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
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.

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

(b) The tax commissioner may prescribe by emergency rules, administrative notices, forms and instructions, and the procedures and criteria to be followed
by certain taxpayers in order to pay taxes by electronic funds transfer methods.

(c) The rules shall set forth the following:

(1) Acceptable indicia of timely payment;

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

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

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

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

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

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

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

(d) In addition to any other additions and penalties which may be applicable, there is a civil penalty for failing or refusing to use an appropriate electronic funds transfer method when required to do so. The amount of this penalty is three percent of the total tax liability which is or was to be paid by electronic funds transfer for any tax for which electronic funds transfer methods are required to be used by the taxpayer.
(e) The provisions of this section are not intended to affect the provisions of other sections of this chapter concerning filing of returns or any other provisions which are not in direct conflict with this section.

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

(g) The provisions of this section become effective on or after the first day of January, one thousand nine hundred ninety-eight.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Taken effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within approved this the 25th day of March, 1997.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/20/98
Time 4:20 p.m.