

WEST VIRGINIA OFFICE OF



TAX APPEALS

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ANNUAL REPORT TO THE LEGISLATURE FOR FISCAL YEAR 2010

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, 415 regular and 100 small claims petitions were filed in accordance with the statutory requirements and the rules of procedure for this office, for a total of 515 matters docketed.

Five-hundred and twenty five final dispositions occurred during the fiscal year. Administrative law judges entered 82 final decisions on regular matters and 56 final orders on small claims matters. Three-hundred and fifty-three removal orders entered, eighteen dismissal orders, ten intent to remove orders, two summary orders and four miscellaneous final orders were entered this fiscal year.

The Office of Tax Appeals evaluated its policies again in calendar year 2010. Our Chief Administrative Law Judge, Michele Duncan Bishop, worked with staff to develop and implement a new docketing calendar system. We had been preparing hearing schedules from manual docketing records, and the resulting change was that of a fully electronic docket calendar. This new system was created inside a secure calendar in Microsoft Outlook. New procedures were implemented for its use, and the manual docket calendar was completely replaced. The system has been in use for approximately nine months and has proven to be a more efficient means for calendaring the docket. Errors have been minimized and staff is more able to recall docket items and hearing events in a more timely fashion.

Of the 515 petitions docketed during the fiscal year, the following taxes were most often the subject of appeal:

Personal Income Tax	190
Consumers Sales and Service Tax	61
Withholding Tax	52
Motor Fuel Excise Tax	15
Use Tax	16
Business Registration Tax	28
Corporate Net Income/Business Franchise – (Combined Return)	40
Consumers Sales & Use	31
Severance Tax	19
Combined Sales & Use	26
Business Franchise Tax	15
Healthcare Provider Tax	7
International Fuel Tax Agreement	5
Motor Carrier Road Tax	3
Cigarette and Tobacco Products Tax	2
Pass Thru Entity Tax	2
Severance Health Care Provider	1
Solid Waste Tax	1
Corporate Net Income Tax	0
Tobacco Products Excise Tax	0
Gasoline & Special Fuel Sales Tax	0
Tobacco Settlement Enforcement Monetary Penalty [16-19D	0
Certain Healthcare Services Business Privilege Tax	0
Corporate License Tax	0
Economic Opportunity Tax Credit	0
Gasoline & Special Fuel Excise Tax	0
Soft Drink Tax	0
Special Tax on Coal Production	0

In Fiscal Year 2010, the three administrative law judges of the Office of Tax Appeals conducted 221 proceedings, as follows:

Prehearing Conferences	76
Status Conferences	33
Miscellaneous Motions Hearings	0
Evidentiary Hearings	40
Show Cause Evidentiary Hearings	28
Telephonic Conferences Conducted	43
Oral Arguments Conducted	1

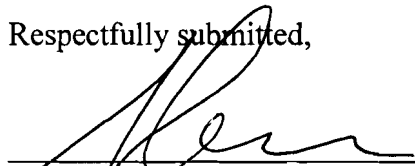
The Office of Tax Appeals conducts most proceedings at its office in Charleston. However, at the time a taxpayer files a petition for appeal, he or she may elect to be heard at one of several other locations through the state. Dockets are set at other locations when there are enough cases to justify 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 2010, hearings were conducted in the following cities.

Bluefield	3
Bridgeport	8
Martinsburg	3
Wheeling	10

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,



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

02-15-2011
Date

SPL:pb