

# WEST VIRGINIA CODE: §11-10-11C

## **§11-10-11c. State administration of local sales and use taxes and excise taxes; jurisdiction and standing before the office of tax appeals; rule-making authority.**

(a) The Tax Commissioner has exclusive responsibility for administering, collecting and enforcing all local sales and use taxes and excise taxes imposed pursuant to article twenty-two, chapter seven of this code, section five-a, article one, chapter eight of this code, article thirteen-c, chapter eight of this code and article thirty-eight, chapter eight of this code.

(b) Pursuant to, and limited by, the provisions of section eight, article ten-a of this chapter, the Office of Tax Appeals has exclusive and original jurisdiction to hear disputes arising from any local sales and use taxes and excise taxes for which the Tax Commissioner has exclusive administration, enforcement and collection responsibility. No municipality or county has standing before the Office of Tax Appeals in any dispute arising under any local sales and use tax and excise tax upon which the Tax Commissioner has exclusive responsibility for administration, enforcement and collection.

(c) Notwithstanding any other provision of this code to the contrary, the Tax Commissioner may assess a fee, to be established by legislative rule pursuant to the provisions of article three, chapter twenty nine-a of this code, to be retained from collections authorized by section five-a, article one, chapter eight of this code, and section six, article thirteen-c, chapter eight of this code: Provided, That the fee may not exceed five percent of such collections in total including any fee otherwise authorized by this code or any duly enacted ordinance.

(d) Establishment of special revenue account.

(1) There is created in the State Treasury a special revenue revolving fund account known as the "Local Sales Tax and Excise Tax Administration Fund". Expenditures from the fund shall be for the purposes set forth in this section and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code: Provided, That for the fiscal year ending June 30, 2014, expenditures are authorized from collections rather than pursuant to appropriation by the Legislature. The fund shall consist of:

(A) Any funds collected pursuant to section (c) of this section; and

(B) Any funds received on and after July 1, 2013, from fees retained by the Tax Commissioner pursuant to section six, article thirteen-c, chapter eight of this code; and

(C) Amounts deducted and retained by the Tax Commissioner under subsection (e), section eleven-a of this article; and

(D) Any future funds appropriated by the Legislature or transferred by any public agency as contemplated or permitted by applicable federal or state law; and

(E) Any accrued interest or other return on the moneys in the fund.

(2) On July 1, 2013, all moneys in the Tax Department "Municipal Sales and Use Tax Operations Fund" established under section six, article thirteen-c, chapter eight of this code shall be transferred to the Local Sales Tax and Excise Tax Administration Fund established in this section.

(3) On July 1, 2013, all moneys in the "Special District Excise Tax Administration Fund" established under section eleven-b of this article shall be transferred to the Local Sales Tax and Excise Tax Administration Fund established in this section.

(4) Amounts deposited in the Local Sales Tax and Excise Tax Administration Fund may be expended by the Tax Commissioner for the general administration, collection and enforcement of all local sales and use taxes and excise taxes imposed pursuant to article twenty-two, chapter seven of this code, section five-a, article one, chapter eight of this code, article thirteen-c, chapter eight of this code and article thirty-eight, chapter eight of this code.

(e) Notwithstanding the provisions of section eleven-b of this article, The Tax Commissioner may prescribe by rule the schedule and manner for deposits of moneys into the Local Sales Tax and Excise Tax Administration Fund and any other administrative and procedural requirements as may be useful or necessary for the management and handling of the fund.

(f) Effective Date - The provisions of this section enacted in 2013 are effective on and after July 1, 2013.