WEST VIRGINIA CODE: §11-21-54

§11-21-54. Electronic filing for certain tax preparers.

(a) If an income tax return preparer filed more than one hundred personal income tax returns for any taxable year that began after January 1, 2005, and if during calendar year 2006 or any calendar year thereafter that income tax preparer prepares one or more personal income tax returns using tax preparation software for a previous taxable year, then for each current taxable year all unamended personal income tax returns prepared by that preparer shall be filed electronically, except as provided in subsections (c) and (d) of this section: Provided, That if an income tax return preparer filed more than twenty-five personal income tax returns for any tax year that began on or after January 1, 2010, and if that income tax preparer prepares one or more personal income tax returns using tax preparation software, then for each tax year beginning on or after January 1, 2011, all unamended personal income tax returns prepared by that preparer shall be filed electronically, except as provided in subsections (c) and (d) of this section.

(b) For purposes of this section:

(1) "Income tax preparer" means any person who prepares, in exchange for compensation, or who employs another person to prepare, in exchange for compensation, all or a substantial portion of any return for a taxpayer for the tax imposed by this article and who is identified as the preparer for the taxpayer on the return. A person who only performs those acts described in clauses (i) through (iv) of Section 7701(a)(36)(B) of the Internal Revenue Code with respect to the preparation of a return for a trust or estate for which he or she is a fiduciary or a return for a partnership of which he or she is a partner is not an income tax preparer for purposes of this section.

(2) "Electronic filing" or "e-filing" means filing using electronic technology such as computer modem, magnetic media, optical disk, facsimile machine, telephone or other technology approved by the Tax Commissioner, in such manner as he or she deems acceptable.

(3) "Tax preparation software" means any computer software program intended for accounting or tax return preparation.

(c) Subsection (a) of this section shall cease to apply to an income tax preparer if, for the previous taxable year, that income tax preparer prepared no more than twenty-five personal income tax returns.

(d) This section first applies to personal income tax returns required to be filed for taxable years beginning January 1, 2006. This section does not require electronic filing of: (1) Returns that were not required to be filed for taxable years beginning prior to that date; (2) returns for prior taxable years beginning prior to that date; or (3) amended returns for any taxable year.

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(e) An income tax preparer who is required to e-file under this section but does not do so is liable for a penalty in the amount of $25 for each return prepared that is not e-filed, unless the preparer shows that the failure to do so is due to technical inability to comply on the part of a tax preparer or a documented election by a client not to file electronically.

(f) The commissioner shall implement the provisions of this section using any combination of notices, forms, instructions and rules that he or she deems necessary.

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