

**PETITIONER'S PREHEARING STATEMENT
BEFORE THE WEST VIRGINIA OFFICE OF TAX APPEALS**

Date _____

Petitioner Name _____

Docket No(s) _____

Note: If you are filling out this prehearing statement without the benefit of a lawyer, do not be concerned. This document seeks a variety of information, but three (3) areas are of most importance. They are, what are the facts (what happened between you and the Tax Department), does the Tax Department agree with your version of the facts, and finally, what has the Tax Commissioner done wrong. By this we mean what law(s) has the Tax Commissioner violated in your case? This is the most important area of inquiry, because generally Petitioners cannot prevail without showing an error on the Tax Commissioner's part. Except in very rare circumstances, you will not be able to prevail by arguing that what the Tax Commissioner has done in your case is "not fair" or that you have been discriminated against. Finally, if there is a section that is confusing, answer to the best of your ability and it will be discussed at the prehearing conference.

1) Please identify what facts the Petitioner believes are relevant to this matter:

(attach a separate sheet if necessary)

2) To the Petitioner's knowledge, does the Tax Commissioner agree or disagree with Petitioner's identification of the relevant facts?

a. Commissioner agrees Commissioner disagrees

Unknown

3) Please identify all statutes, regulations or case law which the Petition will rely on at hearing and in post-hearing briefs.

(attach a separate sheet if necessary)

- a) _____
- b) _____
- c) _____
- d) _____
- e) _____
- f) _____

4) Please identify what mistakes the Petitioner believes the Tax Commissioner has made in applying the authorities in Section 3 above.

(attach a separate sheet if necessary)

5) If the Petitioner is represented by counsel, does counsel believe that any of the authorities in Section 3 are ambiguous?

Yes

No

6) If yes, please explain the nature of the ambiguity.

7) If the Petitioner is represented by counsel, does counsel believe that any of the regulatory authorities in Section 3 correct/clarify the ambiguity?

Yes

No

N/A

8) Please identify the type of action taken by the Tax Commissioner that led to this appeal.

Assessment

Denial of credit or refund

Money penalty

Other (please specify) _____

9) For any assessments in this matter, please identify the tax years, and the amounts due.

| Tax year | Tax due | Interest | Penalties |
|----------|---------|----------|-----------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

9) If this matter involves the denial of a refund or a credit, again, please identify the tax years involved and the amount the Petitioner alleges is due.

Tax year

Amount due

10) Do the parties agree on the amount in controversy?

Yes

No

11). If no, please explain why.

12) If this matter involves a money penalty, please identify the statutory authority allowing the Tax Commissioner to assess the penalty and the total amount of the penalty/penalties.

13) Does the Office of Tax Appeals have the jurisdictional documents in its possession, ie, the assessment, refund denial and or credit denial?

Yes

No

14) If no, why not?

The parties should be advised that no matter before the Office of Tax Appeals shall proceed to an evidentiary hearing unless this Tribunal is in possession of the jurisdictional documents called for in West Virginia Code Section 11-10A-8

15) Please list the witnesses the Petitioner intends on calling.

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- -----
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- -----

• _____

16) Please list all the documents the Petitioner intends on introducing during the evidentiary hearing in this matter.

By

Date

All prehearing statements must be sent to the Office of Tax Appeals electronically, by email to the following address wvota@wv.gov Please ensure that this mailing includes the Petitioner's docket number(s).