WEST VIRGINIA CODE: §11-10-17A

§11-10-17a. Determination of rate of interest.

(a) In general. -- The annual rate of interest established under this section shall be such adjusted rate as is established by the Tax Commissioner under subsections (b) and (c) : Provided, That for taxable years beginning prior to January 1, 2017, such annual rate shall not be less than eight percent per annum.

(b) Adjustments of interest rate prior to January 1, 2017.

(1) Establishment of adjusted rate. -- If the adjusted prime rate charged by banks (rounded to the nearest full percent):

(A) During the six-month period ending on September 30, of any calendar year; or

(B) During the six-month period ending on the thirty-first day of March of any calendar year, differs from the interest rate in effect under this section on either such date, respectively, then the Tax Commissioner shall establish, within fifteen days after the close of the applicable six-month period, an adjusted rate of interest equal to such adjusted prime rate.

(2) Effective date of adjustment. -- Any such adjusted rate of interest established under paragraph (1) shall become effective:

(A) On January 1, of the succeeding year in the case of an adjustment attributable to paragraph (1)(A) above; and on

(B) The first day of July of the same year in the case of an adjustment attributable to paragraph (1)(B).

(c) Adjustment of interest rate after December 31, 2016. -- Each year, the Tax Commissioner shall fix the adjusted rate to equal the adjusted prime rate charged by banks (rounded to the nearest hundredth of a percent) plus three percentage points per annum as of the first business day of December, for which an adjusted prime rate is determined, in the preceding year and it shall be effective January 1.

(d) Definition of "adjusted prime rate." -- For purposes of subsections (b) and (c), the term "adjusted prime rate charged by banks" means the average predominant prime rate quoted by commercial banks to large businesses, as determined by the board of Governors of the Federal Reserve System.

(e) Application of change in interest rate.

(1) To deficiencies. -- The interest rate in effect at the time of assessment or when the payment of delinquent tax is made shall not be applied retroactively to the date the tax was

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due. Interest on moneys owed by the taxpayer shall be the sum of the interest amounts calculated for each year or part thereof from the date prescribed for payment (determined without regard to any extensions) to the date the payment is made using the interest rate in effect for each respective year or part thereof.

(2) To overpayments. -- The interest rate in effect at the time an overpayment of tax is refunded, or a credit therefor is established, by the Tax Commissioner, shall not be applied retroactively to the date the claim for refund or credit was filed with the Tax Commissioner. Interest on moneys owed to taxpayers shall be the sum of the interest amounts calculated for each year or part thereof from date the claim for refund or credit was filed with the Tax Commissioner until date the refund is paid or credit therefor is established (such dates determined as provided in section seventeen) using the interest rate in effect for each respective year or part thereof.

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