WEST VIRGINIA CODE: §11-10D-11

§11-10D-11. Penalty on liabilities eligible for amnesty for which taxpayer did not apply for amnesty.

(a) If a taxpayer has a liability that would be eligible for amnesty under this article but the taxpayer fails to apply for amnesty within the designated amnesty period as determined in this article, or, after applying for amnesty, fails to satisfy all of the requirements for amnesty, then a penalty in the amount of ten percent of the unpaid liability shall be added to the amount of any unpaid taxes eligible for amnesty.

(b) The Tax Commissioner shall assess the penalty provided in subsection (a) of this section unless:

(1) Taxpayer provides evidence satisfactory to the commissioner which demonstrates that taxpayer's failure to apply for amnesty or his or her failure to satisfy all of the requirements for amnesty was not an intentional attempt to avoid the payment of taxes and was based on the taxpayer's mistaken belief that he or she did not have any liability eligible for amnesty; or

(2) Taxpayer's failure to apply for amnesty, in the case of an assessment issued before the start of or during the amnesty period, is due to taxpayer contesting in an administrative or judicial forum the disputed liability.

WV Legislature