

COMMITTEE SUBSTITUTE

for

H. B. 3006

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ANDERSON, BOGGS, WILLIAMS, H. WHITE, STORCH,
GEARHEART, BATES, ESPINOSA AND O'NEAL)

(Originating in the House Committee on Finance)

[February 27, 2015]

A BILL 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 ~~subsection~~ subsections (b) and (c):
4 *Provided, That* for taxable years beginning prior to January 1,
5 2017, such annual rate shall ~~never~~ not be less than eight percent
6 per annum.

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

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

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

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

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

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

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

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

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

38 ~~(d)~~ (e) *Application of change in interest rate.*

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

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