# WEST VIRGINIA CODE: §11-10-8

**§11-10-8. Notice of assessment; petition for reassessment or payment of assessment within sixty days; finality of assessment; payment of final assessment; effective date.**

(a) Notice of assessment. -- The Tax Commissioner shall give the taxpayer written notice of any assessment or amended or supplemental assessment made pursuant to this article. The assessment or amended or supplemental assessment, as the case may be, shall become final and conclusive of the liability of the taxpayer and not subject to either administrative or judicial review under the provisions of sections nine or nine-a, and ten of this article, or under the provisions of sections ten or eleven, and nineteen of article ten-a of this chapter, unless the taxpayer to whom a notice of assessment or amended or supplemental assessment, is given, shall within sixty days after service thereof (except in the case of jeopardy assessments, as to which the time for filing a petition is specified in section seven of this article) either:

(1) Petition for reassessment. -- Personally or by certified mail, files with the Tax Commissioner a petition in writing, verified under oath by the taxpayer or his or her duly authorized agent, having knowledge of the facts, setting forth with particularity the items of the assessment objected to, together with the reasons for the objections: Provided, That for all assessments received after December 31, 2002, the taxpayer shall file the petition with the office of tax appeals in accordance with the provisions of section nine, article ten-a of this chapter; or

(2) Payment of assessment. -- Personally or by certified mail, remits to the Tax Commissioner the total amount of the assessment or amended or supplemental assessment, including the additions to tax and penalties as may have been assessed and the amount of interest due.

(b) Finality of assessment. -- The amount of an assessment or amended or supplemental assessment shall be due and payable on the day following the date upon which the assessment or amended or supplemental assessment becomes final. Payment of the amount of the assessment, or amended or supplemental assessment, as provided in subdivision (2), subsection (a) of this section, within sixty days after service of notice of the assessment does not prohibit or otherwise bar the taxpayer from filing a claim for refund or credit under the provisions of section fourteen of this article within the time prescribed therein for the filing of a claim for refund or credit.

(c) Payment of assessment after petition filed. -- A taxpayer who has timely filed a petition for reassessment may, at any time prior to issuance of the administrative decision under section nine or nine-a of this article, or under sections ten or eleven, article ten-a of this chapter, pay under protest the amount of the assessment. Upon payment, the contested case shall thereafter be treated for all purposes as a petition for refund: Provided, That if payment is made after the administrative hearing under section nine or nine-a of this article

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or under section ten or eleven, article ten-a of this chapter, has commenced or concluded, a new hearing may not be held, but the record shall be properly amended to show that the amount assessed has been paid under protest by the taxpayer and that the petition for reassessment previously filed under this section or under section nine, article ten-a of this chapter is now to be treated as a petition for refund filed under section fourteen of this article.

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