OF WEST VIRGINIA ASSESSED VALUATIONS INCLUDES EXEMPTIONS

| TAX YEAR | REAL ESTATE    | PERSONAL PROPERTY | PUBLIC UTILITIES | TOTALS         |
|----------|----------------|-------------------|------------------|----------------|
| 1991     | 12,433,656,975 | 10,629,733,304    | 3,091,051,400    | 26,154,441,679 |
| 1992     | 15,079,444,235 | 11,232,789,929    | 3,468,654,200    | 29,780,888,364 |
| 1993     | 18,236,801,670 | 11,585,420,071    | 3,786,960,800    | 33,609,182,541 |
| 1994     | 23,166,161,630 | 11,920,444,240    | 4,233,361,500    | 39,319,967,370 |
| 1995     | 23,434,028,416 | 12,307,013,413    | 4,501,172,800    | 40,242,214,629 |
| 1996     | 23,482,690,701 | 13,439,311,925    | 4,717,648,900    | 42,639,651,526 |
| 1997     | 25,538,389,122 | 13,604,841,786    | 5,406,802,900    | 44,550,033,808 |
| 1998     | 26,663,623,048 | 13,293,525,974    | 5,552,393,400    | 45,509,542,422 |
| 1999     | 27,707,554,579 | 13,435,848,067    | 5,813,620,634    | 46,957,023,280 |
| 2000     | 29,298,305,833 | 12,784,140,591    | 5,747,981,696    | 47,830,428,120 |
| 2001     | 30,060,696,355 | 13,532,268,416    | 5,820,902,100    | 49,413,866,871 |
| 2002     | 31,668,849,064 | 13,797,081,714    | 5,967,422,177    | 51,433,352,955 |
| 2003     | 33,367,282,366 | 13,872,296,670    | 6,099,365,898    | 53,338,894,934 |
| 2004     | 35,023,914,127 | 13,339,088,794    | 6,167,110,699    | 54,530,113,620 |
| 2005     | 33,877,493,122 | 14,191,693,301    | 6,452,925,258    | 54,522,111,681 |
| 2006     | 37,696,359,279 | 15,447,559,132    | 6,749,933,299    | 59,893,851,710 |
| 2007     | 42,623,318,399 | 17,290,747,908    | 7,129,152,399    | 67,043,218,706 |
| 2008     | 45,381,876,865 | 18,191,014,248    | 7,451,019,700    | 71,023,910,813 |
| 2009     | 51,292,905,359 | 19,020,569,534    | 7,751,793,200    | 78,065,268,093 |
| 2010     | 51,850,106,312 | 19,563,937,657    | 8,141,089,241    | 79,555,133,210 |
| 2011     | 52,102,155,102 | 19,189,182,223    | 8,206,744,740    | 79,498,082,115 |
| 2012     | 53,034,512,928 | 20,400,499,583    | 8,460,701,440    | 81,895,713,951 |
| 2013     | 51,053,719,461 | 22,562,547,162    | 8,950,607,400    | 82,566,874,023 |
| 2014     | 52,758,288,028 | 22,315,992,313    | 9,103,441,100    | 84,177,721,441 |
| 2015     | 54,561,654,163 | 24,092,708,011    | 9,510,910,726    | 88,165,272,900 |
| 2016     | 55,905,541,650 | 25,068,267,262    | 10,026,699,399   | 91,000,508,311 |
| 2017     | 56,575,912,678 | 22,538,391,925    | 10,471,120,600   | 89,585,425,203 |
| 2018     | 57,968,369,702 | 22,227,501,778    | 10,760,440,836   | 90,956,315,316 |
| 2019     | 59,440,448,818 | 24,283,684,338    | 11,188,622,463   | 94,912,755,619 |

STATE OF WEST VIRGINIA PROPERTY TAXES LEVIED SINCE 1991

| YEAR | REAL ESTATE | PERSONAL PROPERTY | PUBLIC UTILITIES | TOTAL         |
|------|-------------|-------------------|------------------|---------------|
| 1991 | 222,135,020 | 251,552,633       | 79,388,532       | 553,076,185   |
| 1992 | 262,734,760 | 260,419,603       | 86,193,260       | 609,347,623   |
| 1993 | 310,324,523 | 267,661,009       | 92,612,176       | 670,597,708   |
| 1994 | 362,329,996 | 254,928,329       | 96,274,565       | 713,532,890   |
| 1995 | 365,179,077 | 265,396,623       | 101,606,453      | 732,182,153   |
| 1996 | 379,147,058 | 289,198,149       | 106,432,057      | 774,777,264   |
| 1997 | 394,692,142 | 289,917,037       | 121,114,096      | 805,723,275   |
| 1998 | 412,965,898 | 299,005,937       | 126,834,888      | 838,806,723   |
| 1999 | 428,756,786 | 307,131,355       | 134,069,658      | 869,957,798   |
| 2000 | 460,852,466 | 297,480,572       | 133,568,606      | 891,901,644   |
| 2001 | 469,768,109 | 321,537,798       | 136,645,139      | 927,951,045   |
| 2002 | 493,615,165 | 331,657,813       | 140,420,598      | 965,693,575   |
| 2003 | 518,708,964 | 337,883,587       | 143,492,149      | 1,000,084,700 |
| 2004 | 541,825,721 | 327,752,160       | 148,139,585      | 1,017,717,466 |
| 2005 | 578,418,858 | 344,433,103       | 152,067,627      | 1,074,919,588 |
| 2006 | 639,099,417 | 374,306,897       | 157,444,884      | 1,170,851,198 |
| 2007 | 695,789,604 | 406,528,123       | 162,803,839      | 1,265,121,566 |
| 2008 | 734,971,195 | 429,893,715       | 168,643,213      | 1,333,508,122 |
| 2009 | 779,378,293 | 447,317,306       | 175,326,494      | 1,402,022,093 |
| 2010 | 798,378,263 | 459,870,671       | 184,407,766      | 1,442,656,700 |
| 2011 | 783,907,725 | 450,293,255       | 184,961,974      | 1,419,162,954 |
| 2012 | 817,764,970 | 483,465,543       | 195,838,062      | 1,497,068,575 |
| 2013 | 847,909,355 | 532,130,812       | 202,367,425      | 1,582,407,593 |
| 2014 | 874,499,625 | 528,808,358       | 206,463,640      | 1,609,771,623 |
| 2015 | 904,348,484 | 568,109,740       | 214,474,021      | 1,686,932,245 |
| 2016 | 921,940,782 | 588,623,881       | 224,937,149      | 1,735,501,812 |
| 2017 | 931,304,795 | 532,938,104       | 236,057,930      | 1,700,300,829 |
| 2018 | 949,315,860 | 523,982,657       | 241,922,096      | 1,715,220,613 |
| 2019 | 988,689,441 | 578,868,314       | 256,271,529      | 1,823,829,285 |

## **INSURANCE TAXES, FEES AND SURCHARGES**

First Year Enacted 1957

WV Code Citation

Chapter 29, Article 3, Section 22; Chapter 33, Article 3, Section 9a; Chapter 33, Article 3, Sections 13, 14, 14A, 14B, 14C, 14D, 15; Chapter 33, Article 6, Section 34; Chapter 33, Article 12, Sections 2, 6, 8, 13, 16 and 28; Chapter 33, Article 20, Section 6; Chapter 33, Article 21, Section 13; Chapter 33, Articles 22, 23, 24, 25, 25A, 25B, 26, 26A and 38; Chapter 33, Article 31, Section 14; Chapter 33, Article 32, Section 5; Chapter 23, Article 2C, Section 3(f)

### General Provisions

The state of West Virginia collects a tax from every insurance company transacting business in the state based upon gross premiums from insurance business in West Virginia, with certain exceptions. Those exceptions include health care corporations, health maintenance organizations, fraternal benefit services and farmer's mutual fire insurance companies.

The main premium tax paid is equal to three percent of the gross annual premiums collected less any allowable adjustments. Two percent of the premium tax is levied in WV Code Chapter 33, Article 3, Section 14; an additional one percent is levied in WV Code Chapter 33, Article 3, Section 14a.

An additional premium tax of one percent of taxable premiums is levied on fire insurance and casualty insurance policies (WV Code 33-3-14d). The purpose of this additional tax is to provide revenue for municipal policemen's and firemen's pension and relief funds and the Teachers Retirement System reserve fund and for volunteer and part volunteer fire companies and departments.

There is a surcharge not classified as an additional premium tax, imposed on the policyholder of any fire insurance policy or casualty insurance policy issued in the state. It is equal to 0.55 percent of the gross premium paid (WV Code 33-3-33(3)). The surcharge is collected by the insurer and is remitted to the insurance commissioner.

The insurance commissioner also collects annual license fees from persons acting as insurers and transacting insurance in West Virginia. This includes producer's and adjuster's licenses.

In addition to license fees, the commissioner is directed to impose fees for: receiving and filing reports; valuation of policies of companies organized in this state and other states; and for each licensed producer.

There is a workers' compensation regulatory surcharge that is determined by the Insurance Commission each year to be collected by the private carriers from their policyholders premiums collected plus the total of all premium discounts based on deductible provisions that were applied as levied in WV Code Chapter 23-2C-3(f). The current rate is equal to 5 percent. This regulatory surcharge is also applied to the self-insured employers payroll which is calculated by dividing the previous year's self-insured

payroll in the state into the portion of the Insurance Commissions budget amount attributable to regulation of the self-insured employer market as levied in WV Code Chapter 23-2C-3(f). This current rate is .14 percent.

An annuity tax is imposed based upon the gross amount of annuity considerations collected and received by life insurers on business transacted in this state. The tax is calculated on the gross annuities received less the annuity considerations returned and less termination allowances on group contracts. The result is taxed at one percent. (WV Code 33-3-15)

There is also a minimum annual tax imposed upon insurers. Each licensed insurer must pay a minimum of \$200.00 yearly for taxes imposed in West Virginia Code Chapter 33, Article 3. All licenses and fees are subject to retaliation per W.Va. Code 33-33-16.

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#### Amounts of Licenses and Fees

- Annual fee for each license: \$200.00 (company)
- Fee for receiving and filing annual reports: \$100.00 (company)
- Valuation of policies of life insurers in state: One and one half cents per \$1,000.00 of insurance.
- Valuation of policies of life insurers not organized in this state, but have license to do business in this state: fee is same for each \$1,000.00 as the state in which company is organized.
- Filing of certified copies of articles of incorporation: \$50.00
- Filing of statements preliminary admission: \$100.00 (company)
- Filing copy of charter: \$50.00
- For filing of any additional paper required by law or furnishing copies: \$1.00
- For every certificate of valuation, copy of report or certificate of condition of company to be filed in any other state: \$15.00
- Each licensed Producer: \$50.00 (individual - annually)
- For each form filing: \$50.00 (individual)
- For every rate increase: \$75.00
- Adjuster's license: \$25.00 (individual)
- Business Entity license: \$200.00 (business)
- Surplus line broker: \$200.00 (individual)
- Certificate of good standing: \$15.00 (company)
- Copy of certificate of authority: \$15.00 (company)
- Letter of Clearance: \$10.00 (individual)
- Letter of Certification: \$5.00 (individual)

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#### Allocation and Use

All fees and assessments are deposited to special revenue except for special purposes as outlined in statute. All premium, annuity and minimum taxes are deposited in the general revenue fund except for special purposes as outlined in statute.

INSURANCE COMMISSION FEES AND TAXES COLLECTED 2019

| REVENUES                                      | COLLECTIONS 2019 |
|---|------------------|
| General Revenues:                             |                  |
| Insurance Taxes                               | 128,049,651.06   |
| Fines and Penalty Fees                        | 541,347.51       |
| Examination Fees                              | 516,375.00       |
| TOTAL GENERAL                                 | 129,107,373.57   |
| Special Revenues:                             |                  |
| Municipal Pensions and Protection Fund        | 30,816,675.38    |
| Fire Marshal                                  | 2,130,494.00     |
| Fire Protection Fund                          | 14,965,354.15    |
| Filings Fees                                  | 17,319,212.35    |
| Workers' Compensation Regulatory Surcharge    | 18,276,808.17    |
| Departmental and Miscellaneous Revolving Fund | 903,000.00       |
| Total Special Revenue                         | 84,411,544.05    |

## DEPARTMENTAL COLLECTIONS

First year enacted: various years depending upon fee

West Virginia Code Citation:

Chapter 59, Article 1, Sections 1-39 inclusive

Various code sections specifically related to certain departments and agencies

### General Provisions

Certain officers and departments of the state are required to collect fees for services and goods provided to other state departments and the private sector. Some of the departmental collections are dedicated specifically in statute to certain special revenue funds. Some of these fees not retained by the specific department authorized to collect them are to be deposited with the state treasurer for deposit in the general revenue fund. The majority of these collections are derived from fees charged by the various constitutional officers: auditor's office, secretary of state's office, clerk of the Supreme Court and attorney general.

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### Departmental Collections from 1991 to present

| Fiscal Year | Departmental Collections to General Revenue |
|-------------|---|
| 1990-91     | \$ 5,277,380.00                             |
| 1991-92     | 5,254,919.00                                |
| 1992-93     | 4,907,900.00                                |
| 1993-94     | 6,716,996.00                                |
| 1994-95     | 5,084,374.00                                |
| 1995-96     | 7,352,478.00                                |
| 1996-97     | 8,206,218.00                                |
| 1997-98     | 9,585,635.00                                |
| 1998-99     | 9,849,758.00                                |
| 1999-2000   | 11,105,260.00                               |
| 2000-2001   | 11,124,538.00                               |
| 2001-2002   | 9,518,087.00                                |
| 2002-2003   | 10,270,287.00                               |
| 2003-2004   | 18,465,862.00                               |
| 2004-2005   | 13,070,692.00                               |
| 2005-2006   | 13,834,314.00                               |
| 2006-2007   | 14,701,687.00                               |
| 2007-2008   | 16,219,539.00                               |
| 2008-2009   | 14,597,288.00                               |
| 2009-2010   | 14,806,907.00                               |
| 2010-2011   | 15,839,617.00                               |
| 2011-2012   | 16,540,654.00                               |
| 2012-2013   | 16,373,731.00                               |
| 2013-2014   | 17,510,584.00                               |

| Fiscal Year | Departmental Collections to General Revenue |
|-------------|---|
| 2014-2015   | 18,223,107.61                               |
| 2015-2016   | 19,029,133.79                               |
| 2016-2017   | 19,133,777.91                               |
| 2017-2018   | 22,554,134.53                               |
| 2018-2019   | 22,756,030.84                               |



# CORPORATION NET INCOME TAX

First year enacted 1967

West Virginia Code Citation:

Chapter 11, Article 24, Sections 1 through 43 inclusive

## General Provisions

The West Virginia Corporation Net Income Tax adopted many provisions of the laws of the United States Internal Revenue Code relating to the determination of income for federal tax purposes. The purpose of the adoption of these provisions was to simplify preparation of State Corporation Net Income Tax returns for taxpayers, improve enforcement of the State Corporation Net Income Tax through better use of information obtained from federal income tax audits, and to aid interpretation of the State Corporation Net Income Tax law through increased use of federal judicial and administrative law determinations and precedents. Annually the State Corporation Net Income Tax is updated to reflect changes in the federal tax code.

In a special legislative session in November 2006, the rate was lowered to 8.75% effective for taxable years after January 1, 2007. In the 2008 session the rate was revised downward as follows: 1) Taxable periods beginning on or after January 1, 2009, the tax was decreased to 8.5%. 2) Taxable periods beginning on or after January 1, 2012 it was decreased to 7.75%. 3) Taxable periods beginning on or after January 1, 2013 it was decreased to 7.0%. 4) Taxable periods beginning on or after January 1, 2014 it was decreased to 6.5%.

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## Persons Required to File Returns and Pay Tax

All domestic or foreign corporations engaging in business in this state or deriving income from property, activity or other sources must file a return and pay the tax if applicable. Certain types of corporations are specifically exempt.

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## Basis of Tax

The tax is based upon the taxable income as defined by the laws of the United States for federal income tax purposes with certain adjustments to determine its West Virginia taxable income. Provisions are also made for corporations having income from business activity which is taxable outside of West Virginia, in order that its West Virginia taxable income shall be apportioned to its actual business activity within West Virginia.

Amendments to the apportionment laws in 2007, allowed corporations engaged in a unitary business to apportion West Virginia taxable income to an allocable share of the combined net income of the group. Corporations which are subject to taxation in West Virginia and one or more other states use an apportionment formula to determine taxable income. The formula weighs three factors: payroll, sales and property. Sales carry 50%

of the formula, property 25% and payroll 25%. Income that does not relate to the taxpayer's line of business is not apportioned (rents, royalties, patents, capital gains and losses from sales of property in West Virginia, interest and dividends).

Motor carriers and financial corporations have specific apportionment rules. These rules relate to mileage in the case of motor carriers, and gross receipts in the case of financial institutions.

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## Exemptions

- Corporations which by reason of their purposes or activities are exempt from federal income tax
- Insurance companies which pay West Virginia premium taxes and pay surcharge premiums
- Production credit associations organized under the provisions of the federal Farm Credit Act of 1933
- Corporations electing to be taxed as subchapter S of the IRS code of 1986
- Trusts established pursuant to [29-USCS 186] of the United States

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## Basis

The basis is the federal adjusted gross income plus or minus modifications.

Increasing modifications:

- Interest or dividends on obligations or securities of any state or its political subdivisions
- Interest or dividends to the extent not deducted in determining federal taxable income, on obligations or securities of any authority of the United States which are not used in determining federal adjusted gross income
- Income taxes and other taxes, including franchise and excise taxes, which are based upon or computed with reference to net income imposed by West Virginia or any other taxing jurisdiction to the extent deducted in determining federal taxable income
- The amount of unrelated business taxable income of a corporation which by its purpose is generally exempt from federal income taxes
- The amount of any net operating loss deduction taken for federal income tax purposes under Section 172 of the IRS Code of 1986
- Any amounts derived from net operating losses that are allocated outside of the United States
- The amount of foreign taxes deducted in determining federal adjusted gross income
- Dividend paid deductions otherwise allowed by federal law in computing net income of certain real estate investment trusts (REIT) or of certain regulated Investment companies.
- Federal deductions or amortization if the taxpayer elects to fully expense the cost of acquisition, construction, or development of a certified pollution control facility, as defined by Section 160 of the Internal Revenue Code

#### Decreasing Modifications:

- The amount of any refund or credit for overpayment of income taxes and other taxes, including franchise and excise taxes, which are based upon or computed with reference to net income, imposed by West Virginia or any other taxing jurisdiction to the extent properly included in gross income.
  - The full amount of interest expense disallowed in determining federal taxable income which was incurred or continued to purchase or carry obligations or securities of any state or political subdivision of the state
  - The amount required to be added to federal taxable income as a dividend received from a foreign corporation under Section 78 of the IRS Code
  - The amount of salary expenses disallowed as a deduction for federal income tax purposes due to claiming the federal jobs credit under Section 51 of the IRS Code
  - The amount included in federal adjusted gross income from foreign source income
  - Cost of West Virginia water/air pollution control facilities
  - Employer contributions to West Virginia medical savings accounts
- 

#### Credits

- Economic Opportunity Tax Credit
  - Manufacturing Investment Tax Credit
  - Apprenticeship Training Tax Credit
  - WV Film Industry Investment Act (No new credit after July 1, 2018)
  - Manufacturing Property Tax Adjustment Credit
  - Historic Rehabilitated Buildings Investment Credit
  - Neighborhood Investment Program Credit
  - Military Employment Incentive Credit
  - Environmental Agricultural Equipment Credit
  - WV Innovative Mine Safety Technology Tax Credit
  - Credits for reducing utility charges to low income customers
  - Credit for reducing telephone charges to low income customers
  - Farm to Food Bank Tax Credit
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#### Allocation

Corporation Net Income Tax is deposited to the general revenue fund of the State. Portions may be dedicated in West Virginia Code for specific uses for a specific time period. (WV Code 11-24-43 and 11-24-43a)

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History of Collections

Beginning in Fiscal Year 2004, Corporation Net Income Tax was combined with Business Franchise Tax for one return. (WV Code 11-24-13(c))

| FISCAL YEAR | AMOUNT COLLECTED |
|-------------|------------------|
| 1990-1991   | \$ 75,756,120.00 |
| 1991-1992   | 74,477,134.00    |
| 1992-1993   | 71,957,021.00    |
| 1993-1994   | 70,360,191.00    |
| 1994-1995   | 73,323,355.00    |
| 1995-1996   | 78,865,340.00    |
| 1996-1997   | 90,580,982.00    |
| 1997-1998   | 81,421,740.00    |
| 1998-1999   | 95,427,485.00    |
| 1999-2000   | 100,788,394.00   |
| 2000-2001   | 101,402,566.00   |
| 2001-2002   | 132,842,399.00   |
| 2002-2003   | 95,369,891.00    |

FISCAL YEAR 2003-2004 AND FORWARD ONE RETURN FOR BUSINESS FRANCHISE TAX AND CORPORATION NET INCOME TAX

| FISCAL YEAR | COMBINED CORPORATION NET INCOME TAX AND BUSINESS FRANCHISE TAX | SPECIAL REVENUE  |
|-------------|--|------------------|
| 2003-2004   | \$ 181,515,211.00  |                  |
| 2004-2005   | 280,788,003.00   |                  |
| 2005-2006   | 347,569,611.00   |                  |
| 2006-2007   | 358,388,437.00   | \$ 10,000,000.00 |
| 2007-2008   | 388,017,365.00   | 12,150,000.00    |
| 2008-2009   | 270,237,027.00   | 14,300,000.00    |
| 2009-2010   | 232,859,163.00   | 4,300,000.00     |
| 2010-2011   | 302,977,776.00   | 4,300,000.00     |
| 2011-2012   | 188,085,447.00   | 4,300,000.00     |
| 2012-2013   | 238,129,821.00   | 4,300,000.00     |
| 2013-2014   | 203,508,473.00   | 0.00             |
| 2014-2015   | 186,101,080.00   | 4,300,000.00     |
| 2015-2016   | 143,605,086.00   | 2,150,000.00     |
| 2016-2017   | 116,305,568.00   | 0.00             |
| 2017-2018   | 110,068,206.00   | 0.00             |
| 2018-2019   | 198,031,543.00   | 0.00             |

## MISCELLANEOUS INCOME AND TRANSFERS

West Virginia Code Citation:

Various code sections specifically related to certain departments and agencies

The general revenue fund receives money from departments and agencies that collect fees. The general revenue fund receives either a specific portion of fees as they are collected by the department or agency, or amounts of money remaining in the departments or agencies special revenue funds at the close of the fiscal year. Some statutes are specific regarding the utilization of this money. Some statutes state that money in specific accounts cannot be transferred to the general revenue fund.

Examples of some of the fees and collections remitted to general revenue are as follows:

Lottery Transfers of Profits Chapter 29, Article 22 General Lottery; Chapter 29, Article 22A Video Lottery; Chapter 29, Article 22B Limited Video Lottery; Chapter 29, Article 22C Lottery Racetrack Table Games Act; Chapter 29, Article 25 Authorized Gaming Facility

Lottery Transfers for Decals Chapter 29, Article 22A, Section 14 (f)

Attorney General Fees Chapter 5, Article 3, Section 5; Chapter 47, Article 18, Section 19; Chapter 47, Article 18, Section 17(h)

Interest on Investments Chapter 12, Article 1, Section 12

Marriage License Chapter 59, Article 1, Section 10 (10) (1)

Federal Reimbursements Chapter 15, Article 5, Section 13

Departmental Collections Secretary of State Chapter 59, Article 1, Section 3; Chapter 46, Article 9, Section 525; Chapter 29, Article 19, Section 5

Departmental Collections Auditors Office Public Utility Division Chapter 11, Article 6, Section 26

Auditors Office Securities Registration Division Chapter 32, Article 4, Section 406(b)

Treasurer's Office Miscellaneous and Close of Inactive Accounts and Prior Years Expiring Funds Chapter 12, Article 4, Section 2 and Chapter 12, Article 4, Section 16; Unclaimed Property Chapter 36, Article 8, Section 13, Chapter 36, Article 8A, Section 6

Circuit Clerk Fees (Numerous Fees) Example: Public Defender reimbursements from clients Chapter 29, Article 21, Section 16; Probation fees from offenders Chapter 62, Article 12, Section 9 (5)

Agriculture Chapter 19, 12A, Section 6a

Purchasing Division Chapter 5A, Article 3, Section 45; Chapter 5A, Article 3, Section 16 (2)

Barbers and Cosmetologists fines Chapter 30, Article 27, Section 7 (c)

Environmental Protection Chapter 22, Article 12, Section 9(a)

Alcoholic Beverage Control Commission Revocation of Licenses Chapter 11, Article 16, Section 23 (b)

Division of Banking Chapter 31A, Article 2, Section 8

Division of Labor Chapter 21, Article 12, Section 4

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Miscellaneous Collections Beginning Fiscal Year 1990-1991

| Fiscal Year | Amount Collected |
|-------------|------------------|
| 1990-91     | \$ 35,271,971.00 |
| 1991-92     | 15,435,991.00    |
| 1992-93     | 29,476,816.00    |
| 1993-94     | 18,445,401.00    |
| 1994-95     | 52,789,750.00    |
| 1995-96     | 37,994,504.00    |
| 1996-97     | 21,411,870.00    |
| 1997-98     | 31,239,896.00    |
| 1998-99     | 24,036,237.00    |
| 1999-2000   | 23,522,443.00    |
| 2000-2001   | 38,296,719.00    |
| 2001-2002   | 75,232,517.00    |
| 2002-2003   | 148,522,399.00   |
| 2003-2004   | 166,094,415.00   |
| 2004-2005   | 287,315,641.00   |
| 2005-2006   | 121,910,066.00   |
| 2006-2007   | 139,791,935.00   |
| 2007-2008   | 140,108,204.00   |
| 2008-2009   | 178,158,601.00   |
| 2009-2010   | 155,269,240.00   |
| 2010-2011   | 162,279,855.00   |
| 2011-2012   | 145,750,058.00   |
| 2012-2013   | 113,296,738.00   |
| 2013-2014   | 135,227,959.00   |
| 2014-2015   | 125,584,602.00   |
| 2015-2016   | 247,808,024.93   |
| 2016-2017   | 192,960,957.35   |
| 2017-2018   | 134,405,116.20   |
| 2018-2019   | 129,939,521.14   |

## SEVERANCE TAX

First year enacted 1987

WV Code Citation:

Chapter 11, Article 12B, Sections 1 through 18 inclusive (Minimum Severance Tax on Coal)

Chapter 11, Article 13A, Sections 1 through 24 inclusive (Entitled Severance and Business Privilege Tax Act)

Chapter 11, Article 13V, Sections 1 through 17 inclusive (Entitled Workers' Compensation Debt Reduction Act)

Chapter 31, Article 15A, Section 16

The Severance Tax was enacted when the West Virginia business tax structure was revised during the 1985 legislative session. The Business and Occupation Tax was narrowed in scope from a tax on all business gross receipts to apply to utility and power producing businesses, gas storage and synthetic fuel producers. The Severance Tax levied via W. Va. Code §11-13A-1 et seq. was enacted to apply to businesses that sever or extract natural resources. The Severance Tax levied via W. Va. Code §11-13V-1 et seq. was enacted in 2005 and applied to producers of coal, natural gas and timber effective December 1, 2005. A subsequent amendment extended the tax to coalbed methane and methane produced from or by a coalbed methane well effective January 1, 2009.

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### Persons Required to File Return and Pay Tax

Any individual, partnership, joint venture, association, corporation, receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind engaged in the business of severing, or processing (or both) of natural resources in this state for sale or use.

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### Regular Severance Tax (i.e., W. Va. Code §11-13A-1 et seq.) Rates

| Item   | Tax Rate on Gross Receipts   |
|--|--|
| Coal* - General                                | 5.0%   |
| Coal* – Underground thin-seam                  | 2.0% for average seam thickness of 37 inches to 45 inches; 1% for average seam thickness of less than 37 inches. |
| Oil  | 5.0%   |
| Natural gas                                    | 5.0%   |
| Coal bed Methane                               | 5.0%   |
| Sand, gravel, or mineral not mined or quarried | 5.0%   |
| Blast Furnace Slag                             | 5.0%   |

|                         |  |
|-------------------------|--|
| Timber                  | 1.5% (effective July 1, 2016 and expires July 1, 2019) |
| Waste coal              | 2.5%   |
| Other natural resources | 5%   |
|                         |  |

\*The above rates for coal include an additional Severance Tax that is collected for the counties and municipalities by the State Tax Department. The local government rate is 35 cents per \$100.00.

Additional Workers' Compensation Debt Reduction Severance Tax (i.e., W. Va. Code §11-13V-1 et seq.) Rates\*\*

| Item             | Tax Rate                                    |
|------------------|---|
| Coal             | \$0.56 per ton                              |
| Natural gas      | \$0.047 per mcf                             |
| Coal bed Methane | \$0.047 per mcf (Effective January 1, 2009) |
| Timber           | 2.78% of gross receipts                     |

\*\*The above rates ended effective July 1, 2016.

There is a minimum coal Severance Tax imposed by Chapter 11, Article 12B. That minimum Severance Tax is seventy-five cents per ton. Credit is allowed against the coal Severance Tax liability calculated in Chapter 11, Article 13, Sections 1-24. Credit is not allowed against the portion of Severance Tax imposed by counties and municipalities.

#### Current Credits Applied to Severance Tax

Taxpayers subject to Severance and Business Privilege Taxes are allowed an annual credit of \$ 500.00. (WV Code 11-13A-10)

There is a tax credit allowed for coal loading facilities (WV Code 11-13E-1 et seq.).

#### Allocation and Use

Unless otherwise noted as below, proceeds are deposited in the general revenue fund.

Ten percent of the collections of oil and gas Severance Tax are distributed to the counties and municipalities. The monies are allocated according to the formula in WV Code 11-13A-5a.

Timber Severance Taxes are dedicated to the Division of Forestry, except for timber Severance Tax collected under WV Code 11-13V-4; this amount is deposited to the credit of the Workers' Compensation Debt Reduction Act.

Taxes collected for coal bed methane severance of up to \$4 million per year are allocated for infrastructure. Allocated amounts are paid to county commissions or county development authorities.



Taxes collected on privilege of extracting and recovering material from refuse, gob piles and other sources to produce coal are distributed to waste coal producing counties.

The portion of the regular tax coal attributable to the \$0.35 per \$100 rate included in the total tax rate is allocated to the counties and municipalities according to statute. It is allocated according to WV Code 11-13A-6 with 75% for coal-producing counties and 25% to all counties and municipalities.

Five percent of regular coal Severance Tax collected is dedicated for the use of the coal producing counties. Phase in of 5% is as follows: 1% effective July 1, 2012; 2% effective July 1, 2013; 3% effective July 1, 2014; 4% effective July 1, 2015; 5% effective July 1, 2016 and thereafter. The aggregate total is \$ 20 million or less annually.

Special Revenue in the chart below includes local government tax distributions, Timber Severance Tax and Workers Compensation Debt Fund Severance Tax collections. Deposits into the West Virginia Infrastructure General Obligation Debt Service Fund began on July 1, 1995, and as of that time were no longer reported as collections of the General Revenue Fund.

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Collections of Severance Tax

| Fiscal Year | General Revenue | Special Revenue | Infrastructure Bond Fund |
|-------------|-----------------|-----------------|--------------------------|
| 1994-1995   | 176,756,209.00  | 17,468,373.00   | \$0.00                   |
| 1995-1996   | 158,932,334.00  | 17,560,060.00   | 16,000,000.00            |
| 1996-1997   | 176,947,493.00  | 19,761,849.00   | 16,000,000.00            |
| 1997-1998   | 175,241,182.00  | 20,361,877.00   | 16,000,000.00            |
| 1998-1999   | 148,358,013.00  | 22,334,185.00   | 24,000,000.00            |
| 1999-2000   | 148,674,134.00  | 19,096,222.00   | 24,000,000.00            |
| 2000-2001   | 163,202,899.00  | 19,055,767.00   | 24,000,000.00            |
| 2001-2002   | 166,513,100.00  | 21,925,898.00   | 24,000,000.00            |
| 2002-2003   | 162,313,803.00  | 20,792,440.00   | 24,000,000.00            |
| 2003-2004   | 184,354,000.00  | 22,309,560.00   | 24,000,000.00            |
| 2004-2005   | 248,067,923.00  | 29,279,063.00   | 24,000,000.00            |
| 2005-2006   | 314,726,682.00  | 75,736,704.00   | 24,000,000.00            |
| 2006-2007   | 312,245,598.00  | 145,251,197.00  | 24,000,000.00            |
| 2007-2008   | 338,176,521.00  | 161,943,145.00  | 24,000,000.00            |
| 2008-2009   | 359,578,255.00  | 171,829,088.00  | 24,000,000.00            |
| 2009-2010   | 400,590,519.00  | 134,168,211.00  | 24,000,000.00            |
| 2010-2011   | 440,874,576.00  | 140,170,441.00  | 24,000,000.00            |
| 2011-2012   | 467,901,853.00  | 145,241,420.00  | 24,000,000.00            |
| 2012-2013   | 409,672,785.00  | 140,896,598.00  | 24,000,000.00            |
| 2013-2014   | 488,685,518.00  | 136,538,277.00  | 23,000,000.00            |
| 2014-2015   | 414,172,499.00  | 178,479,506.00  | 23,000,000.00            |
| 2015-2016   | 276,440,503.00  | 160,236,232.00  | 22,500,000.00            |
| 2016-2017   | 321,030,777.00  | 50,499,551.00   | 22,050,000.00            |
| 2017-2018   | 345,913,518.00  | 44,595,941.00   | 19,377,000.00            |
| 2018-2019   | 462,451,099.00  | 51,704,834.00   | 20,557,000.00            |

# BUSINESS FRANCHISE TAX

NO TAX DUE FOR TAXABLE YEARS BEGINNING ON AND AFTER JANUARY 1, 2015

First Year Enacted 1987

WV Code Citation:

Chapter 11, Article 23, Sections 1 through 28 inclusive

## General Summary

The Business Franchise Tax was enacted during the restructuring of the State tax system in 1985, when the legislature repealed the Business and Occupation Tax as it applied to non-utility and non-power companies. The Business Franchise Tax is a tax upon the privilege of doing business in West Virginia. It is not an ad valorem tax imposed on the property of corporations and partnerships in West Virginia. The tax base is the capital of the corporation (which is calculated as the average value of the common and preferred stock, the amount of paid in or capital surplus, the amount of appropriated and non-appropriated retained earnings, less the cost of treasury stock). Partnerships are taxed upon the average of the beginning and ending partners' capital balances.

Legislation in 2006 allowed for the gradual reduction in Business Franchise Tax rates over a period of several years. Effective for taxable years beginning on or after January 1, 2015, the Business Franchise Tax rate will be zero percent. Prior to termination, every domestic corporation, every corporation having its commercial domicile in West Virginia, every foreign or domestic corporation owning or leasing real or tangible personal property located in the state or doing business in the state was required to file and pay tax. Business Franchise Tax was also imposed on partnerships owning or leasing real or tangible property in West Virginia or doing business in the state.

---

## Rate of Business Franchise Tax

Business Franchise Tax rates are being gradually reduced on an annual basis as follows:

| Taxable Year Beginning | Rate                                   |
|------------------------|--|
| January 1, 2007        | Greater of \$50.00 or .55% of tax base |
| January 1, 2009        | Greater of \$50.00 or .48% of tax base |
| January 1, 2010        | Greater of \$50.00 or .41% of tax base |
| January 1, 2011        | Greater of \$50.00 or .34% of tax base |
| January 1, 2012        | Greater of \$50.00 or .27% of tax base |
| January 1, 2013        | Greater of \$50.00 or .20% of tax base |
| January 1, 2014        | Greater of \$50.00 or .10% of tax base |
| January 1, 2015        | No tax                                 |

---

Allocation and Use

Deposited to the general revenue fund and appropriated by the legislature.

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Collections

| Fiscal Year | Business Franchise Tax Collected |
|-------------|----------------------------------|
| 1991-1992   | \$ 75,756,120.00                 |
| 1992-1993   | 71,957,021.00                    |
| 1993-1994   | 70,360,191.00                    |
| 1994-1995   | 73,323,355.00                    |
| 1995-1996   | 78,865,340.00                    |
| 1996-1997   | 90,580,982.00                    |
| 1997-1998   | 81,421,740.00                    |
| 1998-1999   | 95,427,485.00                    |
| 1999-2000   | 100,788,394.00                   |
| 2000-2001   | 101,402,566.00                   |
| 2001-2002   | 132,842,399.00                   |
| 2002-2003   | 95,369,891.00                    |

As of fiscal year 2004, Corporation Net Income Tax and Business Franchise Tax were combined in one tax return.

| Fiscal Year | Combined Corporate Net and Business Franchise Amounts |
|-------------|---|
| 2003-2004   | \$ 181,515,211.00                                     |
| 2004-2005   | 280,788,003.00  |
| 2005-2006   | 347,569,611.00  |
| 2006-2007   | 358,388,437.00  |
| 2007-2008   | 388,017,365.00  |
| 2008-2009   | 270,237,027.00  |
| 2009-2010   | 232,859,163.00  |
| 2010-2011   | 302,977,776.00  |
| 2011-2012   | 188,085,447.00  |
| 2012-2013   | 238,129,821.00  |
| 2013-2014   | 203,508,473.00  |
| 2014-2015   | 186,101,080.00  |
| 2015-2016   | 143,605,086.00  |
| 2016-2017   | 116,305,568.00  |
| 2017-2018   | 110,068,206.00  |
| 2018-2019   | 198,031,542.00  |

STATE ROAD FUND  
DETAILED ANALYSIS  
OF REVENUE SOURCES  
FISCAL YEAR 2018-2019

## **ARTICLE VI, SECTION 52**

### **THE CONSTITUTION OF WEST VIRGINIA**

#### **REVENUES APPLICABLE TO ROADS**

Revenue from gasoline and other motor fuel excise and license taxation, motor vehicle registration and license taxes, and all other revenue derived from motor vehicles or motor fuels shall, after deduction of statutory refunds and cost of administration and collection authorized by legislative appropriation, be appropriated and used solely for construction, reconstruction, repair and maintenance of public highways, and also the payment of the interest and principle on all road bonds heretofore issued or which may be hereafter issued for the construction, reconstruction or improvement of public highways, and the payment of obligations incurred in the construction, reconstruction, repair and maintenance of public highways.

## **CLASSIFICATION BASIS FOR VEHICLES FOR PURPOSES OF REGISTRATION AND TAX COLLECTIONS**

Class A Motor vehicle of passenger type and trucks with a gross weight of not more than 10,000 pounds.

Class B Motor vehicles designated as trucks with a gross weight of more than 10,000 pounds, truck tractors, or road tractors.

Class C All trailers and semi-trailers except those house trailers and trailers or semi-trailers designed to be drawn by Class A motor vehicles and having a gross weight less than 2,000 pounds.

Class G Motorcycles and parking enforcement vehicles

Class H Motor vehicles operated regularly for the transportation of persons for compensation, under a certificate of convenience and necessity or contract carrier permit issued by the Public Service Commission.

Class J Motor vehicles operated for transportation of persons for compensation by common carriers, not running over a regular route or between fixed termini.

Class M Mobile equipment as defined in subdivision (00), Section 1, Article 1 of Chapter 17A of the West Virginia Code: "every self-propelled vehicle not designed or used primarily for the transportation of persons or property over the highway, but which may infrequently or incidentally travel over the highways among job sites, equipment storage sites or repair sites, including farm equipment, implements of husbandry, well-drillers, cranes and wood sawing equipment." Class M was added in 1997.

Class R House trailers

Class T Trailers of semi-trailers of a type designed to be drawn by Class A vehicles and having a gross weight of less than 2,000 pounds.

Class X Farm Truck Motor vehicles designated as trucks having a minimum gross weight of more than 8,000 pounds and a maximum gross weight of 80,000 pounds, used exclusively in the conduct of a farming business, engaged in the production of agricultural products by means of (a) the planting, cultivation and harvesting of agricultural, horticultural, vegetable or other products of the soil; or (b) the raising, feeding and care of livestock, poultry, bees, and dairy cattle. A farm truck may be used only for the transportation of agricultural products produced by the owner of the truck, for the transportation of agricultural supplies used in the production or for private passenger use.

**Antique Motor Vehicles** Any motor vehicle over twenty-five years old, and is owned solely as a collector's item and for participation in club activities. In no event is the vehicle to be used for general transportation. Antique motorcycles must be over thirty-five years old.

**Operator Amateur Radio Station** Any owner of a motor vehicle who is a West Virginia resident, and holds an unrevoked and unexpired official amateur radio station license issued by the FCC may apply for a special registration plate for a class A motor vehicle which, in lieu of the registration numbers required by law, shall be inscribed with the official amateur radio call letters of the applicant as signed by the FCC. An extra fee of ten dollars will be charged in addition to the class A fees.

## **MOTOR VEHICLE AND OPERATOR LICENSE**

First Year enacted 1917

West Virginia Code Citation:

Chapter 17A, Article 1, inclusive

Chapter 17A, Article 2, Sections 13 and 21

Chapter 17A, Article 3, Sections 1 through 24

Chapter 17A, Article 4, Sections 1, 5 and 10

Chapter 17A, Article 4A, Section 10

Chapter 17A, Article 5, Section 1

Chapter 17A, Article 6, Sections 1 through 26

Chapter 17A, Article 7, Sections 1 through 3

Chapter 17A, Article 9, Section 7

Chapter 17A, Article 10, Section 1 through 16

Chapter 17B, Article 2, Sections 1 through 15

Chapter 17C, Article 13, Section 6

Chapter 17D, Article 2, Section 2

Fees collected by the Commissioner of Motor Vehicles under this heading include:

- Certificate of title
- Registration
- Dealers', wreckers' and auction licenses
- Instruction permit fees and
- Operators and commercial licenses
- Lien Recording
- License Services

---

### **Certificate of Title**

A title to a vehicle is the certificate showing ownership. Every motor vehicle, semi trailer, pole trailer and recreational vehicle must be titled and registered.

Title fees include:

- Ten dollar title fee
- Ten dollar lien fee if applicable



- License plate registration fee of fifty dollars
- A six percent sales tax on vehicles purchase for more than \$500.00 or a \$30.00 sales tax on vehicles purchased for less than \$500.00

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**Registration**

The following are current registration fees for different vehicle classes. A \$1.00 litter fee and \$0.50 insurance fee are added to the registration fee.

Class A: \$50.00

Class B: According to Vehicle Gross Weight:

10,000 to 16,000 pounds \$28.00 plus \$5.00 for each 1,000 pounds over 8,000  
 16,001 to 55,000 pounds \$ 78.50 plus \$ 10.00 for each 1,000 pounds over 16,000  
 For declared weight over 55,000 pounds, but not to exceed 80,000 pounds, \$737.50 plus \$15.75 for each 1,000 pounds over 55,000.

Class G: \$8.00

Class H: \$5.00

Class J: \$85.00

Class M: \$17.50

Class Farm Truck: Depends upon weight of truck:

|                                  |                                    |
|----------------------------------|------------------------------------|
| 8,001 to 16,000 pounds \$30.00   | 34,100 to 44,000 pounds \$ 160.00; |
| 16,100 to 22,000 pounds \$ 60.00 | 44,100 to 54,000 pounds \$ 205.00; |
| 22,100 to 28,000 pounds \$ 90.00 | Over 55,000 pounds \$250.00        |
| 28,100 to 34,000 pounds \$115.00 |                                    |

Class R: \$12.00

Class T: \$8.00

Class C: \$50.00

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**Miscellaneous registration fees:**

Duplicate registration plate, card, decal, and certificate of title fee is \$10.00.

Transfer of registration plates from one vehicle to another \$10.00.

Non-resident individuals fee \$50.00.

Antique motor vehicle and motorcycle fee is \$2.00 annually; runs on a ten-year cycle.

Special license numbers \$15.00 in addition to regular fee.

Member of the National Guard forces special plate: \$10.00 initial application in addition to regular fee.

Honorably discharged veterans special plate: \$10.00 initial application in addition to regular fee.

Disabled veteran special plate: no fee for first plate; \$10.00 for second plate

Purple Heart veteran special plate: no fee for first plate; \$10.00 for second plate

Pearl Harbor survivor special plate: no fee for first plate; \$10.00 for second plate

Charitable and educational organization special plate: \$15.00 plus a one-time \$10.00 fee

EMT, fire fighters plate: \$10.00 in addition to regular fee.

Amateur radio operators' special plate: \$10.00 in addition to regular fee.

Temporary registration plates or markers for dealers: \$3.00

Special stickers used by insurance companies, repossessing company, wrecking companies for moving vehicle through state one time only: \$ 1.00

Salvage certificate fee: \$22.50

Dealers of auto new and used \$100 per year plus \$5.00 per additional plate

Dealers of house trailers or trailer \$25.00 per year plus \$5.00 per additional plate

Motorcycle dealers: \$10.00 plus \$5.00 per additional plate

Wrecker, dismantler or rebuilder: \$15.00 plus \$25.00 per additional plate

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### **Drivers' License Fees**

All persons operating a motor vehicle upon a street or highway or subdivision street of West Virginia shall be required to be licensed in accordance with the laws of West Virginia in order to exercise driving privileges.

**Class A, B, or C** Individuals at least 18 years of age with two years driving experience, who qualify for a commercial license. Fee of \$ 8.75 per year (\$43.75) with extra endorsement fees added

**Class D** Individuals 18 years of age or older with one year of driving experience, whose primary function of employment is the transportation of persons or property for compensation or wages. Fee of \$6.25 per year (\$31.25)

**Class E** Individuals who are not required to obtain a Class A, Class B, Class C or Class D license Fee of \$5.00 per year (\$25.50) Add \$.50 for voter registration fee

Class F Individuals who have successfully completed the motorcycle examination procedure, but who do not possess a Class A, B, C, D or E driver's license; renewal at \$2.50 per year

Class G Individuals who use bi optic telescopic lenses to operate a motor vehicle

Identification card Issued to a non-driver at least 2 years of age and a resident of West Virginia; fees are \$5.00 per year with no voter fee added

Instruction permit fees are \$5.00

Fees for the above except for instruction permits are determined by a "Drive for Five" program for expiration of all licenses and identification cards. All will expire during the birth month of the holder at an age evenly divisible by the number 5.

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Motor Vehicle and License Fees Collected from 1991 to present

| Fiscal Year | Motor vehicle and license fees |
|-------------|--------------------------------|
| 1990-1991   | \$ 64,738,055.00               |
| 1991-1992   | 67,396,167.00                  |
| 1992-1993   | 68,818,990.00                  |
| 1993-1994   | 70,412,680.00                  |
| 1994-1995   | 70,046,827.00                  |
| 1995-1996   | 76,418,837.00                  |
| 1996-1997   | 75,296,913.00                  |
| 1997-1998   | 81,543,094.00                  |
| 1998-1999   | 79,788,440.00                  |
| 1999-2000   | 87,482,785.00                  |
| 2000-2001   | 77,440,488.00                  |
| 2001-2002   | 85,929,273.00                  |
| 2002-2003   | 86,238,466.00                  |
| 2003-2004   | 83,145,930.00                  |
| 2004-2005   | 88,073,937.00                  |
| 2005-2006   | 86,976,200.00                  |
| 2006-2007   | 87,057,668.00                  |
| 2007-2008   | 86,396,410.00                  |
| 2008-2009   | 89,427,899.00                  |
| 2009-2010   | 87,387,701.00                  |
| 2010-2011   | 91,194,564.00                  |
| 2011-2012   | 90,682,627.00                  |
| 2012-2013   | 90,252,360.00                  |
| 2013-2014   | 97,328,740.00                  |
| 2014-2015   | 100,600,933.00                 |
| 2015-2016   | 86,983,365.00                  |
| 2016-2017   | 104,354,021.00                 |
| 2017-2018   | 148,545,830.00                 |
| 2018-2019   | 168,784,961.00                 |

## **MOTOR VEHICLES PRIVILEGE TAX**

As of July 1, 2008, this tax is known as the 5% consumer sales tax on sale of motor vehicles. Effective July 1, 2017, the tax ate changed to 6%. The tax has remained dedicated to the state road fund.

First year enacted 1935

West Virginia Code Citation:

Chapter 17A, Article 3, Sections 1-24 inclusive

Chapter 17A, Article 4, Sections 1-12 inclusive

Chapter 17A, Article 3, Section 4; transferred to West Virginia Code Chapter 11, Article 15, Section 3c as of July 1, 2008

Administration

Commissioner of Motor Vehicles

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### Current Summary

During the 2007 legislative session, the privilege tax on motor vehicles was changed to a 5% consumer sales tax on vehicles newly titled in West Virginia. Provided in the legislation was an exemption for new residents moving to West Virginia and transferring a vehicle they had previously titled in another state. The bill required that effective on July 1, 2008, in order for the new resident to take advantage of this exemption, they must establish residency and then title their vehicle within thirty days. During the 2017 legislative session the tax rate was changed to 6% effective July 1, 2017.

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### General Provisions

A sales tax is imposed upon certification of title of a vehicle in the amount of the 6% of the value of that motor vehicle at the time of certification. There are three methods to determine the basis for the sales tax depending upon the circumstances of the acquisition:

If the vehicle is new, the actual purchase price is the basis.

If the vehicle is second hand, the present market value at the time of transfer, or purchase, is the value of the vehicle for the purpose of the tax.

If the vehicle is a gift, with no monetary exchange, there is no tax.

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### Exemptions

The following transactions are exempt from the 6% sales tax on the titling of vehicles:

- If the vehicle is obtained through inheritance and the tax has been paid to the state of West Virginia by the previous owner
  - A person is not required to pay the tax twice on the same vehicle unless that vehicle has been transferred to another person and then transferred back to the person; a ten dollar fee is charged to re-title the vehicle
  - The tax does not apply to the titling of vehicles rented on a daily or monthly basis by West Virginia businesses. The daily rental and monthly leasing of automobiles are given separate tax treatments. Businesses engaged in the daily rental of automobiles are to collect a minimum of one dollar or a maximum of one and a half dollars per day tax on the vehicles. Businesses leasing automobiles on a monthly basis collect a five percent tax on the monthly lease fee and remit the tax to the division of motor vehicles. Each business engaged in the daily rental of passenger cars must be licensed by the division of motor vehicles. The initial license fee is two hundred fifty dollars.
  - This tax does not apply to an applicant if the applicant is a corporation, partnership or limited liability company transferring the vehicle to another corporation, partnership or limited liability company when the entities involved in the transfer are members of the same control group.
  - This tax also not apply to vehicles registered in Class H or Class M, which are to be used in interstate commerce.
  - This tax does not apply to vehicles registered in Class B at a weight of fifty five thousand pounds or more when simultaneously purchasing a registration.
  - This tax does not apply to vehicles registered as Class C semi trailers, full trailers, pole trailers and converted gear more when simultaneously purchasing a registration.
  - This tax does not apply to titling of vehicles by a registered dealer of this state for resale only.
  - This tax does not apply to titling of vehicles by West Virginia or any political subdivision of West Virginia.
  - This tax does not apply to titling of vehicles by any volunteer fire department or duly chartered rescue or ambulance squad incorporated under state law as a nonprofit corporation.
  - This tax does not apply to a vehicle used solely for the transportation of mentally retarded or physically handicapped children on a nonprofit basis.
  - Any person in the military stationed outside of West Virginia or his/her dependents who possess a motor vehicle with valid registration, are exempt from this tax for a period of nine months from the date the person returns to West Virginia.
  - This division of motor vehicles charges a fee of twenty-two dollars and fifty cents for the issuance of a salvage certificate, but does not charge the five percent sales tax.
  - A wrecker/dismantler/rebuilder is exempt from the five percent tax when titling a re-constructed vehicle however the division of motor vehicles collects a thirty-five dollar fee for the inspection of reconstructed vehicles.
  - Senior citizen service organizations which are exempt from the payment of income taxes under United States Internal Revenue Service Code, Title 26, U.S.C. 501 © (3) and which are recognized to be senior service organizations are exempt from the six percent sales tax when titling vehicles.
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## Use of Tax Collected

The total amount of revenue collected from the five percent sales tax on vehicle titling shall be paid into the State Road Fund and expended by the state Division of Highways to match federal aid funds allocated to West Virginia for highway construction and maintenance.

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### History of Collections Beginning Fiscal Year 1990-1991

| Fiscal Year | Amount Collected |
|-------------|------------------|
| 1990-1991   | \$ 89,527,500.00 |
| 1991-1992   | 90,166,139.00    |
| 1992-1993   | 97,774,513.00    |
| 1993-1994   | 111,925,261.00   |
| 1994-1995   | 122,488,884.00   |
| 1995-1996   | 120,450,303.00   |
| 1996-1997   | 126,139,751.00   |
| 1997-1998   | 133,712,489.00   |
| 1998-1999   | 143,506,486.00   |
| 1999-2000   | 155,598,027.00   |
| 2000-2001   | 154,369,975.00   |
| 2001-2002*  | 179,296,004.00   |
| 2002-2003*  | 167,722,905.00   |
| 2003-2004*  | 176,699,975.00   |
| 2004-2005*  | 176,495,216.00   |
| 2005-2006*  | 171,478,896.00   |
| 2006-2007*  | 173,306,253.00   |
| 2007-2008*  | 169,463,397.00   |
| 2008-2009*  | 150,793,697.00   |
| 2009-2010*  | 148,313,958.00   |
| 2010-2011*  | 172,452,587.00   |
| 2011-2012*  | 186,292,914.00   |
| 2012-2013*  | 187,436,410.00   |
| 2013-2014*  | 194,462,501.00   |
| 2014-2015*  | 206,026,136.00   |
| 2015-2016*  | 206,247,240.00   |
| 2016-2017*  | 204,110,912.00   |
| 2017-2018*  | 216,730,990.00   |
| 2018-2019*  | 225,399,443.00   |

\*Includes tax on leased and rental vehicles

# MOTOR FUEL EXCISE TAX

Enacted in 2003; Effective January 2004

(This tax was originally known as the Gasoline Excise Tax and Special Fuel Tax. It was enacted in 1923. The West Virginia Code Chapter 11, Article 14, Sections 1 through 30 and Chapter 11, Articles 15 and 15A, Sections 18 and 13 were repealed in the 2003 legislative session.)

WV Code:

Chapter 11, Article 14C, Sections 1-47 Motor Fuel Excise Tax (flat rate portion)

Chapter 11, Article 15, Section 18b Tax on Motor Fuel (variable rate portion; consumers' sales tax portion)

Chapter 11, Article 15A, Section 13a Tax on Motor Fuel (variable rate portion: use tax portion)

Administration

West Virginia State Tax Commissioner

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## General Provisions

The Motor Fuel Tax is composed of an excise tax component and a variable tax component. The excise tax levied on all motor fuel at a flat rate equal to twenty and one-half cents per gallon. The variable component consists of the Consumers Sales and Service Tax, or Use Tax levied at a per gallon tax rate equivalent to a 5% tax on the average wholesale price of a gallon of fuel provided that the average wholesale price cannot be below ninety-seven cents a gallon. A special legislative session in November 2009 enacted senate bill 4004. This legislation changed the average wholesale price to be no less than \$2.34 per invoiced gallon effective January 1, 2010. (11-14C-5-b (2)) Effective July 1, 2017, the minimum average wholesale price increased to \$3.04 per invoiced gallon.

The excise tax (flat rate) component is set at twenty and one-half cents per gallon. The variable tax component is established by the State Tax Department upon review of average wholesale prices of motor fuel for the July through October period. The calculated tax rate is effective for the calendar beginning on January 1 of the year following the July through October period.

The tax is imposed at the time the motor fuel is imported into this state, other than by a bulk transfer. It is measured by invoiced gallons received outside of West Virginia at a refinery, terminal or bulk plant for delivery to a destination in West Virginia.

The tax is also imposed on invoiced gallons of motor fuel removed other than by bulk transfer (bulk transfer is defined as any transfer of motor fuel from one location to another by pipeline tender or marine delivery within a bulk transfer/terminal system):

- From the bulk transfer/terminal in this state;

- From the bulk transfer/terminal system outside this state for delivery to a location in West Virginia represented on the shipping papers;
- Upon the sale or transfer in a terminal or refinery in West Virginia to any person not holding a supplier's license and payable by the person selling or transferring the motor fuel;
- This tax does not apply to motor fuel imported into the state in the motor fuel supply tank or tanks of a motor vehicle (Motor Carrier Road Tax may apply);
- This tax applies to motor fuels blended in West Virginia by a calculation that deducts the quantity used in blending that has been previously taxed prior to the blending.

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## Exemptions

### **Flat rate portion of tax:**

- All motor fuel exported from West Virginia (destination tax is collected);
- Sales of aviation fuel;
- Sales of dyed special fuels;
- Sales of propane unless sold for use in a motor vehicle.

The following sales must pay the tax and apply for a refund from the State Tax Commissioner:

- Sales to the United States or any agencies of the United States;
- Sales to a county government or unit or agency of the county;
- Sales to a municipal government or unit or agency of the municipal government;
- Sales to a county board of education;
- Sales to an urban mass transportation authority;
- Sales to any municipal, county, state or federal civil defense or emergency service program;
- All invoiced gallons of motor fuel purchased by a licensed exporter and subsequently exported to any other state or nation (the exporter must have paid the applicable motor fuel taxes to the destination state);
- All gallons of motor fuel used and consumed in stationary off-highway turbine engines;
- All gallons of fuel used for heating any public or private dwelling, building or other premises;
- All gallons of fuel used for boilers;
- All gallons of motor fuel used as lubricants or components of a manufactured compound;
- All gallons of motor fuel used as a dry cleaning solvent or commercial or industrial solvent;
- All gallons of motor fuel sold for use in a commercial water craft;
- All gallons of motor fuel used or consumed by railroad diesel locomotives;
- All gallons of motor fuel purchased in quantities of twenty-five gallons or more to be used in internal combustion machines not operated on the highways of this state;



- All gallons of motor fuel purchased in quantities of twenty-five gallons or more to be used in powering a power takeoff unit in a motor vehicle;
- All gallons of motor fuel purchased in quantities of twenty-five gallons or more to be used in a vehicle under a certificate of public convenience or under a contract carrier permit for the transportation of persons;
- All gallons of motor fuel that are purchased and used by a bona fide volunteer fire department, nonprofit ambulance or emergency rescue service.

### **Variable Component of Motor Fuel Tax (Use or consumers sales tax portion)**

All motor fuel exported from West Virginia is exempt from the variable portion of the motor fuel tax; provided that the destination tax is collected.

In certain cases, a refund of the variable component can be obtained. The following sales must pay the tax and apply for a refund from the State Tax Commissioner:

- Sales to the United States or any agencies of the United States;
- Sales to a county government or unit or agency of the county;
- Sales to a municipal government or unit or agency of the municipal government;
- Sales to a county board of education;
- Sales to urban mass transit authorities;
- Sales to West Virginia and its' institutions;
- Sales to any bona fide volunteer fire department, nonprofit ambulance service or emergency rescue service;
- Sales to any federal, state, county, municipal civil defense or emergency service program.
- Sales of fuel consumed in railroad locomotives (up to \$4.3 million per year).

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#### Filing of returns

This tax is due on or before the last day of the month. The payment is for the preceding month.

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#### Disposition of tax collected

This tax is deposited into the state road fund and is to be used only for the purpose of construction, reconstruction, maintenance and repair of highways, matching federal funds available for highway purposes and payment of interest and sinking fund obligations on state highway bonds. Monies received from the tax on aviation fuel are dedicated to the Aeronautics Commission for airport maintenance.

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Collections

Before Statute Change in 2004

| Fiscal Year | Amount Collected  |
|-------------|-------------------|
| 1990-1991   | \$ 205,255,720.00 |
| 1991-1992   | 207,117,120.00    |
| 1992-1993   | 218,152,148.00    |
| 1993-1994   | 261,947,005.00    |
| 1994-1995   | 265,914,687.00    |
| 1995-1996   | 262,584,334.00    |
| 1996-1997   | 270,779,161.00    |
| 1997-1998   | 285,762,634.00    |
| 1998-1999   | 292,323,419.00    |
| 1999-2000   | 290,055,513.00    |
| 2000-2001   | 291,969,243.00    |
| 2001-2002   | 300,048,790.00    |
| 2002-2003   | 289,128,455.00    |

Motor Fuel

Transition year

| Fiscal Year | Motor Fuel Excise | Motor Fuel Consumer Sales | Motor Fuel Use Tax |
|-------------|-------------------|---------------------------|--------------------|
| 2003-2004   | 272,353,554.00    | 35,435,323.00             | 1,484,367.00       |

Collections after Statute Change

| Fiscal Year | Total Motor Fuel Excise Tax |
|-------------|-----------------------------|
| 2004-2005   | \$ 311,611,200.00           |
| 2005-2006   | 320,734,273.00              |
| 2006-2007   | 349,167,241.00              |
| 2007-2008   | 404,221,394.00              |
| 2008-2009   | 384,537,700.00              |
| 2009-2010   | 391,994,702.00              |
| 2010-2011   | 397,779,125.00              |
| 2011-2012   | 387,038,596.00              |
| 2012-2013   | 408,914,607.00              |
| 2013-2014   | 441,095,445.00              |
| 2014-2015   | 434,853,178.00              |
| 2015-2016   | 396,397,176.00              |
| 2016-2017   | 381,304,058.00              |
| 2017-2018   | 419,644,096.00              |
| 2018-2019   | 443,427,743.00              |

## **SALE OF BONDS**

First Year Enacted 1920

Legal Citation:

Amendments to the West Virginia Constitution

Administration:

The governor is authorized to sell bonds upon the recommendation of the commissioner of the state department of highways. Chapter 113, Acts of the 1921 session of the legislature and Chapter 152, Acts of the 1965 session of the legislature and Chapter 126, Acts of the 1969 session of the legislature and Chapter 13, Acts of the 1974 second extraordinary session of the legislature authorizes the sale of bonds.

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General Provisions:

### **1920 Amendment** (revolving)

The good roads amendment to the constitution in 1920 directed the legislature to make provisions for a system of state roads and highways connecting at least the various county seats of the state, and to be under the control and supervision of such state officers and agencies as may be prescribed by law; and authorized issuance and sale of state bonds not to exceed an aggregate of fifty million dollars at any one time.

### **1928 Amendment**

The good roads amendment of 1928 empowered the legislature to authorize issuance and sale of state bonds not exceeding in the aggregate thirty-five million dollars, in addition to the state bonds authorized to be issued and sold by the amendment of 1920.

### **Fifty Million Dollar Amendment**

The fifty million dollar bond issue for roads was ratified on November 2, 1948. It empowered the legislature to provide for the issuance and sale of state bonds not exceeding fifty million dollars in the aggregate, in addition to the bonds previously authorized.

### **Better Roads Amendment of 1964**

The better roads amendment of 1964 was ratified on November 3, 1964. It empowered the legislature to authorize the issuance and sale of state bonds not exceeding the aggregate of two hundred million dollars. Such bonds may be issued and sold in amounts not to exceed twenty million dollars in any fiscal year.

### **Road Development Amendment of 1968**

Roads development amendment of 1968 empowered the legislature to authorize the issuance and sale of state bonds not to exceed in the aggregate three hundred fifty million dollars.

### Better Highways Amendment of 1973

This amendment was ratified during a special election on November 6, 1973. It empowered the legislature to authorize the issuance and selling of state bonds not exceeding in the aggregate five hundred million dollars.

### Safe Roads Amendment of 1996

This amendment ratified in 1996 empowered the legislature to authorize the issuance and sale of state bonds not to exceed in the aggregate five hundred fifty million dollars.

Outstanding as of June 30, 2017: \$ 151,160,000

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#### Amortization Schedule for Safe Roads Amendment of 1996:

| Fiscal Yr | Principal Due | Interest Due                                      | Total Debt Service                                | Principal Outstanding |
|-----------|---------------|---|---|-----------------------|
| 2010      |               |   |   |                       |
| 2011      |               | Dec 10 -<br>503,601.67<br>June 11 -<br>702,700.00 | Dec 10 -<br>503,601.67<br>June 11 -<br>702,700.00 | 35,135,000            |
| 2012      |               | Dec 11 -<br>702,700.00<br>June 12 -<br>702,700.00 | Dec 11 -<br>702,700.00<br>June 12 -<br>702,700.00 | 35,135,000            |
| 2013      |               | Dec 12 -<br>702,700.00<br>June 13 -<br>702,700.00 | Dec 12 -<br>702,700.00<br>June 13 -<br>702,700.00 | 35,135,000            |
| 2014      |               | Dec 13 -<br>702,700.00<br>June 14 -<br>702,700.00 | Dec 13 -<br>702,700.00<br>June 14 -<br>702,700.00 | 35,135,000            |
| 2015      |               | Dec 14 -<br>702,700.00<br>June 15 -<br>702,700.00 | Dec 14 -<br>702,700.00<br>June 15 -<br>702,700.00 | 35,135,000            |
| 2016      |               | Dec 15 -<br>702,700.00<br>June 16 -<br>702,700.00 | Dec 15 -<br>702,700.00<br>June 16 -<br>702,700.00 | 35,135,000            |

| Fiscal Yr | Principal Due | Interest Due                                      | Total Debt Service                                   | Principal Outstanding |
|-----------|---------------|---|--|-----------------------|
| 2017      |               | Dec 16 –<br>702,700.00<br>June 17 –<br>702,700.00 | Dec 16 –<br>702,700.00<br>June 17 –<br>702,700.00    | 35,135,000            |
| 2018      |               | Dec 17 –<br>702,700.00<br>June 18 –<br>702,700.00 | Dec 17 –<br>702,700.00<br>June 18 –<br>702,700.00    | 35,135,000            |
| 2019      | 6,485,000     | Dec 18 –<br>702,700.00<br>June 19 –<br>702,700.00 | Dec 18 –<br>702,700.00<br>June 19 –<br>7,187,700.000 | 35,135,000            |
| 2020      | 6,745,000     | Dec 19 –<br>573,000.00<br>June 20 –<br>573,000.00 | Dec 19 –<br>573,000.00<br>June 20 –<br>7,318,000.00  | 28,650,000            |
| 2021      | 7,015,000     | Dec 20 –<br>438,100.00<br>June 21 –<br>438,100.00 | Dec 20 –<br>438,100.00<br>June 21 –<br>7,453,100.00  | 21,905,000            |
| 2022      | 7,300,000     | Dec 21 –<br>297,800.00<br>June 22 –<br>297,800.00 | Dec 21 –<br>297,800.00<br>June 22 –<br>7,597,800.00  | 14,890,000            |
| 2023      | 7,590,000     | Dec 22 –<br>151,800.00<br>June 23 –<br>151,800.00 | Dec 22 –<br>151,800.00<br>June 23 –<br>7,741,800.00  | 7,590,000             |
| 2024      |               |   |  |                       |
| 2025      |               |   |  |                       |
|           | 35,135,000    | 15,370,90.67                                      | 50,505,901.67  |                       |
|           |               |   |  |                       |

| Fiscal Yr | FY Principal | FY Interest  | FY Debt Service |  |
|-----------|--------------|--------------|-----------------|--|
| 2010      | 0.00         | 1,206,301.67 | 1,206,301.67    |  |
| 2011      | 0.00         | 1,405,400.00 | 1,405,400.00    |  |
| 2012      | 0.00         | 1,405,400.00 | 1,405,400.00    |  |
| 2013      | 0.00         | 1,405,400.00 | 1,405,400.00    |  |
| 2014      | 0.00         | 1,405,400.00 | 1,405,400.00    |  |
| 2015      | 0.00         | 1,405,400.00 | 1,405,400.00    |  |
| 2016      | 0.00         | 1,405,400.00 | 1,405,400.00    |  |
| 2017      | 0.00         | 1,405,400.00 | 1,405,400.00    |  |
| 2018      | 0.00         | 1,405,400.00 | 1,405,400.00    |  |
| 2019      | 6,485,000    | 1,405,400.00 | 7,890,400.00    |  |
| 2020      | 6,745,000    | 1,146,400.00 | 7,891,000.00    |  |
| 2021      | 7,015,000    | 876,200.00   | 7,891,200.00    |  |
| 2022      | 7,300,000    | 595,600.00   | 7,895,600.00    |  |
| 2023      | 7,590,000    | 303,600.00   | 7,893,600.00    |  |
| 2024      |              |              |                 |  |
| 2025      |              |              |                 |  |
|           | 35,135,000   | 15,370,90.67 | 50,505,901.67   |  |

## Roads to Prosperity Amendment of 2017

This amendment authorized the issuing and selling of state bonds not exceeding the aggregate of \$1.6 billion dollars, being sold over a four year period.

| Fiscal Yr | Principal Due | Interest Due  | Total Debt Service                                     | Principal Outstanding                                     |
|-----------|---------------|---|--|---|
| 2015      | 0.00          | Dec 14 – 0.00<br>June 15 – 0.00                       |  | Dec 14 – 0.00<br>June 15 –<br>133,710,000.00              |
| 2016      | 2,460,000.00  | Dec 15 –<br>3,955,587.50<br>June 16 –<br>3,342,750.00 | Dec 15 –<br>3,955,587.50<br>June 16 –<br>5,802,750.00  | Dec 15 –<br>133,710,000.00<br>June 16 –<br>131,250,000.00 |
| 2017      | 15,225,000.00 | Dec 16 –<br>3,281,250.00<br>June 17 –<br>3,281,250.00 | Dec 16 –<br>3,281,250.00<br>June 17 –<br>18,506,250.00 | Dec 16 –<br>131,250,000.00<br>June 17 –<br>116,025,000.00 |
| 2018      | 15,985,000.00 | Dec 17 –<br>2,900,625.00<br>June 18 –<br>2,900,625.00 | Dec 17 –<br>2,900,625.00<br>June 18 –<br>18,885,625.00 | Dec 17 –<br>116,025,000.00<br>June 18 –<br>100,040,000.00 |
| 2019      | 10,300,000.00 | Dec 18 –<br>2,501,000.00<br>June 19 –<br>2,501,000.00 | Dec 18 –<br>2,501,000.00<br>June 19 –<br>12,801,000.00 | Dec 18 –<br>100,040,000.00<br>June 19 –<br>89,740,000.00  |
| 2020      | 10,815,000.00 | Dec 19 –<br>2,243,500.00<br>June 20 –<br>2,243,500.00 | Dec 19 –<br>2,243,500.00<br>June 20 –<br>13,058,500.00 | Dec 19 –<br>89,740,000.00<br>June 20 –<br>78,925,000.00   |
| 2021      | 11,355,000.00 | Dec 20 –<br>1,973,125.00<br>June 21 –<br>1,973,125.00 | Dec 20 –<br>1,973,125.00<br>June 21 –<br>13,328,125.00 | Dec 20 –<br>78,925,000.00<br>June 21 –<br>67,570,000.00   |
| 2022      | 11,920,000.00 | Dec 21 –<br>1,689,250.00<br>June 22 –<br>1,689,250.00 | Dec 21 –<br>1,689,250.00<br>June 22 –<br>13,609,250.00 | Dec 21 –<br>67,570,00.00<br>June 22 –<br>55,650,000.00    |
| 2023      | 12,520,000.00 | Dec 22 –<br>1,391,250.00<br>June 23 –<br>1,391,250.00 | Dec 22 –<br>1,391,250.00<br>June 23 –<br>13,911,250.00 | Dec 22 –<br>55,650,000.00<br>June 23 –<br>43,130,000.00   |

| Fiscal Yr | Principal Due  | Interest Due  | Total Debt Service                                     | Principal Outstanding                                   |
|-----------|----------------|---|--|---|
| 2024      | 21,040,000.00  | Dec 23 –<br>1,078,250.00<br>June 24 –<br>1,078,250.00 | Dec 23 –<br>1,078,250.00<br>June 24 –<br>22,118,250.00 | Dec 23 –<br>43,130,000.00<br>June 24 –<br>22,090,000.00 |
| 2025      | 22,090,000.00  | Dec 24 –<br>552,250.00<br>June 25<br>552,250.00       | Dec 24 –<br>552,250.00<br>June 25 –<br>22,642,250.00   | Dec 24 –<br>22,090,000.00<br>June 25 –<br>0.00          |
|           | 133,710,000.00 | 42,519,337.50   | 176,229,337.50   |   |
| Fiscal Yr | FY Principal   | FY Interest   | FY Debt Service  |   |
| 2015      | 0.00           | 0.00  | 0.00   |   |
| 2016      | 2,460,000.00   | 7,298,337.50  | 9,758,337.50   |   |
| 2017      | 15,225,000.00  | 6,562,500.00  | 21,787,500.00  |   |
| 2018      | 15,985,000.00  | 5,801,250.00  | 21,786,250.00  |   |
| 2019      | 10,300,000.00  | 5,002,000.00  | 15,302,000.00  |   |
| 2020      | 10,815,000.00  | 4,487,000.00  | 15,302,000.00  |   |
| 2021      | 11,355,000.00  | 3,946,250.00  | 15,301,250.00  |   |
| 2022      | 11,920,000.00  | 3,378,500.00  | 15,298,500.00  |   |
| 2023      | 12,520,000.00  | 2,782,500.00  | 15,302,500.00  |   |
| 2024      | 21,040,000.00  | 2,156,500.00  | 23,196,500.00  |   |
| 2025      | 22,090,000.00  | 1,104,500.00  | 23,194,500.00  |   |



## FEDERAL AID

WV Code Citation

Chapter 17, Article 3, Section 1, 6, 6a and 7

Administration

Commissioner of State Division of Highways

General Provisions

All monies received from the federal government for road construction or reconstruction shall be expended as provided, or as may be provided in future acts of congress.

On or before the first day of January of each year the state commissioner of highways determines the total amount of available funds, and from that amount sets aside a "reserve fund". Twenty percent of that fund can be used and expended by the commissioner for highway needs on a discretionary basis. The remaining eight percent are to be expended as follows:

- For the construction, reconstruction, and maintenance of expressway and trunk line roads and to comply with the requirements for the receipt of aid from the federal government
- For the maintenance of all feeder and state local service roads, as provided for in WV Code 17-3-6a
- For the construction and reconstruction of all feeder and state local service roads, as prescribed in WV Code 17-3-6a

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### Federal Aid Received

| Fiscal Year | Federal Aid all Sources |
|-------------|-------------------------|
| 1990-1991   | \$ 154,662,008.00       |
| 1991-1992   | 201,184,956.00          |
| 1992-1993   | 226,943,305.00          |
| 1993-1994   | 287,137,952.00          |
| 1994-1995   | 293,555,619.00          |
| 1995-1996   | 249,891,988.00          |
| 1996-1997   | 233,375,656.00          |
| 1997-1998   | 288,754,770.00          |
| 1998-1999   | 262,648,093.00          |

| Fiscal Year | Federal Aid all Sources |
|-------------|-------------------------|
| 1999-2000   | 301,298,466.00          |
| 2000-2001   | 426,452,044.00          |
| 2001-2002   | 432,620,511.00          |
| 2002-2003   | 416,052,182.00          |
| 2003-2004   | 391,638,710.00          |
| 2004-2005   | 440,053,774.00          |
| 2005-2006   | 401,443,566.00          |
| 2006-2007   | 392,671,457.00          |
| 2007-2008   | \$ 360,650,385.00       |
| 2008-2009   | 461,083,564.00          |
| 2009-2010   | 502,954,613.00          |
| 2010-2011   | 504,009,335.00          |
| 2011-2012   | 449,142,398.00          |
| 2012-2013   | 434,502,326.00          |
| 2013-2014   | 404,962,060.00          |
| 2014-2015   | 349,661,324.00          |
| 2015-2016   | 396,425,972.00          |
| 2016-2017   | 442,121,308.00          |
| 2017-2018   | 388,159,794.00          |
| 2018-2019   | 366,919,938.00          |

## MISCELLANEOUS INCOME STATE ROAD FUND

West Virginia Code Citation:

Chapter 17, Article 2A, Sections 8 and 14 (General Provision and Disposal of Equipment)

Chapter 17, Article 3, Section 1 (General Provisions)

Chapter 17, Article 4, Section 20 (Forfeiture)

Chapter 17, Article 19, Section 13 (Damage to Roads, Property and Equipment)

Chapter 17, Article 22, Sections 13, 15 and 20 (Outdoor Advertising)

Chapter 17, Article 23, Section 10 (Salvage Yard Fees)

Chapter 17C, Article 17, Section 11 (Special permits)

Chapter 20, Article 3, Sections 17 and 18 (National Forest and Flood Control)

Chapter 17A, Article 10, Section 15 (Highway Litter Control Fund)

Administration

Commissioner of Highways

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### General Provisions

Revenue in this section consists of licenses for outdoor advertising, contract forfeitures, special permits, sale of obsolete and surplus equipment, supplies and materials, other miscellaneous items sold or rented, interest on investments and registration and renewal fees for litter control program, etc.

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### Miscellaneous Income Received

| Fiscal Year | Miscellaneous Income Highways |
|-------------|-------------------------------|
| 1990-1991   | \$ 3,720,520.00               |
| 1991-1992   | 5,333,098.00                  |
| 1992-1993   | 16,072,826.00                 |
| 1993-1994   | 3,024,029.00                  |
| 1994-1995   | 12,060,543.00                 |
| 1995-1996   | 15,336,253.00                 |

| Fiscal Year | Miscellaneous Income Highways |
|-------------|-------------------------------|
| 1996-1997   | 48,123,057.00                 |
| 1997-1998   | 18,979,421.00                 |
| 1998-1999   | 27,763,672.00                 |
| 1999-2000   | 24,613,250.00                 |
| 2000-2001   | 19,813,623.00                 |
| 2001-2002   | 19,076,459.00                 |
| 2002-2003   | 14,275,698.00                 |
| 2003-2004   | 26,383,024.00                 |
| 2004-2005   | 30,774,790.00                 |
| 2005-2006   | 23,519,690.00                 |
| 2006-2007   | 24,689,601.00                 |
| 2007-2008   | 46,165,507.00                 |
| 2008-2009   | 50,570,580.00                 |
| 2009-2010   | 58,031,820.00                 |
| 2010-2011   | 35,791,956.00                 |
| 2011-2012   | 48,650,205.00                 |
| 2012-2013   | 47,453,075.00                 |
| 2013-2014   | 17,517,525.00                 |
| 2014-2015   | 21,391,438.00                 |
| 2015-2016   | 23,110,591.00                 |
| 2016-2017   | 24,338,572.00                 |
| 2017-2018   | 50,723,689.00                 |
| 2018-2019 * | 122,671,298.00                |

\*Additional General Revenue funds were Transferred to the State Road Fund for 2018-2019.

## **SPECIAL OBLIGATION NOTES**

First year enacted 1983

WV Code Citation:

Chapter 17, Article 17A, Sections 1-7

General Purpose

Article 17A was added to the West Virginia Code in 1983. It is intended to facilitate the acquisition of right of ways for the construction and reconstruction of and improvement or repair of any interstate or other highway, secondary road, bridge and toll road to be funded in part or wholly by amounts to made available pursuant to the Federal Surface Transportation and Assistance Act of 1982. Also amounts from other federal legislation or from amounts that can be properly expended from the state road fund may be used.

These notes are not a general obligation of the state of West Virginia. However they are attached to a specific revenue stream such as federal highway monies to be received or user fees such as tolls.

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### Current Special Obligation Notes Outstanding

The Division of Highways issued revenue bonds in fiscal year 2016. Debt service payments will be funded through federal aid revenue. Under the newly enacted federal SAFETEA-LU (Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users), West Virginia is expected to receive an average of \$ 403 million in federal funding.

The following bonds are outstanding under SAFETEA-LU:

Surface Transportation Notes 2016A Series: Issued December 22, 2016 in amount of \$53,380,000. This bond was defeased and the account closed in February, 2018.

Total outstanding on June 30, 2018: \$0.00

Surface Transportation Notes 2017A Series: Issued October 26, 2017 in amount of \$219,985,000.

Total outstanding on June 30, 2018; \$219,985,000

| Fiscal Yr | Principal Due | Interest Due | Total Debt Service | Principal Outstanding |
|-----------|---------------|--------------|--------------------|-----------------------|
| 2019      | 15,310,000    | 10,616,500   | 25,926,500         | 204,675,000           |
| 2020      | 14,410,000    | 9,873,500    | 24,283,500         | 190,265,000           |
| 2021      | 15,125,000    | 9,135,125    | 24,260,125         | 175,140,000           |
| 2022      | 15,885,000    | 8,359,875    | 24,244,875         | 159,225,000           |
| 2023      | 16,675,000    | 7,545,875    | 24,220,875         | 142,580,000           |
| 2024      | 17,510,000    | 6,691,250    | 24,201,250         | 125,070,000           |
| 2025      | 18,390,000    | 5,793,750    | 24,183,750         | 106,680,000           |
| 2026      | 19,305,000    | 4,851,375    | 24,156,375         | 87,375,000            |
| 2027      | 20,275,000    | 3,861,875    | 24,136,875         | 67,100,000            |
| 2028      | 21,285,000    | 2,822,875    | 24,107,875         | 45,815,000            |
| 2029      | 22,350,000    | 1,732,000    | 24,082,000         | 23,465,000            |
| 2030      | 23,465,000    | 586,625      | 24,051,625         | 0                     |

Surface Transportation Notes 2018A Series: Issued August 1, 2018 in amount of \$78,810,000.

Total outstanding on June 30, 2018; \$78,810,000.

| Fiscal Yr | Principal Due | Interest Due | Total Debt Service | Principal Outstanding |
|-----------|---------------|--------------|--------------------|-----------------------|
| 2020      | 3,355,000     | 3,856,625    | 7,623,875          | 75,455,000            |
| 2021      | 3,850,000     | 3,676,500    | 7,622,750          | 71,605,000            |
| 2022      | 4,045,000     | 3,479,125    | 7,625,250          | 67,560,000            |
| 2023      | 4,245,000     | 3,271,875    | 7,623,000          | 63,315,000            |

| Fiscal Yr | Principal Due | Interest Due | Total Debt Service | Principal Outstanding |
|-----------|---------------|--------------|--------------------|-----------------------|
| 2024      | 4,455,000     | 3,054,375    | 7,620,750          | 58,860,000            |
| 2025      | 4,680,000     | 2,826,000    | 7,623,000          | 54,180,000            |
| 2026      | 4,915,000     | 2,586,125    | 7,624,000          | 49,265,000            |
| 2027      | 5,160,000     | 2,334,250    | 7,623,250          | 44,105,000            |
| 2028      | 5,415,000     | 2,069,875    | 7,620,250          | 38,690,000            |
| 2029      | 5,690,000     | 1,792,250    | 7,624,500          | 33,000,000            |
| 2030      | 5,970,000     | 1,500,750    | 7,620,000          | 27,030,000            |
| 2031      | 6,270,000     | 1,191,750    | 7,621,500          | 20,760,000            |
| 2032      | 6,585,000     | 873,375      | 7,623,000          | 14,175,000            |
| 2033      | 6,915,000     | 535,875      | 7,623,750          | 7,260,000             |
| 2034      | 7,260,000     | 181,500      | 7,623,000          | 0                     |

# LOTTERY



## **WEST VIRGINIA LOTTERY FUNDS**

(Lottery, Racetrack Video Lottery, Limited Video Lottery, Racetrack Table Games, Historic Hotel Video Lottery and Table Games)

West Virginia Code Citations:

- Chapter 29, Article 22, Sections 1 through 27a. This chapter details the State Lottery Act, Enacted in 1985.
- Chapter 29, Article 22A, Sections 1 through 19 This chapter details the Racetrack Video Lottery, Enacted 1994, First Extraordinary Session
- Chapter 29, Article 22B, Sections 101 through 1903 This chapter details the Limited Video Lottery, Enacted 2001, First Extraordinary Session
- Chapter 29, Article 22C, Sections 1 through 34. This chapter details the Lottery Racetrack Tables Act, Enacted in 2007
- Chapter 29, Article 25, Sections 1 through 38. This chapter details Authorized Gaming Facility Act. Enacted 2009
- Chapter 29, Article 22D, Sections 1 through 24 This chapter details Sports Wagering, Enacted 2018

Voters in the state of West Virginia approved a constitutional amendment on November 6, 1984, which allowed for the creation of a state operated lottery. In April of 1985, the legislature voted to pass the State Lottery Act, which was then signed by the governor in May of 1985. The first lottery tickets were sold on January 1, 1986.

The State Lottery Act created a special fund in the West Virginia Treasury for lottery monies. It was formed to assist the state in educational and cultural funding. The act also created a seven member lottery commission to be appointed by the governor. Provisions were made for a governor appointed director to administer the day to day operations of the lottery office. Only lottery commission approved licensees are permitted to sale lottery tickets. The licenses are issued for one year and are subject to numerous regulations and restrictions.

The first game issued was the preprinted ticket instant winner type lottery. The commission was granted the power to promulgate rules and regulations specifying the types of lottery games allowed. Some of the regulations were as follows: Lottery games utilizing the results of any amateur or professional sporting events, dog or horse race were expressly prohibited. Video lottery game systems must include a central site system of monitoring the terminals using an on line or dial up inquiry. No lottery games can use machines which dispense currency. If the lottery game uses a ticket, each ticket must bear a one of a kind number. Certain games which use an electronic computer and video screen to operate a lottery game and communicate the results, but do not use an interactive electronic terminal device allowing input by the player, may only be used in private clubs. Selection of the winner of the game must be based upon chance.

Beginning in September of 2000, the commission established an instant lottery scratch-off games designated as the veterans' benefit game. All of the profits received from this game are deposited into the veterans' lottery fund and are used to make the payments of interest and principal for revenue bonds issued for the construction of an initial veterans' skilled nursing facility.

In 2007, table games were legalized by adding a new code section, Chapter 29, Article 22C, Sections 1-34. The games are to be conducted at licensed race tracks, subject to local option election in the county in which pari-mutuel wagers are received at a race track licensed under Chapter 19, Article 23.

In 2009, table games were legalized at historic resort hotels by adding a new code section, Chapter 29, Article 25, Sections 1-38, entitled, "Authorized Gaming Facility".

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### **State Lottery Distribution of Monies**

A special revenue fund was created in the state treasury and entitled the "State Lottery Fund". All revenues received from the sale of lottery tickets, materials and games shall be deposited in the fund. Any revenues derived from investment of these funds, any gifts, donations or grants are also deposited to this account along with the initial appropriation to create the lottery.

The distribution of the funds is as follows: A minimum annual average of forty five percent of the gross amount received from each lottery shall be allocated and disbursed as prizes. Not more than fifteen percent of the gross amount received from each lottery may be allocated and disbursed to provide for the fund operation and administration expenses, however for a limited time from January 2002 and until June 30, 2003, that percentage increased to seventeen percent.

Net profit shall be determined by subtracting the fifteen to seventeen percent administration costs and forty five percent prize costs from the aggregate gross amount received from all games. In the event that this creates a surplus, two hundred fifty thousand dollars can be kept as retained earnings by the lottery.

The \$ 250,000.00 limit on retained earnings by the lottery was amended on June 14, 2006, by House Bill 106 to allow the lottery to retain up to \$20 million yearly for the fiscal years ended June 2006, 2007, 2008, 2009, 2010 and 2011. These amounts were transferred to the Revenue Center Construction Fund. The excess of these construction amounts were returned to the lottery fund in June 2010.

#### **The net profit is to be allocated as follows:**

Debt relating to the School Building Authority: On or before the twenty eighth day of each month, as long as revenue bonds or refunding bonds are outstanding, the lottery director shall allocate to the school building debt service fund (WV Code 18-9d-6) an amount equal to one tenth of the projected annual principal, interest and coverage ratio requirements on any and all bonds issued on or after April 1, 1994. The monthly amount allocated cannot exceed eighteen million dollars. If these funds are not available, the School Building Authority may be granted a lien against lottery net profits not to exceed twenty seven million annually.

Debt relating to the Education, Arts, Sciences and Tourism Debt Service Fund: On or before the twenty eighth day of the month, as long as revenue bonds or refunding bonds are outstanding, the lottery director shall allocate to the Education, Arts, Sciences and Tourism Debt Service Fund (WV Code 5-6-11a), an amount equal to one tenth of the projected annual principal, interest and coverage ratio requirements on any and all bonds issued after April 1, 1996. The monthly amount allocated cannot exceed one million

dollars the annual amount cannot exceed ten million dollars. If these funds are not available, a second priority lien (after the School Building Authority) is placed upon the lottery net profits, not to exceed fifteen million dollars annually.

The remaining net profits are allocated as appropriated by the legislature in such proportions as it considers beneficial to the state:

Lottery Education Fund – Appropriated to public education and higher education programs.

School Construction Fund – Appropriated to provide additional improvements or improvement bonds.

Lottery Senior Citizens Fund – Appropriated to provide senior medical care programs and other senior citizen programs.

Division of Natural Resources – Appropriated to pay for development, maintenance and construction of recreational facilities, funding or refunding of natural resources bonds and payment of advertising and marketing expenses for development of tourism in the state.

**State Excess Lottery Fund Distribution of Monies**

West Virginia Code Chapter 29, Article 22, Section 18a mandates the distribution of excess lottery funds. Currently the code outlines spending through the following fiscal years, 2002-2003; 2003-2004; 2004-2009; 2009-2010 and subsequent fiscal years:

Fiscal Year 2002-2003:

|   |                  |
|---|------------------|
| General Purpose Fund                                | \$ 65,000,000.00 |
| Education Improvement Fund for Promise Scholarships | 10,000,000.00    |
| Economic Development Project Fund                   | 19,000,000.00    |
| School Building Debt Service Fund                   | 20,000,000.00    |
| Infrastructure Fund                                 | 40,000,000.00    |
| Higher Ed Improvement Fund for Higher Education     | 10,000,000.00    |
| State Park Improvement Fund                         | 5,000,000.00     |

Fiscal Year 2003-2004:

|   |                  |
|---|------------------|
| General Purpose Fund                                | \$ 65,000,000.00 |
| Education Improvement Fund for Promise Scholarships | 17,000,000.00    |
| Economic Development Project Fund                   | 19,000,000.00    |
| School Building Debt Service Fund                   | 20,000,000.00    |
| Infrastructure Fund                                 | 40,000,000.00    |
| Higher Ed Improvement Fund for Higher Education     | 10,000,000.00    |
| State Park Improvement Fund                         | 7,000,000.00     |

Fiscal Year 2004 and subsequent fiscal years through 2009:

|  |                  |
|--|------------------|
| General Purpose Fund                                   | \$ 65,000,000.00 |
| Education Improvement Fund for Promise Scholarships    | 27,000,000.00    |
| Economic Development Project Fund                      | 19,000,000.00    |
| Excess Lottery School Building Debt Service Fund       | 19,000,000.00    |
| Infrastructure Fund                                    | 40,000,000.00    |
| Higher Education Improvement Fund for Higher Education | 10,000,000.00    |
| State Park Improvement Fund                            | 5,000,000.00     |

Fiscal Year 2010 and subsequent fiscal years through 2018:

|  |  |
|--|--|
| General Purpose Fund   | \$ 65,000,000.00   |
| Education Improvement Fund for Promise Scholarships  | 29,000,000.00  |
| Economic Development Project Fund  | 19,000,000.00  |
| Excess Lottery School Building Debt Service Fund   | 19,000,000.00  |
| WV Infrastructure Lottery Revenue Debt Service Fund (Water Development Authority) beginning 2011 | 6,000,000.00   |
| Infrastructure Fund (after \$6 million has gone to Water Development Authority)                  | 40,000,000.00  |
| Infrastructure Fund (after \$6 million has gone to Water Development Authority)                  | 20,000,000.00 FY 2014 and FY 2017  |
| Infrastructure Fund (after \$6 million has gone to Water Development Authority)                  | 30,000,000.00 FY 2015 and FY 2016  |
| Higher Education Improvement Fund for Higher Education   | 15,000,000.00  |
| State Park Improvement Fund  | 5,000,000.00   |
| Racing Commission  | 2,500,000.00 FY 2010 only  |
| Racing Commission  | 2,000,000.00 FY 2011 and forward   |
| Statutory Transfers Fund beginning in FY 2015 varies by year subject to appropriation            | 69,970,651 FY 2015<br>65,603,860 FY 2016<br>63,081,245 FY 2017 – FY 2018 |

Fiscal Year 2019 and subsequent fiscal years:

|  |                  |
|--|------------------|
| General Purpose Fund   | \$ 65,000,000.00 |
| Education Improvement Fund for Promise Scholarships  | 29,000,000.00    |
| Economic Development Project Fund  | 19,000,000.00    |
| Excess Lottery School Building Debt Service Fund   | 19,000,000.00    |
| WV Infrastructure Lottery Revenue Debt Service Fund (Water Development Authority) beginning 2011 | 6,000,000.00     |
| Infrastructure Fund (after \$6 million has gone to Water Development Authority)                  | 40,000,000.00    |
| Licensed Racetrack Purse Fund  | 11,000,000       |
| Higher Education Improvement Fund for Higher Education   | 15,000,000.00    |
| State Park Improvement Fund  | 5,000,000.00     |
| Racing Commission  | 2,000,000.00     |
| Statutory Transfers Fund beginning in FY 2015 varies by year subject to appropriation            | 50,022,040       |

There is also a priority for the allocation of Excess Lottery Funds in the event that net profits do not produce the revenue anticipated as above:

- Economic Development
- Other Debt Service Funds
- Promise Scholarships
- General Purpose Fund

The general revenue portion may have the following priorities:

- Salary increases for teachers and public employees
- Provide adequate funding for the public employees insurance agency
- Provide funding to address the shortage of qualified teachers and substitutes in the areas of need

In fiscal year 2004 and after, the lottery commission shall deposit into the general revenue fund amounts necessary to provide reimbursement for the refundable credit allowable under Chapter 11, Article 21, Section 21, of the West Virginia Code. (Senior citizens tax credit for property tax paid on the first twenty thousand dollars of taxable assessed value of a homestead in this state.)

## **West Virginia Lottery Racetrack Table Games- Distribution of Monies**

A special revenue fund was created in the state treasury known as the West Virginia Lottery Racetrack Table Games Fund and all taxes collected shall be deposited into this fund, including interest earned on those collections.

The initial license fee for table games is \$1.5 million. The yearly renewal license is \$2.5 million. These license fees are deposited in a Community-Based Service Fund in the state treasury. The monies in this fund are expended by the Bureau of Senior Services upon appropriation by the legislature for the purpose of enabling aged and disabled citizens of West Virginia to maintain their residency in the community with the provision of home and community-based services.

From the gross amounts deposited into the Racetrack Table Games Fund, the lottery commission shall distribute or expend as follows:

### **For the initial year of table games licensing:**

- Retain an amount for administrative expenses of the commission not more than 3 percent of the gross income for each licensed table games track.
- Transfer two and one half percent of adjusted gross receipts from all thoroughbred racetracks with table games to special funds established by each thoroughbred racetrack table games licensee for the payment of regular thoroughbred purses. The amount is to be divided equally between the special funds of each thoroughbred track table games licensee. Two and one half of adjusted gross receipts from all the greyhound racetracks with table games will be transferred to special funds established by each greyhound racetrack table games licensee for the payment of regular greyhound purses. The amount is to be divided equally among the funds of the greyhound track table licensees.
- Transfer two percent of the adjusted gross receipt from all licensed racetracks to the Thoroughbred Development Fund (Chapter 19, Article 23, Section 13-b) and the Greyhound Breeding Development Fund (Chapter 19, Article 23, Section 10). Monies shall be prorated among the development funds for each racetrack table games licensee based upon relative adjusted receipts from each racetrack.
- Transfer one percent of the adjusted gross receipts to the county commissions of the counties where racetracks are located. (Subject to Local Powers Act)
- Transfer two percent of the adjusted gross receipts from each licensed racetrack to the governing bodies of municipalities with each county having a racetrack table games licensee. This is subject to various conditions and provisions and to be prorated according to census and Local Powers Act.
- Transfer one and one half percent of the adjusted gross receipts from each licensed racetrack to the governing bodies of municipalities in which a racetrack table games licensee is located. These municipalities shall receive an equal distribution of the total amount allocated.

Distribute the remaining amounts (net amounts) as follows:

- A. Transfer seventy six percent to the State Debt Reduction Fund which shall be used to accelerate the reduction of existing unfunded liabilities and existing bond indebtedness.
- B. Transfer four percent, divided pro-rata based on the relative adjusted gross receipts from the individual racetrack for and on behalf of all the employees of each licensed racing association, into a special fund for pension plan.
- C. Transfer ten percent to be divided into equal shares to each county commission not eligible for other distributions; counties without licensee racetracks. These funds must be used for regional jails, infrastructure or other capital improvements.
- D. Transfer ten percent to be divided and paid in equal amounts to the governing bodies of municipalities not eligible for other distributions, i.e. municipalities, without licensee racetracks. These funds must be used to pay for debt reduction in municipal police and fire pension funds and the cost of infrastructure improvement and capital improvements.

**The West Virginia Code was amended in 2009 to change the distribution of monies in each successive year following the initial licensing of every racetrack licensed to offer table games:**

- The commission shall retain an amount for administrative expenses not to exceed 4 percent of the gross income of each licensed table games track for the initial and second year of operation. Beginning the third year and forward, the allowance for administrative expenses decreases to 3 percent.
- Transfer two and one half percent of adjusted gross receipts from all thoroughbred racetracks with table funds to the special funds established by each thoroughbred racetrack for the payment of purses, the amount being divided equally among all thoroughbred racetracks and transfer two and one half percent of adjusted gross receipts from all greyhound racetracks with table games, the amount being distributed to each greyhound track.
- Transfer two percent of the adjusted gross receipts from all licensed racetracks to the Thoroughbred Development Fund (Chapter 19, Article 23, Section 13-b) and the Greyhound Breeding Development Fund (Chapter 19, Article 23, Section 10). Monies shall be prorated among the development funds for each racetrack table games licensee based upon relative adjusted receipts from each racetrack.
- Transfer two percent of the adjusted gross receipts from each licensed racetrack to the county commissions of the counties where racetracks with table games are located. To be distributed on a pro rata basis among the counties according to the relative adjusted receipts from each county's racetrack. (Subject to the Local Powers Act in which county boards of education in growth counties will receive one half of the county's receipts for the purpose of capital improvements.)
- Transfer three percent of the adjusted gross receipts from each licensed racetrack to the governing bodies of municipalities within counties where racetracks are located. This is subject to various conditions and provisions and is to be prorated according to census and Local Powers Act.
- Transfer one half of one percent of the adjusted gross receipts to the governing bodies of municipalities in which a racetrack table games licensee

is located. These municipalities shall receive an equal distribution of the total amount allocated.

- **Distribute the remaining amounts as follows:**
- Transfer seventy six percent to the State Debt Reduction Fund which shall be used to accelerate the reduction of existing unfunded liabilities and existing bond indebtedness.
- Transfer four percent, divided pro-rata based on the relative adjusted gross receipts from the individual licensed racetrack for and on behalf of all the employees of each licensed racing association, into a special fund for pension plans.
- Transfer ten percent to be divided into equal shares to each county commission not eligible for other distributions, i.e. municipalities without licensee racetracks. These funds must be used for regional jails, infrastructure or other capital improvements.
- Transfer ten percent to be divided and paid in equal amounts to the governing bodies of municipalities not eligible for other distributions, i.e. municipalities without licensee racetracks. These funds must be used to pay for debt reduction in municipal police and fire pension funds and the cost of infrastructure improvement and capital improvements.
- All expenses of the commission incurred for the enforcement of Racetrack Table Games, Chapter 19, Article 22C, shall be paid from the Racetrack Table Games Fund. The commission shall transfer annually at least one hundred thousand dollars and no more than five hundred thousand dollars to the Compulsive Gambling Treatment Fund.

**The West Virginia Code was amended in 2014 to change the distribution of monies as follows:**

- The commission shall retain an amount for administrative expenses not to exceed 3 percent of the gross income of each licensed table games track for the initial and second year of operation.
- Transfer two and one quarter percent of adjusted gross receipts from all thoroughbred racetracks with table funds to the special funds established by each thoroughbred racetrack for the payment of purses, and transfer two and one quarter percent of adjusted gross receipts from all greyhound racetracks with table games, the amount being distributed to each greyhound track.
- Transfer one and eight tenths percent of the adjusted gross receipts from all licensed racetracks to the Thoroughbred Development Fund (Chapter 19, Article 23, Section 13-b) and the Greyhound Breeding Development Fund (Chapter 19, Article 23, Section 10). Monies shall be prorated among the development funds for each racetrack table games licensee based upon relative adjusted receipts from each racetrack.
- Transfer two percent of the adjusted gross receipts from each licensed racetrack to the county commissions of the counties where racetracks with table games are located. To be distributed on a pro rata basis among the counties according to the relative adjusted receipts from each county's racetrack. (Subject to the Local Powers Act in which county boards of education in growth counties will receive one half of the county's receipts for the purpose of capital improvements.)
- Transfer three percent of the adjusted gross receipts from each licensed racetrack to the governing bodies of municipalities within counties where



racetracks are located. This is subject to various conditions and provisions and is to be prorated according to census and Local Powers Act.

- Transfer one half of one percent of the adjusted gross receipts to the governing bodies of municipalities in which a racetrack table games licensee is located. These municipalities shall receive an equal distribution of the total amount allocated.
- Transfer forty five hundredths of one percent of the adjusted gross receipts to the Excess Lottery Revenue Fund.
- **Distribute the remaining amounts as follows:**
- Transfer seventy six percent to the Excess Lottery Revenue Fund.
- Transfer four percent, divided pro-rata based on the relative adjusted gross receipts from the individual licensed racetrack for and on behalf of all the employees of each licensed racing association, into a special fund for pension plans.
- Transfer ten percent to be divided into equal shares to each county commission not eligible for other distributions, i.e. municipalities without licensee racetracks. These funds must be used for regional jails, infrastructure or other capital improvements.
- Transfer ten percent to be divided and paid in equal amounts to the governing bodies of municipalities not eligible for other distributions, i.e. municipalities without licensee racetracks. These funds must be used to pay for debt reduction in municipal police and fire pension funds and the cost of infrastructure improvement and capital improvements.
- All expenses of the commission incurred for the enforcement of Racetrack Table Games, Chapter 19, Article 22C, shall be paid from the Racetrack Table Games Fund. The commission shall transfer annually at least one hundred thousand dollars and no more than five hundred thousand dollars to the Compulsive Gambling Treatment Fund.

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### **Historic Resort Hotel Table Games**

In 2009 the legislature enacted legislation to allow video and licensed table games at historic resort hotels. In order to meet the definition of an historic resort hotel, the hotel must be registered with the United States Department of Interior and have a minimum of five hundred guest rooms under common ownership with additional recreational facilities for guests.

There is a special fund in the West Virginia Treasury entitled, "Historic Resort Hotel Fund". The lottery commission deposits thirty six percent of gross terminal income from video lottery games and thirty percent of adjusted gross receipts from table games into this fund. This fund is an interest bearing account with interest earned to be deposited in the fund. All expenses of the commission shall be paid from this fund including State Police expenditures for activities relating to the historic resort gaming facility such as background investigations and enforcement activities. The limit on the expenses is 15% or less of the receipts.

Two and one half percent of the receipts in the Historic Resort Hotel Fund are deposited to the "Historic Resort Hotel Modernization Fund". For each dollar expended by a historic resort hotel for video lottery or table gaming facility modernization improvements at the hotel and placed into service after April 1, 2011, the historic hotel shall receive \$ 1.00 in recoupment from the fund.

The balance in the Historic Resort Hotel Fund is considered net income and is distributed as follows:

- Sixty four percent to the West Virginia general revenue fund
- Nineteen percent shall be paid to the State Debt Reduction Fund established in West Virginia Code 29-22C-27.
- Three percent to the Tourism Promotion fund
- Four percent to the county in which the facility is located
- Two and one half percent to the municipality in which the facility is located
- The municipalities within the county in which the facility is located shall receive equal shares off two and one half percent
- All other county commissions in the state will receive two and one half percent divided equally (must be expended by county for regional jail expenses, infrastructure or other capital improvements)
- All other municipalities in the state will receive two and one half percent divided equally (must be expended by the municipalities for police and fire pension funds, infrastructure or other capital improvements)
- All license fees will be deposited into the Community Based Service Fund. This is a fund to be expended by the Bureau of Senior Services upon appropriation by the legislature for the purpose of enabling aged and disabled citizen to stay in their residences through community based services.

In addition to the "Historic Resort Hotel Fund" there is a "Human Resource Benefit Fund established to provide fringe benefits for employees of historic resort hotels. The hotel must deposit seventeen percents of the adjusted gross receipts from video lottery games and five percent of the adjusted gross receipts from table games into this fund. For each dollar expended by the historic hotel for employee fringe benefits, one dollar can be recouped from the fund. The commission has the authority to audit the fund. A minimum of two audits is required each fiscal year.

**The West Virginia Code was amended in 2014 to change the distribution of monies as follows:**

Two and one half percent of the receipts in the Historic Resort Hotel Fund are deposited to the Excess Lottery Revenue Fund.

The balance in the Historic Resort Hotel Fund is considered net income and is distributed as follows:

- Eighty six percent to the Excess Lottery Revenue Fund
- Four percent to the county in which the facility is located
- Two and one half percent to the municipality in which the facility is located
- The municipalities within the county in which the facility is located shall receive equal shares off two and one half percent

- All other county commissions in the state will receive two and one half percent divided equally (must be expended by county for regional jail expenses, infrastructure or other capital improvements)
- All other municipalities in the state will receive two and one half percent divided equally (must be expended by the municipalities for police and fire pension funds, infrastructure or other capital improvements)

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Lottery Net Profits (Distributions to the state of West Virginia)

| Fiscal Year Ending June 30 | Net Profit       |
|----------------------------|------------------|
| 1994                       | \$ 42,399,113.00 |
| 1995                       | 55,317,133.00    |
| 1996                       | 60,538,353.00    |
| 1997                       | 72,756,779.00    |
| 1998                       | 91,169,473.00    |
| 1999                       | 119,252,948.00   |
| 2000                       | 139,642,000.00   |
| 2001                       | 189,237,000.00   |
| 2002                       | 315,874,000.00   |
| 2003                       | 411,040,000.00   |
| 2004                       | 512,144,000.00   |
| 2005                       | 563,320,000.00   |
| 2006                       | 610,041,000.00   |
| 2007                       | 639,151,000.00   |
| 2008                       | 631,155,000.00   |
| 2009                       | 616,623,000.00   |
| 2010                       | 568,945,000.00   |
| 2011                       | 565,256,000.00   |
| 2012                       | 662,982,000.00   |
| 2013                       | 545,204,000.00   |
| 2014                       | 498,365,000.00   |
| 2015                       | 508,328,566.00   |
| 2016                       | 496,670,448.00   |
| 2017                       | 477,053,471.00   |
| 2018                       | 474,854,598.00   |
| 2019                       | 495,141,920.00   |

Lottery Profits (Distributions to the state of West Virginia)



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