

# MAINE STATE LEGISLATURE

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PAUL R. LEPAGE  
GOVERNOR

STATE OF MAINE  
MAINE BOARD OF TAX APPEALS  
134 STATE HOUSE STATION  
108 SEWALL STREET  
AUGUSTA, MAINE  
04333-0134  
[www.maine.gov/boardoftaxappeals](http://www.maine.gov/boardoftaxappeals)

WILLIAM J. KELLEHER  
Chairman

EDWIN A. HEISLER  
Board Member

RICHARD A. NASS  
Board Member

PAUL L. BOURGET  
Chief Appeals Officer

Pursuant to 36 M.R.S. § 151-D(10), the following constitutes the third annual report of the Maine Board of Tax Appeals (the “Board”), describing the Board’s operations during 2015. Please direct any questions concerning this report to the Board’s Appeals Office at 134 State House Station, 108 Sewall Street, Augusta, Maine 04333-0134, or call 207-287-2862.

1. Overview

Effective July 1, 2012, the Board was established by the Legislature as an independent entity within the Department of Administrative and Financial Services to provide taxpayers with a fair system for resolving disputes with Maine Revenue Services (“MRS”). The Board is neither part of MRS nor subject to its control in any way. It consists of three Board members appointed by the Governor and confirmed by the Legislature. The members are supported by the Appeals Office staff, which includes the Chief Appeals Officer, two Appeals Officers and one Administrative Assistant.

The Board may hear appeals from decisions of MRS involving: (1) sales and use taxes; (2) income taxes; (3) the franchise tax; (4) the estate tax; (5) business taxes, such as the service provider tax and the insurance company tax; and (6) special taxes, including the cigarette and tobacco taxes. The Board is not connected with the Maine State Board of Property Tax Review and does not review property tax disputes.

The Board's appeals process is controlled by 36 M.R.S. § 151-D. Taxpayers may file an appeal with the Board after first requesting and receiving a decision on reconsideration from MRS, provided that there was at least \$1,000.00 in dispute at the time the taxpayer first requested reconsideration. Appeals are initially reviewed by one of the Board's Appeals Officers, who examines the facts provided and the law referenced by taxpayers and MRS. Based on his or her examination, the Appeals Officer drafts a recommended decision which the Board considers when it meets to review the appeal and issue a final decision. The parties may submit written comments directly to the Board prior to its meeting and may also request that the Board allow them to speak at the meeting. After considering the recommended decision, the parties' comments, and, if allowed, the parties' oral statements, the Board members will vote on whether to uphold the recommended decision, modify it, return it to the Appeals Officer for additional consideration, or reject it and issue their own decision. The Board's decision may be appealed to Superior Court.

The Board is committed to ensuring the availability of due process and reaching a speedy, just, and inexpensive resolution to all appeals filed with it.

## 2. Appeals

There were 18 tax appeals filed with the Board between January 1, 2015 and December 31, 2015. Taxpayers requested appeals conferences in 16 of those appeals.

The amounts of tax, penalties, and interest at issue in the appeals filed with the Board break down as follows:

\$1,000 - \$5,000:	5
\$5,001 - \$50,000:	7
\$50,001 - \$100,000:	0
\$100,001 - \$900,000:	1
\$900,001 - \$1,000,000:	2
\$1,000,001 - \$2,000,000:	2
<u>More than \$2,000,001:</u>	<u>1</u>
Total	18

The types of taxes at issue in the appeals that were filed with the Board in 2015 are:

Individual Income Tax:	6
Corporate Income Tax:	3
BETE/BETR:	3
<u>Sales/Use/Service Provider Tax:</u>	<u>6</u>
Total:	18

The total amount of tax, interest, and penalties at issue in the appeals filed in 2015 was \$7,991,399.

Two of the appeals filed in 2015 have been decided by the board and another two have been settled or otherwise resolved as more fully discussed below.

### 3. Decisions

The Board issued four written decisions in 2015. Two of these decisions were regarding appeals filed in 2014 and two were regarding appeals filed in 2015. The total amount of tax, interest, and penalties at issue in the four appeals resolved by Board decision was \$3,114,589. Two of these appeals were decided wholly in favor of MRS; in the other two appeals the decisions adjusted but otherwise upheld the underlying assessment issued by MRS.

In addition to the four decisions issued by the Board, 12 appeals were settled or otherwise resolved during 2015 as a result of discussions between taxpayers, Board staff, and MRS. The total amount of tax, interest, and penalties at issue in those appeals was \$1,661,695. Of those 12 appeals, ten were filed in 2014 and two were filed in 2015.

#### 4. Appeals Pending

There are currently 14 appeals pending with the Board. The types of taxes at issue in these appeals are as follows:

Individual Income Tax:	6
Corporate Income Tax:	2
BETE/BETR:	1
<u>Sales/Use/Service Provider Tax:</u>	<u>5</u>
Total:	14

The total amount of tax, interest, and penalties at issue in the pending appeals is \$5,181,908. Each of the pending appeals was filed with the Board in 2015.

A comparison of the appeals received and resolved by the Board in 2014 to those received and resolved in 2012 and 2013 is provided in the attached Addendum.

#### 5. Superior Court

There was one appeal of a Board decision to the Superior Court in 2015. This is to be compared with two Board decisions appealed in 2014 and three appealed in 2013. The status of these six appeals to Superior Court is as follows:

When Appealed	Appellant	Status
2013	Taxpayer	Superior Court held for taxpayer on October 5, 2015. Maine Revenue Services appealed to Maine Law Court, where the case remains pending.
2013	MRS	Case remains pending in Superior Court.
2013	MRS	Superior Court held for Maine Revenue Services on July 7, 2014. Taxpayer appealed to Maine Law Court but withdrew that appeal on August 29, 2014.
2014	Taxpayer	Taxpayer withdrew its appeal on July 6, 2015
2014	Taxpayer	Taxpayer withdrew its appeal on October 9, 2015
2015	MRS	Case remains pending in Superior Court

Also in 2015, there were three appeals to Superior Court directly from Maine Revenue Services determinations, without involvement by the Board. This is to be compared with two direct appeals in 2014 and none in 2013.

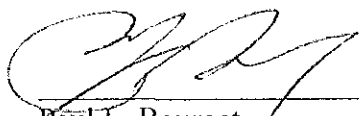
Of the three direct appeals in 2015, two were filed pro se and it is unclear whether the \$1,000 threshold dollar amount was met in those cases. In the third direct appeal, the taxpayer's attorney explained to the Board's Chief Appeals Officer that no Board appeal was filed because an appeal to the Maine Law Court was ultimately expected regardless of the outcome in Superior Court.

6. Outreach

The Board has continued to engage in outreach to raise awareness of the Board and its mission to provide an efficient, just, and inexpensive resolution of tax appeals. The Chief Appeals Officer made an in-person presentation at the Frank M. Carter Tax Institute at Husson University, and the Appeals Office established a presence at the Maine Tax Forum via an information booth, as did Maine Revenue services and the Maine Department of Labor. Each of the Board's Appeals Officers and Board Members attended the 2015 Maine Tax Forum on November 4 and 5, 2015.

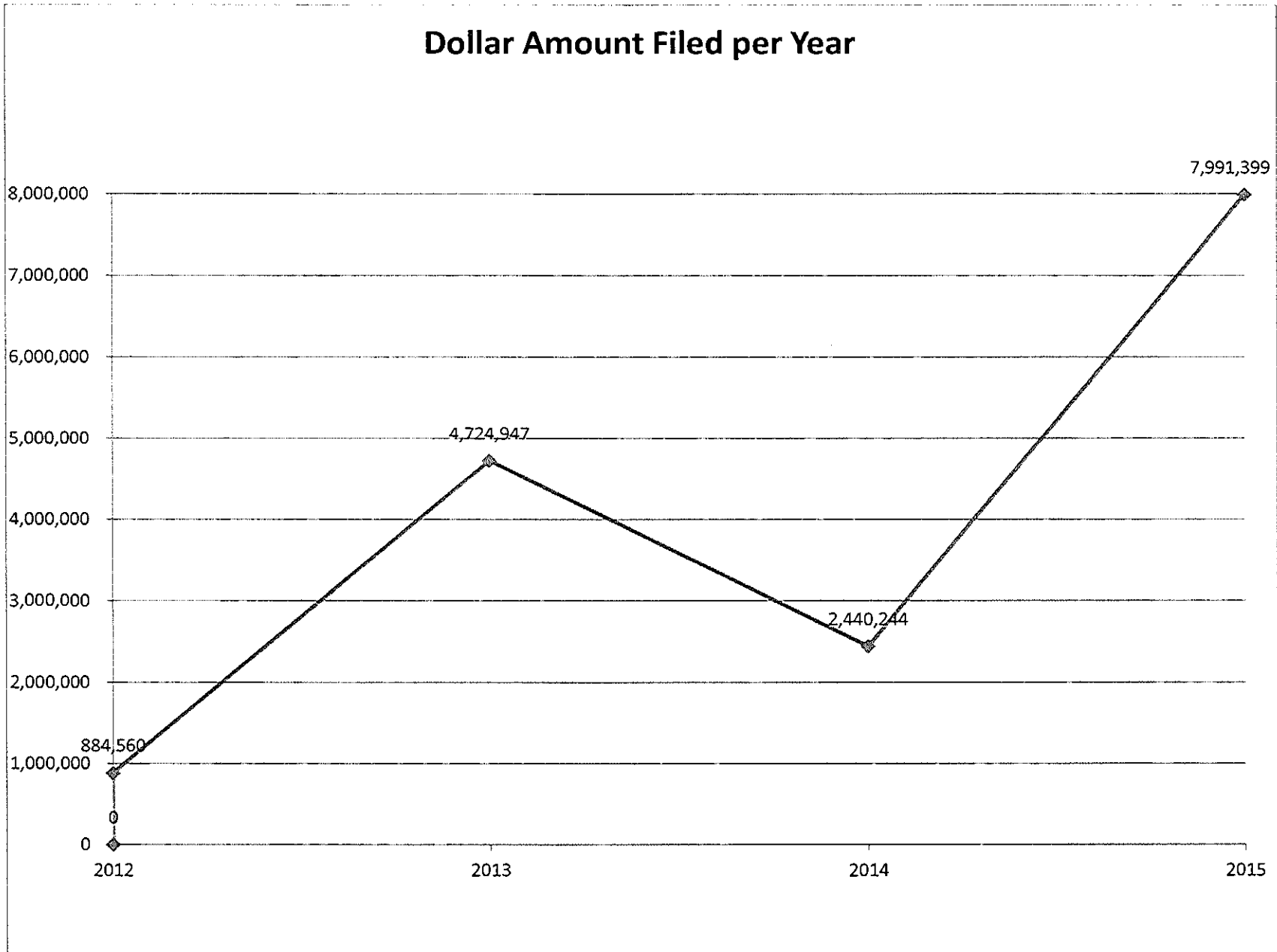
Respectfully submitted by the Maine Board of Tax Appeals,

Date: 12-30-15

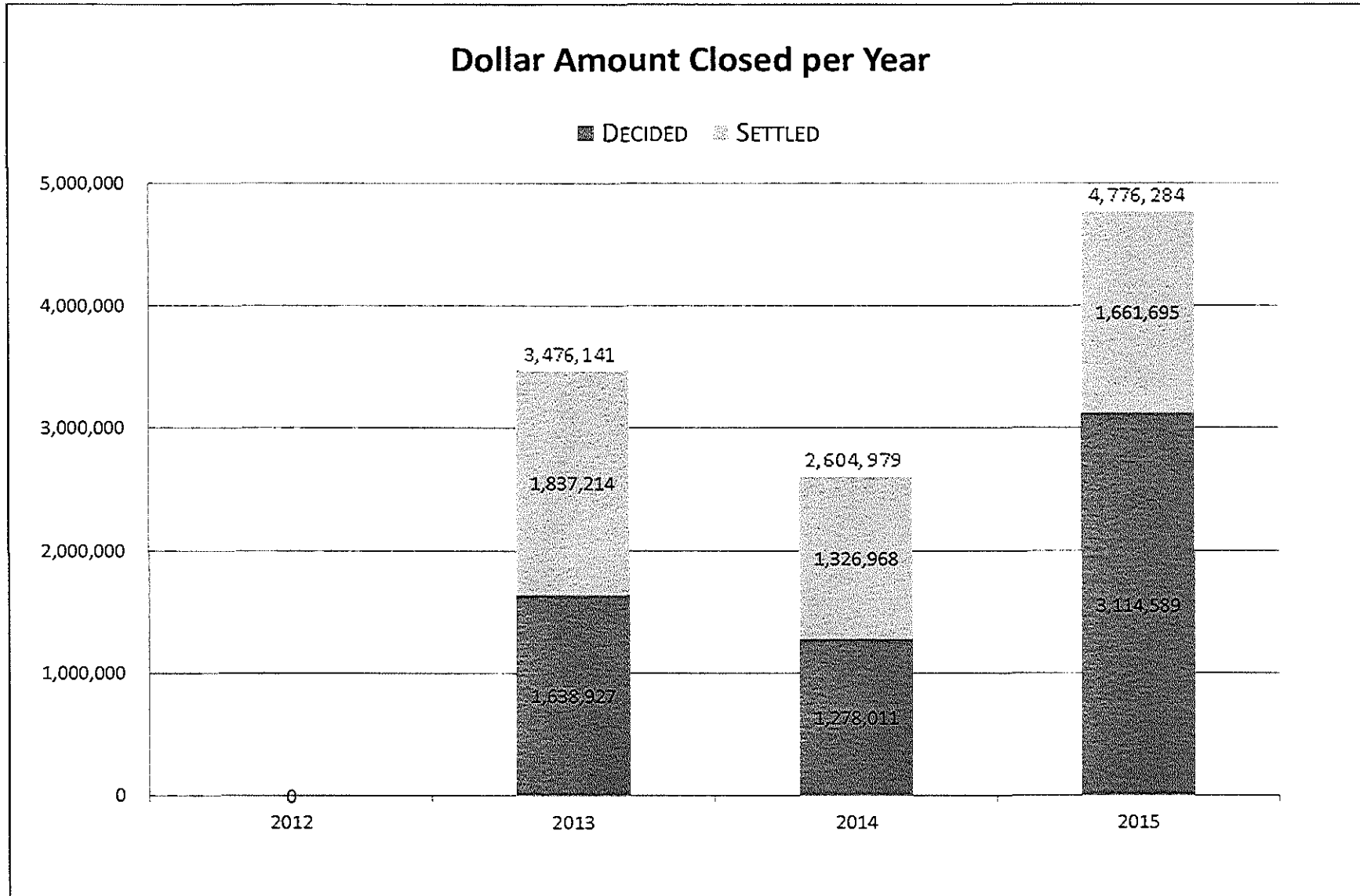


Paul L. Bourget  
Chief Appeals Officer  
Maine Board of Tax Appeals  
207-287-2862  
[paul.bourget@maine.gov](mailto:paul.bourget@maine.gov)

Maine Board of Tax Appeals (BTA)



Maine Board of Tax Appeals (BTA)





Maine Board of Tax Appeals (BTA)

### Superior Court Appeals per Year

■ FROM BTA    ■ OTHER (NON-BTA)

