WEST VIRGINIA CODE: §11-10E-6

§11-10E-6. Failure to register tax shelter or maintain list.

(a) Penalty imposed. -- Any person that fails to comply with the requirements of section eight or section nine of this article shall incur a penalty as provided in subsection (b). A person shall not be in compliance with the requirements of section eight unless and until the required registration has been filed and contains all of the information required to be included with such registration under such section eight or Section 6111 of the Internal Revenue Code. A person shall not be in compliance with the requirements of section nine unless, at the time the required list is made available to the Tax Commissioner, such list contains all of the information required to be maintained under such section nine or Section 6112 of the Internal Revenue Code.

(b) Amount of penalty. -- The following penalties apply:

(1) In the case of each failure to comply with the requirements of subsection (a), subsection (b) or subsection (d) of section eight, the penalty shall be $10,000;

(2) If the failure to comply with the requirements of subsection (a), subsection (b) or subsection (d) of section eight is with respect to a listed transaction described in subsection (c) of section eight, the penalty shall be $100,000;

(3) In the case of each failure to comply with the requirements of subsection (a) or subsection (b) of section nine, the penalty shall be $10,000; and

(4) If the failure to comply with the requirements of subsection (a) or subsection (b) of section nine is with respect to a listed transaction described in subsection (c) of section nine, the penalty shall be $100,000.

(c) Authority to rescind penalty. -- The office of tax appeals, with the written approval of the Tax Commissioner, may rescind all or any portion of any penalty imposed by this section with respect to any violation only if one or more of the following apply: (1) It is determined that failure to comply did not jeopardize the best interests of the state and is not due to any willful neglect or any intent not to comply; (2) it is shown that the violation is due to an unintentional mistake of fact; (3) rescinding the penalty would promote compliance with the requirements of this article and effective tax administration; or (4) the taxpayer can show that there was reasonable cause for the failure to disclose and that the taxpayer acted in good faith.

(d) Coordination with other penalties. -- The penalty imposed by this section is in addition to any penalty imposed by this article or article ten of this chapter.

WV Legislature