

C85E00
Maryland Tax Court

Executive Summary

The Maryland Tax Court (MTC) provides the highest level of administrative review for the decisions of taxing authorities in the State.

Operating Budget Data

(\$ in Thousands)

	<u>FY 18</u> <u>Actual</u>	<u>FY 19</u> <u>Working</u>	<u>FY 20</u> <u>Allowance</u>	<u>FY 19-20</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
General Fund	\$615	\$627	\$648	\$22	3.4%
Adjustments	0	5	16	11	
Adjusted General Fund	\$615	\$632	\$665	\$33	5.2%
Adjusted Grand Total	\$615	\$632	\$665	\$33	5.2%

Note: The fiscal 2019 appropriation includes deficiencies, a one-time \$500 bonus, and general salary increases. The fiscal 2020 allowance includes general salary increases.

- The adjusted fiscal 2020 allowance increases by \$33,056 (5.2%). This increase is largely attributable to statewide personnel actions.

Personnel Data

	<u>FY 18</u> <u>Actual</u>	<u>FY 19</u> <u>Working</u>	<u>FY 20</u> <u>Allowance</u>	<u>FY 19-20</u> <u>Change</u>
Regular Positions	8.00	8.00	8.00	0.00
Contractual FTEs	<u>0.40</u>	<u>0.40</u>	<u>0.40</u>	<u>0.00</u>
Total Personnel	8.40	8.40	8.40	0.00

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	0.00	0.00%
Positions and Percentage Vacant as of 12/31/18	n/a	n/a

Note: Numbers may not sum to total due to rounding.

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Key Observations

- ***Fiscal 2020 Budget Driven by Statewide Actions:*** Essentially all of the growth in the fiscal 2020 budget allowance for MTC can be explained by general salary increases and changes to State service charges.
- ***The Lack of a Deputy Clerk Creates Needless Risk to Agency Operations:*** MTC does not have an authorized position to hire a deputy clerk. Should the current clerk of the tax court leave the position, there is a substantial risk that MTC’s operations would be severely hampered. This risk should be eliminated by allowing the agency to hire a deputy clerk.

Operating Budget Recommended Actions

1. Adopt intent language directing that the agency receive a new or transferred position to hire a deputy clerk.

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Operating Budget Analysis

Program Description

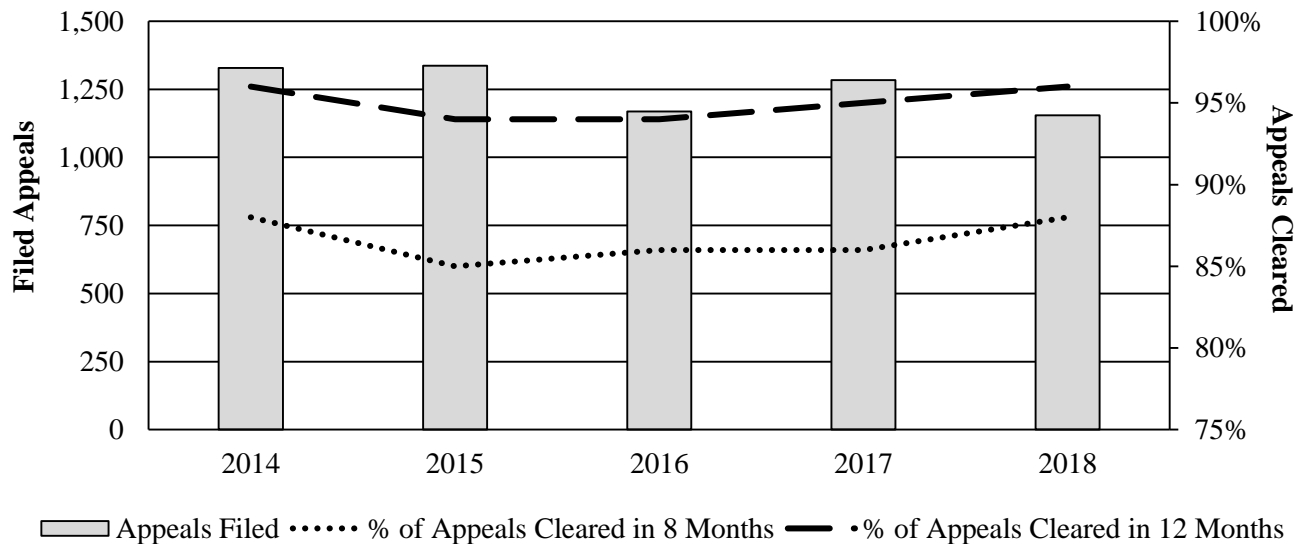
The Maryland Tax Court (MTC) is an independent State agency that provides the highest level of administrative review on the decisions of taxing authorities of Maryland. Decisions of the Comptroller of Maryland, the State Department of Assessments and Taxation (SDAT) (after being heard first by the Property Tax Assessment Appeal Boards (PTAAB)), and local collectors are among those appealed to the court. Appeals from MTC are directed to the circuit courts. MTC is composed of 5 part-time judges appointed for six-year terms by the Governor. MTC's goal is to provide the taxpayer and taxing authority with efficient and fair hearings regarding any tax issue.

Performance Analysis: Managing for Results

1. The Tax Court Continues to Efficiently Clear Cases

MTC has two principal metrics: the median number of days that it takes to close an appeal and the percentage of appeals closed within 12 months. In fiscal 2018, the median number of days between the opening and closing of appeals was 142 days for real property valuation appeals and 155 days for other appeals. **Exhibit 1** shows the total number of appeals received by MTC from fiscal 2014 to 2018 and the percent of those appeals cleared within 8 months and 12 months. MTC clears the vast majority of cases that it receives in a timely matter but reported a decrease in the share cleared within 8 months due to a decrease in the number of real property valuation appeals, which are relatively straightforward, and an increase in more complex appeals from decisions by the Comptroller. That increase is likely due to increased audit activity in that office.

**Exhibit 1
Caseload and Timely Clearance Rates
Fiscal 2014-2018**



Source: Department of Budget and Management

Fiscal 2019 Actions

Proposed Deficiency

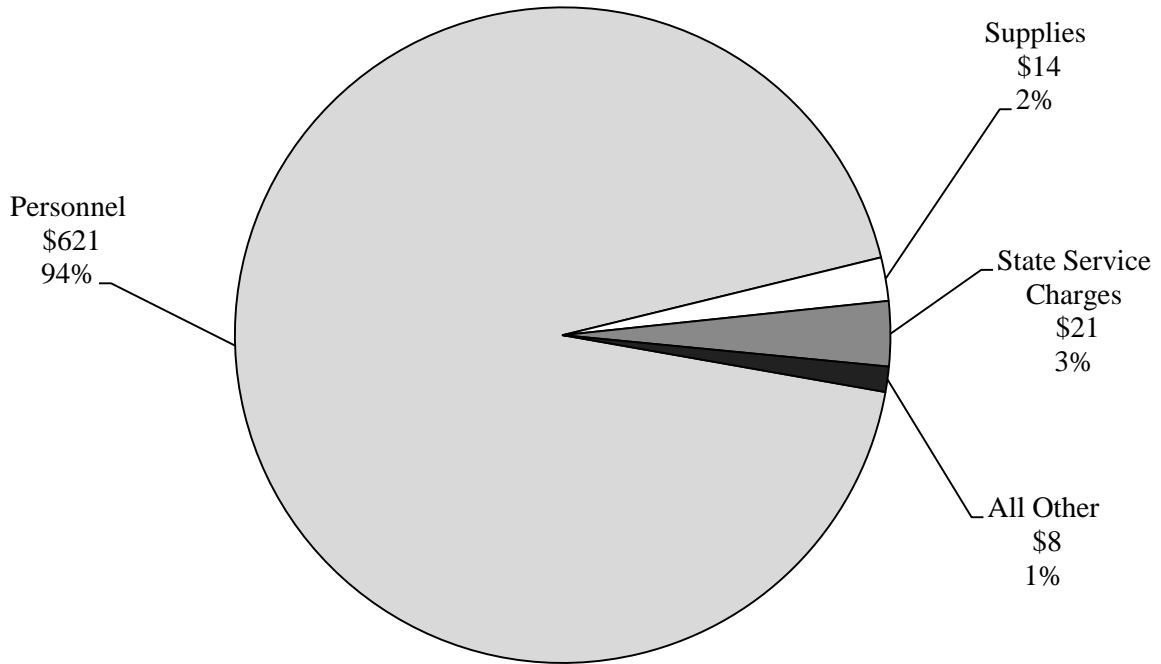
The Governor’s fiscal 2020 budget plan includes fiscal 2019 deficiencies for this agency totaling \$4,904 to provide for a statewide 0.5% general salary increase and \$500 bonus for qualifying employees on April 1, 2019.

Fiscal 2020 Allowance

Overview of Agency Spending

As shown in **Exhibit 2**, over 90% of MTC’s fiscal 2020 allowance is devoted to personnel, including both the regular staff and compensation for the part-time judges. Even for a small, personnel-intensive agency, this is a high share of expenses for personnel. The share is so high because the agency’s other operating expenses are artificially depressed by the fact that it is not charged for its office space at State Center.

Exhibit 2
Allowance by Purpose
Fiscal 2020
(\$ in Thousands)



Source: Department of Legislative Services

Proposed Budget Change

The fiscal 2020 allowance for MTC increases by \$33,056 (5.2%), as shown in **Exhibit 3**. This increase is largely attributable to statewide personnel actions.

Exhibit 3
Proposed Budget
Maryland Tax Court
(\$ in Thousands)

How Much It Grows:	General Fund	Total
Fiscal 2018 Actual	\$615	\$615
Fiscal 2019 Working Appropriation	632	632
Fiscal 2020 Allowance	<u>665</u>	<u>665</u>
Fiscal 2019-2020 Amount Change	\$33	\$33
Fiscal 2019-2020 Percent Change	5.2%	5.2%

Where It Goes:

Personnel Expenses

3% general salary increase effective July 1, 2019	\$14
Employee and retiree health insurance	12
Annualization of 2% general salary increase effective January 1, 2019.....	5
Employer pension contribution.....	4
Annualization of 0.5% general salary increase effective April 1, 2019.....	2
Other compensation adjustments	-1
Impact of \$500 bonus in fiscal 2019.....	-4

Other Changes

Department of Information Technology service charges.....	1
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Total **\$33**

Note: Numbers may not sum to total due to rounding.

Personnel

Statewide general salary increases in fiscal 2019 and 2020 as well as the impact of the \$500 bonus in fiscal 2019, increase the allowance by \$16,208. There are also increases for employee and retiree health insurance (\$11,910) and the employer pension contribution (\$4,409).

Issues

1. Lack of Succession Plan for the Clerk of the Tax Court Is Problematic

MTC is one of the smallest independent agencies in State government, with only 3 full-time regular employees supporting 5 part-time judges. The budget allowance of \$664,726 is the second smallest for an independent budget unit in the State. As evidenced by MTC’s performance analysis data discussed earlier in this analysis, the agency’s current staff and judges are capable of effectively managing MTC’s docket and workload.

By all accounts, MTC is well-managed, provides good service to taxpayers, and has a positive reputation with the tax attorneys who regularly have matters before the court. The capacity of MTC is also evidenced by the fact that the General Assembly has passed several pieces of legislation in recent years intended to reform how both SDAT and PTAAB process appeals. The most notable of these actions is Chapter 537 of 2017, which requires PTAABs to issue decisions within 120 days of receiving appeals. However, no new or stricter requirements were placed on MTC.

The value that MTC provides to the State is illustrated in **Exhibit 4**. Over 10,000 assessments are appealed to a PTAAB each year, of which over 1,000 are appealed to MTC, the final administrative appeal in the State’s tax system. No more than 30 MTC decisions have been appealed to the circuit courts in any of the last five years. This means that even among the most motivated taxpayers with the most complex technical and legal claims, less than 2.5% take their cases beyond MTC.

Exhibit 4 Tax Assessment Appeals Fiscal 2014-2018

<u>Appeals</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>
Maryland Tax Court	1,328	1,337	1,168	1,284	1,154
Circuit Court	30	20	29	19	22
Percent Appealed to Circuit Court	2.3%	1.5%	2.5%	1.5%	1.9%

Source: Department of Budget and Management

Having tax experts available to hear and decide cases without resorting to a full circuit court adjudication is quite valuable to the State in terms of the service that taxpayers receive, the ability to redress controversies that are not large enough for the taxpayer to hire an attorney, and avoiding the cases being added to the circuit courts’ caseloads.

The Lack of a Deputy Clerk Exposes the State to Significant Risk

MTC is currently able to provide such strong service because it benefits from the long experience of its leadership, including both its judges and the clerk of the tax court, who manages the docket and day-to-day operations of MTC. However, because MTC is such a small agency, it is particularly vulnerable to breaks in administrative continuity.

While the Department of Legislative Services (DLS) normally refrains from discussing individual employees as part of its budget analyses, in this case, the discussion is unavoidable. The current clerk of the tax court has the sufficient years of service to retire whenever he is ready to do so. Employees should not feel pressure, intentional or otherwise, to take the impact on their agency into account any more than they wish when making decisions about retirement.

However, because MTC is so small, there is no deputy to step in and either assume the clerk's position or support a new hire, which creates significant risk that continuity of operations will be negatively impacted when the current clerk chooses to retire. This risk is understood by MTC and was recognized by the Executive Branch in the past. Prior to becoming clerk, the current incumbent was the deputy clerk of the tax court. After he was promoted to clerk, the agency was never authorized to refill the deputy position, and the position was eliminated in fiscal 2013 after having been vacant for several years.

While the future retirement of the current clerk demands attention, the risk is always present when an agency is so lean that only a few people have the institutional knowledge that allows for strong performance. Given the small amount of funding involved, the number of positions being reduced elsewhere in the budget, and the result that a difficult transition would create for taxpayers, there is no justification for the State to continue to bear this risk.

Therefore, DLS recommends that the committees adopt intent language directing that MTC receive a position to hire a deputy clerk as soon as possible, either via the transfer of a vacant position from elsewhere in the Executive Branch or by the creation of a new position by the Board of Public Works under the Rule of 100.

Operating Budget Recommended Actions

1. Add the following language to the general fund appropriation:

. provided that it is the intent of the General Assembly that the agency be granted the authority to hire a deputy clerk either by the transfer of an existing position to the agency or the creation of a new position by the Board of Public Works.

Explanation: This action adopts language in the budget that declares that it is the intent of the General Assembly that the Maryland Tax Court should be empowered to hire a deputy clerk either by the identification and transfer of a position from elsewhere in State government or by the creation of a new position by the Board of Public Works under the Rule of 100.

Updates

1. Case Management System

In the 2017 *Joint Chairmen's Report*, MTC was asked to submit a status report regarding its plans to upgrade its electronic case management system after the committees expressed concerns about the functionality of the prior system. MTC reported in November 2017 that it would be partnering with the Maryland Department of Planning (MDP) to develop a new system. MTC and MDP worked through fiscal 2018 to develop a new system, and MTC now reports that this system has been implemented at a total cost of approximately \$10,000.

Appendix 1
Current and Prior Year Budgets
Maryland Tax Court
(\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2018					
Legislative Appropriation	\$626	\$0	\$0	\$0	\$626
Deficiency/Withdrawn Appropriation	-8	0	0	0	-8
Cost Containment	0	0	0	0	0
Budget Amendments	0	0	0	0	0
Reversions and Cancellations	-3	0	0	0	-3
Actual Expenditures	\$615	\$0	\$0	\$0	\$615
Fiscal 2019					
Legislative Appropriation	\$622	\$0	\$0	\$0	\$622
Budget Amendments	5	0	0	0	5
Working Appropriation	\$627	\$0	\$0	\$0	\$627

Note: The fiscal 2019 appropriation does not include deficiencies, a one-time \$500 bonus, or general salary increases. Numbers may not sum to total due to rounding.

Fiscal 2018

The Maryland Tax Court finished fiscal 2018 \$11,300 below its legislative appropriation, all in general funds. This decrease includes \$3,421 in unspent funds that were reverted at the end of the fiscal year and a reduction of \$8,205 for health insurance based on language in the fiscal 2019 budget. These decreases are partially offset by an increase of \$326 via budget amendment to reflect the statewide realignment of telecommunications expenditures.

Fiscal 2019

To date, one change has altered the fiscal 2019 legislative appropriation. A budget amendment added \$4,763 for the 2% general salary increase effective January 1, 2019.

**Appendix 2
Object/Fund Difference Report
Maryland Tax Court**

<u>Object/Fund</u>	<u>FY 18 Actual</u>	<u>FY 19 Working Appropriation</u>	<u>FY 20 Allowance</u>	<u>FY 19 - FY 20 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	8.00	8.00	8.00	0.00	0%
02 Contractual	0.40	0.40	0.40	0.00	0%
Total Positions	8.40	8.40	8.40	0.00	0%
Objects					
01 Salaries and Wages	\$ 563,042	\$ 572,358	\$ 592,714	\$ 20,356	3.6%
02 Technical and Special Fees	10,938	11,844	11,844	0	0%
03 Communication	6,775	7,001	4,600	-2,401	-34.3%
04 Travel	1,333	2,000	1,800	-200	-10.0%
08 Contractual Services	21,133	21,863	25,726	3,863	17.7%
09 Supplies and Materials	9,823	10,260	10,253	-7	-0.1%
10 Equipment – Replacement	499	0	0	0	0.0%
13 Fixed Charges	1,429	1,440	1,440	0	0%
Total Objects	\$ 614,972	\$ 626,766	\$ 648,377	\$ 21,611	3.4%
Funds					
01 General Fund	\$ 614,972	\$ 626,766	\$ 648,377	\$ 21,611	3.4%
Total Funds	\$ 614,972	\$ 626,766	\$ 648,377	\$ 21,611	3.4%

Note: The fiscal 2019 appropriation does not include deficiencies, a one-time \$500 bonus, or general salary increases. The fiscal 2020 allowance does not include general salary increases.