



## PAYROLL WEST VIRGINIA, UNIQUE ASPECTS OF WEST VIRGINIA PAYROLL LAW AND PRACTICE

**The West Virginia State Agency that oversees the collection and reporting of State income taxes deducted from payroll checks is:**

State Tax Department  
Capitol Complex, Bldg. 1, W417  
Charleston, WV 25305  
(304) 558-3333  
(800) 982-8297 (in state)  
[www.state.wv.us/taxrev](http://www.state.wv.us/taxrev)

West Virginia allows you to use the "WV/IT-104, West Virginia's Employee's Withholding Exemption Certificate" form to calculate state income tax withholding or federal form W4 if state and federal exemption are the same.

Not all states allow salary reductions made under Section 125 cafeteria plans or 401(k) to be treated in the same manner as the IRS code allows. In West Virginia cafeteria plans are not taxable for income tax calculation; taxable for unemployment insurance purposes. 401(k) plan deferrals are not taxable for income taxes; taxable for unemployment purposes.

In West Virginia supplemental wages are taxed at:

Annual wages under \$10,000	3.0%
\$10,000-\$25,000	4.0%
\$25,000-\$40,000	4.5%
\$40,000-\$60,000	6.0%
Over \$60,000	6.5%

You may file your West Virginia State W-2s by magnetic media if you choose to.

**The West Virginia State Unemployment Insurance Agency is:**

Bureau of Employment Programs  
112 California Ave.  
Charleston, WV 23505-0112  
(304) 558-2674  
<http://www.wvbep.org/bep/uc/>

The State of West Virginia taxable wage base for unemployment purposes is wages up to \$8000.00.

West Virginia has optional reporting of quarterly wages on magnetic media.

Unemployment records must be retained in West Virginia for a minimum period of four years. This information generally includes: name; social security number; dates of hire, rehire and termination; wages by period; payroll pay periods and pay dates; date and circumstances of termination.

**The West Virginia State Agency charged with enforcing the state wage and hour laws is:**

Division of Labor  
Wage and Hour Section  
Capitol Complex  
Building 3, Rm. 319  
Charleston, WV 25305  
(304) 558-7890  
<http://www.labor.state.wv.us/>

The minimum wage in West Virginia is \$5.15 per hour.

The general provision in West Virginia concerning paying overtime in a non-FLSA covered employer is one and one half times regular rate after 40 hour week.

West Virginia State new hire reporting requirements are that every employer must report every new hire and rehire. The employer must report the federally required elements of:

- Employee's name
- payroll address
- Employee's address
- Employee's social security number
- Employer's name
- Employers address
- Employer's Federal Employer Identification Number (EIN)

This information must be reported within 14 days of the hiring or rehiring.  
The information can be sent as a W4 or equivalent by mail, fax or electronically.  
There is a \$25.00 penalty for a late report in and \$500 for conspiracy West Virginia.

The West Virginia new hire-reporting agency can be reached at 877-625-4669 or 304-346-9513 or on the web at [www.wv-newhire.com/](http://www.wv-newhire.com/)

West Virginia does not allow compulsory direct deposit.

West Virginia requires the following information on an employee's pay stub:

- itemized deductions

West Virginia requires that employee be paid no less often than biweekly.

In West Virginia there are no statutory requirements concerning the lag time between when the services are performed and when the employee must be paid.

West Virginia payroll law requires that involuntarily terminated employees must be paid their final pay within 3 working days; next regular payday if suspended due to labor dispute or temporarily laid off. Voluntarily terminated employees must be paid their final pay by the next regular payday or by mail if employee requests it.

Deceased employee's wages of \$800; \$1,000 after 120 days after death must be paid to the surviving spouse, adult children, parents, siblings, or person paying funeral expenses (in that order).

Escheat laws in West Virginia require that unclaimed wages be paid over to the state after one year.

The employer is further required in West Virginia to keep a record of the wages abandoned and turned over to the state for a period of 10 years.

West Virginia payroll law mandates no more than 20% of minimum wage may be used as a tip credit.

In West Virginia the payroll laws covering mandatory rest or meal breaks are only that minors under 16 must have 30 minutes rest after five hours of work and other employees get 20 minutes for 6 hours.

West Virginia statute requires that wage and hour records be kept for a period of not less than two years. These records will normally consist of at least the information required under FLSA.

**The West Virginia agency charged with enforcing Child Support Orders and laws is:**

Bureau for Child Support Enforcement  
Department of Health and Human Resources  
Bldg. 6, Rm. 817  
State Capitol Complex  
Charleston, WV 25321  
(304) 558-4665  
[www.wvdhhr.org/bcse](http://www.wvdhhr.org/bcse)

West Virginia has the following provisions for child support deductions:

- When to start Withholding? **14 days after receipt of order.**
- When to send Payment? **Payday.**
- When to send Termination Notice? **"Promptly"**
- Maximum Administrative Fee? **\$1 per payment.**
- Withholding Limits? **40% of disposable earnings if supporting another spouse or child; 50% if not; amounts go to 45% and 55% if employee is 12 weeks in arrears.**

Please note that this article is not updated for changes that can and will happen from time to time.

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