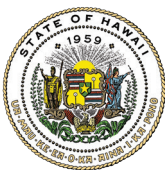

Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Taxation

A Report to the Governor
and the Legislature of
the State of Hawai'i

Report No. 22-14
November 2022



OFFICE OF THE AUDITOR
STATE OF HAWAII



OFFICE OF THE AUDITOR STATE OF HAWAII

Constitutional Mandate

Pursuant to Article VII, Section 10 of the Hawai'i State Constitution, the Office of the Auditor shall conduct post-audits of the transactions, accounts, programs and performance of all departments, offices and agencies of the State and its political subdivisions.

The Auditor's position was established to help eliminate waste and inefficiency in government, provide the Legislature with a check against the powers of the executive branch, and ensure that public funds are expended according to legislative intent.

Hawai'i Revised Statutes, Chapter 23, gives the Auditor broad powers to examine all books, records, files, papers and documents, and financial affairs of every agency. The Auditor also has the authority to summon people to produce records and answer questions under oath.

Our Mission

To improve government through independent and objective analyses.

We provide independent, objective, and meaningful answers to questions about government performance. Our aim is to hold agencies accountable for their policy implementation, program management, and expenditure of public funds.

Our Work

We conduct performance audits (also called management or operations audits), which examine the efficiency and effectiveness of government programs or agencies, as well as financial audits, which attest to the fairness of financial statements of the State and its agencies.

Additionally, we perform procurement audits, sunrise analyses and sunset evaluations of proposed regulatory programs, analyses of proposals to mandate health insurance benefits, analyses of proposed special and revolving funds, analyses of existing special, revolving and trust funds, and special studies requested by the Legislature.

We report our findings and make recommendations to the Governor and the Legislature to help them make informed decisions.

For more information on the Office of the Auditor, visit our website:
<https://auditor.hawaii.gov>

Foreword

This is a report of our review of the special funds, revolving funds, trust funds, and trust accounts of the Department of Taxation.

Section 23-12, Hawai‘i Revised Statutes (HRS), requires the Auditor to review all existing special, revolving, and trust funds, once every five years. Although not mandated by statute, we include trust accounts as part of our review. This is our sixth review of the revolving funds, trust funds, and trust accounts of the Department of Taxation. It is our second review of its special funds since Section 23-12, HRS, was amended by Act 130, Session Laws of Hawai‘i 2013, to include reviews of special funds.

We wish to express our appreciation for the cooperation and assistance extended to us by the Department of Taxation.

Leslie H. Kondo
State Auditor

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Chapter 1

Introduction

This review encompasses the special funds, revolving funds, trust funds, and trust accounts administered by the Department of Taxation (DoTAX). Section 23-12, Hawai‘i Revised Statutes (HRS), requires the Auditor to review each state department’s special, revolving, and trust funds every five years. Although not mandated by Section 23-12, HRS, we have included trust accounts as part of our review. Trust accounts, like special, revolving, and trust funds, are funded outside of the General Fund appropriation process and are therefore generally subject to less legislative scrutiny than the State’s General Fund. For each fund and account, our review included:

1. An evaluation of the original intent and purpose of the fund, both as expressed by the Legislature and as understood by the expending agency;
2. The degree to which the fund achieves its stated and claimed purposes;
3. An evaluation of the fund’s performance standards as established by the agency; and
4. A summary statement reflecting total fund transactions in the preceding five fiscal years, including the fund balance at the beginning of each fiscal year, total deposits and withdrawals, amount of interest earned, total expenditures made from the fund, and the ending balance for each fiscal year.

This is our sixth review of DoTAX’s revolving funds, trust funds, and trust accounts.¹ It is our second review of DoTAX’s special funds, since Act 130, Session Laws of Hawai‘i (SLH) 2013, amended Section 23-12, HRS, to require review of special funds along with revolving funds and trust funds. We last examined these funds and accounts in 2017.

¹ Prior to 2013, Section 23-12, HRS, did not require reviews of departments’ special funds.

Description of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts

Special funds

Section 37-62, HRS, defines a special fund as one that is “dedicated or set aside by law for a specified object or purpose, but excluding revolving funds and trust funds.” According to the State’s *Accounting Manual*, special funds are funds used to account for revenues earmarked for particular purposes and from which expenditures are made for those purposes.

Revolving funds

Section 37-62, HRS, defines a revolving fund as one “from which is paid the cost of goods and services rendered or furnished to or by a state agency and which is replenished through charges made for the goods or services or through transfers from other accounts or funds.” Activities commonly financed through revolving funds include loan programs, which are initially established by general fund seed moneys and are then replenished through the repayment of loans.

Trust funds

Section 37-62, HRS, defines a trust fund as one in which “designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated objects or purposes.” Trust funds invoke a fiduciary responsibility of state government to care for and use the assets held only for those designated to benefit from the funds. A pension fund is an example of a trust fund. Contributions and payments are to be held for the beneficiaries of the pension fund. Another example is tenants’ security deposits, which are held in trust for the future benefit of tenants and landlords. Until forfeited or returned, deposits are the property of the tenants and should be accounted for accordingly.

Trust accounts

The Department of Accounting and General Services (DAGS) defines a trust account as a separate holding or clearing account for state agencies. Trust accounts also serve as accounting devices to credit or charge agencies or projects for payroll or other costs.

Criteria for Reviewing Special Funds, Revolving Funds, Trust Funds, and Trust Accounts

Special and revolving fund criteria

In 2002, the Legislature set the requirements for establishing and continuing special and revolving funds. Sections 37-52.3 and 37-52.4, HRS, state that special and revolving funds may only be established by statute. The criteria used to review special and revolving funds are the extent to which each fund:

- Serves a need, as demonstrated by: (a) the purpose of the program to be supported by the fund; (b) the scope of the program, including financial information on fees to be charged, sources of projected revenue, and costs; and (c) an explanation of why the program cannot be implemented successfully under the general fund appropriation process;
- Reflects a clear nexus between the benefits sought and charges made upon the program users or beneficiaries, or a clear link between the program and the sources of revenue – as opposed to serving primarily as a means to provide the program or users with an automatic means of support, removed from the normal budget and appropriation process;
- Provides an appropriate means of financing for the program or activity that is used only when essential to the successful operation of the program or activity; and
- Demonstrates the capacity to be financially self-sustaining.

Trust fund and trust account criteria

Unlike the requirements for special and revolving funds, the law is silent on whether a trust fund or trust account must be established by statute. The criteria used in this report to review trust funds and trust accounts are the extent to which each fund and account:

- Continues to serve the purpose and intent for which it was originally created, and
- Meets the definition of a trust fund or trust account, respectively.

The first criterion is derived from the objectives of Section 23-12, HRS, which requires the Auditor to evaluate the original intent of each fund and the degree to which each fund achieves its stated purpose. The second criterion assesses whether a fund is held by the State only for the benefit of those with a vested interest in the assets or an account is held as a separate or clearing account.

Objectives of the Review

1. Identify and review all special funds, revolving funds, trust funds, and trust accounts of DoTAX.
2. For each special fund, revolving fund, trust fund, and trust account, determine whether the fund or account meets the respective criteria.
3. Provide a five-year (FY2018 – FY2022) unaudited financial summary for each fund and account of DoTAX.

Scope and Methodology

We reviewed all special funds, revolving funds, trust funds, and trust accounts directly administered by the Department of Taxation during the five-year period under review (FY2018 – FY2022). Funds and accounts included those established by statute as well as by administrative authority.

To identify funds subject to this review, we used a variety of sources, including our prior reviews, accounting reports from DAGS, non-general fund reports, legislative budget briefing documents, and other records. To gain an understanding of fund operations, we reviewed applicable agency administrative rules and interviewed key fiscal and program personnel, as necessary.

We obtained a summary statement for each fund that reflects total fund transactions in the preceding five fiscal years (July 1, 2017 to June 30, 2022), including beginning fund balances, total revenues, amount of interest earned, total expenditures, transfers, and ending

fund balances for each fiscal year. We requested explanations for discrepancies between ending balances for FY2017 reported in our last review and opening balances reported for FY2018. We did not audit the department's financial data, which we provide for informational purposes only.

Procedures were performed on each fund using relevant criteria as stated above. We reviewed fund information for consistency with the intent of each fund's use and to ascertain the relationship between charges on users and expenditures. We reviewed information on performance standards established for the funds or accounts and performed other procedures as necessary.

Where appropriate, we relied on our prior reports, including Report No. 17-10, *Review of Special Funds, Revolving Funds, Trust Funds, and Trust Accounts of the Department of Taxation*.

Our review was conducted from August 2022 to October 2022. Recommendations were made where applicable.

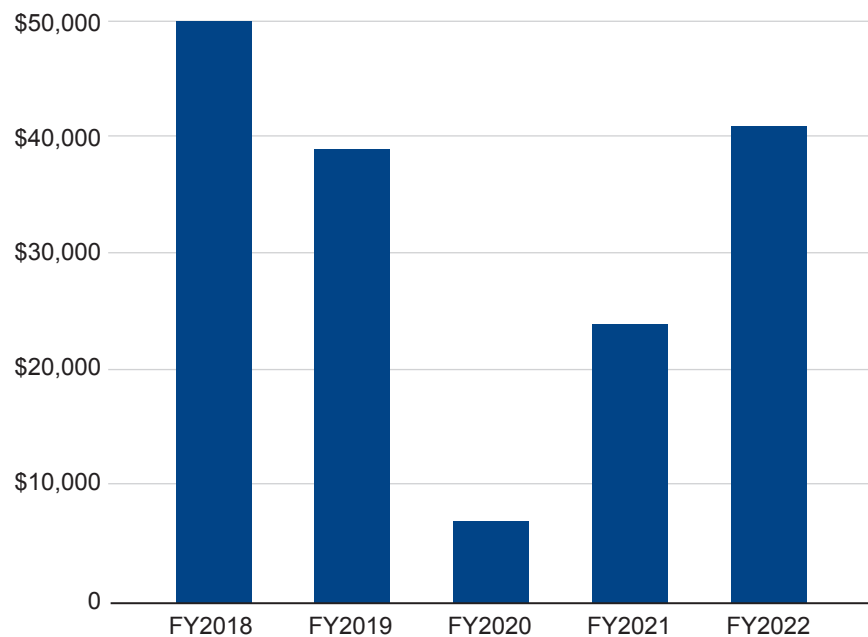
Chapter 2

Department of Taxation

This chapter presents the results of our review of four special funds, two trust funds, and seven trust accounts. Total fund fiscal year-end balances for DoTAX amounted to at least \$6.6 million per year during the period reviewed.

Exhibit 2.1 summarizes the totals for these fund balances at the end of each fiscal year.

Exhibit 2.1
Cash Balances for the Department of Taxation's
Non-General Funds FY2018 – FY2022
(in millions)



Source: Office of the Auditor

In FY2022, the special funds, trust funds, and trust accounts collected approximately \$11.5 billion and spent or transferred approximately \$11.4 billion.

Exhibit 2.2 presents totals for the combined revenue and interest, expenses and transfers, and ending fund balances for the different fund types for FY2022.

Exhibit 2.2
Fund and Account Totals by Type, FY2022

Fund Type	Revenue and Interest	Expenses and Transfers	FY2022 End Cash Balance
Special Funds	\$40,291,000	\$16,745,000	\$43,330,000
Trust Funds/ Trust Accounts	11,416,249,000	11,423,281,000	(2,803,000)
Total	\$11,456,540,000	\$11,440,026,000	\$40,527,000

Source: Office of the Auditor

For each fund and account, we present a five-year financial summary, the purpose of the fund, and conclusions about its use and whether it meets the definition of the type of fund or account. This review does not include an assessment of the effectiveness of the program or its management. Funds are presented in alphabetical order.

Exhibit 2.3 presents DoTAX funds that did not meet criteria for continuance and should be closed or reclassified.

Exhibit 2.3
Fund(s) Not Meeting Criteria

Fund Name	Fund Type	FY2022 Ending Balance	No longer serves original purpose and/ or does not serve a need	No clear nexus between benefits sought and user charges or a clear link between the program and revenue sources	Inappropriate financing mechanism	Not financially self-sustaining	Does not meet special fund, revolving fund, trust fund, or trust account definition
Litigated Claims Fund	Trust Fund	\$4,824,444					✓
Temporary Deposits – Payroll Overpayment Trust Account	Trust Account	2,487	✓				
Unemployment Tax Clearance Accounts	Special Fund	485,929					✓
Total		\$5,312,860					

Source: Office of the Auditor

**Cigarette Tax Stamp
Administrative Special
Fund**
Financial Data for Fiscal Years 2018 – 2022 (in thousands)

	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$815	\$925	\$1,003	\$1,103	\$190
Revenues	217	202	201	194	169
Interest	0	0	0	0	0
Expenditures	(107)	(124)	(101)	(107)	(81)
Transfers	0	0	0	(1,000)*	0
Ending Balance	\$925	\$1,003	\$1,103	\$190	\$278
Encumbrances	\$99	\$90	\$51	\$6	\$17

*Transfer to the General Fund of \$1.0 million pursuant to Act 87, SLH 2021.

Fund Summary

Account Type	Special fund
How was the fund created?	Section 245-41.5, HRS (SLH 2001)
Why was it created?	The fund is used to deposit the allocated portion of the cigarette tax stamp fee designated to pay for the costs to the State of providing the cigarette tax stamps.
Fund meets criteria?	This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally established.
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are from a portion of the cigarette tax stamp fee on cigarette wholesalers and dealers who purchase cigarette tax stamps.
Expenditures	Expenditures include vendor expenses to produce stamps, costs to maintain and distribute stamps, and administrative expenses to maintain the fund.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was statutorily established.

***Est/Adm License and
Permit Tobacco and
Cigarette***

Financial Data for Fiscal Years 2018 – 2019 (in thousands)

	FY2018	FY2019
Beginning Balance	\$43	\$43
Revenues	0	0
Interest	0	0
Expenditures	0	(43)
Transfers	0	0
Ending Balance	\$43	\$0
Encumbrances	\$0	\$0

Fund Summary

Account Type	Special fund
How was the fund created?	Administratively established
Fund meets criteria?	This fund was closed in FY2019, and the remaining balance was transferred to the General Fund pursuant to Act 164, SLH 2018, as recommended by the Auditor in Report No. 17-10.

IRS Refund Intercept Account**Financial Data for Fiscal Years 2018 – 2019 (in thousands)**

	FY2018	FY2019
Beginning Balance	\$1	\$1
Revenues	0	0
Interest	0	0
Expenditures	0	(1)
Transfers	0	0
Ending Balance	\$1	\$0
Encumbrances	\$0	\$0

Fund Summary

Account Type	Trust account
How was the account created?	Administratively established
Why was it created?	The account was used as a clearing account for delinquent tax collections owed to the Internal Revenue Service (IRS); however, the department discontinued use of the account as IRS fund intercepts are now taken directly from Undistributed Tax Collections Accounts as the requests are processed by the Department of Accounting and General Services.
Account meets criteria?	This account was closed in FY2019, and the remaining balance was transferred to the General Fund pursuant to Act 164, SLH 2018, as recommended by the Auditor in Report No. 17-10.

Litigated Claims Fund

Financial Data for Fiscal Years 2018 – 2022 (in thousands)

	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$48,379	\$48,552	\$39,703	\$4,627	\$5,736
Revenues	0	1,230	0	1,325	86
Interest	234	402	1,561	120	24
Expenditures	(61)	(10,481)	(36,637)	(336)	(1,022)
Transfers	0	0	0	0	0
Ending Balance	\$48,552	\$39,703	\$4,627	\$5,736	\$4,824
Encumbrances	\$0	\$0	\$0	\$0	\$0

Fund Summary

Account Type	Trust fund
How was the fund created?	Administratively established
Why was it created?	The fund is used as a temporary holding account for amounts in dispute while appealed tax cases are litigated.
Fund meets criteria?	This fund does not meet the criteria of a trust fund because it functions more like a trust account that serves as a clearing account and accounting device, but the fund continues to serve the purpose for which it was originally established. <i>The fund should be reclassified as a trust account.</i>
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are transfers from the Taxes-Paid-Under-Protest Account or Undistributed Tax Collections Account once tax appeal cases are litigated.
Expenditures	Expenditures include transfers back to the Undistributed Tax Collections Account for case settlement disbursement.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	No.

Sales for Assets for Delinquent Taxes – O‘ahu

Financial Data for Fiscal Years 2018 – 2021 (in thousands)

	FY2018	FY2019	FY2020	FY2021
Beginning Balance	\$3	\$3	\$3	\$3
Revenues	0	0	0	0
Interest	0	0	0	0
Expenditures	0	0	0	0
Transfers	0	0	0	(3)*
Ending Balance	\$3	\$3	\$3	\$0
Encumbrances	\$0	\$0	\$0	\$0

*Transfer to the General Fund of \$3,380.50 pursuant to Act 87, SLH 2021.

Fund Summary

Account Type	Trust account
How was the account created?	Administratively established
Why was it created?	The account was used to hold surplus funds from the sale of property seized and foreclosed upon to pay unpaid taxes, penalties, interest, costs, and expenses; however, the account has been inactive for at least 20 years.
Account meets criteria?	This account was closed in FY2021, and the remaining balance was transferred to the General Fund pursuant to Act 87, SLH 2021.

**Special Enforcement
Section Collections
Trust Account**

Financial Data for Fiscal Years 2018 – 2019 (in thousands)

	FY2018	FY2019
Beginning Balance	\$500	\$500
Revenues	0	0
Interest	0	0
Expenditures	0	(500)
Transfers	0	0
Ending Balance	\$500	\$0
Encumbrances	\$0	\$0

Fund Summary

Account Type	Trust account
How was the account created?	Administratively established
Why was it created?	The account was used to facilitate the distribution of Special Enforcement Section (SES) collections; however, the department discontinued the use of this account because SES collections are now transferred directly to the Tax Administration Special Fund.
Account meets criteria?	This account was closed in FY2019, and the remaining balance was transferred to the General Fund pursuant to Act 164, SLH 2018, as recommended by the Auditor in Report No. 17-10.

Tax Administration Special Fund

Financial Data for Fiscal Years 2018 – 2022 (in thousands)

	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$5,744	\$7,913	\$8,299	\$11,738	\$19,107
Revenues	7,781	8,629	11,364	32,748	40,122
Interest	0	0	0	0	0
Expenditures	(5,612)	(8,243)	(7,925)	(10,379)	(16,663)
Transfers	0	0	0	(15,000)*	0
Ending Balance	\$7,913	\$8,299	\$11,738	\$19,107	\$42,566
Encumbrances	\$0	\$0	\$0	\$0	\$0

*Transfer to the General Fund of \$15 million pursuant to Act 87, SLH 2021.

Fund Summary

Account Type	Special fund
How was the fund created?	Section 235-20.5, HRS (SLH 2004)
Why was it created?	The fund is used to facilitate the operations of the Special Enforcement Section and to offset costs incurred by the department.
Fund meets criteria?	This fund meets the criteria of a special fund and continues to serve the purpose for which it was originally established.
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are from fees collected for the issuance of comfort letters and certificates of tax credit claims, revenues collected by the special enforcement section, and fines assessed for violations of registration requirements under the transient accommodations tax.
Expenditures	Expenditures include costs associated with issuing comfort letters, letter rulings, written opinions, and certificates of tax credit claims; administering the operations of the department's special enforcement section; and developing, implementing, and providing taxpayer education programs, including tax publications.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was statutorily established.

Tax Reserve Fund

Financial Data for Fiscal Years 2018 – 2022 (in thousands)

	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$0	\$0	\$0	\$0	\$0
Revenues	681,022	704,090	826,267	776,138	802,613
Interest	0	0	0	0	0
Expenditures	(673,046)	(701,173)	(821,627)	(773,321)	(799,306)
Transfers*	(7,976)	(2,917)	(4,640)	(2,817)	(3,307)
Ending Balance	\$0	\$0	\$0	\$0	\$0
Encumbrances	\$0	\$0	\$0	\$0	\$0

*Transfers to the Undistributed Tax Collections Account for cancelled refunds.

Fund Summary

Account Type	Trust fund
How was the fund created?	Section 231-23, HRS (SLH 1939)
Why was it created?	The fund is a clearing account that enables the department to refund overpayment of taxes collected.
Fund meets criteria?	This fund meets the criteria of a trust fund and continues to serve the purpose for which it was originally established.
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are transfers from the Undistributed Tax Collections Account for overpaid taxes collected from taxpayers and other refunds to taxpayers.
Expenditures	Expenditures are disbursements to taxpayers of refunds on overpaid taxes.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	Not applicable, the fund was statutorily established.

Taxes-Paid-Under-Protest Accounts**Financial Data for Fiscal Years 2018 – 2022 (in thousands)**

	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$21	\$121	\$370	\$370	\$1,649
Revenues	100	347	0	2,952	215
Interest	0	0	0	0	0
Expenditures	0	(98)	0	(1,673)	(212)
Transfers	0	0	0	0	0
Ending Balance	\$121	\$370	\$370	\$1,649	\$1,652
Encumbrances	\$0	\$0	\$0	\$0	\$0

Fund Summary

Account Type	Trust account
How was the account created?	Administratively established
Why was it created?	The account is used as a temporary holding account for funds taxpayers submit during the appeal process while cases are being settled.
Account meets criteria?	This account meets the criteria of a trust account and continues to serve the purpose for which it was originally established.
Performance standards	No, the account does not have performance standards.
Revenues	Revenues are transfers from the Undistributed Tax Collections Account, where taxpayers' payments are initially deposited, during the tax appeal process.
Expenditures	Expenditures are transfers back to the Undistributed Tax Collections Account for case settlement disbursement, or when a tax appeal case is litigated, the amounts in dispute are disbursed to the Litigated Claims Fund.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	No.

***Taxes Payable to
Counties – Fuel
Accounts***

Financial Data for Fiscal Years 2018 – 2019 (in thousands)

	FY2018	FY2019
Beginning Balance	\$1,546	\$1,546
Revenues	0	0
Interest	0	0
Expenditures	0	(1,546)
Transfers	0	0
Ending Balance	\$1,546	\$0
Encumbrances	\$0	\$0

Fund Summary

Account Type	Trust account
How was the account created?	Administratively established
Why was it created?	The account was used as a clearing account for fuel tax collections payable to the counties; however, the department discontinued use of the account as moneys now go directly to the counties.
Account meets criteria?	This account was closed in FY2019, and the remaining balance was transferred to the General Fund pursuant to Act 164, SLH 2018, as recommended by the Auditor in Report No. 17-10.

Temporary Deposits – Payroll Overpayment Trust Account

Financial Data for Fiscal Years 2018 – 2022 (in thousands)

	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$2	\$2	\$2	\$2	\$2
Revenues	0	0	0	0	0
Interest	0	0	0	0	0
Expenditures	0	0	0	0	0
Transfers	0	0	0	0	0
Ending Balance	\$2	\$2	\$2	\$2	\$2
Encumbrances	\$0	\$0	\$0	\$0	\$0

Fund Summary

Account Type	Trust account
How was the account created?	Administratively established (2008)
Why was it created?	The account is used as a temporary deposit account for employees who received a payroll overpayment; however, the department discontinued use of the account as payroll overpayments are now handled by payroll through the Hawai'i Information Portal.
Account meets criteria?	This account meets the criteria of a trust account, but no longer serves the purpose for which it was originally established. <i>The account should be closed.</i>
Performance standards	No, the account does not have performance standards.
Revenues	Revenues are from payroll overpayments recovered from employees.
Expenditures	Expenditures are transfers to the Payroll Clearance Fund once the total overpayment has been recovered from the employee.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	No.

Undistributed Tax Collections Accounts

Financial Data for Fiscal Years 2018 – 2022 (in thousands)

	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	(\$5,273)	(\$9,857)	(\$11,275)	(\$11,660)	(\$3,158)
Revenues	8,059,998	8,476,362	8,168,179	8,456,055	10,613,311
Interest	0	0	0	0	0
Expenditures	(8,072,558)	(8,480,697)	(8,173,204)	(8,450,370)	(10,622,742)
Transfers*	7,976	2,917	4,640	2,817	3,307
Ending Balance	(\$9,857)	(\$11,275)	(\$11,660)	(\$3,158)	(\$9,282)
Encumbrances	\$0	\$0	\$0	\$0	\$0

*Transfers to and from the Tax Reserve Fund, Taxes-Paid-Under-Protest Accounts, and Litigated Claims Fund.

Fund Summary

Account Type	Trust account
How was the account created?	Administratively established
Why was it created?	The account is used as a clearing account for taxes collected for all tax districts.
Account meets criteria?	This account meets the criteria of a trust account and continues to serve the purpose for which it was originally established.
Performance standards	No, the account does not have performance standards.
Revenues	Revenues are from taxes collected for all tax districts and transfers from other funds.
Expenditures	Expenditures include disbursements to other funds and accounts such as the Tax Reserve Fund to refund taxpayers for overpayments; the Taxes-Paid-Under-Protest Accounts, a holding account used when taxpayers appeal payments made; and the Litigated Claims Fund when appeal cases are litigated.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	No.
Additional information	The fund should net to zero at month-end and at fiscal year-end; however, the beginning balances and ending balances do not reflect this due to timing of when transactions are posted.

Unemployment Tax Clearance Accounts

Financial Data for Fiscal Years 2018 – 2022 (in thousands)

	FY2018	FY2019	FY2020	FY2021	FY2022
Beginning Balance	\$486	\$487	\$487	\$486	\$486
Revenues	1	0	(1)	0	0
Interest	0	0	0	0	0
Expenditures	0	0	0	0	0
Transfers	0	0	0	0	0
Ending Balance	\$487	\$487	\$486	\$486	\$486
Encumbrances	\$0	\$0	\$0	\$0	\$0

Fund Summary

Account Type	Special fund
How was the fund created?	Administratively established
Why was it created?	The fund is used as a clearing account for unemployment taxes collected by the O'ahu District, Maui District, and Hawai'i District Tax Offices for the Unemployment Division of the Department of Labor and Industrial Relations (DLIR).
Fund meets criteria?	The fund does not meet all the criteria of a special fund because it functions more like a trust account, but continues to serve the purpose for which it was originally established. Pursuant to the Auditor's recommendation in Report No. 17-10, the department reclassified the fund to a trust account effective August 2022.
Performance standards	No, the fund does not have performance standards.
Revenues	Revenues are from O'ahu, Maui, and Hawai'i District Tax Offices' collections of unemployment taxes for DLIR's Unemployment Division. The collections are transferred the following business day to the Unemployment Compensation Trust Fund as negative adjustments to revenue resulting in net zero revenues.
Expenditures	There are no expenditures as funds are transferred as negative adjustments to revenue.
Reported pursuant to Section 37-47, HRS	Yes.
Reported pursuant to Section 37-52.5, HRS	No.
Additional information	The department noted the fund balance is comprised of unreconciled cash balances that were not transferred to the Unemployment Compensation Trust Fund between FY2009 and FY2012 and despite the efforts by the department, DAGS, and DLIR's Unemployment Division, reconciliation is not possible. <i>The unreconciled balance should be transferred to the General Fund as variances have been carried forward over 10 years and the department acknowledged reconciliation is not possible.</i>

Chapter 3

Observations on Reporting and Accounting for Funds

Special, revolving, and other types of non-general funds are not subject to the same level of legislative scrutiny as the General Fund. Accurate and complete reporting of all funds, as required by law, would greatly improve the Legislature's oversight and control of these funds and provide increased budgetary flexibility. Fund reports are one of the primary means through which the Legislature tracks non-general funds. The reports are used to monitor fund balances and identify excess moneys for possible transfer to the General Fund.

Non-General Funds Were Not Reported as Required by Law

Section 37-47, HRS, requires departments to submit to the Legislature an annual report of each non-general fund account, including information such as the intended purpose of the fund, current program activities supported by the fund, and financial data. The Director of Finance annually issues a memorandum requesting all departments complete and submit Form 37-47, *Report on Non-General Fund Information*, to the Department of Budget and Finance for each of their non-general funds. The Department of Budget and Finance compiles a report of all non-general fund accounts and submits it to the Legislature prior to the start of each legislative session.

We did not identify any issues related to reporting required by Section 37-47, HRS.

However, we noted noncompliance with reporting required by Section 37-52.5, HRS.

Section 37-52.5, HRS, requires the Judiciary and any department that administratively establishes a new fund or account to submit a report to the Legislature. The report must be filed within 30 working days of a fund or account's creation and should include a justification for the fund or account and identification of its sources of revenue. In addition, prior to the start of each legislative session, the law also requires each department to submit to the Legislature a listing of all administratively established funds or accounts along with a statement of their revenues, expenditures, encumbrances, and ending balances for each fund or account. This report is separate from the non-general fund report required under Section 37-47, HRS.

As shown in Exhibit 3.1, DoTAX had non-general funds that were administratively created with balances totaling approximately negative \$2.3 million that were not reported to the Legislature as required by Section 37-52.5, HRS.

Exhibit 3.1
Non-General Funds and Administratively Created Funds Not Reported to the Legislature

Fund Name	Fund Type	HRS §37-52.5 (Admin Created)	FY2022 Ending Balance (rounded)
Litigated Claims Fund	Trust Fund	✓	\$4,824,000
Taxes-Paid-Under-Protest Accounts	Trust Account	✓	1,652,000
Temporary Deposits – Payroll Overpayment Trust Account	Trust Account	✓	2,000
Undistributed Tax Collection Accounts	Trust Account	✓	(9,281,000)
Unemployment Tax Clearance Accounts	Special Fund	✓	486,000
Total			(\$2,317,000)

Source: Office of the Auditor

New Reporting Requirements

Section 37-48, HRS, enacted by the Legislature through Act 87 in 2021, requires departments to submit to the Legislature an annual program measures report of each non-general fund account, including information such as program objectives, program activities, metrics for target population, and metrics for assessing effectiveness over the ensuing six fiscal years. The report must be filed no later than October 1 annually. As the first such required report is due after our review period, we did not assess compliance with reporting required by Section 37-48, HRS.

Section 37-49, HRS, also enacted by the Legislature through Act 87 in 2021, requires departments to submit to the Legislature an annual cost element report of each non-general fund account, including information such as budget details by cost element and non-general fund names and account codes for each item or object code. The report must be filed no later than October 1 annually. As the first such required report is due after our review period, we did not assess compliance with reporting required by Section 37-49, HRS.

Office of the Auditor's Comments on the Department of Taxation's Response

Comments on Agency Response

WE TRANSMITTED a draft of this review to DoTAX on November 3, 2022. DoTAX subsequently informed us that it had reviewed the report and did not believe any revisions were necessary.

