

# WEST VIRGINIA OFFICE OF



## TAX APPEALS

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### ANNUAL REPORT TO THE LEGISLATURE FOR FISCAL YEAR 2022

The West Virginia Office of Tax Appeals ("OTA") 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 2022, the Office of Tax Appeals operated with a small staff consisting of one (1) chief administrative law judge ("CALJ") who is appointed by the Governor, one (1) administrative law judge ("ALJ"), one (1) executive director ("E.D."), and two (2) support personnel.

In the preceding fiscal year, one-hundred and ninety-two (192) regular petitions and thirty-four (34) small claims petitions were filed, in accordance with the statutory requirements and the administrative rules for this OTA, for a total of two-hundred and twenty-six (226) matters docketed. Two-hundred and fifty (250) final dispositions occurred during the current fiscal year. Administrative law judges issued eight (8) Final Decisions on regular matters, two-hundred twenty-six (226) Dismissal Orders and thirteen (13) Show Cause Orders. Petitions that were ruled and dismissed as "not timely" totaled three (3).

The first action in all new cases is a telephonic status conference. The purpose of this status conference is to answer any questions that petitioners may have and to begin a dialogue between the Tax Commissioner's counsel and the Petitioner to ascertain if the matter can be resolved, as contemplated by the governing law, without the need for an evidentiary hearing.

In the majority of cases, OTA conducts follow-up telephonic conferences to assist the parties in moving cases forward. Of the two-hundred and twenty-six (226) petitions docketed for fiscal year 2022, the following taxes were most often the subject of appeal:

Personal Income Tax	96
Combined Sales & Service & Use Tax	40
Motor Fuel	16
Corporate Net Income Tax/Business Franchise Tax	20
Withholding Tax	11
Pass Thru Entity Tax	9
Officer	1
Successor in Business	2
Severance Tax	4
Other Taxes	27
Total by Type of Tax:	226

In Fiscal Year 2022, two (2) administrative law judges of the Office of Tax Appeals conducted four-hundred and thirty-six (436) proceedings, as follows:

Prehearing Conferences	19
Telephonic Status Conferences	401
Miscellaneous Motions Hearings	5
Evidentiary Hearings	11
Show Cause Evidentiary Hearings	0
Oral Arguments	0

As of the end of fiscal year 2022, there were a total of forty-six (46) unresolved cases before the Office of Tax Appeals.

Should you have any questions or concerns, please do not hesitate to call me at the number shown above. Thank you for your time and consideration.

Respectfully submitted,



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A.M. "Fenway" Pollack  
Chief Administrative Law Judge  
West Virginia Office of Tax Appeals

Date

2/9/23

AMP/bd