



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

Frank J. Mautino, Auditor General

## SUMMARY REPORT DIGEST

### ILLINOIS INDEPENDENT TAX TRIBUNAL

Compliance Examination

Release Date: June 30, 2016

For the Period from November 18, 2013, through June 30, 2015

FINDINGS THIS AUDIT: 9				AGING SCHEDULE OF REPEATED FINDINGS			
	New	Repeat	Total	Repeated Since	Category 1	Category 2	Category 3
Category 1:	7	*	7				
Category 2:	2	*	2				
Category 3:	0	*	0				
TOTAL	9	*	9				
FINDINGS LAST AUDIT:	*						

\*Effective November 18, 2013, the Illinois Independent Tax Tribunal was established under the provisions of the Illinois Independent Tax Tribunal Act of 2012. As such, comparative data for periods prior to November 18, 2013, is not available.

### INTRODUCTION

The Illinois Independent Tax Tribunal (Tribunal) began on November 18, 2013, when the Chief Administrative Law Judge opened the Tribunal's office in Chicago. The Tribunal began accepting petitions from taxpayers on January 1, 2014. The Tribunal's mission is to foster the settlement of tax disputes to the extent possible and, in cases where litigation is necessary, provide taxpayers with a fair, independent, and tax-expert forum to resolve disputes between taxpayers and the Department of Revenue.

### SYNOPSIS

- (15-1) The Tribunal had inadequate business rules, policies, and procedures for using moneys within the Illinois Independent Tax Tribunal Fund.
- (15-2) The Tribunal maintained inaccurate internal accounting records.
- (15-4) The Tribunal did not handle filing fees received with incorrectly filed petitions in accordance with State laws and regulations.
- (15-8) The Tribunal lacked required staff, did not have an office in Sangamon County, and did not have judges serving proper terms.

**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 Period from November 18, 2013, through June 30, 2015**

EXPENDITURE STATISTICS	2015	2014
Total Expenditures.....	\$ 449,594	\$ 301,705
OPERATIONS TOTAL.....	\$ 449,594	\$ 301,705
% of Total Expenditures.....	100.0%	100.0%
Total Receipts.....	\$ 124,000	\$ 55,500
Average Number of Employees (Not Examined).....	3	3

CASELOAD STATISTICS (Not Examined)	2015	2014
Open Cases, July 1.....	109	0
Cases Opened.....	270	118
Cases Closed.....	(112)	(9)
Open Cases, June 30.....	<u>267</u>	<u>109</u>
Average Age of Outstanding Cases (in months).....	6.49	2.99
Amount in Dispute, New Cases Opened.....	\$ 241,561,430	\$ 70,560,977
<b><i>Resolved Cases</i></b>		
Cases Decided for the Taxpayer.....	0	0
Cases Decided for the Department of Revenue.....	0	0
Cases Resolved by Mediation or Settlement.....	33	1

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

## FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

### **NEED TO ADOPT FORMAL BUSINESS RULES FOR USING MONEYS WITHIN THE ILLINOIS INDEPENDENT TAX TRIBUNAL FUND**

The Tribunal did not have adequate business rules, policies, and procedures for using moneys within the Illinois Independent Tax Tribunal Fund.

During testing, the auditors noted the following:

**Lacked business rules for allocating administrative and enforcement costs between funds**

**\$49,900 voucher erroneously charged against the General Revenue Fund appropriation**

- The Tribunal did not have written business rules to allocate the Tribunal's administrative and enforcement costs between the Illinois Independent Tax Tribunal Fund and the General Revenue Fund.
- The Tribunal did not pay the costs associated with developing its web-based Electronic Docketing and Case Management System, totaling \$49,900, from the Illinois Independent Tax Tribunal Fund. The Tribunal charged this expenditure against the Tribunal's Fiscal Year 2014 General Revenue Fund appropriation. (Finding 1, pages 10-11)

We recommended the Tribunal adopt written business rules to allocate administrative and enforcement costs between the Illinois Independent Tax Tribunal Fund and the General Revenue Fund and charge vouchers against the proper appropriation.

**Tribunal officials agree**

Tribunal officials agreed with the auditor's recommendation.

### **NEED TO MAINTAIN ACCURATE ACCOUNTING RECORDS**

The Tribunal did not maintain accurate internal accounting records.

During testing, some of the issues the auditors noted included:

#### ***General Revenue Fund***

**Lapsed appropriations not recorded**

**Unexpended appropriations and payable accounts not properly maintained**

- The Tribunal did not maintain its records in accordance with the modified accrual basis for shared funds.
  - The Tribunal's lapsed appropriation balances of \$135,795 and \$336,714 were not recorded at June 30, 2014, and June 30, 2015, respectively.
  - The Tribunal did not ensure its unexpended appropriations account and corresponding payable accounts were properly maintained during Fiscal Years 2014 and 2015. For example, the auditors noted the Tribunal had created a secondary "cash"

**Transactions recorded in the wrong fiscal year**

account that ran negative balances until amounts were transferred from the unexpended appropriations account to the “cash” account.

- The Tribunal did not account for transactions during the State’s Lapse Period within the correct fiscal year. As an example, the auditors noted Fiscal Year 2014 transactions recorded in Fiscal Year 2015. Following a notification from the auditors, the Tribunal identified net errors of \$54,595 in Fiscal Year 2014 and \$52,548 in Fiscal Year 2015.

***Illinois Independent Tax Tribunal Fund***

**In-transit receipts not properly recorded at fiscal year end**

- The Tribunal did not properly account for in-transit cash and cash on deposit within the State Treasury. The auditors noted the cash balance within the State Treasury as recorded by the State Comptroller did not agree to the cash balance within the State Treasury as recorded by the Tribunal at June 30, 2014, and June 30, 2015. In following up on these exceptions, the auditors identified an in-transit cash amount of \$3,000 at June 30, 2014, and an in-transit cash amount of \$1,500 at June 30, 2015, was incorrectly recorded.

**Tribunal was unable to correct the errors noted by the auditors**

The Tribunal prepared and posted adjusting journal entries to attempt to correct the majority of these errors within both the General Revenue Fund and the Illinois Independent Tax Tribunal Fund. The auditors noted the following errors were present within the Tribunal’s adjusting journal entries:

**Some expenditures were unable to be reconciled to the State Comptroller’s records**

- The Tribunal’s expenditures for Fiscal Year 2014 for four detail object codes did not reconcile to the final SA02 Report from the State Comptroller. The total amount in error was \$4,959.

**Lapse Period payables were not recorded at fiscal year end**

- The Tribunal’s records do not reflect any payables at June 30, 2014, or June 30, 2015, for expenditures paid during the State’s Lapse Period.

**Cash in-transit errors increased as a result of the Tribunal’s adjustments**

- The Tribunal adjusted its in-transit cash amounts to \$0 and reflected all cash was on deposit in the State Treasury. This erroneous adjustment increased the overall in-transit error within the Tribunal’s records to \$8,000 at June 30, 2014, and \$3,500 at June 30, 2015. (Finding 2, pages 12-14)

We recommended the Tribunal implement controls to provide assurance transactions are properly recorded in accordance with the modified accrual basis of accounting and charged to the correct fiscal year. In addition, the Tribunal should reconcile its accounting records to the State Comptroller’s records to identify and correct errors.

**Tribunal agrees with the auditors**

Tribunal officials agreed with the auditor’s recommendation.

## **FAILURE TO HANDLE CASH RECEIPTS IN ACCORDANCE WITH THE STATE OFFICERS AND EMPLOYEES MONEY DISPOSITION ACT**

The Tribunal did not handle filing fees received with incorrectly filed petitions in accordance with State laws and regulations.

### **Two typical scenarios noted for fees received with an improper petition**

- 1) The Tribunal receives petitions with the required \$500 filing fee where the petition does not comply with its adopted regulations, resulting in the Tribunal dismissing the petition while granting the taxpayer the ability to amend and refile their petition by a later date. When this occurs, the Tribunal would not deposit the check or money order until after the taxpayer has filed their amended petition. In the event the taxpayer fails to meet the Tribunal's revised filing deadline, the Tribunal would return the taxpayer's original \$500 check or money order to the taxpayer through the mail. This scenario occurred in 21 of 388 (5%) of cases received by the Tribunal from taxpayers during Fiscal Year 2014 and Fiscal Year 2015.
- 2) The Tribunal receives a petition with the required \$500 filing fee from the taxpayer; however, the Tribunal dismisses the case without allowing the taxpayer to refile the case. In this scenario, the Tribunal would return the taxpayer's original \$500 check or money order to the taxpayer through the mail. This scenario occurred in six of 388 (2%) of cases received by the Tribunal from taxpayers during Fiscal Year 2014 and Fiscal Year 2015.

The auditors noted the following noncompliance:

### **All receipts were not deposited into the State Treasury**

### **Lacked appropriation authority to pay refunds**

- 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.
- The Tribunal did not have appropriation authority within the Illinois Independent Tax Tribunal Fund to pay refunds due to taxpayers in either Fiscal Year 2014 or Fiscal Year 2015. (Finding 4, pages 22-23)

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 did not accept this finding because, in their opinion, the Tribunal cannot deposit checks for petitions that are deficient and cannot legally be accepted.

**Auditor's Comment**

In an auditor'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," the auditor's 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 the auditor's position, the Tribunal should seek a formal written opinion from the Attorney General.

**NONCOMPLIANCE WITH THE ILLINOIS INDEPENDENT TAX TRIBUNAL ACT OF 2012**

The Tribunal lacked required staff, did not have an office in Sangamon County, and did not have judges serving proper terms.

During testing, the auditors noted the following:

- The Tribunal did not appoint a clerk or reporter.
- The Tribunal did not maintain a principal office located within Sangamon County.
- The Chief Administrative Law Judge's appointment was only for a four-year term. In addition, the Administrative Law Judge's appointment was only for a term of 2.69 years. (Finding 8, pages 31-32)

We recommended the Tribunal appoint a clerk and reporter and maintain an office in Sangamon County, or seek a legislative remedy. Further, the Tribunal should work with the Governor to ensure appointees receive the proper statutory term of office.

**Tribunal officials disagree**

Tribunal officials did not accept this finding because, in their opinion, the Tribunal cannot justify the additional costs to the State from hiring additional employees or securing permanent office space in Springfield.

## **Auditor's Comment**

In an auditor's comment, we noted 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.

## **OTHER FINDINGS**

The remaining findings pertain to (1) inadequate control over personal services, equipment, reconciliations, and the Tribunal's annual report to the General Assembly and (2) inadequate segregation of duties. We will review the Tribunal's progress towards the implementation of our recommendations in our next examination.

## **ACCOUNTANT'S OPINION**

The accountants conducted a compliance examination of the Tribunal for the period from November 18, 2013, through June 30, 2015, as required by the Illinois State Auditing Act. The accountants qualified their report on State compliance for Findings 2015-001 through 2015-007. Except for the noncompliance described in these findings, the accountants stated the Tribunal complied, in all material respects, with the requirements described within the report.

**SIGNED ORIGINAL ON FILE**

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FRANK J. MAUTINO  
Auditor General

FJM:djn

## **AUDITORS ASSIGNED**

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