WEST VIRGINIA CODE: §11-10-17

§11-10-17. Interest.

(a) Underpayments. -– If any amount of a tax administered under this article is not paid on or before the last date prescribed for payment, interest on the amount at the rate of eight percent per annum shall be paid for the period from the last date to the date paid: Provided, That on and after July 1, 1986, interest on underpayments shall be paid at the annual rate established under section seventeen-a of this article, from the period beginning on July 1, or from the last day prescribed for payment, whichever is the later, to the date paid, regardless of when liability for the tax arose: Provided, however, That on and after July 1, 2002, interest on underpayments shall be paid at an annual rate of one and one-half percent above the annual rate established under section seventeen-a of this article, from the period beginning on July 1, or from the last day prescribed for payment, whichever is the later, to the date paid, regardless of when liability for the tax arose. For purposes of this subsection, the last date prescribed for payment shall be the due date of the return and shall be determined without regard to any extension of time for payment.

(b) Last date for payment not otherwise prescribed. -- In the case of taxes payable by stamp or other indicia of tax payment and in all other cases in which the last day for payment is not otherwise prescribed, the last date for payment shall be considered to be the date the liability for tax arises and in no event shall be later than the date notice and demand for payment of the tax is made by the Tax Commissioner.

(c) Erroneous refund or credit. -- If any refund is made or credit is established upon an erroneous claim for refund or credit, interest on the amount refunded or credited at the annual rate established under section seventeen-a of this article, shall be paid by the claimant from the date the refund was made or the credit was taken to the date the amount is recovered.

(d) Overpayments. -- Interest shall be allowed and paid at the annual rate of eight percent per annum upon any amount which has been finally administratively or judicially determined to be an overpayment in respect of each tax administered under this article except the taxes imposed by articles twelve, fourteen and fourteen-a of this chapter: Provided, That on and after July 1, 1986, interest on overpayments shall be paid at the annual rate established under section seventeen-a of this article, from July 1, or the date the claim for refund or credit is filed, whichever is the later, regardless of when the tax was paid. The interest shall be allowed and paid for the period commencing with the date of the filing by the taxpayer of a claim for refund or credit with the Tax Commissioner and ending with the date of a final administrative or judicial determination of overpayment. The Tax Commissioner shall, within thirty days after the determination of entitlement to refund, issue his or her requisition or establish a credit as requested by the taxpayer. Whenever the Tax Commissioner fails or refuses to issue any requisition or establish the credit within said thirty-day period, the interest provided herein shall commence to accrue until performance by the Tax

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Commissioner. The acceptance of the refund check or credit shall be without prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon.

(e) Applicable rules. -- For purposes of this section:

(1) No interest payable on tax refunded or credited within ninety days after claim for refund or credit is filed. -- In the event of the overpayment of any tax administered under this article, except the tax imposed by articles twenty-one and twenty-four of this chapter, where the Tax Commissioner issues his or her requisition or establishes a credit as requested by the taxpayer within ninety days after the date of the filing by the taxpayer of a claim for refund or credit, no interest shall be allowed under this section.

(2) No interest payable where personal income tax and corporation net income tax refunded or credited within six months after claim for refund or credit is filed. -- In the event of the overpayment of the tax imposed by articles twenty-one and twenty-four of this chapter, where the Tax Commissioner issues his or her requisition or establishes a credit as requested by the taxpayer within six months after the date of the filing by the taxpayer of a claim for refund or credit, no interest shall be allowed under this section.

(3) Interest treated as tax. -- Interest prescribed under this section on any tax shall be collected and paid in the same manner as taxes.

(4) No interest on interest. -- No interest under this section shall be imposed on the interest provided by this section prior to July 1, 1986.

(5) Interest on penalties or additions to tax. -- Interest shall be imposed under subsection (a) of this section on any assessable penalty or additions to tax only if the penalty or additions to tax is not paid within fifteen days from the date of notice and demand therefor, and in that case, interest shall be imposed only for the period from the date of the notice and demand to the date of payment.

(6) Payments made within fifteen days after notice and demand. -- If notice and demand is made for payment of any amount, and if the amount is paid within fifteen days after the date of the notice and demand, interest under this section on the amount so paid may not be imposed for the period after the date of the notice and demand.

(7) Limitation on collection. -- Interest prescribed under this section on any tax may be collected at any time during the period within which the tax to which the interest relates may be collected.

(8) Exception as to estimated tax. -- This section does not apply to any failure to pay any estimated tax required to be paid under articles thirteen, thirteen-a, thirteen-b, twenty-one, twenty-three or twenty-four of this chapter.

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