# WEST VIRGINIA CODE: §11-10-27

**§11-10-27. Administrative fees.**

(a) Administrative fee for the collection of money for other state departments, divisions, agencies and institutions.

(1) The Tax Commissioner may retain one percent of the taxes and fees, including one percent of any interest, additions to tax and penalties related thereto, collected by the Tax Division of the Department of Revenue that are to be deposited into any of the following special revenue funds: The Special Reclamation Fund, the Special Reclamation Water Trust Fund, the Mining and Reclamation Operations Fund, the Solid Waste Reclamation and Environmental Response Fund, the Solid Waste Enforcement Fund, the Solid Waste Management Board Reserve Fund, the Recycling Assistance Fund, the Closure Cost Assistance Fund, the Solid Waste Planning Fund, the Hazardous Waste Emergency Response Fund, the Law-Enforcement Fund, the Gas Field Highway Repair and Horizontal Drilling Waste Study Fund, the Waste Coal-Producing Counties Fund, the Coalbed Methane Gas Distribution Fund, the Eligible Acute Care Provider Enhancement Account, the West Virginia Affordable Housing Trust Fund, the special revenue account in the State Treasury to be appropriated by the Legislature for the purposes of the Division of Forestry and the special medical school fund in the State Treasury to be used solely for the construction, maintenance and operation of a four-year school of medicine, dentistry and nursing. For all taxes collected by the Tax Division of the Department of Revenue that are to be deposited into any other special revenue funds, the Tax Commissioner may retain, as an administrative fee, one percent of the taxes and fees, including one percent of any interest, additions to tax and penalties related thereto. Notwithstanding any provision of this code to the contrary, on and after July 1, 2022, any fee collected by or dedicated to the Office of the Tax Commissioner for the collection, distribution, or administration of a specified tax or fee, shall be deposited into the "Tax Administration Services Fund" specified in this section, and shall be used for the purposes and in the manner specified in this section. The amount retained by the Tax Commissioner is a fee for the services provided by the Tax Division in the administration, distribution or collection, or any combination thereof, of those taxes and fees.

(2) (A) Notwithstanding any provision of this code to the contrary, effective July 1, 2022, and thereafter, all amounts required to be deposited into the following funds prior to the amendment of this section during the 2022 regular legislative session shall, in lieu thereof, be deposited into the "Tax Administrative Services Fund" specified in this section and shall be used for the purposes and in the manner specified in this section. All moneys currently contained in the following funds, as of July 1, 2022, shall be transferred to the "Tax Administrative Service Fund":

(i) The "Motor Fuel General Tax Administrative Fund" created pursuant to §11-14C-47 of this code;

WVLegislature

(ii) The "Oil and Gas County Revenue Fund Administration Fund" created pursuant to §11-13A-5a of this code;

(iii) The "Additional Tax Administration Fund" created pursuant to §11-13A-6 of this code;

(iv) The "Special Audit and Investigative Unit Fund" created pursuant to §11-9-2a of this code;

(v) The "Medicaid State Share Administration Fund" created pursuant to §11-27-32 of this code;

(vi) The "Cemetery Company Registration Fund" created pursuant to §35-5B-2 of this code;

(vii) The "Telemarketer Registration Fund" created pursuant to §46A-6F-303 of this code;

(viii) The "Local Sales Tax and Excise Tax Administration Fund" created pursuant to §11-10-11c of this code;

(ix) The "Wine Tax Administration Fund" created pursuant to §60-8-24 of this code;

(x) The "Tax Offset Fee Administration Fund" created pursuant to §11-10-11 of this code;

(xi) The "Municipal Fines and Fees Collection Fund" created pursuant to the previous provisions of §8-10-2b of this code; and

(xii) The "Magistrate Fines and Fees Collection Fund" created pursuant to §50-3-2c of this code.

(B) The amount of any statutory authorized fee listed in paragraph (A) of this subdivision shall be the amount provided in the authorizing statute: *Provided*, That, notwithstanding any provision of this code to the contrary, the fee authorized by §11-10-11c(c) of this code shall be one percent of collections.

(b) Administrative fee for the collection, administration and distribution of money for local or municipal government, any other governmental subdivision or other public entity or public corporation, where a fee is not otherwise provided for elsewhere in this code.

For all taxes or fees collected by the Tax Division of the Department of Revenue on behalf of any local, county or municipal government, or any other governmental subdivision or public entity or public corporation, including, but not limited to, sanitary districts, water districts and solid waste authorities, the Tax Commissioner may retain, as an administrative fee, one percent of the taxes and fees, including one percent of any interest, additions to tax and penalties related thereto: *Provided*, That the Legislature has not expressly and specifically authorized a fee in a provision of this code other than this section, to be collected by, retained by or dedicated to, the Tax Commissioner for the collection, distribution or administration of a specified tax or fee. For purposes of this section the term "taxes and

WV Legislature

fees" includes any interest, additions to tax and penalties relating to any taxes or fees.

(c) Transaction fees imposed by the Enterprise Resource Planning System may be recovered by the Tax Division of the Department of Revenue.

If the Tax Division of the Department of Revenue incurs a fee imposed by the Enterprise Resource Planning System, which is developed, implemented and managed by the West Virginia Enterprise Resource Planning Board §12-6D-1 *et seq*. of this code, relating to a transaction of any entity or person with the Tax Division of the Department of Revenue, then the Tax Commissioner may charge that entity or person a fee in the amount that the Tax Division of the Department of Revenue incurred or will incur relating to that transaction.

(d) Fees collected under this section shall be retained in a revolving fund for the use of the Tax Division of the Department of Revenue.

Any fees collected or retained under subsections (a), (b) and (c) of this section shall be held in a revolving fund for the use of the Tax Division of the Department of Revenue for general tax administration, which fund is hereby created in the State Treasury and designated the "Tax Administration Services Fund". Expenditures from the fund are authorized from collections. Moneys remaining in such fund on the last day of the fiscal year shall carry over and remain in the fund in the next succeeding fiscal year for use by the Tax Division of the Department of Revenue.

(e) Fee increases. – Any state agency may increase any administrative fee that the agency is authorized to impose by West Virginia statute or West Virginia rule by proposing a legislative rule, for legislative approval, in accordance with the provisions of §29A-3-1 *et seq*. of this code, imposing the increase: *Provided*, That no such increase shall be made within three years of the initial imposition of the fee or within three years of the most recent revision of a statute or rule that increases or decreases the fee.

(f) Effective date. – The provisions of this section, as enacted in 2015, become effective January 1, 2016. The provisions of this section, as enacted in 2022, become effective January 1, 2022.

WV Legislature