WEST VIRGINIA CODE: §11-19-5

§11-19-5. Purchase of tax stamps or tax crowns; discounts and commissions; refunds and statute of limitations; effective date.

The commissioner is hereby authorized to promulgate rules and regulations governing the design, purchase, sale and distribution of tax stamps and tax crowns required by this article. Manufacturers or distributors of crowns may be required to furnish bond to ensure faithful compliance with such regulations. Any person desiring to purchase such crowns shall obtain from the commissioner an authorization to do so, which shall specify the number of crowns to be purchased, and upon shipment thereof the manufacturer shall transmit to the commissioner a copy of the invoice of such shipment. The commissioner shall not authorize the purchase of crowns by any person who is in default in the payment of any tax required by this article.

The commissioner shall sell the stamps required by this article, or may authorize any sheriff, or any bank or trust company in this state, to sell such stamps as his deputy, and may allow as a commission a fee of one half of one percent of the face value of all stamps sold by such deputy. In the sale of such stamps the commissioner shall allow the following discounts: On a sale of less than $25, no discount; on a sale of $25 or over and less than $50, a discount of five percent; and on a sale of $50 or more, a discount of ten percent.

In the case of stamps, the tax imposed by this article shall be paid in advance at the time the stamps are purchased. In the case of tax crowns, the tax shall be paid in advance at the time the Tax Commissioner authorizes the purchase of such tax crowns, unless the purchaser applies for and obtains credit as provided in the following paragraph.

Whenever any person applies for an authorization to purchase tax crowns, he may apply for an extension of credit on the tax due with respect to such crowns, and if he files a bond in the form prescribed by the commissioner, with satisfactory corporate surety, in an amount not less than twenty-five percent more than the tax due with respect to the tax crowns to be purchased, the commissioner shall issue the necessary authorization. Any person who obtains such credit shall, on or before the fifteenth day of each month, file with the commissioner on forms prescribed by him a return stating the number of tax crowns used by such person during the preceding month, and he shall at the same time pay to the commissioner the tax due on the crowns so used.

The commissioner shall allow to each purchaser of tax crowns, whether for cash or credit, a discount of twelve and one half percent of the tax value of such crowns. Such discount, and the discount allowed on the sale of tax stamps, shall be in lieu of the allowance of any claim for refund by reason of the breakage or destruction of containers stamped or crowned as provided in this article, the spoilation of the soft drinks or syrups, or the loss or destruction of tax stamps or tax crowns: Provided, That when the tax stamps or crowns or soft drinks, soft drink powders or soft drink syrups upon which tax has been paid are destroyed by fire,

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lightning or flood and when soft drinks, syrups or powders upon which tax has been paid are exported from this state or are required to be destroyed pursuant to federal or state order, the taxpayer may file a claim for refund for an amount equal to the amount of tax actually paid for such stamps or crowns. The commissioner shall cause a refund to be made under this section only when a claim for refund is filed within one hundred and eighty days from the date the tax stamps or crowns were destroyed or the soft drink product upon which tax was paid were destroyed or exported from this state. Any claim for refund not timely filed shall not be construed to be or to constitute a moral obligation of this state for payment. Such claim for refund shall also be subject to the provisions of section fourteen, article ten of this chapter. At the election of the taxpayer, the amount of any refund may be established as a credit. The amount refunded or credited under this section shall not be subject to the interest provisions of subsection (d), section seventeen, article ten of this chapter.

Effective date. -- The provisions of this section as hereby amended shall apply to soft drinks tax stamps or crowns destroyed on or after July 1, 1980, and to soft drinks, powders and syrups exported or destroyed on or after the first day of said July. The provisions of this section in effect prior to the said day of July 1 shall apply to tax stamps, crowns and soft drinks, powders and syrups destroyed or exported prior to said date.

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