

STATE OF ILLINOIS  
**ILLINOIS INDEPENDENT TAX TRIBUNAL**  
COMPLIANCE EXAMINATION  
For the Period from November 18, 2013, through June 30, 2015

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**AGENCY OFFICIALS**

*Judges*

Chief Administrative Law Judge <sup>1</sup> (11/18/13 – Present)	Mr. James M. Conway
Administrative Law Judge <sup>1</sup> (01/02/14 – Present)	Mr. Brian F. Barov
Administrative Law Judge <sup>1</sup>	Vacant
Administrative Law Judge <sup>1</sup>	Vacant

*Administrative Services*

Chief Administrative Officer (02/17/14 – Present)	Ms. Kristene M. Callanta
Clerk	Vacant
Reporter	Vacant

<sup>1</sup>In accordance with the Illinois Independent Tax Tribunal Act of 2012 (35 ILCS 1010/1-25(a)), the Governor shall appoint a Chief Administrative Law Judge to serve as the executive of the Tribunal and up to three additional Administrative Law Judges.

**TRIBUNAL OFFICE**

The Tribunal's office is located at:

Michael A. Bilandic Building  
160 N. LaSalle Street, Room N-506  
Chicago, Illinois 60601



**Illinois Independent  
Tax Tribunal**

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*160 N. La Salle Street Room N506  
Chicago, Illinois 60601*

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**STATE COMPLIANCE EXAMINATION**

**MANAGEMENT ASSERTION LETTER**

**June 10, 2016**

**Honorable Frank J. Mautino  
Auditor General  
State of Illinois  
740 East Ash Street  
Springfield, Illinois 62703-3154**

**Dear Mr. Mautino:**

We are responsible for the identification of, and compliance with, all aspects of laws, regulations, contracts, or grant agreements that could have a material effect on the operations of the State of Illinois, Illinois Independent Tax Tribunal. We are responsible for and we have established and maintained an effective system of internal controls over compliance requirements. We have performed an evaluation of the State of Illinois, Illinois Independent Tax Tribunal's compliance with the following assertions during the period from November 18, 2013, through June 30, 2015. Based on this evaluation, we assert that during the period from November 18, 2013, through

June 30, 2014, and the year ended June 30, 2015, the State of Illinois, Illinois Independent Tax Tribunal has materially complied with the assertions below.

- A. The State of Illinois, Illinois Independent Tax Tribunal has obligated, expended, received, and used public funds of the State in accordance with the purpose for which such funds have been appropriated or otherwise authorized by law.
  
- B. The State of Illinois, Illinois Independent Tax Tribunal has obligated, expended, received, and used public funds of the State in accordance with any limitations, restrictions, conditions, or mandatory directions imposed by law upon such obligation, expenditure, receipt, or use.
  
- C. The State of Illinois, Illinois Independent Tax Tribunal has complied, in all material respects, with applicable laws and regulations, including the State uniform accounting system, in its financial and fiscal operations.
  
- D. State revenues and receipts collected by the State of Illinois, Illinois Independent Tax Tribunal are in accordance with applicable laws and regulations and the accounting and recordkeeping of such revenues and receipts is fair, accurate, and in accordance with law.

Yours truly,

State of Illinois, Illinois Independent Tax Tribunal

  
\_\_\_\_\_  
James M. Conway,  
Chief Administrative Law Judge

  
\_\_\_\_\_  
Kristene M. Callanta,  
Chief Administrative Officer

STATE OF ILLINOIS  
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**COMPLIANCE REPORT**

**SUMMARY**

The compliance testing performed during this examination was conducted in accordance with *Government Auditing Standards* and in accordance with the Illinois State Auditing Act.

**ACCOUNTANT'S REPORT**

The Independent Accountant's Report on State Compliance, on Internal Control Over Compliance, and on Supplementary Information for State Compliance Purposes does not contain scope limitations or disclaimers, but does contain a qualified opinion on compliance and identifies material weaknesses in internal control over compliance.

**SUMMARY OF FINDINGS**

<u>Number of</u>	<u>Current</u>	<u>Prior</u>
Findings	<u>Report</u>	<u>Report</u>
Repeated findings	9	*
Prior recommendations implemented or not repeated	*	*

\* Effective November 18, 2013, the Illinois Independent Tax Tribunal was established when the Chief Administrative Law Judge opened the Illinois Independent Tax Tribunal's office in anticipation of accepting tax disputes on January 1, 2014. As such, comparative data for periods prior to November 18, 2013, is not available.

**SCHEDULE OF FINDINGS**

<u>Item No.</u>	<u>Page</u>	<u>Description</u>	<u>Finding Type</u>
FINDINGS (STATE COMPLIANCE)			
2015-001	10	Inadequate Control over Expenditure Allocations	Material Weakness and Material Noncompliance
2015-002	12	Inadequate Accounting Records	Material Weakness and Material Noncompliance
2015-003	15	Inadequate Control over Personal Services	Material Weakness and Material Noncompliance

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<u>Item No.</u>	<u>Page</u>	<u>Description</u>	<u>Finding Type</u>
FINDINGS (STATE COMPLIANCE)			
2015-004	22	Inadequate Control over Filing Fees	Material Weakness and Material Noncompliance
2015-005	24	Inadequate Control over Equipment	Material Weakness and Material Noncompliance
2015-006	27	Inadequate Segregation of Duties	Material Weakness and Material Noncompliance
2015-007	29	Inadequate Control over Reconciliations	Material Weakness and Material Noncompliance
2015-008	31	Noncompliance with the Illinois Independent Tax Tribunal Act of 2012	Significant Deficiency and Noncompliance
2015-009	33	Inadequate Control over Annual Reports to the General Assembly	Significant Deficiency and Noncompliance

**EXIT CONFERENCE**

The findings and recommendations appearing in this report were discussed with Tribunal personnel at an exit conference on June 2, 2016. Attending were:

Illinois Independent Tax Tribunal

James M. Conway - Chief Administrative Law Judge

Kristene M. Callanta - Chief Administrative Officer

Office of the Auditor General

Daniel J. Nugent, CPA - Audit Manager

Paige A. Morgano, CPA - Staff Auditor

The responses to the recommendations were provided by Mr. James M. Conway, Chief Administrative Law Judge, in a correspondence dated June 10, 2016.

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OFFICE OF THE AUDITOR GENERAL

FRANK J. MAUTINO

INDEPENDENT ACCOUNTANT'S REPORT ON STATE COMPLIANCE,  
ON INTERNAL CONTROL OVER COMPLIANCE, AND ON  
SUPPLEMENTARY INFORMATION FOR STATE COMPLIANCE PURPOSES

Honorable Frank J. Mautino  
Auditor General  
State of Illinois

**Compliance**

We have examined the State of Illinois, Illinois Independent Tax Tribunal's compliance with the requirements listed below, as more fully described in the Audit Guide for Financial Audits and Compliance Attestation Engagements of Illinois State Agencies (Audit Guide) as adopted by the Auditor General, during the period from November 18, 2013, through June 30, 2015. The management of the State of Illinois, Illinois Independent Tax Tribunal is responsible for compliance with these requirements. Our responsibility is to express an opinion on the State of Illinois, Illinois Independent Tax Tribunal's compliance based on our examination.

- A. The State of Illinois, Illinois Independent Tax Tribunal has obligated, expended, received, and used public funds of the State in accordance with the purpose for which such funds have been appropriated or otherwise authorized by law.
- B. The State of Illinois, Illinois Independent Tax Tribunal has obligated, expended, received, and used public funds of the State in accordance with any limitations, restrictions, conditions, or mandatory directions imposed by law upon such obligation, expenditure, receipt, or use.
- C. The State of Illinois, Illinois Independent Tax Tribunal has complied, in all material respects, with applicable laws and regulations, including the State uniform accounting system, in its financial and fiscal operations.
- D. State revenues and receipts collected by the State of Illinois, Illinois Independent Tax Tribunal are in accordance with applicable laws and regulations and the accounting and recordkeeping of such revenues and receipts is fair, accurate, and in accordance with law.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants; the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States; the Illinois State Auditing Act (Act); and the Audit Guide as adopted by the Auditor General pursuant to the Act; and, accordingly, included examining, on a test basis, evidence about the State of Illinois, Illinois Independent Tax Tribunal's compliance with those requirements listed in the first paragraph of this report and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on the State of Illinois, Illinois Independent Tax Tribunal's compliance with specified requirements.

As described in item 2015-001 in the accompanying schedule of findings, the State of Illinois, Illinois Independent Tax Tribunal did not obligate, expend, receive, and use public funds of the State in accordance with the purpose for which such funds have been appropriated or otherwise authorized by law. As described in items 2015-002, 2015-003, and 2015-005 through 2015-007 in the accompanying schedule of findings, the State of Illinois, Illinois Independent Tax Tribunal did not comply with applicable laws and regulations, including the State uniform accounting system, in its financial and fiscal operations. As described in items 2015-004, 2015-006, and 2015-007 in the accompanying schedule of findings, the State of Illinois, Illinois Independent Tax Tribunal did not comply with applicable laws and regulations concerning the collection of State revenues and receipts and ensuring the accounting and recordkeeping of such revenues and receipts is fair, accurate, and in accordance with law. Compliance with such requirements is necessary, in our opinion, for the State of Illinois, Illinois Independent Tax Tribunal to comply with the requirements listed in the first paragraph of this report.

In our opinion, except for the noncompliance described in the preceding paragraph, the State of Illinois, Illinois Independent Tax Tribunal complied, in all material respects, with the compliance requirements listed in the first paragraph of this report during the period from November 18, 2013, through June 30, 2015. However, the results of our procedures disclosed other instances of noncompliance with the requirements, which are required to be reported in accordance with criteria established by the Audit Guide, issued by the Illinois Office of the Auditor General and which are described in the accompanying schedule of findings as items 2015-008 and 2015-009.

### **Internal Control**

Management of the State of Illinois, Illinois Independent Tax Tribunal is responsible for establishing and maintaining effective internal control over compliance with the requirements listed in the first paragraph of this report. In planning and performing our examination, we considered the State of Illinois, Illinois Independent Tax Tribunal's internal control over compliance with the requirements listed in the first paragraph of this report to determine the examination procedures that are appropriate in the circumstances for the purpose of expressing our opinion on compliance and to test and report on internal control over compliance in accordance with the Audit Guide, issued by the Illinois Office of the Auditor General, but not for the purpose of expressing an opinion on the effectiveness of the State of Illinois, Illinois

Independent Tax Tribunal's internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the State of Illinois, Illinois Independent Tax Tribunal's internal control over compliance.

Our consideration of internal control over compliance was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over compliance that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as discussed below, we identified certain deficiencies in internal control over compliance that we consider to be material weaknesses and significant deficiencies.

*A deficiency in internal control over compliance* exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with the requirements listed in the first paragraph of this report on a timely basis. *A material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that a material noncompliance with a requirement listed in the first paragraph of this report will not be prevented, or detected and corrected, on a timely basis. We consider the deficiencies in internal control over compliance described in the accompanying schedule of findings as items 2015-001 through 2015-007 to be material weaknesses.

*A significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance. We consider the deficiencies in internal control over compliance described in the accompanying schedule of findings as items 2015-008 and 2015-009 to be significant deficiencies.

As required by the Audit Guide, immaterial findings excluded from this report have been reported in a separate letter.

The State of Illinois, Illinois Independent Tax Tribunal's responses to the findings identified in our examination are described in the accompanying schedule of findings. We did not examine the State of Illinois, Illinois Independent Tax Tribunal's responses and, accordingly, we express no opinion on the responses.

### **Supplementary Information for State Compliance Purposes**

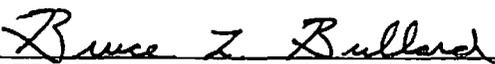
Our examination was conducted for the purpose of forming an opinion on compliance with the requirements listed in the first paragraph of this report. The accompanying supplementary information for the period from November 18, 2013, through June 30, 2014, and the year ended June 30, 2015, in Schedules 1 through 8 and the Analysis of Operations Section is presented for purposes of additional analysis. We have applied certain limited procedures as prescribed by the

Audit Guide as adopted by the Auditor General to the June 30, 2015, and June 30, 2014, accompanying supplementary information in Schedules 1 through 8. However, we do not express an opinion on the accompanying supplementary information.

As reported in items 2015-001, 2015-002, and 2015-004, we were not able to determine whether the State of Illinois, Illinois Independent Tax Tribunal's expenditure and cash receipt records at June 30, 2015, and June 30, 2014, were complete and appropriately reported. Therefore, we were unable to conclude whether Schedules 1, 2, 3, and 5 were complete.

We have not applied procedures to the Analysis of Operations Section, and accordingly, we do not express an opinion or provide any assurance on it.

This report is intended solely for the information and use of the Auditor General, the General Assembly, the Legislative Audit Commission, the Governor, and the State of Illinois, Illinois Independent Tax Tribunal's management, and is not intended to be and should not be used by anyone other than these specified parties.

  
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BRUCE L. BULLARD, CPA  
Director of Financial and Compliance Audits

Springfield, Illinois  
June 10, 2016

STATE OF ILLINOIS  
ILLINOIS INDEPENDENT TAX TRIBUNAL  
**SCHEDULE OF FINDINGS - STATE COMPLIANCE**  
For the Period from November 18, 2013, through June 30, 2015

2015-001. **FINDING** (Inadequate Control over Expenditure Allocations)

The Illinois Independent Tax Tribunal (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:

- 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. While the Tribunal only charged \$608 in May 2015 and June 2015 against its appropriations from the Illinois Independent Tax Tribunal Fund, the auditors noted expenditures of up to \$108,782 of the Tribunal's total non-payroll expenditures of \$121,134 during Fiscal Years 2014 and 2015 could have reasonably been paid from the Illinois Independent Tax Tribunal Fund instead of the General Revenue Fund.

The Illinois Independent Tax Tribunal Act of 2012 (Act) (35 ILCS 1010/1-55(c)) requires the Tribunal, subject to appropriation, to use the moneys on deposit within the Illinois Independent Tax Tribunal Fund to assist in paying for the Tribunal's costs associated with administering and enforcing the Act.

Further, the Fiscal Control and Internal Auditing Act (30 ILCS 10/3001) requires the Tribunal establish and maintain a system, or systems, of internal fiscal and administrative controls to provide assurance the State's resources are utilized efficiently, effectively, and in compliance with applicable law. Good internal controls include establishing and maintaining business rules to allocate costs between the Illinois Independent Tax Tribunal Fund and the General Revenue Fund.

Tribunal officials stated they did not know how the Governor's Office initially determined what line-item costs were to be paid from each fund in Fiscal Year 2014 because the budget was developed prior to the start date of the Tribunal's first member on November 18, 2013. In addition, as the Tribunal had only been operating for one month when the Fiscal Year 2015 budget request was submitted, the Tribunal submitted a Fiscal Year 2015 request similar to the Fiscal Year 2014 budget prepared by the Governor's Office.

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2015-001. **FINDING** (Inadequate Control over Expenditure Allocations) (continued)

- 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.

The *Project Charter* between the Department of Central Management Services, Bureau of Communications and Computer Services, and the Tribunal (written on behalf of the Tribunal by the Governor's Office) dated September 23, 2013, states the Electronic Docketing and Case Management System will be paid for from the Illinois Independent Tax Tribunal Fund.

Tribunal officials stated they were not aware of this agreement as it was drafted prior to the start date of the Tribunal's first member on November 18, 2013.

Failure to adopt business rules for allocating costs between the Illinois Independent Tax Tribunal Fund and the General Revenue Fund may result in an inefficient use of the State's resources and negatively impact cash flow available to pay vendors in a timely manner. Additionally, failure to pay for the Electronic Docketing and Case Management System from the Illinois Independent Tax Tribunal Fund represents noncompliance with the *Project Charter*. (Finding Code No. 2015-001)

**RECOMMENDATION**

We recommend 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 RESPONSE**

We agree with the Auditor General's recommendation. The Tax Tribunal has adopted written rules to allocate administrative and enforcement costs between the Illinois Independent Tax Tribunal Fund and the General Revenue Fund.

STATE OF ILLINOIS  
ILLINOIS INDEPENDENT TAX TRIBUNAL  
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2015-002. **FINDING** (Inadequate Accounting Records)

The Illinois Independent Tax Tribunal (Tribunal) did not maintain accurate internal accounting records. During the examination period, the State Comptroller reported the Tribunal had \$751,299 in expenditures and the Tribunal's bank deposit records reported the Tribunal processed \$179,500 in cash receipts.

During testing, the auditors noted the following:

***General Revenue Fund (Fund 001)***

- 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" 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 (Fund 169)***

- 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 within the Tribunal's records.

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2015-002. **FINDING** (Inadequate Accounting Records) (continued)

- The Tribunal did not handle filing fees received with incorrectly filed petitions in accordance with State laws and regulations governing receipts (for additional information, see Finding 2015-004).
- The Tribunal recorded erroneous accounts receivables, totaling \$500 in Fiscal Year 2014 and \$8,500 in Fiscal Year 2015. Due to the nature of the Tribunal's limited jurisdiction, the Tribunal cannot accept a petition until the \$500 filing fee is paid or a waiver to the fee is granted and must dismiss petitions if the petitioner pays with a non-sufficient funds check; therefore, the Tribunal should not have recorded any accounts receivable related to petitions during Fiscal Years 2014 or 2015.

The auditors noted these differences should have been identified and corrected during the Tribunal's reconciliation process from its internal records to the State Comptroller's records.

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:

- For the General Revenue Fund, 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.
- For the General Revenue Fund, 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 for Fiscal Years 2014 and 2015.
- For the Illinois Independent Tax Tribunal Fund, 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.

Due to these limitations, the auditors were unable to conclude whether the Tribunal's expenditure or receipt records at June 30, 2015, and June 30, 2014, were complete and appropriately reported.

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2015-002. **FINDING** (Inadequate Accounting Records) (continued)

The Fiscal Control and Internal Auditing Act (30 ILCS 10/3001) requires the Tribunal establish and maintain a system, or systems, of internal fiscal and administrative controls to provide assurance revenues, expenditures, and resources are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the State's resources.

Tribunal officials stated the accounting software used by the Tribunal makes properly accounting for Lapse Period transactions, while simultaneously tracking invoice dates for interest penalty payments under the State Prompt Payment Act, difficult. Further, Tribunal officials stated the in-transit cash amounts were recorded as on deposit within the State Treasury on the date when Tribunal personnel sent a Receipts Deposit Transmittal to the State Comptroller, as opposed to when the State Comptroller and State Treasurer actually recognized the transmitted cash within the State Treasury.

Failure to maintain accurate accounting records represents noncompliance with the Fiscal Control and Internal Auditing Act and reduces the overall reliability of Statewide financial reporting. (Finding Code No. 2015-002)

**RECOMMENDATION**

We recommend 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 RESPONSE**

We agree with the Auditor General's recommendation. The Tax Tribunal has made the appropriate adjustments and will record transactions on the modified accrual basis of accounting.

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2015-003. **FINDING** (Inadequate Control over Personal Services)

The Illinois Independent Tax Tribunal (Tribunal) did not exercise sufficient control over its personal services expenditures. During the period from November 18, 2013, through June 30, 2015, the Tribunal expended \$630,165 for personal services.

While the Tribunal is subject to the Personnel Code (Code), all of the Tribunal's employees are currently exempt from the Code's provisions. The Code (20 ILCS 415/4c(7)) exempts the Tribunal's two administrative law judges because they are appointed by the Governor. Further, the Code (20 ILCS 415/4c(30)) exempts the Chief Administrative Officer because the employee has "demonstrable, defined advanced skills in accounting, financial reporting, or technical expertise who are employed within executive branch agencies and whose duties are directly related to the submission to the Office of the Comptroller of financial information for the publication of the Comprehensive Annual Financial Report (CAFR)." As such, the Tribunal's employees do not have to follow the Code or the employee regulations adopted by the Department of Central Management Services pursuant to the Code.

During testing, the auditors noted the Tribunal did not adopt employee policies for work schedules, timekeeping, attendance, and benefit time until January 1, 2015, over 13 months after the Tribunal began operations.

The Fiscal Control and Internal Auditing Act (30 ILCS 10/3001) requires the Tribunal establish and maintain a system, or systems, of internal fiscal and administrative controls to provide assurance resources are utilized efficiently and effectively and safeguarded against waste and loss.

As the Tribunal failed to timely adopt employee policies, the auditors performed testing using the policies adopted by the Tribunal on January 1, 2015.

During testing, the auditors noted the following:

***Work Schedules***

- The Tribunal has not documented the work schedules for its employees.

The Tribunal's *Employee Handbook* (page 14) states, "Employees shall report to work promptly each day in accordance with his/her work schedule."

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2015-003. **FINDING** (Inadequate Control over Personal Services) (continued)

- As the Tribunal has not documented the work schedules for its employees, the auditors had to rely upon conversations with employees to ascertain when the employees were required to be working. The auditors noted the following erratic activity recorded in the Tribunal's files for one employee tested who indicated to the auditors that their daily hours were between 10:30 a.m. and 6:30 p.m. throughout the examination period:
  - On 132 of 342 (39%) business days, the employee left work before 6:30 p.m. without using accrued benefit time to cover the absence.
  - On 163 of 342 (48%) business days, the employee did not begin work by 10:30 a.m. or use accrued benefit time to cover the absence.
  - On 24 of 342 (7%) business days, the employee used accrued benefit time outside of the employee's work hours.
  - On 22 of 342 (6%) business days, the employee took a lunch period in excess of one hour during the day.
  - On 268 of 342 (78%) business days, the employee did not take a lunch period during the day. On 71 of the 268 days, the auditors noted the employee did not take a lunch to earn additional equivalent earned time.

The Tribunal's *Employee Handbook* (page 14) states, "Employees shall report to work promptly each day in accordance with his/her work schedule." The schedule, as noted within the Tribunal's *Employee Handbook* (pages 14 and 30), includes a thirty-seven and one-half hour work week with two 15-minute paid break periods and an unpaid scheduled lunch hour. Further, the Tribunal's *Employee Handbook* (page 10) states overstaying breaks or lunch periods is not permitted.

Tribunal officials stated employees are expected to work seven and one-half hours on each business day, which was fulfilled in these cases. Additionally, Tribunal officials stated the Tribunal's *Employee Handbook* authorizes an unpaid lunch, but does not require a lunch period nor does not exclude a long lunch so long as the employee is not paid for the time not worked. However, the auditors noted the Tribunal's position did not agree with its own policies within its *Employee Handbook*.

- For one of three (33%) employees, the Tribunal did not document when the employee was authorized to perform work from a remote location.

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2015-003. **FINDING** (Inadequate Control over Personal Services) (continued)

The Tribunal's *Employee Handbook* (page 14) states, "Employees who are authorized to work from a remote location must notify and receive pre-approval from the [Chief Administrative Law Judge]." Further, the State Records Act (5 ILCS 160/8) requires the Chief Administrative Law Judge make and preserve adequate and proper records documenting the functions, policies, and procedures of the Tribunal to protect the legal and financial rights of the State and of persons directly affected by the Tribunal's activities.

Tribunal officials stated, due to the size of the Tribunal, requests are discussed and verbally approved with the Chief Administrative Law Judge.

***Timekeeping***

- The Tribunal did not exercise adequate control over timekeeping for its three employees:
  - 228 of 236 (97%) timesheets submitted during the examination period did not have the date documented for when the timesheet was prepared or reviewed.
  - 85 of 236 (36%) timesheets submitted during the examination period did not have a review conducted by an independent person.
  - Eight of 236 (3%) timesheets were not submitted timely during the examination period, which resulted in the timesheets being reviewed between two and 42 days late.

The Tribunal's *Employee Handbook* (page 14) states, "Within one business day of the end of a week or as soon thereafter as practicable, the employee will provide a printed and signed time entry sheet to the [Chief Administrative Law Judge] for approval." Good internal controls endorse the concept of segregating functions to reduce the likelihood of errors or other irregularities.

Tribunal officials stated they are unaware of any requirement to document the date of submission or review of a timesheet.

- Six of 17 (35%) monthly timekeeping reports tested were not timely prepared by the employee and reviewed by the employee's supervisor. These reports were performed between eight and 59 days after the last day of the subsequent month.

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2015-003. **FINDING** (Inadequate Control over Personal Services) (continued)

Good internal controls include ensuring a prompt and timely review of the monthly timekeeping report occurs to ensure the Tribunal's records accurately reflect the usage and accrual of benefit time. These reports represent a key internal control mechanism because each employee, the employee's supervisor, and the timekeeper certify the accuracy of the information recorded within the Tribunal's records.

Tribunal officials stated the untimely submissions and reviews were due to oversight and other competing priorities.

***Use of Benefit Time***

- 89 of 108 (82%) benefit time usage requests from one employee tested were not submitted for approval prior to the absence. The noted requests were submitted by the employee between three and 113 days after the absence.
- Eight of 108 (7%) benefit time usage requests from one employee tested were not approved by the employee's supervisor. The employee ultimately used 45 hours of benefit time without receiving approval.

The Tribunal's *Employee Handbook* (page 17) states, "To the extent possible, an employee shall request the use of vacation time in advance of the date(s) it is planned to be used."

Tribunal officials stated, due to the small size of the Tribunal, requests are discussed and verbally approved by the Chief Administrative Law Judge prior to the employee's usage of benefit time.

- One of 108 (1%) benefit time usage requests from one employee tested had discrepancies between the type of benefit time used on employee's request and the employee's timesheet. The benefit time request was for two hours of earned equivalent time, while the employee's timesheet reflects this time was on an official State holiday.
- The Tribunal did not have a process to adequately document situations where the Chief Administrative Law Judge has ordered the closure of the Tribunal's office.

The Tribunal's *Employee Handbook* (page 14) states timesheets "reflect the hours spent each day working or on leave/absence." Good internal controls include ensuring documentation supports the transaction and reconciles with the employee's timesheets.

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2015-003. **FINDING** (Inadequate Control over Personal Services) (continued)

Tribunal officials stated they did not know how to document these administrative types of leave.

- The Tribunal did not have a process to adequately document and appropriately segregate and account for flex time accrual and usage from earned equivalent time usage and accrual. On 14 of 342 (4%) business days, the employees netted benefit time used and benefit time accrued between flex time and earned equivalent time on the timesheet.

The Tribunal's *Employee Handbook* (pages 15-16) establishes earned equivalent time as the Tribunal's overtime policy for employees not subject to the federal Fair Labor Standards Act and establishes flex time where time worked on one day can be used to cover an absence on another day during the subsequent two weeks. Further, the Tribunal's *Employee Handbook* (page 16) requires employees "appropriately mark the weekly time sheet" when using flex time. Good internal control includes ensuring the accrual and usage of the various types of benefit time offered to employees is properly segregated and accounted for within the Tribunal's attendance records.

Tribunal officials stated they did not know how to document these administrative types of leave.

***Earned Equivalent Time***

- 91 of 91 (100%) overtime requests from one employee tested, totaling 87 hours, were "to make up for requested time off" as opposed to meeting a specific operational need of the Tribunal.

The Tribunal's *Employee Handbook* (page 15) notes employees are expected to "devote the time to their duties necessary to ensure proper performance and achievement of [the Tribunal's] goals and objectives." The Tribunal's *Employee Handbook* (page 15) states that since the Tribunal's employees are exempt from the federal Fair Labor Standards Act, the Tribunal has adopted a policy where employees are "eligible to accrue earned equivalent time (EET) as time-off compensation for hours worked beyond the regular work week." Further, the State Records Act (5 ILCS 160/8) requires the Chief Administrative Law Judge make and preserve adequate and proper records documenting the functions, policies, and procedures of the Tribunal to protect the legal and financial rights of the State and of persons directly affected by the Tribunal's activities.

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2015-003. **FINDING** (Inadequate Control over Personal Services) (continued)

Tribunal officials stated, due to the small size of the Tribunal, requests and the reason for the requests are discussed and verbally approved by the Chief Administrative Law Judge prior to the overtime event. Further, Tribunal officials noted they are unaware of any requirements to provide a further explanation for the reason for the overtime event.

- 88 of 91 (97%) overtime requests from one employee tested, totaling 85 hours, were not approved by Tribunal management prior to the date when the overtime was worked.

The Tribunal's *Employee Handbook* (pages 15-16) states "EET is subject to the review and approval by the [Chief Administrative Law Judge]." Good internal controls include requiring preapproval of modifications to an employee's work schedule. Further, the State Records Act (5 ILCS 160/8) requires the Chief Administrative Law Judge make and preserve adequate and proper records documenting the functions, policies, and procedures of the Tribunal to protect the legal and financial rights of the State and of persons directly affected by the Tribunal's activities.

Tribunal officials stated, due to the small size of the Tribunal, requests and the reason for the requests are discussed and verbally approved by the Chief Administrative Law Judge prior to the overtime event. Further, Tribunal officials noted they are unaware of any requirements to provide a further explanation for the reason for the overtime event.

The Fiscal Control and Internal Auditing Act (30 ILCS 10/3001) requires the Tribunal establish and maintain a system, or systems, of internal fiscal and administrative controls to provide assurance resources are utilized efficiently and effectively and safeguarded against waste and loss.

Failure to timely adopt employee policies for work schedules, timekeeping, attendance, and benefit time and enforce those policies after adoption represents noncompliance with the Tribunal's *Employee Handbook* and the Fiscal Control and Internal Auditing Act. Further, these control deficiencies represent conditions where errors or other irregularities could occur and not be detected in a timely manner by employees in the normal course of performing their assigned duties. (Finding Code No. 2015-003)

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2015-003. **FINDING** (Inadequate Control over Personal Services) (continued)

**RECOMMENDATION**

We recommend the Tribunal implement controls to document employee schedules, authorize work from remote locations, timely complete and independently review timekeeping reports, establish a preapproval process for benefit time usage and the accrual of earned equivalent time, and properly account for and distinguish between the accrual and usage of various types of benefit time.

**TRIBUNAL RESPONSE**

We agree with the Auditor General's recommendation. The Tax Tribunal has changed its employee policies on timekeeping entries, work schedules, pre-approval process for benefit time, and authorization documentation for remote location work. The Tax Tribunal has revised its timesheets so they reflect dates when signed and approved, and the Chief Administrative Law Judge's timesheets are now reviewed and approved by the Chief Administrative Officer, and in the Chief Administrative Officer's absence, the other Administrative Law Judge will review and approve.

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2015-004. **FINDING** (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.

During testing, the auditors noted the Tribunal has the following typical scenarios for petitions filed incorrectly:

- 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:

- 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 (30 ILCS 230/2(a)).
- 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 established by the Statewide Accounting Management System (Procedure 11.10.40).
- 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. Public Act 098-0064 and Public Act 098-0679 appropriated \$79,400 to the Tribunal in both Fiscal Years 2014 and 2015 for operational expenses, but these Public Acts did not include an appropriation to the Tribunal for paying refunds.

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2015-004. **FINDING** (Inadequate Control over Filing Fees) (continued)

Tribunal officials stated the current process was adopted to quickly return checks to the petitioners who filed petitions that were ultimately not accepted by the Tribunal.

Failure to timely deposit all cash receipts into the State Treasury represents noncompliance with the State Officers and Employees Money Disposition Act. In addition, failure to handle remittances and issue refunds through the State's normal procedures may result in lost checks, errors, or other irregularities. (Finding Code No. 2015-004)

**RECOMMENDATION**

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

**TRIBUNAL RESPONSE**

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. However, the Tax Tribunal has changed its written policy for when a petition is initially rejected for being deficient. As the petition cannot be accepted, any accompanying check will not be accepted as well and will be returned to the petitioner. Checks will no longer be held and deposited until corrected petitions are filed or returned if no corrected petition is filed.

**AUDITOR'S COMMENT**

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.

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2015-005. **FINDING** (Inadequate Control over Equipment)

The Illinois Independent Tax Tribunal (Tribunal) lacked adequate internal control over its State property records and reports, including failing to report a capital asset transaction to the Office of the State Comptroller.

During testing, the auditors noted the following:

- The Tribunal did not report a non-internally generated intangible asset, its web-based Electronic Docketing and Case Management System, valued at \$49,900, to the Office of the State Comptroller during Fiscal Years 2014 and 2015. Consequentially, the Tribunal's Fiscal Year 2014 expenses were overstated, capital asset balance was understated in Fiscal Years 2014 and 2015, and depreciation expense along with the corresponding increase in accumulated depreciation was not recognized in either Fiscal Year 2014 or Fiscal Year 2015.

The Statewide Accounting Management System (SAMS) (Procedure 03.30.30) requires the capitalization of non-internally generated intangible assets if the amount of the asset equals or exceeds \$25,000.

- The auditors identified property items that were not reported on the Tribunal's quarterly property reports (Form C-15s) submitted to the Office of the State Comptroller. These items included:
  - Three equipment items - including a calculator, a flash drive, and the Tribunal's web-based Electronic Docketing and Case Management System - valued at \$49,992 were not reported on the Tribunal's Form C-15s. Of these items, only the calculator was listed on the Tribunal's internal property listing.
  - The auditors noted a photocopier stand, totaling \$200, which was a part of the Tribunal's photocopier that was transferred-in from the Department of Children and Family Services, was not included with the original cost of the photocopier or listed on the Tribunal's internal property listing.

The Illinois Administrative Code (Code) (44 Ill. Admin. Code 5010.220) requires the inventory and reporting of all equipment with an acquisition value of \$500 or more or items with an acquisition value under \$500 subject to theft, including calculators, to the Department of Central Management Services (CMS). Further, the Code (44 Ill. Admin. Code 5010.400) requires the Tribunal adjust its property records within 30 days of a property item's acquisition date.

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2015-005. **FINDING** (Inadequate Control over Equipment) (continued)

Additionally, SAMS (Procedure 29.10.10) requires the Tribunal maintain permanent property control records, which shall include each item's original acquisition cost.

- The Tribunal did not take appropriate measures to verify the completeness and accuracy of the Tribunal's property records. During a walkthrough of the Tribunal's office, the auditors noted various equipment items which were not recorded on the Tribunal's property listing. Tribunal officials noted that while these equipment items were under the control of the Tribunal, these equipment items were actually on loan from CMS. The Tribunal, however, did not have documentation to support these items were on loan from CMS and were not tracking these items to maintain accountability for these items.

The Fiscal Control and Internal Auditing Act (30 ILCS 10/3001) requires the Tribunal establish and maintain a system, or systems, of internal fiscal and administrative controls to provide assurance property is safeguarded against waste, loss, or unauthorized use. Good internal controls include tracking property on loan after documenting the loan agreement between both entities.

The auditors noted the Tribunal submitted revised Form C-15s for Fiscal Years 2014 and 2015 to the Office of the State Comptroller to correct these issues; therefore, the auditors were able to reconcile the Tribunal's revised property listing and revised property reports for the Schedule of State Property at page 39.

The State Property Control Act (30 ILCS 605/4) requires each responsible officer of State government be accountable for the supervision, control, and inventory of all property under its jurisdiction.

Tribunal officials stated these errors were due to oversight and other competing priorities.

Failure to exercise adequate control over property and equipment and maintain accurate property control records increases the potential for errors or other irregularities and possible loss or theft of State property. In addition, inaccurate capital asset reporting reduces the reliability of Statewide capital asset information. (Finding Code No. 2015-005)

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2015-005. **FINDING** (Inadequate Control over Equipment) (continued)

**RECOMMENDATION**

We recommend the Tribunal implement controls to provide assurance capital assets are annually reported to the Office of the State Comptroller, Tribunal equipment items are recorded on its property listing and reported quarterly to the Office of the State Comptroller, and equipment items on loan are documented and tracked to improve accountability for those items.

**TRIBUNAL RESPONSE**

We agree with the Auditor General's recommendation. The proposed accounting adjustment to record a capital asset has been made and the Tax Tribunal's inventory records now accurately reflect its assets, including those on loan to the Tribunal.

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2015-006. **FINDING** (Inadequate Segregation of Duties)

The Illinois Independent Tax Tribunal (Tribunal) did not have adequate segregation of duties over its accounting and recordkeeping functions.

The Tribunal has direct access to input expenditures into the State Comptroller's Statewide Accounting Management System (SAMS), increasing the need for an adequate segregation of duties to mitigate the risk of errors or other irregularities.

During testing, the auditors noted the following:

- For expenditures, the Tribunal's Chief Administrative Officer has the authority to perform all parts of the transaction cycle, including:
  - **Authorization** by reviewing and approving transactions, including having signature authority for all transactions and direct access to SAMS;
  - **Custody** by maintaining electronic and physical records and submitting the expenditure for payment to the State Comptroller;
  - **Recordkeeping** by preparing entries and maintaining the Tribunal's internal accounting records; and,
  - **Reconciliation** by preparing reconciliations to the State Comptroller's records to verify each transaction's validity, proper authorization, and entry into the Tribunal's accounting records.
  
- For receipts, the Tribunal's Chief Administrative Officer has the authority to perform all parts of the transaction cycle, including:
  - **Authorization** by reviewing and approving transactions, including both depositing funds into the State Treasury's clearing accounts and preparing Receipt Deposit Transmittals or Expenditure Adjustment Transmittals;
  - **Custody** by handling and depositing physical checks and money orders and maintaining electronic and physical records;
  - **Recordkeeping** by preparing entries and maintaining the Tribunal's internal accounting records; and,
  - **Reconciliation** by preparing reconciliations to the State Comptroller's records to verify each transaction's validity, proper authorization, and entry into the Tribunal's accounting records.

The auditors did identify two compensating controls: the Chief Administrative Law Judge approves transactions and performs a review of the monthly reconciliations (for additional information, see Finding 2015-007). However, the condition where one person has the authority to perform all functions represents a significant control weakness.

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2015-006. **FINDING** (Inadequate Segregation of Duties) (continued)

The Fiscal Control and Internal Auditing Act (30 ILCS 10/3001) requires the Tribunal establish and maintain a system, or systems, of internal fiscal and administrative controls to provide assurance funds, property, and other assets and resources are safeguarded against waste, loss, unauthorized use, and misappropriation and funds applicable to operations are properly recorded and accounted for to permit the preparation of accounts and reliable financial and statistical reports and to maintain accountability over the State's resources.

Tribunal officials stated the Tribunal's current staff size limits the Tribunal's ability to further segregate duties at this time.

Failure to limit the ability of one person to have the authority to perform all functions of a transaction increases the likelihood a loss from errors or irregularities could occur and would not be found in the normal course of employees carrying out their assigned duties. (Finding Code No. 2015-006)

**RECOMMENDATION**

We recommend the Tribunal implement procedures to limit one person from having the authority to perform all of the functions associated with a transaction.

**TRIBUNAL RESPONSE**

We agree with the Auditor General's recommendation. We have implemented written procedures to limit the authority to perform all functions associated with a deposit transaction. Only judges can approve, take in fees, and note as much in our docket system and on our fee receipts copy. That removes the Chief Administrative Officer who otherwise will deposit and record the fee deposits in the internal accounting records. The Chief Administrative Law Judge will also review the bank deposit slips and reconcile them to the fee receipts copy once a month to insure all receipts are deposited and accounted for.

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2015-007. **FINDING** (Inadequate Control over Reconciliations)

The Illinois Independent Tax Tribunal (Tribunal) did not perform timely reconciliations of the Tribunal's records to the State Comptroller's records.

The Tribunal has direct access to input expenditures into the State Comptroller's Statewide Accounting Management System (System), increasing the need for a timely reconciliation of the data recorded within the System to the Tribunal's internal records to identify errors or other irregularities.

During testing, the auditors noted the following:

- 21 of 48 (44%) reconciliations of the Monthly Appropriation Status Report (SB01) to the Tribunal's records were performed between eight and 161 days after the last day of the subsequent month.
- Nine of 24 (38%) reconciliations of the Object Expense and Expenditures by Quarter Report (SA02) provided each month to the Tribunal's records were performed between 12 and 165 days after the last day of the subsequent month.
- 12 of 20 (60%) reconciliations of the Monthly Cash Report (SB05) to the Tribunal's records were performed between 12 and 137 days after the last day of the subsequent month.
- The Tribunal did not prepare any SB01, SA02, or SB05 reconciliations for its November 2013 or December 2013 activity.
- Eight of 18 (44%) reconciliations of the Monthly Revenue Status Report (SB04) to the Tribunal's records were performed between nine and 132 days after the last day of the subsequent month.

The Statewide Accounting Management System (SAMS) (Procedure 07.30.20) notes "the effectiveness of any accounting and financial information system is very much dependent on the accuracy of data submitted and the confidence of its users that the system handled that data properly. Agency reconciliation is the primary control that insures these requirements are being satisfied." As such, SAMS (Procedures 11.40.20, 25.40.20, 09.40.10, and 07.30.21) establish processes for a monthly reconciliation of the SB01, SB04, SB05, and SA02 reports generated by the Office of the State Comptroller.

Tribunal officials stated the reconciliations were not completed on a timely basis due to limited staff resources.

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2015-007. **FINDING** (Inadequate Control over Reconciliations) (continued)

Failure to properly reconcile the Tribunal's records to the State Comptroller's records in a timely manner represents noncompliance with SAMS and could result in incomplete or inaccurate financial information. (Finding Code No. 2015-007)

**RECOMMENDATION**

We recommend the Tribunal implement controls to reconcile the Tribunal's records to the State Comptroller's reports as soon as possible after the end of each month.

**TRIBUNAL RESPONSE**

We agree with the Auditor General's recommendation. All monthly reconciliations are up to date and future reconciliations will be done within 30 days of the end of each month to insure they are prepared in a timely manner.

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2015-008. **FINDING** (Noncompliance with the Illinois Independent Tax Tribunal Act of 2012)

The Illinois Independent Tax Tribunal (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 Illinois Independent Tax Tribunal Act of 2012 (Act) (35 ILCS 1010/1-40(a)) requires the Tribunal appoint a clerk and reporter.

Tribunal officials stated these positions are not necessary given the Tribunal's current volume of cases and its implementation of an online docketing system with the entire record of each case from filing to final disposition.

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

The Act (35 ILCS 1010/1-35(a)) requires the Tribunal maintain a principal office in both Sangamon County and Cook County.

Tribunal officials stated they have not, to date, experienced a situation that required the physical presence of the Tribunal in Sangamon County.

- The Chief Administrative Law Judge's appointment on February 13, 2015, was only for a four-year term. In addition, the Administrative Law Judge's appointment on April 27, 2015, was only for a term of 2.69 years.

The Act (35 ILCS 1010/1-25(a)) provides the Governor shall appoint a Chief Administrative Law Judge to a five-year term and appoint up to three additional administrative law judges to four-year terms.

Tribunal officials stated the Governor is solely responsible for appointing the Chief Administrative Law Judge and the Administrative Law Judge.

Failure to receive appointments for the statutory term of office, appoint a clerk and reporter, and maintain an office in Sangamon County represents noncompliance with the Act. (Finding Code No. 2015-008)

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2015-008. **FINDING** (Noncompliance with the Illinois Independent Tax Tribunal Act of 2012) (continued)

**RECOMMENDATION**

We recommend 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 RESPONSE**

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 only been open for two and one-half 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 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.

**AUDITOR'S COMMENT**

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.

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2015-009. **FINDING** (Inadequate Control over Annual Reports to the General Assembly)

The Illinois Independent Tax Tribunal (Tribunal) did not accurately prepare or properly file its annual reports with the General Assembly.

During testing, the auditors noted the following:

- The reports contained the following discrepancies and omissions:
  - The number of cases closed in Fiscal Year 2014 was understated by one case and the size of the Tribunal's docket at June 30, 2014, was overstated by one case.
  - The Tribunal did not report the correct amount of dollars in controversy for employment taxes by \$30 in Fiscal Year 2014, which resulted in the Tribunal's report not being mathematically accurate.
  - The Tribunal did not report any dollars in controversy for tobacco products taxes, totaling \$1,844,382, in Fiscal Year 2015. Further, the Tribunal understated the amount of dollars in controversy for employment taxes by \$100 in Fiscal Year 2015. These two errors resulted in the Tribunal's report not being mathematically accurate.

These errors have been corrected in the Caseload Statistics at page 47.

- The Tribunal did not post its Fiscal Year 2014 annual report to its website.
- The Tribunal did not post its Fiscal Year 2015 annual report to its website until October 23, 2015, 22 days late.
- The Tribunal did not file its Fiscal Year 2014 or Fiscal Year 2015 annual report with the President and Minority Leader of the Senate or the Speaker and Minority Leader of the House of Representatives. The Tribunal did, however, file its report with the Secretary of the Senate and the Clerk of the House of Representatives.

The Illinois Independent Tax Tribunal Act of 2012 (35 ILCS 1010/1-85(e)) requires the Tribunal file an annual report by October 1 with the General Assembly on the number of cases opened and closed, cases decided for the taxpayer, cases decided for the Department of Revenue, and cases closed through mediation or settlement. Additionally, the Tribunal must report its docket size, average age of outstanding cases, and the dollar amount of cases by tax type. Good internal controls over compliance include ensuring reports are reviewed and agree to internal records prior to filing the report with external parties.

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2015-009. **FINDING** (Inadequate Control over Annual Reports to the General Assembly)  
(continued)

Further, the General Assembly Organization Act (25 ILCS 5/3.1) requires the Tribunal post all of its reports to the General Assembly for a reasonable amount of time on the Tribunal's website, submit copies of its reports to the President, Minority Leader, and Secretary of the Senate and copies of its reports to the Speaker, Minority Leader, and Clerk of the House of Representatives.

Tribunal officials stated that while they were aware of the requirement to file the annual report with the General Assembly, they were not aware of the filing or posting requirements for its annual reports contained within the General Assembly Organization Act. Further, Tribunal officials indicated the inaccurate reports were due to typographical errors and not due to inaccuracies within the Tribunal's internal records.

Failure to accurately prepare and properly file reports with the General Assembly lessens governmental oversight and represents noncompliance with State law. (Finding Code No. 2015-009)

**RECOMMENDATION**

We recommend the Tribunal implement controls to properly prepare and file reports with the General Assembly.

**TRIBUNAL RESPONSE**

We agree with the Auditor General's recommendation. While the Tax Tribunal timely filed its annual reports with the respective clerks for the Senate and House of Representatives, it will also provide copies to the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House. The Chief Administrative Officer will also review the submission by the Chief Administrative Law Judge for clerical and mathematical errors.

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**COMPLIANCE EXAMINATION**  
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**SUPPLEMENTARY INFORMATION FOR STATE COMPLIANCE PURPOSES**

**SUMMARY**

Supplementary Information for State Compliance Purposes presented in this section of the report includes the following:

- Fiscal Schedules and Analysis:
  - Schedule of Appropriations, Expenditures, and Lapsed Balances – Fiscal Year 2015
  - Schedule of Appropriations, Expenditures, and Lapsed Balances – Fiscal Year 2014
  - Comparative Schedule of Net Appropriations, Expenditures, and Lapsed Balances
  - Schedule of Changes in State Property
  - Comparative Schedule of Cash Receipts and Reconciliation of Cash Receipts to Deposits Remitted to the State Comptroller
  - Analysis of Significant Variations in Expenditures
  - Analysis of Significant Variations in Receipts
  - Analysis of Significant Lapse Period Spending
  
- Analysis of Operations (Not Examined):
  - Tribunal Functions and Planning Program (Not Examined)
  - Average Number of Employees (Not Examined)
  - Service Efforts and Accomplishments (Not Examined)

The accountant's report that covers the Supplementary Information for State Compliance Purposes presented in the Compliance Report Section states the accountants have applied certain limited procedures as prescribed by the Audit Guide as adopted by the Auditor General to the June 30, 2015, and June 30, 2014, accompanying supplementary information in Schedules 1 through 8. However, the accountants do not express an opinion on the supplementary information. The accountant's report also states that they have not applied procedures to the Analysis of Operations Section, and accordingly, they do not express an opinion or provide any assurance on it.

STATE OF ILLINOIS  
ILLINOIS INDEPENDENT TAX TRIBUNAL  
COMPLIANCE EXAMINATION  
**SCHEDULE OF APPROPRIATIONS, EXPENDITURES, AND LAPSED BALANCES**  
Appropriations for Fiscal Year 2015

**SCHEDULE 1**

For the Fourteen Months Ended August 31, 2015

Public Act 98-0679 and Public Act 99-0001	Appropriations	Expenditures Through June 30, 2015	Lapse Period Expenditures July 1 to August 31, 2015	Total Expenditures	Balances Lapsed
<b><u>APPROPRIATED FUNDS</u></b>					
General Revenue Fund - 001					
Lump Sums - Operational Expenses	\$ 785,700	\$ 427,872	\$ 21,114	\$ 448,986	\$ 336,714
Subtotal, General Revenue Fund	<u>\$ 785,700</u>	<u>\$ 427,872</u>	<u>\$ 21,114</u>	<u>\$ 448,986</u>	<u>\$ 336,714</u>
Illinois Independent Tax Tribunal Fund - 169					
Lump Sums - Operational Expenses	\$ 79,400	\$ 608	\$ -	\$ 608	\$ 78,792
Subtotal, Illinois Independent Tax Tribunal Fund	<u>\$ 79,400</u>	<u>\$ 608</u>	<u>\$ -</u>	<u>\$ 608</u>	<u>\$ 78,792</u>
<b>TOTAL - ALL FUNDS, FISCAL YEAR 2015</b>	<u>\$ 865,100</u>	<u>\$ 428,480</u>	<u>\$ 21,114</u>	<u>\$ 449,594</u>	<u>\$ 415,506</u>

Note 1: The data in this schedule was taken from the State Comptroller's records, which was unable to be reconciled to the Tribunal's records (see Finding 2015-001 and Finding 2015-002).

Note 2: Expenditure amounts are vouchers approved for payment by the Tribunal and submitted to the State Comptroller for payment to the vendor.

Note 3: On March 26, 2015, Public Act 99-0001 was signed into law, which reduced the Tribunal's General Revenue Fund appropriation from \$803,800 to \$785,700.

STATE OF ILLINOIS  
ILLINOIS INDEPENDENT TAX TRIBUNAL  
COMPLIANCE EXAMINATION  
**SCHEDULE OF APPROPRIATIONS, EXPENDITURES, AND LAPSED BALANCES**  
Appropriations for Fiscal Year 2014

**SCHEDULE 2**

For the Period from November 18, 2013, through August 31, 2014

Public Act 98-0064	Appropriations	Expenditures Through June 30, 2014	Lapse Period Expenditures July 1 to August 31, 2014	Total Expenditures	Balances Lapsed
<b><u>APPROPRIATED FUNDS</u></b>					
General Revenue Fund - 001					
Lump Sums - Operational Expenses	\$ 437,500	\$ 228,408	\$ 73,297	\$ 301,705	\$ 135,795
Subtotal, General Revenue Fund	<u>\$ 437,500</u>	<u>\$ 228,408</u>	<u>\$ 73,297</u>	<u>\$ 301,705</u>	<u>\$ 135,795</u>
Illinois Independent Tax Tribunal Fund - 169					
Lump Sums - Operational Expenses	\$ 79,400	\$ -	\$ -	\$ -	\$ 79,400
Subtotal, Illinois Independent Tax Tribunal Fund	<u>\$ 79,400</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 79,400</u>
<b>TOTAL - ALL FUNDS, FISCAL YEAR 2014</b>	<u><u>\$ 516,900</u></u>	<u><u>\$ 228,408</u></u>	<u><u>\$ 73,297</u></u>	<u><u>\$ 301,705</u></u>	<u><u>\$ 215,195</u></u>

Note 1: The data in this schedule was taken from the State Comptroller's records, which was unable to be reconciled to the Tribunal's records (see Finding 2015-001 and Finding 2015-002).

Note 2: Expenditure amounts are vouchers approved for payment by the Tribunal and submitted to the State Comptroller for payment to the vendor.

Note 3: The Tribunal was established on November 18, 2013.

STATE OF ILLINOIS  
ILLINOIS INDEPENDENT TAX TRIBUNAL  
COMPLIANCE EXAMINATION  
**COMPARATIVE SCHEDULE OF NET APPROPRIATIONS,  
EXPENDITURES, AND LAPSED BALANCES**  
For the Fiscal Year Ended June 30,

**SCHEDULE 3**

	Fiscal Year	
	2015	2014
	P.A. 98-0679 P.A. 99-0001	P.A. 98-0064
<b>APPROPRIATED FUNDS</b>		
<b>General Revenue Fund - 001</b>		
Appropriations	\$ 785,700	\$ 437,500
<u>Expenditures</u>		
Lump Sums - Operational Expenses	\$ 448,986	\$ 301,705
Total General Revenue Fund Expenditures	\$ 448,986	\$ 301,705
Lapsed Balances	\$ 336,714	\$ 135,795
<b>Illinois Independent Tax Tribunal Fund - 169</b>		
Appropriations	\$ 79,400	\$ 79,400
<u>Expenditures</u>		
Lump Sums - Operational Expenses	\$ 608	\$ -
Total Illinois Independent Tax Tribunal Fund Expenditures	\$ 608	\$ -
Lapsed Balances	\$ 78,792	\$ 79,400
<b>TOTAL - APPROPRIATED FUNDS</b>		
Total Appropriations	\$ 865,100	\$ 516,900
Total Appropriated Expenditures	\$ 449,594	\$ 301,705
Total Lapsed Balances	\$ 415,506	\$ 215,195

- Note 1: The data in this schedule was taken from the State Comptroller's records, which was unable to be reconciled to the Tribunal's records (see Finding 2015-001 and Finding 2015-002).
- Note 2: Expenditure amounts are vouchers approved for payment by the Tribunal and submitted to the State Comptroller for payment to the vendor.
- Note 3: On March 26, 2015, Public Act 99-0001 was signed into law, which reduced the Tribunal's Fiscal Year 2015 General Revenue Fund appropriation from \$803,800 to \$785,700.
- Note 4: The Tribunal was established on November 18, 2013.

STATE OF ILLINOIS  
 ILLINOIS INDEPENDENT TAX TRIBUNAL  
 COMPLIANCE EXAMINATION  
**SCHEDULE OF CHANGES IN STATE PROPERTY**  
 For the Period from November 18, 2013, through June 30, 2015

**SCHEDULE 4**

		Equipment
Balance at November 18, 2013	\$	-
Additions		50,612
Deletions		-
Net Transfers		3,690
Balance at June 30, 2014	\$	54,302
Balance at July 1, 2014	\$	54,302
Additions		185
Deletions		-
Net Transfers		-
Balance at June 30, 2015	\$	54,487

Note 1: This schedule has been derived from the Tribunal's records, which were reconciled to revised property reports submitted to the Office of the State Comptroller (see Finding 2015-005).

Note 2: The Tribunal has various property items throughout its offices not recorded on its listing that the Tribunal stated were on loan from the Department of Central Management Services (see Finding 2015-005).

STATE OF ILLINOIS SCHEDULE 5  
ILLINOIS INDEPENDENT TAX TRIBUNAL  
COMPLIANCE EXAMINATION  
**COMPARATIVE SCHEDULE OF CASH RECEIPTS AND RECONCILIATION OF  
CASH RECEIPTS TO DEPOSITS REMITTED TO THE STATE COMPTROLLER**  
For the Fiscal Year Ended June 30,

	Fiscal Year	
Illinois Independent Tax Tribunal Fund - 169	2015	2014
Filing Fees	\$ 124,000	\$ 55,500
Total Receipts - Fund 169	\$ 124,000	\$ 55,500
Receipts, per Agency Records	\$ 124,000	\$ 55,500
Add: Deposits in Transit, Beginning of the Fiscal Year	8,000	-
Subtract: Deposits in Transit, End of the Fiscal Year	3,500	8,000
Deposits, Recorded by the State Comptroller	\$ 128,500	\$ 47,500
<b>GRAND TOTAL - ALL FUNDS</b>		
Total Cash Receipts, per Agency Records	\$ 124,000	\$ 55,500
Add: Deposits in Transit, Beginning of the Fiscal Year	8,000	-
Subtract: Deposits in Transit, End of the Fiscal Year	3,500	8,000
Total Deposits, Recorded by the State Comptroller	\$ 128,500	\$ 47,500

Note 1: The Tribunal was established on November 18, 2013.

Note 2: The Tribunal did not properly handle cash receipts from incorrectly filed petitions in accordance with State law, as noted in Finding 2015-004.

STATE OF ILLINOIS  
ILLINOIS INDEPENDENT TAX TRIBUNAL  
COMPLIANCE EXAMINATION  
**ANALYSIS OF SIGNIFICANT VARIATIONS IN EXPENDITURES**  
For the Period from November 18, 2013, through June 30, 2015

**SCHEDULE 6**

**ANALYSIS OF SIGNIFICANT VARIATIONS IN EXPENDITURES BETWEEN FISCAL YEARS 2015 AND 2014**

**General Revenue Fund - 001**

Operational Expenses

The increase in expenditures was due to the Tribunal incurring a full year of costs in Fiscal Year 2015 as opposed to the Tribunal incurring approximately one-half of a year in costs during Fiscal Year 2014. The lower level of expenditures during Fiscal Year 2014 was due to the Tribunal beginning operations on November 18, 2013.

**Illinois Independent Tax Tribunal Fund - 169**

Operational Expenses

The increase in expenditures was due to the Tribunal paying some of its non-payroll operational expenses from the Illinois Independent Tax Tribunal Fund as opposed to the General Revenue Fund at the conclusion of Fiscal Year 2015. During Fiscal Year 2014, the Tribunal did not pay any operational costs from the Illinois Independent Tax Tribunal Fund (see Finding 2015-001).

STATE OF ILLINOIS  
ILLINOIS INDEPENDENT TAX TRIBUNAL  
COMPLIANCE EXAMINATION  
**ANALYSIS OF SIGNIFICANT VARIATIONS IN RECEIPTS**  
For the Period from November 18, 2013, through June 30, 2015

**SCHEDULE 7**

**ANALYSIS OF SIGNIFICANT VARIATIONS IN RECEIPTS BETWEEN FISCAL YEARS 2015 AND 2014**

**Illinois Independent Tax Tribunal Fund - 169**

Filing Fees

The increase in receipts was due to the Tribunal receiving petitions over all of Fiscal Year 2015 as opposed to receiving petitions for only half of a year during Fiscal Year 2014. The Tribunal began accepting petitions on January 1, 2014.

STATE OF ILLINOIS  
ILLINOIS INDEPENDENT TAX TRIBUNAL  
COMPLIANCE EXAMINATION  
**ANALYSIS OF SIGNIFICANT LAPSE PERIOD SPENDING**  
For the Period from November 18, 2013, through June 30, 2015

**SCHEDULE 8**

**FISCAL YEAR 2015**

There were no instances of significant Lapse Period spending by the Tribunal during Fiscal Year 2015.

**FISCAL YEAR 2014**

**General Revenue Fund - 001**

Operational Expenses

The significant Lapse Period spending is primarily due to the Tribunal receiving and paying an invoice from the Department of Central Management Services (CMS) during the Lapse Period. This invoice was to reimburse CMS for the purchase of the Tribunal's Electronic Docketing and Case Management Software (see Finding 2015-001).

STATE OF ILLINOIS  
ILLINOIS INDEPENDENT TAX TRIBUNAL  
COMPLIANCE EXAMINATION  
**TRIBUNAL FUNCTIONS AND PLANNING PROGRAM**  
For the Period from November 18, 2013, through June 30, 2015

(NOT EXAMINED)

Tribunal Functions

The Illinois Independent Tax Tribunal (Tribunal) was established by the Illinois Independent Tax Tribunal Act of 2012 (35 ILCS 1010) on November 18, 2013. The Tribunal began accepting petitions from taxpayers on January 1, 2014.

The Tribunal was created to increase public confidence in the fairness of the State's tax system. A major component of 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. To achieve this objective, the Tribunal conducts administrative hearings to adjudicate disputes prior to the taxpayer being required to pay the disputed amount.

The Tribunal, an independent agency of the State of Illinois, functions as an administrative law court under the executive branch of government. The Tribunal's hearings are open to the public and all court documents, including documents filed by taxpayers or the Department of Revenue and the Tribunal's orders for each case, are posted on the web at [www.illinois.gov/taxtribunal](http://www.illinois.gov/taxtribunal). The Tribunal's limited jurisdiction only arises when both of these two conditions are satisfied:

- 1) The Department of Revenue has issued a Notice of Deficiency, Notice of Tax Liability, Notice of Claim Denial, or Notice of Penalty Liability to a taxpayer when either:
  - the aggregate amount of a tax year or audit period exceeds \$15,000, exclusive of interest and penalties; or,
  - the aggregate total of interest and penalties exceeds \$15,000 in cases assessing only interest and/or penalties.
- 2) The Notice of Deficiency, Notice of Tax Liability, Notice of Claim Denial, or Notice of Penalty Liability involves one of the following tax statutes:

1) Illinois Income Tax Act	12) Cigarette Tax Act
2) Use Tax Act	13) Cigarette Use Tax Act
3) Service Use Tax Act	14) Tobacco Products Tax Act of 1995
4) Service Occupation Tax Act	15) Hotel Operators' Occupation Tax Act
5) Retailers' Occupation Tax Act	16) Electricity Excise Tax Law
6) Public Utilities Revenue Act	17) Aircraft Use Tax Law
7) Motor Fuel Tax Law	18) Watercraft Use Tax Law
8) Gas Revenue Tax Act	19) Uniform Penalty and Interest Act
9) Gas Use Tax Law	20) Telecommunications Excise Tax Act
10) Water Company Invested Capital Tax Act	21) Telecommunications Infrastructure Maintenance Fee Act
11) Automobile Renting Occupation and Use Tax Act	22) Coin-Operated Amusement Device and Redemption Machine Tax Act

STATE OF ILLINOIS  
ILLINOIS INDEPENDENT TAX TRIBUNAL  
COMPLIANCE EXAMINATION  
**TRIBUNAL FUNCTIONS AND PLANNING PROGRAM**  
For the Period from November 18, 2013, through June 30, 2015

(NOT EXAMINED)

Planning Program

The Tribunal does not have a formal written planning policy. The Tribunal's administrative law judges meet on an as-needed basis to monitor the Tribunal's operations, prepare and review internal statistical reports, and monitor the current status of petitions. Additionally, the Chief Administrative Law Judge and Chief Administrative Officer will prepare a proposed annual budget for submission to the Governor's Office of Management and Budget and the General Assembly.

The Tribunal has codified its procedural rules within the Illinois Administrative Code at 86 Ill. Admin. Code 5000. Each year, the Chief Administrative Law Judge reviews proposed changes to the Tribunal's administrative rules and procedures with the Chicago Bar Association's State and Local Tax Committee, the Illinois State Bar Association's State and Local Tax Committee, and the Tax Federation of Illinois. When new administrative rules need to be implemented, proposed administrative rule changes are submitted to the Joint Committee on Administrative Rules for ultimate approval and publication by the Secretary of State in the Illinois Register.

STATE OF ILLINOIS  
 ILLINOIS INDEPENDENT TAX TRIBUNAL  
 COMPLIANCE EXAMINATION  
**AVERAGE NUMBER OF EMPLOYEES**  
 For the Period from November 18, 2013, through June 30, 2015

(NOT EXAMINED)

The following table, prepared from the Tribunal's records, presents the average number of employees, by function, for the Fiscal Year Ended June 30,

<u>Division</u>	<u>2015</u>	<u>2014</u>
<i>Judges</i>		
Chief Administrative Law Judge	1	1
Administrative Law Judge	1	1
<i>Administrative Services</i>		
Chief Administrative Officer	1	1
Clerk	0	0
Reporter	0	0
<b>Total Full-Time Equivalent Employees</b>	<u><u>3</u></u>	<u><u>3</u></u>

STATE OF ILLINOIS  
ILLINOIS INDEPENDENT TAX TRIBUNAL  
COMPLIANCE EXAMINATION  
**SERVICE EFFORTS AND ACCOMPLISHMENTS**  
For the Period from November 18, 2013, through June 30, 2015

(NOT EXAMINED)

Caseload Statistics

	<u>Fiscal Year 2015</u>	<u>Fiscal Year 2014</u>
Open Cases, July 1.....	109	-
Cases Opened.....	270	118
Closed Cases.....	(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
Resolved Cases		
Cases Decided for the Taxpayer.....	-	-
Cases Decided for the Department of Revenue.....	-	-
Cases Resolved by Mediation or Settlement.....	33	1

Note 1: As the Tribunal began accepting cases on January 1, 2014, the Fiscal Year 2014 column only covers six months.

Note 2: This schedule reflects corrections for the errors noted in Finding 2015-009.

Note 3: The resolved cases numbers does not reflect cases on appeal until all successive appellate activity on the case has ceased.