

**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 THIRD FULL FISCAL YEAR OF OPERATIONS --
FROM JULY 01, 2005 THROUGH JUNE 30, 2006**

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

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

Small Claim Petitions	241	
Regular (non- Small Claim) Petitions	420	
<u>Total PETITIONS FILED (DOCKETED):</u>		661

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

Personal Income Tax	171	
Consumers’ Sales and Service Tax (excluding Officer Liability)	140	
Corporate (Charter) License Tax	71	
Use tax (Purchasers’ and Retailers’)	60	
Motor Fuel Excise Tax	44	
Withholding Tax (excluding Officer Liability)	40	
Corporate Net Income/Business Franchise -- Combined tax return	32	
Severance Tax	21	
Special Tax on Coal Production -- \$0.02/ton -- Code § 22-3-32	15	
Corporate Net Income Tax (clearly separate from bus. franch. tax)	13	
Healthcare Provider Tax (“broad-based”)	13	
Business Franchise Tax (clearly separate from corp. net. inc. tax)	24	
International Fuel Tax Agreement (IFTA)	3	
Business Registration Tax	3	
Cigarette and Tobacco Products	2	
Telecommunications Tax	2	
Charitable Raffle	2	
Charitable Bingo	1	
Gasoline & Special Fuel Sales Tax	1	
“Severance” Tax-based Healthcare Provider	1	
Gasoline & Special Fuel Sales Tax	1	
Solid Waste Tax	1	
Other Tobacco	1	
<u>Total PETITIONS FILED (DOCKETED):</u>		661

**ANNUAL ACTIVITY REPORT OF OTA
FOR THIRD FULL FISCAL YEAR
JULY 01, 2005 THROUGH JUNE 30, 2006**

(2) Number of Matters "Pending" ("Open") at End of Third Full Fiscal Year (on June 30, 2006):

Matters Pending HEARING (not yet fully submitted for decision) –

Bluefield mobile docket	0
Bridgeport mobile docket	18
Martinsburg mobile docket	7
Wheeling mobile docket	18
Main, Charleston docket	84

Total Matters Pending HEARING: 127 [See Note (1)]

Total Matters Pending DECISION (fully submitted for decision): 9

Total Matters PENDING ("OPEN") as of 06/30/06: 136

Important Statistics not required to be stated by W. Va. Code § 11-10A-7(b)(6) [2005] (for the THIRD full fiscal year ended June 30, 2006):

Proceedings Held by OTA:

(1) Prehearing Conferences Held --	104
(2) Status Conferences Held	4
(3) Hearings on Miscellaneous Motions	2
(4) Evidentiary Hearings Held --	77

Total PROCEEDINGS HELD by OTA: 187

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Dispositions by OTA:

(1) Orders Entered Refusing to Docket Petitions which were <u>clearly</u> tendered UNTIMELY for lawful Filing --	8
(2) Letters Refusing to Docket Significantly DEFICIENT Petitions --	47
(3) Final ORDERS Entered --	35
(4) Final DECISIONS Issued -- with Discussions & Synopsis point(s) (non- small claim & small claim cases; <u>some</u> matters are submitted for <u>decision on documents only, without an evidentiary hearing in person</u>) --	162 [See Note (2)]
(5) Cases Resolved <u>Informally</u> by OTA (with OUT formal Docketing, Hearings, or formal Decisions or Orders) --	199 [See Note (3)]
<u>Total DISPOSITIONS</u> by OTA:	451

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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(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 the procedural rules for small claim matters.

In other words: as of 06/30/06 (or on any other date, for that matter), there literally were no (zero) “late” decisions at all: **VERY EFFICIENT INDEED!**

(3) These 199 matters were resolved, voluntarily and at no charge, by OTA, very informally, that is, by contacting the parties by telephone or letter and persuading the parties to resolve matters that clearly did not need to be administratively litigated (on what proved to be the undisputed facts and law) or which, under a cost/benefit analysis, should not be administratively litigated.

Respectfully submitted,

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

Date

RMR:pb

