WEST VIRGINIA CODE: §33-43-6

§33-43-6. Returns.

(a) Any person who is subject to a tax in a given taxable year shall file a return for that tax and that taxable year, even if the person has no tax liability for that taxable year.

(1) Each return shall be filed by the applicable filing date. The commissioner, at his or her discretion, may accept a return after the filing date.

(2) Should a taxpayer file more than one return for the same tax, only the return last filed shall be effective. The commissioner, at his or her discretion, may approve the withdrawal of a return by the taxpayer.

(b) Each return shall be executed by the taxpayer in a manner prescribed by the commissioner. Each return so executed shall constitute a sworn statement by the signatory that, to the best of his or her knowledge and belief, the information provided in the return or in any supporting materials which accompany the return is true and accurate.

(c) All returns shall be prepared on forms prescribed by the commissioner. If no form has been prescribed for a particular tax, the return may be in a form chosen by the taxpayer but shall clearly set forth the following information: The taxpayer's name, address and telephone number; the identification number used by the taxpayer in filing federal income tax returns; the tax and taxable year to which the return applies; and all information used to calculate the tax liability of the taxpayer.

(d) For purposes of this article, a return is not regarded as filed if:

(1) It is not filed by the applicable filing date, unless the commissioner accepts the return; or

(2) It has not been received by the commissioner; or

(3) It has not been properly executed by the taxpayer; or

(4) It is not in the proper form; or

(5) It is incomplete or inaccurate in any material respect; or

(6) It is not accompanied by supporting material required by the commissioner; or

(7) It is withdrawn by the taxpayer with the approval of the commissioner; or

(8) It is not accompanied by the payment for any tax due.

(e) If a tax is to be paid in installments, the taxpayer shall file an appropriate return for each

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period for which an installment payment is calculated, even if the taxpayer is not required to make an installment payment for that period. The returns shall satisfy all requirements established for annual returns by this section except that the filing date for an installment return is the date prescribed for the installment payment for the period described by the return. Failure of a taxpayer to make quarterly payments, if required, of at least one fourth of either the total tax paid during the preceding calendar year or eighty percent of the actual tax liability for the current calendar year is considered the same as a failure or refusal to pay the estimated taxes and subjects the taxpayer to the penalties provided in this article.

(f) If a taxpayer has failed to file a return by the applicable filing date or has filed a false or fraudulent return, the commissioner may use any information which is available to him or her to determine the taxpayer's tax liability: Provided, That a determination of tax liability by the commissioner pursuant to this subsection does not relieve the taxpayer of the duty to file a true, accurate and complete return and does not reduce or preclude any penalty based upon the taxpayer's failure to file.

(g) A taxpayer to whom a credit has been issued may apply the credit as payment for any like tax due to be remitted by the taxpayer upon written notice to the commissioner stating the amount of the credit to be so applied.

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