

**ANNUAL ACTIVITY REPORT  
TO THE LEGISLATURE**

**BY THE CHIEF AMINISTRATIVE LAW JUDGE FOR THE  
WEST VIRGINIA OFFICE OF TAX APPEALS (“OTA”)**

**PURSUANT TO W. VA. CODE § 11-10A-7(b)(6) [2005]**

**FOR THE THIRD FULL FISCAL YEAR OF OPERATIONS --  
FROM JULY 01, 2005 THROUGH JUNE 30, 2006**

Pg. 1 of 4 Pgs.

*(1) “Number and Type[s] of Matters Handled” during this fiscal year:*

(a) Petitions Filed (actually Docketed) (by docket numbers):

Small Claim Petitions	241
Regular (non- Small Claim) Petitions	420

Total PETITIONS FILED (DOCKETED): 661

(b) Types of Tax or Other Matter (in order, most to least):

Personal Income Tax	171
Consumers’ Sales and Service Tax	140
Corporate (Charter) License Tax	71
Use tax (Purchasers’ and Retailers’)	60
Motor Fuel Excise Tax	44
Withholding Tax	40
Corporate Net Income/Business Franchise -- Combined tax return	32
Business Franchise Tax (clearly separate from corp. net. inc. tax)	24
Severance Tax	21
Special Tax on Coal Production -- \$0.02/ton -- Code § 22-3-32	15
Corporate Net Income Tax (clearly separate from bus. franch. tax)	13
Healthcare Provider Tax (“broad-based”; Code 11-27)	13
Business Registration Tax	3
International Fuel Tax Agreement (IFTA)	3
Tobacco Products Excise Tax (cigarettes and other)	3
Telecommunications Tax	2
Charitable Raffle (license or monetary penalty)	2
Gasoline & Special Fuel Sales Tax	1
Certain Healthcare Services Business Privilege Tax (Code 11-13A)	1
Solid Waste Tax	1
Charitable Bingo (license or monetary penalty)	1
All other taxes and matters	0

Total PETITIONS FILED (DOCKETED): 661

**ANNUAL ACTIVITY REPORT OF OTA TO THE LEGISLATURE  
FOR THIRD FULL FISCAL YEAR  
JULY 01, 2005 THROUGH JUNE 30, 2006**

Pg. 2 of 4 Pgs.

(2) Number of Matters "Pending" ("Open") at End of Third Full Fiscal  
Year (on June 30, 2006):

Matters Pending HEARING (not yet fully submitted for decision) --

Bluefield mobile docket	0
Bridgeport mobile docket	18
Martinsburg mobile docket	7
Wheeling mobile docket	18
Main, Charleston docket	84

Total Matters Pending HEARING: 127  
[See Note (1)]

Total Matters Pending DECISION (fully submitted for decision): 9

Total Matters PENDING ("OPEN") as of 06/30/06: 136

---

*Important Statistics not required to be stated by W. Va. Code § 11-10A-7(b)(6)  
[2005] (for the third full fiscal year ended June 30, 2006):*

Proceedings Held by OTA:

(1) Prehearing Conferences Held	104
(2) Status Conferences Held	4
(3) Hearings on Miscellaneous Motions	2
(4) Evidentiary Hearings Held	77

Total PROCEEDINGS HELD by OTA: 187

**ANNUAL ACTIVITY REPORT OF OTA TO LEGISLATURE  
FOR THIRD FULL FISCAL YEAR  
JULY 01, 2005 THROUGH JUNE 30, 2006**

Pg. 3 of 4 Pgs.

Dispositions by OTA:

(1) Letters Refusing to Docket Petitions which were <u>clearly</u> tendered UNTIMELY for lawful Filing	8
(2) Letters Refusing to Docket Significantly DEFICIENT Petitions	47
(3) Final ORDERS Entered	35
(4) Final DECISIONS Issued -- with Discussions & Synopsis point(s) (non- small claim & small claim cases; <u>some</u> matters are submitted for <u>decision on documents only, without an evidentiary hearing in person</u> )	162 [See Note (2)]
(5) Cases Resolved <u>Informally</u> by OTA (with <b>OUT</b> formal Docketing, Hearings, or formal Decisions or Orders)	199 [See Note (3)]
<u>Total DISPOSITIONS</u> by OTA:	451

---

Notes:

(1) Under the requirements of the organic statute, W. Va. Code §§ 11-10A-1 [2002] *et seq.* and the procedural rules, W. Va. Code St. R. § 121-1-1 *et seq.* (effective April 20, 2003), it takes about 180 days (6 months) for a typical, regular (non- small claim) matter to be heard: (1) the evidentiary hearing is set initially for a date that is about 90 days after the petition is filed (to allow for the Tax Commissioner to file an answer, the parties to hold their first conference, etc.); and (2) a first request for a “continuance,” that is, a postponement, of the hearing (based upon an on-going attempt by the parties to resolve the matter without a hearing, or based upon scheduling conflicts, etc.) is usually granted for a period of up to 90 days past the initially set hearing date.

OTA usually conducts hearings at certain regional sites in the State once a year for each region.

**ANNUAL ACTIVITY REPORT OF OTA TO LEGISLATURE  
FOR THIRD FULL FISCAL YEAR  
JULY 01, 2005 THROUGH JUNE 30, 2006**

Pg. 4 of 4 Pgs.

[Notes Concluded:]

(2) ALL regular (non- small claim) matters were decided (by the three full-time administrative law judges on staff) in time frames that were well within the statutory period of six (6) months after the matter was fully submitted (that is, after the receipt of all evidence and post-hearing memoranda of law).

ALL small claim matters were decided well within the self-imposed 90-day period, after full submission of the matter, set forth in the procedural rules for small claim matters.

In other words: as of 06/30/06 (or on any other date, for that matter), there literally were no (zero) "late" decisions at all: **VERY EFFICIENT INDEED!**

(3) These 199 matters were resolved, voluntarily and at no charge, by OTA, very informally, that is, by contacting the parties by telephone or letter and persuading the parties to resolve matters that clearly did not need to be administratively litigated (on what proved to be the undisputed facts and law) or which, under a cost/benefit analysis, should not be administratively litigated.

---

Respectfully submitted,

---

Honorable R. Michael Reed  
Chief Administrative Law Judge  
West Virginia Office of Tax Appeals

---

Date

RMR:pb