

**2005-2007 BIENNIAL REPORT OF THE
WISCONSIN TAX APPEALS COMMISSION**

As required by Wis. Stat. § 15.04(1)(d), this is the report on the operation of the Wisconsin Tax Appeals Commission for the 2005-2007 biennium.

ORGANIZATION

The Tax Appeals Commission is an independent state agency. Its organization, powers, duties, and functions are governed by Chapter 73 of the Wisconsin Statutes. Pursuant to Wis. Stat. § 15.03, budgeting, program coordination, and related management functions are performed by the Commission, under the general direction and supervision of the Secretary of the Department of Administration.

The Commission consists of three full-time commissioners who are nominated by the Governor, with the advice and consent of the State Senate, for staggered six-year terms. Every two years, one of the commissioners is designated Chairperson by the Governor. The Commissioners and the expiration of their terms of office during the 2005-2007 biennium are as follows:

<u>Commissioner</u>	<u>Expiration of Term</u>
Diane E. Norman (Acting Chairperson)	March 1, 2013
David C. Swanson	March 1, 2011
vacancy ¹	March 1, 2009

At the start of the 2005-2007 biennium, the support staff of the Commission consisted of the following employees in the classified service:

<u>Employees</u>	<u>Classification</u>
Evie J. Schwartzlow	Legal Assistant
Darlene R. Skolaski	Clerk/Receptionist/ Scheduling Assistant

¹ Jennifer E. Nashold served as Chairperson during this biennium until her resignation in 2007.

After the retirements of the Legal Assistant and Clerk/Receptionist/Scheduling Assistant, the duties and responsibilities of the classified service support staff were restructured as follows:

<u>Employees</u>	<u>Classification</u>	<u>Working Titles</u>
Nancy Batz Bonnie Jorstad	Operations Program Associate (A) Office Associate	Legal Assistant Clerk/Receptionist/ Scheduling Assistant

FUNCTIONS

The Tax Appeals Commission (preceded by the Board of Tax Appeals), created in 1939, is a quasi-judicial state agency whose primary function is to hear and determine disputes between taxpayers and the Wisconsin Departments of Revenue and Transportation. As such, it operates much as the United States Tax Court does on the federal level.

Pursuant to the provisions of Wis. Stat. § 73.01(4), and subject to judicial review, the Commission is the final authority for the hearing and determination of all questions of fact and law arising in the following areas of state taxation: individual income, corporation franchise/income, fiduciary, withholding, gift, sales and use, recycling surcharge, county sales tax, car line, cigarette use, controlled substances, metalliferous minerals occupation, motor fuel and alternative fuel, International Registration Plan fees, intoxicating liquor, cigarettes and tobacco products, homestead credit, farmland preservation credit, assessments of manufacturing property, pollution abatement, taxation district appeals regarding the relative value of taxable property in taxation districts of a county, real estate transfer fees, telephone license fees, and electric cooperative association license fees.

Whenever practical, the Commission schedules hearings at locations convenient to taxpayers throughout Wisconsin. Though the majority of hearings are in Madison and Milwaukee, the Commission also utilizes locations in Appleton, Ashland, Black River Falls, Eau Claire, Fond du Lac, Green Bay, Kenosha, La Crosse, Oshkosh, Racine, Superior, Whitehall, Waukesha, and Wausau. Budgetary constraints in the next biennium may necessitate holding more hearings in Madison and having taxpayers travel further distances to meet the personal appearance requirements of the statutes.

The Commission does, on occasion, conduct hearings by telephone, if a taxpayer lives out-of-state or is handicapped and unable to attend a hearing. This procedure saves time and expense for taxpayers and the State. Hearings are typically conducted by one commissioner. Other than Small Claims appeals, decisions are made by a

majority of the Commission, after discussion and review of the evidence and briefs submitted by the parties.

CASE LOAD

The following is a comparison of the number of appeals filed and disposed of in the last five fiscal years:

<u>Fiscal Year</u>	<u>Filed</u>	<u>Disposed</u>
2006-07	256	342
2005-06	305	724
2004-05	278	495
2003-04	326	686
2002-03	505	304

The following table shows the type of appeals filed during the 2005-2007 biennium:

<u>Type of Appeal</u>	<u>FY '05-06 Number</u>	<u>FY '06-07 Number</u>
(I) Income and Franchise Tax	196	117
(S) Sales and Use Tax	26	55
(M) Manufacturing Assessments	45	54
(H) Homestead Credit	27	12
(T) Real Estate Transfer Fee	1	5
(V) Vehicle	0	2
(W) Withholding Tax	10	4
(D) Controlled Substances	0	0
(F) Farmland Preservation Credit	0	0
(R) Recycling Surcharge	0	0
(U) Utility	0	0
(O) Other	0	0
(X) Event Tax	0	2
Total	305	256

MANAGEMENT OF APPEALS

During the 2005-2007 biennium, the number of appeals pending before the Commission has remained consistent. The following table shows, by month, the number of appeals filed, the number of appeals disposed of, and the balance of appeals on hand:

<u>Month</u>	<u>FY '05-06</u>			<u>FY '06-07</u>		
	<u>Filed</u>	<u>Disposed</u>	<u>Balance</u>	<u>Filed</u>	<u>Disposed</u>	<u>Balance</u>
June ('05)			807			355*
July	18	22	803	23	22	356
August	21	49	775	20	34	342
September	15	28	762	22	30	334
October	18	44	736	14	39	309
November	25	24	737	20	15	314
December	33	19	751	18	16	316
January	27	19	759	14	27	303
February	41	13	787	26	25	304
March	28	366	449	12	32	284
April	23	49	423	22	36	270
May	36	34	425	51	20	301
June	20	57	388	14	46	269

* actual physical dockets counted 6/30/06

GOALS AND OBJECTIVES

Appeals filed with the Commission continue to range from relatively simple, straightforward cases to cases involving complex legal issues, which often present questions of first impression and voluminous factual records. The Commission has continued to be flexible in presiding over appeals on a case-by-case basis, utilizing different procedures for the various types of appeals it handles.

Past experience indicates that the Commission's caseload is increasingly dominated by the more complicated appeals, which require an expenditure of a greater amount of time and resources to resolve. In those appeals, the Commission has implemented procedures such as pretrial mediation conferences to narrow the focus at trial and to reduce the number of disputes over tangential factual issues. In order to advance consideration of the substantive issues, it has also made an effort to promptly resolve any non-dispositive disputes, such as discovery or evidentiary motions.

The Commission believes that taxpayers in the less complicated, more straightforward appeals are entitled to prompt resolution of their appeals. To that end, the procedures in certain small claims cases have been changed in order to expedite consideration of those appeals.

The Commission devoted a considerable amount of time to federal retiree appeals during this biennium. The Commission disposed of the last remaining federal retiree appeals during 2007.

In response to the budget reductions mandated by 2001 Wisconsin Act 16, the Commission's Office Management Supervisor position was eliminated. There was a reallocation of duties among the three remaining classified service positions and the Commission Chairperson. The duties were again redistributed following the resignation of the Office Management Specialist and the elimination of the position in 2003 Wisconsin Act 33. The Commission has automated certain functions such as calendaring and scheduling, and the preparation of hearing transcripts has been contracted out.

The Commission has only two remaining support staff, and budgetary concerns prohibit adding staff. Therefore, the issues of flexible work hours or alternative work patterns have not been addressed.

Despite the challenges presented by budget and staff reductions, the Commission remains committed to providing Wisconsin taxpayers with a fair, impartial, and thorough consideration of their tax appeals.

WISCONSIN TAX APPEALS COMMISSION

Diane E. Norman, Acting Chairperson