



STATE OF ILLINOIS
**OFFICE OF THE
 AUDITOR GENERAL**

Frank J. Mautino, Auditor General

SUMMARY REPORT DIGEST

ILLINOIS INDEPENDENT TAX TRIBUNAL

Compliance Examination
 For the Two Years Ended June 30, 2017

Release Date: December 12, 2018

FINDINGS THIS AUDIT: 6	AGING SCHEDULE OF REPEATED FINDINGS						
	New	Repeat	Total	Repeated Since	Category 1	Category 2	Category 3
Category 1:	0	4	4	2015	17-01, 17-02, 17-03, 17-04	17-05, 17-06	
Category 2:	0	2	2				
Category 3:	0	0	0				
TOTAL	0	6	6				
FINDINGS LAST AUDIT: 9							

SYNOPSIS

- (17-04) The Tribunal did not handle filing fees received with incorrectly filed petitions in accordance with State laws and regulations.
- (17-05) The Tribunal did not comply with certain statutory requirements established within the Illinois Independent Tax Tribunal Act of 2012.

Category 1: Findings that are **material weaknesses** in internal control and/or a **qualification** on compliance with State laws and regulations (material noncompliance).

Category 2: Findings that are **significant deficiencies** in internal control and **noncompliance** with State laws and regulations.

Category 3: Findings that have **no internal control issues but are in noncompliance** with State laws and regulations.

{Expenditures and Activity Measures are summarized on next page.}

**ILLINOIS INDEPENDENT TAX TRIBUNAL
COMPLIANCE EXAMINATION
For the Two Years Ended June 30, 2017**

EXPENDITURE STATISTICS	2017	2016	2015
Total Expenditures.....	\$ 440,593	\$ 451,331	\$ 449,594
OPERATIONS TOTAL.....	\$ 440,593	\$ 451,331	\$ 449,594
% of Total Expenditures.....	100.0%	100.0%	100.0%
Personal Services.....	392,190	389,174	389,174
Other Payroll Costs (FICA, Retirement).....	25,618	25,389	23,778
All Other Operating Expenditures.....	22,785	36,768	36,642
REFUNDS.....	\$ -	\$ -	\$ -
% of Total Expenditures.....	0.0%	0.0%	0.0%
Total Receipts.....	\$ 90,304	\$ 132,000	\$ 128,500
Average Number of Employees.....	3	3	3

CASELOAD STATISTICS (Not Examined)	2017	2016	2015
Open Cases, July 1.....	350	267	109
Cases Opened.....	198	270	270
Cases Closed.....	(214)	(187)	(112)
Open Cases, June 30.....	<u>334</u>	<u>350</u>	<u>267</u>
Average Age of Outstanding Cases (in months).....	15.00	10.00	6.49
Amount in Dispute, New Cases Opened.....	\$ 165,637,892	\$ 197,795,081	\$ 242,042,334
Resolved Cases			
Cases Decided for the Taxpayer.....	0	2	0
Cases Decided for the Department of Revenue....	4	1	0
Cases Resolved by Mediation or Settlement.....	117	103	33

CHIEF ADMINISTRATIVE LAW JUDGE
During Examination Period: Mr. James M. Conway
Currently: Mr. James M. Conway

**FINDINGS, CONCLUSIONS, AND
RECOMMENDATIONS**

INADEQUATE CONTROL OVER FILING FEES

The Illinois Independent Tax Tribunal (Tribunal) did not handle filing fees received with incorrectly filed petitions in accordance with State laws and regulations.

Tribunal returns checks received with an improper petition through the mail

During testing, we noted the Tribunal receives petitions that are either immediately dismissed or dismissed with the ability to amend and refile. In either scenario, the Tribunal returns the petitioner's original \$500 check or money order to the taxpayer through the mail. The Tribunal's records indicated this occurred 10 times during Fiscal Year 2016 and 16 times during Fiscal Year 2017.

We noted the following noncompliance:

All receipts were not deposited into the State Treasury

- The Tribunal did not "pay into the State Treasury the gross amount of money so received" within the timeframes established by the State Officers and Employees Money Disposition Act.
- The Tribunal did not process refunds, defined as repayments of fees paid in excess or in error to the State, through the standard voucher-warrant process.

Lacked appropriation authority to pay refunds

- The Tribunal did not have appropriation authority within the Illinois Independent Tax Tribunal Fund to pay refunds due to taxpayers in either Fiscal Year 2016 or Fiscal Year 2017. (Finding 4, pages 19-20)

We recommended the Tribunal deposit all remittances received into the State Treasury and pay refunds, if necessary, through the State's voucher-warrant process. Further, we recommended the Tribunal request an appropriation to pay refunds due.

Tribunal officials disagree

Tribunal officials stated:

We do not agree with the Auditor General's recommendation. The Tax Tribunal cannot deposit checks for petitions that are deficient and cannot legally be accepted under the Tribunal's statute. The Tax Tribunal has a written policy for when a petition is initially rejected for being deficient. If a petition cannot be accepted, any accompanying check will not be accepted as well and will be immediately returned to the petitioner.

Accountant's Comment

In an accountant's comment, we noted the issue within the finding is when a receipt is considered received under the

State Officers and Employees Money Disposition Act as opposed to when the Tribunal can accept a petition given its limited jurisdiction under the Illinois Independent Tax Tribunal Act of 2012. As received is defined within the Oxford Dictionary as “to be given, presented with, or paid,” and our position is the Tribunal has received a receipt when the mail is opened and a check or money order is located with the incomplete petition. At this moment, the State Officers and Employees Money Disposition Act requires the Tribunal to deposit the entire remittance into the State Treasury.

If the Tribunal continues to disagree with our position, the Tribunal should seek a formal written opinion from the Attorney General.

FAILURE TO FULLY IMPLEMENT THE ILLINOIS INDEPENDENT TAX TRIBUNAL ACT OF 2012

The Tribunal did not comply with certain statutory requirements established within the Illinois Independent Tax Tribunal Act of 2012.

During testing, we noted the following:

No office in Sangamon County

- The Tribunal did not maintain a principal office located within Sangamon County.

Clerk and reporter not appointed

- The Tribunal did not appoint a clerk or reporter.

No rules for the authentication of submitted electronic documents

- The Tribunal has not established requirements for the authentication of electronic submissions or legal signatures. (Finding 5, pages 21-22)

We recommended the Tribunal maintain an office in Sangamon County, appoint a clerk and reporter, and establish rules for the electronic submission of documents, or seek a legislative remedy.

Tribunal officials disagree

Tribunal officials stated:

We do not agree with the Auditor General’s recommendation. The Tax Tribunal will not hire additional employees, request that additional judges be appointed, or secure additional permanent office space in Springfield until the need arises and the related costs can be justified. The Tax Tribunal has been open for almost five years and the statutorily mandated size of the office was a projection done prior to its operations commencing. The General Assembly has been advised through the Tax Tribunal’s yearly budget submissions and in budget hearings as to the Tribunal’s current and potential future staffing and facility needs. A legislative remedy

to change the language of the statute should not be done at this time as it is possible the need for additional staffing and facilities could arise at any time, particularly in light of pending legislation currently pending before the General Assembly that would increase the Tax Tribunal's jurisdiction.

Accountant's Comment

In an accountant's comment, we noted that, per the finding, the General Assembly mandated the Tribunal to have a principal office in Sangamon County and required the Tribunal to appoint both a reporter and a clerk to perform certain duties at the Tribunal. The primary responsibility of State agencies is to administer the functions given to them by the General Assembly in accordance with State law as written. If the Tribunal believes compliance with a statute would result in an imprudent use of State resources, the Tribunal should seek a legislative remedy.

Further, the finding does not recommend the appointment of additional judges.

OTHER FINDINGS

The remaining findings pertain to inadequate control over reconciliations, inadequate accounting records, inadequate segregation of duties, and inadequate control over annual reports to the General Assembly. We will review the Tribunal's progress towards the implementation of our recommendations in our next compliance examination.

ACCOUNTANT'S OPINION

The accountants conducted a compliance examination of the Tribunal for the two years ended June 30, 2017, as required by the Illinois State Auditing Act. The accountants qualified their report on State compliance for Finding 2017-001 through Finding 2017-004. Except for the noncompliance described in these findings, the accountants stated the Tribunal complied, in all material respects, with the requirements described in the report.

This compliance examination was conducted by the Office of the Auditor General's staff.

SIGNED ORIGINAL ON FILE

JANE CLARK
Division Director

This report is transmitted in accordance with Section 3-14 of the Illinois State Auditing Act.

SIGNED ORIGINAL ON FILE

FRANK J. MAUTINO
Auditor General

FJM:djn