

# WEST VIRGINIA OFFICE OF



## TAX APPEALS

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### ANNUAL REPORT TO THE LEGISLATURE FOR FISCAL YEAR 2012

The West Virginia Office of Tax Appeals was created by the Legislature under the provisions of West Virginia Code § 11-10A-1 *et seq.* to provide taxpayers the opportunity for unbiased review of certain decisions of the Tax Commissioner. During Fiscal Year 2012, The Office of Tax Appeals operated with a small staff consisting of one chief administrative law judge who is appointed by the Governor, two administrative law judges, one executive director, and five support personnel

In the preceding fiscal year, 370 regular and 73 small claims petitions were filed in accordance with the statutory requirements and the rules of procedure for this office, for a total of 443 matters docketed.

Four hundred and twenty final dispositions occurred during the fiscal year. Administrative law judges entered (43) forty-three final decisions on regular matters, (319) three hundred and nineteen Dismissal Orders, and (58) fifty-eight Show Cause Orders.

The use of the telephonic status conference was further enhanced to ensure that at least one was conducted in all cases, as soon as possible after a petition had been received (usually within fourteen days). During fiscal year 2012, this use increased by some 140% over fiscal year 2011. These telephonic conferences, in the vast majority of cases, began a dialog between the parties that lead to resolution of the matter without the necessity of an evidentiary hearing. In addition, developments were added to the docket database to better track case histories and minimize mistakes and oversights.

Of the 443 petitions docketed during the fiscal year, the following taxes were most often the subject of appeal:

Personal Income Tax	124
Combined Sales & Service & Use Tax	143
Corporate Net Income/Business Franchise	30
Withholding Tax	30
Pass Thru Entity Tax	22
Motor Fuel Excise Tax	41
Business Registration Revocation	6
Severance Tax	24
Other Taxes	23

Total By Type of Tax: 443

In Fiscal Year 2012, the three administrative law judges of the Office of Tax Appeals conducted 792 proceedings, as follows:

Prehearing Conferences	42
Telephonic Status Conferences	709
Miscellaneous Motions Hearings	0
* Evidentiary Hearings	37
Show Cause Evidentiary Hearings	3
Oral Arguments Conducted	1
License Revocation Hearings	0

\* While page one references 43 final decisions having been issued, only 37 of those required an evidentiary hearing. The other 6 final decisions would have come about by a variety of means, including the parties stipulating to the relevant facts and/or filing legal briefs.

The Office of Tax Appeals conducts most proceedings at its office in Charleston. However, at the time a taxpayer files a petition for appeal, he or she may request to be heard at one of several other locations throughout the state. Dockets are set at other locations when there are enough cases to justify travel by an administrative law judge. Petitioners are told that there may be a wait before a docket is conducted in an area, so that petitioners may opt to travel to Charleston for quicker resolution. In fiscal year 2012, mobile hearings were held in Bluefield, Bridgeport, and Wheeling, WV. Further, several video conferences were set up whereby taxpayers could come to a local state office near Martinsburg, WV; while the Tax Appeals Judge could convene the hearing from a remote site in Charleston with the help of the Office of Technology.

All non-small claim matters were decided well within the statutorily-required time frame of (6) months after the matter was fully submitted.

All small claim matters were decided well within the internally-imposed 90-day period as set forth in the procedural rules for small claim matters.

Respectfully submitted,



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A. M. "Fenway" Pollack  
Chief Administrative Law Judge

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Date

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