

**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 FOURTH FULL FISCAL YEAR OF OPERATIONS --
FROM JULY 01, 2006 THROUGH JUNE 30, 2007**

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

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

Small Claim Petitions	267
Regular (non- Small Claim) Petitions	514
<u>Total PETITIONS FILED (DOCKETED):</u>	781

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

Personal Income Tax	225
Consumers’ Sales and Service Tax	198
Corporate (Charter) License Tax	74
Use tax (Purchasers’ and Retailers’)	57
Withholding Tax	53
Motor Fuel Excise Tax	51
Healthcare Provider Tax (“broad-based”; Code 11-27)	43
Business Franchise Tax (clearly separate from corp. net. inc. tax)	20
Corporate Net Income Tax (clearly separate from bus. franch. tax)	16
Corporate Net Income/Business Franchise -- Combined tax return	15
Severance Tax	6
Business Registration Tax	6
Tobacco Products Excise Tax (cigarettes and other)	3
Charitable Raffle (license or monetary penalty)	3
Special Tax on Coal Production -- \$0.02/ton -- Code § 22-3-32	2
International Fuel Tax Agreement (IFTA)	2
Bingo	2
Soft Drink Tax	2
Wine Liter Tax	2
Gasoline & Special Fuel Sales Tax	1
Certain Healthcare Services Business Privilege Tax (Code 11-13A)	0
Solid Waste Tax	0
All other taxes and matters	0
<u>Total PETITIONS FILED (DOCKETED):</u>	781

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(2) Number of Matters "Pending" ("Open") at End of Fourth Full Fiscal Year (on June 30, 2007):

<u>Matters Pending "HEARING" (not yet fully submitted for decision) --</u>	
Bluefield mobile docket	0
Bridgeport mobile docket	6
Martinsburg mobile docket	0
Wheeling mobile docket (pending briefs)	5
Main, Charleston docket	41
 <u>Total Matters Pending "HEARING":</u>	 52
[See Note (1)]	
 <u>Total Matters Pending DECISION (fully submitted for decision):</u>	 3
 <u>Total Matters PENDING ("OPEN") as of 06/30/07:</u>	 55

Important Statistics not required to be stated by W. Va. Code § 11-10A-7(b)(6) [2005] (for the fourth full fiscal year ended June 30, 2007):

Proceedings Held by OTA:

(1) Prehearing Conferences Held	46
(2) Status Conferences Held	19
(3) Hearings on Miscellaneous Motions	2
(4) Evidentiary Hearings Held	59
(5) Show Cause (Evidentiary) Hearings Held	2

Total PROCEEDINGS HELD by OTA: 128

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Dispositions by OTA:

(1) Letters Refusing to Docket Petitions which were <u>clearly</u> tendered UNTIMELY for lawful Filing	41
(2) Letters Refusing to Docket Significantly DEFICIENT Petitions	157
(3) Removal letters -- Small Claim cases Resolved	83
(4) Removal letters -- Regular (non- Small Claim) cases Resolved	329
(5) Small Claim Final ORDERS Entered	166
(6) Miscellaneous Final ORDERS Entered (for failure to show at prehearing conference; etc.)	18
(7) Final DECISIONS Issued and Published as Precedents -- with detailed Discussions and Synopsis point(s) -- non- Small Claim cases; some of these matters are submitted for decision on documents only, without an evidentiary hearing in person	81

[See Note (2)]

Total DISPOSITIONS by OTA: 875

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.

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[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 OTA's procedural rules for Small Claim matters.

In other words: as of 06/30/07 (or on any other date, for that matter, in the entire history of OTA), there literally were no (zero) "late" decisions at all: **PERFECTLY EFFICIENT INDEED!**

Respectfully submitted,

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

Date

RMR:pb

