



STATE OF WEST VIRGINIA
Department of Revenue
State Tax Department

Jim Justice
Governor

Dale W. Steager
Tax Commissioner

June 15, 2017

Mr. Gregory L. Ely
Clerk, Hardy County
204 Washington St.
Moorefield, WV 26836

Dear Mr. Ely:

RE: Recent Legislative Changes

This is to inform you of two bills, recently passed by the West Virginia Legislature and signed by Governor Jim Justice, that may affect your duties.

H.B. 2963 makes inoperable the provision of W.Va. Code Section §11-11-17a which allowed the domiciliary representative of a non-resident's estate to obtain release of the estate tax lien. Section 11-11-17a currently provides:

(a) The domiciliary personal representative of a nonresident decedent may apply to the Tax Commissioner for a certificate releasing all real property situate in this state included in decedent's gross estate from any lien imposed by section seventeen of this article. In the absence of ancillary administration in this state, the Tax Commissioner may consider reliable and satisfactory evidence furnished by the personal representative regarding the value of real property and the amount of tax due under this article, or that no tax liability exists under this article with respect to any real property.

(b) If the Tax Commissioner determines that reliable and satisfactory evidence exists, an affidavit of value submitted by the personal representative made pursuant to and in conjunction with the evidence shall be marked as inspected by the commissioner and shall be filed by the estate in the county or counties of this state where the real property is situate.

(c) In determining tax liability, the Tax Commissioner may also consider an appraisal of the real property submitted in writing to the Tax Commissioner, paid for by the personal representative and made at the personal representative's request. The appraisal shall be performed by a licensed real estate appraiser acceptable to the Tax Commissioner and it shall be filed in the county or counties where the real property is situate.

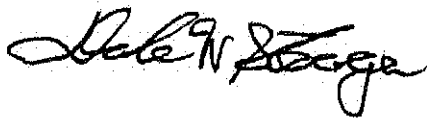
(d) If the Tax Commissioner is satisfied that no tax liability exists, 17 or that the tax liability of the estate has been fully discharged, the Tax Commissioner may issue a certificate under subsection (f), section seventeen of this article.

New Subsection (e) provides that, “[o]n and after July 1, 2017, the provisions of this section have no force or effect.” The rationale behind this change is that estate tax liens are only valid for ten years after the death of the decedent, and West Virginia has not had an estate tax in effect since 2004, so any West Virginia estate tax liens still on the books are no longer valid. The provisions of W. Va. Code §11-11-17a, although no longer in force or effect, as provided in W.Va. Code §11-11-39, is still being used by some persons. Enrolled H.B. 2963 clarifies that Section §11-11-17a is no longer in effect. Accordingly, the Tax Commissioner will no longer issue “a certificate releasing all real property situate in this state included in decedent’s gross estate from any lien imposed by section seventeen.”

During the first extraordinary legislative session, HB 111 was enacted which requires the release of state tax liens once they are no longer legally enforceable. This bill takes effect September 7, 2017 and is awaiting the signature of Governor Justice.

The second bill, H.B. 2967, transfers the responsibility for training Fiduciary Supervisors and administering the fiduciary supervisor qualifying test from the Tax Commissioner to the State Auditor. Starting July 8, 2017, the State Auditor shall: (1) design and supervise the test to be given to all persons selected or appointed as fiduciary supervisor; (2) designate a place for administration of the test and designate a person to administer it; and (3) conduct annual training for fiduciary supervisors who are not licensed to practice law in this State.

Sincerely,

A handwritten signature in black ink, appearing to read "Dale W. Steager". The signature is fluid and cursive, with a large initial "D" and "S".

Dale W. Steager, Commissioner
West Virginia State Tax Department