

**SANITIZED DECISION – 06-327 P – GEORGE V. PIPER, ALJ – SUBMITTED for
DECISION on SEPTEMBER 20, 2006 – ISSUED on SEPTEMBER 21, 2006**

SYNOPSIS

**PERSONAL INCOME TAX -- PETITIONER’S FAILURE TO CARRY
BURDEN OF PROOF** -- The failure of Petitioner to articulate adequate grounds in his petition for reassessment justifying his claim, combined with his failure to present any evidence respecting said claim, will result in a denial of relief to the taxpayer. *See* W. Va. Code § 11-10A-10(e) [2002]; W. Va. Code. St. R. §§ 121-1-63.1 and 69.2 (Apr. 20, 2003).

FINAL DECISION

On March 30, 2006, the Unit Manager of the Accounts Monitoring Unit of the Internal Auditing Division (“the Division”) of the West Virginia State Tax Commissioner’s Office (“the Commissioner” or the “Respondent”) issued a personal income tax assessment against the Petitioner. This assessment was issued pursuant to the authorization of the State Tax Commissioner, under the provisions of Chapter 11, Articles 10 and 21 of the West Virginia Code. This assessment was for the year 2004, for tax of \$, interest, through March 30, 2006, of \$, and additions to tax of \$, for a total liability of \$. Written notice of this assessment was served on the Petitioner as required by law.

Thereafter, by mail postmarked May 24, 2006, the Petitioner timely filed with this tribunal, the West Virginia Office of Tax Appeals, a petition for reassessment. *See* W. Va. Code §§ 11-10A-8(1) [2002] and 11-10A-9(a)-(b) [2002].

In due course, the presiding administrative law judge determined that the matter should be decided on documents only, in lieu of the parties appearing at an administrative hearing in person, because their appearances in person were not necessary.

FINDINGS OF FACT

1. For the 2004 tax year Petitioner did not supply the necessary W-2 statements to verify his claim of taxes withheld.

2. Although Petitioner was given the opportunity by this tribunal to supply the W-2's in question, the same were not supplied (within the allotted time, or at any time thereafter, for that matter).

DISCUSSION

The only issue is whether Petitioners have shown that the assessment is incorrect and contrary to law, in whole or in part.

CONCLUSIONS OF LAW

1. In a hearing before the West Virginia Office of Tax Appeals on a petition for reassessment, the burden of proof is upon a petitioner-taxpayer, to show that the assessment is incorrect and contrary to law, in whole or in part. *See* W. Va. Code § 11-10A-10(e) [2002] and W. Va. Code St. R. § 121-1-63.1 (Apr. 20, 2003).

2. The Petitioner-taxpayer in this matter has not carried the burden of proof with respect to its contention that the assessment is erroneous. *See* W. Va. Code St. R. § 121-1-69.2 (Apr. 20, 2003).

DISPOSITION

WHEREFORE, it is the **FINAL DECISION** of the **WEST VIRGINIA OFFICE OF TAX APPEALS** that the personal income tax assessment issued against the Petitioner

for the year 2004, for tax of \$, interest of \$, and additions to tax of \$, totaling \$, must be and is hereby **AFFIRMED**.

Pursuant to the provisions of W. Va. Code § 11-10-17(a) [2002], **interest accrues** on this personal income tax assessment until this liability is fully paid.