



WEST VIRGINIA

STATE TAX DEPARTMENT

WEST VIRGINIA

SOCIETY OF CERTIFIED PUBLIC ACCOUNTANTS

ANNUAL MEETING



CHARLESTON, WV

June 4, 2019

Before we get started

This presentation is meant to be a source of general information and not as a substitute for tax laws, rules, or regulations and may not be relied upon as legal or tax advice or to support specific instances not addressed.

The material presented may contain simplified explanations of potentially complex legal and tax concepts so as to apply generally across broad areas of tax practice, both legal and accounting, and is intended for general overview and application.

Individual comments by presenters are meant to be illustrative in nature and are not intended as official Tax Department policy.



W E S T V I R G I N I A

STATE TAX DEPARTMENT

- Dale W. Steager, Tax Commissioner
- Lydia McKee, Deputy Tax Commissioner
- Jeff Anderson, Assistant Director, Tax Account Admin Division
- Kym Lowers, Assistant Director, Revenue Division
- Stacy Acree, Assistant Director, Tax Account Administration Division

W E S T V I R G I N I A



STATE TAX DEPARTMENT

Kym Lowers, Assistant Director,
Revenue Division

MYTAXES

Personal Income Tax

Implemented in January 2019, this functionality allows Individual taxpayers to create a logon, specifically to have access to their Personal Income Tax account. To date we have approx. 5,100 PIT accounts now registered for use on MyTaxes.

- Sole Proprietors with a current logon may add additional access to their PIT account – a separate logon is not required.
- Creating a logon or adding access to the PIT account requires verification; Individual taxpayers will be prompted to provide the following:
 - Id Number/Type
 - Letter ID of correspondence received in the last year
 - Taxpayers that do not have a letter Id will need to request a letter; the letter will be mailed to the address on file.
 - Zip Code
 - 8 digit Personal Income Tax account number or FAGI from the most recently filed return

MYTAXES

Personal Income Tax

Once an Individual Taxpayer has created a logon or added access to their Personal Income Tax account, they will be able to use MyTaxes to...

- View current and future returns, beginning with tax year 2018.
 - Taxpayer are currently unable to file their Personal Income Tax returns using MyTaxes.
- Use Notices to securely provide requested/required documentation necessary to process their return and communicate with the Tax Department.
- Access correspondence sent by the Tax Department.
- Submit and schedule payments using saved bank account information, with access to their history of submissions.
- Grant Third Party Access to their Personal Income Tax account.

Request Payment Plan

1. Information

Information

What if I can't pay the full amount of personal income tax due?

We will work with you to resolve your personal income tax debt. If you cannot pay your entire personal income tax bill, you should pay as much of it as you can when you file your return. Doing so reduces the amount of interest and penalties you will be charged over the life of your payment plan. Once your tax return has been processed, we will send you a bill for the balance you owe, including interest and penalties. If you cannot pay the entire amount at the time of the billing, pay as much as you can and submit your request for a payment plan.

- Taxpayers who cannot pay their total personal income tax liability at the time of filing can go online to request a payment plan through MyTaxes.
- Currently a taxpayer may request either a six month or twelve month payment plan.

Twelve month payment plans are allowed under the same conditions except a lien will be filed unless recurring payments are set up through MyTaxes..

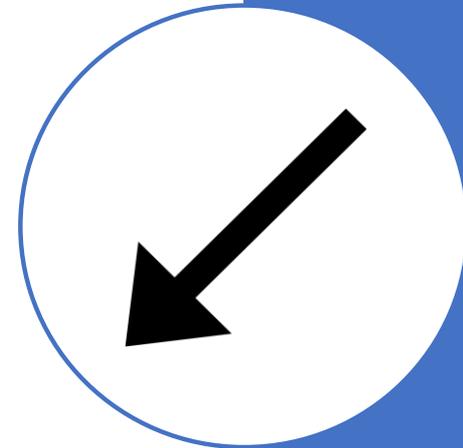
RULES

Guidelines for setting up payment plan on MyTaxes:

1. Taxpayer has NO other outstanding balances or unfiled returns

and

2. Taxpayer has not defaulted on any previous payment plans.



Lien-free 12 month Payment Plan

An additional payment plan option is now available thru MyTaxes. Taxpayers may set up recurring payments from their bank accounts through MyTaxes to resolve their outstanding Personal Income Tax liability.

If a taxpayer uses this method, they have twelve months to pay *without* a tax lien being filed.

MY TAXES

QUESTIONS?



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STATE TAX DEPARTMENT

Jeff Anderson, Assistant Director, Tax
Account Administration Division

Process Enhancements

- New processing system for paper returns
 - Faster, clearer imaging provides more precise data from which to key returns
 - Improved Optical Character Recognition (OCR) capabilities will read the data from most types of W-2 and 1099 documents
 - Eliminates the need for the IT-140W with paper returns

Process Enhancements cont.

- Advanced the due date for Withholding Tax reconciliations
 - Transition from February 28th to January 31st due date was welcomed by the Payroll Service Providers (PSPs)
 - Provided a more timely withholding match
 - Most payments and returns are filed electronically ensuring data availability for later analysis
 - MyTaxes application provides for companies with 25 or fewer employees to file electronically

TY 2018 By the Numbers

	2019		2018		Change
E-file	687,954	89.56%	670,529	87.76%	2.60%
Paper	80,188	10.44%	93,543	12.24%	-14.28%
	768,142	100.00%	764,072	100.00%	0.53%

Modernized e-file returns continue to increase from year to year but likely near the saturation point

Common Errors

- Three forms are the cause and affect both paper and E-file returns
 - Schedule A – Reporting West Virginia Income as Federal AGI and not completing Columns B and/or C
 - Schedule SCTC – Omitting necessary information such as any combination Map, Parcel Sub-parcel or County from the schedule causes a data mismatch error
 - Schedule M – Entering more than \$8000 Lines 46 & 47 box (a) and Military Retirement Modification entered on lines other than Line 38
 - Paper returns only – Not providing W-2's or 1099's at the time of filing
 - E-file returns – Failure to verify addresses or bank information from year to year. For returning clients, tax software often times uses saved information from the previous year. If the information changed during the year, Direct Deposits get sent to the wrong bank account and refunds returned undeliverable.

Calls to Taxpayer Services

Practitioner's Hotline

- Total calls answered 2/1/2018 to 4/30/2018 – 515
- Total calls answered 2/1/2019 to 4/30/2019 – 788

Taxpayer Calls to 558-3333 and 1-800-982-8297

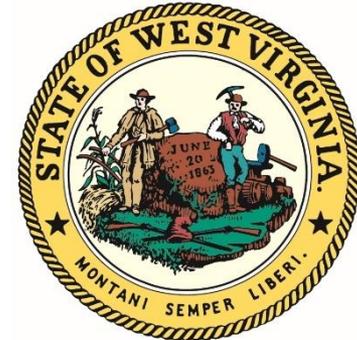
- Total calls answered 2/1/2018 to 4/30/2018 – 96,388
- Total calls answered 2/1/2019 to 4/30/2019 – 105,099



Common Reasons for Calling Taxpayer Services

- During filing season, “Where’s My Refund” calls are the overwhelming majority of calls
 - Not allowing ample time leads to multiple inquiries from taxpayers asking about their refunds causing an increase in call volume
 - Instructing taxpayers to hold refund inquiries until a minimum of six weeks from the filing date will ease the call volume significantly

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STATE TAX DEPARTMENT

Lydia McKee

Deputy Tax Commissioner

Enhanced Enforcement Actions



Tax has enhanced its enforcement actions, especially in the area of trust fund taxes

- Increased Revocations of Business Registration Licenses
- Filing Criminal Charges for Operating a Business without having a Valid Business Registration License
- Conducting Seizures and Sales of Businesses that fail to take steps to bring themselves back into Compliance.

- Legislation was passed in 2018 requiring vendors to be in Good Standing with the Tax Department in order to be eligible to be awarded state contracts. That program has been implemented.



- In addition, legislation was enacted to allow offset of state contract payments by finalized tax debt, or to place a hold on payments made by the State Auditor if a business is not in good standing. This program is currently being implemented.
 - To be in good standing for purposes of the Auditor offset program, a business must have filed all their required returns and have no outstanding liability that is not the subject of a payment plan.
- These offsets are in addition to the current federal tax payment offset programs (TOPS)

Legislation was also passed in 2018 to require contractors to be in good standing with Tax in order to be awarded a state contract from the Department of Highways. Pursuant to this legislation and a Memorandum of Understanding between the agencies, Tax and the Department of Highways regularly share information about the good standing status of contractors attempting to get contracts.



- Tax is working to identify out-of-state and instate contractors to ensure they are following the state tax laws.
- In order to address compliance issues in these areas, Tax has hired additional revenue agents and field auditors.



OFFERS IN COMPROMISE



W. Va. Code §11-10-5q(c) allows the State Tax Commissioner to compromise a tax liability, which includes all tax, penalty, interest, or additions to tax.

We are allowed to compromise a liability for one or both of the following two (2) reasons:

1. doubt as to whether the taxpayer owes the liability
2. doubt that we can collect the full amount of the liability.



We will accept an offer in compromise when it is unlikely that we can collect the tax liability in full, and the amount offered reasonably reflects the amount we can collect.

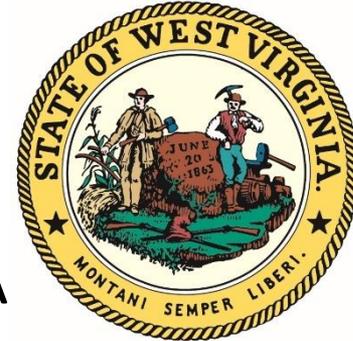
The success of the compromise will be assured only if taxpayers make adequate compromise proposals consistent with their ability to pay the State. Taxpayers are expected to provide reasonable documentation to verify their ability to pay.



The taxpayer will be responsible for making the first offer for compromise.

- We will not accept your offer if you have not filed all tax returns.
- We will also require that the taxpayer comply with all future filing and payment requirements.

WEST VIRGINIA



STATE TAX DEPARTMENT

Dale W. Steager
State Tax Commissioner

**Tax and Tax Related Bills Enacted by the
West Virginia Legislature During
2019 Regular and First Extraordinary
Sessions**

By

Dale W. Steager
State Tax Commissioner

Some Statistics

During the Regular Session:

1, 823 bills were introduced

681 Senate bills

1,142 House bills

294 bills were enacted

35 bills pertain to taxes

1 bill – annuity tax

2 bills – hotel occupancy taxes

1 bill – tourism development tax credits (WV Development Office)

31 bills – programs administered by State Tax Department

30 bills were vetoed by the Governor

During the First Extraordinary Session

78 bills were introduced

38 Senate bills

40 House bills

18 bills were enacted

4 bills pertain to taxes

Consumers Sales and Use Taxes

HB 2813 was enacted March 8, 2019 and takes effect June 6, 2019.

It adds a new §11-15A-6b to the use tax law.

Beginning July 1, 2019, marketplace facilitators and referrers satisfying certain economic nexus requirements are required to collect West Virginia sales and use taxes on sales to West Virginia customers when they are the merchant of record.

Legislative Rules Authorized

SB 187 was enacted March 6, 2019 and was effective from passage.

It authorizes the repeal of certain existing legislative rules of the Tax Commissioner and the promulgation certain proposed legislative rules.

New or amended Legislative Rules authorized include:

- | | |
|---------------------|--|
| 110 CSR-15K – CUT | Aircraft Operated Under A Fractional Ownership Program. |
| 110-CSR-21B – WVPIT | Citizen Tax Credit for Property Taxes Paid. |
| 110-CSR-49 | Administration of Local Tax on Purchases of Wine and Liquor. |
| 110-CSR-50C | Exchange of Information Pursuant to Written Agreement. |

Medical Cannabis

SB 1037 was enacted May 20, 2019 and was effective from passage.

It amends numerous sections of the West Virginia Medical Cannabis Act.

Tax provisions in the Act are amended.

§16A-9-1 imposes a privilege tax on persons dispensing medical cannabis.

The tax is 10% of the gross receipts derived by the dispensary from sales of medical cannabis.

Taxes are due on the 20th day of January, April, July and October on sales made during the preceding calendar quarter.

Sales of medical cannabis are exempt from State and local sales and use taxes and from special district excise taxes.

HB 2538 was enacted March 5, 2019 and was effective from passage.

It adds new §12-1-44 to the Code. The purpose of this section is to provide banking services to growers, processors and dispensaries selling medical marijuana.

The State Treasure is authorized seek competitive bids for the provision of banking services.

Municipal Home Rule

SB 4 was enacted March 9, 2019 and takes effect June 7, 2019.

It amends and reenacts W. Va. Code § 8-1-5a. The primary changes are to:

- (1) make the Municipal Home Rule Pilot Program permanent
- (2) make the program available to all municipalities, and
- (3) impose a fee on participating municipalities to fund the Municipal Home Rule Board.

Some current statistics

231 municipalities in West Virginia

Approximately 50% impose a business and occupation tax

34 municipalities currently participate in the Municipal Home Rule Pilot Program

44 municipalities impose a sales and use tax as of July 1, 2019.

27 are Home Rule municipalities

Personal Income Tax

SB 499 was passed March 9, 2019 and takes effect July 1, 2019.

This bill conforms West Virginia's tax treatment of partnership and partners with their treatment for federal income tax purposes for taxable years beginning after December 31, 2017.

This is largely done in a new article 21A which is added to chapter 11 of the Code.

SB 499 amends and reenacts several sections of the West Virginia Personal Income Tax Act:

§ 11-21-3 (impositions of tax; persons subject to tax)

§11-21-51a (composite returns)

§11-21-59a (report of change in federal taxable income)

§11-21-71a (withholding of tax on West Virginia source income of nonresident partners, nonresident S corporation shareholders and nonresident beneficiaries of estates/trusts).

SB 499 adds new §11-21-37a, §11-21-37b, and §11-21-37c to the Act.

These new sections incorporate into the West Virginia Personal Income Tax the allocation and apportionment rules currently found in the West Virginia Corporation Net Income Tax.

New §11-21-59a is also added, which requires individuals to report changes in income taxes paid to other states.

HB 2001 was passed March 9, 2019 and takes effect June 7, 2019.

It amends and reenacts W. Va. Code § 11-21-12 by adding a new decreasing modification for social security benefits received pursuant to Title 42 U.S.C., Chapter 7, including, but not limited to, social security benefits paid by the Social Security Administration as Old Age, Survivors and Disability Insurance Benefits as provided in §42 U.S.C. 401 et. seq. or as Supplemental Security Income for the Aged, Blind, and Disabled as provided in §42 U.S.C. 1381 et. seq. included in federal adjusted gross income in tax years beginning after December 31, 2019, subject to certain limitations:

1. This deduction is phased-in over a three-year period:

For 2020, the deduction is 35% of the social security benefits included in FAGI.
For 2021, the deduction is 65% of the social security benefits included in FAGI.
For 2012, the deduction is 100% of the social security benefits included in FAGI.

2. However, this deduction is allowable only when

the federal adjusted gross income of an individual is \$50,000 or less, and
the federal adjusted gross income of a married couple is \$100,000 or less.

3. When the taxpayer has other income for which a deduction from federal adjusted gross income is allowable, those deductions are not allowable when the deduction for social security benefits is \$8,000 or more.

Conformity with Federal Partnership Audit Regime

SB 499 was passed March 9, 2019 and takes effect July 1, 2019.

It makes changes in various sections and articles of the West Virginia Tax Code necessary to conform West Virginia's tax treatment of certain partnerships and other pass-through entities with how they are treated for federal income tax purposes for tax years beginning on and after January 1, 2018.

A new article relating to partnerships is added, designated §11-21A-1 through §11-21A-12:

§11-21A-1.	Definitions.
§11- 21A-2	Reporting adjustments to federal taxable income.
§11- 21A-3	Reporting federal audit adjustments attributable to federal partnership audits and administrative adjustment requests.
§11- 21A-4	De minimis exception.
§11- 21A-5	Assessment of additional West Virginia tax due to federal audit adjustments.
§11- 21A-6	Estimated WV tax payments during course of federal audit.
§11- 21A-7	Claims for refund or credit due to federal audit adjustments.
§11- 21A-8	Scope of adjustments and extensions of time.
§11- 21A-9	Effective date.
§11- 21A-10	Legislative, interpretive and procedural rules.
§11- 21A-11	General procedures and administration.
§11- 21A-12	Crimes and penalties.

SB 499 makes changes in the West Virginia Tax Procedure and Administrations Act

- §11-10-3. Application of article.
- §11-10-4. Definitions.
- §11-10-7. Assessment.
- §11-10-14. Overpayments; credits; refunds and limitations.
- §11-10-15. Limitation on assessments.
- §11-10-16. Limitation on collection.
- §11-10-18c Failure to file partnership return or report. (new)

Changes were also made in W. Va. Code § 11-24-20 (report of change in federal taxable income).

Severance Taxes

HB 2829 was passed March 1, 2019 and takes effect May 30, 2019.

It amends and reenacts W. Va. Code § 11-13A-3 to eliminate the severance tax on the privileges of severing limestone or sandstone, when the privilege is exercised on or after July 1, 2019.

HB 3142 was passed March 9, 2019 and takes effect June 7, 2019.

It amends and reenacts W. Va. Code §11-13A-3, §11-13A-6 and §11-13A-6a.

HB 3142 reduces the severance tax rate on the privilege of producing thermal or steam coal sold to produce electricity from 5% to 3% incrementally over three years, beginning July 1, 2019:

On July 1, 2019, the 5% rate is reduced to 4.36%

On July 1, 2020, the 5% rate of tax is reduced to 3.796%

On July 1, 2021, the 5% rate of tax becomes 3% on thermal or steam coal.

HB 3142 also provides that the amount of State severance taxes distributed to the coal producing counties for years beginning on and after July 1, 2019 will be not less than the amount distributed during the fiscal year that began July 1, 2018 (\$11,975,088.09), nor more than \$20 million.

Additionally, counties and municipalities are given greater flexibility in how those dollars may be spent.

HB 3144 was enacted March 9, 2019 and takes effect July 1, 2019.

It provides a severance tax rebate for capital investment in new mining machinery and equipment, and certain improvement to real property directly used in severance of coal, or in coal preparation and processing plants, that result in increased coal production.

In general, 35% of the cost of the new mining machinery and equipment and improvements to real property directly used in the mining or processing of coal establishes the maximum rebate amount.

The mining machinery and equipment must be new, have a useful life of 5 or more years when placed in service in this State, and be subject to federal depreciation or amortization.

The severance taxes rebated are limited to 80% of the State portion of the severance taxes paid on increased coal production attributable to the capital investment.

This rebate amount can be claimed for a period of up to 10 years.

To determine whether there is increased coal production, the bill uses tons of coal produced by the coal company from all of its mines during calendar year 2018.

When the coal company is part of an affiliated group also producing coal, then total production of coal in calendar year 2018 by all members of the affiliated group establishes the baseline to determine the amount of increased coal production due to the capital investment, if any.

If the coal company or any member of the coal company's affiliated group is delinquent in payment of severance taxes, payment of the rebate amount is deferred until after the delinquency is paid.

Tax Credits

SB 635 was enacted March 9, 2019 and was effective upon passage.

It relates generally to coal mining activities. Numerous code sections are amended or added.

SB 635 adds a new tax credit for post-coal mine site development, in a new article designated §11-28-1, §11-28-2 and §11-28-3.

This new credit is allowed against personal and corporation net income taxes for taxable years beginning after December 31, 2019, when a business entity meets the following requirements:

(1) The entity is a corporation, small business corporation, limited liability company, partnership, or unincorporated business entity as defined in this code that has a principal place of business in the State;

(2) The entity employs at the post-coal mine site a minimum of 10 full-time (32 hours a week or more) employees; and

(3) The entity's principal place of business is located on a post-coal mine site within this state.

The allowable credit is 50% of that entity's capital expenditures (as defined in IRC 263) at the post-coal mine site for the first five taxable years during which the entity's principal place of business is located on the post-coal mine site within this state.

The dollar amount of the credit claimed by an eligible business entity may not exceed the amount of 50% of the entity's state income tax for a single year. Rules for claiming the credit are provided when the business entity is a pass-through entity. No credit is allowed against employer withholding taxes. Unused credit can be carried forward for 10 years.

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STATE TAX DEPARTMENT



Thank you!

Questions?

Please send them in an email to:
tax.commissioner@wv.gov