



# **State Tax Update**

**2008 Business Summit  
WV State Chamber of Commerce  
The Greenbrier  
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**Christopher G. Morris  
Commissioner  
West Virginia State Tax Department**



# State Tax Update

- Combined Reporting effective January of 2009
- Tax Simplification Effort
- Municipal Sales Tax Available July 1, 2008
- RAPIDS Update
- Energy Star Sales Tax Holiday
- Other Issues



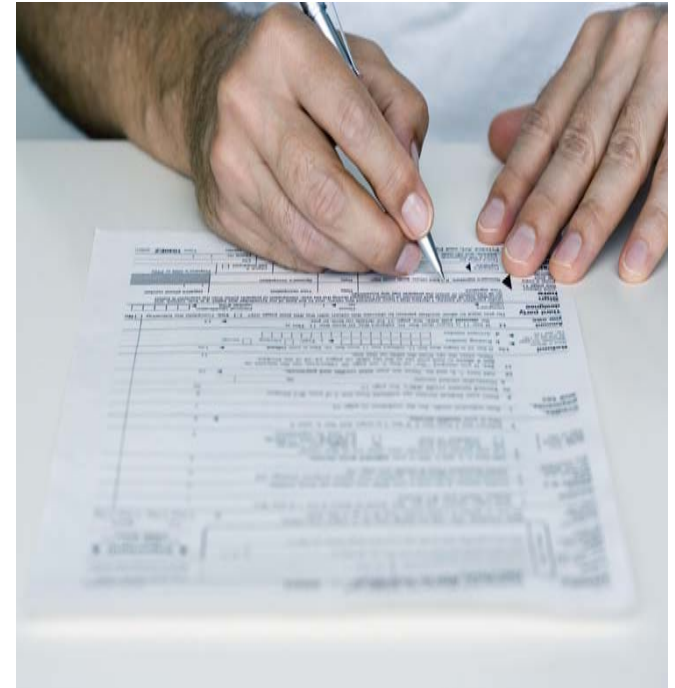
## What is Combined Reporting?

- **Filing of a single income tax accounting report for unitary business group allocating unitary group's property, payroll and sales for each separate member with business activity in the State**
  - Unitary: single economic enterprise where two or more business entities are commonly owned, interdependent & integrated in a manner that transfers value among affiliates
  - Unitary business group determination based upon
    - Unity of ownership – common ownership
    - Unity of operation – centralized decisions, accounting and purchasing
    - Unity of use of general system of operation – mutual interdependence



## Why Use Combined Reporting?

- **Separate Accounting** allows opportunities for some shifting of income between affiliated entities to minimize tax or avoid tax.
  - Use of Private Investment Company (PIC): A Delaware subsidiary holds intangible property for lease to the Parent for use in its business operations. The Parent makes payments to the PIC for rights to use the intangible property in its daily business operations. The payments are deductions from income for the Parent. These deductions minimize the Parent's taxable income. Delaware exempts the intangible income from its corporate taxes.





## Why Use Combined Reporting in WV?

- Seeking More Competitive Tax Rates & Level Playing Field for In-State Business.
  - Gains associated with combined reporting should help offset losses associated with a phase-down in the corporate income tax rate from 8.75% to 6.5% between 2008 and 2014.
  - Gains associated with combined reporting may also partially compensate for plan to phase-out secondary business franchise tax from 0.55% in 2008 to 0% by 2015.
  - Combined reporting seen as the right method to restore public confidence in the fairness of corporate net income tax relative to other taxes, including the personal income tax.



# The 2008 Forbes List Best States for Business

1. Virginia
2. **Utah**
3. Washington
4. North Carolina
5. Georgia
6. Colorado
7. **Idaho**
8. Florida
9. Texas
10. **Nebraska**
11. **Minnesota**
12. **Delaware**
13. **North Dakota**
14. Maryland
15. New Mexico
16. **Oregon**
17. Tennessee
18. **Arizona**
19. Nevada
20. **New Hampshire**



# Features of Combined Reporting in West Virginia

- Water's edge default election
  - Taxpayer may elect worldwide reporting
  - Tax haven reporting language in Statute
- *Joyce* Rule for reporting sales
- Net operating loss deductions not shared
- Tax credits not shared



# Transition Rules

- NOL and tax credit sharing among the unitary group if the sharing member filed a consolidated income tax return in 2008.
- Corporate Net Income Tax increase phase-down credit for financial institutions
  - 2009 – 80% of tax increase from 2008
  - 2010 – 60% of tax increase from 2008
  - 2011 – 40% of tax increase from 2008
  - 2012 – 20% of tax increase from 2008
  - 2013 – 10% of tax increase from 2008



# Business Franchise Tax Changes

- Goodwill tax credit for domiciled financial organization purchasing out-of-state bank [2008]
- Business Franchise Tax phase-out
  - 0.48% in 2009
  - 0.41% in 2010
  - 0.34% in 2011
  - 0.27% in 2012
  - 0.20% in 2013
  - 0.10% in 2014
  - No tax in 2015





# Corporation Net Income Tax Changes

- Corporation Net Income Tax rates
  - 8.75% in 2008
  - 8.50% in 2009
  - 7.75% in 2012 [if Rainy Day Fund Balance on June 30, 2011 > 10%]\*
  - 7.00% in 2013 [if Rainy Day Fund Balance on June 30, 2012 > 10%]\*
  - 6.50% in 2014 [if Rainy Day Fund Balance on June 30, 2013 > 10%]\*
  - \* In the event that the Rainy Day Fund balance falls below 10%, the tax rate phase-down plan is delayed by at least one year or until Rainy Day Fund balance is restored to a level of 10%.
  - Current Rainy Day Fund balance equals 14.5% of the General Revenue Fund Budget



# Other Tax Changes for 2009

- Tax credit for inventory taxes paid on manufacturing inventory [2009]
  - Must be property taxes paid in West Virginia
  - Must be inventory of a business classified as a manufacturer in West Virginia [NAICS 31-32-33]
  - Non-refundable credit against BFT and CNIT
- Tax Credit offset limits rise from 50% to 60%
  - Manufacturing Investment Tax Credit
  - Industrial Expansion and Revitalization Tax Credit
- West Virginia is one of just 16 states conforming to the federal allowance of 50% bonus depreciation on new investment in 2008
- West Virginia also conforms to the doubling of the Section 179 small business expensing allowance in 2008 to a maximum of \$250,000



# Unfinished Business

- The Tax Department is currently drafting rules for combined reporting
  - Due to complexity and importance, input from business groups and others will be key
  - Final Legislative Rules should be approved in 2010
  - The first annual returns are due in 2010
- Auditors and others are attending training seminars related to the administration of combined reporting



# Proposed Legislative Rules Will Address:

- When does unity attach?
- Trucker's use mileage formula
- Financial Institutions use a gross receipts formula
- Treatment of Intercompany Transactions
- Treatment of RICs and REITs
- Treatment of Partnerships
- General Safe Harbors
- Transition Safe Harbors



# Tax Simplification Efforts

- SB 545 included several simplification efforts including:
  - Elimination of the biennial renewal requirement of the Business Registration Certificate
  - Established a single sales and use tax return
  - Requires electronic filing of all tax returns for those taxpayers who pay more than \$100,000 a year for any single tax
  - Allows certain healthcare providers to have a direct pay sales tax permit
  - Allows the Department to follow IRS guidelines regarding income tax withholding provisions and payment as of January 1, 2009
- HB 4421– Repeal of Corporate License Tax repealed effective July 1, 2008



# Local Option Sales Tax

- Original legislation passed in 2004
- Effective July 1, 2008, municipalities are able to implement a 1% local sales tax
- The municipality must choose between the B&O tax and the sales tax
- WV is a destination based state
- Has greater effect on the service industry
- No cities have passed an ordinance



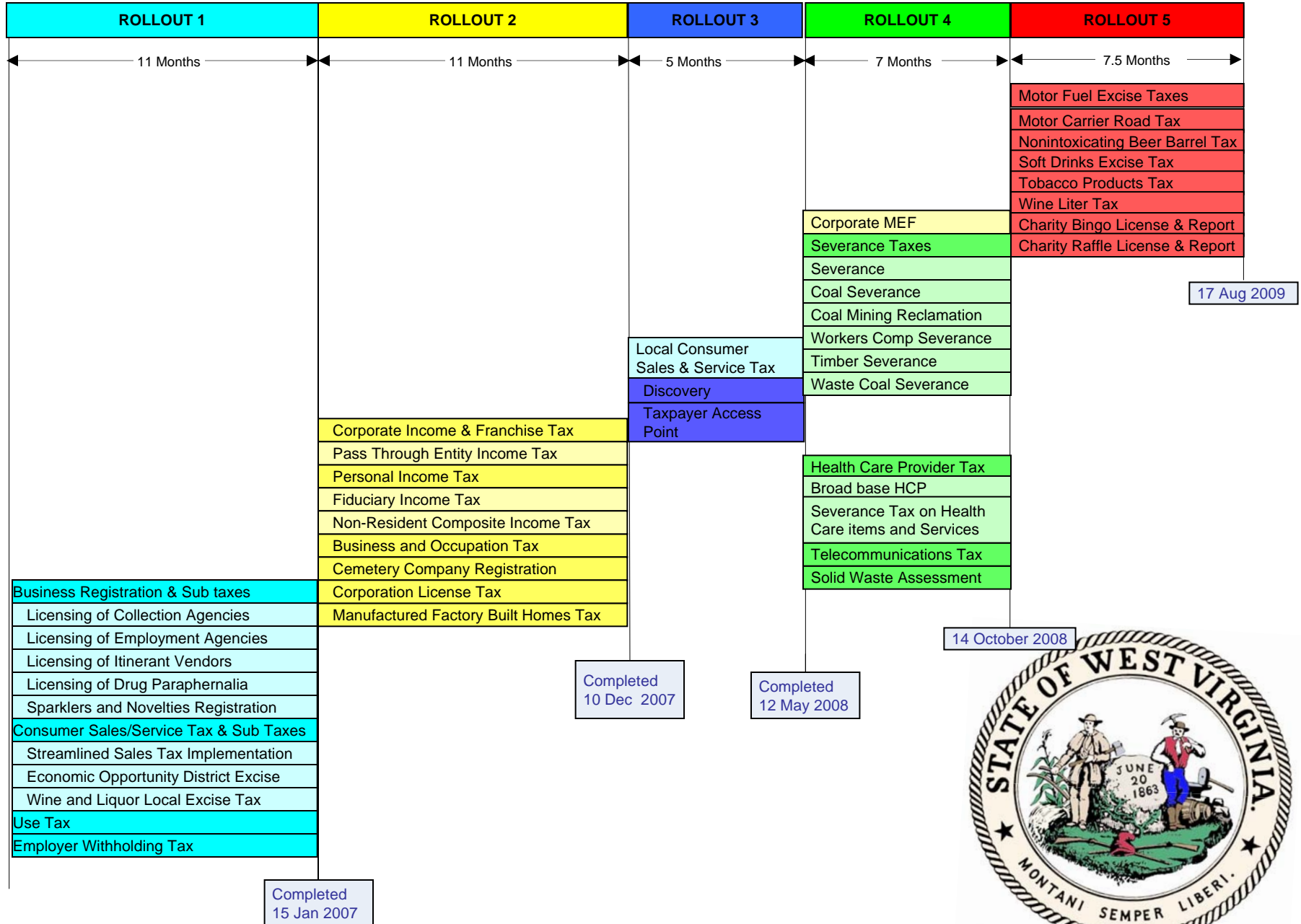
**REVENUE ACCOUNTS PROCESSING  
INTEGRATED DEVELOPMENT SYSTEM**



# Project Overview

- **Appropriation:** \$22 Million – January 2005
- **Contract:** Signed December 2005
- **Vendor:** Fast Enterprises LLC, Greenwood Village, CO
- **Product:** GenTax® Commercial Off-the-shelf Tax System
- **Product Used:** Alabama, Arkansas, Arlington County, Virginia, Colorado, Idaho, Illinois, Georgia, Louisiana, Montana, New Mexico, North Dakota, Minnesota, Utah, Wisconsin, Scottsdale, Arizona, Canadian Provinces of British Columbia, Manitoba and Ontario, and Republic of Trinidad & Tobago
- **Project Started:** February 2006
- **Project Finished:** August 2009
- **Project Staff:** Vendor – 20 full-time      State – 20 full-time
- **Project Scope:** 39 Taxes in 3.5 years
- **5 Phases or Rollouts** – specific taxes included in each

# GenTax® Rollout Schedule





# Project Status

- Rollout 1
  - Completed January 16, 2007
  - On Schedule and On Budget
  - 250,458 Taxpayers Converted
  - Taxes in Production
    - Business Registration
      - Licensing of Collection Agencies
      - Licensing of Employment Agencies
      - Licensing of Itinerant Vendors
      - Licensing of Drug Paraphernalia
      - Licensing of Sparklers and Novelties
    - Consumer Sales and Service Tax
      - Streamlined Sales Tax
      - Special District Excise Tax
      - Direct Pay Sales and Use Tax
      - Wine/Liquor Tax
    - Use Tax
    - Withholding Tax



# Project Status

- **Rollout 2**
  - Completed December 10, 2007
  - Taxes in Production
    - Combined Corporation Net Income/Business Franchise Tax
    - Personal Income Tax
    - Cemetery Company Registration
    - Corporation License Tax
    - Business & Occupation Tax
  - Taxpayers Converted: 1.4 Million
- **Rollout 3**
  - Completed May 12, 2008
  - GenTax® Modules Implemented
    - Discovery Data Warehouse
    - Taxpayer Access Point – Internet Service Center
  - Taxes in Production
    - Combined Sales and Use Tax
    - Taxpayers Converted: 118,000



# Project Status

- Rollout 4
  - Scheduled Completion Date: October 14, 2008
  - Taxes to be Converted:
    - Severance Tax
    - Coal Severance Tax
    - Coal Reclamation Tax
    - Waste Coal Severance Tax
    - Addition Severance Tax (Worker's Compensation Severance Tax)
    - Timber Severance Tax
    - Solid Waste Assessment
    - Telecommunication Tax
    - Health Care Provider Severance Tax
    - Health Care Provider Broad Based Tax

# Web Based Filing/Payment



- 24/7 taxpayer services
- Secure Internet Access
- Available as of May 2008
- View tax return data for 3 years
- File original and amended returns
- Pay current and past account balances by ACH Debit or credit card
- Change name
- Change addresses
- Store returns for later completion and submission
- Schedule payments for future dates



# Taxes Available on MyTaxes

- **Currently Available**
  - Business & Occupation Tax
  - Business Registration Renewals
  - Cemetery Company Registration and Reporting
  - Direct Pay Permit Return
  - Special District Excise Tax
  - Factory Built Home Fees
  - Fiduciary Income Tax
  - Sparklers and Novelties Renewals
  - Sales Tax
  - Use Tax
  - Wine & Liquor Tax
  - Withholding Tax
  - Combined Sales and Use Tax
- **In October 2008 we will add:**
  - Severance Tax
  - Coal Severance Tax
  - Coal Reclamation Tax
  - Waste Coal Severance Tax
  - Timber Severance Tax
  - Additional Severance Tax
  - Solid Waste Assessment
  - Telecommunications Tax
  - Health Care Provider Tax
- **In August 2009 we will add:**
  - Motor Fuels Excise Tax
  - Motor Carrier Road Tax
  - Non-intoxicating Beer Barrel Tax
  - Soft Drinks Excise Tax
  - Wine Liter Tax
  - Tobacco Products Tax
  - Charitable Bingo licensing and reporting
  - Charitable Raffle licensing and reporting<sup>23</sup>



# Energy Star Sales Tax Holiday

- Senate Bill 474 passed during the 2008 Regular Legislative Session
- Establishes Energy Star Products Sales Tax Holiday between September 1, 2008, and September 7, 2008
- Purchases of specified energy star products will be exempt from the State's 6% sales tax
- To qualify, items may cost up to \$2,500 and must be for home or personal use



# Transition Issues

The Tax Department is facing a period of major transition due to improved technology, an aging workforce, and substantive changes in tax policy. Some issues we are facing include:

- Increase in billings/correspondence from the Department
- Difficulty in reaching Tax Department Officials
- Training Issues



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