



## REQUESTS FOR WAIVER OF ELECTRONIC FILING AND PAYMENT REQUIREMENTS

*This Publication outlines the procedure to request a waiver of the electronic filing and electronic payment requirements in cases of demonstrated undue hardship. This Publication also provides guidance as to what may or may not constitute undue hardship. It is not a substitute for tax laws or regulations.*

**EFFECTIVE DATE** • Effective January 1, 2018, and applicable to returns and payments for tax periods beginning on or after that date.

**STATUTORY AUTHORITY** • W. Va. Code § 11-10-5t and 11-10-5z, as amended by Enrolled H. B. 2877 (2015).

**BACKGROUND** • W. Va. Code § 11-10-5t requires certain persons to pay their taxes by electronic funds transfer. W. Va. Code § 11-10-5z requires certain persons to file electronically all returns for all taxes administered under the West Virginia Tax Procedure and Administration Act. This includes all business tax, excise tax, and personal income tax returns. The Department gives taxpayers notice of their obligation to file and pay electronically by letter. Once a taxpayer has been notified by the Department that they are required to make EFT payments, they must continue to do so until released from that obligation by the Department. If you have never received a notice to file and pay electronically, there is no need to file a waiver request.

• Once you have been notified that you must pay and file electronically, all returns due or received beginning the calendar year following the notification must be made electronically even if they are related to an earlier period. For example, if a taxpayer is notified of their responsibility to file taxes electronically beginning January 1, 2018, personal income taxes for the 2017 year that are payable in 2018 must be filed electronically.

• During the 2015 regular session of the Legislature amended the Code by reducing the threshold for electronic filing of tax returns and electronic payment of taxes. For returns filed on or after January 1, 2016, if any taxpayer remits \$25,000 or more for any tax collected by the Tax Commissioner, that taxpayer is required to electronically file all tax returns with the Tax Commissioner and pay electronically all taxes. For 2019, the annual remittance limit was increased. W. Va. Code § 11-10-5z(a)(3)(iii) reads:

(iii) For returns that are required to be filed on or after January 1, 2019, any person required to file a return for a tax administered under the provisions of this article and who had total annual remittance for any single tax equal to or greater than \$50,000 during the immediately preceding tax year shall file electronically all returns for taxes administered under this article. (Emphasis added.)

• Any person required to file a tax return electronically or pay tax electronically may request in writing, not later than thirty days prior to the beginning of the calendar year, that the Tax Commissioner waive the electronic filing and paying requirements if, on the basis of information provided by the taxpayer, the Commissioner finds that there would be undue hardship for the taxpayer to electronically file tax returns and electronically pay taxes. The Tax Commissioner may also grant a waiver if the requirement was triggered by an isolated event.

**DEFINITION** • Undue hardship means excessive, extraordinary, or reasonably insurmountable hardship. Undue hardship will be determined on a case-by-case basis, will be fact-specific, and will be limited to the information provided by the taxpayer. Each waiver request will be judged individually based on its facts and circumstances.

• Generalized conclusions will not be sufficient to support a claim of undue hardship. Undue hardship cannot be established by a taxpayer solely on the basis of declaring a general distrust of information technology such as the Internet, electronic communications, or the security of information provided by means of electronic transfer. Undue hardship may be demonstrated by the documented general unavailability of the technology and communications systems necessary for electronic filing and paying. Undue hardship may also be demonstrated on the basis of the substantial financial cost to the taxpayer relative to the amount of the tax owed by the taxpayer for the current tax year.

## ELECTRONIC FILING AND PAYMENT METHODS

- Before submitting a waiver request, taxpayers should understand the Department makes various electronic payment options available at its website for businesses to use when electronically filing business and excise tax returns including, but not limited to, employer withholding tax returns.
- Business taxpayers can use the MyTaxes website at <https://mytaxes.wvtax.gov> to file a variety of tax returns, update address information, make payments online, or securely communicate with the Tax Department.
- Individuals may make personal income tax payments on MyTaxes.
- ACH Credit for both business and individual taxpayers may be available through a taxpayer's financial institution. The application ([WV/EFT-5](#)) and further information pertaining to ACH Credit is available at:  
<https://tax.wv.gov/Business/ElectronicFiling/PaymentOptions/Pages/BusinessPaymentOptions.aspx>
- Credit card payments are available on the State Treasurer's hosted site. For more information, visit our website at:  
<https://tax.wv.gov/Business/ElectronicFiling/PaymentOptions/Pages/BusinessCreditCardPayments.aspx>
- Modernized e-filing (MEF) is also available for certain tax types, including personal income tax through certain certified service providers. For more information, go to [www.tax.wv.gov](http://www.tax.wv.gov).
- For more information on electronic filing, please review [EFT-3](#) and [EFT-4](#) at [www.tax.wv.gov](http://www.tax.wv.gov).

## REQUESTING WAIVER

- If you have been notified that you are required to file tax returns and pay taxes electronically and believe you can demonstrate undue hardship to comply with an electronic filing and paying requirement, you may request a waiver from the Tax Commissioner. To request a waiver, complete and file Form [WV-EFT-WR](#), Request for Waiver of Electronic Filing and Paying Requirement. Form WV-EFT-WR must be signed by the taxpayer.
- In order to be considered a timely request, the Department must receive a fully completed and properly executed Form WV-EFT-WR no fewer than 30 days prior to the beginning of the calendar year.
- Taxpayers are encouraged to provide as much detail as possible when requesting a waiver and may include attachments to Form WV-EFT-WR. Form WV-EFT-WR is available on the department's website at <https://tax.wv.gov/Business/ElectronicFiling/Pages/BusinessElectronicFiling.aspx> or by calling the Taxpayer Services Division at 1-800-982-8297. To submit an electronic filing or electronic payment waiver request, taxpayers must mail Form WV-EFT-WR to:

West Virginia State Tax Department  
Revenue Division  
Electronic Filing Unit  
P.O. Box 11895  
Charleston, WV 25339-1895

## NOTIFICATION TO TAXPAYERS OF COMMISSIONER'S DECISION

- If the Commissioner determines an undue hardship exists and waives the electronic filing and paying requirement, the Department will send the taxpayer written notification of the Commissioner's decision. Once this notification is received, the taxpayer may file a signed paper West Virginia tax return and pay taxes other than by electronic means for 12 months from the date specified in the waiver.
- If a waiver is granted and the 12 months expire, taxpayers who believe that undue hardship still exists must re-apply timely for a waiver for any succeeding 12-month period.
- If the Commissioner determines the taxpayer has not established that an undue hardship exists and denies the waiver request, the department will send the taxpayer notification of the Commissioner's decision.
- If the taxpayer's request for a waiver is denied, the taxpayer must file and pay tax returns electronically. The Commissioner's decision is final and is not subject to further review or appeal.

## TAX PREPARERS

- Tax return preparers subject to the provisions of W. Va. Code §§ 11-10-5t and 11-10-5z may not use Form WV-EFT-WR to request a waiver of their electronic filing and electronic paying obligations. Paid tax preparers must use Form HW1 to request a waiver. Form HW1 is available at <https://tax.wv.gov/Business/ElectronicFiling/Pages/BusinessElectronicFiling.aspx>.

**ASSISTANCE AND  
ADDITIONAL  
INFORMATION**

- For assistance or additional information, you may call a Taxpayer Service Representative at:

**1-800-WVA-TAXS  
(1-800-982-8297)**

Or visit our website at:

[www.tax.wv.gov](http://www.tax.wv.gov)

File and pay taxes online at:

<https://mytaxes.wvtax.gov>

Email questions to:

[taxhelp@wv.gov](mailto:taxhelp@wv.gov)

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