



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

STATE TAX DEPARTMENT

WEST VIRGINIA TAX INSTITUTE, INC.
69th ANNUAL MEETING

October 28 - 30, 2018

Morgantown Marriott at Waterfront Place
Morgantown, WV 26501

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.

Recent Accomplishments & Current Programs,
Goals & Plans of the Tax Department
Dale W. Steager
West Virginia Tax Commissioner

Some Current Developments

Administrative Notice 2018-18

Beginning January 1, 2019, remote sellers that during calendar year 2018 either:

Had gross sales for delivery in West Virginia in excess of \$100,000

OR

Had 200 or more sales transactions for delivery in West Virginia

will be required to collect West Virginia 6% sale and use tax on sales made after December 31, 2018 for delivery in West Virginia.

“Remote seller” is one that has no physical presence in West Virginia and did not previously agree to collect West Virginia sales and use taxes.

When the good or service purchased is delivered in a municipality that imposes sales and use taxes, the municipal sales and use tax must also be collected.

Currently, 43 municipalities impose sales and use taxes.

All except two impose tax at the 1% rate.

Information about this new requirement is posted at the Department’s website. The information posted includes a copy of Administrative Notice 2018-18 and a listing of 21 frequently asked questions and answers. A new TSD-406A for Remote Seller will be posted shortly.

Scanners

The Tax Department scans paper tax returns, correspondence, audit materials and other materials and stores the information in the Department's GenTax computer system.

The Department has purchased and is installing new scanners to replace obsolete scanners that are no longer supported by the manufacturer.

We anticipate that the new scanners should be functional by the next income tax filing season, which begins in January of 2019.

Scanners

We have redesigned some of our tax returns and other forms for use with the new scanners.

For many years, copies of W-2 employee withholding statements have not been submitted with the WVPIT return. The new scanners will allow us to require that copies of W-2s be filed with the return.

Bar Coding

Correspondence sent to tax practitioners and taxpayers requesting additional information now includes a bar code. The bar code document should be included with documents sent to us. This facilitates linking of the response with taxpayer's "file" in our computer system, which means submitted information is reviewed and processed quicker.

MyTaxes – New Features

Letters of Good Standing – The ability to Request a Letter of Good Standing using MyTaxes was made available in late March 2018. The link is available as a non-logged on request, available on the MyTaxes login page and also available behind the logon page. Once the letter of Good Standing is approved, the taxpayer can print it from MyTaxes.

A letter of good standing is frequently required for a business to get certain types of licenses and to receive State contracts for goods and services.

MyTaxes – New Features

In general, a business is in good standing if it has filed all required tax returns and paid all taxes shown to be due on those returns. With one exception, a business that has an unpaid tax liability, or contests a tax liability, is in good standing provided the business is in compliance with a payment plan or is appealing an assessment before the Office of Tax Appeals or the courts of this state.

MyTaxes – New Features

Exception: The one exception to this rule applies to road construction contractors and subcontractors seeking a contract from the Division of Highways. W. Va. Code § 11-10-15cc (b)(3) requires that all withholding taxes be paid in order for the contractor or subcontractor to be in good standing.

(b) For purposes of this section, the term “good standing” means that the bidder, contractor or subcontractor has: (1) Filed all required tax returns due for taxes administered under this article; (2) paid all taxes shown to be due in the filed returns, including any interest and additions to tax; and (3) paid all withholding taxes for employees of the bidder, contractor or subcontractor required to be paid under this code.

Request Release of Final Payment of Construction Contract

The ability to Request a Release of Final Payment Under A Construction Contract was made available in MyTaxes in April 2018. Like requesting a Letter of Good Standing, the link to request for this release is available as both a logged on, and a non-logged request.

W. Va. Code § 11-10-11(b) reads: Prerequisite to final settlement of contracts with nonresident contractor; user personally liable.

(1) Any person contracting with a nonresident contractor subject to the taxes imposed by articles thirteen, twenty-one and twenty-four of this chapter shall withhold payment, in the final settlement of the contract, of a sufficient amount, not exceeding six percent of the contract price, as will in the person's opinion be sufficient to cover the taxes, until the receipt of a certificate from the Tax Commissioner to the effect that the above-referenced taxes imposed against the nonresident contractor have been paid or provided for.

(2) If any person shall fail to withhold as provided in subdivision (1) of this subsection, that person is personally liable for the payment of all taxes attributable to the contract, not to exceed six percent of the contract price. The taxes attributable shall be recoverable by the Tax Commissioner by appropriate legal proceedings, which may include issuance of an assessment under this article.

W. Va. Code § 11-10-11(d) reads: Prerequisite to final settlement of contract with this state or political subdivision; penalty. —

All state, county, district and municipal officers and agents making contracts on behalf of this state or any political subdivision thereof shall withhold payment, in the final settlement of any contract, until the receipt of a certificate from the Tax Commissioner to the effect that the taxes imposed by articles thirteen, twenty-one and twenty-four of this chapter against the contractor, or required to be withheld by the contractor, have been paid or provided for. If the transaction embodied in the contract or the subject matter of the contract is subject to county or municipal business and occupation tax, then the payment shall also be withheld until receipt of a release from the county or municipality to the effect that all county or municipal business and occupation taxes levied or accrued against the contractor have been paid. Any official violating this section is subject to a civil penalty of \$1,000, recoverable as a debt in a civil action brought by the Tax Commissioner.

MyTaxes – New Features

Adding these new capabilities to MyTaxes has streamlined these processes and has shortened our response time for both items.

Enforcement

The Department is aggressively enforcing collection of delinquent taxes from taxpayers who are seriously delinquent, have failed to comply with a payment plan, and who continue to fail to file required returns, or who file returns but do not pay the amount shown to be due on the return.

The Department is focusing on businesses that collect but fail to remit trust fund taxes, e.g., consumers sales and service tax, employer withholding taxes, motor fuel excise taxes.

Enforcement

In every case:

We have revoked the business registration certificate of the business, which continues doing business without one.

We have liens of record in the courthouse for the delinquent tax liabilities.

We have repeatedly sent letters to the business demanding payment, which the business ignores.

A State Tax Department employee contacts the business about filing missing returns and/or paying delinquent taxes.

Enforcement actions

1. We continue to levy on bank accounts and to intercept federal income tax refunds.
2. Now we are padlocking the doors of delinquent businesses.
3. Now we are seizing and selling tangible personal property of delinquent businesses.
4. Soon we will be intercepting State Auditor payments to state vendors that owe delinquent state taxes.
5. Soon we will require persons who apply for a payment plan to authorize automatic withdrawal of monthly payments from their bank account.

Employment

For the first time in recent memory, in FY 2018, due to various changes in the pay plan, we hired more employees than we lost due to retirement and/or taking other positions within or outside of government.

We continue to have many vacant positions. Approximately one-fourth of our authorized positions are vacant.

We continue to seek qualified applicants.

(1) Field auditors. We currently have 23 vacancies.

(2) Revenue agents. We currently have 14 vacancies.

Tax Commissioner's email blast.

Subscribe to our mailing list



* indicates required

Email Address *

FirstName Required Field

First Name *

Last Name *

Company

Title

Updates from the Commissioner's Office *

Current Developments

Recent Website Updates

Subscribe

Signup at our
webpage

tax.wv.gov



Forms and Instructions

We continue working to improve tax forms and instructions.

In FY 2018, we received and processed over 1.7 million returns many of which were filed during the first quarter of 2018.

Publications

We issued new informational publications (TSDs) and continue to update existing TSDs.

Computer Generated Letters

We continue to work on improving the language used in our computer-generated letters sent to tax practitioners and taxpayers.

Statewide Property Tax Computer System

We are in the process of replacing the antiquated Integrated Assessment System (IAS) for property tax administration. This system, which is required by W. Va. Code § 11-1A-21, contains assessment information for all 55 counties. This system is used by county assessors and the Property Tax Division of the Department when determining the assessed value of property. It is also used by county sheriffs to generate the property tax bills (tax tickets) they send to property owners around July 15th of each year. This spans a period of three fiscal years.

Improving Delivery of Taxpayer Services

We have begun procurement of an automated callback functionality project that will allow taxpayers that call our Taxpayer Services Division to hang up and be called by the system once their place in line is reached. It's a "virtual" place in line. This will reduce the overall amount of time it takes to speak with callers. ETA is 90 to 120 days.

We hired additional taxpayer service representatives

While these changes will improve taxpayer services, there will still be wait times.

The learning curve for a new taxpayer service representative is huge. Theoretically, the representative could be asked a question about the more than 40 programs administered by the State Tax Department.

During FY 2018, Tax received 244,475 telephone calls. We were able to respond to approximately 49%.

MyTaxes – Coming Developments include:

Audit Notification

When a notice is sent for Audit purposes, the email on file for the business logon will receive a vague email indicating that a notice has been generated and that the taxpayer should log in to review additional information.

PIT on MyTaxes

We are testing to allow Individuals to create a logon for MyTaxes to access personal income tax information. We anticipate that this new feature will be ready to use for the upcoming filing season.

In order to secure PIT to the fullest extent, the verification for creating an Individual logon will require different information and verification points than Business logons. For example, a letter ID (no more than 1 year old), Social Security Number, 8 Digit Account Number. or amount of Federal Adjusted Gross Income.

Individuals that are Sole Proprietors of a business will need to maintain separate logons – One for the business accounts and a separate logon for access to the Personal Income Tax account. The main reason behind the separation of the business vs PIT account is many business logons have not been created by the individual taxpayer.

Individuals will not have the ability to file their personal income returns using MyTaxes. They must still use one of the approved software vendors or file by paper (we prefer software vendors).

Individuals with logons will have the ability to send the Tax Department secure correspondence using Notices – including attachments! This allows for quicker receipt and handling of any additional requested documentation necessary for accurately processing the personal income tax returns.

Individuals with logons, while still being able to make payments ‘outside’ of the logon, individuals with logons will have the ability to submit payments and more quickly and easily manage the payment submissions – including seeing processed payments (useful while trying to determine how much was remitted for estimated payments)

Individuals will also have the ability to:

1. Request Payment Plan for Individual Balances
1. Request 6 or 12-month payment plan for outstanding balances – again, hoping for implementation in time for the new filing season!

CAVEAT: The work for PIT on MyTaxes has been a long time coming and likely will result in many questions as taxpayer learn to use this system. Once these features are implemented, we encourage to use the HELP and FAQ features to address any issues or questions.

Website Improvements

We continue to work on our website, tax.wv.gov, by adding content and improving existing content.

If you have website suggestions, please contact me:
tax.commissioner@wv.gov.

Plans of Tax Department

2019 Legislation proposals:

Annual WVCNIT and WVPIT update bills.

Amend the WVCNIT, the WVPIT and the Tax Procedures Act to address state issues created by the new federal partnership audit regime that applies to tax years beginning on and after January 1, 2018.

One federal change: After a federal audit of a partnership, or other passthrough entity treated like a partnership for tax purposes, showing an underpayment of federal income tax, the entity will be assessed an imputed federal income tax liability, which the entity may pay or push out to its equity owners. Under West Virginia law, partnerships are not subject to income tax.

There are many other changes in the federal partnership audit regime that result in state compliance issues.

We are looking at model legislation drafted by a Multistate Tax Commission workgroup that consisted of State representatives plus representatives from the AICPA, COST, TEI, and the Taxation Committee of the American Bar Association. These entities have all endorsed the model legislation.

To have a group of tax auditors trained to audit federal form 1065s filed by partnerships and other passthrough entities treated like partnerships for federal income tax purposes.

To make greater use of K-1s and 1099 information.

To use data analytics to improve the accuracy and efficiency of our auditing efforts.



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

STATE TAX DEPARTMENT

Questions?

Thank you.