WEST VIRGINIA CODE: §11-9-5

§11-9-5. Failure to account for and pay over another's tax.

Any person required by any provision of this chapter or article thirteen-c, chapter eight of this code to collect, or withhold, account for and pay over any tax, who willfully fails to truthfully account for and pay over the tax in the manner required by law, more than thirty days after the date the tax is required to be accounted for and paid over by law, is guilty of a felony if the amount of tax not paid over is $1,000 or more and, upon conviction thereof, shall be fined not less than $5,000 nor more than $25,000 or imprisoned in a correctional facility not less than one nor more than three years, or, in the discretion of the court, be confined in jail not more than one year, or both fined and imprisoned; or is guilty of a misdemeanor, if the amount of tax not paid over is less than $1,000, and, upon conviction thereof, shall be fined not less than $500 nor more than $5,000 or imprisoned in jail not more than six months, or both fined and imprisoned. Each failure to account for and pay over tax for any tax period under this section is a separate offense and punishable accordingly: Provided, That thirty days prior to instituting a criminal proceeding under this section, the Tax Commissioner shall give the person written notice of the failure to truthfully account for and pay over tax. Notice shall be served on the person by certified mail or personal service.

WV Legislature