WEST VIRGINIA CODE: §11-21A-5

§11-21A-5. Assessments of additional West Virginia tax, interest, and additions to tax arising from adjustments to federal taxable income; statute of limitations.

The Tax Commissioner will assess additional West Virginia tax, interest, and additions to tax arising from federal adjustments arising from an audit by the Internal Revenue Service, including a partnership level audit, or reported by the taxpayer on an amended federal income tax return or as part of an administrative adjustment request by the following dates:

(1) Timely reported federal adjustments. — If a taxpayer files with the Tax Commissioner a federal adjustments report or an amended West Virginia tax return as required within the period specified in §11-21A-2 or §11-21A-3 of this code, the Tax Commissioner may assess any West Virginia amounts, including in-lieu-of amounts, of taxes, interest, and additions to tax arising from those federal adjustments if the Tax Commissioner issues a notice of the assessment to the taxpayer by a date which is the latest of the following:

(A) The expiration of the limitations period specified in §11-10-15 of this code setting forth normal limitations period; or

(B) The expiration of the one-year period following the date of filing with the Tax Commissioner of the federal adjustments report under §11-21A-3 of this code.

(2) Untimely reported federal adjustments. — If the taxpayer fails to file the federal adjustments report within the period specified in §11-21A-2 or §11-21A-3 of this code, as appropriate, or the federal adjustments report filed by the taxpayer omits federal adjustments or understates the correct amount of West Virginia tax owed, the Tax Commissioner may assess amounts or additional amounts including in-lieu-of amounts, taxes, interest, and additions to tax arising from the final federal adjustments, if the Tax Commissioner mails a notice of the assessment to the taxpayer by a date which is the latest of the following:

(A) The expiration of the limitations period specified in §11-10-15 of this code setting forth limitations periods; or

(B) The expiration of the one-year period following the date the federal adjustments report was filed with the Tax Commissioner; or

(C) Absent fraud, the expiration of the six-year period following the final determination date.

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