WEST VIRGINIA CODE: §11-10B-6

§11-10B-6. Application for amnesty; requirements; deficiency assessment.

(a) The provisions of this article apply to any taxpayer who, on or after the date of commencement of the tax penalty and additions to tax amnesty program and on or before the termination date designated by the Tax Commissioner, files an application for tax penalty and additions to tax amnesty on or before the last day of the third calendar month of the amnesty program and does the following:

(1) Voluntarily completes, signs and files amended tax returns to report transactions and other material matters not included on original returns and pays in full all additional taxes and interest shown to be due thereon;

(2) Voluntarily completes, signs and files all delinquent tax returns and pays in full all taxes and interest shown to be due thereon;

(3) Voluntarily completes, signs and files amended tax returns to correct all incorrect, deficient or incomplete original returns and pays in full all taxes and interest shown to be due thereon; and

(4) Voluntarily pays in full all previously assessed tax liabilities and other taxes legally collectible under section eleven, article ten of this chapter, and interest due thereon.

(b) Except as provided in subsection (d) below, all taxes for which tax penalty and additions to tax amnesty is sought plus accrued interest shall be paid not later than last day of the month succeeding the termination of the amnesty program. Interest on the amount of tax due shall be calculated at the rate prescribed in article ten of this chapter, which continues to accrue until the tax liability is paid.

(c) Payments made by the taxpayer under this tax penalty and additions to tax amnesty program shall be in money, United States currency or by certified check, cashier's check or post office money order, payable to the Tax Commissioner of this state.

(d) The Tax Commissioner may, at his discretion and upon such terms and conditions as he may prescribe, enter into an installment payment agreement with the taxpayer, such installment payment agreement to be in lieu of the full immediate payment required by subsection (b) of this section. Any such agreement shall include interest on the outstanding amount due. Failure of the taxpayer to fully comply with the terms of the installment payment agreement shall render the waiver of penalties and additions to tax under this amnesty program null and void, unless the Tax Commissioner determines that the failure was due to reasonable cause, and, in the event of such unexcused noncompliance with the terms of the installment payment agreement, the total amount of tax, interest and all additions to tax and penalties shall be immediately due and payable.

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(e) If, subsequent to termination of the tax penalty and additions to tax amnesty program, the Tax Commissioner determines there was a defect in the amnesty application or in the materials submitted in support of the amnesty application and subsequently issues a deficiency assessment upon a return or amended return filed pursuant to subsection (a) of this section, the Tax Commissioner has the authority to impose applicable penalties and additions to tax and to pursue any criminal prosecution as may ordinarily be brought with respect to such defect as if no amnesty had been granted the taxpayer.

(f) The Tax Commissioner may review all cases in which amnesty has been granted and may on the basis of mistake of fact, fraud or misrepresentation rescind the grant of amnesty, or in lieu thereof, appropriate review of the grant of amnesty may be obtained by proceeding under article nine or ten (or both) of this chapter. Any taxpayer who files a false or fraudulent return or amended return, or attempts in any manner to defeat or evade payment of a tax under this amnesty program, shall be subject to applicable civil penalties and criminal prosecution.

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