

Audit Report

Maryland Tax Court

April 2010



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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Karl S. Aro
Executive Director

DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Bruce A. Myers, CPA
Legislative Auditor

April 6, 2010

Senator Verna L. Jones, Co-Chair, Joint Audit Committee
Delegate Steven J. DeBoy, Sr., Co-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We have audited the Maryland Tax Court (MTC) for the period beginning February 1, 2007 and ending February 2, 2010. MTC's primary purpose is to provide the final administrative hearings for appeals from taxing authorities of the State, including the Comptroller of Maryland, Property Tax Assessments Appeals Boards, and local collectors.

Our audit disclosed that MTC did not always hear and determine residential property tax assessment appeal cases within 90 days of the appeals being received, as required by State law.

MTC's response to this audit is included as an appendix to this report. We wish to acknowledge the cooperation extended to us by MTC during the course of this audit.

Respectfully submitted,

Bruce A. Myers, CPA
Legislative Auditor

Background Information

Agency Responsibilities

The Maryland Tax Court (MTC) provides the final administrative hearings for appeals from taxing authorities of the State. Decisions of the Comptroller of Maryland, Property Tax Assessment Appeals Boards, local collectors, and other taxing authorities may be appealed to MTC. Decisions of MTC may be appealed to the Circuit Court. MTC consists of five judges appointed by the Governor for six-year terms. According to the State's records, during fiscal year 2009, MTC had nine authorized positions and expenditures totaling approximately \$575,000.

Findings and Recommendations

Timeliness of the Disposition of Cases

Finding 1
MTC did not always hear and determine residential property tax assessment appeals within 90 days of receipt of the appeals, as required by State law.

Analysis

According to MTC's report of residential property tax assessment appeals, which we determined to be reliable, MTC did not always hear and determine these appeals within 90 days of receipt. The report showed that a total of 473 residential property tax assessment appeals were filed and heard during the period from July 1, 2008 to February 4, 2010 which had not been postponed by the property owners. However, 293 of these appeals were heard and determined between 120 days and 293 days after the appeals were filed, meaning that the appeal decisions were rendered one month to seven months after the 90-day period required by law.

State law, effective July 1, 2008, requires MTC to hear and determine each residential property tax appeal within 90 days of the appeal being received by the MTC unless extended by the court at the request of a party. Prior to July 1, 2008, MTC had 120 days to hear and determine residential property tax appeals.

We were advised by MTC that the delays in determining appeals were the result of certain personnel vacancies and a significant increase in workload. According to MTC's records, its overall caseload increased by about 50 percent from fiscal year 2008 to fiscal year 2009.

Recommendation 1

We recommend that MTC take appropriate action to hear and determine residential property tax assessment appeals within 90 days of the appeals being received, as required by State law.

Audit Scope, Objectives, and Methodology

We have audited the Maryland Tax Court (MTC) for the period beginning February 1, 2007 and ending February 2, 2010. The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

As prescribed by State Government Article, Section 2-1221 of the Annotated Code of Maryland, the objectives of this audit were to examine MTC's financial transactions, records, and internal control, and to evaluate its compliance with applicable State laws, rules, and regulations.

In planning and conducting our audit, we focused on the major financial-related areas of operations based on assessments of materiality and risk. The areas addressed by the audit included procurements and disbursements, payroll, and appeals dispositions. Our audit procedures included inquiries of appropriate personnel, inspections of documents and records, and observations of MTC's operations. We also tested transactions and performed other auditing procedures that we considered necessary to achieve our objectives. Data provided in this report for background or informational purposes were deemed reasonable, but were not independently verified.

MTC's management is responsible for establishing and maintaining effective internal control. Internal control is a process designed to provide reasonable assurance that objectives pertaining to the reliability of financial records, effectiveness and efficiency of operations including safeguarding of assets, and compliance with applicable laws, rules, and regulations are achieved.

Because of inherent limitations in internal control, errors or fraud may nevertheless occur and not be detected. Also, projections of any evaluation of internal control to future periods are subject to the risk that conditions may change or compliance with policies and procedures may deteriorate.

Our reports are designed to assist the Maryland General Assembly in exercising its legislative oversight function and to provide constructive recommendations for improving State operations. As a result, our reports generally do not address activities we reviewed that are functioning properly.

Our audit did not disclose any conditions that we consider to be significant deficiencies in the design or operation of internal control that could adversely affect MTC's ability to maintain reliable financial records, operate effectively and efficiently, and/or comply with applicable laws, rules, and regulations. Our report includes a finding that we consider to be a significant instance of noncompliance with applicable laws, rules, or regulations. Another less significant finding was communicated to MTC that did not warrant inclusion in this report.

The response from MTC, to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated Code of Maryland, we will advise MTC regarding the results of our review of its response.



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April 2, 2010

Bruce A. Myers, CPA
Office of Legislative Audits
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Dear Mr. Myers:

The Court is in receipt of the draft audit report compiled as a result of your audit of the Maryland Tax Court for the period February 1, 2007 to February 2, 2010. I appreciate the opportunity to submit a response

First, the Court confirms that the description of the Agency Responsibilities is accurate.

As to the audit's single finding and recommendation, the Court has the following specific observations:

As mentioned in the report, the current law, § 14-512(f)(1)(i) of the Tax Property Article, reducing the number of days to hear and determine a residential appeal was effective July 1, 2008, the calendar starting point of the draft audit report. In addition, please note that the law differentiates the time requirements between the residential property appeals (90 days) and commercial property appeals (120 days) and there was no issue reported as to the timing of the commercial appeals.

The Maryland Tax Court concurs that the 90-day requirement for residential appeals has been difficult to maintain. However, the following facts are significant contributing factors in how appeals are processed:

- 1) **Personnel** – For the period, September 1, 2007 until August, 2009, there was a judicial vacancy due to a retirement. Therefore, for two years, the Court was operating at an 80% level and since the retired Judge mostly heard residential appeals, his departure created an important detriment to the efficient scheduling of those appeals.
- 2) **Workload** – From FY 98 to FY 08, real property valuation appeals have consistently been filed at a rate of 500 to 700 per year. Due to the declining real property markets, the real property appeals filed in FY 09 (1051) rose **51%** from those filed in FY 08 (698). For FY 10, the projection of filed real property appeals is 1350, or an increase of **29%** from FY 09 and **94%** from FY 08. Residential property appeals have increased almost 80% in one year. With no increase in resources, and a judicial vacancy during most of the audit period, the efficiency in the processing of such a substantial increase in appeals is obviously affected.
- 3) **Nature of the Petitioners** – Unlike the appeals of most commercial properties, which are represented by counsel and utilize professional appraisals, the residential property owner is often not familiar with the appeal process and the Maryland Tax Court. After proceeding through the two prior levels of appeal and losing, the property owner is faced with a de novo appeal, i.e. a brand new hearing with the opportunity to present new and/or different evidence in support of their appeal. For these Petitioners, sufficient time between filing and hearing is needed.

The Court gives enhanced service to those Petitioners by providing more time for each hearing than that provided at the lower level appeals. More time per hearing results in less hearings per day as compared to the lower level agencies. In addition, in order to accommodate the property owner and the assessor from the distant jurisdictions, their appeals may be withheld from the hearing docket until a full day of hearings can be scheduled for a Judge to travel to the county, rather than having the parties travel to Baltimore. This also affects processing time.

The statutes also provide access to the evidence discovery rules of procedure for the benefit of both parties to the appeal. Discovery often leads to delays in scheduling. Finally, it is well documented that the residential property owner rarely settles or dismisses their appeal as they desire and are entitled to their day in Court. Thus, once the appeal is scheduled for hearing, postponements are rarely requested.

The afforded flexibility in processing can extend the time for processing an appeal, but it is done so *on the behalf of both parties to an appeal*. It is important to note that the Court rarely receives complaints concerning the time for a hearing.

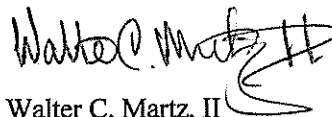
- 4) **Other Types of Tax Appeals** – The Maryland Tax Court also hears appeals from all state and local taxing authorities, including the Comptroller of the Treasury, SDAT and the Counties. Due to their complexity, the majority of them require more time for preparation, for the hearing itself and for the post-trial memorandum and motions.
- 5) **Established Tax Court Filing Procedures** – A property valuation appeal must be filed within 30 days of the order from the Property Tax Assessment Appeals Board. For the convenience of the appealing party, procedures have been established so that the submission of the proper forms and pleadings can often take up to 50 days from the date of the initial filing until issues are defined and the hearing can be scheduled. This leaves only 40 days to allow for discovery, schedule the hearing, hold the hearing and issue an Order.

The Maryland Tax Court has made significant strides in meeting the time directives for the hearing and resolution of appeals. These are evident in a review of historical statistics wherein it is revealed the overall progress made in the resolution of all real property appeals. They reflect a forty percent reduction in the average number of days it took to process an appeal from FY04 to FY09.

In order to further improve efficiency in the face of a massive increase in appeals, the Court has taken procedural steps, effective immediately, which includes the reduction in response time to Motions, the dismissal of settled appeals shortly after notification, the scheduling of additional hearings in a hearing day and streamlining the decision review process through electronic means. Other suggested measures, such as reducing the hearing time or scheduling all hearings in Baltimore, that may have shortened processing time but would affect the due process for a residential property owner have been rejected as being unaccommodating to the taxpayers of Maryland.

In conclusion, the Maryland Tax Court has undertaken measures that, with a full complement of experienced judges and a stabilizing economic market, will result in continued improvement in efficiency in accordance with the legislative time directives for residential property tax appeals.

Very Truly Yours,



Walter C. Martz, II
Chief Judge

AUDIT TEAM

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