

TO THE JOINT COMMITTEE ON GOVERNMENT OPERATIONS

2022 Annual Report of the Criminal Investigation Division And Special Audits Division, State Tax Division, West Virginia Department of Revenue

Overview:

The Tax Commissioner is to report to the Joint Committee on Government Operations on the Tax Department's Criminal Investigation Division and Special Audits Division's compliance with its statutory mission.

The Criminal Investigation Division and the Special Audits Division were created under W. Va. Code §11-9-2a, and are supported by a special revenue account established by that statute and funded by fees on charitable gaming licenses and on sales of raffle boards and games by licensed wholesalers and distributors.

The Criminal Investigation Division has three missions: regulation of charitable gaming (bingo and raffles); enforcement of compliance with the tax code; and enforcement of the motor fuel excise tax. The criminal investigators are exempt from the classified service, and are paid, in part, from the special revenue account established by statute. The Code authorizes up to twelve investigators; currently nine (9) of those positions are filled. The Criminal Investigation Division also has (2) two support staff positions and one (1) Auditor position.

The Special Audits Division is part of the Auditing Division of the Tax Department. The special auditors are paid, in part, from the special revenue account. The Code authorizes up to eight special auditors; currently five of those positions are filled.

This report covers July 1, 2021, through June 30, 2022.

I. Regulation of Charitable Gaming

Charitable gaming in West Virginia, authorized by Article VI, section 36 of the Constitution, has three components: charitable bingo, charitable raffles, and the sale of raffle boards and games. Each of these activities requires a license issued by the State Tax Commissioner. Licensed organizations are required to file quarterly and annual reports of bingo operations, and annual reports of raffle operations. Licensed wholesalers and distributors of raffle boards and games are required to file quarterly returns of all sales in the State of West Virginia.

To ensure compliance with the law, the Criminal Investigation Division conducts on-site surveys of organizations licensed to conduct charitable gaming activities. The Tax Account Administration Division handles the processing of the license applications and tax returns.

Charitable Bingo licenses issued – 490

Charitable Raffle licenses issued – 553

Charitable Bingo & Raffle On-site Surveys – 134

Raffle Boards and Games Wholesaler or Distributor licenses issued – 22

II. Tax Enforcement

The Criminal Investigation Division is charged by statute with the enforcement of laws pertaining to taxes, fees and credits administered under Chapter 11 of the West Virginia State Code, but not including income taxes. The primary enforcement activities conducted by the Division are in the areas of business registration, enforcement efforts concerning sales and use tax, and withholding tax, and compliance with excise taxes on soft drinks and tobacco.

Business Registration Examinations – 1,470

Tobacco excise tax investigations – 1,128

Criminal Warrants – 48

Asset Seizures – 3

Sale of Seized Assets – 1 - \$241,000.00

III. Motor Fuel Excise Tax Enforcement

The enforcement of the motor fuel excise tax, W. Va. Code §11-14C-1, et seq., (“MFET”) and the International Fuel Tax Agreement, W. Va. Code § 11-14B-1, et seq., (IFTA”), has been a function of the Criminal Investigation Division since 2005. Investigators conduct retail site examinations for motor fuel accounts, conduct diesel and motor fuel checkpoints, inspect IFTA/IRP and motor carrier sticker for compliance, and issue citations to offenders who violate West Virginia Motor Fuel Tax laws. The Auditors in the Special Audit’s Division conduct field audits of motor fuel and IFTA/IRP accounts.

Retail site examinations – 1,081

IFTA Citations issued – 252

Penalty Assessment citations issued – 59 - \$526,000.00

IFTA/IRP Audits – 97 Audit Assessments - \$52,731.93

Motor Fuel Audits – 8 Audit Assessments - \$8,963.30

IV. Special Audits Division

The Special Audits Division was established in the Auditing Division of the State Tax Department for the purpose of assuring compliance with rules and laws pertaining to taxes, fees and credits administered under Chapter 11 of the West Virginia State Code, but not including income taxes. The Special Audits Division had an average five (5) auditors during the year. They conducted 167 audits, which resulted in assessments of \$3,815,277.81.

Submitted by:

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