

WEST VIRGINIA OFFICE OF



TAX APPEALS

1012 Kanawha Blvd., East
Suite # 300
P.O. Box 2751
Charleston, WV 25330-2751

EARL RAY TOMBLIN
GOVERNOR

Telephone: (304) 558-1666
Fax: (304) 558-1670
A. M. "FENWAY" POLLACK
CHIEFADMIN.LAWJUDGE

ANNUAL REPORT TO THE LEGISLATURE FOR FISCAL YEAR 2014

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 2014, the Office of Tax Appeals operated with a small staff consisting of one chief administrative law judge who is appointed by the Governor, one administrative law judge, one executive director, and four support personnel. In fiscal year 2014, to reduce budget expenditures and streamline operations, we permanently removed two positions reducing our staff from nine to seven personnel.

In the preceding fiscal year, 481 regular and 70 small claims petitions were filed in accordance with the statutory requirements and the rules of procedure for this office, for a total of 551 matters docketed.

Five hundred and seventy-three final dispositions occurred during the fiscal year. Administrative law judges entered (30) thirty final decisions on regular matters, (492) four hundred and ninety-two Dismissal Orders, and (51) fifty-one Show Cause Orders.

The first action in all new cases is a telephonic status conference. The purpose of this status conference is to answer any questions that the Petitioner may have and to begin a dialogue between the Tax Commissioner's counsel and the Petitioner to ascertain if the matter can be settled without the need for an evidentiary hearing. In the vast majority of cases, we conduct follow-up telephonic conferences to assist the parties in moving cases forward. During fiscal year 2014, petition receipts were up by 20% as a result of an influx of appeals solely related to matters and changes in the alternative fuel tax statutes. The higher petition counts contributed to a 33% increase in telephonic conferences over fiscal year 2013.

Of the 551 petitions docketed during the fiscal year, the following taxes were most often the subject of appeal:

Personal Income Tax	145
Combined Sales & Service & Use Tax	159
Corporate Net Income/Business Franchise	40
Withholding Tax	46
Pass Thru Entity Tax	31
Fuel – Alternative/Motor/Excise Taxes	106
Successor in Business	4
Severance Tax	8
Other Taxes	12

Total By Type of Tax: 551

In Fiscal Year 2014, the two administrative law judges of the Office of Tax Appeals conducted 731 proceedings, as follows:

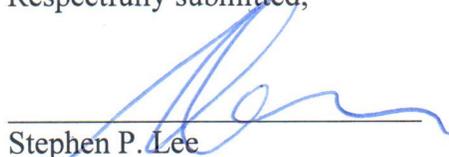
Prehearing Conferences	33
Telephonic Status Conferences	670
Miscellaneous Motions Hearings	2
* Evidentiary Hearings	25
Show Cause Evidentiary Hearings	0
Oral Arguments Conducted	1

* While page one references 30 final decisions having been issued, only 25 of those required an evidentiary hearing. The other 5 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 2014, eleven (11) mobile hearings were held in Martinsburg, WV only. All cases scheduled in the cities of Bluefield, Bridgeport and Wheeling were resolved without hearings.

All non-small claim and small claim matters were decided well within the statutorily required time of six months after the matter was fully submitted. As of the closing of the fiscal year on June 30, 2014, there were 141 proceedings pending before the court.

Respectfully submitted,



Stephen P. Lee
Executive Director/Clerk of Court
West Virginia Office of Tax Appeals

02-13-2015

Date

SPL/dvd