

RECEIVED

98 MAR 26 PM 3:37

OFFICE OF THE CLERK  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1998



# ENROLLED

## House Bill No. 4629

(By Delegate Michael and Jenkins)



Passed March 12, 1998

In Effect from Passage

RECEIVED

98 MAR 28 PM 3:37

OFFICE OF THE CLERK  
LEGISLATIVE DEPARTMENT OF STATE

**ENROLLED**

**H. B. 4629**

(BY DELEGATES MICHAEL AND JENKINS)

---

[Passed March 12, 1998; in effect from passage.]

---

AN ACT to amend article ten, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section five-t, relating to the West Virginia tax procedure and administration act; authorizing electronic funds transfers procedures to be implemented; authorizing emergency rules; and setting forth a civil penalty for failing or refusing to comply with electronic funds transfer requirements.

*Be it enacted by the Legislature of West Virginia:*

That article ten, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section five-t, to read as follows:

**ARTICLE 10. PROCEDURE AND ADMINISTRATION.**

**§11-10-5t. Payment by electronic funds transfers.**

1 (a) The term "electronic funds transfer" means and  
2 includes automated clearinghouse debit, automated  
3 clearinghouse credit, wire transfer and any other means  
4 recognized by the tax commissioner for payment of taxes.

5 (b) The tax commissioner may prescribe by  
6 emergency rules, administrative notices, forms and  
7 instructions, and the procedures and criteria to be followed

8 by certain taxpayers in order to pay taxes by electronic  
9 funds transfer methods.

10 (c) The rules shall set forth the following:

11 (1) Acceptable indicia of timely payment;

12 (2) Which type of electronic filing method or methods  
13 a particular type of taxpayer may or may not use;

14 (3) Which types of taxes to which electronic filing  
15 requirements apply for any given tax year and  
16 implementation dates: *Provided*, That the type of tax to  
17 which electronic funds transfer requirements apply during  
18 the first tax year is personal income tax withholding by  
19 employers;

20 (4) The dollar amount of tax liability per year which,  
21 when exceeded, requires or permits electronic funds  
22 transfer. Unless and until a legislative rule is promulgated  
23 or this section is amended, no person may be required to  
24 pay any tax by electronic funds transfer if the amount  
25 owed for the tax during the preceding year was less than  
26 one hundred twenty thousand dollars;

27 (5) What, if any, exceptions are allowable, and  
28 alternative methods of payment to be used for any  
29 exceptions;

30 (6) Procedures for making voluntary electronic funds  
31 transfer payments;

32 (7) Any provisions needed to implement the civil  
33 penalty created by this section; and

34 (8) Any other provisions necessary to ensure the  
35 timely implementation of electronic funds transfer  
36 payments.

37 (d) In addition to any other additions and penalties  
38 which may be applicable, there is a civil penalty for failing  
39 or refusing to use an appropriate electronic funds transfer  
40 method when required to do so. The amount of this  
41 penalty is three percent of the total tax liability which is or  
42 was to be paid by electronic funds transfer for any tax for  
43 which electronic funds transfer methods are required to be  
44 used by the taxpayer.

45 (e) The provisions of this section are not intended to  
46 affect the provisions of other sections of this chapter  
47 concerning filing of returns or any other provisions which  
48 are not in direct conflict with this section.

49 (f) The state treasurer shall adopt any procedures or  
50 rules necessary or convenient for implementing electronic  
51 funds transfers of tax payments authorized by this section  
52 and rules adopted by the tax commissioner. The treasurer  
53 shall draft any procedures and rules adopted in  
54 consultation with the tax commissioner and the procedures  
55 and rules may not conflict with this section or rules  
56 adopted by the tax commissioner.

57 (g) The provisions of this section become effective on  
58 or after the first day of January, one thousand nine  
59 hundred ninety-eight.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

*Ray Schooner*  
Chairman Senate Committee

*Nick Fantasia*  
Chairman House Committee

Originating in the House.

Takes effect from passage.

*Darrell Robinson*  
Clerk of the Senate

*Bryony M. Day*  
Clerk of the House of Delegates

*Earl Ray Tomblin*  
President of the Senate

*Glenn Roush*  
Speaker of the House of Delegates

The within *approved* this the *25<sup>th</sup>*  
day of *March* 1998.

*Jeff Perdue*  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/20/98

Time 4:26pm