

E90G
Registers of Wills

Operating Budget Data

(\$ in Thousands)

	<u>FY 08</u> <u>Actual</u>	<u>FY 09yy</u> <u>Working</u>	<u>FY 10</u> <u>Allowance</u>	<u>FY 09-10</u> <u>Change</u>	<u>Prior</u> <u>Year</u>
General Fund	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>0.0%</u>
Total Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>0.0%</u>

- The fiscal 2010 allowance does not contain funding for the Registers of Wills.

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

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Analysis of the FY 2010 Maryland Executive Budget, 2009

Analysis in Brief

Issues

Revenues Decline as Expenditures Rise: As a result of legislative changes, a greater number of Registers of Wills (ROW) are experiencing deficits. **The Comptroller’s Office should consider conducting a more comprehensive review and analysis of local ROW expenditures on an annual basis to ensure that huge spikes in ROW spending are curtailed.**

Recommended Actions

1. Concur with Governor’s allowance.

E90G
Registers of Wills

Operating Budget Analysis

Program Description

In each jurisdiction, Registers of Wills (ROW) are responsible for the administration of estates by providing proper forms and direction, assisting and advising any person who requests assistance in the preparation of a form for administrative probate, admitting wills to probate, issuing Letters of Administration, auditing accounts, and maintaining accurate records of all estate matters. Registers are not allowed to provide legal advice.

Registers take in revenues from inheritance taxes and processing fees. These revenues are used to pay the operating costs of the offices. Excess revenues are reverted to the general fund. Fiscal 2008 revenue and expense information for ROW offices appears in **Appendix 2**. In the event that expenditures exceed revenues, the Comptroller can provide a deficiency supplement that is appropriated by the General Assembly or authorize the retention of additional inheritance taxes.

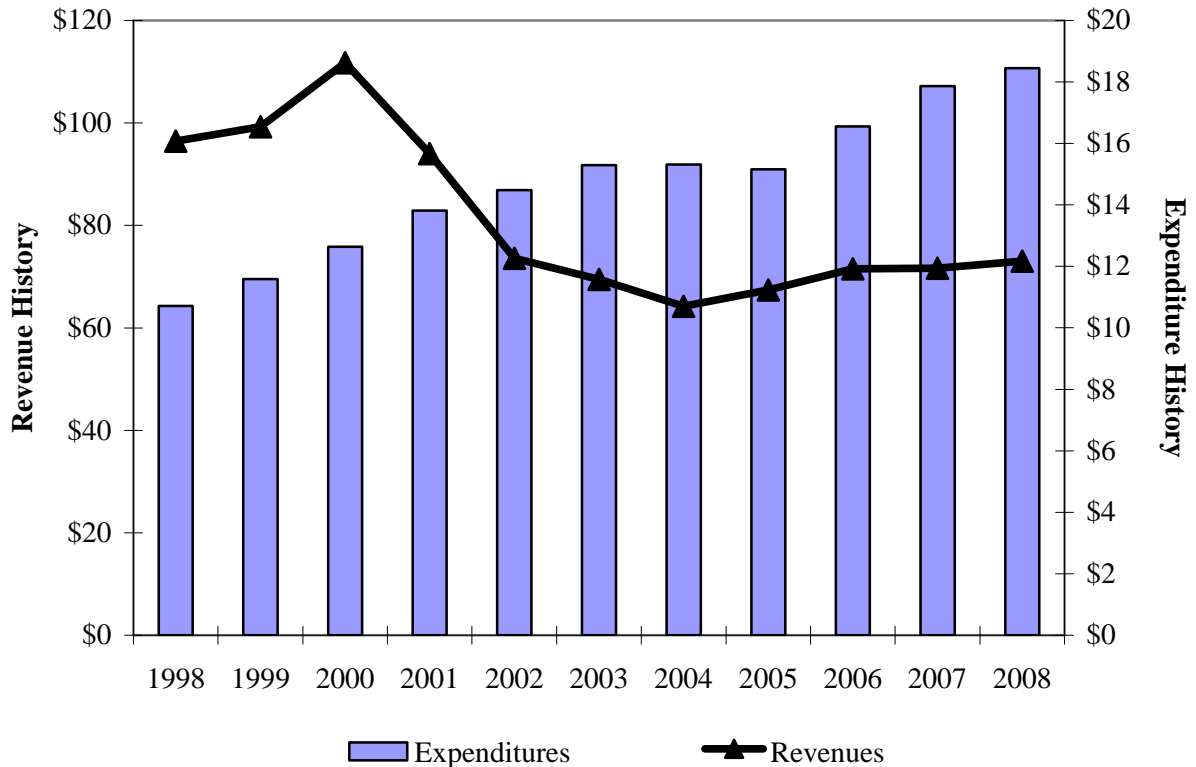
The Comptroller verifies the bond of the registers, sets salaries, approves procurements, audits receipts, and administers the State supplement. Historically, this budget reflects the Comptroller's estimate of funding needed to cover salaries and operating expenditures at the beginning of each fiscal year. Funds not used for this purpose are reverted to the general fund.

Issues

1. Revenues Decline as Expenditures Rise

Chapter 497 of 2000 exempted from the inheritance tax property that passes from a decedent to lineal relatives (*e.g.*, parents, grandparents, spouses, and children) and siblings of a decedent or to a corporation owned by these relatives. As a result, total revenues collected by ROWs fell significantly beginning in fiscal 2002. **Exhibit 1** shows that total collections from taxes and fees have declined in the last 10 years by almost 3% annually. In this time frame, expenditures of ROWs have grown approximately 5.6% annually. Accordingly, local ROWs are experiencing deficits at a greater rate. In fiscal 1998, 4 ROWs posted a year-end deficit compared to 15 in fiscal 2008.

Exhibit 1
Registers of Wills
Revenue and Expenditure History
Fiscal 1998-2008
(\$ in Millions)



Source: Comptroller of the Treasury

Despite an increase in the total number of year-end deficits, net revenues collected from all ROWs are more than sufficient to mitigate any deficits. Section 2-205 of the Estates and Trusts Article provides that if the fees and receipts of any ROWs are insufficient in any fiscal year to pay all or a part of the authorized salaries and expenses of the office, the deficiency shall be funded from the taxes remitted to the Comptroller of the Treasury by the register during that fiscal year. In the event that tax collections for the fiscal year are insufficient, the Comptroller shall make up the deficit from excess fees remitted from all other registers. The revenues from the non-deficit counties more than make up that difference. In fiscal 2008, net excess revenues were approximately \$5.4 million.

Comptroller Oversight of ROW Expenditures

Maryland statute allows ROWs to retain a 25% commission on the inheritance tax collected. ROWs use this commission to finance ongoing operating expenses (excluding personnel). In light of reduced revenues, rising expenditures, and an increased number of ROWs in deficit, it is imperative that the Comptroller's Office continues to provide adequate oversight of ROW expenditures. The Comptroller's Office currently provides oversight in the following areas:

- **Personnel:** The Comptroller's Office reviews all requests for employee promotions and reclassifications to ensure that the duties and responsibilities of the position justify a reclassification and salary increase.
- **Procurements:** The Comptroller's Office reviews all procurement requests over \$2,500 to ensure that the items are warranted and that the procurement is made in accordance with State laws and regulations governing procurement practices.
- **Computer Equipment and Related Applications:** The Comptroller's Office reviews all requests for computer software and hardware to ensure that the equipment and programs are compatible with existing inheritance tax applications and equipment.

In addition to the aforementioned, the Comptroller's Office meets with ROWs three times a year to discuss policy and procedural issues.

Spending Trends

As shown in **Exhibit 2**, the annual growth in statewide spending has increased by 5.1% since fiscal 1999. Counties with the highest annual growth in spending include Charles, Prince George's, and Somerset counties. **The Comptroller's Office should consider conducting an annual trend analysis of local ROW expenditures. Such an analysis would assist the office with identifying certain jurisdictions whose spending growth requires further examination.**

Exhibit 2
Registers of Wills
Percentage of Annual Spending Growth
Fiscal 1999-2008

<u>Counties</u>	<u>1999-2008</u>
Allegany	2.9%
Anne Arundel	6.1%
Baltimore	4.9%
Calvert	6.2%
Caroline	5.9%
Carroll	5.9%
Cecil	5.6%
Charles	9.2%
Dorchester	1.6%
Frederick	5.3%
Garrett	7.2%
Harford	6.0%
Howard	4.9%
Kent	1.8%
Montgomery	5.0%
Prince George's	9.0%
Queen Anne's	7.2%
St. Mary's	4.3%
Somerset	10.0%
Talbot	5.7%
Washington	4.7%
Wicomico	3.9%
Worcester	2.0%
Baltimore City	1.4%
Total	5.1%

Source: Comptroller of the Treasury

The Comptroller's Office should consider conducting a more comprehensive review and analysis of local ROW expenditures on an annual basis to ensure that huge spikes in ROW spending are curtailed.

Recommended Actions

1. Concur with Governor's allowance.

Audit Findings

The Office of Legislative Audits (OLA) audits each of the jurisdictions separately. **Exhibit 3** provides a summary of OLA's findings for ROW audits released during calendar 2007 and 2008.

Exhibit 3 Registers of Wills Audit Findings Summary Calendar 2007-2008

<u>County</u>	<u>Audit Period</u>	<u>Finding</u>
Alleghany	November 2004 – July 2008	Adequate verification procedures were not performed to ensure that all recorded collections were deposited.
Anne Arundel	February 2004 – April 2007	Internal controls over collections received in the mail were inadequate.
Baltimore City	July 2004 – December 2006	An employee who received collections could also void receipts without independent approval; investment earnings on excess funds were not maximized; and certain goods were procured without obtaining competitive bids as required by law.
Baltimore	July 2005 – January 2008	None.
Carroll	August 2005 – January 2008	None.
Cecil	March 2004 – April 2007	None.
Frederick	December 2004 – June 2007	Employee duties relating to disbursements were not adequately separated.
Garrett	June 2004 – May 2007	None.
Harford	September 2005 – August 2008	None.
Howard	February 2004 – August 2006	None.
Prince George's	January 2005 – October 2007	None.
Somerset	August 2004 – July 2007	None.
Talbot	March 2005 – February 2008	The office did not maximize investment earnings on excess funds resulting in a loss of interest income totaling \$13,600 in calendar 2007.

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Appendix 1 (Continued)

<u>County</u>	<u>Audit Period</u>	<u>Finding</u>
Washington	September 2005 – August 2008	None.
Wicomico	December 2003 – August 2006	None.
Worcester	January 2004 – August 2006	None.

Source: Office of Legislative Audits

**Registers of Wills
Revenue and Expenditures
Fiscal 2008**

<u>County</u>	<u>2008 Total Receipts</u>	<u>2008 Tax Remitted to General Fund</u>	<u>Revenues Retained by Register</u>	<u>Total Operating Expenses</u>	<u>Excess Fees of Office</u>
Allegany	\$853,937	\$559,285	\$294,274	\$400,002	-\$105,729
Anne Arundel	5,601,735	3,685,653	1,915,486	1,449,961	465,525
Baltimore	15,935,727	10,864,414	5,066,476	2,296,370	2,770,106
Calvert	1,082,562	724,655	357,832	407,427	-49,594
Caroline	389,802	255,275	134,483	291,477	-156,994
Carroll	2,431,895	1,647,750	784,144	389,793	394,351
Cecil	1,387,543	949,060	438,157	453,136	-14,980
Charles	806,166	515,320	290,846	570,297	-279,451
Dorchester	344,306	212,055	132,251	302,604	-170,353
Frederick	2,222,848	1,488,964	733,630	592,882	140,749
Garrett	463,700	316,004	147,696	302,166	-154,470
Harford	2,268,685	1,518,294	750,382	516,338	234,044
Howard	3,182,207	2,183,807	998,401	533,995	464,406
Kent	521,764	338,085	183,679	256,172	-72,493
Montgomery	15,762,373	10,648,678	5,109,729	2,776,291	2,333,437
Prince George's	4,995,859	3,179,064	1,809,985	2,115,405	-305,420
Queen Anne's	1,075,689	749,356	325,282	396,474	-71,193
St. Mary's	899,632	588,031	310,653	420,335	-109,682
Somerset	346,586	240,062	106,525	293,769	-187,244
Talbot	1,039,868	670,918	368,354	486,697	-118,343
Washington	2,387,229	1,621,364	765,864	478,982	286,883
Wicomico	1,162,608	784,052	378,556	417,850	-39,294
Worcester	1,965,176	1,393,722	571,454	346,945	224,509
Baltimore City	5,912,286	4,000,159	1,911,843	1,950,720	-38,877
Total	\$73,040,181	\$49,134,027	\$23,885,982	\$18,446,090	\$5,439,892

Source: Comptroller's Office