WEST VIRGINIA CODE: §11-14A-5

§11-14A-5. Reports of carriers; joint reports; records; examination of records; subpoenas and witnesses.

(a) Every taxpayer subject to the tax imposed by this article, or by article fourteen-c of this chapter, except as provided, in subsections (b) and (c) of this section, shall on or before the last day of January, April, July and October of every calendar year make to the commissioner reports of its operations during the quarter ending the last day of the preceding month as the commissioner requires and other reports from time to time as the commissioner considers necessary. For good cause shown, the commissioner may extend the time for filing the reports for a period not exceeding thirty days.

(b) Every motor carrier which operates exclusively in this state during a fiscal year that begins on July 1, of one calendar year and ends on June 30 of the next succeeding calendar year and during the fiscal year consumes in its operation only motor fuel upon which the tax imposed by article fourteen of this chapter has been paid shall, in lieu of filing the quarterly reports required by subsection (a) of this section, file an annual report for the fiscal year on or before the last day of July each calendar year: Provided, That effective January 1, 2004, every motor carrier which operates exclusively in this state during a fiscal year that begins on July 1, of one calendar year and ends on June 30 of the next succeeding calendar year and during the fiscal year consumes in its operation only motor fuel upon which the tax imposed by article fourteen-c of this chapter has been paid shall, in lieu of filing the quarterly reports required by subsection (a) of this section, file an annual report for the fiscal year on or before the last day of July of each calendar year: Provided, however, That effective January 1, 2005, every motor carrier which operates exclusively in this state and during the calendar year consumes in its operation only motor fuel upon which the tax imposed by article fourteen-c of this chapter has been paid shall, in lieu of filing the quarterly reports required by subsection (a) of this section, file before the last day of January an annual report for the calendar year ending on the last day of the immediately preceding December. For good cause shown, the commissioner may extend the time for filing the report for a period of thirty days.

(c) Two or more taxpayers regularly engaged in the transportation of passengers on through buses on through tickets in pool operation may, at their option and upon proper notice to the commissioner, make joint reports of their entire operations in this state in lieu of the separate reports required by subsection (a) of this section. The taxes imposed by this article are calculated on the basis of the joint reports as though the taxpayers were a single taxpayer; and the taxpayers making the reports are jointly and severally liable for the taxes shown to be due. The joint reports shall show the total number of miles traveled in this state and the total number of gallons of motor fuel purchased in this state by the reporting taxpayers. Credits to which the taxpayers making a joint return are entitled are not allowed as credits to any other taxpayer; but taxpayers filing joint reports shall permit all taxpayers

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engaged in this state in pool operations with them to join in filing joint reports.

(d)(1) A taxpayer shall keep records necessary to verify the total miles traveled within and without the State of West Virginia, the number of gallons of motor fuel used and purchased within and without West Virginia and any other records which the commissioner by regulation may prescribe. A finding by the Tax Commissioner on the basis of the best information available that the taxpayer has failed to maintain records prescribed by the Tax Commissioner, or that the taxpayer refused to make available upon written request the records prescribed by the Tax Commissioner, is sufficient cause for the Commissioner of Motor Vehicles to revoke the identification markers issued to the taxpayer: Provided, That upon request of the taxpayer, a hearing shall be provided, under the authority of articles ten and ten-a of this chapter prior to the revocation becoming final.

(2) If the Tax Commissioner determines that a taxpayer used an incorrect average fuel consumption factor resulting in the filing of incorrect returns, the Tax Commissioner shall determine the correct average fuel consumption factor, calculate the correct amount of tax due under this article, and under the authority of article ten of this chapter issue an assessment for the amount of tax, interest, penalties and additions due and owing: Provided, That absent adequate information to the contrary, the average fuel consumption factor is four miles per gallon (one and seven-tenths kilometers per liter).

(e) In addition to the Tax Commissioner's powers set forth in sections five-a and five-b, article ten of this chapter, the commissioner may inspect or examine the records, books, papers, storage tanks, meters and any equipment records or records of highway miles traveled within and without West Virginia and the records of any other person to verify the truth and accuracy of any statement or report to ascertain whether the tax imposed by this article has been properly paid.

(f) In addition to the Tax Commissioner's powers set forth in sections five-a and five-b, article ten of this chapter, and as a further means of obtaining the records, books and papers of a taxpayer or any other person and ascertaining the amount of taxes and reports due under this article, the commissioner has the power to examine witnesses under oath; and if any witness shall fail or refuse at the request of the commissioner to grant access to the books, records and papers, the commissioner shall certify the facts and names to the circuit court of the county having jurisdiction of the party and the court shall thereupon issue a subpoena duces tecum to the party to appear before the commissioner, at a place designated within the jurisdiction of the court, on a day fixed.

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