WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2015

ENROLLED
COMMITTEE SUBSTITUTE
FOR
House Bill No. 3006

(By Delegate(s) E. Nelson, Ashley, Anderson, Boggs, Williams, H. White, Storch, Gearheart, Bates, Espinosa and O’Neal)

Passed March 14, 2015

In effect ninety days from passage.
AN ACT to amend and reenact §11-10-17a of the Code of West Virginia, 1931, as amended, relating to the determination of the adjusted rate of interest by the Tax Commissioner for the administration of tax deficiencies and overpayments for tax years beginning after December 31, 2016.

Be it enacted by the Legislature of West Virginia:

That §11-10-17a of the Code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:
ARTICLE 10. WEST VIRGINIA TAX PROCEDURE AND ADMINISTRATION ACT.

§11-10-17a. Determination of rate of interest.

(a) In general. — The annual rate of interest established under this section shall be such adjusted rate as is established by the Tax Commissioner under subsections (b) and (c): Provided, That for taxable years beginning prior to January 1, 2017, such annual rate shall not be less than eight percent per annum.

(b) Adjustments of interest rate prior to January 1, 2017.

(1) Establishment of adjusted rate. — If the adjusted prime rate charged by banks (rounded to the nearest full percent):

(A) During the six-month period ending on September 30, of any calendar year; or

(B) During the six-month period ending on the thirty-first day of March of any calendar year, differs from the interest rate in effect under this section on either such date, respectively, then the Tax Commissioner shall establish, within fifteen days after the close of the applicable six-month period, an adjusted rate of interest equal to such adjusted prime rate.

(2) Effective date of adjustment. — Any such adjusted rate of interest established under paragraph (1) shall become effective:

(A) On January 1, of the succeeding year in the case of an adjustment attributable to paragraph (1)(A) above; and on

(B) The first day of July of the same year in the case of an adjustment attributable to paragraph (1)(B).

(c) Adjustment of interest rate after December 31, 2016. — Each year, the Tax Commissioner shall fix the adjusted rate to
equal the adjusted prime rate charged by banks (rounded to the
nearest hundredth of a percent) plus three percentage points per
annum as of the first business day of December, for which an
adjusted prime rate is determined, in the preceding year and it
shall be effective January 1.

(d) Definition of “adjusted prime rate.” — For purposes of
subsections (b) and (c), the term “adjusted prime rate charged by
banks” means the average predominant prime rate quoted by
commercial banks to large businesses, as determined by the
board of Governors of the Federal Reserve System.

(e) Application of change in interest rate.

(1) To deficiencies. — The interest rate in effect at the time
of assessment or when the payment of delinquent tax is made
shall not be applied retroactively to the date the tax was due.
Interest on moneys owed by the taxpayer shall be the sum of the
interest amounts calculated for each year or part thereof from the
date prescribed for payment (determined without regard to any
extensions) to the date the payment is made using the interest
rate in effect for each respective year or part thereof.

(2) To overpayments. — The interest rate in effect at the
time an overpayment of tax is refunded, or a credit therefor is
established, by the Tax Commissioner, shall not be applied
retroactively to the date the claim for refund or credit was filed
with the Tax Commissioner. Interest on moneys owed to
taxpayers shall be the sum of the interest amounts calculated for
each year or part thereof from date the claim for refund or credit
was filed with the Tax Commissioner until date the refund is
paid or credit therefor is established (such dates determined as
provided in section seventeen) using the interest rate in effect for
each respective year or part thereof.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

John B. Hill
Chairman, House Committee

McS. Wray
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Stephan D. Morris
Clerk of the House of Delegates

Mark A. Barnes
Clerk of the Senate

FILE: 2015.

The within is approved this the 2nd day of April, 2015.

Earl Ray Tomblin
Governor