

**2003-2005 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 2003-2005 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 Chairperson of 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 2001-2003 bienniums were as follows:<sup>1</sup>

<b><u>Commissioner</u></b>	<b><u>Expiration of Term</u></b>
Don M. Millis (Chairperson) <sup>2</sup>	March 1, 2005
Thomas M. Boykoff <sup>3</sup>	March 1, 2007
Jennifer E. Nashold (Chairperson) <sup>4</sup>	March 1, 2009
Diane E. Norman <sup>5</sup>	March 1, 2007
Gerald Kleczka <sup>6</sup>	March 1, 2011
David C. Swanson <sup>7</sup>	March 1, 2011

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<sup>1</sup> During the period June 16, 2004 through September 30, 2004, Peter Anderson was authorized to act as a Commissioner during Commissioner Nashold's leave.

<sup>2</sup> Resigned from the Commission in July 2004.

<sup>3</sup> Resigned from the Commission in May 2004.

<sup>4</sup> Appointed to the Commission in May 2004 and appointed Chairperson in November 2004.

<sup>5</sup> Appointed to the Commission in December 2004.

<sup>6</sup> Resigned from the Commission on March 21, 2005.

<sup>7</sup> Appointed to the Commission on June 15, 2005 and began serving term on August 1, 2005.

During the 2003-2005 bienniums, the support staff of the Commission consisted of the following two employees in the classified service:

<u>Employee</u>	<u>Classification</u>	<u>Working Title</u>
Evie J. Schwartzlow	Program Assistant 3	Legal Assistant
Darlene R. Skolaski	Program Assistant 3	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. The majority of hearings are in Madison and Milwaukee, but the Commission occasionally 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>
2004-05	278	495
2003-04	326	686
2002-03	505	304
2001-02	274	198
2000-01	256	334

The following table shows the type of appeals filed during the 2003-2005 biennium:

<u>Type of Appeal</u>	<u>FY '03-04 Number</u>	<u>FY '04-05 Number</u>
Income and Franchise Tax	182	123
Sales and Use Tax	37	34
Manufacturing Assessments	56	68
Homestead Credit	35	26
Real Estate Transfer Fee	7	11
Vehicle	0	2
Withholding Tax	8	12
Controlled Substances	0	0
Farmland Preservation Credit	0	0
Recycling Surcharge	0	0
Utility	0	0
Equalization	1	2
Other	0	0
Total	<u>326</u>	<u>278</u>

## MANAGEMENT OF APPEALS

During the 2003-2005 bienniums, the number of appeals pending before the Commission decreased from 1,384 to 807. A significant factor in this decrease was the resolution of appeals involving federal retirees. 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 '03-04</u>			<u>FY '04-05</u>		
	<u>Filed</u>	<u>Disposed</u>	<u>Balance</u>	<u>Filed</u>	<u>Disposed</u>	<u>Balance</u>
June			1,384			1,024
July	28	20	1,392	19	23	1,020
August	27	22	1,397	38	17	1,041
September	26	31	1,392	15	28	1,028
October	20	29	1,383	18	80	966
November	8	19	1,372	13	34	945
December	52	21	1,403	71	25	991
January	26	33	1,396	19	16	994
February	27	322	1,101	15	23	986
March	30	24	1,107	17	183	820
April	28	30	1,105	23	27	816
May	32	18	1,119	17	21	812
June	22	117	1,024	13	18	807

## GOALS AND OBJECTIVES

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

During this biennium, the Commission's caseload was increasingly dominated by the more complicated appeals, which required an expenditure of a greater amount of time and resources to resolve. In those appeals, the Commission 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 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 were changed in order to expedite consideration of those appeals.

The Commission continued to devote a considerable amount of time to the federal retiree appeals. It is expected that in the next biennium, a concerted effort by the Commission will result in the disposition of most of the more than 1,000 pending cases relating to the various issues within those appeals.

The Commission has only two 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**

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David C. Swanson, Commissioner