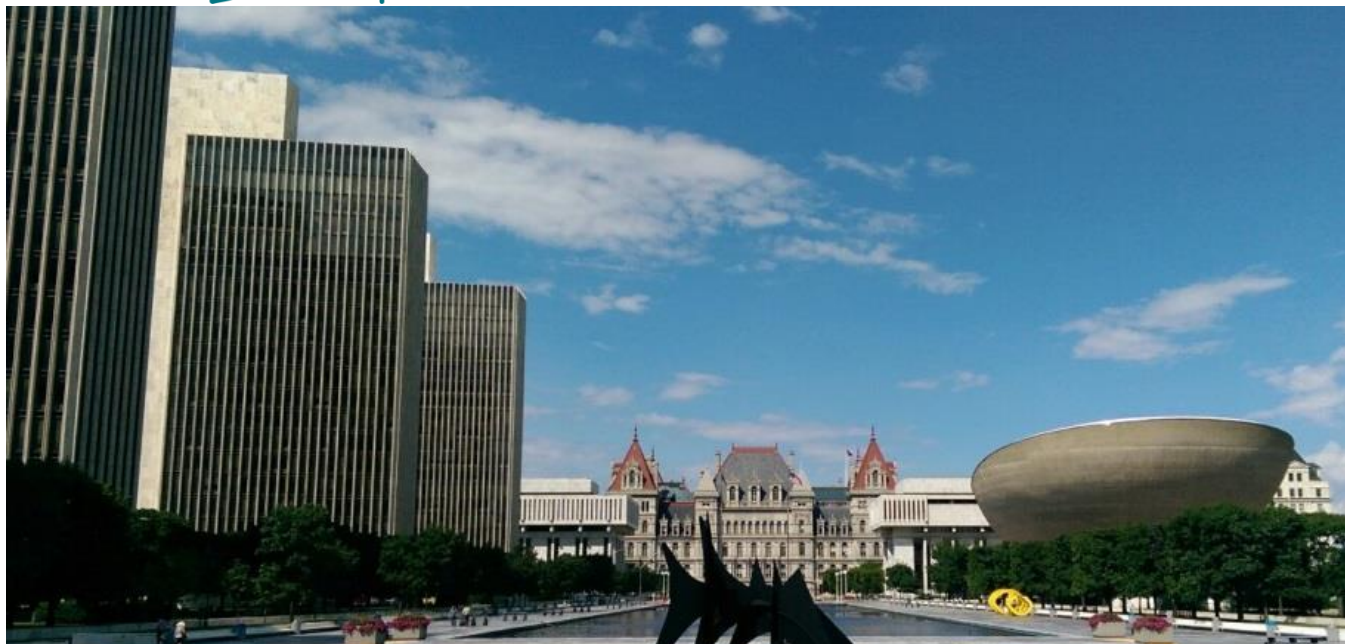




Tax Appeals



ANNUAL REPORT

2024

KATHY HOCHUL, GOVERNOR

JONATHAN S. KAIMAN, PRESIDENT AND COMMISSIONER

CYNTHIA M. MONACO, COMMISSIONER

KEVIN A. CAHILL, COMMISSIONER



Tax Appeals

Jonathan S. Kaiman

President and Commissioner

New York State Tax Appeals Tribunal

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April 24, 2025

The Honorable Kathy Hochul
Governor of the State of New York

The Honorable Andrea Stewart-Cousins
President Pro Tempore and Majority Leader

The Honorable Carl E. Heastie
Speaker of the Assembly

Dear Governor Hochul, President Pro Tempore Stewart-Cousins and Speaker Heastie:

Pursuant to Tax Law § 2006 (13), I am pleased to submit the Annual Report of the Tax Appeals Tribunal/Division of Tax Appeals ("Tax Appeals") for calendar year 2024. Together with the statutorily required statistics regarding operations, the report contains general information regarding Tax Appeals, including its mission, functions and operations.

Tax Law § 2000 imposes upon Tax Appeals the responsibility of providing the public with a just system of resolving controversies with the Division of Taxation and ensuring that parties are afforded due process. We take great pride in striving to meet that goal by providing a fair, efficient and productive process.

I hope that you will find the report informative and useful. I am always available to respond to any questions or observations that you may have regarding the Annual Report or the operations of Tax Appeals in general.

Respectfully submitted,

Jonathan S. Kaiman
President and Commissioner

ENCLOSURE

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MISSION

It is the mission of the New York State Tax Appeals Tribunal (Tribunal)/Division of Tax Appeals (collectively Tax Appeals) “to provide the public with a clear, uniform, rapid, inexpensive and just system of resolving controversies with the Division of Taxation of the New York State Department of Taxation and Finance” (20 NYCRR 3000.0) (Taxation). In accomplishing our mission, we continuously strive to provide the procedural framework “necessary to facilitate the rapid resolution of controversies, while at the same time avoiding undue formality and complexity” (20 NYCRR 3000.0).

ORGANIZATION**HISTORY**

The establishment of Tax Appeals on September 1, 1987 separated the administration of taxes from the adjudication of disputes between taxpayers and the Department of Taxation and Finance, Division of Taxation. Under prior law, disputes between taxpayers and the Division of Taxation were resolved by a three-member Tax Commission, the President of which was also the Commissioner of the Department of Taxation and Finance. As the Division of Taxation was always one of the parties before the Tax Commission, critics of the system noted that there was, at the least, a perception of bias.

In addition, the regulations that were at issue in many of the cases were promulgated by the Tax Commission itself. Again, the criticism was that the body that had adopted the substantive regulations at issue could not fairly and objectively review their validity or application in an adjudicatory proceeding. Finally, under the former system, the hearing function was performed by a hearing officer who heard the case and recommended a decision to the Tax Commission, which then rendered the decision. Critics argued that the person who had the opportunity to weigh the evidence and evaluate the credibility of the witnesses at the hearing should be the person to make the decision.

Under the current system, the Tribunal and the Division of Tax Appeals are fully independent from the Department of Taxation and Finance. The Commissioner of the Department of Taxation and Finance is not a member of the Tribunal. The Tribunal can review the validity and application of the regulations of the Division of Taxation at issue in the cases before it. The hearing function is performed by Administrative Law Judges, who conduct formal hearings and render written determinations. These determinations finally resolve the case, unless a party files an appeal with the Tribunal.

THE TRIBUNAL

The Division of Tax Appeals is headed by the Tribunal, which consists of three commissioners nominated by the Governor and confirmed by the New York State Senate. The commissioners are appointed for nine-year terms. One of these commissioners is designated as the President of the Tribunal by the Governor and is solely responsible for the administration of Tax Appeals as a whole.

At least two of the commissioners must be attorneys admitted to practice in New York State for a period of at least ten years and be knowledgeable on the subject of taxation and one member need not be an attorney but must also be knowledgeable on the subject of taxation (Tax Law § 2004).

In 2024, the Tribunal consisted of President and Commissioner Jonathan Kaiman who was appointed by Governor Hochul and confirmed by the Senate and designated as President in June 2024 to succeed outgoing President Anthony Giardina, Commissioner Cynthia M. Monaco and Commissioner Kevin A. Cahill.

The Tribunal is responsible for the administration of Tax Appeals and the appellate portion of the process of resolving controversies. It is assisted in its duties by the offices of the Secretary to the Tribunal and the Counsel to the Tribunal.

The Secretary to the Tribunal assists the President in administering the judicial functions of the Division of Tax Appeals and handles all procedural matters regarding the cases before the Tribunal.

The Counsel to the Tribunal assists the Tribunal in the preparation of decisions on cases before it, as well as preparing the agency's regulatory and legislative proposals, and advises the Tribunal on legal issues as they arise.

THE DIVISION OF TAX APPEALS

The Supervising Administrative Law Judge is responsible for the hearing or trial level of the process of resolving controversies. This includes the day-to-day administration of both formal hearings before Administrative Law Judges and small claims hearings before Presiding Officers. In 2024, the hearing staff of the Division of Tax Appeals was comprised of nine Administrative Law Judges and one part-time Small Claims Presiding Officers. The Division of Tax Appeals is currently recruiting for a full-time Small Claims Presiding Officer.

The remaining principal staff operations are handled by the Hearing Operations Section, consisting of Petition Intake, Pre-Hearing Support, and Determination Publishing.

ADJUDICATORY PROCESS

INTRODUCTION

A taxpayer can protest any written notice issued by the Department of Taxation and Finance's Division of Taxation that has advised the taxpayer of a tax deficiency; a determination of tax due; a denial of a refund or credit application; a denial, cancellation, revocation or suspension of a license, permit or registration or any other notice that gives a person the right to a hearing in the Division of Tax Appeals, by filing a petition for a hearing (Tax Law § 2008). Unless protested by the taxpayer affected by such action, the action asserted by Division of Taxation will stand.

Of the cases pending before Tax Appeals in 2024, (73.7%) involved the assertion by Division of Taxation that the taxpayer owed additional taxes. The remaining cases involved situations where taxpayers claimed refunds of taxes paid (24.5%) and controversies involving various licenses and registrations (1.8%). Due to a shift to a new case management system in 2024, minor conforming adjustments have been made to Tax Appeals case statistics to ensure consistency and accuracy.

FORMAL HEARINGS

Formal hearings are held before an Administrative Law Judge. Hearings are typically held in Albany, New York City, and Rochester. Additionally, post-COVID, Tax Appeals now offers parties the option of having their hearings conducted virtually. The Administrative Law Judge hears testimony, evaluates the evidence and prepares and issues a written determination within six months after the completion of the hearing or submission of briefs of the parties, whichever is later (Tax Law § 2010 [3]). The determination of the Administrative Law Judge sets forth the issues in the case, the relevant facts established by the parties, the necessary legal analysis and the conclusions of law relevant to the issues. The determination is binding on both the taxpayer and Taxation unless one or both of the parties request a review of the determination by the Tribunal by filing an exception with the Secretary to the Tribunal within 30 days of the issuance of the determination (Tax Law §§ 2006 [7], 2010 [4]).

SMALL CLAIMS

As an alternative to a formal hearing, taxpayers have the right to elect a small claims proceeding if the amount in dispute is within certain dollar limits as prescribed by regulations adopted by the Tribunal (Tax Law § 2012). Currently, the limits are \$20,000 (not including penalty and interest) for any 12-month period for personal income and corporate franchise taxes and \$40,000 for sales and compensating use taxes (20 NYCRR 3000.13 [b]). Small claims hearings are typically held in Albany, New York City and Rochester. Additionally, post-COVID, Tax Appeals now offers parties the option of having their small claims hearings conducted virtually. A small claims hearing is conducted informally by a Presiding Officer, whose determination is issued within three months after the completion of the hearing or submission of briefs of the parties, whichever is later and is deemed final for both parties. However, at any time before the conclusion of the small claims hearing, a taxpayer may discontinue the proceeding and request that a formal hearing be held before an Administrative Law Judge (Tax Law § 2012).

TRIBUNAL REVIEW OF ADMINISTRATIVE LAW JUDGE DETERMINATIONS

After reviewing the record of the hearing and any arguments, oral or by brief, the Tribunal issues a written decision affirming, reversing or modifying the determination of the Administrative Law Judge or remanding the case for additional proceedings before such Administrative Law Judge (Tax Law § 2006 [7]). Each decision of the Tribunal sets forth the issues in the case, the relevant facts established by the parties in the record at hearing and the Tribunal's opinion, which applies relevant law to such facts. Each decision must be rendered within six months from the date of notice to the Tribunal that exception is being taken to the determination of the Administrative Law Judge. This period is extended if oral or written argument is made before the Tribunal (Tax Law § 2006 [7]). In cases where oral arguments are requested and granted, they are typically held in Albany and New York City.

Taxpayers who are not satisfied with the decision of the Tribunal have the right to appeal the Tribunal's decision by instituting a proceeding pursuant to Article 78 of the Civil Practice Law and Rules with the Appellate Division, Third Department of the State Supreme Court. Prior to 2023, the Division of Taxation could not appeal Tribunal decisions. However, effective May 3, 2023, section 2016 of the Tax Law was amended to allow the Division of Taxation, in consultation with the Attorney General, to appeal Tribunal decisions that are premised on interpretation of the state or federal constitution, international law, federal law, the law of other states, or other legal matters that are beyond the purview of the state legislature. Article 78 proceedings filed by either party must be initiated within four months of the issuance of the Tribunal decision (Tax Law § 2016).

PUBLICATION OF TRIBUNAL DECISIONS AND ADMINISTRATIVE LAW JUDGE DETERMINATIONS

Tax Law § 2006 (9) requires the Tribunal to publish and make available to the public all determinations rendered by Administrative Law Judges and all decisions rendered by the Tribunal.

All decisions and determinations are available at no cost on the agency's website at www.dta.ny.gov. The Tribunal also provides copies of individual decisions and determinations upon request.

The Tribunal posts on its website a monthly docket, which indicates Administrative Law Judge determinations and Tribunal decisions issued for the month, as well as exceptions filed to Administrative Law Judge determinations and Article 78 proceedings instituted by taxpayers to review Tribunal decisions.

DISPOSITION OF CASES

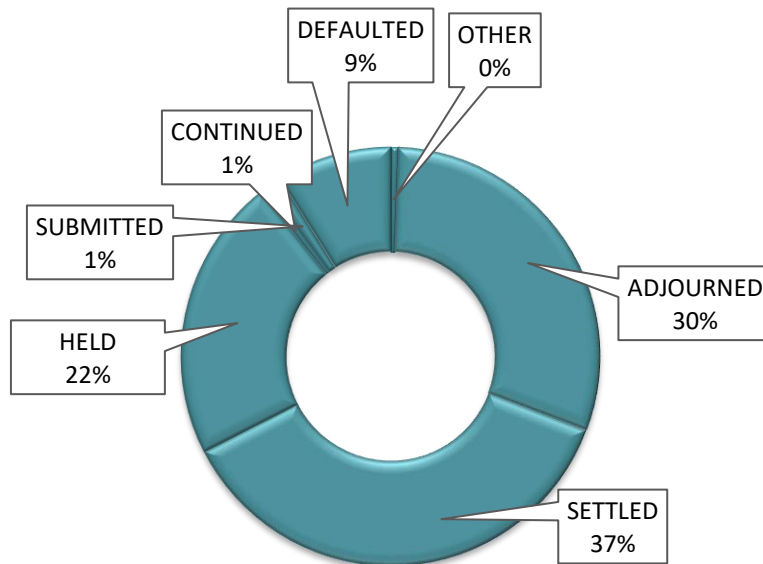
The following tables and charts show the inventory of cases before Tax Appeals and the disposition of cases by Administrative Law Judges (ALJ), including Small Claims matters and the Tribunal in 2024.

FORMAL HEARINGS

2024 INVENTORY (NET CASES):**BEGINNING INVENTORY****751****Add (+)****Cases Received 654****Default Vacated 0****Other 0****Subtotal 654****TOTAL CASES FOR HEARINGS****1405****Deduct (-)****Petitions Withdrawn 100****Closing Orders Issued 199****Defaults 14****Determinations Issued 81****Petitions Dismissed 23****Referred to BCMS 8****Bankruptcy 0****Subtotal 425****ENDING INVENTORY****980**

ANALYSIS OF CASE SCHEDULING

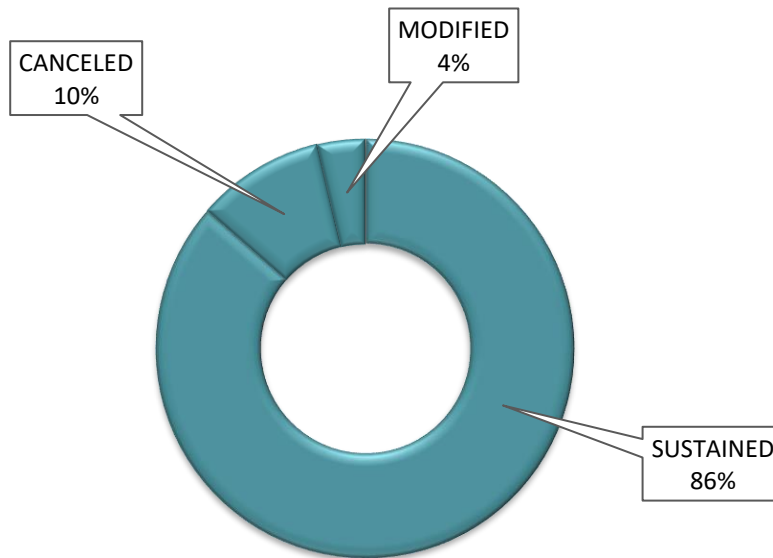
In 2024, **169** cases were scheduled for a formal hearing before Administrative Law Judges.
Of that total:

**CASE SCHEDULING**

	NUMBER	PERCENT
ADJOURNED before hearing	51	30%
SETTLED by parties before hearing	62	37%
HELD and completed	37	22%
CONTINUED for completion	1	1%
SUBMITTED on papers without hearing	2	1%
DEFAULTED due to failure of one of the parties to appear	15	9%
OTHER	1	1%
TOTAL	169	100%

Analysis of Determinations

Case Disposition: In 2024, the Administrative Law Judges issued **81** determinations. Of that total:



DETERMINATIONS	NUMBER	PERCENT
SUSTAINED the deficiency or other action	70	86%
CANCELED the deficiency or other action	8	10%
MODIFIED the deficiency or other action	3	4%
TOTAL	81	100%

Breakdown of Determinations by Tax

TAX	NUMBER	PERCENT
INCOME	56	69%
SALES	17	21%
CORP. FRANCHISE	1	1%
MISCELLANEOUS	7	9%
DRIVERS LICENSE	0	0%
TOTAL	81	100%

AVERAGE ELAPSED TIME

The average elapsed time between the later of the hearing date or the last brief date and the issuance of the determination was: Mean **3.98** months and Median **3** months.

SMALL CLAIMS HEARINGS

2024 INVENTORY (NET CASES):

BEGINNING INVENTORY	206
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Add (+)

Cases Received	105
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Defaults Vacated	0
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Other	0
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Subtotal	105
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TOTAL CASES FOR HEARINGS	311
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Deduct (-)

Petitions Withdrawn	25
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Closing Orders Issued	45
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Defaults	8
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Determinations Issued	15
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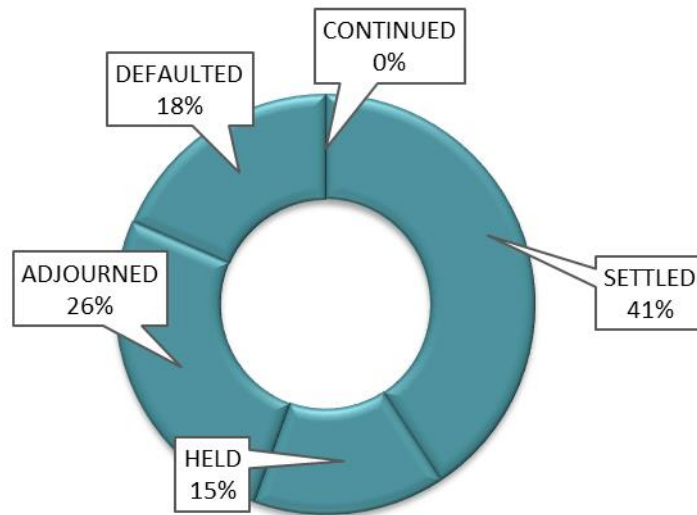
Referred to BCMS	1
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Subtotal	94
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ENDING INVENTORY	217
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ANALYSIS OF SMALL CLAIMS CASE SCHEDULING

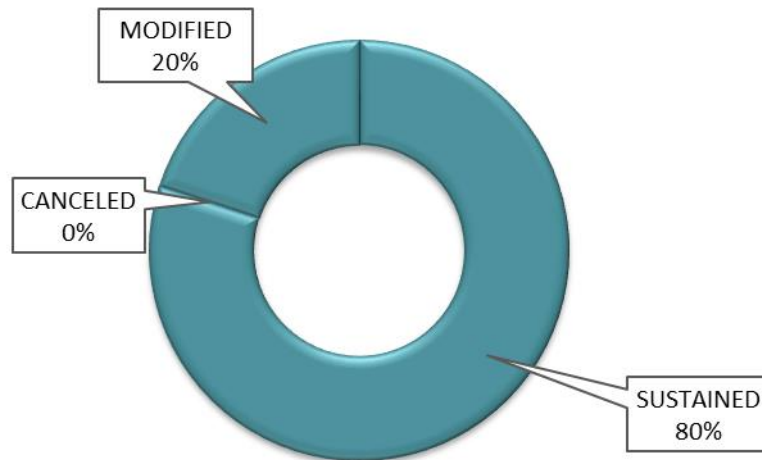
In 2024, **54** cases were scheduled for a small claims hearing. Of that total, outcomes were as follows:



CASE SCHEDULING	NUMBER	PERCENT
SETTLED by parties before hearing	22	41%
HELD and completed	8	15%
ADJOURNED before hearing	14	26%
DEFAULTED	10	18%
CONTINUED	0	0%
TOTAL	54	100%

ANALYSIS OF SMALL CLAIMS DETERMINATIONS

Case Disposition: In 2024, **15** small claims determinations were issued. Of that total, dispositions were as follows:



DETERMINATIONS	NUMBER	PERCENT
SUSTAINED the deficiency or other action	12	80%
CANCELED the deficiency or other action	0	0%
MODIFIED the deficiency or other action	3	20%
TOTAL	15	100%

BREAKDOWN OF SMALL CLAIMS DETERMINATIONS BY TAX

TAX	NUMBER	PERCENT
INCOME	13	86%
SALES	1	7%
MISCELLANEOUS	1	7%
TOTAL	15	100%

AVERAGE TIME ELAPSED

The average elapsed time between the later of the hearing date or the last brief date and the issuance of the determination was: Mean **1.91** months and Median **3** months.

TAX APPEALS TRIBUNAL

2024 INVENTORY (NET CASES):

BEGINNING INVENTORY	86
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Add (+)

Cases Received	28
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TOTAL CASES	114
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Deduct (-)

Decisions Issued	31
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Exceptions Withdrawn	1
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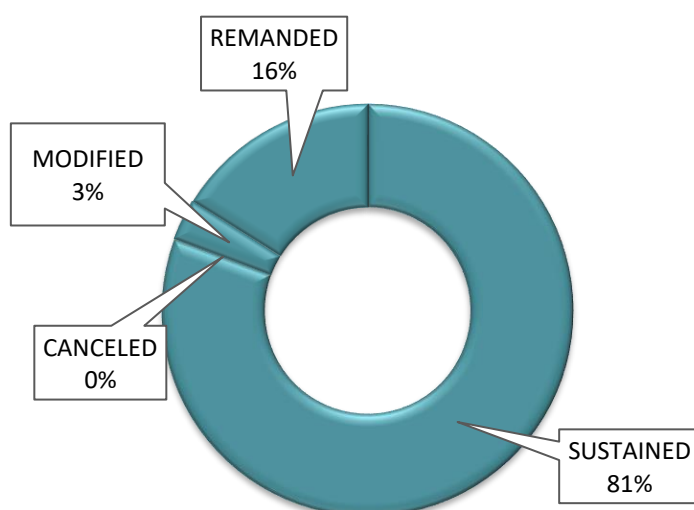
Settled	1
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Subtotal	33
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ENDING INVENTORY	81
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ANALYSIS OF DECISIONS**CASE DISPOSITION:**

In 2024, the Tax Appeals Tribunal issued **31** decisions. Of that total, outcomes were as follows:



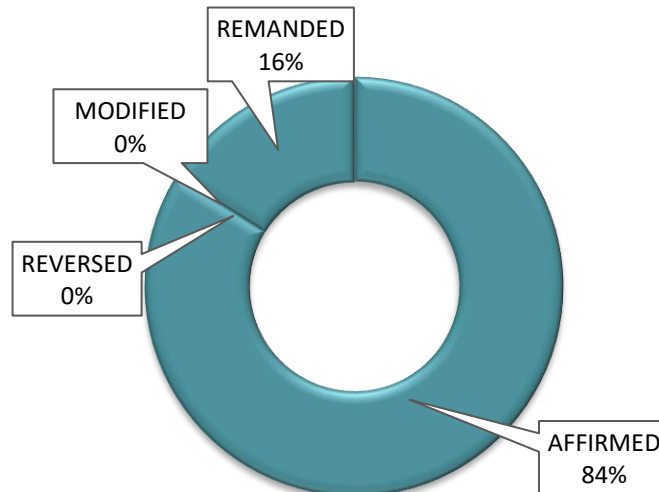
DECISIONS	NUMBER	PERCENT
SUSTAINED the deficiency or other action	25	81%
CANCELED the deficiency or another action	0	0%
MODIFIED the deficiency or other action	1	3%
REMANDED the matter to the ALJ	5	16%
TOTAL	31	100%

BREAKDOWN OF DECISIONS BY TAX

TAX	NUMBER	PERCENT
INCOME	13	42%
SALES	8	26%
CORPORATE	3	10%
MISCELLANEOUS	7	22%
TOTAL	31	100%

TRIBUNAL DISPOSITION OF ALJ DETERMINATIONS

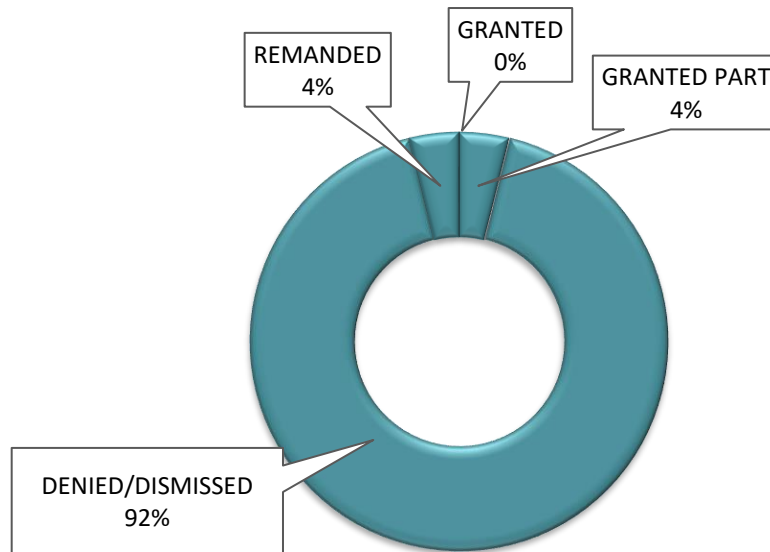
In 2024, the Tribunal issued **31** decisions reviewing determinations of Administrative Law Judges. Of that total, outcomes were as follows:



DECISIONS	NUMBER	PERCENT
AFFIRMED the ALJ determination	26	84%
REVERSED the ALJ determination	0	0%
MODIFIED the ALJ determination	0	0%
REMANDED the matter to ALJ	5	16%
TOTAL	31	100%

TRIBUNAL DISPOSITION OF PETITIONER EXCEPTIONS

In 2024, the Tribunal rendered **26** decisions with respect to exceptions filed by Petitioners. Of that total, outcomes were as follows:



DECISIONS	NUMBER	PERCENT
DENIED OR DISMISSED Petitioner's exception	24	92%
GRANTED Petitioner's exception	0	0%
GRANTED PART of Petitioner's exception	1	4%
REMANDED the matter to ALJ	1	4%
TOTAL	26	100%

TRIBUNAL DISPOSITION OF DIVISION EXCEPTIONS

In 2024, the Tribunal rendered **6** decisions with respect to exceptions filed by the Division of Taxation. These decisions involved matters in which both the Petitioner and the Division of Taxation filed exceptions. Of that total, dispositions were as follows:

DECISIONS	NUMBER	PERCENT
GRANTED Division's exception	0	0%
DENIED Division's exception	1	16%
REMANDED Division's exception	4	68%
WITHDRAWN by Division	1	16%
TOTAL	6	100%

ORAL ARGUMENT REQUESTS

In 2024, oral argument was requested in **68%** (21 of 31) of the cases. The Tribunal granted oral argument in **48%** (10 of 21) of the cases in which it was requested.

AVERAGE ELAPSED TIME

The average elapsed time between the later of the oral argument date or the last brief date and the issuance of the decision was: Mean **5.17** months and Median **5.52** months.

JUDICIAL REVIEW

In 2024, **7** Tribunal decisions were appealed to the Appellate Division, Third Department, under Article 78 of New York's Civil Practice Law and Rules.

TAX APPEALS FIVE-YEAR INVENTORY ANALYSIS

	FISCAL YEAR 2020-2021	FISCAL YEAR 2021-2022	2022	2023	2024
FORMAL HEARINGS					
Beginning Inventory	647	644	671	795	751
Petitions Filed/Other	334	496	570	476	654
Cases Disposed of by DTA	337	452	453	520	425
Determinations Issued	32%	27%	25%	28%	19%
Closing Orders Issued (Settled)	35%	35%	45%	42%	47%
By Other Means	33%	38%	30%	31%	34%
Ending Inventory	644	688	795	751	980
SMALL CLAIMS					
Beginning Inventory	116	169	212	239	206
Petitions Filed/Defaults Vacated/Other	84	116	106	149	105
Cases Disposed of by SC	31	76	79	178	94
Determinations Issued	23%	16%	9%	10%	15%
Closing Orders Issued (Settled)	42%	47%	41%	46%	48%
Defaults/Withdrawn/Other	35%	37%	50%	45%	37%
Ending Inventory	169	209	239	210	217
TAX APPEALS TRIBUNAL					
Beginning Inventory	70	71	73	76	86
Exceptions Filed	30	28	26	37	28
Decisions Issued	24	22	23	26	31
Cases Settled/Withdrawn	5	2	0	1	2
Ending Inventory	71	75	76	86	81