

ENROLLED

COMMITTEE SUBSTITUTE

for

H. B. 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.

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

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

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

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

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

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

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

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

24 (c) *Adjustment of interest rate after December 31, 2016.* —
25 Each year, the Tax Commissioner shall fix the adjusted rate to

26 equal the adjusted prime rate charged by banks (rounded to the
27 nearest hundredth of a percent) plus three percentage points per
28 annum as of the first business day of December, for which an
29 adjusted prime rate is determined, in the preceding year and it
30 shall be effective January 1.

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

36 (e) *Application of change in interest rate.*

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

45 (2) *To overpayments.* — The interest rate in effect at the
46 time an overpayment of tax is refunded, or a credit therefor is
47 established, by the Tax Commissioner, shall not be applied
48 retroactively to the date the claim for refund or credit was filed
49 with the Tax Commissioner. Interest on moneys owed to
50 taxpayers shall be the sum of the interest amounts calculated for
51 each year or part thereof from date the claim for refund or credit
52 was filed with the Tax Commissioner until date the refund is
53 paid or credit therefor is established (such dates determined as
54 provided in section seventeen) using the interest rate in effect for
55 each respective year or part thereof.

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

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2015.

Governor

