

ANNUAL REPORT TO THE LEGISLATURE FOR FISCAL YEAR 2008

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 disputes related to decisions made by the State Tax Commissioner's Office. The Office of Tax Appeals operates with a small staff consisting of one executive director, five support staff personnel, and three administrative law judges.

In the preceding fiscal year, 273 regular and 94 small claims petitions were filed in accordance with the statutory requirements and the rules of procedure for this office, for a total of 367 matters docketed. The office declined to docket 29 untimely and 107 significantly deficient petitions. One-hundred fifty-seven petitions involving recomputation notices were not docketed because the Office of Tax Appeals lacks jurisdiction over those matters.

Five-hundred seventy-one dispositions occurred during the fiscal year. Administrative law judges entered 38 final decisions on regular matters and 79 final orders on small claims matters. One-hundred five regular and 56 small claims cases were resolved by the parties and formally removed from the docket.

Of the 367 petitions docketed during the fiscal year, the following taxes were most often the subject of appeal:

Business Franchise Tax	6
Business Registration Tax	14
Certain Healthcare Services Business Privilege Tax	0
Consumers' Sales and Service Tax	69
Corporate License Tax	9
Corporate Net Income Tax	8
Corporate Net Income/Business Franchise – (Combined Return)	9
Economic Opportunity Tax Credit	1
Gasoline & Special Fuel Excise Tax	1
Gasoline & Special Fuel Sales Tax	1
Healthcare Provider Tax	9
International Fuel Tax Agreement	1
Motor Fuel Excise Tax	22
Personal Income Tax	159
Soft Drink Tax	1
Solid Waste Tax	0
Severance Tax	3
Special Tax on Coal Production	0
Tobacco Products Excise Tax	2
Use Tax	25
Withholding Tax	27

In Fiscal Year 2008, the three administrative law judges of the Office of Tax Appeals conducted 137 proceedings, as follows:

Prehearing Conferences	57
Status Conferences	21
Miscellaneous Motions Hearings	0
Evidentiary Hearings	56
Show Cause Evidentiary Hearings	3

At the conclusion of Fiscal Year 2008, six matters submitted for decision were awaiting entry of a final order. Another 40 matters were awaiting hearing. At the time of the submission of this report, all 46 matters had been closed, either by entry of a final order, removal by the parties, or some other mechanism.

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 elect to be heard at one of several other locations through the state. Dockets are set at other locations when there are enough 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 2008, hearings were conducted in the following cities.

Bluefield mobile docket	0
Bridgeport mobile docket	9
Martinsburg mobile docket	0
Wheeling mobile docket	5
Charleston docket	26

All regular matters were decided well within the statutorily-required time frame of (6) months after the matter was fully submitted

All small claim matters were decided well within the internally-imposed 90-day period as set forth in the procedural rules for small claim matters.

Respectfully submitted,

Michele Duncan Bishop
Chief Administrative Law Judge
West Virginia Office of Tax Appeals

Date

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