WEST VIRGINIA CODE: §11-14C-20

§11-14C-20. Remittance of tax to supplier or permissive supplier.

(a) Each licensed distributor and licensed importer shall remit to the supplier or permissive supplier, as applicable, of the motor fuel the tax levied by section five of this article and due on motor fuel removed at a terminal rack: Provided, That at the election of a licensed distributor or licensed importer, the supplier or permissive supplier shall not require the licensed distributor or licensed importer to pay tax levied by section five of this article until two days before the date the supplier or permissive supplier is required to pay the tax to this state: Provided, however, That an election under this subsection is subject to the condition that remittances by the licensed distributor or licensed importer of all tax due to the supplier or permissive supplier shall be paid by electronic funds transfer two days before the date of the remittance by the supplier or permissive supplier to the commissioner. An election under this subsection may be terminated by the supplier or permissive supplier if the licensed distributor or licensed importer does not make timely payments to the supplier or permissive supplier as required by this subsection.

(b) A licensed exporter shall remit tax due on motor fuel removed at a terminal rack to the supplier of the motor fuel. The date by which an exporter shall remit tax is governed by the law of the destination state of the exported motor fuel: Provided, That if the laws of the destination state prohibit the collection of the destination state's tax, the supplier may elect to either collect the tax levied by section five of this article or, in lieu thereof, take from the exporter documentation sufficient to establish: (i) That the motor fuel was immediately exported to another state and the name of that state; (ii) that the entire amount of motor fuel exported was reported to the destination state and the tax imposed on the motor fuel by the destination state was paid by the exporter; (iii) the name and address of the person to which the motor fuel was sold and the quantity of motor fuel sold to that person; and (iv) that the exporter shall pay the tax levied by section five of this article if the foregoing documentation is not provided: Provided, however, That until such time as either the tax imposed by this state is paid, the tax imposed by the destination state is paid or the motor fuel is sold in a transaction not subject to tax in the destination state, both the supplier and the exporter shall be jointly liable for the tax levied by section five of this article.

(c) All tax payments received by a supplier or permissive supplier shall be held in trust by the supplier or permissive supplier until the supplier or permissive supplier remits the tax payment to this state or to another state and the supplier or permissive supplier shall constitute the trustee for the tax payments.

(d) The license of a licensed distributor, exporter or importer who fails to pay the full amount of tax required by this article is subject to cancellation.

WV Legislature