WEST VIRGINIA CODE: §11-12-3

§11-12-3. Business registration certificate required; tax levied; exemption from registration; exemption from tax; penalty.

(a) *Registration required.* — No person shall, without a business registration certificate, engage in or prosecute, in the State of West Virginia, any business activity without first obtaining a business registration certificate from the Tax Commissioner of the State of West Virginia. Additionally, before beginning business in this state, such person:

(1) If a transient vendor, shall comply with the provisions of sections 20 through 25 of this article.

(2) If a collection agency, shall comply with the provisions of §47-16-1 *et seq.* of this code.

(3) If an employment agency, shall comply with the provisions of §21-2-1 *et seq.* of this code.

(4) If selling drug paraphernalia, as defined in §47-19-3 of this code, shall comply with the provisions of §47-19-1 *et seq.* of this code.

Persons engaging in or prosecuting other business activities in this state may also be subject to other provisions of this code which they must satisfy before commencing or while engaging in a business activity in this state.

(b) *Tax levied.* — The business registration tax hereby levied shall be $15 for each annual business registration certificate: *Provided,* That for registration periods beginning on or after July 1, 1999, the business registration tax shall be $30, except as otherwise provided in this article: *Provided, however,* That after June 30, 2010, the business registration tax shall be $30.00 for each business registration certificate, including business registration certificates granted upon application after cessation of a business, or after suspension, revocation, cancellation or lapse of a prior business registration certificate.

(1) A separate business registration certificate is required for each fixed business location from which property or services are offered for sale or lease to the public as a class, or to a limited portion of the public; or at which customer accounts may be opened, closed or serviced.

(2) A separate business registration certificate is not required for each coin-operated machine. A separate certificate is required for each location from which making coin-operated machines available to the public is itself a business activity.

(3) A business that sells tangible personal property or services from or out of one or more vehicles needs a separate business registration certificate for each fixed location in this state from or out of which business is conducted. A copy of its business registration certificate shall be carried in each vehicle and publicly displayed while business is conducted from or

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out of the vehicle.

(4) A business registration certificate is required by subsection (a) of this section for every person engaging in purposeful revenue generating activity in this state. If that activity is one for which an employment agency license or a collection agency license or a license to sell drug paraphernalia is required and no other business activity is conducted by that person at each business location for which the employment agency license or collection agency license or license to sell drug paraphernalia is issued, then only that license is required for each such activity conducted by the licensee at each business location. However, if, in addition to the activity for which each license is issued, some other business activity is conducted by the licensee at such business location, a separate business registration certificate is required to conduct the nonlicensed activity.

(c) *Exemption from registration.* — Any person engaging in or prosecuting business activity in this state:

(1) Who is not required by law to collect or withhold a tax administered under article ten of this chapter; and

(2) Who does not claim exemption from payment of taxes imposed by articles fifteen and fifteen-a of this chapter, shall be exempt from both registration and payment of the tax imposed by this article, if such person had gross income from business activity of $4,000 or less during that person's tax year for state income tax purposes immediately preceding the registration period for which a registration certificate is otherwise required by this article.

(d) *Exemptions from payment of tax.* — Any person engaging in or prosecuting any business activity in this state who is required by law to collect or withhold any tax administered under article ten of this chapter; or who claims exemption from payment of the taxes imposed by articles fifteen and fifteen-a of this chapter, shall be required to obtain a business registration certificate, as herein before provided, but shall be exempt from payment of the tax levied by subsection (b) of this section, if such person is:

(1) A person who had gross income of $10,000 or less during that person's tax year for state income tax purposes immediately preceding the registration period for which a registration certificate is required under this article.

(2) An organization which qualifies, or would qualify, for exemption from federal income taxes under section 501 of the Internal Revenue Code of 1986, as amended.

(3) This state, or a political subdivision thereof, selling tangible personal property, admissions or services, when those activities compete with or may compete with the activities of another person.

(4) The United States, or an agency or instrumentality thereof, which is exempt from taxation by the states.

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(5) A person engaged in the business of agriculture and farming: *Provided,* That no producer or grower selling products of the farm, garden or dairy and not included within the definition of business under subsection (a), section two of this article shall be required to obtain a business registration certificate or pay the business registration tax.

(6) A foreign retailer who is not a "retailer engaging in business in this state" as defined in section one, article fifteen-a of this chapter, who enters into an agreement with the Tax Commissioner to voluntarily collect and remit use tax on sales to West Virginia customers.

(e) *Money penalty.* — Any person required to obtain a business registration certificate under this section, who is exempt from payment of the tax, as provided in subsection (d) of this section, who does not obtain a registration certificate shall, in lieu of paying the penalty imposed by section nine of this article, pay a penalty of $15 for each business location for which a certificate is needed: *Provided,* That application for business registration is made and the applicable money penalty tendered to the Tax Commissioner within 15 days after such person receives written notice from the Tax Commissioner that such person is required to obtain a business registration certificate.

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