WEST VIRGINIA CODE: §11-10-7

§11-10-7. Assessment.

(a) General. — If the Tax Commissioner believes that any tax administered under this article has been insufficiently returned by a taxpayer, either because the taxpayer has failed to properly remit the tax or fee, or has failed to make a return, or has made a return which is incomplete, deficient, or otherwise erroneous, he or she may proceed to investigate and determine or estimate the tax liability and make an assessment therefor.

(b) Jeopardy assessments. — If the Tax Commissioner believes that the collection of any tax administered under this article will be jeopardized by delay, he or she shall thereupon make an assessment of tax, noting that fact upon the assessment. The amount assessed shall immediately be due and payable. Unless the taxpayer against whom a jeopardy assessment is made posts the required security and petitions for reassessment within 20 days after service of notice of the jeopardy assessment, such assessment shall become final: Provided, That upon written request of the taxpayer made within the 20-day period, showing reasonable cause therefor, the Tax Commissioner may grant an extension of time not to exceed 30 additional days within which such petition may be filed. If a taxpayer against whom a jeopardy assessment has been made petitions for reassessment or requests an extension of time to file a petition for reassessment, the petition or request shall be accompanied by remittance of the amount assessed or such security as the Tax Commissioner may consider necessary to ensure compliance with the applicable provisions of this chapter. If a petition for reassessment is timely filed, and the amount assessed has been remitted, or such other security posted, the provisions for hearing, determination, and appeal set forth in §11-10A-1 et seq. of this code shall then be applicable.

(c) Amendment of assessment. — The Tax Commissioner may, at any time before the assessment becomes final, amend, in whole or in part, any assessment whenever he or she ascertains that such assessment is improper or incomplete in any material respect.

(d) Supplemental assessment. — The Tax Commissioner may, at any time within the period prescribed for assessment, make a supplemental assessment whenever he or she ascertains that any assessment is imperfect or incomplete in any material respect.

(e) Address for notice of assessment. —

(1) General rule. — In the absence of notice to the Tax Commissioner under §11-10-5o of this code of the existence of a fiduciary relationship, notice of assessment, if sent by certified mail or registered mail to the taxpayer at his or her last known address, shall be sufficient even if such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation or other legal entity, has terminated its existence.

(2) Joint income tax return. — In the case of a joint income tax return filed by a husband and

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wife, such notice of assessment may be a single notice, except that if the Tax Commissioner has been notified by either spouse that separate residences have been established, then in lieu of a single notice, a duplicate original of the joint notice shall be sent by certified or registered mail to each spouse at his or her last known address.

(3) Estate tax. — In the absence of notice to the Tax Commissioner of the existence of a fiduciary relationship, notice of assessment of a tax imposed by §11-11-1 et seq. of this code, if addressed in the name of the decedent or other person subject to liability and mailed to his or her last known address, by registered or certified mail, shall be sufficient for purposes of this article and §11-11-1 et seq. of this code.

(f) For purposes of this section, the term "taxpayer" includes any partnership or other pass-through entity that owes tax pursuant to §11-21A-1 et seq. of this code.

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