



## STATE TAX LIENS

The purpose of this publication is to provide information regarding tax liens issued by the West Virginia State Tax Department. This publication provides general information. It is not a substitute for tax laws or regulations.

### GENERAL INFORMATION

- The State will file a lien when a taxpayer has unpaid taxes due the State of West Virginia that are no longer subject to administrative or judicial review.
- A lien is a legal claim filed in the clerk of the county commission of the county where the taxpayer resides or conducts business.
- The lien will contain the name of the taxpayer and provide information such as the amount and type of tax due and the date the tax became due and payable.
- A lien ensures that the State of West Virginia is given priority as a creditor before any financial transactions can take place such as sales of property or the use of property as collateral for loans.
- The State Tax Department may take enforcement actions such as levying a taxpayer's bank account, garnishing taxpayer's wages or seizing and selling a taxpayer's property to collect on a lien. To avoid these actions, pay the tax bill in full. You can file and pay taxes at <https://mytaxes.wvtax.gov>. If you need a payment plan, see the State Tax Department website at [www.tax.wv.gov](http://www.tax.wv.gov) for information or call Taxpayer Services at 1-800-WVA-TAXS (1-800-982-8297).
- Liens are public documents. The Tax Department does not report liens to the credit agencies. However, the tax lien and the release or withdrawal of the lien are considered public information which credit agencies can obtain on their own. When a lien is paid, the Department will send you a release or withdrawal notice that you can send to the credit agencies requesting a modification of your credit report.
- The term "tax" includes, but is not limited to, the State business and occupation tax, the consumers sales and service tax, the use tax, municipal sales and use taxes, the corporation net income taxes, the personal income taxes, the employer withholding taxes, the health care provider taxes, the severance taxes, and any other tax or fee collected by the Tax Commissioner under the West Virginia Tax Procedure and Administration Act.
- The following discussion does not apply to statutory liens for payment of ad valorem property taxes.

### CREATION OF LIEN

- A lien is created when an individual or business has unpaid taxes that are due and payable and no longer subject to administrative or judicial review.
- The amount of any tax, additions to tax, penalties or interest that is due and payable under the West Virginia Tax Procedure and Administration Act, W. Va. Code § 11-10-1, *et. seq.*, is a debt due the State of West Virginia. It is a direct obligation of the taxpayer and is a lien upon the real and personal property of the taxpayer.
- Statutory interest and additions to tax will continue to accrue on the amount of tax stated in the lien.

### DURATION OF LIEN

- The lien created by W. Va. Code § 11-10-12 continues until:
  - the liability for the tax, additions to tax, penalties and interest is paid, or
  - the expiration of 10 years from the date the tax, additions to tax, penalties and interest became due and payable pursuant to a finalized assessment under W. Va. Code § 11-10-8, or the expiration of 10 years from the date the tax return was filed showing a balance due, whichever is later.

However, under some circumstances such as bankruptcy or pursuant to agreement between the taxpayer and the State Tax Department, the lien may be extended.

## RECORDATION OF LIEN

- The clerk of the county commission of the county will index the notice of lien, in the judgment or tax lien docket in his or her office, as a tax lien against the taxpayer in favor of the State of West Virginia.
  - When the taxpayer owns property in more than one county, the notice of lien is recorded in each county in which property is located.
  - For notices of liens recorded on or after September 6, 2017, the notice of lien must include the date the tax, additions to tax, penalties and interest became due and payable, either under Section 11-10-8, or the date the tax return was filed when the lien is filed pursuant to W. Va. Code § 11-10-6, and the date when the lien expires.
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## RELEASE OR SUBORDINATION OF LIEN

- The Tax Commissioner may issue his or her certificate of release of any lien created pursuant to Section 11-10-12, when the debt is has been paid or adequately secured by bond or other security.
  - The certificate of release is issued in duplicate. One copy is forwarded to the taxpayer and the other copy is forwarded to the clerk of the county commission of the county wherein the lien is recorded. Lien releases may be full or partial releases.
  - Lien releases may be full or partial releases. The Tax Commissioner may issue his or her certificate of release of the lien as to all or any part of the property subject to the lien, or may subordinate the lien to any other lien or interest, but only if there is paid to the State an amount not less than the value of the interest of the State in the property, or if the interest of the State in the property has no value.
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## WITHDRAWAL OF LIEN

- The Tax Commissioner may withdraw a recorded tax lien upon making one of the following determinations:
    - The lien was recorded prematurely, inadvertently or otherwise erroneously; or
    - Beginning September 6, 2017, the taxpayer voluntarily and through due diligence paid the lien, fulfilled a payment plan agreement, fulfilled the terms of an offer in compromise, timely provided supporting documentation or paid the lien in good faith.
  - When a lien is withdrawn, the notice of withdrawal is issued in duplicate. One copy is forwarded to the taxpayer and the other copy is forwarded to the clerk of the county commission of the county or counties in which the lien is recorded. The clerk of the county commission records the withdrawal of lien.
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## ENFORCEMENT THROUGH FORCLOSURE

- In addition to the enforcement actions discussed above, the Tax Commissioner may enforce any lien created and recorded under Section 11-10-12, against any property subject to the lien by instituting a civil action in the circuit court of the county wherein the property is located. When the civil action is filed, all persons having liens upon the property, or having any interest in the property, are made parties to the civil action.
  - The circuit court may appoint a receiver or commissioner who is to ascertain and report all liens, claims and interests in and upon the property, the validity, amount and priority of each. The court, after giving notice to all parties, then proceeds to adjudicate all matters involved in the civil action, determines the validity, amount and priorities of all liens, claims and interests in and upon the property, and decrees a sale of the property by the sheriff or any commissioner to whom the action is referred, and decrees distribution of the proceeds of the sale according to the findings of the court in respect to the interests of the parties.
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## ASSISTANCE AND ADDITIONAL INFORMATION

- For assistance or additional information, you may call a Taxpayer Service Representative at:

**1-800-WVA-TAXS  
(1-800-982-8297)**

Or visit our website at:

[www.tax.wv.gov](http://www.tax.wv.gov)

File and pay taxes online at:

<https://mytaxes.wvtax.gov>

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