



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

STATE TAX DEPARTMENT

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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,



It has been a busy year for the State Tax Department since we met last October.

1. 2019 West Virginia Legislative Sessions

294 bills enacted during 60-day Regular Session

30 bills were vetoed

46 bills enacted during 1st Extraordinary Session

More than 30 tax bills were enacted.

Bills updating meaning of certain terms used in WVPIT and WVCNIT

Bill to require marketplace facilitators with economic nexus to collect sales and use taxes.

Bill conforming income tax treatment of certain partnerships and other entities treated like partnership with how they are treated for federal income tax purposes

To implement the tax bills:

Some existing tax forms and instructions need to be changed.

New forms and instructions need to be prepared.

Rules (regulations) need to be promulgated

Computer programs need to be updated or written.

Some new forms will need be filed electronically.

They will be available in MyTaxes

Tax Department employees needed training on the new laws and their requirements.

2. Some tax form changes for returns filed in 2020

a. 2019 income tax returns filed by partnerships and other passthrough will include a line on which a West Virginia partnership representative can be designated.

Partnership representative for tax year 2018

Partnership representative for tax year 2019

b. Employer withholding tax annual return and annual reconciliation return are being combined.

The combined return is due January 31, 2020.

3. Taxpayer Service Division Publications

a. What are Taxpayer Service Division Publications?

b. Some recent TSDs

TSD-210	Coal severance tax
TSD -312	Sales & Use Taxes – Public Schools
TSD-312A	Sales & Use Taxes – Private Schools
TSD-314	Sales & Use Taxes – Funeral Directors
TSD-320	Sales & Use Taxes – Nonprofit Organizations
TSD-366	Sales and Use Taxes – Night Clubs, Bars, Restaurants, etc.
TSD-370	Sales & Use Taxes – Samples for manufacturer/retailer

TSD-371	Sales & Use Taxes – Agricultural Producers
TSD 378	Sales & Use Taxes-West Virginia attorneys, dentists and doctors.
TSD-379	Sales & Use Taxes - Nonprofit organizations providing low-income housing.
TSD-385A	State tax liens
TSD-435	Sales & Use Tax, Personal Income Tax, Property Tax -- Short-term Rentals
TSD-440	Personal Income Tax – Deduction for certain retirement income.

c. TSD projects on drawing board

TSD-1A – Subject matter index of TSDs.

TSD – Discussion of 2020 social security decreasing modification

TSD – Discussion of coal severance tax rebate.

4. Administrative Rules (Regulations)

A. Legislative Rules

110 CSR 10F Payment of taxes by electronic funds transfer

110 CSR 15C Consumers sales and use taxes – Drugs, Durable medical goods, Mobility Enhancing equipment and Prosthetic Devices.

110 CSR 50C Exchange of Information Agreements

B. Interpretive Rules

110-13AC Reduced Severance Tax Rates for Thermal or Steam Coal

110 CSR 21F Coal Severance Tax Rebate

110 CSR 43 Special Valuation Method for Certain Wireless Technology Property

C. Rules in Drafting Stage

Rule to implement SB 209 – Merchant Power Plants

Rule to implement SB 635 – Post-coal Mine Site Business Credit.

5. Tax Department Document Scanners.

For more than 10 years, the Department used scanners to copy paper filed tax returns, correspondence and other documents. By fiscal year 2018, the scanners were obsolete and no longer supported by the vendor.

In fiscal year 2019, the Department replaced the obsolete scanners.

The new scanners will scan:

Paper filed tax returns

Letters,

Checks and

Other documents

Cost of project: approximately \$ 1.7 million plus cost of annual maintenance and support

The vendor will provide maintenance for 9 years.

Use of the scanners is being implemented in three phases.

Phase 1 – Programming to scanning highest volume paper filed returns for personal income tax, sales and use taxes, corporation net income tax, and passthrough entity taxes.

Phase 2 – Programming returns for these taxes filed in prior years.

Phase 3 – Programming returns for all other taxes and fees collected by Department.

Status

Phase 2 went to production October 22, 2019 and we have started phase 3 testing.

Project completion date – December of 2019.

Since the new scanners use different document specifications, a number of existing forms needed to be redesigned so they can be read by the new scanners.

6. People

In fiscal year 2019 we hired more employees than we lost.

Looking to hire more field auditors and revenue agents.

7. Compliance

Continuing issue:

Vendors that collect the 6% sales tax but do not remit the tax.

Employers that withhold personal income tax but do not remit the tax.

Our field compliance efforts are focusing on:

Identifying businesses that do not have business registration certificates.

Levying on bank accounts of delinquent taxpayers

Distraining business tangible personal property of delinquent taxpayers.

Closing the business as a last resort

Issuing 100% penalty assessments for failure to remit trust fund taxes.

For delinquent taxpayers we will:

Approve reasonable payment plan agreements

Approve reasonable offers in compromise

8. Collections

Due to the recent statutory change in the threshold for Mandatory EFT filing (from \$25,000 up to \$50,000, a letter was sent notifying 1,339 personal income taxpayers and 3,732 business taxpayers that they are no longer mandated to file and pay electronically.

Letters were also sent to 7,263 business taxpayers and 611 personal income taxpayers notifying them they met the new threshold and are required to file returns and pay electronically beginning January 1, 2020.

Before a vendor can provide goods and services to the State and its agencies, the vendor needs to be in good standing with the State Tax Department.

Through the OASIS Non-Compliant Vendor flag project, vendors with tax delinquencies are blocked from receiving State contracts until after the vendor contacts the State Tax Department to get the block removed. Sometimes, taxpayer needs to file missing tax returns. In some instances, taxpayer may request a payment plan to pay the delinquent taxes.

The OASIS Non-Compliant Vendor flag project has resulted in collections of \$1,415,525.13 since June 2019.

Tax is currently working with the State Auditor on the State Vendor offset program which will allow the Department to offset finalized debts owed by delinquent taxpayers from payments to be made by the State to these delinquent vendors for goods and services. We estimate that this program will be implemented during the first quarter of 2020.

9. Municipal Sales and Use Taxes

Tax currently collects sales and use taxes for 47 municipalities.

13 municipalities are in process of adopting sales tax ordinances.

Businesses not remitting collected State sales tax are not remitting municipal sales tax.

Since municipal home rule is now available to all municipalities, we anticipate that more municipalities will want to impose sales and use taxes.

Considerable information is posted at our website for municipalities considering imposing a sales and use tax.

MUNICIPALITIES IMPOSING SALES AND USE TAXES

Municipality	Effective Date	Municipal Rate	Combined Rate*
Athens	July 1, 2018	1%	7%
Beckley	July 1, 2016	1%	7%
Bluefield	July 1, 2017	1%	7%
Bolivar	July 1, 2015	1%	7%
Bridgeport	July 1, 2016	1%	7%
Buckhannon	January 1, 2020	1%	7%
Charles Town	July 1, 2015	1%	7%
Charleston	July 1, 2015**	1%	7%
Clarksburg	July 1, 2016	1%	7%
Davis	July 1, 2018	1%	7%
Dunbar	July 1, 2016	1%	7%
Elizabeth	July 1, 2018	1%	7%
Elkins	July 1, 2018	1%	7%
Fairmont	July 1, 2016	1%	7%
Follansbee	July 1, 2017	1%	7%
Grafton	July 1, 2016	1%	7%
Harpers Ferry	July 1, 2016	1%	7%
Harrisville	October 1, 2013	1%	7%
Hundred	January 1, 2020	1%	7%
Huntington	January 1, 2012	1%	7%
Kingwood	July 1, 2019	1%	7%
Martinsburg	July 1, 2015	1%	7%
Milton	July 1, 2015	1%	7%
Moorefield	July 1, 2016	0.5%	6.5%

Moundsville	July 1, 2017	1%	7%
New Cumberland	July 1, 2017	1%	7%
Nitro	July 1, 2015	1%	7%
Parkersburg	July 1, 2015	1%	7%
Pennsboro	July 1, 2016	1%	7%
Princeton	July 1, 2017	1%	7%
Quinwood	October 1, 2013	1%	7%
Ranson	July 1, 2015	1%	7%
Romney	July 1, 2016	1%	7%
Rupert	April 1, 2013	1%	7%
Shepherdstown	July 1, 2017	1%	7%
Sistersville	July 1, 2017	1%	7%
South Charleston	July 1, 2016	1%	7%
St. Albans	July 1, 2017	1%	7%
Thomas	July 1, 2015	1%	7%
Vienna	July 1, 2015	1%	7%
Wayne	January 1, 2018	1%	7%
Weirton	July 1, 2016	1%	7%
Weston	January 1, 2018	1%	7%
Wheeling	July 1, 2015**	1%	7%
White Hall	January 1, 2020***	1%	7%
Williamstown	October 1, 2011	1%	7%
Total - 47			

* Municipal rate plus State rate

**Charleston and Wheeling imposed a 0.5% tax beginning October 1, 2013

***Whitehall imposed a 0.5% tax beginning January 1, 2018

10. Municipal Home Rule

The Municipal Home Rule Pilot Program began small in 2007, after W. Va. Code § 8-1-5a was enacted, authorizing 5 municipalities to participate in the program.

The initial four participants were Bridgeport, Charleston, Huntington, and Wheeling, West Virginia.

The number of participants did not increase until after the Legislature amended W. Va. Code § 8-1-5a in 2013 to allow up to 20 municipalities to participate in the Home Rule Pilot Program.

In 2019, the Legislature amended W. Va. Code § 8-1-5a to allow all municipalities to participate in the Home Rule Program.

As of the end of October 2019, 38 municipalities participate in Home Rule.

West Virginia has approximately 230 municipalities.

Approximately 115 impose some form of business and occupation tax. To impose a municipal sales and use tax, these municipalities must either repeal their business and occupation tax or apply to the Municipal Home Rule Board to participate in home rule.

Home Rule Municipalities may, with Board approval, impose a 1% sales and use tax if they either repeal or reduce their business and occupation tax.

Current Home Rule Municipalities include, by year of participation:

2007

Bridgeport (Class III) *
Charleston (Class I) *
Huntington (Class II) *
Wheeling (Class II) *

2014

Bluefield (Class II) *
Buckhannon (Class III) *
Charles Town (Class III) *
Clarksburg (Class II) *
Dunbar (Class III) *
Fairmont (Class II) *
Martinsburg (Class II) *
Milton (Class III) *
Morgantown (Class II) *
Nitro (Class III) *
Parkersburg (Class II) *
Ranson (Class III) *
Shinnston (Class III)
South Charleston (Class II) *
Vienna (Class II) *
Weirton (Class II) *

2015

Beckley (Class II) *
Elkins (Class III) *
Grafton (Class III) *
Harpers Ferry (Class IV) *
Moundsville (Class III) *
Oak Hill (Class III)
Princeton (Class III) *
Saint Albans (Class II) *

2016

Auburn (Class IV)
Follansbee (Class III) *
Lewisburg (Class III)
New Cumberland (Class IV) *
Shepherdstown (Class IV) *
Weston (Class III) *

2017 (None)

2018 (None)

2019

Barboursville (Class III) **
Ravenswood (Class III) **
Ripley (Class III) **
Wadesville (Class IV)

* Imposes municipal sales and use tax

** In process of imposing municipal sales and use tax

Classification of municipalities is based upon population. W. Va. Code § 8-1-3.

Population	Classification	Participating in Home Rule
More than 50,000	Class I	1
More than 10,000 but not more than 50,000	Class II	13
More than 2,000 but not more than 10,000	Class III	19
Less than 2,000	Class IV town/village	<u>5</u>
		Total 38

11. Some current projects

Business Registration

Updating application for business registration.

Obsolete language is being removed.

Additional language is being added.

Additional information collected will facilitate administration, collection and enforcement of the taxes we collect.

Goals:

Automate the creation of new business registration accounts.

Provide for application information to automatically be integrated into GenTax.

b. Bankruptcy

Historically, administering accounts in bankruptcy has been manual and paper intensive.

Currently, we receive approximately 178 new bankruptcy notices each month.

They are received by letter, email and by phone.

We want to start receiving bankruptcy notices through EBN (Electronic Bankruptcy Notifications)

EBN is a free service that the U.S. Bankruptcy courts offer. This service allows court notices to be transmitted electronically and received in GenTax.

GenTax core EBN functionality allows for:

- a. Auto-adding bankruptcy cases, including associating co-debtor and trustee;
- b. Updates all bankruptcy heading information;
- c. Allow sites to configure a work item to be added under most situations.

c. The property tax computer system is being replaced:

The Tax Commissioner is required to devise and maintain a statewide electronic data processing system to facilitate state and local property tax administration.

W. Va. Code § 11-1A-22 reads in relevant part:

(a) The Tax Commissioner shall devise and cause to be established a statewide electronic data processing system network, to facilitate administration of the ad valorem property tax on real and personal property, through the timely sharing of property tax information among county assessors and the Tax Commissioner.

The current system is approximately 16 years old.

The current system is DOS based.

The current system is no longer supported by vendors.

We have been working on procurement of a new system

New system will be Windows based.

New system will be cloud-based.

New system will allow for electronic filing of certain property tax returns.

New system will allow more and different reports to be generated.

Status

Bids have been received and are currently being reviewed.

Timeline

Once a contract is awarded it will take approximately 36 months before the system is available for use by all county assessors.

Use by the 55 county assessor offices will be phased in.

Staff in each assessor's office will need training.

Since new system is Windows based, assessors may need to upgrade their computers.



Thank you!

Questions?

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