

# TAX COURT OF NEW JERSEY



## ANNUAL REPORT OF THE PRESIDING JUDGE OF THE TAX COURT OF NEW JERSEY

**JULY 1, 2023 - JUNE 30, 2024**

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Web page: [Tax Court of New Jersey | NJ Courts](#)

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## I. INTRODUCTION

Due to stabilization of the public health crisis brought on by COVID, but also due to the preference, efficiency, and benefits of using various virtual platforms such as Zoom and TEAMS, the Tax Court continued to successfully conduct in-person; virtual; and hybrid proceedings, throughout the 2023-2024 court year.

Similarly, electronic filings of pleadings in local property tax and state tax cases through eCourts Tax continued to be available for the mandatory use by attorneys, and as an option (often preferred) for self-represented litigants. Judges, chambers staff, and the Tax Court Management Office continue to use eCourts Tax to increase efficiencies in the processing and disposition of cases.

## II. THE COURT

The Tax Court of New Jersey is a trial court with statewide but limited jurisdiction. The court was established by the Legislature on July 1, 1979, under Art. VI, § 1, ¶ 1 of the New Jersey Constitution, to hear matters relating to state and local tax assessments. The enabling legislation can be found in N.J.S.A. 2B:13-1 to -15. The court reviews the actions and determinations of assessors and county boards of taxation with respect to local property tax matters, and all state officials with respect to state tax matters.

The Tax Court affords taxpayers a prompt and impartial hearing and disposition of their disputes with governmental taxing agencies by a qualified body of judges. The objectives of the court are to: (1) provide expeditious, convenient, equitable and effective judicial review of state and local tax assessments, (2) create a consistent, uniform body of tax law for the guidance of taxpayers and tax administrators to promote predictability in tax law and its application, (3) make decisions of the court readily available to taxpayers, tax administrators and tax professionals, and (4) promote the development of a qualified and informed state and local tax bar. During the forty-

five years of its existence, the court has succeeded in achieving substantially all these objectives.

Judges of the Tax Court are, from time to time, assigned to hear Superior Court cases in which their special expertise can be utilized. In this court year they heard and disposed of several Superior Court cases, many of which were tax-related cases. Examples of the types of Superior Court cases which are appropriate for Tax Court judges to hear include: (1) actions in lieu of prerogative writs seeking review of the conduct of municipal officials relating to the administration of tax laws or the duties of tax assessors and tax collectors, (2) tenant tax rebate cases, (3) appointment of a receiver for nonpayment of real property taxes, (4) condemnation cases, (5) rent-leveling cases, (6) review of assessments for municipal improvements or for properties under a tax abatement or PILOT program, (7) in rem tax foreclosure actions and (8) complex realty valuation issues in matrimonial cases.

Over the past forty-five years, the court has disposed of hundreds of thousands of cases. The court's published opinions fill 33 volumes of the New Jersey Tax Court Reports. The court's unpublished opinions are available on the judiciary's website for one year and collected by Rutgers Law School for inclusion in its free online library. The development of a body of legal precedent benefits the State and its taxpayers by facilitating the implementation of tax policy, as decided by our Legislature and Governor, and providing a reliable structure in which to resolve tax conflicts.

During the 2023-2024 court year, twelve Judges were assigned to the Tax Court: Hon. Mala Sundar (Presiding Judge), Hon. Joseph M. Andresini (P.J., retired on recall), Hon. Christine M. Nugent, Hon. Mary Siobhan Brennan, Hon. Kathi F. Fiamingo, Hon. Joshua D. Novin, Hon. Mark Cimino, Hon. Michael J. Gilmore, Hon. Jonathan A. Orsen, Hon. Joan Bedrin Murray, Hon. Michael J. Duffy, and Hon. Patrick DeAlmeida (t/a to the Appellate Division). The Tax Court maintained chambers and heard cases in Newark (Judges Andresini; Nugent; Brennan; Novin;

Orsen; Bedrin Murray; and Duffy), Trenton (Judges Gilmore and Sundar), and for a portion of the court year, at Mount Holly (Judge Fiamingo) and Bridgeton (Judge Cimino).

Each Judge is assigned local property tax cases from specific geographic areas, which can change from year-to-year depending on the volume of the local property cases filed. The Presiding Judge assigns State taxes cases. During a portion of the court year, Judge Cimino heard Civil Division cases in the Cumberland Vicinage in addition to his Tax Court cases. After September 4, 2023, he was re-assigned full time to hear Tax Court cases, with chambers in Trenton. Judge Fiamingo heard General Equity cases in the Burlington and Morris/Sussex Vicinages in addition to her Tax Court cases until her retirement on April 19, 2024.

Tax Court judges meet regularly to discuss substantive and procedural developments in the tax field. In addition, the judges review and vote in favor of opinions authored by Tax Court judges for publication in the New Jersey Tax Court Reports. These meetings, over the years, have proven to be very helpful to all the Tax Court judges, but have been exceptionally helpful to judges newly appointed to the court. The court's published opinions have been equally helpful to the practitioners as precedential guidance regarding specific issues.

Table 1 categorizes filings and dispositions for the 2023-2024 court year. The analysis represents Tax Court cases only and does not include Superior Court cases or miscellaneous tax applications handled by Tax Court Judges. An examination of the table shows that 99% of the court's cases involve local property tax. The remaining 1% concern assessments of State taxes by the Director, Division of Taxation such as gross income tax, corporation business tax, sales and use tax, transfer inheritance tax, homestead rebate cases, and challenges to equalization tables and school aid ratios. Although smaller in number, these cases tend to be complicated and often involve complex legal questions that require significant judicial resources.

TABLE 1  
TAX COURT OF NEW JERSEY CATEGORIES OF CASES  
FILED COURT YEAR 2023-2024

<b>A. Cases filed by general category</b>	
Local property tax cases	99%
State Tax and Equalization Table cases	1%
Total	100%
<b>B. Local property tax cases filed</b>	
Regular cases	64%
Small Claims cases	36%
Total	100%
<b>C. State Tax and Equalization table cases filed</b>	
State tax cases (other than Homestead Rebate and related types)	76%
Homestead Rebate and Related types	16%
Equalization Table cases	8%
Total	100%

An additional fifty-seven previously closed cases were reinstated during the court year, bringing the total number of new cases to 10,247. More detailed Tax Court statistics for the 2023-2024 court year can be found in the Appendix.

### III. THE TAX COURT MANAGEMENT OFFICE

The Tax Court Management Office is the administrative arm of the Tax Court. Cheryl A. Ryan had been the Clerk/Administrator since her appointment on October 1, 2005, until her retirement in December 2023. Thereafter, Jeffrey T. Gallus, was sworn in as the Tax Court Clerk/Administrator on December 14, 2023.

The Management Office provides the support services necessary for the efficient functioning of the court. It is responsible for case-flow management, record keeping, and case management functions necessary to move cases to disposition, as well as managing resources to support the judges and support staff in the four locations.

Two case management teams are responsible for docketing, screening, data processing, calendaring, records management, and administrative support. The Management Office accepts papers for filing, processes all eCourts Tax complaints electronically filed, assigns local property and state tax cases, prepares calendars and judgments, responds to attorney and litigant inquiries, and provides procedural guidance.

During the court year the Management Office continued to work closely with the Judiciary's business analysts and IT unit to oversee enhancements to eCourts Tax. Developments such as new filing document descriptions (e.g. "Mutual Withdrawal of Complaint and Counterclaim"), capturing additional data and adding reminder pop-ups, improved the efficiency of the court and facilitated the process for litigants. Procedural transparency remains at the forefront of the Tax Court's operations for all court users. In doing so, the court has implemented a new notice which advises court users of Rule 1:21-1(c) and a new filing type, in support of the Notice to Comply, has been added in eCourts. Furthermore, the court took actions to include warning popup language to reflect the following: "**STOP – ASSESSMENT FOR ONE PROPERTY MUST BE OVER \$1 MILLION TO FILE A DIRECT APPEAL WITH THE TAX COURT. IF NOT, FILE IMMEDIATELY WITH COUNTY BOARD OF TAXATION TO AVOID UNTIMELY FILING.**"

A priority for the Management Office continues to be reviewing the court's operations and implementing changes to accommodate changes in tax law and electronic filing. These changes result in improved efficiency in operations, including a reduction of data entry by staff, increased efficiency in issuing judgments, and a reduction in costs. One of the most significant priorities for Tax Court Judges and staff is to ensure that the Tax Court Management System (TCMS) fully meets the standards and demands of today's technological abilities and expectations. Tax Court

is collaborating with Automated Trial Court Services Unit and the Information Technology Office to transition to a new platform.

To assist users with navigating eCourts Tax, the Tax Court website includes links to instructions and information regarding the electronic filing program. Additionally, various reports and information are available to provide timely and efficient service to litigants and the public. For example, the court provides a monthly report on judgments entered and a daily report of new cases filed and of cases pending. Other information available on the court's website includes published and unpublished Tax Court opinions, notices regarding important changes to Tax Court policies, all State and local property Tax Court forms, the Rules of the Tax Court (Part VIII), a small claims handbook, the Tax Court's standard form interrogatories, as well as the Annual Reports of the Presiding Judge, and the Biennial Reports of the Supreme Court Committee on the Tax Court. Links to the State's twenty-one county boards of taxation are also available on-line.

#### IV. CASELOAD

##### A. Filings and Dispositions

Table 2 in the Appendix (page a) summarizes the history of filings and dispositions of Tax Court cases since court year 2014-2024. During the 2023-2024 court year, the Tax Court experienced an increase in new case filings. As of June 30, 2024, the court docketed 10,247 new cases and disposed of 10,948 cases. At the start of the 2023-2024 court year, the court's inventory of cases was 33,271. That number decreased to an inventory of 32,570 by the close of the court year. These figures do not include miscellaneous tax applications and Superior Court cases assigned to Tax Court Judges. Inventory of cases at the close of the court year constitutes approximately two years of dispositions at the current rate of disposition. That is consistent with our objective of closing standard track cases within eighteen months to two years after filing. As of the last day of the 2023-2024 court year, 52% of the court's caseload was in "backlog" (cases



over two years old). Included in this backlog are 1,056 cases that are marked *Inactive* pending a Supreme Court decision in Verizon New Jersey, Inc v. Hopewell Borough, which decision was very recently rendered (after the 2023-2024 court term). With the increased mediation by retired-on-recall Judge Andresini, P.J.T.C., the backlogged cases have been reduced significantly, and continue to do so. See below.

#### B. Productivity

Table 3 in the Appendix (Page b) indicates the number of dispositions per Tax Court Judge per year for the past eleven years. Dispositions per judge in the past ten court years have been significant. Fluctuations in dispositions and caseloads per judge are a result of the shrinking inventory of the pending caseload and changes in the number of judges assigned to Tax Court full or part-time.

It should be noted that dispositions per Judge per year is not the sole measure of the quantity and quality of the court's work. What is of significance is the court's management of cases towards, during, and after settlements. In this connection, our recently instituted local property tax mediation (at no cost to the parties) contributed significantly to settlement of complex and chronologically older cases, all of them conducted by Judge Andresini, P.J.T.C. (retired, on recall). In the 2023-2024 court term, he successfully mediated local property tax cases involving over 15 property owners. Each property owner's case involved multiple tax years, some filed as early as 2010. Thus about 90 cases were resolved (since each tax year is a separate complaint), not including future tax years which were also settled in the process. The Bar has continued to express appreciation for these mediation efforts and requests in this regard have increased.

The court has developed a significant body of law through published opinions reported in Volumes 1 through 33 of the New Jersey Tax Court Reports. The published opinions reflect

a fraction of the written and oral opinions issued by Tax Court Judges during the 2023-2024 court year. A description of the most significant Tax Court opinions, as well as significant published opinions of appellate courts, follows.

C. Decisions

Supreme Court of the United States

During the 2023-2024 court year, no petitions for certiorari were filed with the Supreme Court of the United States in a case that originated in the Tax Court.

Supreme Court of New Jersey

At the start of the 2023-2024 court year, no appeals originating in the Tax Court were pending in the Supreme Court of New Jersey. During the court year, one petition for certification from matters originating in the Tax Court was filed, which was granted, and one petition was denied. As of June 30, 2024, no petition for certification was pending. The Supreme Court issued no opinions in matters that originated in the Tax Court during the 2023-2024 court year.

Superior Court, Appellate Division

During the 2023-2024 court year, six appeals from Tax Court decisions were filed with the Superior Court, Appellate Division. Table 4 (page 15) provides the number of Tax Court cases appealed to the Appellate Division for the previous eleven years. The Appellate Division decided 12 Tax Court cases in the 2023-2024 court year, with the disposition breakdown detailed in Table 5 (page 16). Appellate Division opinions in appeals from Tax Court matters are published in either the New Jersey Superior Court Reports or the New Jersey Tax Court Reports.

There was one significant published opinion issued by the Superior Court, Appellate Division during the 2023-2024 court year in cases that originated in the Tax Court:

Cargill Meat Solutions v. Director, Div. of Taxation, (decided 10/12/23, certif. denied, 05/07/24): The higher court affirmed the Tax Court's decision that taxpayer is a manufacturer of litter generating meat products subject to the Litter Tax. In

affirming the Tax Court, the Appellate Division rejected taxpayer's argument that the tax was not validly appropriated. The court also determined the wholesaler-to-wholesaler exemption to the tax is not applicable.

The following Appellate Division unpublished opinion was approved for publication in the Tax Court Reports since the underlying Tax Court opinion was published and reported in the New Jersey Tax Reports:

Options Imagined v. Parsippany Troy Hills, 2024 N.J. Super. Unpub. LEXIS (App. Div. 04/17/24): affirming the Tax Court's decision (33 N.J. Tax 129 (Tax 2022) that the property (a 2-bedroom condominium unit solely occupied by the entity's owner's developmentally disable son) is entitled to local property tax exemption.

#### Tax Court

Published Tax Court opinions are reported in the New Jersey Tax Court Reports. As of the date of this report, there are 33 volumes of the New Jersey Tax Court Reports.

##### (1) Local Property Tax Cases

The following published opinions of the Tax Court were among the most significant for the 2023-2024 court year:

Alemanly v. Twp. of Marlboro, 33 N.J. Tax 272 (decided 01/30/24): The court agreed with plaintiff veteran that her home is entitled to local property tax exemption although she served in the Army National Guard and was discharged from active-duty training.

Westerhold et al. v. Twp. of Toms River et al., 33 N.J. Tax 282 (decided 02/21/24): Agreeing with plaintiffs that although the local property tax statute, N.J.S.A. 54:3-21 barred third-party appeals in the Tax Court, it did not foreclose such taxpayers from challenging another property's local property tax assessment in the Superior Court via an in-lieu prerogative writ action.

Freda v Sea Isle City, 33 N.J. Tax 292 (decided 03/05/24): The non-residential development fee was not a "municipal charge" because it does not give rise to a lien enforceable by sale of the premises, therefore, its non-payment cannot bar a local property tax appeal.

##### (2) State Tax Cases

The following published opinion of the Tax Court were among the most significant for the

2023-2024 court year:

Scott v. Dir., Div. of Taxation, 33 N.J. Tax 251 (decided 12/22/23): The court found that the defendant had no authority to unilaterally select a joint filing status for taxpayers simply because that was their federal income tax return filing status. The federal status was not dispositive in determining eligibility for New Jersey's EITC (earned income tax credit) when it was undisputed that the couple were married and living together for the tax year at issue.

Porcaro v. Dir., Div. of Taxation, 2024 N.J. Tax LEXIS 4, approved for publication, 33 N.J. Tax \_\_\_ (decided 05/31/24): The court found plaintiff's contentions of having received defendant's final determination in 2020 was not credible since facts showed that the same was mailed and received by plaintiff in 2017. This case involved a first-time analysis of N.J.S.A. 54:50-6.

#### V. SUPREME COURT COMMITTEE ON THE TAX COURT

The Supreme Court Committee on the Tax Court is comprised of judges, members of the tax bar, tax administrators at the municipal, county and state levels, representatives of taxpayers' and tax professionals' organizations and others concerned with the administration and review of tax laws in New Jersey. During the last court year, the committee held well-attended meetings to discuss issues related to the review of state and local tax assessments, including practice before the Tax Court, operation of the court, proposed rule amendments and legislation. Since no other such forum exists in the State of New Jersey, the Supreme Court Committee on the Tax Court affords a unique opportunity for taxpayers, those who represent taxpayers and those who administer and review tax laws, to meet and discuss common problems and ways to improve the state and local tax system. These committee discussions have resulted in better understanding and coordination among the groups represented by the participants. The committee also provides a means of communication between the Supreme Court and the tax community. The committee fulfills a vital role in its advisory capacity by developing and recommending rule changes affecting the operation of the court. The committee meets regularly and will next issue a report in January 2025.

## CONCLUSION

During the past forty-five years, the overall mission of the Tax Court, to provide prompt and impartial hearings and dispositions of tax disputes, has remained steadfast and unyielding. The Tax Court successfully continued conducting in-person, fully remote and hybrid events throughout the 2023-2024 court year, furthering this mission. The judges and Tax Court staff worked diligently to accomplish the work of the court. Their efforts have been efficient and of very high quality. I am satisfied that the public has been well served. The work of the court has substantially assisted in the administration of the tax laws of the State and aided taxpayers, tax practitioners and tax administrators by contributing to the development of a consistent body of tax law for their guidance.

Respectfully submitted,

/s/ Mala Sundar  
Hon. Mala Sundar, P.J.T.C.

Date Submitted: August 23, 2024

TABLE 2

TEN YEAR HISTORY OF TAX COURT FILINGS AND DISPOSITIONS



TABLE 3

## TAX COURT OF NEW JERSEY PRODUCTIVITY -DISPOSITIONS PER JUDGE 2014-2024

Year ended	Pending first day of period	Filings	Dispositions	Pending last day of period	# of Judges (full time equivalents)	Dispositions per Judge
6/30/14	43,994	18,962	15,747	47,209	6 - Fiamingo appointed 4/2014	2,625
6/30/15	47,209	16,173	20,720	42,662	8 – Novin appointed 8/14	*2,590
6/30/16	42,662	14,654	18,092	39,224	8.25 – Cimino appointed 7/15 (Partial Caseload)	2,193
6/30/17	39,224	13,260	17,567	34,917	8.75 - Gilmore appointed 1/17; Cimino (Partial Tax)	2,008
6/30/18	34,917	14,446	13,936	35,427	9 – Orsen appointed 7/5/17; Murray appointed	1,548
6/30/19	35,427	14,097	13,400	36,124	8.75 - Cimino/Fiamingo/Murray Partial Tax;	1,531
6/30/20	36,124	13,154	12,824	36,454	8.75 - Cimino/Fiamingo/Murray/Novin Partial Tax	1,466
6/30/21	36,454	14,303	11,802	38,955	8 - Cimino/Fiamingo/Novin Partial Tax; Murray Partial Tax until 1/2021; Andresini retired 1/2021	1,475
6/30/22	38,955	11,239	14,281	35,913	9 – Cimino/Fiamingo Partial Tax; Andresini on recall	1,587
6/30/23	35,913	9,971	12,613	33,271	9 – Cimino/Fiamingo Partial Tax; Andresini on recall; Duffy appointed 4/23	1,401
6/30/24	33,271	10,247	10,948	32,570	10 – Cimino Partial until 9/23; Fiamingo Partial Tax; Andresini on recall; Bianco retired 7/23; Fiamingo retired 4/24	1,095

\* Corrected error reported in 2014-2015 annual report.

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TABLE 4

TAX COURT CASES APPEALED TO THE APPELLATE DIVISION 2013-2024

<b>Court Year</b>	<b>Number of Cases</b>
2013-2014	33
2014-2015	23
2015-2016	32
2016-2017	39
2017-2018	22
2018-2019	30
2019-2020	29
2020-2021	10
2021-2022	15
2022-2023	16
2023-2024	6



TABLE 5

ACTIONS TAKEN BY APPELLATE DIVISION ON TAX COURT CASES  
COURT YEAR 2023-2024

Action	Number of Cases
Affirmed	4
Reversed	0
Reverse and Remand	0
Remand	0
Dismissed	7
Withdrawn	0
Motion for Leave to Appeal denied	1
<b>Total Dispositions</b>	<b>12</b>

TABLE 6

TAX COURT CASES PENDING, FILED AND DISPOSED  
COURT YEAR 2023-2024

	<b>Local Property Tax</b>	<b>State Tax</b>	<b>Equalization &amp; related cases</b>	<b>Totals</b>
<b>Cases pending as of first day of period</b>	32,971	300	0	33,271
<b>New cases filed during period</b>	10,067	113	10	10,190
<b>Reinstated</b>	57	0	0	57
<b>Subtotal</b>	43,095	413	10	43,518
<b>Cases disposed</b>	10,831	107	10	10,948
<b>Pending</b>	32,264	306	0	32,570

TABLE 7

CHARACTER OF COMPLAINTS FILED  
COURT YEAR 2023-2024

1. Local Property Tax	FILED	REINSTATED
Regular	6,463	36
Small Claims	3,604	21
<b>TOTAL</b>	<b>10,067</b>	<b>57</b>
2. Other than Local Property Tax (STATE)		
Regular	83	0
Small Claims	40	0
<b>TOTAL</b>	<b>123</b>	<b>0</b>
<b>Grand Total</b>	<b>10,190</b>	<b>57</b>

Type of State Tax

10 Day Deficiency	1	
Cigarette	1	
Corporation Business	13	
Corporation Income	1	
County Ratable	1	
Emergency Response Fee	1	
Employer Withhold (payroll) Taxes	4	
Estate Tax	1	
Fair Homestead Rebate	1	
Gross Income	20	
Inheritance Tax	3	
Litter Control Tax	3	
Mansion Tax	4	
Non-Residential Development Fee (COAH)	1	
Property Tax Reimbursement	14	
Responsible Person Status	1	
Sales and Use	32	
School Aid (Table of Equalization Valuation)	10	
Senior Freeze	4	
State tax (live out of state)	1	
Tobacco Prod Wholesale Sales & Use	6	
<b>Grand Total</b>	<b>123</b>	<b>0</b>

TABLE 8

LOCAL PROPERTY TAX COMPLAINTS FILED BY COUNTY  
2017 - 2024

	6/30/17	6/30/18	6/30/19	6/30/20	6/30/21	6/30/22	06/30/23	06/30/24
<b>Atlantic</b>	276	411	342	273	291	171	137	85
<b>Bergen</b>	2185	2276	2332	2374	2368	2061	2029	1878
<b>Burlington</b>	227	231	270	235	242	142	150	154
<b>Camden</b>	114	176	173	216	204	142	135	127
<b>Cape May</b>	81	78	81	71	75	55	63	56
<b>Cumberland</b>	56	43	36	50	29	49	36	24
<b>Essex</b>	2621	2906	2917	2694	2781	1848	1472	1482
<b>Gloucester</b>	104	107	121	123	95	75	101	73
<b>Hudson</b>	560	971	1453	1229	1455	1378	1275	1555
<b>Hunterdon</b>	53	57	51	47	85	82	69	61
<b>Mercer</b>	216	348	323	361	327	251	226	244
<b>Middlesex</b>	821	1022	895	945	1038	581	628	532
<b>Monmouth</b>	1255	1140	1037	933	874	695	781	761
<b>Morris</b>	935	869	932	853	1032	660	634	636
<b>Ocean</b>	527	661	507	448	596	417	377	416
<b>Passaic</b>	1265	1121	812	556	1035	922	401	821
<b>Salem</b>	43	36	29	33	26	24	19	11
<b>Somerset</b>	262	297	298	234	235	196	233	230
<b>Sussex</b>	174	260	141	128	138	58	57	72
<b>Union</b>	999	1169	1117	1180	1217	1297	925	867
<b>Warren</b>	101	82	58	49	89	59	84	39
<b>TOTALS</b>	12,875	14,261	13,925	13,032	14,232	11,163	9,832	10,124