

# WEST VIRGINIA CODE: §11-10B-5

## **§11-10B-5. Waiver of penalties; criminal immunity; exceptions and limitations.**

(a) For any taxpayer who meets the requirements of section six below, and except as otherwise specifically provided in this article.

(1) The Tax Commissioner shall waive all penalties, as defined in section two of this article, and all additions to tax, as defined in said section two, for the taxes for which tax penalty and additions to tax amnesty is granted, which are owed as a result of nonpayment, underpayment, nonreporting or underreporting of tax liabilities; and

(2) No criminal action may be brought against the taxpayer for the default for which tax penalty and additions to tax amnesty is granted.

(b) This section does not apply to nonpayment, underpayment, nonreporting, misreporting or underreporting of tax liabilities for which amnesty is sought if, as of the date the taxpayers' application for amnesty is filed:

(1) The taxpayer is the subject of a criminal investigation by any agency of this state; or

(2) An administrative proceeding, or a civil or criminal court proceeding has been initiated or is pending in any administrative agency or court of this state or of the United States for nonpayment, delinquency, fraud or other event of noncompliance in relation to any of the specified taxes. An administrative or civil proceeding shall not be deemed to be pending if the taxpayer withdraws with prejudice from the proceeding prior to the granting of amnesty, pays in full the outstanding tax liability plus the accrued interest thereon and otherwise cures any default which is the subject of such proceeding.

(c) No refund or credit may be granted for any penalty or addition to tax paid prior to the time the taxpayer files his application for tax penalty and additions to tax amnesty pursuant to section six below. Additionally, no refund or credit shall be granted for any specified taxes plus interest paid under this program unless the Tax Commissioner, on his own motion, redetermines the amount of tax and accrued interest thereon.

(d) The taxpayer shall not be eligible for amnesty for any tax liability if the taxpayer has other tax liabilities outstanding for a tax listed in section three, article ten of this chapter, for which he has not applied for amnesty.