WEST VIRGINIA CODE: §11-17-5

§11-17-5. How tax paid; stamps; how affixed; violations.

(a) The tax imposed by this article on cigarettes shall be paid by the purchase of stamps as provided in this article.

(b) The tax imposed by this article on tobacco products other than cigarettes shall be paid using an invoice method prescribed by the Tax Commissioner.

(c) Payment for stamps purchased from the commissioner shall be made by cash, money order, bank draft, certified check or by noncertified check. However, in the event a noncertified check is returned unpaid by its bank, then it shall be considered that payment has not been made for the taxes due.

(d) A stamp, as required by this article, as described in the rules promulgated under this article by the Tax Commissioner in accordance with article three, chapter twenty-nine-a of this code, shall be affixed to or impressed upon each package of cigarettes of an aggregate value of not less than the amount of tax upon the contents of the package. The stamp or impression that is affixed is prima facie evidence of payment of the tax imposed by this article. Stamps or meter impressions shall be purchased from the commissioner or his or her deputy, by, and paid for by, wholesalers.

(e) Except as may be otherwise provided in the rules prescribed by the commissioner, under authority of this article and article ten of this chapter, and unless the stamps have been previously affixed, they shall be affixed by each wholesale dealer who must be authorized to do business in this state prior to the sale or delivery of any cigarettes to any retail dealer or subjobber in this state.

(f) Except as may be otherwise provided in the rules prescribed by the commissioner, each wholesale dealer of tobacco products shall be authorized to do business in this state prior to the sale or delivery of any tobacco products to any retail dealer or subjobber in this state. A wholesale dealer may sell tax-paid tobacco products only to another wholesaler or a retail dealer or subjobber in this state. No wholesaler or other person may purchase tax-not-paid tobacco products from any seller not approved by the Tax Commissioner.

(g) Whenever any cigarettes are found in the place of business of any retail dealer or subjobber without the stamps affixed, the prima facie presumption shall arise that the cigarettes are kept in the place of business in violation of the provisions of this article.

(h) Whenever any tobacco products other than cigarettes are found in the place of business of any retail dealer or subjobber and there is no evidence that the tax imposed by this article has been paid on the tobacco products other than cigarettes, it shall be presumed that the tobacco products other than cigarettes are kept on the premises in violation of this article.

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(i) If the Tax Commissioner determines that it is practicable to stamp packages of cigarettes by impression by means of a metering device, then the commissioner shall provide that the metering device and its impression may be used in lieu of the stamps otherwise required by law. The Tax Commissioner may authorize any wholesaler purchasing tobacco products, who holds a valid business registration certificate, as required by article twelve of this chapter, to use any metering device approved by the commissioner after the device has been sealed by the commissioner or a deputy, or agent, authorized by the commissioner. A metering device shall be used only in accordance with the rules prescribed by the commissioner.

(j) A wholesaler may elect to pay the tax in advance when a metering device is used, in which event the wholesaler shall deliver the metering device to the commissioner, or his or her agent authorized for that purpose, who shall seal the meter in accordance with the prepayment that was made.

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