WEST VIRGINIA CODE: §11-21-71

§11-21-71. Requirement of withholding tax from wages.

(a) General. -- Every employer maintaining an office or transacting business within this state and making payment of any wage taxable under this article to a resident or nonresident individual shall deduct and withhold from such wages for each payroll period a tax computed in such manner as to result, so far as practicable, in withholding from the employee's wages during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due under this article resulting from the inclusion in the employee's West Virginia adjusted gross income of wages received during such calendar year. The method of determining the amount to be withheld shall be prescribed by the Tax Commissioner, with due regard to the West Virginia withholding exemption of the employee and any low income exclusion allowed to such employee under section ten of this article and asserted in good faith by the employee. This section shall not apply to payments by the United States for service in the Armed Forces of the United States: Provided, That the Tax Commissioner may execute an agreement with the secretary of the treasury, as provided in 5 U.S.C. §5517, for the mandatory withholding of tax under this section on pay to members of the National Guard while participating in exercises or performing duty under 32 U.S.C. §502, and on pay to members of the ready reserve while participating in scheduled drills or training periods or serving on active duty for training under 10 U.S.C. §270(a).

(b) Withholding exemptions. -- For purposes of this section:

(1) An employee shall be entitled to the same number of West Virginia withholding exemptions as the number of withholding exemptions to which he or she is entitled for federal income tax withholding purposes. An employer may rely upon the number of federal withholding exemptions claimed by the employee, except where the employee claims a higher number of West Virginia withholding exemptions.

(2) With respect to any taxable year beginning after December 31, 1986, the amount of each West Virginia exemption shall be $2,000 whether the individual is a resident or nonresident.

(c) Exception for certain nonresidents. -- If the income tax law of another state of the United States or of the District of Columbia results in its residents being allowed a credit under section forty sufficient to offset all taxes required by this article to be withheld from wages of an employee, the Tax Commissioner may by regulation relieve the employers of such employees from withholding requirements of this article with respect to such employees.

(d) Effective date. -- The provisions of this section, as amended in the year 1996, shall apply to all taxable years or portions thereof beginning after June 30, 1996.

WV Legislature