



OHIO BOARD OF TAX APPEALS

Annual Report Fiscal Year 2022

R.C. 149.01 requires the Ohio Board of Tax Appeals to file an annual report with the governor, the secretary of state and the state library, on every August first summarizing the official acts of the board...“and any suggestions and recommendations that are proper.”

This report fulfills the annual reporting requirement for the fiscal year ending June 30, 2022

**Governor Mike DeWine
Secretary of State Frank LaRose
State Librarian Beverly Cain**

Executive Summary:

FY2022 was a year of innovation and change. The Board returned to the office on July 6, 2021. The Board was one of the first boards and commissions to return to work after working remotely due to the COVID-19 pandemic. Upon its return, the Board extensively reviewed its docket to formulate a plan on how to effectively resume in-person hearings. The Board prioritized those cases where an in-person hearing was requested and had been filed before January 1, 2020. The Board set a goal that all such cases would receive the requested in-person hearing before January 1, 2022. The Board heard all but a few of these cases. The Board appreciates the hard work and diligence of all involved.

In the beginning of FY2022 the Board was using a third-party vendor to facilitate the Board's virtual hearings. However, the system was not tailored for the courtroom environment. Therefore, the Board created a virtual hearing platform that was designed for the tax appeals process. The virtual hearing platform has been integrated with the Board's online case management so that the taxpayers experience is not dissimilar to the in-person hearing process.

One of the Board's long-standing goals was to create an online decision database. Before FY2022, if a taxpayer or member of the public wanted to find a Board decision, they would need to file a public records request or subscribe to a fee based legal database. In FY2022, the Board achieved its goal and created an online decision databased which can be accessed from the Board's website. The Board's decisions are searchable by terms and is free to the public.

At the end of FY2022, the General Assembly passed HB126, which was universally recognized as the most significant piece of property tax legislation in decades. HB126 strictly limited the right of a board of education or third-party to participate in the real property valuation dispute process. The law also eliminated the right of a property owner to enter into separate settlement agreements with boards of education. Those agreements provided that a property owner would make direct payments to boards of education, and, in exchange, the board of education would dismiss any pending cases against the property owner. As a result of HB126 the Board anticipates a decrease in low dollar valuation cases but an increase in complex litigation because parties must now litigate cases they would have otherwise settle via the direct payment process. The Board is likely to see the full impact of HB126 in the years to come.



Kathleen Crowley
Executive Director

Ohio Board of Tax Appeals

Chairman David Harbarger

Mr. Harbarger brings over 40 years of law experience to the Board. Mr. Harbarger's areas of expertise include municipal law, property development and charitable organizations. Mr. Harbarger served as the Law Director for two local communities. Mr. Harbarger is a retired Lieutenant Colonel from the United States Army.

Vice-Chairman Jasmine Clements

Jasmine Clements was appointed by Gov. John Kasich to the Ohio Board of Tax Appeals in April, 2015. Ms. Clements brings more than a decade of legal experience in government and private sector representation. She holds a Bachelor of Arts (Accounting) and a Juris Doctor from Capital University in Columbus, Ohio.

Board Member Jeffery Caswell

Jeff Caswell is an active CPA and is the Chief Financial Officer of a Central Ohio based manufacturing and services firm. Mr. Caswell started his career in public accounting where he worked on tax filings and audit assurance engagements. Post public accounting, his focus in finance and accounting has been with companies across a wide spectrum of industry and size from SEC registrant to small privately held businesses. Mr. Caswell earned his Accounting degree from Miami University and his Masters in Business Administration from The Ohio State University.

Mission

The mission of the Board of Tax Appeals, as Ohio's administrative tax court, is to provide taxpayers and taxing authorities with an accessible, fair and efficient appeals process and to resolve appeals in a timely and judicious manner by facilitating settlement or by issuing comprehensive written decisions, which are based upon Ohio statutes, case law, and board precedent.

Function

The BTA is Ohio's administrative tax court. It is a quasi-judicial body established by Ohio Revised Code 5703.02 and comprised of three (3) members appointed by the governor to overlapping six-year terms. The BTA adjudicates state tax disputes, relieving an overburdened state judicial system and providing taxpayers with a non-partisan forum in which to resolve tax disputes. In this forum, taxpayers are assured appeals will be addressed by individuals with considerable expertise focused exclusively on tax issues.

Process

Most appeals involve real property valuation disputes, for which the process is as follows:

1. A notice of appeal from a decision of a BOR is filed with the BTA.
 - a. On the appeal form, the appellant indicates whether they require an evidentiary hearing, or if a review of the existing BOR record will suffice
2. Depending on the appellant's decision, the board establishes either an evidentiary hearing date, or a date by which all written argument is due from the parties to the appeal.
3. The BOR files a transcript of the proceedings that occurred at the county level with the BTA within 45 days.
4. The discovery process is completed within 120 days.
5. All evidence is considered and a decision is rendered by the board thereafter.

Filers enter appeal information directly into the BTA's case management system from anywhere (with internet access) at any time (24/7/365). Once submitted, reviewed and accepted, all parties are notified electronically that an appeal has been filed, the case number assigned and the evidentiary hearing or written argument date.

After the evidentiary hearing or the written argument date, a Hearing Examiner reviews the entire record and drafts a decision for the board to consider. After consideration, the decision of the board is announced.

Official Acts

The Board met 9 times in FY2022. During the fiscal year 2716 appeals were filed and the Board resolved 2900 cases.

Interesting Decisions

Crawford v. McClain, BTA No. 2021-577 (Oct. 8, 2021): The Board canceled an assessment against a former employee of a bar that failed to pay its sales tax obligations. The Board found that she was not a “responsible party” for purposes of sales tax. Her role was limited to a “daytime bartender” whose only financial responsibility was to get change for the bar from the bank.

Cleveland Clinic Foundation v. Cuyahoga Cty. Bd. of Revision, BTA No. 2020-46 (May 4, 2022): The Board found that the value of a newly constructed 60-bed inpatient rehabilitation facility should be based on the cost of construction that was complete as of the tax lien date. The Board found that the property owner did not show that those costs included personal property. The property owner relied on a cost segregation study that placed items in personal property categories for purposes of depreciation that retain their character as real property for purposes of ad valorem real property taxation. The Board found that an application and certificate for payment dated three days before the tax lien date was most probative, and this document included both a total amount for work completed and stored by that date and an associated line-by-line breakdown of the costs of construction.

Terradise Nature Center Inc. v. McClain, BTA No. 2021-185 (July 8, 2021): The subject property consisted of a dwelling and approximately five acres of land. The property owner used it for educational programs, hiking, nature study, and other purposes open to the public, but rented out a portion of the main floor on Airbnb for a fee. The Tax Commissioner found that the property qualified for exemption except for the portion rented on Airbnb. The property owner argued that the proceeds of the rental were used to fund the exempt activities. The Board affirmed the Tax Commissioner and noted that whether a property is exempt is based on the present use and that renting property to another for a fee is generally commercial and not charitable, regardless of how the income is reinvested.