

Tax Appeals, Board of

House Transportation and Justice Subcommittee

Phil Cummins, Economist

Legislative Service Commission

March 8, 2005

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LSC Redbook
for the
Tax Appeals, Board of

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Tax Appeals, Board of

- New responsibility for municipal income tax appeals may add to caseload and result in less timely disposition of cases
- Outdated computer hardware and software may not handle current needs
- Staffing has been cut nearly one-third in four years

OVERVIEW

The Board of Tax Appeals (BTA) provides an expert forum outside the court system to resolve controversies between taxpayers and taxing authorities in a timely and cost-effective way while still satisfying due process requirements. It is an independent, quasi-judicial, single-purpose body, established in 1939 within the Department of Taxation. The Board has operated as a separate agency since 1976. It is comprised of three members appointed by the Governor for six-year terms, and authorized to determine all appeals regarding questions arising under Ohio tax laws. Staff includes attorney examiners who manage cases and preside at evidentiary hearings to determine the facts of these cases as the basis for decisions taken by vote of the Board members. The attorney examiners also conduct mediation sessions.

Most appeals to BTA arise from real estate valuations by county boards of revision. Cases also arise from appeals of determinations or of rules adopted by the Tax Commissioner, including the Division of Tax Equalization. Another source of cases is appeals from allocations by county budget commissioners of tax receipts to political subdivisions. Decisions by the Director of the Department of Development that enterprises are not qualified for tax incentive qualification certificates may be appealed to BTA. Beginning with tax year 2004, appeals of decisions of municipal boards of appeal regarding municipal income tax obligations were added to BTA's responsibilities. Decisions of the Board of Tax Appeals may themselves be appealed to either the appropriate Ohio Court of Appeals or directly to the Ohio Supreme Court.

BTA is funded entirely from the GRF. Most of the agency's budget is for payroll costs. Tight budgets in recent years have led to reductions of nearly one-third in the Board's staff. In February 2001 the Board employed 31 full-time equivalent (FTE) employees, including the 3 Board members, 25 other full-time employees, and 6 part-time employees. In July 2004, the Board employed only 22.5 FTEs, including only one part-time employee.

Summary of FYs 2006-2007 Budget Issues

The number of appeals filed with the Board of Tax Appeals fluctuates from year to year but has shown no downtrend. BTA's smaller staff implies that remaining staff members need to be more productive if the quality and timeliness of the agency's services are to be maintained. Efficiencies resulting from the Board's mediation program have helped BTA cope with its workload. But the number of cases appealed to BTA could rise substantially as a result of the added responsibility for municipal income tax appeals. The agency uses the example that if it receives one appeal per year from each municipal board of appeal in the state, its caseload would increase more than 25%.

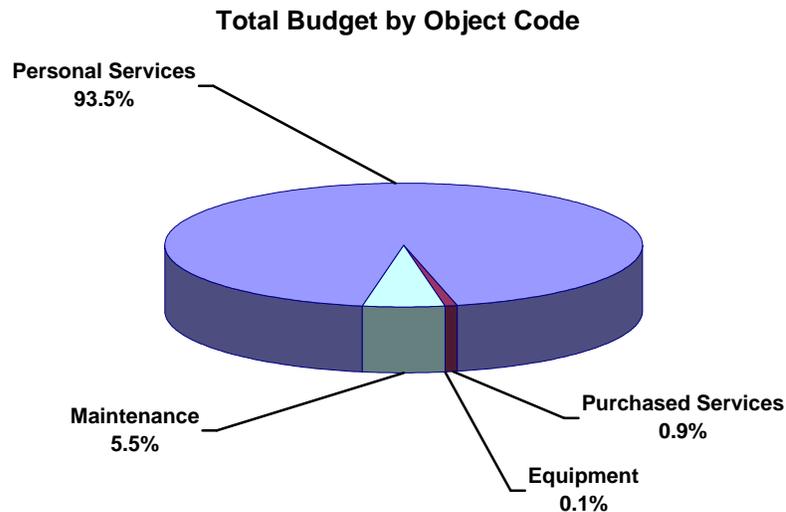
The task of coping effectively with its caseload is made more difficult for BTA by outdated computer hardware and software. BTA’s case tracking system is 15 years old and does not have available fields for entry of information needed for handling municipal income tax appeals. The computer network is at capacity. Some required written communications that could be generated by an up-to-date computer system will have to be created manually. Information that could with a more efficient system be looked up online must instead be retrieved from paper files. Online scheduling of hearings and mediations is also precluded by the current outdated system. These difficulties will become more burdensome if the agency’s caseload rises substantially.

Staffing Levels

The numbers of BTA employees shown below are as of June 30 for 2002-2004, counting part-time employees as 0.5 FTE. The three Board members are full-time employees of the agency. The numbers of employees for 2005-2007 show the current staffing level continuing during that period.

Board of Tax Appeals Staffing Levels						
Program Series/Division	2002	2003	2004	2005	<i>Estimated</i>	
					2006	2007
Tax Dispute Resolution	25	23.5	23.5	22.5	22.5	22.5
Totals	25	23.5	23.5	22.5	22.5	22.5

The funding level recommended by the Executive for BTA provides \$61,667 more for personal services in FY 2006 than BTA sought in its budget request, and \$120,749 more in FY 2007. This appears to allow the agency to retain its FY 2005 staffing level in the upcoming biennium.



ANALYSIS OF EXECUTIVE PROPOSAL

Tax Dispute Resolution

Purpose: To hear and determine all appeals regarding questions of law and fact arising under the tax laws of the state of Ohio

The following table shows the line items that are used to fund the tax dispute resolution program, as well as the Governor’s recommended funding levels.

Fund	ALI	Title	FY 2006	FY 2007
General Revenue Fund				
GRF	116-321	Operating Expenses	\$2,155,055	\$2,211,035
General Revenue Fund Subtotal			\$2,155,055	\$2,211,035
Total Funding: Tax Dispute Resolution			\$2,155,055	\$2,211,035

Program Description: The Board of Tax Appeals conducts evidentiary hearings on appeals of tax cases from county boards of revision, determinations by the Tax Commissioner, and other sources. These hearings serve as the basis for decisions by Board members. BTA also conducts voluntary mediation sessions, which often save money for appellants as well as making more efficient use of BTA resources.

Funding Source: GRF

Line Items: The agency has a single line item in its budget, 116-321.

Implication of Executive Recommendation: The executive recommendation provides for a 1.8% increase in BTA funding for FY 2006 from estimated FY 2005, and a 2.6% increase for FY 2007. The budget for personal services increases 1.8% to \$2,013,055 and 2.8% to \$2,069,035, respectively, in these 2 years. This may be sufficient to allow the agency to continue operating as it has in the recent past, and avoid further staffing cuts. However, if the caseload increases substantially, because of the agency’s new responsibility for municipal income tax cases or for any other reason, the timeliness of BTA’s termination of cases may deteriorate.

Purchased services are held flat in FY 2006 and FY 2007 at \$20,000. This category is used primarily to purchase court reporting services for the more complex cases. BTA has been able to achieve economies by tape recording simpler sessions. Use of court reporters greatly facilitates subsequent review of the record, since with tape recording identifying who said what is sometimes difficult. The level of funding recommended by the Executive is half of the level sought by BTA in its budget request, and \$2,401 less than was used in FY 2004. It may be insufficient if the agency needs to handle many complex cases.

Maintenance rises in the executive recommendation by \$1,900 in FY 2006 to \$120,000, then remains flat at this level in FY 2007. This level of funding is more than was spent for this category in FY 2002 through FY 2004, but provides for little or no growth in maintenance outlays.

The executive budget provides \$2,000 in each of FY 2006 and FY 2007 for equipment. Outlays in this category in the previous four year ranged from a low of \$871 in FY 2004 to a high of \$3,866 in FY 2002. This level of funding provides for purchases of only minor items.

Temporary and Permanent Law Provisions: There are no temporary or permanent law provisions in the executive budget that pertain to the Board of Tax Appeals

REQUESTS NOT FUNDED

This analysis compares amounts in BTA’s budget request of July 15, 2004, with the amounts recommended by the Executive. BTA complied with directions given at that time for submission of agency budgets, holding its funding total flat with estimated FY 2005.

Fund Line Item	FY 2006 Requested	FY 2006 Recommended	Difference	FY 2007 Requested	FY 2007 Recommended	Difference
Personal Services	\$1,951,388	\$2,013,055	\$61,667	\$1,948,286	\$2,069,035	\$120,749
Purchased Services	\$40,000	\$20,000	-\$20,000	\$40,000	\$20,000	-\$20,000
Maintenance	\$124,078	\$120,000	-\$4,078	\$127,180	\$120,000	-\$7,180
Equipment	\$2,000	\$2,000	\$0	\$2,000	\$2,000	\$0
TOTALS	\$2,117,466	\$2,155,055	\$37,589	\$2,117,466	\$2,211,035	\$93,569

BTA anticipated that flat funding would require the partial-year layoff of one staff member in FY 2006, reducing staff to 22 FTE, and the full-year layoff of one staff member in FY 2007, further reducing staff to 21.5 FTE. The additional funding recommended by the Executive for personal services appears to alleviate the need for these staffing cuts.

On the other hand, BTA’s purchased services request was cut in half. These funds are used mainly for services of court reporters. Expenditures for purchased services in the prior four years ranged from \$18,251 in FY 2003 to \$22,401 in FY 2004. The need for these services varies with the complexity of cases. The Executive’s recommendation might or might not be adequate, depending on the nature of the cases heard in the next two years.

BTA’s maintenance request was also reduced, by 3.3% in FY 2006 and by 5.6% in FY 2007. The amounts provided by the executive budget are modestly above levels of the prior four years.

Because of the flat-funding restriction imposed on budget requests, BTA did not include the cost for purchase of up-to-date computer hardware and software in its budget request. The agency did, however, stress the considerable need for updating its outdated IT systems. BTA appended information on costs for “purchase of network infrastructure components and a case management application upgrade” to its submission, totaling \$191,550: WAN infrastructure maintenance hardware, software, and consulting was listed at \$46,679; WAN application maintenance software and consulting was listed at \$128,009; and desktop hardware was listed at \$16,862. These purchases were not funded in the executive recommendation.

General Revenue Fund

GRF 116-100 Personal Services

2002	2003	2004	2005 Estimate	2006 Executive Proposal	2007 Executive Proposal
\$5,418	\$0	\$0	\$0	\$0	\$0
	-100.0%	N/A	N/A	N/A	N/A

Source: GRF

Legal Basis: Discontinued line item (originally established in ORC 5703)

Purpose: This line item was replaced with line item 116-321.

GRF 116-200 Maintenance

2002	2003	2004	2005 Estimate	2006 Executive Proposal	2007 Executive Proposal
\$9,019	\$0	\$0	\$0	\$0	\$0
	-100.0%	N/A	N/A	N/A	N/A

Source: GRF

Legal Basis: Discontinued line item (originally established in ORC 5703)

Purpose: This line item was replaced with line item 116-321.

GRF 116-300 Equipment

2002	2003	2004	2005 Estimate	2006 Executive Proposal	2007 Executive Proposal
\$2,066	\$0	\$0	\$0	\$0	\$0
	-100.0%	N/A	N/A	N/A	N/A

Source: GRF

Legal Basis: Discontinued line item (originally established in ORC 5703)

Purpose: This line item was replaced with line item 116-321.

GRF 116-321 Operating Expenses

2002	2003	2004	2005 Estimate	2006 Executive Proposal	2007 Executive Proposal
\$2,257,761	\$2,120,282	\$1,993,512	\$2,117,466	\$2,155,055	\$2,211,035
	-6.1%	-6.0%	6.2%	1.8%	2.6%

Source: GRF

Legal Basis: ORC 5703; replaces line items 116-100, 116-200, and 116-300

Purpose: This line item provides all funding for the agency, including personal services, maintenance, and equipment.

General Services Fund Group

439 116-602 Reproduction of Decisions

2002	2003	2004	2005 Estimate	2006 Executive Proposal	2007 Executive Proposal
\$1,207	\$0	\$0	\$0	\$0	\$0
	-100.0%	N/A	N/A	N/A	N/A

Source: GSF: Fees for copies of BTA decisions and hearing transcripts

Legal Basis: Discontinued line item

Purpose: The BTA used to charge a fee to individuals and agencies who requested copies of decisions. The money was used to offset reproduction costs and purchase small equipment items needed to reproduce printed materials. The Board now posts all decisions on its web site, making requests for decisions rare. Under Section 144 of Am. Sub. H.B. 95 of the 125th G.A., remaining cash in this fund was transferred to the General Revenue Fund.

LSC Budget Spreadsheet by Line Item, FY 2006 - FY 2007

<i>Fund</i>	<i>ALI</i>	<i>ALI Title</i>	<i>2004</i>	<i>Estimated 2005</i>	<i>Executive 2006</i>	<i>% Change 2005 to 2006</i>	<i>Executive 2007</i>	<i>% Change 2006 to 2007</i>
<i>BTA Tax Appeals, Board of</i>								
GRF	116-321	Operating Expenses	\$ 1,993,512	\$2,117,466	\$ 2,155,055	1.8%	\$ 2,211,035	2.6%
General Revenue Fund Total			\$ 1,993,512	\$ 2,117,466	\$ 2,155,055	1.8%	\$ 2,211,035	2.6%
Total All Budget Fund Groups			\$ 1,993,512	\$ 2,117,466	\$ 2,155,055	1.8%	\$ 2,211,035	2.6%