

WEST VIRGINIA OFFICE OF



TAX APPEALS

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CHIEF ADMIN. LAW JUDGE

ANNUAL REPORT TO THE LEGISLATURE FOR FISCAL YEAR 2013

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 certain decisions of the Tax Commissioner. During Fiscal Year 2013, The Office of Tax Appeals operated with a small staff consisting of one chief administrative law judge who is appointed by the Governor, one administrative law judge, one executive director, and five support personnel. As of March, 2013, we reduced our support staff to four.

In the preceding fiscal year, 378 regular and 80 small claims petitions were filed in accordance with the statutory requirements and the rules of procedure for this office, for a total of 458 matters docketed.

Four hundred and sixty-four final dispositions occurred during the fiscal year. Administrative law judges entered (50) fifty final decisions on regular matters, (395) three hundred and ninety-five Dismissal Orders, and (38) thirty-eight Show Cause Orders.

The first action in all new cases is a telephonic status conference. The purpose of this status conference is to answer any questions that the Petitioner may have and to begin a dialogue between the Tax Commissioner's counsel and the Petitioner to ascertain if the matter can be settled without the need for an evidentiary hearing. In the vast majority of cases we conduct follow-up telephonic conferences to assist the parties in moving cases forward. During fiscal year 2013, these conferences decreased by some 28% over fiscal year 2012. We attribute this decrease to the parties being more able to quickly resolve their differences. We also continue to tweak our database to increase efficiency in reporting and minimizing mistakes.

Of the 458 petitions docketed during the fiscal year, the following taxes were most often the subject of appeal:

Personal Income Tax	135
Combined Sales & Service & Use Tax	151
Corporate Net Income/Business Franchise	37
Withholding Tax	38
Pass Thru Entity Tax	28
Motor Fuel Excise Tax	37
Business Registration Revocation	8
Severance Tax	5
Other Taxes	19

Total By Type of Tax: 458

In Fiscal Year 2013, the two administrative law judges of the Office of Tax Appeals conducted 603 proceedings, as follows:

Prehearing Conferences	38
Telephonic Status Conferences	505
Miscellaneous Motions Hearings	0
* Evidentiary Hearings	25
Show Cause Evidentiary Hearings	0
Oral Arguments Conducted	2
License Revocation Hearings	8

* While page one references 50 final decisions having been issued, only 25 of those required an evidentiary hearing. The other 25 final decisions would have come about by a variety of means, including the parties stipulating to the relevant facts and/or filing legal briefs.

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 request to be heard at one of several other locations throughout 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 2013, mobile hearings were held in Bluefield, Bridgeport, Wheeling, and Martinsburg, WV. Further, one video conference was set up whereby taxpayers could come to a local state office near Martinsburg, WV; while the Tax Appeals Judge could convene the hearing from a remote site in Charleston with the help of the Office of Technology.

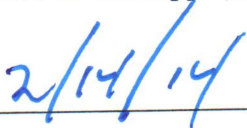
All non-small claim and small claim matters were decided well within the statutorily-required time frame of (6) months after the matter was fully submitted.

Respectfully submitted,



A. M. "Fenway" Pollack
Chief Administrative Law Judge

CONTACT
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Date

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