WEST VIRGINIA CODE: §11-10D-6

§11-10D-6. Waiver of penalties; criminal immunity; exceptions and limitations.

(a) Waiver of penalty, addition to tax and interest. -- For any taxpayer who meets the requirements of section seven of this article and except as otherwise specifically provided in this article:

(1) Waiver. -- The Tax Commissioner shall waive all penalties and additions to tax and fifty percent of the interest imposed on the late filing of a return or the late payment of any tax for which tax amnesty is granted, which is owed as a result of nonpayment, underpayment, nonreporting or underreporting of tax liabilities; and

(2) Criminal penalties. -- No criminal action may be brought against the taxpayer for the default for which tax amnesty is granted under this article.

(b) Exceptions. -- This section does not apply to nonpayment or underpayment of tax liabilities, or to nonreported, misreported or underreported tax liabilities for which amnesty is sought if, as of the date the taxpayer's 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 taxes administered under article ten of this chapter. 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 fifty percent of the accrued interest thereon and otherwise cures any default which is the subject of the proceeding.

(c) No refund or credit. -- No refund or credit may be granted for any penalty, addition to tax or interest paid prior to the date the taxpayer files his or her application for tax amnesty pursuant to section seven of this article. Additionally, no refund or credit shall be granted for any tax or interest paid under this program unless the Tax Commissioner, on his or her own motion, redetermines the amount of tax or accrued interest thereon.

(d) Bar to amnesty. -- A taxpayer shall not be eligible for amnesty for any tax liability if the taxpayer has other liabilities outstanding for any tax administered under article ten of this chapter, for which the taxpayer has not applied for amnesty. This includes tax deficiencies pending before the office of tax appeals or a court in this state.

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