

**2017-2019 BIENNIAL REPORT OF THE
WISCONSIN TAX APPEALS COMMISSION**

As required by Wis. Stat. § 15.04(1)(d), the following is the report on the operation of the Wisconsin Tax Appeals Commission for the 2017-2019 biennium.

ORGANIZATION

The purpose of the Tax Appeals Commission is to hear and decide disputes between persons or entities and the Department of Revenue involving all major, state-imposed taxes. The 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, the Governor designates one of the commissioners as Chairperson. During the 2017-19 biennium, the Commissioners and the expiration of their terms of office were as follows:

<u>Commissioner</u>	<u>Expiration of Term</u>
David L. Coon	March 1, 2021
Lorna Hemp Boll	March 1, 2023
Elizabeth Kessler, Chair	March 1, 2025

David L. Coon was appointed to the Commission effective March 7, 2016. Lorna Hemp Boll remains on the Commission with reappointment effective March 1, 2017. Commissioner Hemp Boll was designated as the Commission Chairperson from the beginning of the 2017-2019 biennium through March 5, 2019. Commissioner David D. Wilmoth's term ended on March 1, 2019 resulting in a vacancy. Elizabeth Kessler was appointed to the Commission and designated as the Chairperson, effective March 6, 2019.

Throughout the 2017-2019 biennium, the support staff of the Commission consisted of the following employees in the classified service:

<u>Employee</u>	<u>Classification/Title</u>
Nancy Batz	Legal Associate
Bonnie Jorstad	Legal Secretary

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, municipal fees, and electric cooperative association license fees.

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 along with any testimony heard by the Commission.

Although the majority of hearings take place in Madison and Milwaukee, the Commission also utilizes locations convenient to taxpayers throughout Wisconsin as warranted. The Commission does, on occasion, conduct hearings by telephone, if a taxpayer lives out-of-state, is handicapped, or is otherwise unable to attend a hearing. This procedure saves time and expense for taxpayers and the State.

Budgetary constraints in the next biennium may necessitate holding more hearings by telephone. In the alternative, more hearings may need to take place in Madison, which may require taxpayers to travel greater distances to meet the personal appearance requirements of the statutes.

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>
2018-2019	325	243
2017-2018	252	291
2016-2017	312	295
2015-2016	256	242
2014-2015	243	333

The following table shows a breakdown by case type of the appeals filed with the Commission during the 2017-2019 biennium:

<u>Type of Appeal</u>	<u>FY '17-18 Number</u>	<u>FY '18-19 Number</u>
(I) Income and Franchise Tax	121	106
(S) Sales and Use Tax	15	16
(M) Manufacturing Assessments	83	147
(H) Homestead Credit	15	24
(T) Real Estate Transfer Fee	12	14
(V) Vehicle	0	3
(W) Withholding Tax	6	13
(L) Liquor excise Tax	0	0
(C) Cigarette Tax	0	1
(F) Farmland Preservation Credit	0	0
(E) Equalization	0	0
(R) Recycling Surcharge	0	0
(U) Utility	0	0
(O) Other	0	0
(P) Premiere Resort	0	0
(X) Event Tax	0	0
(J) Declaratory Judgment	0	0
(Y) Municipal Fee	0	4
Total	252	325

MANAGEMENT OF APPEALS

During the 2017-2019 biennium, the number of appeals pending before the Commission has remained relatively 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 '17-18</u>			<u>FY '18-19</u>		
	<u>Filed</u>	<u>Disposed</u>	<u>Balance</u>	<u>Filed</u>	<u>Disposed</u>	<u>Balance</u>
June			311			282
July	19	8	322	10	8	276
August	11	53	280	23	18	281
September	13	58	235	13	12	282
October	11	20	226	19	24	277
November	13	28	211	38	14	301
December	30	16	225	25	13	313
January	31	27	229	20	29	304
February	28	15	242	20	22	302
March	29	10	261	47	26	323
April	29	18	272	63	23	363
May	24	8	288	35	26	372
June	14	20	282	12	20	364

GOALS AND OBJECTIVES

Appeals filed with the Commission continue to range from relatively simple, straightforward cases to cases involving complex legal issues. The majority of new cases concern income tax, manufacturing property assessments, and homestead credits. There are also a number of cases involving withholding, sales/use tax, and real estate transfer taxes. Fewer new cases fall into the other categories.

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. The Commission's caseload is increasingly dominated by the more complex appeals which often present questions of first impression and voluminous factual records and therefore require an expenditure of a greater amount of time and resources to resolve. In those appeals, the Commission utilizes 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, the Commission has also made an effort to resolve non-dispositive disputes, such as discovery or evidentiary motions, as promptly as possible.

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 call for rulings on those appeals to be made within a shorter time frame than is allowed for larger more complex appeals. With the consent of the parties, some decisions may be made orally from the bench.

The Commission has only two support staff at this time, and budgetary concerns prohibit adding staff, although the addition of a law clerk to assist with legal research would almost certainly result in more expedient resolution of cases. Despite the challenges presented by budget and small staff size, the Commission continues to meet its responsibilities for consideration and ruling on the appeals before it and remains committed to providing Wisconsin taxpayers with a fair, impartial, and thorough consideration of their tax appeals.

WISCONSIN TAX APPEALS COMMISSION



Elizabeth Kessler, Chair