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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
LANSING

ANDREW S. LEVIN
ACTING DIRECTOR

January 25, 2011

Dear Tax Tribunal Practitioner:

As many of you know, Judge Rachel J. Asbury retired from the Tribunal on August 31, 2010, after 20 plus years of service to the State of Michigan including the last four as a Tribunal Member. We wish Judge Asbury the best in her well-deserved retirement, part of which will be spent serving as a Tribunal hearing referee.

We are pleased to announce that Steven H. Lasher has been appointed to fill the attorney position vacated by Judge Asbury. Judge Lasher has served as a Tribunal hearing referee and was employed by the law firm of Foster Swift Collins & Smith P.C. Judge Lasher will, pursuant to MCR 2.003(B)(3) and (4), recuse himself from any matter involving Foster Swift Collins & Smith, P.C.

With respect to the Tribunal's prehearing general call practice, it has come to our attention that parties are complying with the requirement to submit written notification of Valuation Experts through the submission of the names and address of Valuation Experts that *may be retained* by that party to prepare its Valuation Disclosure. The Tribunal's Orders require, however, the name and address of the Valuation Expert *actually retained* to prepare the party's valuation disclosure. The submission of written notification of a Valuation Expert that has *not actually been retained* to prepare the Valuation Expert is not in compliance with the Orders and will result in a Show Cause hearing to determine whether the disclosed Valuation Expert or any other undisclosed Valuation Expert will be permitted to testify. See TTR 247 and MCL 205.732.

Pursuant to MCL 205.735a, the Tribunal is required "to issue . . . notice not later than December 31 in each calendar year designating not less than 1 delivery service for the [the filing of appeals in the] immediately succeeding calendar year." In keeping with this requirement, the Tribunal is issuing this notice designating the following delivery services:

1. DHL Express (DHL): DHL Same Day Service; DHL Next Day 10:30 a.m.; DHL Next Day 12 p.m.; DHL Next Day 3 p.m.; and DHL 2nd Day Service.
2. Federal Express (FedEx): FedEx Priority Overnight; FedEx Standard Overnight; FedEx Ground; FedEx2Day; FedEx International Priority; and FedEx International First.
3. United Parcel Service (UPS): UPS Next Day Air; UPS Next Day Air Saver; UPS 2nd Day Air; UPS 2nd Day Air a.m.; UPS Worldwide Express Plus; and UPS Worldwide Express.

The Tribunal, similar to businesses in the private sector, continually reviews its processes and procedures to insure that they meet "best practices." To that end, the Tribunal has determined that, like Small Claims petitions, Entire Tribunal petitions must be standardized and use of these forms must be mandatory. By making this change:

1. Petitions will be docketed faster;
2. Administrative time and expenses will be reduced;
3. Efficiency and accuracy will be increased; and

4. In the event that petitions may be e-filed, petitioners and the Tribunal will be able to easily transition into this process.

Before implementing this change, the Tribunal would appreciate comments regarding the proposed Entire Tribunal petition, which is attached. Please email comments to Marijo Wakley at the email address listed below. It is anticipated that these forms will begin to be utilized this year.

It is also anticipated that motions to amend to add a subsequent tax year will also be formatted into a standard, mandatory motion. In addition to the reasons noted above, the Tribunal finds this necessary due to fact that these motions do not always contain the requisite information. Until the motion is standardized, the Tribunal reminds those who wish to file this type of motion that the following information **MUST** be included in the motion: current state equalized and taxable value, petitioner's contention as to the state equalized and taxable value, and the amounts in contention. Failure to provide this information will result in the petitioner being held in default and an additional motion fee.

The past three years have been unprecedented in terms of the number of cases filed in the Tribunal, both in the Small Claims Division and in the Entire Tribunal. Attached are several Excel graphs that illustrate the number of cases filed, the number of decisions issued, and the number of cases that have been finalized.

As you will recall, in June 2009, the Tribunal resumed issuing notices of Prehearing General Calls. Since then, two Calls have been issued each month with approximately 100 Entire Tribunal cases included in each call. In other words, 2,400 cases were scheduled on an annual basis. To put this in perspective, this means that more cases were scheduled on an annual basis than were filed in all but two years of the first two decades in which the Tribunal was in existence.

However, given that the number of cases filed in 2010 was not significantly less than the number filed in 2009, the number of cases scheduled was increased to approximately 150 per Call in November 2010. Again, this meant that 3,600 cases would be scheduled on an annual basis. With the exception of the last three years, there has been only one year in which more than 3,600 cases were filed. In other words, except for the last three years, the number of cases scheduled would have significantly outweighed the number of cases filed in all but one of 32 years.

While the number of Entire Tribunal cases disposed of in FY2010 was significantly higher than in FY2009, the number of Entire Tribunal cases pending is still unacceptable. Thus, the decision has been made to again increase the number of cases per Call, this time to 200, or 400 per month. The Tribunal intends to continually monitor case statistics to determine if further adjustments are necessary.

In terms of Small Claims cases, the statistics are very encouraging. As of today, 15 of the 83 counties had no cases pending but for those filed in 2010. This number is expected to increase to 53 by June 2011.

Of course, these numbers do not include the 10,300 classification appeals filed by the Michigan State Tax Commission (STC) in December 2009. These cases were docketed and the first hearings were held in November 2010. Due to the issues involved, Tribunal members were assigned to hear the first several weeks of hearings. The Tribunal planned to engage hearing referees to hear the remainder of the cases once the major legal issues were resolved. The Tribunal was not only committed to closing all classification appeals by December 31, 2011, it was in the position to make it happen.

However, in December 2010, after several days of hearings, the Tribunal was informed that the STC would be withdrawing all of the classification appeals. The Tribunal will not speculate as to why this decision was made.

Given the STC’s decision, cases scheduled for hearing were adjourned and cases not scheduled for hearing will not be scheduled for hearing pending notification of withdrawal.

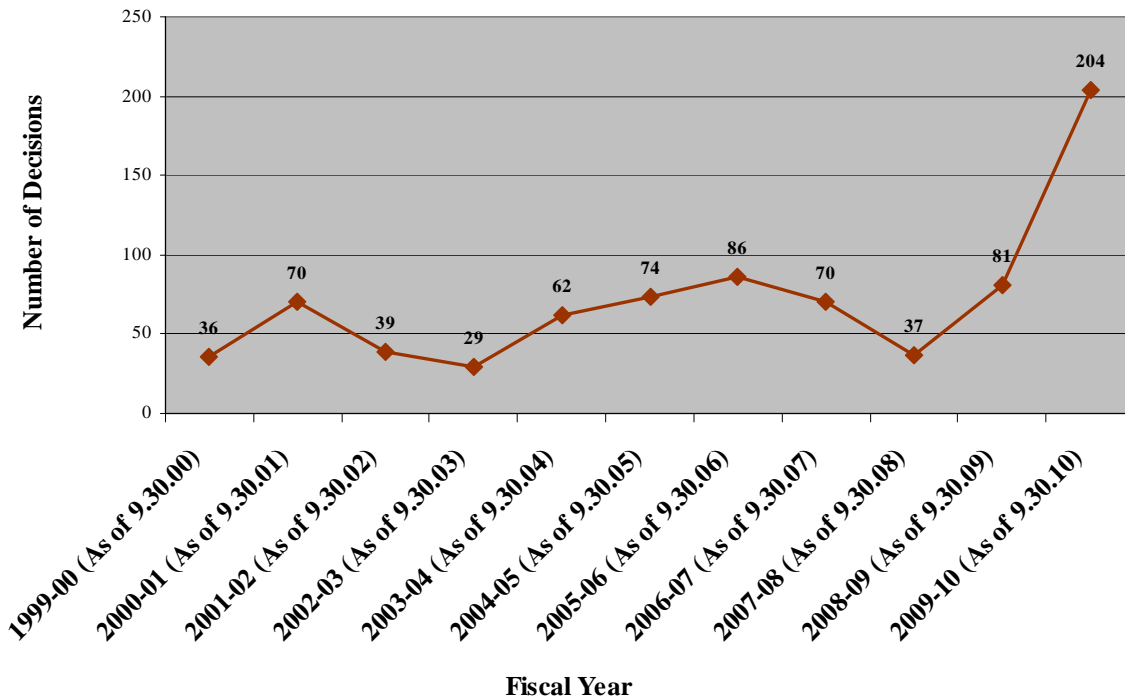
Finally, it has come to the Tribunal’s attention that Tribunal Notices have apparently caused confusion and concern among some parties and practitioners. In issuing these Notices, it was the Tribunal’s intent to address recurring issues and to assist the public’s understanding of the Tribunal’s operations and the Tribunal’s interpretation of the Tax Tribunal Act, being MCL 205.731 *et seq.*, and the Tribunal’s Rules of Practice and Procedure, 1979 AC R 205.1101 *et seq.* While it was never the Tribunal’s intent that these Notices be construed as a substitute for promulgated rules, it appears as though this has happened. Thus, to eliminate any confusion and the appearance of anything improper, it has been determined that these Notices should be and are rescinded effective immediately.

If you have colleagues or acquaintances that would benefit from keeping up-to-date with Tribunal developments, simply have them send an e-mail message to Marijo Wakley at wakleym1@michigan.gov with “SUBSCRIBE” in the subject line. To unsubscribe, simply reply to this e-mail with the word “UNSUBSCRIBE” in the subject line.

Attachments:

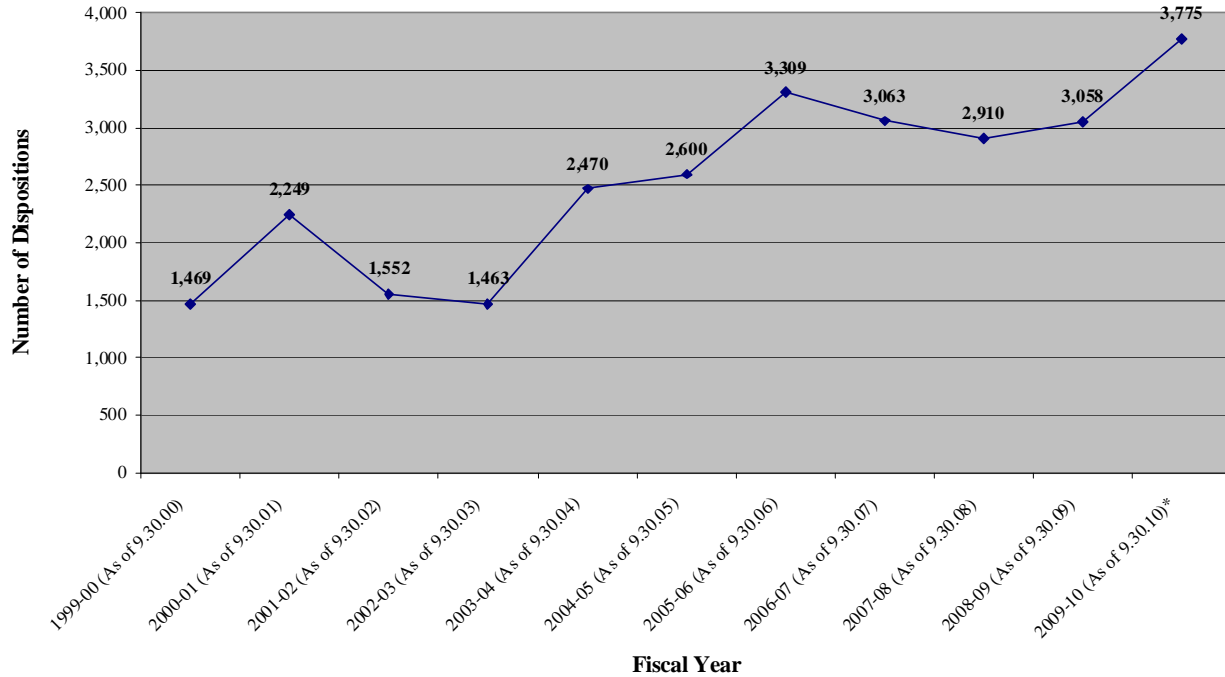
[Proposed Entire Tribunal Petition>](#)

Entire Tribunal Decisions Since 2000



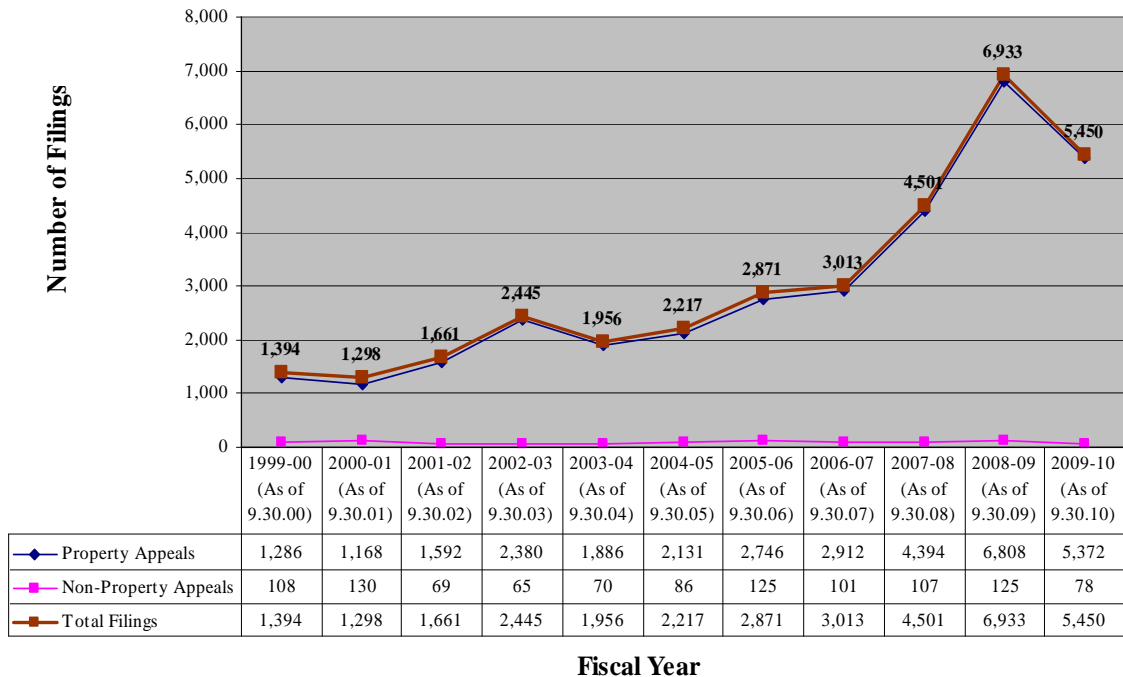
Total Entire Tribunal Dispositions

**As of 9/30/2010, 2010 appeals are still being docketed.

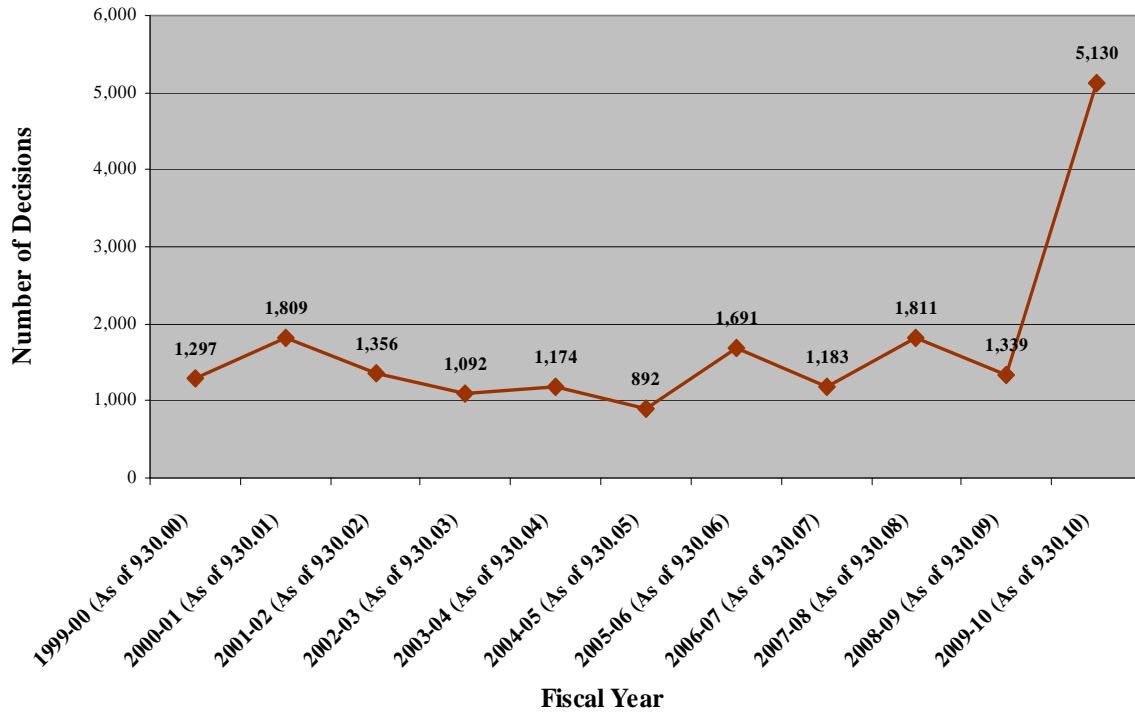


Entire Tribunal Filings Since 2000

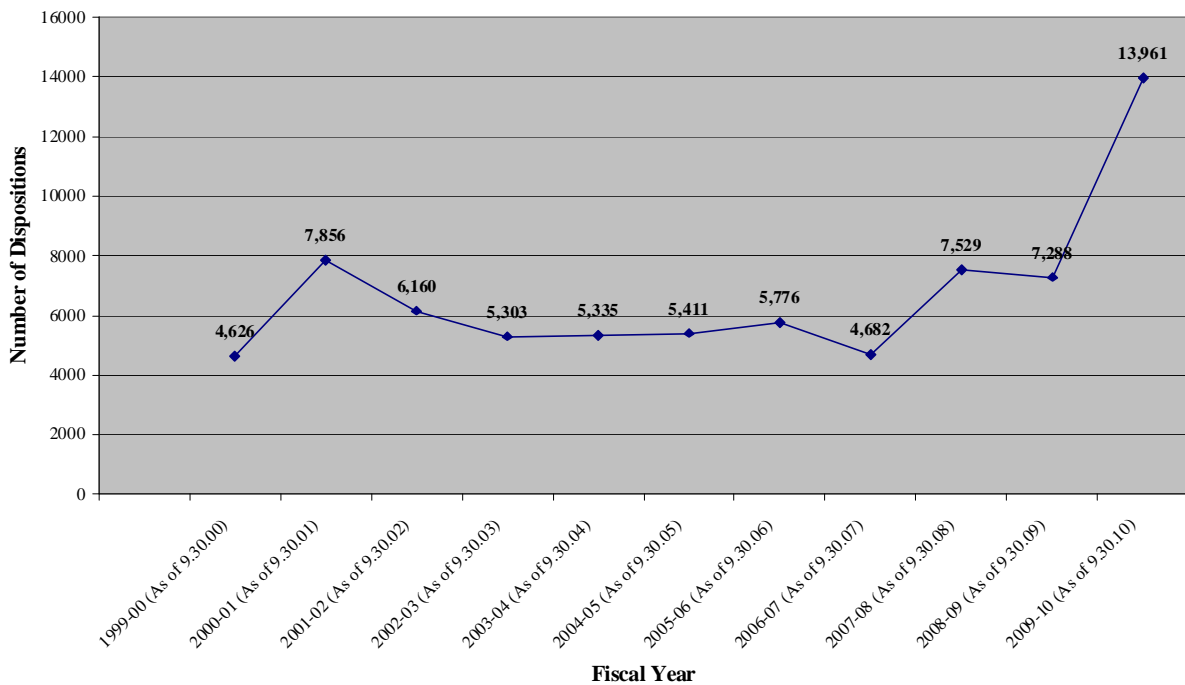
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Small Claims Decisions Since 2000



Total Small Claims Dispositions



Small Claims Filings Since 2000

