
WEST VIRGINIA CODE CHAPTER 12
ARTICLE 2

WV Legislature

§12-2-1. How and to whom taxes and other amounts due the state or any political subdivision, official, department, board, commission or other collecting agency thereof may be paid.

All persons, firms and corporations shall promptly pay all taxes and other amounts due from them to the state, or to any political subdivision, official, department, board, commission or other collecting agency thereof authorized by law to collect the taxes and other amounts due by any authorized commercially acceptable means, in money, United States currency or by check, bank draft, certified check, cashier's check, post office money order, express money order or electronic funds transfer payable and delivered to the official, department, board, commission or collecting agency thereof authorized by law to collect the taxes and other amounts due and having the account upon which the taxes or amounts due are chargeable against the payer of the taxes or amounts due. The duly elected or appointed officers of the state and of its political subdivisions, departments, boards, commissions and collecting agencies having the account on which the taxes or other amounts due are chargeable against the payer of the taxes or other amounts due and authorized by law to collect the taxes or other amounts due, and their respective agents, deputies, assistants and employees shall in no case be the agent of the payer in and about the collection of the taxes or other amounts, but shall at all times and under all circumstances be the agent of the state, its political subdivision, official, department, board, commission or collecting agency having the account on which the taxes or amounts are chargeable against the payer of the taxes or other amounts due and authorized by law to collect the same.

§12-2-2. Itemized record of moneys received for deposit; regulations governing deposits; credit to state fund; exceptions.

(a) All officials and employees of the state authorized by statute to accept moneys on behalf of the State of West Virginia shall keep a daily itemized record of moneys received for deposit in the State Treasury and shall deposit within one business day with the State Treasurer all moneys received or collected by them for or on behalf of the state for any purpose whatsoever. The State Treasurer may grant an exception to the one business day rule when circumstances make compliance difficult or expensive. The State Treasurer may review the procedures and methods used by officials and employees authorized to accept moneys due the state and change the procedures and methods if he or she determines it is in the best interest of the state: *Provided*, That the State Treasurer may not review or amend the procedures by which the Department of Revenue accepts moneys due the state: *Provided, however*, That absent an exemption granted by the State Treasurer, the Department of Revenue must utilize the State Treasurer's contracts or agreements entered into pursuant to §12-1-2 or §12-3A-6 of this code for any banking goods and services required for said procedures. The State Treasurer shall propose rules for legislative approval, in accordance with the provisions of §29A-3-1 *et seq.* of this code governing the procedure for deposits. The official or employee making deposits with the State Treasurer shall prepare deposit lists in the manner and upon report forms prescribed by the State Treasurer in the state accounting system. The State Treasurer shall review the deposits in the state accounting system and forward the information to the State Auditor and to the Secretary of Revenue.

(b) All moneys received by the state from appropriations made by the Congress of the United States shall be recorded in special fund accounts, in the State Treasury apart from the general revenues of the state, and shall be expended only upon appropriation of the Legislature in accordance with the provisions of §4-11-1 *et seq.* of this code. All moneys, other than federal funds, defined in §4-11-2 of this code, shall be credited to the state fund and treated by the State Auditor and State Treasurer as part of the general revenue of the state except the following funds which shall be recorded in separate accounts:

- (1) All funds excluded by the provisions of §4-11-6 of this code;
- (2) All funds derived from the sale of farm and dairy products from farms operated by any spending unit of the state;
- (3) All endowment funds, bequests, donations, executive emergency funds and death and disability funds;
- (4) All fees and funds collected at state educational institutions for student activities;
- (5) All funds derived from collections from dormitories, boardinghouses, cafeterias, and road camps;

(6) All moneys received from counties by institutions for the deaf and blind on account of clothing for indigent pupils;

(7) All insurance collected on account of losses by fire and refunds;

(8) All funds derived from bookstores and sales of blank paper and stationery, and collections by the chief inspector of public offices;

(9) All moneys collected and belonging to the capitol building fund, state road fund, state road sinking fund, general school fund, school fund, state fund (moneys belonging to counties, districts, and municipalities), state interest and sinking funds, state compensation funds, the fund maintained by the Public Service Commission for the investigation and supervision of applications and all fees, money, interest or funds arising from the sales of all permits and licenses to hunt, trap, fish, or otherwise hold or capture fish and wildlife resources and money reimbursed and granted by the federal government for fish and wildlife conservation; and

(10) All moneys collected or received under any act of the Legislature providing that funds collected or received under the act shall be used for specific purposes.

(c) All moneys, except as provided in subdivisions (1) through (9), inclusive, subsection (b) of this section, shall be paid into the State Treasury in the same manner as collections not excepted and recorded in separate accounts for receipt and expenditure for the purposes for which the moneys are authorized to be collected by law: *Provided*, That amounts collected pursuant to subdivisions (1) through (10), subsection (b) of this section, which are found, from time to time, to exceed funds needed for the purposes set forth in general law may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature. The gross amount collected in all cases shall be paid into the State Treasury. Commissions, costs and expenses, including, without limitation, amounts charged for use of bank, charge, credit or debit cards, incurred in the collection process shall be paid from the gross amount collected in the same manner as other payments are made from the State Treasury.

(d) The State Treasurer may establish an imprest fund or funds in the office of any state spending unit upon receipt of a proper application. To implement this authority, the State Treasurer shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code. The State Treasurer or his or her designee shall annually audit all imprest funds and prepare a list of the funds showing the location and amount as of fiscal year end, retaining the list as a permanent record of the State Treasurer until the Legislative Auditor has completed an audit of the imprest funds of all agencies and institutions involved.

(e) The State Treasurer may develop and implement a centralized receipts processing center. The State Treasurer may request the transfer of equipment and personnel from appropriate state agencies to the centralized receipts processing center in order to implement the provisions of this section: *Provided*, That the Governor or appropriate

constitutional officer has authority to authorize the transfer of equipment or personnel to the centralized receipts processing center from the respective agency.

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§12-2-3. Deposit of moneys not due the State.

(a) All officials and employees of the State authorized to accept moneys that the State Treasurer determines or that this code specifies are not funds due the State pursuant to the provisions of section two of this article shall deposit the moneys, as soon as practicable, in the manner and in the depository specified by the State Treasurer. The State Treasurer shall prescribe the forms and procedures for depositing the moneys.

(b) Notwithstanding any provision of this code to the contrary, including provisions stating funds collected are not state funds and provisions authorizing a spending unit to have one or more accounts outside the Treasury, a spending unit shall comply with the State Treasurer's procedures for the receipt and disbursement of moneys not due the state and obtain written authorization from the State Treasurer before depositing any moneys in an account outside the Treasury. Upon the State Treasurer's written revocation of the authorization, the spending unit shall deposit funds deposited in an account outside the Treasury into the Treasury in the manner and in the depository specified by the State Treasurer. The State Treasurer is the final determining authority as to whether these funds are funds due or not due the state pursuant to section two of this article.

(c) The State Treasurer shall provide the Legislative Auditor with an annual report of all accounts authorized under this section.

§12-2-4. Duty of depositories.

Immediately upon the receipt of a deposit from the state, it shall be the duty of the depository to credit the treasurer with the amount of the deposit, to date and sign the certificate of deposit by some legally constituted official of the depository and promptly transmit the certificate to the treasurer.

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§12-2-5. Deposits in correspondent banks of state depositories.

When any payment of money has been made to the state for road bonds or other purposes outside of the state, the treasurer has the authority to place the same to the credit of one or more state depositories in one or more of its correspondent banks located within or without the state. The treasurer shall, upon making such a deposit in the correspondent bank, secure from it a proper certificate of deposit certifying the amount and the name of the state depository to whose credit the deposit was made by the treasurer. The treasurer shall forward a copy of the certificate to the state depository receiving the deposit through its correspondent bank, and it shall be the duty of the depository immediately to issue to the State of West Virginia a proper certificate of deposit for the amount deposited, dated the same day the deposit was made in the correspondent bank. Before making the deposit the treasurer shall secure written authority from the depository, designating the name and address of its correspondent bank or banks in which deposits are to be made and the maximum amount to be deposited in each. The depository bonds of all state depositories authorizing and receiving the deposits in their correspondent banks shall be liable for the deposits the same as if the deposits had been made with them directly, whether the bonds are so conditioned or not, and all depository bonds hereafter issued shall so provide.

§12-2-6. Violations; penalties.

Any person violating any of the provisions of this article shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not exceeding \$1,000 or confined in jail not exceeding one year, or both, in the discretion of the court, and in addition thereto shall forfeit whatever office or position he holds in connection with the state government.

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