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SB 582

FILED

2006 MAR 23 P 4: 28

CLERK OF WEST VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
*Regular Session, 2006*



**ENROLLED**

SENATE BILL NO. 582

(By Senator Helmick, et al )



PASSED March 8, 2006

In Effect 90 days from Passage

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2006 MAR 23 P 4: 28

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

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## Senate Bill No. 582

(BY SENATORS HELMICK, PLYMALE, PREZIOSO AND MINARD)

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[Passed March 8, 2006; in effect ninety days from passage.]

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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-21-54, relating to personal income tax; and requiring certain tax preparers to file certain personal income tax returns of their clients electronically.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §11-21-54, to read as follows:

**ARTICLE 21. PERSONAL INCOME TAX.**

**§11-21-54. Electronic filing for certain tax preparers.**

- 1 (a) If an income tax return preparer filed more than one
- 2 hundred personal income tax returns for any taxable year
- 3 that began after the first day of January, two thousand
- 4 five, and if during calendar year two thousand six or any
- 5 calendar year thereafter that income tax preparer prepares

6 one or more personal income tax returns using tax prepa-  
7 ration software for a previous taxable year, then for each  
8 current taxable year all unamended personal income tax  
9 returns prepared by that preparer shall be filed electroni-  
10 cally, except as provided in subsections (c) and (d) of this  
11 section.

12 (b) For purposes of this section:

13 (1) "Income tax preparer" means any person who  
14 prepares, in exchange for compensation, or who employs  
15 another person to prepare, in exchange for compensation,  
16 all or a substantial portion of any return for a taxpayer for  
17 the tax imposed by this article and who is identified as the  
18 preparer for the taxpayer on the return. A person who  
19 only performs those acts described in clauses (i) through  
20 (iv) of Section 7701(a)(36)(B) of the Internal Revenue Code  
21 with respect to the preparation of a return for a trust or  
22 estate for which he or she is a fiduciary or a return for a  
23 partnership of which he or she is a partner is not an  
24 income tax preparer for purposes of this section.

25 (2) "Electronic filing" or "e-filing" means filing using  
26 electronic technology such as computer modem, magnetic  
27 media, optical disk, facsimile machine, telephone or other  
28 technology approved by the Tax Commissioner, in such  
29 manner as he or she deems acceptable.

30 (3) "Tax preparation software" means any computer  
31 software program intended for accounting or tax return  
32 preparation.

33 (c) Subsection (a) of this section shall cease to apply to  
34 an income tax preparer if, for the previous taxable year,  
35 that income tax preparer prepared no more than twenty-  
36 five personal income tax returns.

37 (d) This section first applies to personal income tax  
38 returns required to be filed for taxable years beginning the  
39 first day of January, two thousand six. This section does  
40 not require electronic filing of: (1) Returns that were not

41 required to be filed for taxable years beginning prior to  
42 that date; (2) returns for prior taxable years beginning  
43 prior to that date; or (3) amended returns for any taxable  
44 year.

45 (e) An income tax preparer who is required to e-file  
46 under this section but does not do so is liable for a penalty  
47 in the amount of twenty-five dollars for each return  
48 prepared that is not e-filed, unless the preparer shows that  
49 the failure to do so is due to reasonable cause rather than  
50 willful neglect. For purposes of this subsection, reason-  
51 able cause includes, but is not limited to, a documented  
52 election by a client not to file electronically.

53 (f) The commissioner shall implement the provisions of  
54 this section using any combination of notices, forms,  
55 instructions and rules that he or she deems necessary.

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

*Candy White*  
.....  
Chairman Senate Committee

*R. Beun*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*David Stephens*  
.....  
Clerk of the Senate

*Bryce D. Smith*  
.....  
Clerk of the House of Delegates

*Carl Ray Sommlin*  
.....  
President of the Senate

*Robert K. ...*  
.....  
Speaker House of Delegates

The within *is approved* this the *23rd*  
Day of *March*, 2006.

*Paul Hancock*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 17 2006

Time 11:15am