

**ILLINOIS INDEPENDENT TAX TRIBUNAL
COMPLIANCE EXAMINATION
For the Two Years Ended June 30, 2019**

EXPENDITURE STATISTICS	2019	2018	2017
Total Expenditures.....	\$ 569,397	\$ 494,845	\$ 440,593
OPERATIONS TOTAL.....	\$ 569,397	\$ 494,845	\$ 440,593
% of Total Expenditures.....	100.0%	100.0%	100.0%
Personal Services.....	491,963	389,174	392,190
Other Payroll Costs (FICA, Retirement).....	34,158	63,887	25,618
All Other Operating Expenditures.....	43,276	41,784	22,785
Total Receipts.....	\$ 94,086	\$ 70,000	\$ 90,304
Average Number of Employees.....	4	3	3

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

**FINDINGS, CONCLUSIONS, AND
RECOMMENDATIONS**

INADEQUATE CONTROL OVER FILING FEES

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

Tribunal returns checks received with an improper petition through the mail

During testing, we noted the Tribunal receives petitions that are either immediately dismissed or dismissed with the ability to amend and refile. In either scenario, the Tribunal returns the petitioner's original \$500 check or money order to the taxpayer through the mail. The Tribunal's records indicated this occurred 23 times during Fiscal Year 2018 and 19 times during Fiscal Year 2019.

We noted the following noncompliance related to this process:

Refunds were not processed through the voucher-warrant process

- The Tribunal did not process refunds, defined as repayments of fees paid in excess or in error to the State, through the standard voucher-warrant process.

Lacked appropriation authority to pay refunds

- The Tribunal did not have appropriation authority within the Illinois Independent Tax Tribunal Fund to pay refunds due to taxpayers in either Fiscal Year 2018 or Fiscal Year 2019.

Treasurer's Drafts were not remitted timely

We also noted the Tribunal did not timely remit Treasurer's Drafts related to properly filed petitions to the Office of the Comptroller. Five of 60 (8%) Receipt Deposit Transmittals (RDTs) tested, totaling \$2,500, were not submitted to the Comptroller within a reasonable timeframe upon receipt of the Treasurer's Draft. They were submitted between 2 and 22 days late. We determined 30 days to be a reasonable timeframe. (Finding 1, pages 10-11)

We recommended the Tribunal pay refunds through the State's voucher-warrant process and request an appropriation to pay refunds due. We also recommended the Tribunal timely remit Treasurer's Drafts.

Tribunal officials stated:

Tribunal partially disagrees

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 statute. The tax Tribunal has a written policy for when a petition is initially rejected for being deficient. If a petition cannot be accepted, any accompanying check will not be accepted as well and will be immediately returned to the petitioner. The fact a check is returned in a case that is not accepted is noted in the

case order dismissing the case as well as in our internal docket system and our monthly fee/deposits reconciliations spreadsheets.

We agree with the Auditor General's recommendation to timely submit RDT's to the Comptroller. Certain RDT's that were untimely were due to a conflict with timing on non-negotiable drafts and receipt batching. The conflict is now known to us.

Accountant's Comment

In an accountant's comment, we stated 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. To be received is commonly defined as "to be given, presented with, or paid," and our position is the Tribunal has received a receipt when the mail is opened and a check or money order is located with the incomplete petition. Currently, the State Officers and Employees Money Disposition Act requires the Tribunal to deposit the entire remittance into the State Treasury.

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

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

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

During testing, we noted the following:

No office in Sangamon County

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

Clerk and reporter not appointed

- The Tribunal did not appoint a clerk or reporter.

Authentication of electronic submissions or legal signatures not established

- The Tribunal has not established requirements for the authentication of electronic submissions or legal signatures. (Finding 2, pages 12-13)

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

Tribunal officials stated:

Tribunal disagrees

We do not agree with the Auditor General's recommendation. The Tax Tribunal will not hire additional employees, request that additional judges be appointed, or secure additional permanent office space in Springfield until the need arises and the related costs can be justified. The Tax Tribunal has been open for almost seven years and the statutorily mandated size of the office was a projection done prior to its operations commencing. The General Assembly has been advised through the Tax Tribunal's yearly budget submissions and in budget hearings as to the Tribunal's current and potential future staffing and facility needs. Moreover, our budget appropriations have been reduced to allow for a minimal budget to operate just our one office and with no additional hires. A legislative remedy to change the language of the statute should not be done at this time as being unduly burdensome and unnecessary as a stand-alone piece of legislation, but a legislative remedy will be sought when other legislative remedies or legislative enactments are being sought by the Tax Tribunal in the future.

Electronic signatures are not necessary to authenticate electronic submissions. Filings are typically submitted by the parties by email with expected addresses, reducing the need for further verification. No one is allowed to post any court submission directly to the Tax Tribunal's docket system as only the judges, after reviewing a proposed filing, post the proposed filing to the docket. All parties' public court filings and the Tax Tribunal's orders/decisions are posted on the Tax Tribunal's website so any false filing would be immediately noticeable to the parties and the court. As with the other sections of the Tax Tribunal statute listed in this finding that were enacted prior to the Tax Tribunal conducting operations, we will seek to delete this irrelevant statutory requirement through a legislative remedy when it is necessary to seek a legislative remedy to address a relevant component of the Tax Tribunal's operations.

Accountant's Comment

In an accountant's comment, we noted that, per the finding, the General Assembly mandated the Tribunal to have a principal office in Sangamon County and required the Tribunal to appoint both a reporter and a clerk to perform certain duties at the Tribunal. The primary responsibility of State agencies is to administer the functions given to them by the General Assembly in accordance with State law, as written. If the Tribunal believes compliance with a statute would result in an imprudent use of State resources, the Tribunal should seek a legislative remedy. In addition, if the Tribunal believes electronic signatures are not necessary and irrelevant to its operations, the Tribunal should seek a legislative remedy.

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

OTHER FINDINGS

The remaining findings pertain to weaknesses in cybersecurity programs and practices and lack of due diligence over ERP transition. We will review the progress the Tribunal's progress towards the implementation of our recommendations in our next compliance examination.

ACCOUNTANT'S OPINION

The accountants conducted a compliance examination of the Tribunal for the two years ended June 30, 2019, as required by the Illinois State Auditing Act. The accountants qualified their report on State compliance for Finding 2019-001. Except for the noncompliance described in this finding, the accountants stated the Tribunal complied, in all material respects, with the requirements described in the report.

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

SIGNED ORIGINAL ON FILE

JANE CLARK
Division Director

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

SIGNED ORIGINAL ON FILE

FRANK J. MAUTINO
Auditor General

FJM:sdw