

# WEST VIRGINIA CODE: §11-9-3

## §11-9-3. Definitions.

For the purposes of this article, the term:

- (1) "Person" means any individual, firm, partnership, limited partnership, copartnership, joint venture, association, corporation, municipal corporation, organization, receiver, estate, trust, guardian, executor, administrator and any officer, employee or member of any of the foregoing who, as an officer, employee or member, is under a duty to perform or is responsible for the performance or nonperformance of the act in respect of which a violation occurs under this article.
- (2) "Return" or "report" means any return or report required to be filed by any article of this chapter imposing any tax to which this article applies as specified in section two of this article or by any other article of this code pursuant to which a tax or fee is imposed that is collected by the Tax Commissioner as specified in section two of this article.
- (3) "Tax" or "taxes" means any tax to which this article applies, as specified in section two of this article, and includes additions to tax, penalties and interest unless the intention to give it a more limited meaning is disclosed by the context in which the term "tax" or "taxes" is used.
- (4) "Tax commissioner" or "commissioner" means the Tax Commissioner of the State of West Virginia or his or her delegate.
- (5) "This chapter" means chapter eleven of the Code of West Virginia, 1931, as amended, and shall include only those articles of chapter eleven of this code listed in section two of this article.
- (6) "Willfully" means the intentional violation of a known legal duty to perform any act, required to be performed by any provision of this chapter or article thirteen-c, chapter eight of this code, in respect of which the violation occurs: Provided, That the mere failure to perform any act shall not be a willful violation under this article. A willful violation of this article requires that the defendant had knowledge of or notice of a duty to perform an act and that the defendant, with knowledge of or notice of that duty, intentionally failed to perform the act.
- (7) "Evade" means to willfully and fraudulently commit any act with the intent of depriving the state of payment of any tax which there is a known legal duty to pay under this chapter.
- (8) "Fraud" means any false representation or concealment as to any material fact made by any person with the knowledge that it is not true and correct, with the intent that the representation or concealment be relied upon by the state.