WEST VIRGINIA CODE: §11-17-12

§11-17-12. Reports required; due date; records to be kept; inspection of records and stocks; examination of witnesses, summons, etc.

(a) Due date. -- On or before the fifteenth day of each month, manufacturers, importers, common carriers, wholesalers, subjobbers, retail dealers and agents or vending machine operators shall, when required by this article, or the Tax Commissioner, file a report covering the business transacted in the previous month providing any information the commissioner determines necessary for the ascertainment or assessment of the taxes imposed by this article. Reports shall be signed under penalty of perjury and be in a form as prescribed by the Tax Commissioner. The amount of tax shown to be due on the monthly report, if any, shall be remitted by the due date of the monthly report, determined without regard to any authorized extension of time for filing the report.

(b) Reports required. -- The reports prescribed in this article are required, although a tax might not be due or no business transacted, for the period covered by the report.

(c) Records. -- Each person required to file a report under this article shall make and keep the records necessary to substantiate the accuracy of the reports required by this article, including, but not limited to, records of inventories, receipts, disbursements and sales. Records shall be retained for a period of time not less than three years, unless the Tax Commissioner gives written consent to their earlier destruction.

(d) Contents of delivery ticket or invoice. -- Unless otherwise permitted, in writing, by authority of the Tax Commissioner, each delivery ticket or invoice for each purchase or sale of tobacco products must be recorded upon a serially numbered invoice showing: (1) The name and address of the seller and the purchaser; (2) the point of delivery; (3) the date, quantity and price of each tobacco product delivered in this state; (4) the amount of tax imposed by this article, which must be set out separately or the invoice must indicate whether or not the West Virginia tobacco products excise tax is included in the total price; and (5) any other reasonable information required by the Tax Commissioner. However, these invoicing requirements do not apply to cash sales: Provided, That the person making the cash sales shall maintain the records reasonably necessary to substantiate the accuracy of his or her monthly report.

(e) Inspection of tobacco products inventory. -- In addition to the Tax Commissioner's powers set forth in section five, article ten of this chapter, the Tax Commissioner, or a deputy or agent authorized by the commissioner, may inspect or examine the stock of tobacco products kept in and upon the premises of any person where tobacco products are placed, stored or sold and shall inspect or examine the records, books, papers and any equipment or records of manufacturers, importers, cigarette stamping agents, wholesalers, subjobbers, retail dealers, common carriers or any other person for the purpose of determining the quantity and value of tobacco products acquired or disbursed to verify the

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truth and accuracy of any statement or report and to ascertain whether the tax imposed by this article has been properly paid.

(f) Examination of witnesses and records. -– In addition to the Tax Commissioner's powers set forth in section five, article ten of this chapter, and as a further means of obtaining the records, books and papers of a manufacturer, importer, common carrier, wholesaler, subjobber or retailer or any other person and ascertaining the amount of taxes and reports due under this article, the commissioner and any duly appointed agent may examine witnesses under oath; and if the witness fail or refuse at the request of the Tax Commissioner or any duly appointed agent to grant access to the books, records or papers, the Tax Commissioner or the agent shall certify the facts and names to the circuit court of the county having jurisdiction of the party and court shall thereupon issue summons to the party to appear before the Tax Commissioner or any duly appointed agent, at a place designated within the jurisdiction of the court, on a day fixed, to be continued as the occasion may require for good cause shown and give evidence and lay open for inspection any books and papers that may be required for the purpose of ascertaining the amount of tax and reports due, if any.

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