WEST VIRGINIA CODE: §11-10-9

§11-10-9. Hearing procedure.

(a) When a petition for reassessment provided for in section eight of this article, or a petition for refund or credit provided for in section fourteen of this article, is filed within the time prescribed for filing, or a hearing is requested pursuant to the provisions of any other article of this chapter which is administered under this article, the Tax Commissioner shall assign a time and place for a hearing upon the same and shall notify the petitioner of the hearing by written notice at least twenty days in advance thereof. The hearing shall be held within ninety days from the date of filing the petition or other written request for hearing unless continued by agreement of the parties or by the Tax Commissioner for good cause.

The hearing shall be informal and shall be conducted in an impartial manner by the Tax Commissioner or a hearing examiner designated by him or her. If the hearing is on a petition for reassessment the burden of proof shall be upon the taxpayer to show the assessment is incorrect and contrary to law, either in whole or in part. If the hearing is on a petition for refund or credit, the petitioner shall also have the burden of proof.

After the hearing, the Tax Commissioner shall, within a reasonable time, give notice in writing of his or her decision. Unless an appeal from the decision of the Tax Commissioner rendered in any hearing is taken, pursuant to the provisions of section ten of this article, within sixty days after service of the notice, the Tax Commissioner's decision shall become final and conclusive and not subject to either administrative or judicial review. The amount, if any, due the state under the decision shall be due and payable on the day following the date upon which the decision becomes final. The amount, if any, due the taxpayer under the decision shall be promptly refunded, or the same may be credited pursuant to section fourteen of this article.

(b) All petitions which are on the Tax Commissioner's docket on December 31, 2002, for which no administrative hearing has been held, shall be transferred by the Tax Commissioner to the office of tax appeals no later than January 31, 2003; and thereafter, the petition shall, for all purposes except timeliness of filing, be treated as if it had been filed with the office of tax appeals.

(c) All petitions which are on the Tax Commissioner's docket on December 31, 2002, for which an administrative hearing has been held prior to that date, shall remain on the Tax Commissioner's docket and the Tax Commissioner shall issue an administrative decision no later than March 31, 2003.

WV Legislature