

# WEST VIRGINIA OFFICE OF



## TAX APPEALS

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### ANNUAL REPORT TO THE LEGISLATURE FOR FISCAL YEAR 2021

The West Virginia Office of Tax Appeals ("OTA") 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 2021, the Office of Tax Appeals operated with a small staff consisting of one (1) chief administrative law judge ("CALJ") who is appointed by the Governor, one (1) administrative law judge ("ALJ"), one (1) executive director ("E.D."), and two (2) support personnel.

In the preceding fiscal year, one-hundred ninety-eight (198) regular petitions and sixty-six (66) small claims petitions were filed, in accordance with the statutory requirements and the administrative rules for this OTA, for a total of two-hundred sixty-four (264) matters docketed. Three-hundred and four (304) final dispositions occurred during the current fiscal year. Administrative law judges issued eight (8) Final Decisions on regular matters, two-hundred seventy-three (273) Dismissal Orders and sixteen (16) Show Cause Orders. Petitions that were ruled and dismissed as "not-timely" totaled seven (7).

The first action in all new cases is a telephonic status conference. The purpose of this status conference is to answer any questions that petitioners may have and to begin a dialogue between the Tax Commissioner's counsel and the Petitioner to ascertain if the matter can be resolved, as contemplated by the governing law, without the need for an evidentiary hearing.

In the majority of cases, OTA conducts follow-up telephonic conferences to assist the parties in moving cases forward. Of the two-hundred sixty-four (264) petitions docketed for fiscal year 2021, the following taxes were most often the subject of appeal:

Personal Income Tax	121
Combined Sales & Service & Use Tax	53
Motor Fuel	23
Corporate Net Income Tax/Business Franchise Tax	15
Withholding Tax	9
Pass Thru Entity Tax	8
Officer	8
Successor in Business	4
Severance Tax	7
Other Taxes	16
Total by Type of Tax:	264

February 15, 2022

In Fiscal Year 2021, two administrative law judges of the Office of Tax Appeals conducted five-hundred ninety-nine (599) proceedings, as follows:

Prehearing Conferences	10
Telephonic Status Conferences	580
Miscellaneous Motions Hearings	1
Evidentiary Hearings	8
Show Cause Evidentiary Hearings	0
Oral Arguments	0

As of the closing of the fiscal year on June 30, 2021, there were forty-one (41) proceedings pending before this Tribunal.

Should you have any questions or concerns, please do not hesitate to call me at the number shown above. Thank you for your time and consideration.

Respectfully submitted,



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A.M. "Fenway" Pollack  
Chief Administrative Law Judge  
West Virginia Office of Tax Appeals

2/14/21

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Date

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