WEST VIRGINIA CODE: §11-10-10

§11-10-10. Appeals.

(a) Right of appeal. --

(1) A taxpayer may appeal the administrative decision of the Tax Commissioner issued under section nine or fourteen of this article, by taking an appeal to the circuit courts of this state within sixty days after being served with notice of the administrative decision.

(2) A taxpayer may appeal the administrative decision of the office of tax appeals in accordance with the provisions of section nineteen, article ten-a of this chapter.

(b) Venue. -- The appeal may be taken in the circuit court of any county:

(1) Wherein the activity taxed was engaged in; or

(2) Wherein the taxpayer resides; or

(3) Wherein the will of the decedent was probated or letters of administration granted; or

(4) To the circuit court of Kanawha County.

(c) Petition for appeal. -- The appeal proceeding shall be instituted by filing a petition with the circuit court, or the judge thereof in vacation, within the sixty-day period prescribed in subsection (a) of this section. The clerk of the circuit court shall, within ten days after date the petition is filed, serve the Tax Commissioner with a copy of the same by registered or certified mail. This petition shall be in writing, verified under oath by the taxpayer, or his or her duly authorized agent, having knowledge of the facts, set forth with particularity the items of the administrative decision or the assessment objected to, together with the reasons for the objections.

(d) Appeal bond. -- If the appeal is of any assessment for additional taxes (except a jeopardy assessment for which security in the amount thereof was previously filed with the Tax Commissioner), then within ninety days after the petition for appeal is filed, or sooner if ordered by the circuit court, the taxpayer shall file with the clerk of the circuit court a cash bond or a corporate surety bond approved by the clerk. The surety must be qualified to do business in this state. These bonds shall be conditioned that the taxpayer shall perform the orders of the court. The penalty of this bond shall be not less than the total amount of tax, additions to tax, penalties and interest for which the taxpayer was found liable in the administrative decision of the Tax Commissioner. Notwithstanding the foregoing and in lieu of the bond, the Tax Commissioner, in his or her discretion upon the terms as he or she may prescribe, may upon a sufficient showing by the taxpayer, certify to the clerk of the circuit court that the assets of the taxpayer subject to the lien imposed by section twelve of this article, or other indemnification, are adequate to secure performance of the orders of the

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court: Provided, That if the Tax Commissioner refuses to certify that the assets of the taxpayer or other indemnification are adequate to secure performance of the orders of the court, then the taxpayer may apply to the circuit court for the certification.

(e) Hearing of appeal. –- The court shall hear the appeal and determine anew all questions submitted to it on appeal from the determination of the Tax Commissioner. In the appeal a certified copy of the Tax Commissioner's notice of assessment or amended or supplemental assessment and administrative decision thereon shall be admissible and shall constitute prima facie evidence of the tax due under the provisions of those articles of this chapter to which this article is applicable. The court shall render its decree thereon and a certified copy of the decree shall be filed by the clerk of the court with the Tax Commissioner who shall then correct the assessment in accordance with the decree. An appeal may be taken by the taxpayer or the Tax Commissioner to the Supreme Court of Appeals of this state.

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