
WEST VIRGINIA CODE CHAPTER 11
ARTICLE 6G

WV Legislature

§11-6G-1.

Repealed.

Acts, 1999 Reg. Sess., Ch. 265.

WV Legislature

§11-6G-2. Disclosure of required information to the Tax Commissioner.

(a) "Interstate motor vehicle," for purposes of this article, is defined as every truck, road tractor or semitrailer used as an interstate motor vehicle registered under a proportional registration agreement.

(b) The procedure for determining the value thereof is exclusively provided for under section two of this article.

(c) The words "owner or operator," as applied herein to trucks or semitrailers used as an interstate motor vehicle in the transportation of property, shall include every company incorporated by or under the laws of this state, or doing business in this state, whether incorporated or not, and any person or association of persons, owning or operating any truck or semitrailer used as an interstate motor vehicle in the transportation of property doing business partly or wholly within this state.

(d) Every interstate commercial motor vehicle covered by this article shall pay such taxes based upon the assessments as are required by law pursuant to rules promulgated by the Tax Commissioner.

§11-6G-3. Interstate motor vehicle business; calculation of tax.

(a) In the case of interstate motor vehicles used for the transportation of property and which are registered under a proportional registration agreement, pursuant to the provisions of section ten-a, article two, chapter seventeen-a of this code, the owners, operator or operators, for each interstate motor vehicle, on forms prescribed by the Commissioner of Motor Vehicles, shall disclose the total miles driven in West Virginia and the total miles driven in any other states as reported in the most recent taxable year to the Division of Motor Vehicles pursuant to any proportional registration agreement on file therewith. The return shall, additionally, show the gross capital cost of the interstate motor vehicle to the purchaser thereof and the year the purchaser acquired the interstate motor vehicle.

(b) Ad valorem fees provided for in this chapter shall, notwithstanding the provisions of section five, article one-c of this chapter, be determined as follows for: (1) The gross capital cost of an interstate motor vehicle shall be multiplied by a percentage factor representing the remainder of the vehicle's value after depreciation according to a depreciation schedule established by the Tax Commissioner, which calculation shall yield the appraised value of the vehicle, which appraised value shall be multiplied by sixty percent to yield the assessed value; (2) for the interstate truck, road tractor, or power unit, registered in this state as part of a fleet registered under any proportional registration agreement under the provisions of section ten-a, article two, chapter seventeen-a of this code, the assessed value shall be multiplied by the apportioned percentage calculated in accordance with the articles and bylaws of any proportional registration agreement for the mileage reporting year, as reported to the Division of Motor Vehicles for the corresponding registration year pursuant to any proportional registration agreement on file therewith to obtain the apportioned value, which apportioned value shall be multiplied by the applicable rate of tax.

§11-6G-3a. Reduced fees for portion of year.

The ad valorem fees prescribed in section three of this article are for the entire fiscal year: Provided, That when application for a proportional registration is made between August 1, and the thirty-first day of August, inclusive, in any fiscal year, the fee for registration is eleven-twelfths of the yearly fee; when application for the registration is made between September 1, and September 30, inclusive, in any fiscal year, the fee for registration is ten-twelfths of the yearly fee; when application for the registration is made between October 1, and the thirty-first day of October, inclusive, in any fiscal year, the fee for registration is nine-twelfths of the yearly fee; when application for the registration is made between November 1, and November 30, inclusive, in any fiscal year, the fee for registration is eight-twelfths of the yearly fee; when application for registration is made between December 1, and December 31, inclusive, in any fiscal year, the fee for registration is seven-twelfths of the yearly fee; when application for registration is made between January 1, and the thirty-first day of January, inclusive, in any fiscal year, the fee for registration is one half of the yearly fee; when application for registration is made between February 1 and the last day of February, inclusive, in any fiscal year, the fee for registration is five-twelfths of the yearly fee; when application for registration is made between March 1 and the thirty-first day of March, inclusive, in any fiscal year, the fee for registration is one-third of the yearly fee; when application for registration is made between April 1 and April 30, inclusive, in any fiscal year, the fee for registration is one-fourth of the yearly fee; when application for registration is made between May 1 and the thirty-first day of May, inclusive, in any fiscal year, the fee for registration is two-twelfths of the yearly fee; and when application for registration is made between June 1 and June 30, inclusive, in any fiscal year, the fee for registration is one-twelfth of the yearly fee.

§11-6G-3b. Reduced fees for transfer of vehicles.

The ad valorem fees prescribed in sections three and three-a of this article shall be reduced in the amount of ad valorem fees paid on the original vehicle upon the transfer of registration by an owner from the original vehicle to another vehicle of the same class. The reduction in the amount of ad valorem fees paid on the original vehicle shall be prorated monthly up to the amount of ad valorem fees owed on the vehicle to which registration is being transferred. Any remainder of ad valorem fees paid on the original vehicle shall be reviewed by the interstate appeals board, created in section seven of this article.

§11-6G-4. Form and manner of making disclosure; failure to make disclosure; criminal penalty.

All disclosures to be made to the motor vehicles commissioner, under this chapter, shall be made in conformity with any reasonable requirement of the motor vehicles commissioner of which the person making the disclosure shall have had notice, and shall be made upon forms which may be furnished by the motor vehicles commissioner, and according to instructions which the motor vehicles commissioner may give relating thereto, and to the description and itemizing of the property. Such owner or operator, whether a natural person, or a corporation or company, failing to make such disclosure as herein required shall be guilty of a misdemeanor and, fined \$1,000 for each month such failure continues.

§11-6G-5. Compelling such disclosure; procuring information and tentative assessments by motor vehicles commissioner.

(a) If any owner or operator fails to make disclosure within the time required by section one of this article, it shall be the duty of the Commissioner of Motor Vehicles to take steps as may be necessary to compel such compliance, and to enforce any and all penalties imposed by law for such failure, pursuant to his or her authority under this article as well as section ten, article two, chapter seventeen-a, and section ten-a, article two, chapter seventeen-a of this code.

(b) The disclosure delivered to the motor vehicles commissioner shall be examined by him or her, and if it be found insufficient in form or in any respect defective, imperfect or not in compliance with law, he or she shall compel the person required to make it to do so in proper and sufficient form, and in all respects as required by law.

(c) If any owner or operator fails to make such disclosure, the motor vehicles commissioner shall proceed, in a manner as to him or her may seem best, to obtain the facts and information required to be furnished by the disclosures.

(d) The motor vehicles commissioner may send for persons and papers, and may compel the attendance of any person and the production of any paper necessary, in the opinion of the motor vehicles commissioner, to enable him or her to obtain the information required for the proper discharge of his or her duties under this section.

§11-6G-6. Failure to give information required by motor vehicles commissioner; criminal penalty.

If any person shall refuse to appear before the motor vehicles commissioner when required to do so, as aforesaid, or shall refuse to testify before the motor vehicles commissioner in regard to any matter as to which the motor vehicles commissioner may require him to testify, or if any person shall refuse to produce any paper in his possession or under his control, which the motor vehicles commissioner may require him to produce, every such person shall be guilty of a misdemeanor and, fined \$500, and may be imprisoned not less than one nor more than six months, at the discretion of the court.

§11-6G-7. Adjustment of valuation by interstate commerce appeals board.

There is hereby created the interstate commerce appeals board the membership of which shall be comprised of the Tax Commissioner or his or her designee, the motor vehicles commissioner or his or her designee, and the State Auditor or his or her designee. The interstate commerce appeals board shall meet the first Monday in July, unless the first Monday is a holiday at which time the interstate commerce appeals board shall meet upon the first business day thereafter. In the event of an emergency, the interstate commerce appeals board may be convened upon the agreement of two of the three members of the board. Any time before an owner or operator appeals a valuation to circuit court, as provided for in section eight of this article, the interstate commerce appeals board may, after consideration of all relevant facts and evidence, adjust the valuation made by the interstate commerce appeals board pursuant to section eleven of this article.

§11-6G-8. Appeal from valuation by board.

Any owner or operator claiming to be aggrieved by any such decision may, within the time aforesaid, apply by petition in writing, duly verified, to the circuit court of Kanawha County, and jurisdiction is hereby conferred upon and declared to exist in such court, in which such application is filed, to grant, docket and hear such appeal; and such appeal, as to all of the property so charged, forthwith be allowed by such court so applied to, and be heard by such court as to all of such property as soon as possible after the appeal is docketed, but notice in writing of such petition shall be given to the motor vehicles commissioner, by mailing a copy of the petition for an appeal filed as aforesaid, which said petition shall recite the fact that copies of such petition have been sent by registered mail. Notice in writing of the hearing shall be given by the motor vehicles commissioner to the State Tax Commissioner and the State Auditor at least fifteen days beforehand. Upon such hearing the court shall hear all such legal evidence as shall be offered on behalf of the state or any other county, district or municipal corporation interested, or on behalf of the appealing owner or operator. If the court be satisfied that the value so charged by the motor vehicles commissioner and affirmed or determined by the interstate commerce appeals board, is correct, it shall confirm the same, but if it be satisfied that the value so fixed by the board or the motor vehicles commissioner is either too high or too low, subject to the assessment valuations provided for in subsection (b), section eleven of this article, the court shall correct the valuation so made and shall ascertain and fix the true and actual value of such property according to the facts proved, and shall certify such value to the Auditor, motor vehicles commissioner and to the Tax Commissioner. The state or the owner or operator may appeal to the Supreme Court of Appeals if the proportional assessed value of the property be \$50,000 or more.

If the court to which an application for appeal would properly be made as aforesaid shall not be in session, the judge thereof in vacation shall forthwith allow the appeal, and if the judge thereof be disqualified or for any reason not be available, the filing of the aforesaid petition in the office of the clerk of the circuit court of Kanawha County, within the time of aforesaid, shall constitute sufficient compliance with this section, and the appeal shall thereafter be proceeded with as otherwise provided in this section.

§11-6G-9. Certification of levies to Auditor.

(a) The clerk of the county commission of every county in which any property lies which was so assessed shall, within thirty days after the county and district levies are laid by such commission, certify to the Auditor the amount levied upon each \$100 value of the property of each class in the county for county purposes, and on each \$100 of the value of the property of each class in each magisterial district for the district purposes. It shall be the duty of the secretary of the board of Education of every school district and independent district in which any part of the property lies, within thirty days after the levies are laid therein for free school and building purposes, or either, to certify to the Auditor the amount so levied on each \$100 value of the property of each class therein for each of such purposes; and it shall be the duty of the recorder, clerk or other recording officer of every municipal corporation in which any part of the property lies, within the same time, after levies are laid therein for any of the purposes authorized by law, to certify to the Auditor the amount levied upon each \$100 value of the property of each class therein for each and every purpose.

(b) Such county levy rates shall be reported to the Auditor for use in the following taxable year's assessment pursuant to the provisions of section eleven, article six-d of this chapter.

(c) For purposes of establishing the valuation rate to be supplied to the motor vehicles commissioner by the Auditor and the Tax Commissioner, the Auditor shall use such figures and amounts as are certified to him or her under this section one year in arrears.

§11-6G-10. Failure of officers to perform duties as to property of interstate motor vehicle corporations.

Any clerk of a county commission, secretary of the board of Education, or recorder, clerk or other recording officer of a municipal corporation, who shall fail to perform any of the duties herein required of him shall be guilty of a misdemeanor and, upon conviction thereof, fined not less than \$100 nor more than \$500. In case of the failure of any such officers to furnish to the Auditor the certificate herein required, the Auditor may obtain the rate of taxation for any of said purposes from the copies of the land books on file in his office, if the same be found in such books, if not, in such other way or manner as he may deem necessary or proper for the purpose.

§11-6G-11. Injunction to restrain collection of tax.

No injunction shall be awarded by any court or judge to restrain the collection of the taxes, or any part of them, so assessed upon the property of such owner or operator, except upon the ground that the assessment thereof was in violation of the Constitution of the United States, or of this state; or that the same were fraudulently assessed, or that there was a mistake made in the amount of taxes properly chargeable on the property of such owner or operator; and in the latter case no such injunction shall be awarded unless application be first made to the interstate commerce appeals board to correct the mistake claimed, and such board shall refuse to do so, which fact shall be stated in the bill, nor unless the complainant pay into the treasury of the state all taxes appearing by the bill of complaint to be owing.

§11-6G-12. Payment of assessment by owner or operator.

Beginning on July 1, 1999, it shall be the duty of the foreign registered owner or operator with interstate operations within and through West Virginia, so assessed and charged, to pay annually the amount of such ad valorem fees, and such registration fees as are set by the motor vehicles commissioner as are required into the treasury of the state by delivering payment of the same to the Commissioner of Motor Vehicles in the form and manner prescribed by him or her. Further, beginning with the renewal or registration year starting July 1, 1999, it shall be the duty of the Commissioner of Motor Vehicles to assess and charge the owner or operator the annual amount of ad valorem fees and registration fees owed. The ad valorem and registration fees will be assessed and charged annually prior to the registration year during the renewal period. It shall be the duty of the owner or operator with interstate operations and domiciled in the state, so assessed and charged, to pay annually prior to the registration, the amount of taxes and registration fees set by the motor vehicles commissioner in the form and manner prescribed by him or her. The payment of taxes by any owner or operator shall not prejudice or affect the right of the owner or operator to obtain relief against the assessment or valuation of its property in proceedings now pending or hereafter brought under the provisions of section eight of this article, or in any suit, action or proceeding in which relief may be obtainable; and if under the provisions of said section eight or in any suit, action or proceeding, it be ascertained that the assessment or valuation of the property of the owner or operator is too high and the same is accordingly corrected, it shall be the duty of the Auditor of the state to issue to the owner or operator a certificate showing the amount of taxes and which have been overpaid, and the certificate shall be receivable thereafter for the amount of overpayment in payment of any ad valorem fees and assessed against the property of the owner or operator, its successors or assigns. It shall likewise be the duty of said Auditor to certify to the county commission, school districts and municipalities, the amounts of the respective overpayments distributable to such counties, school districts and municipalities.

Implementation of collection of assessments upon interstate commercial motor vehicles by the Commissioner of Motor Vehicles shall begin July 1, 1999. The motor vehicles commissioner, upon receipt of funds from other jurisdictions under a proportional registration agreement, shall deliver the funds received to the Auditor beginning in August, 1999, and thereafter every thirty days in arrears. All moneys received by the Auditor under the provisions of this section shall be transmitted to the several counties within thirty days from receipt thereof.

§11-6G-13. No release of taxes assessed against such corporations.

Neither the county commission of any county, nor any Board of Education, nor the municipal authorities of any incorporated town, shall have jurisdiction, power or authority, by compromise or otherwise, to remit or release any portion of the taxes so assessed upon the property of any owner or operator. It shall be the duty of the motor vehicles commissioner to collect the whole thereof, regardless of any order or direction of any county commission, Board of Education or municipal authority to the contrary. Any member of the county commission or Board of Education, or of the council of a municipal corporation, who shall vote to remit or release any part of the taxes, so assessed on the property of any owner or operator, shall be guilty of a misdemeanor and, fined \$500, and shall be removed from his or her office by the court by which the judgment of the fine is rendered, in addition to the fine.

§11-6G-14. Accounting for levies against interstate commercial motor vehicle corporations.

Subject to the provisions of subsection (b), section eleven of this article, when such taxes are paid into the treasury, the Auditor shall account to the sheriff of each of the counties, to which any sum so paid in for county levies belongs, for the amount due such county, and may arrange the same with such sheriff in any settlement for state taxes in such a way as may be most convenient; and the sheriff shall account to the county commission of his county for the amount so received by him in the same manner as for other county levies. The amount so paid for each district and independent school district shall be added to the distributable share of the school fund payable to such district, and shall be paid upon the requisition of the county superintendent of free schools in like manner as other school moneys are paid.

§11-6G-15. Certification by Auditor of amount chargeable to sheriff from levies against interstate motor vehicles; payment of amount due municipality.

For collection year 1999, the Auditor shall hold such funds in an interest bearing escrow account until March 20, 2000, when such funds collected by the motor vehicles commissioner including the interest in the escrow account will be disbursed to the counties per the requirements of section eighteen of this article. Thereafter, the amount so paid in for each municipal corporation shall, within thirty days of being received by the Auditor, be paid over to the sheriff, or the treasurer of such municipal corporation, or to such other officer of the municipality as the council may designate, and the Auditor shall report such payment to the council. But the failure of the clerk of any county commission, or the secretary of any Board of Education, or the proper officer of any municipal corporation, to certify the levies to the Auditor within the time herein prescribed shall not invalidate or prevent the assessment required by this article, but the Auditor shall make the assessment and proceed to collect or certify the same to the sheriff as soon as practicable after he shall have obtained the information necessary to make such assessment.

§11-6G-16. Lien of taxes; notice; collection by suit.

The amount of taxes assessed under this article shall constitute a debt due the state or county, district or municipal corporation entitled thereto, and shall be a lien on all of the property and assets of the taxpayer within the state. The lien shall attach as of December 31, following the commencement of the assessment year, and shall be prior to all other liens and charges. It shall be the duty of the Attorney General to enforce the collection of such taxes, and for that purpose he may distrain upon any personal property of such delinquent taxpayer, or a sufficient amount thereof to satisfy said taxes, including accrued interest, penalties and costs.

The Attorney General may also enforce the lien created by this section on the real estate of such delinquent taxpayer by instituting a suit, or suits, in equity in the circuit court of Kanawha County, in the name of the state, in which such delinquent taxpayers shall be made defendants. In the bill filed in any such suit it shall be sufficient to allege that the defendant or defendants have failed to pay the taxes hereunder and that each of them justly owes the amount of property taxes, levies and penalties stated therein, which amount shall be computed up to the first day of the month in which the bill was filed. No such defendant shall plead that the motor vehicles commissioner failed to give notice as prescribed by this section. If, upon the hearing of such suit, it shall appear to the court that any defendant has failed to pay such taxes and accrued penalties, the court shall enter a decree against such defendant for the amount due, and if the decree be not paid within ten days after made, the court shall enter a decree directing a sale of the real estate subject to said lien, or so much thereof as may be necessary to satisfy said taxes, including interest, penalties and costs. When two or more taxpayers are included in one suit, the court shall apportion the cost thereof among them as it may deem just.

§11-6G-17. Operating fund for interstate commerce disclosure division in Auditor's office.

The Auditor shall establish a special operating fund in the state Treasury for the interstate commerce disclosure division in his or her office. The Auditor shall pay into the fund two percent of the gross receipts of all moneys collected as provided for in this article. Up to one percent of the gross receipts shall be transferred to the public utilities tax loss restoration fund created in section twenty-seven, article six of this chapter. From the fund, the Auditor shall reimburse the Tax Division and the Division of Motor Vehicles for the actual operating expenses incurred in the performance of its duties required by this article. The reimbursements to the Tax Division and Division of Motor Vehicles from the fund shall not exceed one third of one percent of the annual deposits to the fund per agency. Any moneys remaining in the special operating fund after reimbursement to the Tax Division and the Division of Motor Vehicles shall be used by the Auditor for funding the operation of the interstate commerce disclosure division located in his or her office.

The interstate commerce disclosure division is hereby granted authority and required to share any and all information obtained by the division in the implementation of this article with the State Auditor, Tax Commissioner and the Commissioner of Motor Vehicles to effectuate the collection of taxes and fees under this article. The Commissioner of Motor Vehicles is hereby authorized and required to share any and all information obtained by the Division of Motor Vehicles in the implementation of this article. The Commissioner of Motor Vehicles will supply to the interstate commerce disclosure division the names of, location or locations of and amount or amounts paid by West Virginia owners or operators of interstate motor vehicles registered under the terms of any proportional registration agreement. The Tax Commissioner is hereby authorized and required to share any and all information obtained by the Department of Tax and Revenue. The State Auditor and the interstate commerce disclosure division is hereby authorized and required to share any and all information obtained by the Auditor or the division.

§11-6G-18. Severability.

If any provisions of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or its application and to this end the provisions of this article are declared severable.

WV Legislature