

PETITION FOR REFUND

OTA Form 2 April '03

BEFORE THE WEST VIRGINIA OFFICE OF TAX APPEALS

1012 Kanawha Boulevard, East, Suite # 300, P. O. Box 2751, Charleston, WV 25330-2751
Telephone: (304) 558-1666; Fax: (304) 558-1670

Docket No. (to be completed by OTA):

Date OTA Sent Copy of Petition to State Tax Division (to be completed by OTA):

Pg. 1 of ___ Pgs.

[Petition must be computer-generated, typed, or legibly printed. It need not be notarized.]

[An original of the petition and 1 other, exact copy must be submitted at the same time, if filing is by hand delivery or by regular mail; if filed electronically or by fax, an original of the petition is sufficient.]

[A legible copy of the State Tax Division's letter denying the claim for refund in whole or in part, or of the notice of assessment being paid with the petition under protest in whole or in part, MUST be attached to the original and to each copy of the petition. If the State Tax Division has not ruled on a claim for refund, attach a copy of the claim for refund and note the date it was filed with the State Tax Division.]

Date that Petitioner -Taxpayer (not any representative) RECEIVED the refund claim denial letter or notice of assessment being paid now under protest (MUST be completed by Petitioner in all cases):

Name of Petitioner (Taxpayer):
Doing Business as (if applicable):

Mailing address of Petitioner:
(street address & any p.o. box or drawer & zip code)

Telephone no. of Petitioner (including area code):

Fax no. (if any) of Petitioner (including area code):

E-mail address (if any) of Petitioner:

State (or Federal) Taxpayer I.D. No. or Social Security No.:

Type of Tax:

Part of State Tax Division Involved (Auditing, Internal Auditing, etc.):

Tax Year(s) or Period:

PETITION FOR REFUND

Refund sought (after claim denied or not ruled on): Amount of tax: \$ _____ plus any statutory interest

- or -

Assessment now paid under protest: Tax: \$ _____ Interest: \$ _____

Additions: \$ _____ Penalties: \$ _____

(Show only amounts being contested; attach remittance for uncontested portion of assessment)

Alleged Error(s) of Fact (if any): (1) _____
(must be specific & clear)

(attach extra sheets if necessary) _____

(2) _____

Other Alleged Errors (Errors of Law, Accounting, etc.): (1) _____
(must be specific & clear)

(attach extra sheets, if necessary) _____

(2) _____

(3) _____

Specific Relief Sought by Petitioner: (1) _____
(attach extra sheets, if necessary)

(2) _____

(3) _____

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The Petitioner may represent himself or herself before the West Virginia Office of Tax Appeals or may authorize another person to represent him or her. A representative who is not authorized to practice law in this state may not engage in the unauthorized practice of law (for example, by conducting a direct examination of his or her witness; or by arguing the interpretation of an ambiguous statute, regulation, etc.; or by arguing that a statute, regulation, etc., is unconstitutional). A lawyer, including in-house counsel for any corporation, who is not authorized to practice law in the State of West Virginia must comply with Rule 8.0 of the Rules for Admission to the Practice of Law, promulgated by the West Virginia Supreme Court of Appeals (see State Court Rules volume of the W. Va. Code), including engaging a "responsible local attorney." This responsible local attorney's name, West Virginia State Bar membership number, and signature must be included in this petition.

For any authorized representative, the Petitioner must enclose with the petition a legible copy of the power of attorney form, Form WV-2848, available on the internet at <http://www.state.wv.us/taxrev/uploads.wv2848.pdf>.

I have enclosed the required power of attorney form: Yes (check)

Name of Petitioner's Authorized Representative: _____

Occupation of Representative (lawyer, c.p.a., etc.): _____

Mailing address of Representative _____

(street address & any p.o. box or drawer & zip code) _____

Telephone no. of Representative (including area code): _____

Fax no. (if any) of Representative (including area code): _____

E-mail address (if any) of Representative: _____

Name, mailing address, telephone no., fax no. (if any), e-mail address (if any), & WV State Bar membership no. of any "responsible local attorney": _____

PETITION FOR REFUND

In a non-small claim case, a Petitioner may request, in the petition, to have his or her case submitted for a written, appealable decision on documents only and without being heard in person.

This Petitioner desires to waive his or her right to be heard in person and to submit the case for a written decision on documents only: Yes No (check one)

[To be completed by OTA: Request granted Request denied]

The West Virginia Office of Tax Appeals usually holds hearings in Charleston, West Virginia. Occasionally, the Office of Tax Appeals may decide to hold hearings at certain regional locations in this State, depending primarily upon the volume of cases requested to be heard in a region and the travel budget. Please mark your requested preference for the hearing location:

Charleston Bridgeport Bluefield Wheeling Martinsburg

[To be completed by OTA: Request granted Request denied]

Certain cases may be eligible for more informal handling as small claim cases. Decisions in small claim cases are final and conclusive and are **NOT** subject to any further administrative or judicial review. A non-lawyer usually represents the State Tax Division in small claim cases.

Unless the West Virginia Office of Tax Appeals determines otherwise, small claim cases are submitted on documents only and without a hearing in person.

A taxpayer may request handling of his or her case as a small claim if the amount in controversy (excluding interest), for any one taxable year, does not exceed \$10,000.

I request that my case, eligible for small claim treatment, be handled using small claim procedures; I realize that the law does not allow me to appeal a small claim decision: (check if you request small claim treatment)

[To be completed by OTA: Request granted Request denied]

Certain types of cases will be handled as small claim cases, without a request, unless the Office of Tax Appeals determines otherwise. These types of cases include: (1) all cases in which the total amount of the tax assessment or the total amount of the tax refund or credit claim is less than \$1,000; (2) all cases involving estimated tax assessments; (3) all business registration tax and corporate license tax assessment or refund matters; and (4) all cases involving not the tax itself but only requests for waiver or abatement of additions, penalties, or interest.

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Within 5 days after a complete and proper petition is timely filed, the West Virginia Office of Tax Appeals will provide a copy of the petition to the State Tax Division. Within 40 days after receiving a copy of such a petition, the State Tax Division will file and serve an answer to the petition .

In a non-small claim case the Petitioner or his or her representative should contact the State Tax Division’s legal representative at telephone number (304) 558-5330, to discuss the case. Please wait, however, at least two weeks or so after filing the petition to contact the Division’s legal representative, to allow time for a specific legal representative to be assigned and for him or her to become acquainted enough with the case to discuss it intelligently in a preliminary manner.

In a small claim case the Petitioner or his or her representative should contact the part of the State Tax Division that issued the refund claim denial letter or the notice of assessment being paid now under protest, at the telephone number of that part of the State Tax Division set forth in the refund claim denial letter or in the notice of assessment. This call to discuss the small claim case with the non-lawyer employee of the State Tax Division should be made immediately after filing the petition.

The Petitioner and the Petitioner’s authorized representative, if any, and any responsible local attorney, must sign and date this petition immediately below the following statement, which they have read and understand:

The Petitioner and any authorized representative of the Petitioner, including any responsible local attorney, affirm that all of the material factual information set forth by them in this petition is true, correct, and complete, based upon the information available to them at this time; the Petitioner and any authorized representative of the Petitioner are aware that any willfully false representation set forth in this petition is a misdemeanor punishable according to law.

Petitioner

Date

Petitioner’s Authorized Representative
(if any)

Date

Petitioner’s Responsible Local Attorney
(if any)

Date

Privacy Act Statement

WV Office of Tax Appeals

Pursuant to section 7 of the Federal Privacy Act of 1974, as last amended, your disclosure of your social security number, or your Federal Employer Identification Number, or West Virginia Taxpayer Number, whichever is applicable, is mandatory. This taxpayer identifying number is required by us so that we use the same taxpayer identifying number used by the Federal Internal Revenue Service or by the West Virginia State Tax Division, or both, enabling us to identify the correct taxpayer involved in administrative litigation before this tribunal, which assures that we comply with W. Va. Code § 11-10A-23, as last amended, requiring us to maintain the confidentiality of each taxpayer's return information as defined by W.Va. Code § 11-10-5d(b)(5), as last amended.

We have the authority to solicit your social security number or other taxpayer identifying number because of section 6109 of the Internal Revenue Code of 1986, as last amended, and the regulations promulgated in accordance therewith.

In addition, the Tax Reform Act of 1976, at 42 U.S.C. § 405(c)(2)(C)(i), as last amended, expressly exempts state or local agencies from the general restrictions on using and disclosing social security numbers, to the extent that such numbers are used in the administration of, among other things, any state or local tax law.

We will not disclose your social security number or other applicable taxpayer number except as, and only to the extent, authorized by specific federal and state law.

The Office of Tax Appeals does and will continue to appropriately secure your personal information.