

**SYNOPSIS**

**CONSUMERS' SALES AND SERVICE TAX – TAX COMMISSIONER AUTHORIZED TO ESTIMATE TAX LIABILITY** – Petitioner's failure to file a return or remit taxes due allows the Tax Commissioner to estimate same pursuant to W. Va. Code § 11-10-7(a).

**ADMINISTRATIVE DECISION**

The Internal Auditing Division issued a consumers' sales and service tax assessment against the Petitioner. This assessment was for the year 2000 for tax, interest, through April 15, 2002, and additions to tax, for a total assessed liability.

There was no appearance on behalf of the Petitioner when the hearing was convened. The hearing was held, however, without an appearance on behalf of the Petitioner in accordance with the provisions of W. Va. Code § 11-10-9.

**FACTS**

During the assessment period the Petitioner operated a travel agency; however, Petitioner failed to file consumers' sales and service tax returns for the year 2000, necessitating the issuance of an estimated assessment.

In its petition for reassessment, Petitioner makes reference to a new state law exempting all travel agencies from sales tax. Petitioner did not mention that said law became effective July 1, 2001 and was not, therefore, applicable to Petitioner for the prior period in question.

**ISSUE AND DETERMINATION**

The sole issue is whether the Petitioner has shown that the assessment is incorrect and contrary to law, in whole or in part, as required by W. Va. Code § 11-10-9.

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Petitioner's failure to file its tax return allows the Tax Commissioner to estimate the tax liability pursuant to W. Va. Code § 11-10-7(a).

Accordingly, the assessment shall be upheld as estimated because Petitioner failed to appear or otherwise prove that the estimated tax figures were incorrect.

**WHEREFORE**, it is the **DECISION** of the **STATE TAX COMMISSIONER OF WEST VIRGINIA** that the consumers' sales and service tax assessment issued against the Petitioner for the year 2000, for tax, interest, updated through January 31, 2003, and additions to tax, should be and is hereby **AFFIRMED**.