



STATE OF WEST VIRGINIA

Department of Revenue  
State Tax Department

Joe Manchin III  
Governor

FILED  
Craig A. Griffith  
Acting Commissioner  
2018 APR 26 PM 3:19

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

ADMINISTRATIVE NOTICE 2010-19

**SUBJECT: Treatment of Debt Purchasers Pursuant to the West Virginia Collection Agency Act of 1973, as amended.**

The West Virginia Collection Agency Act of 1973 (hereafter "the Act"), West Virginia Code § 47-16-1 *et seq.*, requires that a person, firm, corporation or association shall not establish or conduct the business of a "collection agency" within the state of West Virginia except as authorized by the Act. See W. Va. Code § 47-16-3.

The Act in pertinent part defines "collection agency" to mean and include:

"(a)ll persons, firms, corporations and associations...(d)irectly or indirectly engaged in the business of soliciting from or collecting for others any account, bill or indebtedness originally due or asserted to be owed or due another..."  
Emphasis added. See W. Va. Code § 47-16-2(b) (2003).

Collection agencies sometimes purchase defaulted accounts, bills and other indicia of indebtedness for collection. Certain "debt purchasers" have inquired with the Tax Department as to whether they are collecting debts "for others" within the meaning of the Act, based on the proposition that they have purchased debt accounts, and so "own" the accounts when their collection efforts proceed.

Other "debt purchasers" have inquired whether they must comply with the Act if they only engage in "passive" debt collection. "Passive debt collection" is the practice of employing licensed third party collection agencies to engage in collection activities on behalf of the debt purchaser.

The West Virginia State Legislature amended the Act in 2003 by adding the word "originally" to the statutory definition of the term "collection agency" (quoted above). This amendment broadened the definition of "collection agency" to include "debt purchasers."

The Act has always covered both "direct" and "indirect" debt collection.

It is the determination of the West Virginia Tax Department that debt purchasers must comply with the licensing, bonding, and other provisions of the Act. This determination includes debt purchasers who engage in "passive" debt collection as defined above. Debt purchasers who engage in "passive" debt collection, are engaging in collection agency business operations within the meaning of the Act, and must comply with the licensing, bonding, and other provisions of the Act.

Notice of this determination will be filed in the State Register.

Issued: April 26, 2010

  
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Craig A. Griffith  
Acting State Tax Commissioner  
West Virginia State Tax Department

State Tax Department  
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