

David Harris  
Director

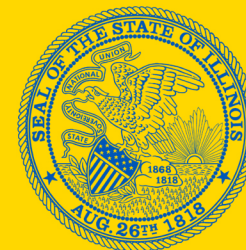
# Illinois Department of Revenue

## Taxpayers' Federation of Illinois State and Local Tax Conference

September 21, 2023



We Stand with Ukraine



# Disclaimer

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# IDoR Participants

## Department of Revenue Panel Participants:

Jim Nicholson, Chief of Staff

Colin Bowes-Carlson, General Counsel

Alexis Overstreet, Deputy General Counsel – Sales & Excise Tax Policy

Brian Fliflet, Deputy General Counsel – Income Tax Policy

## Department of Revenue Conference Attendees:

Africa, Associate Director

Rebecca Kulekowskis, Chair, Board of Appeals

Melanie Neely, Chief, Administrative Law Judge

Rubina Hafeez, Chief Economist



# State's Revenue Picture

## Ship of State

- On an even keel
- Steady as she goes

## General Assembly 2023 Legislative Session

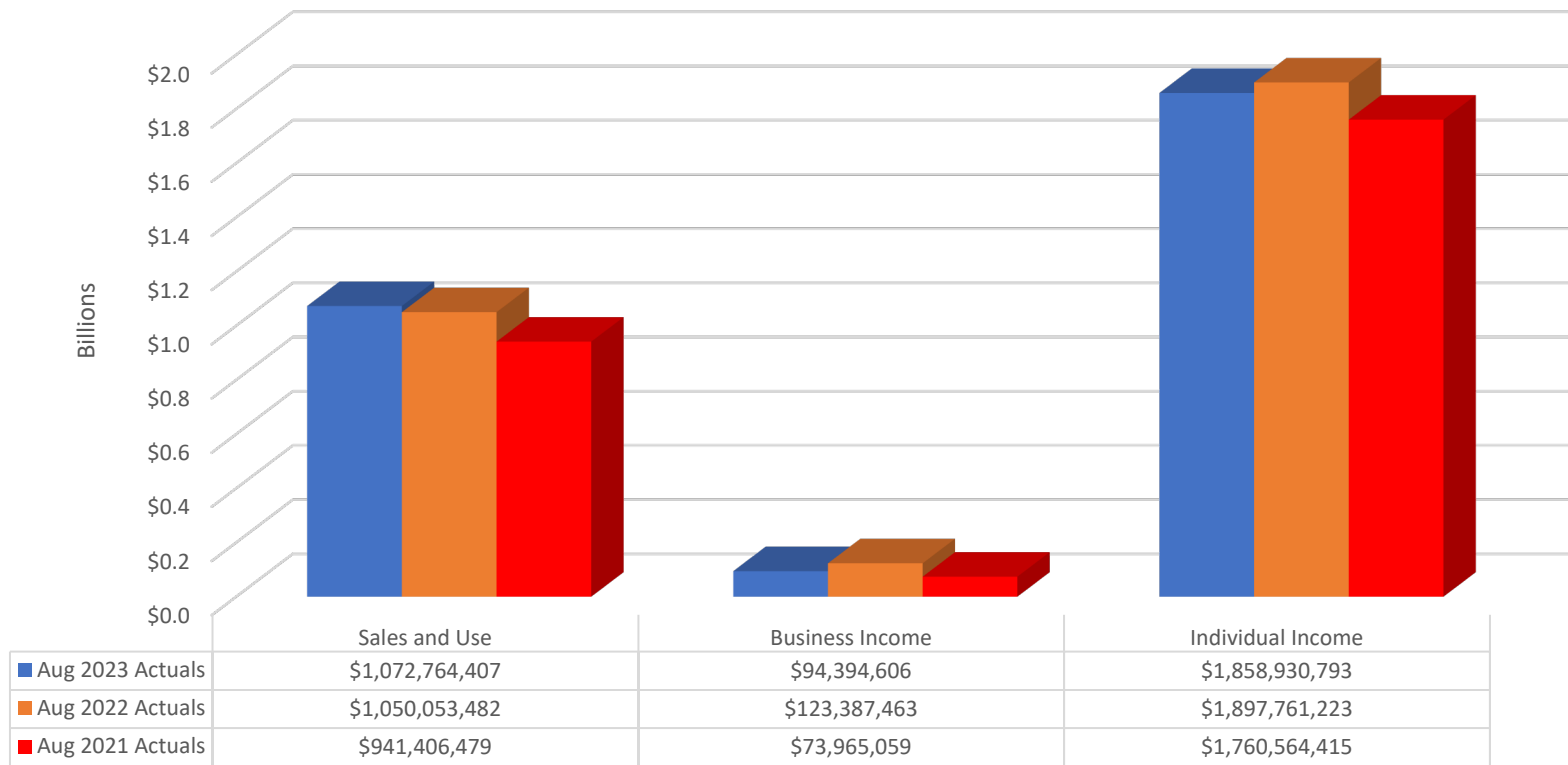
- rather routine compared to some previous ones
  - ♦ no income tax or prop tax rebates / no tax holidays / no suspensions

## Fiscal Year 2024 Budget

- \$50.6 billion revenue forecast
- \$50.4 billion appropriated
  - ♦ general funding of state agencies
  - ♦ additional \$\$ to Budget Stabilization (“Rainy Day”) Fund
  - ♦ \$200 million more to pensions above required amount
  - ♦ \$183 million surplus

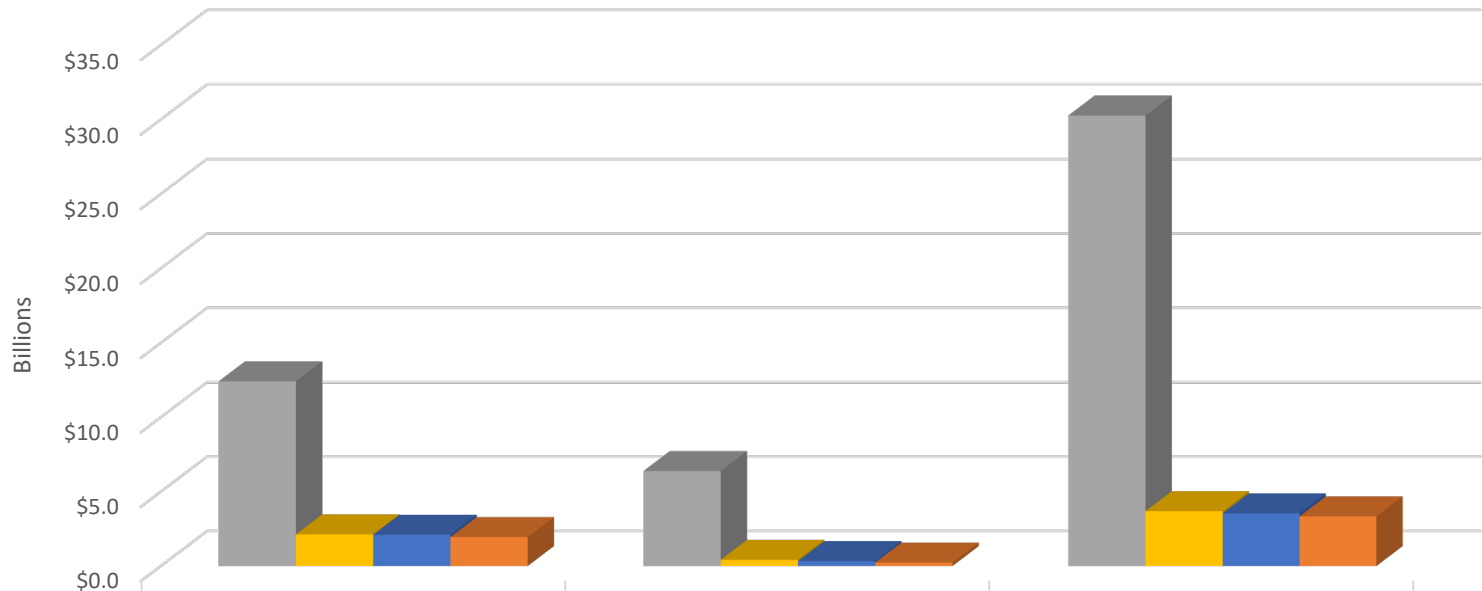
# August Receipts – Big Three

August Sales and Income Tax Receipts



# Year to Date – Big Three

Fiscal Year-to-Date (Jul-Aug) Sales and Income Tax Receipts

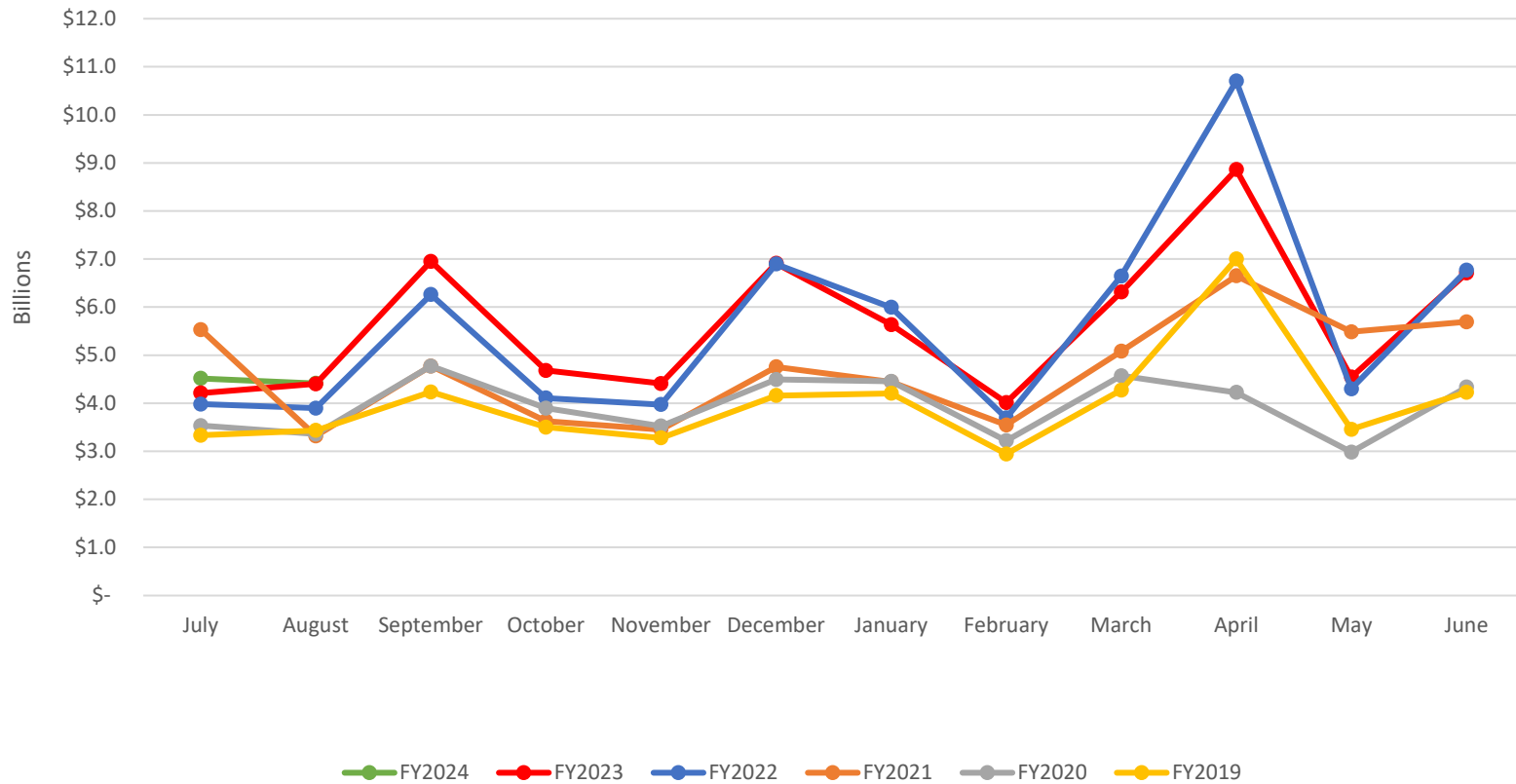


	Sales and Use	Business Income	Individual Income
■ FY24 Forecast (Gross)	\$12,417,000,000	\$6,386,000,000	\$30,258,000,000
■ FY24 YTD Actuals	\$2,129,505,805	\$418,033,910	\$3,688,157,407
■ FY23 YTD Actuals	\$2,105,598,947	\$329,800,181	\$3,542,532,481
■ FY22 YTD Actuals	\$1,946,515,900	\$231,710,477	\$3,335,502,541

# Year over Year – Big Three

18 Sept 2023:  
\$1.3 billion deposits  
2<sup>nd</sup> highest in Dept history

IDOR Collections Fiscal Year 2019 - 2024 (all tax types)



# Account Processing – IIT

(Current year vs 2022)

Individual Returns : 6.2 million used as reference

As of Friday 15 September

5.856 million (94.5%) vs 5.881 million (95%)

Electronic : 5.289 million vs 5.306 million

3.274 million Tax Professional vs 3.304 million

1.919 million Tax Software vs 1.924 million

95,723 MyTax Illinois vs 76,952 (+ 24.5%)

Paper : 567,096 vs 575,404



# Account Processing – BIT

## (Current year vs 2022)

Year to Date August 31, 2023

581,496 Business Income tax returns were filed electronically:

- 212,960 IL-1120-ST Up 4.3%
- 101,090 IL-1065 Up 4.7%
- 89,740 IL-1041 Up 2.2%
- 48,329 IL-1120 Up 4.2%

As of August 31, 2022

550,930 Business Income tax returns were filed electronically:

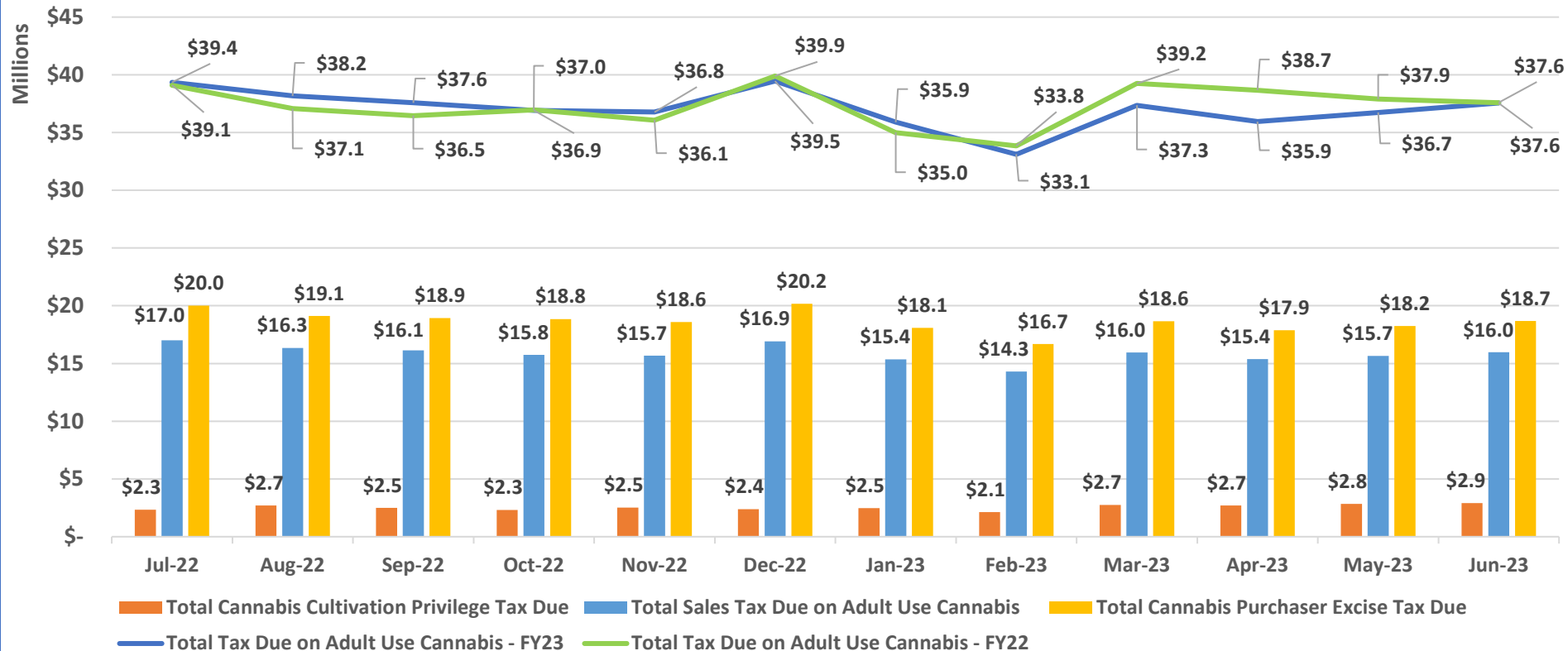
- 204,140 IL-1120-ST
- 96,581 IL-1065
- 87,804 IL-1041
- 46,394 IL-1120

This is an Increase of 4.0% or 17,200 returns from the prior year

# Success of Cannabis

Total Tax Receipts:  
FY'22 : \$445,236,625  
FY'23 : \$444,856,703

Adult Use (Rec) Cannabis Return Data by Filing Period

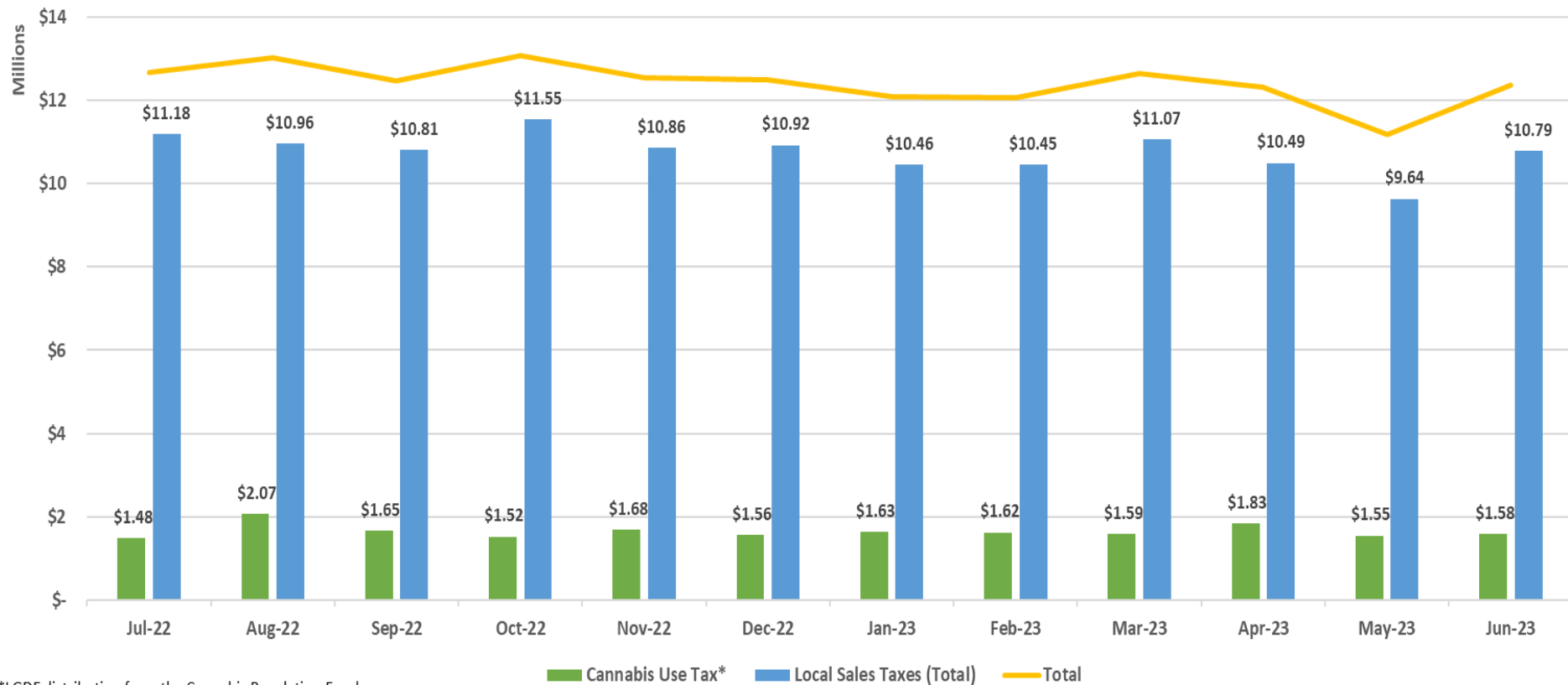


Figures updated as-of 7/31/23

# Cannabis Tax to Local Gov't

Total \$\$ to Locals:  
FY'22 : \$146,197,332  
FY'23 : \$148,931,145

Cannabis Disbursements to Local Governments - FY23



# Other Sources of Revenue

## Impact of Non-Department of Revenue receipts

Estate Tax - ~\$600 million

Franchise Tax - ~\$200 million

Insurance Tax - ~\$600 million

### Gaming:

Lottery - \$700+ million yearly

Casino - ~\$400 million yearly

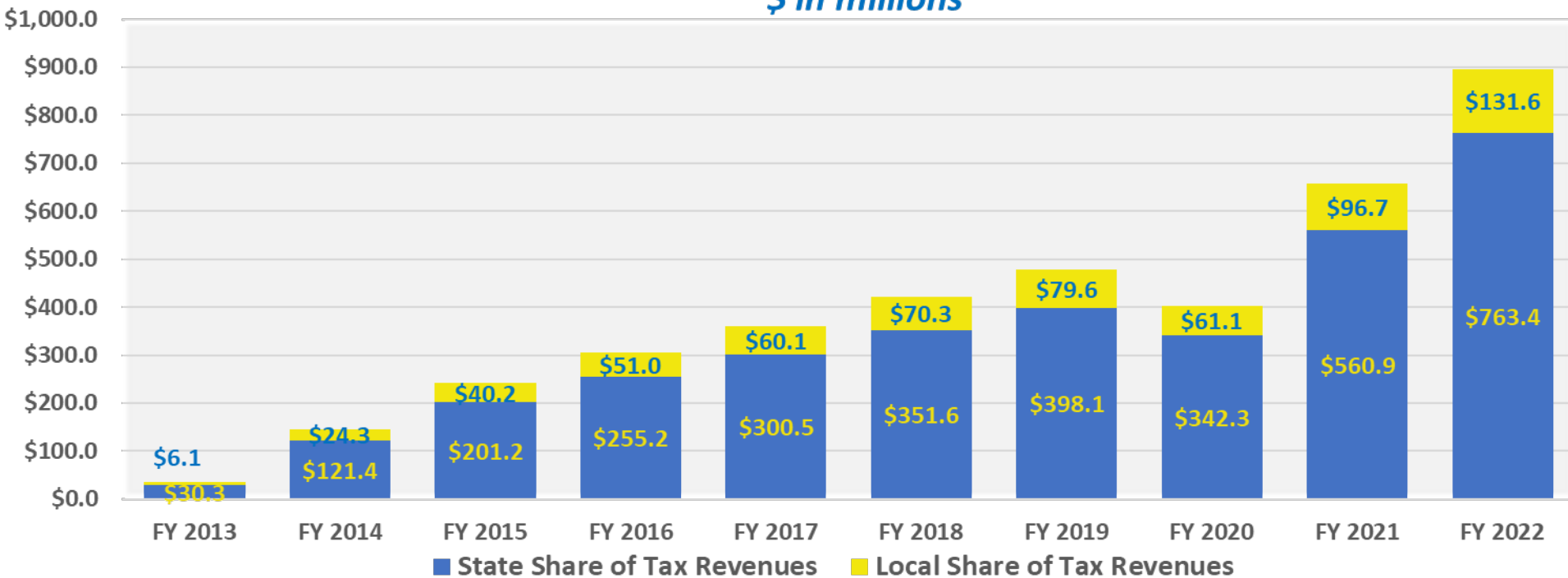
Sports Betting - \$153 million (+ 40% in a year)

Video Gaming Terminals

# Video Gaming Revenue

## TAX REVENUE COLLECTED FROM VIDEO GAMING TERMINALS

*\$ in millions*



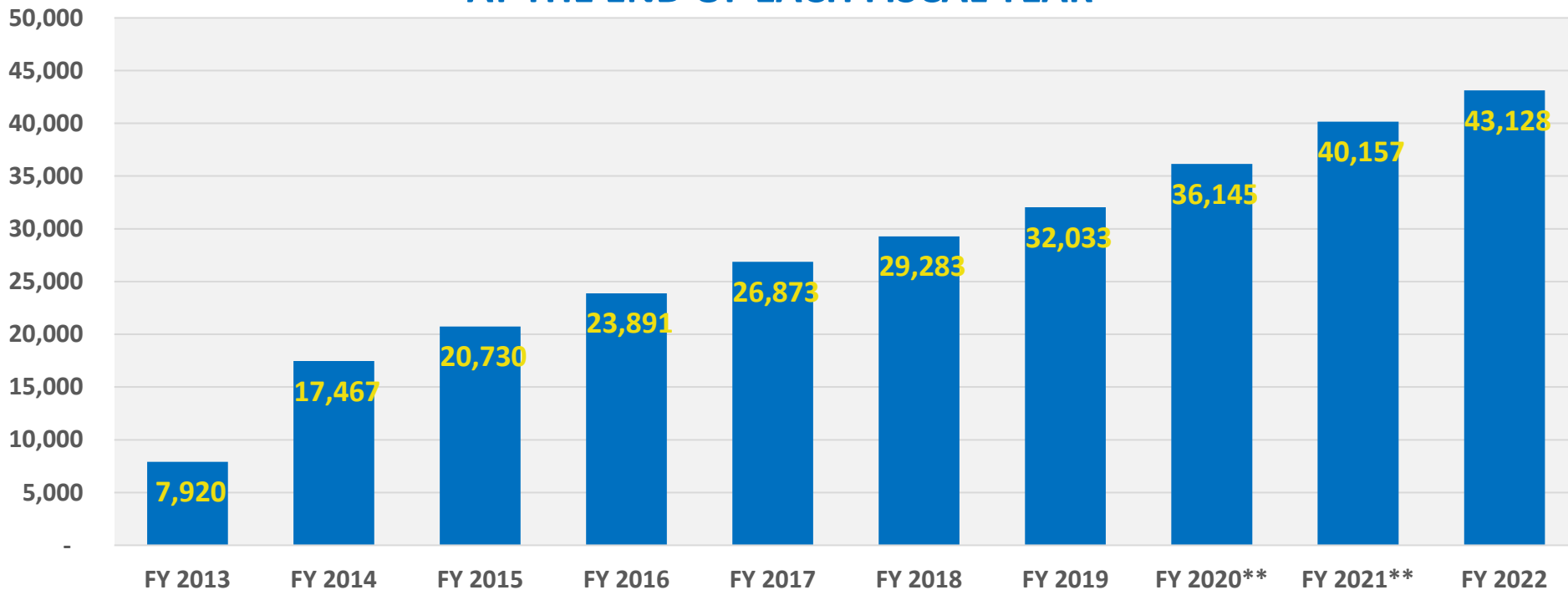
Source: Illinois Gaming Board



# VGTs in Operation (No Chicago)

As of June 2023:  
45,987 Terminals  
8,331 Establishments

## VIDEO GAMING TERMINALS IN OPERATION IN ILLINOIS AT THE END OF EACH FISCAL YEAR



\*\*Due to COVID-19, play was suspended between March 16th and June 30th of 2020 and then again from November 19th thru January 15, 2021. After January 15, 2021, play was allowed to resume in a region once its region met certain COVID-19 guidelines.

# Department Initiatives

## IRS Direct File

- Pilot program allowing direct filing of returns

  - 9 non-income tax states + MA

- Illinois is not participating

  - interconnectivity of data with state system

  - insufficient time for testing

## PPP Loans

- Initiate audits on businesses & individuals

## STAR Bonds

- Sales Tax and Revenue (STAR) Bonds

  - Marion, IL, is first and only (modeled on Kansas City, KS)

  - Establish district, attract retail, sales tax increment for bonds



# Illinois Department of Revenue

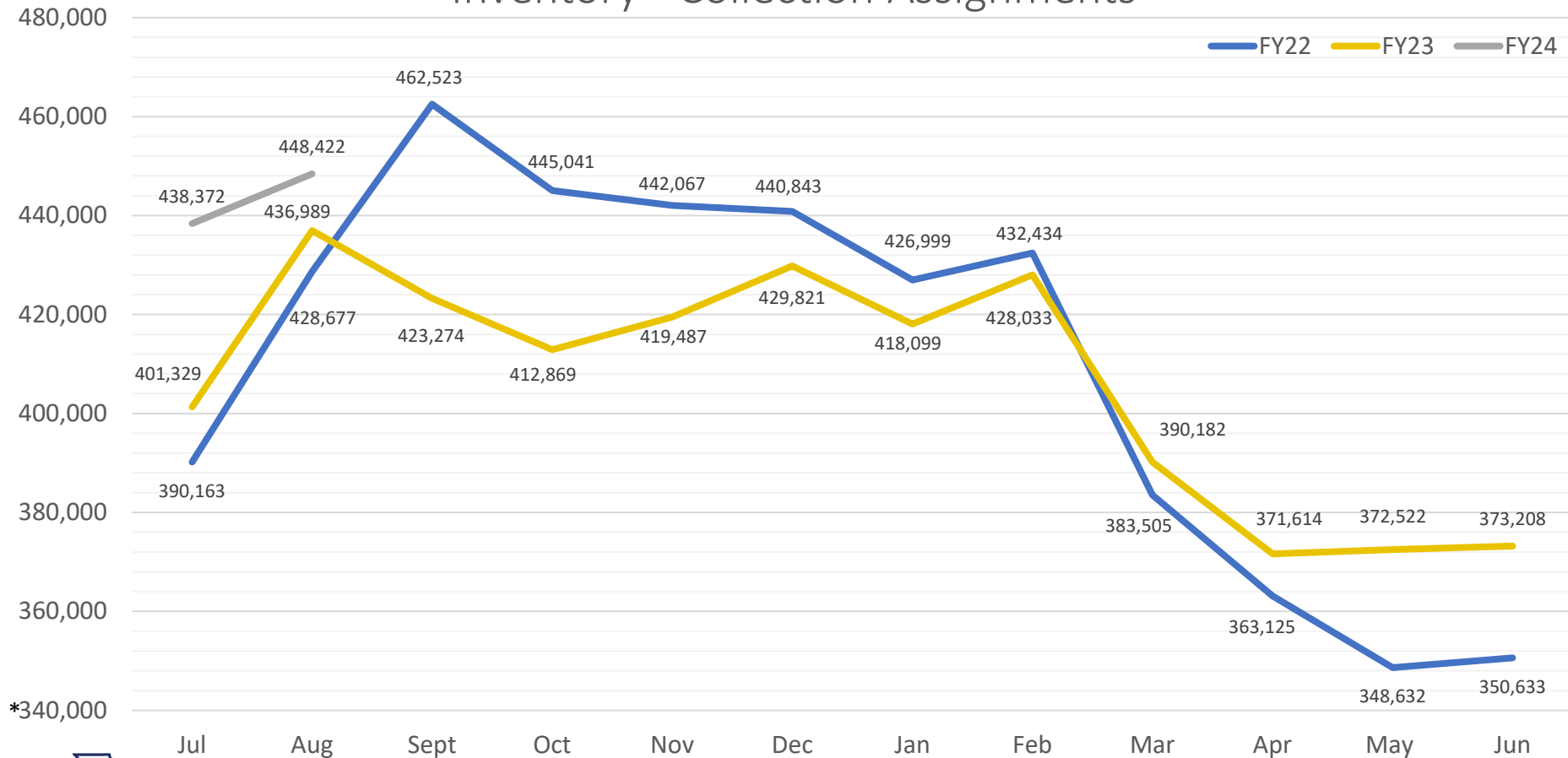
**General Statistics**

**Jim Nicholson**  
Chief of Staff



# Collections

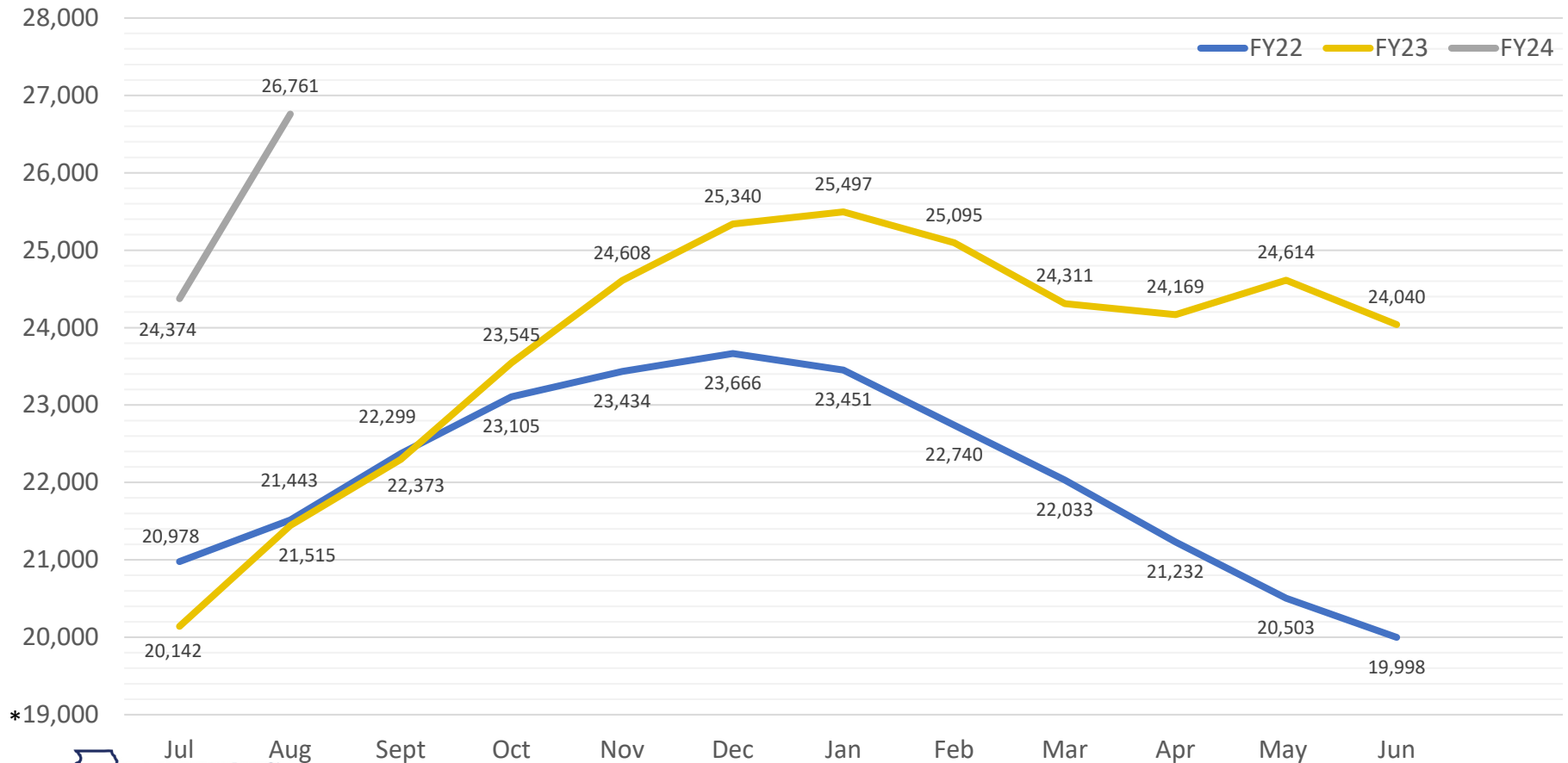
## Inventory - Collection Assignments



\* Y-axis minimum adjusted for purpose of comparison

# Collections

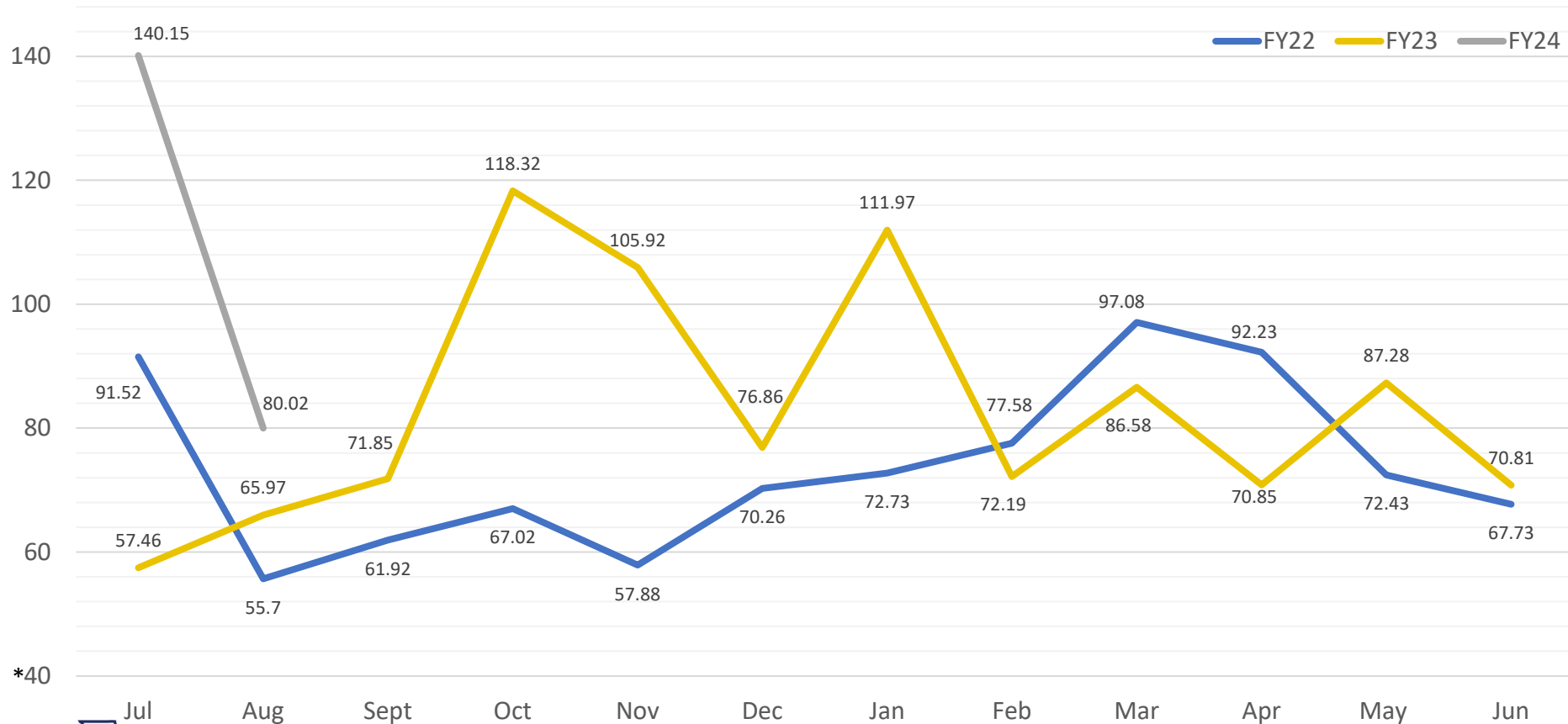
## Department Approved Pay Plans



\* Y-axis minimum adjusted for purpose of comparison

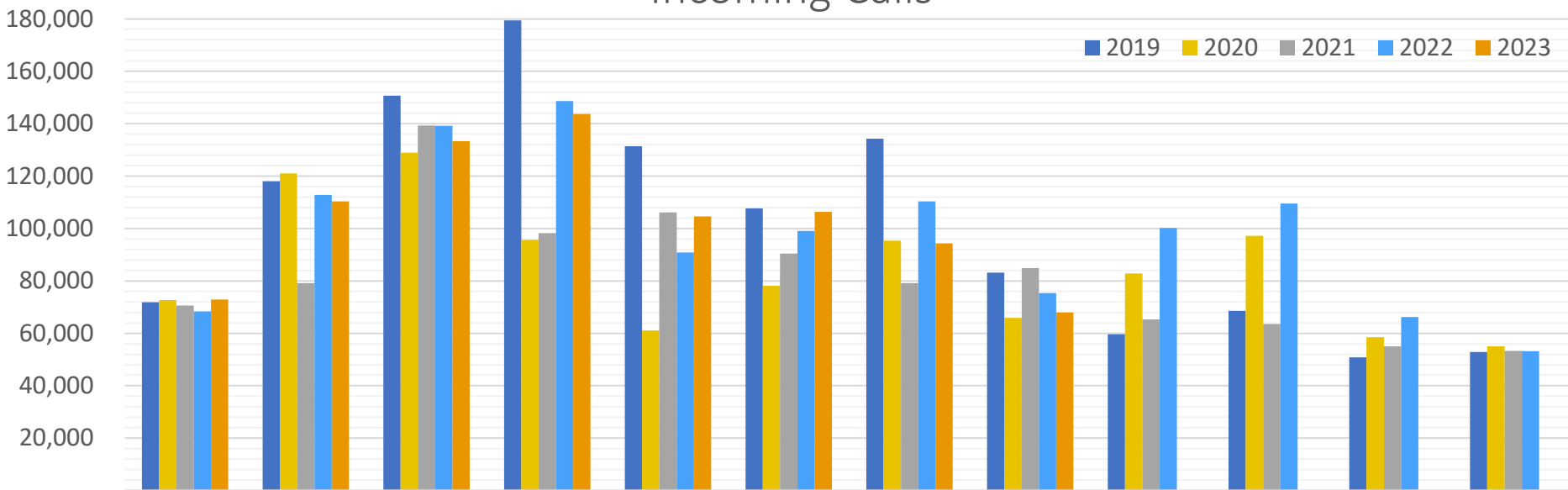
# Collections

Dollars Collected From Delinquent Taxes (in Millions)



# Taxpayer Services

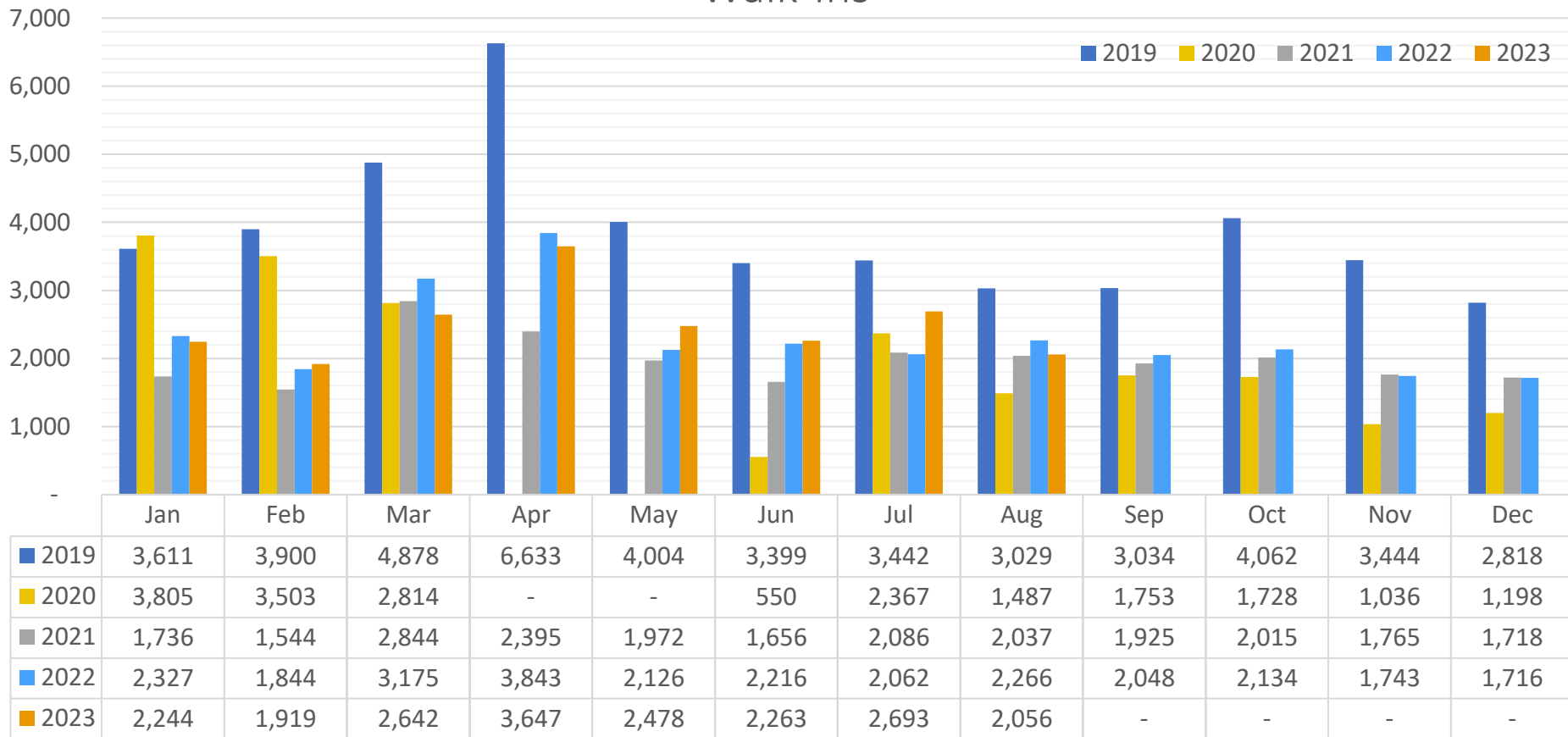
## Incoming Calls



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	71,852	118,062	150,719	179,409	131,396	107,673	134,283	83,153	59,700	68,538	50,869	52,865
2020	72,726	121,079	128,915	95,703	61,056	78,177	95,350	65,863	82,894	97,224	58,519	55,075
2021	70,636	79,133	139,342	98,249	106,126	90,459	79,172	84,885	65,332	63,538	55,036	53,301
2022	68,377	112,853	139,153	148,668	90,810	99,067	110,407	75,329	100,194	109,575	66,251	53,135
2023	72,870	110,391	133,308	143,686	104,575	106,337	94,361	67,963				

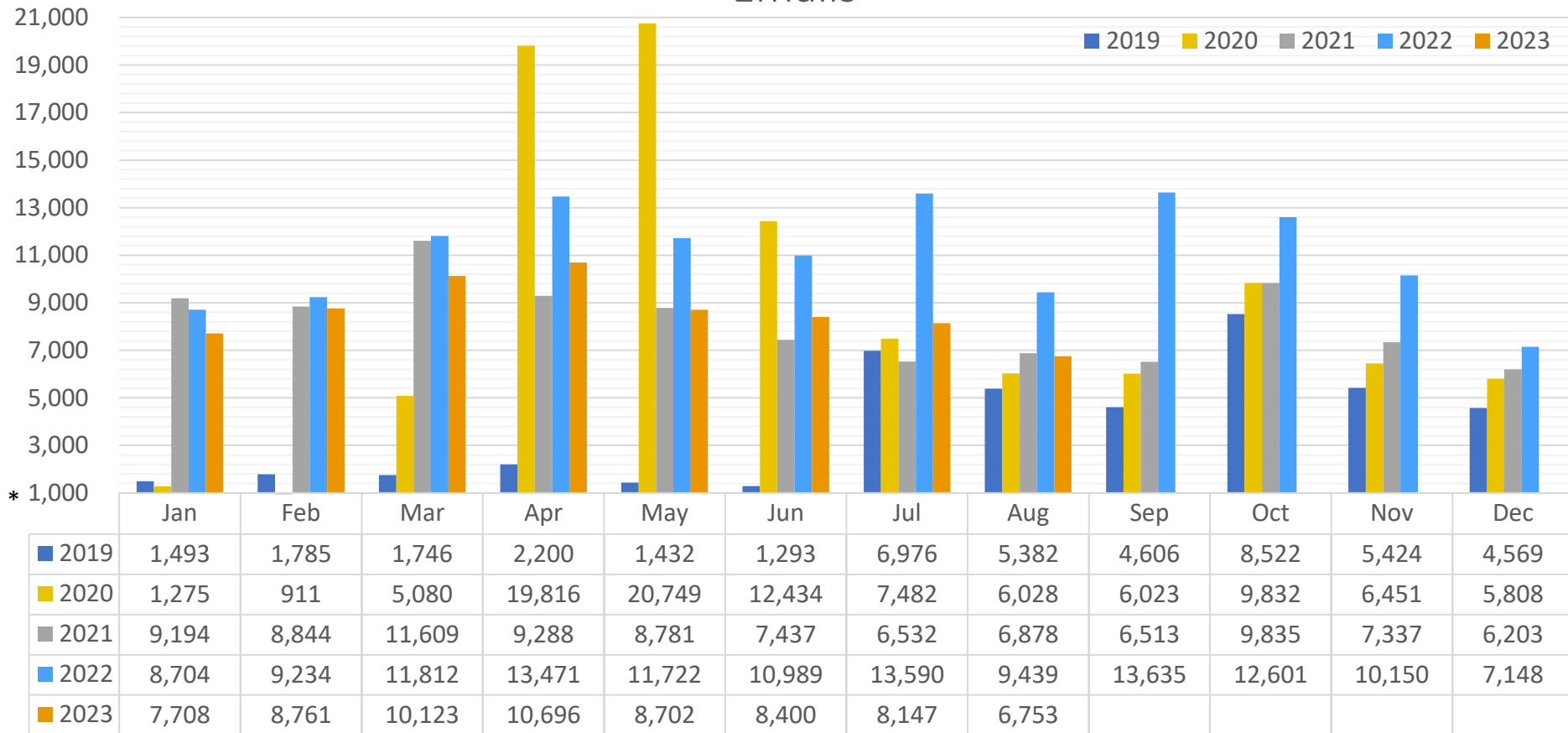
# Taxpayer Services

## Walk-Ins



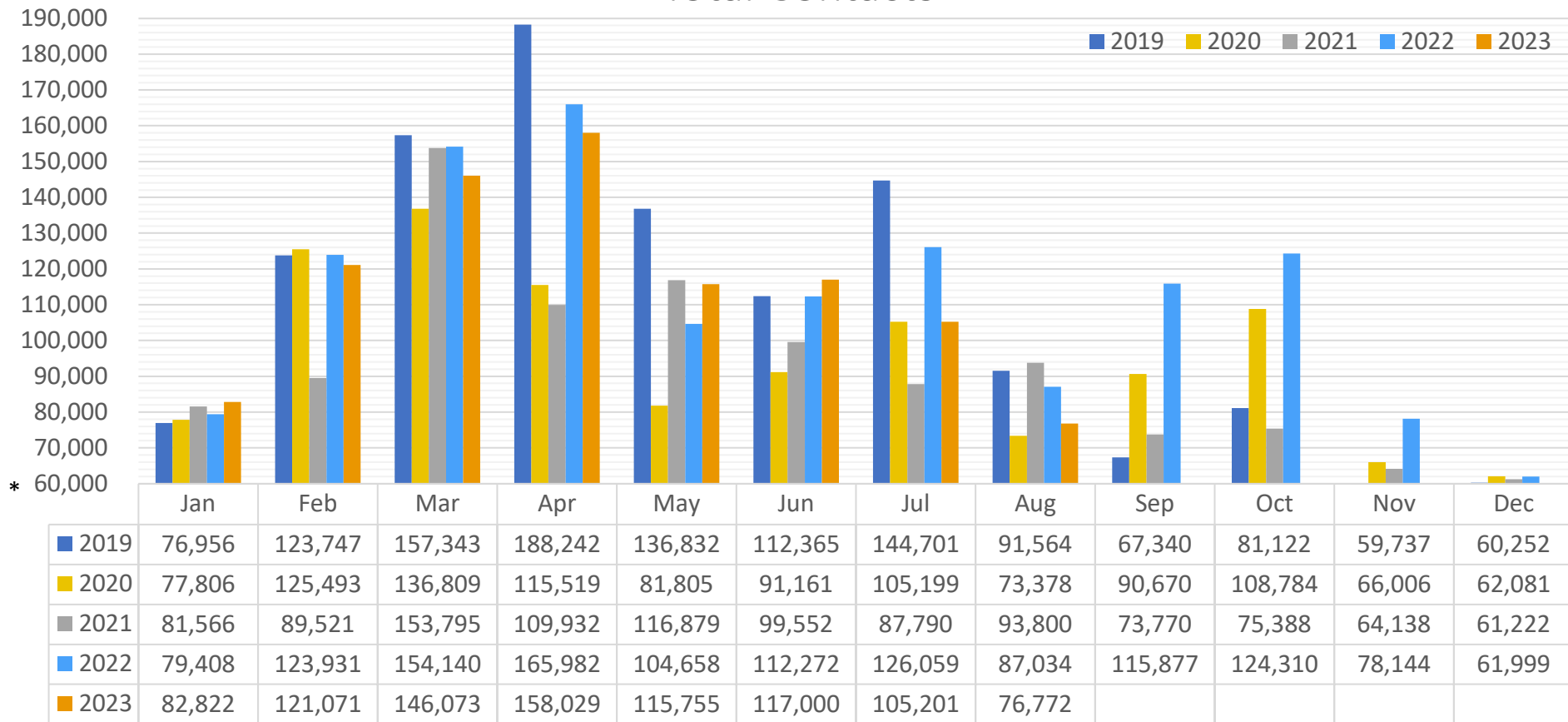
# Taxpayer Services

## Emails



# Taxpayer Services

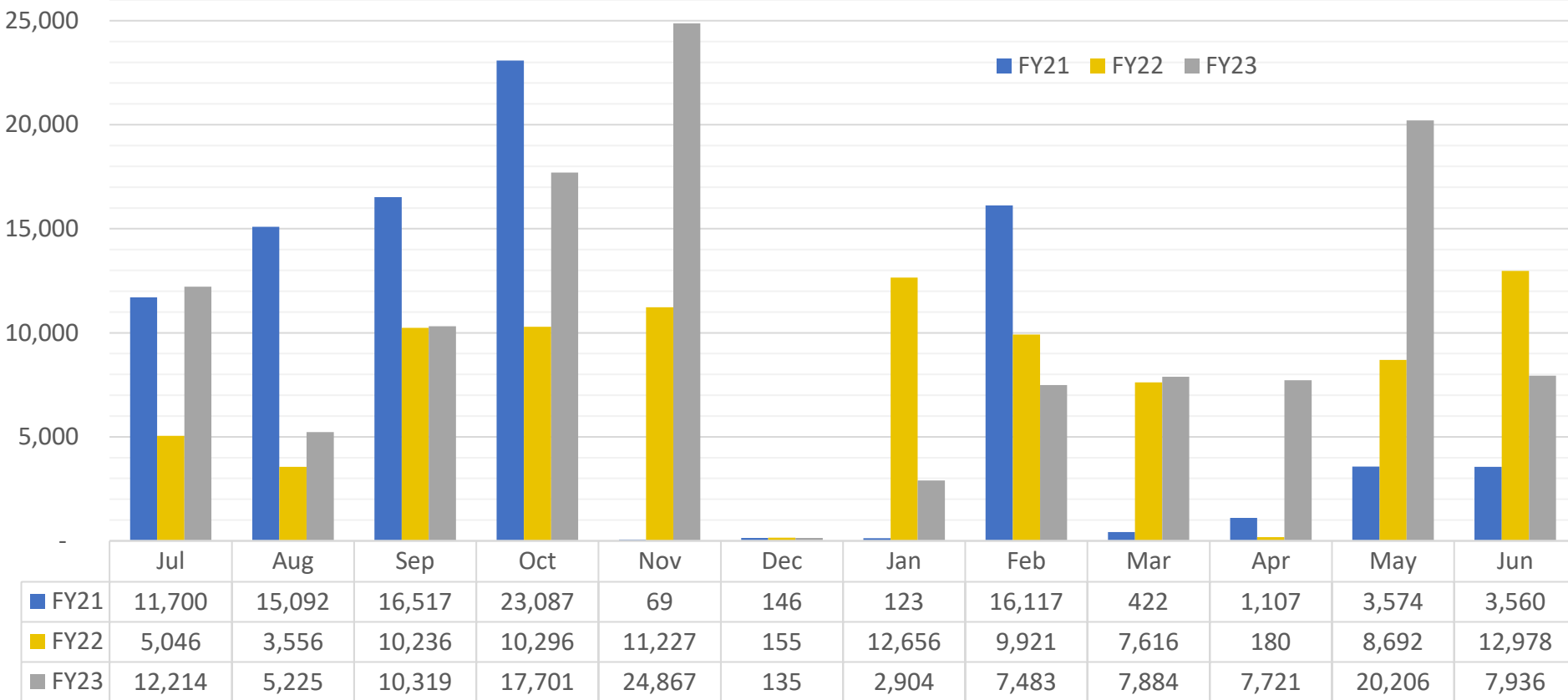
Total Contacts



\* Y-axis minimum adjusted for purpose of comparison

# Audit

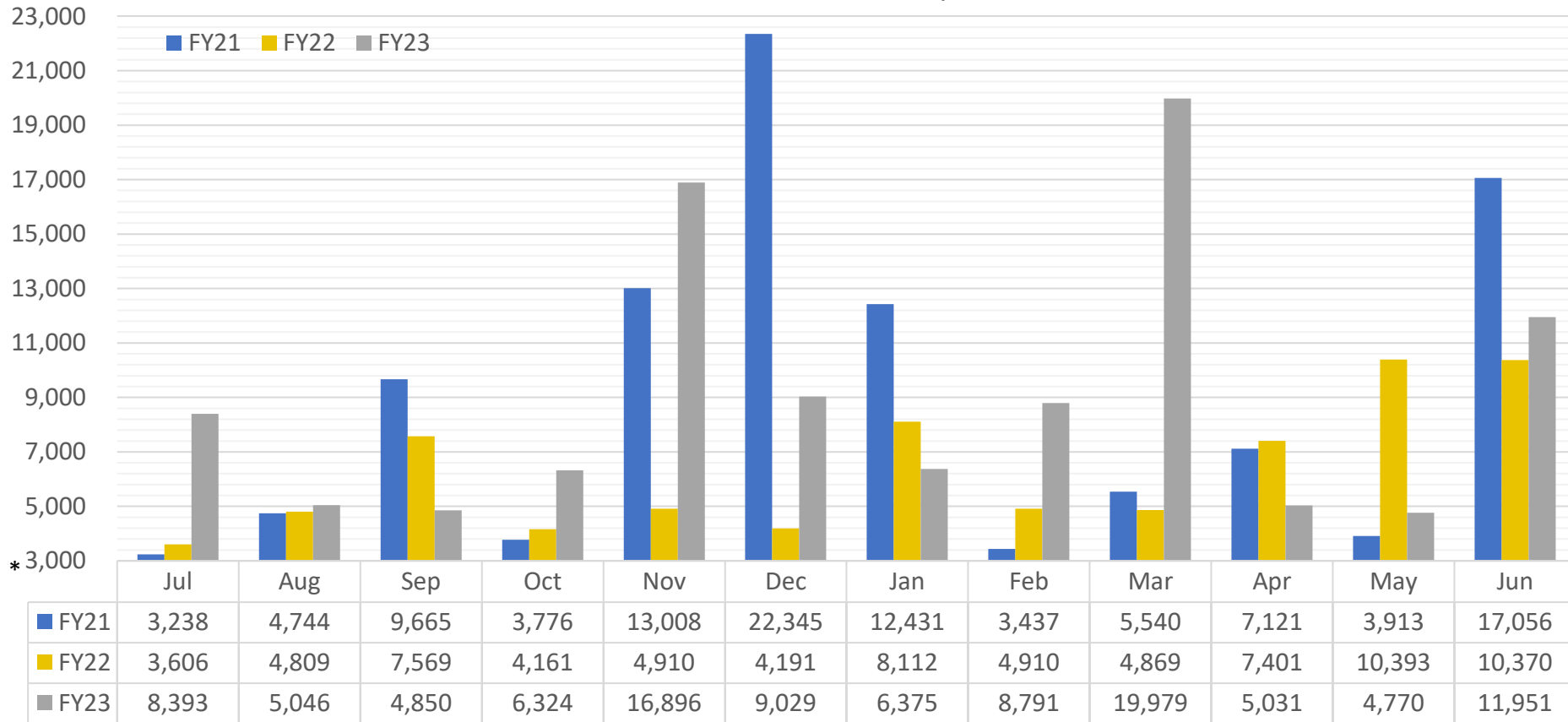
## Income Tax Initiated Cases per Month





# Audit

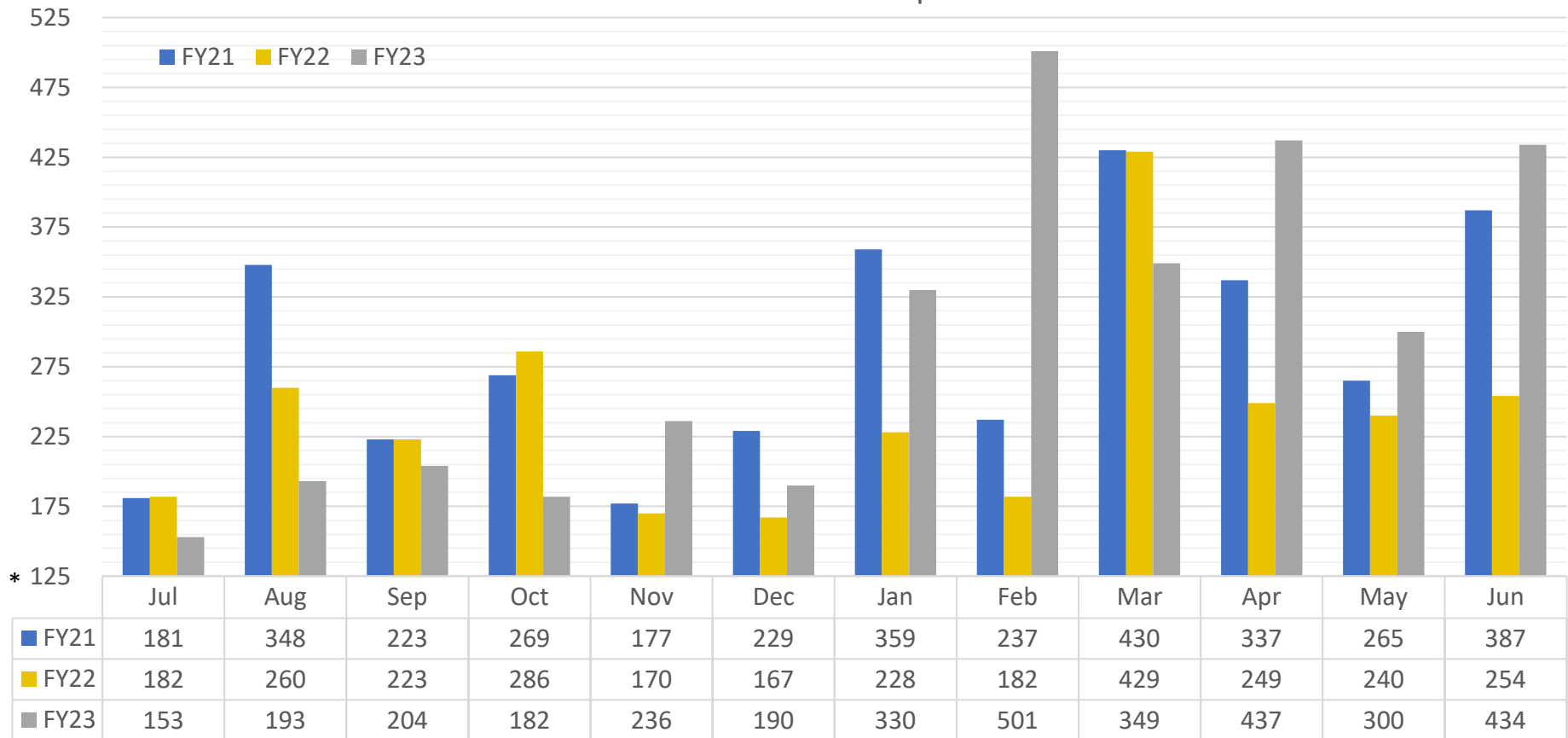
## Income Tax Closed Cases per Month



\* Y-axis minimum adjusted for purpose of comparison

# Audit

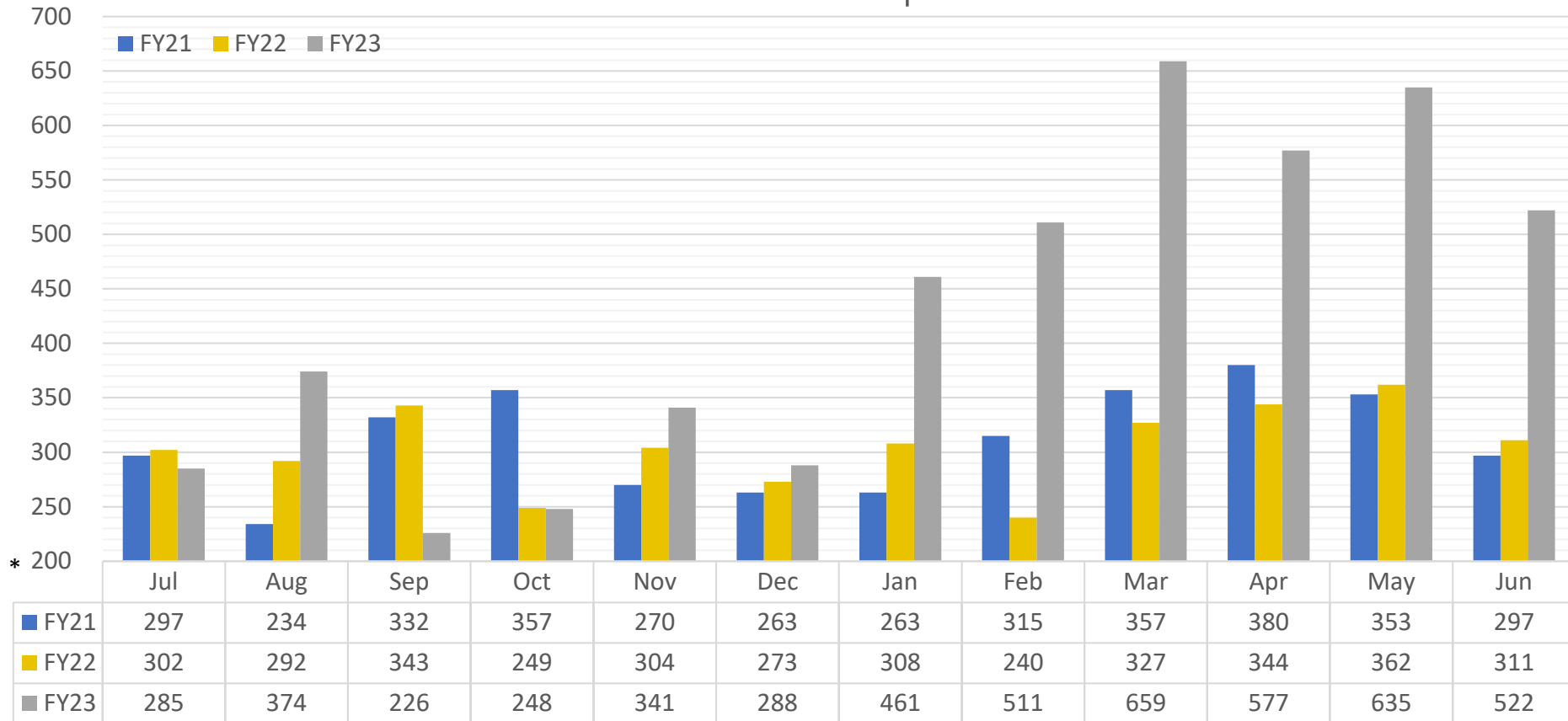
## Sales Tax Initiated Cases per Month



\* Y-axis minimum adjusted for purpose of comparison

# Audit

## Sales Tax Closed Cases per Month

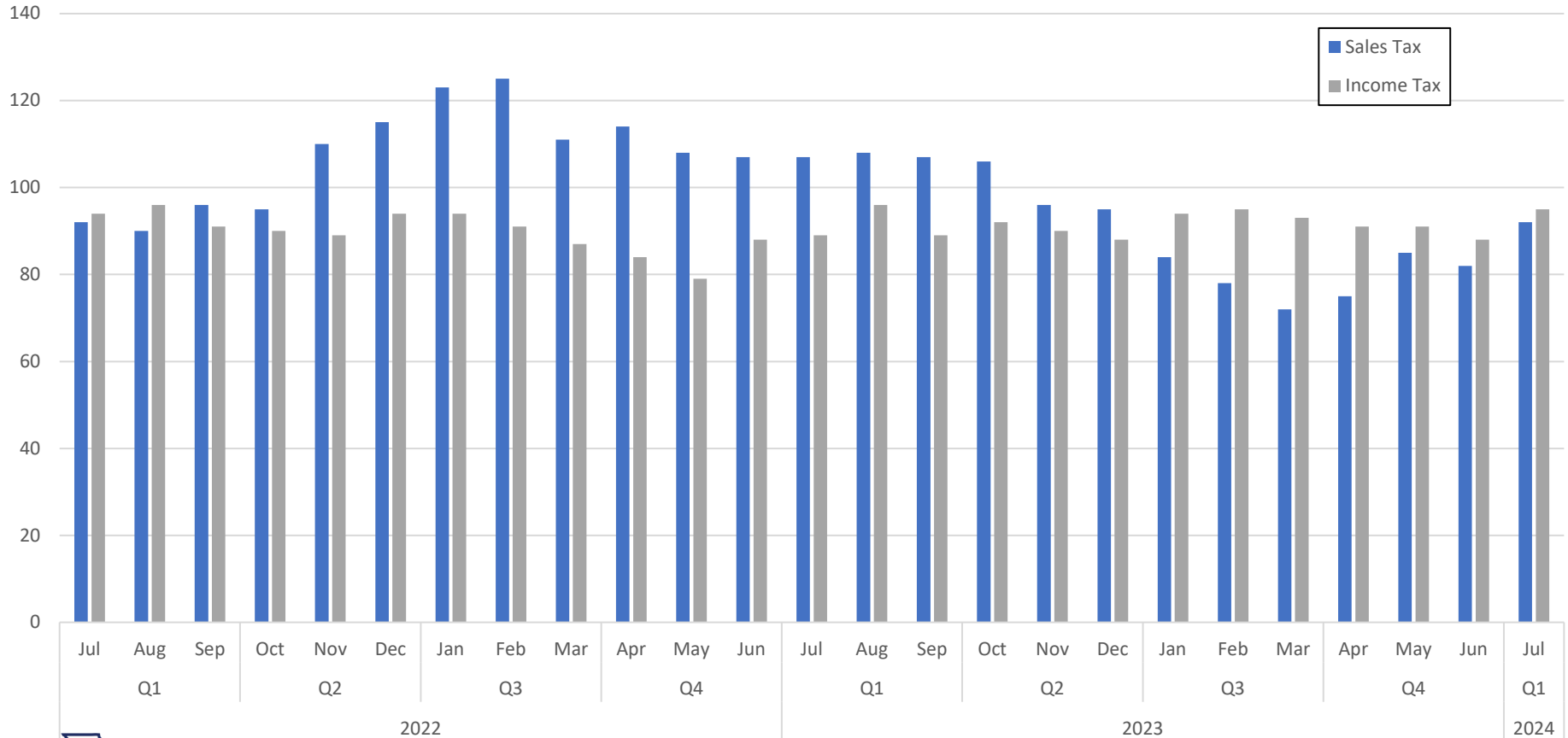


\* Y-axis minimum adjusted for purpose of comparison

# ICB

## Informal Conference Board

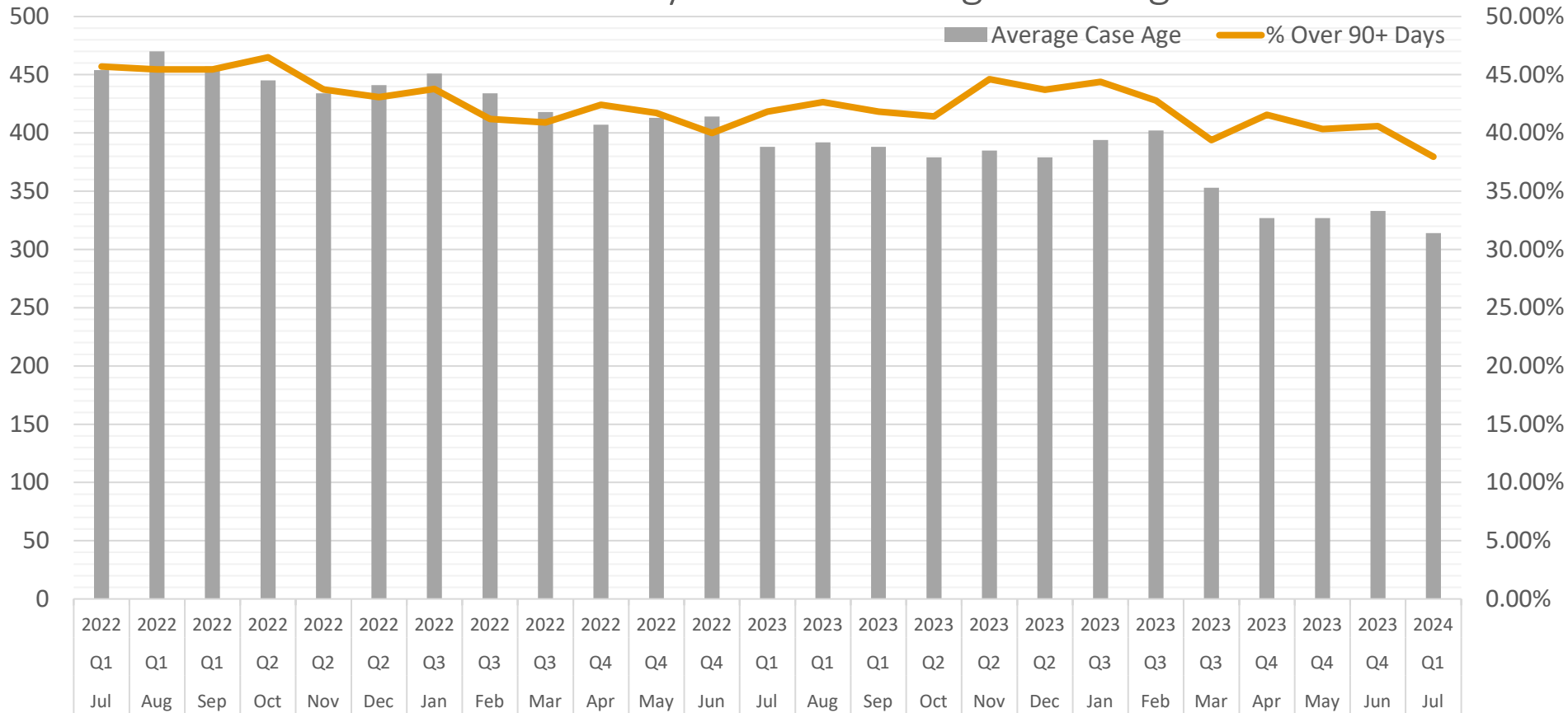
Sales vs. Income Tax Cases in Fiscal Years 2022-2024



# ICB

## Informal Conference Board

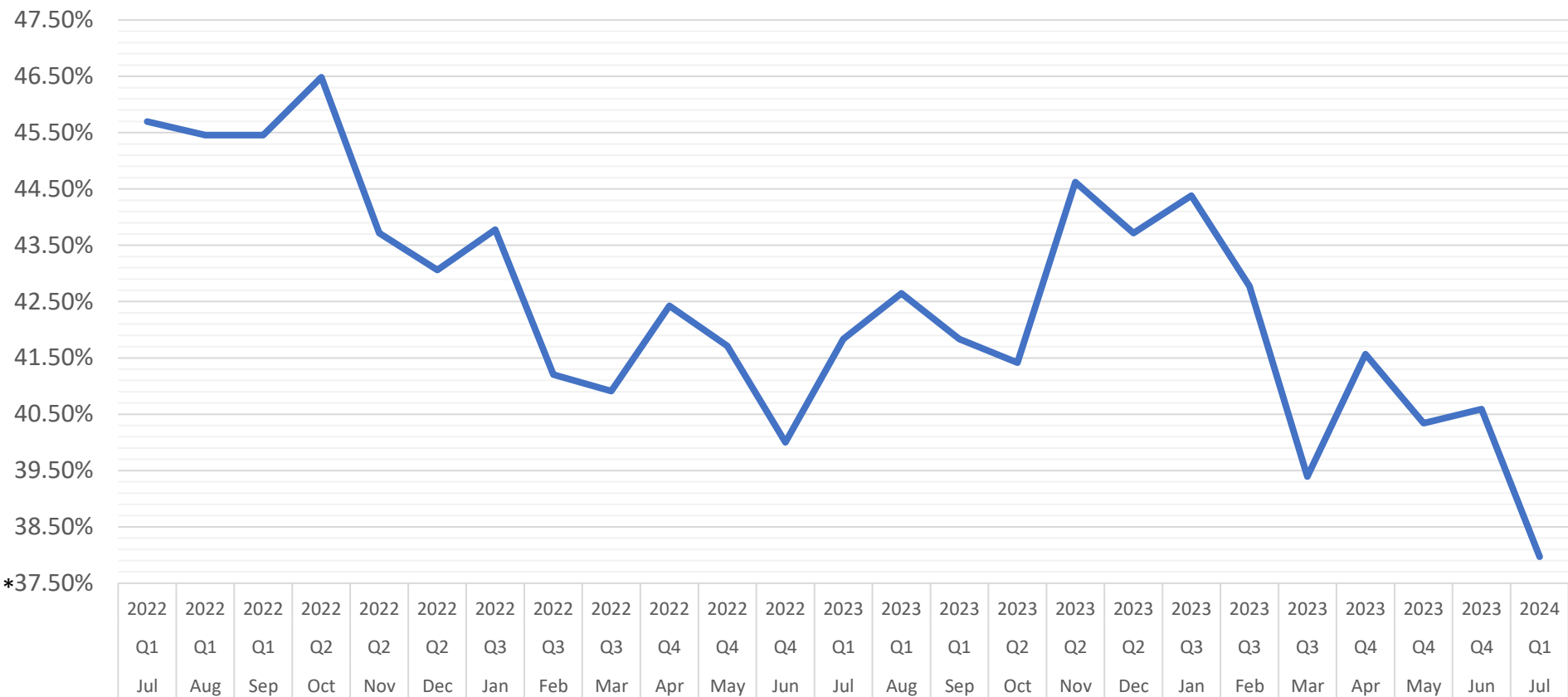
% Over 90+ Days Versus Average Case Age



# ICB

## Informal Conference Board

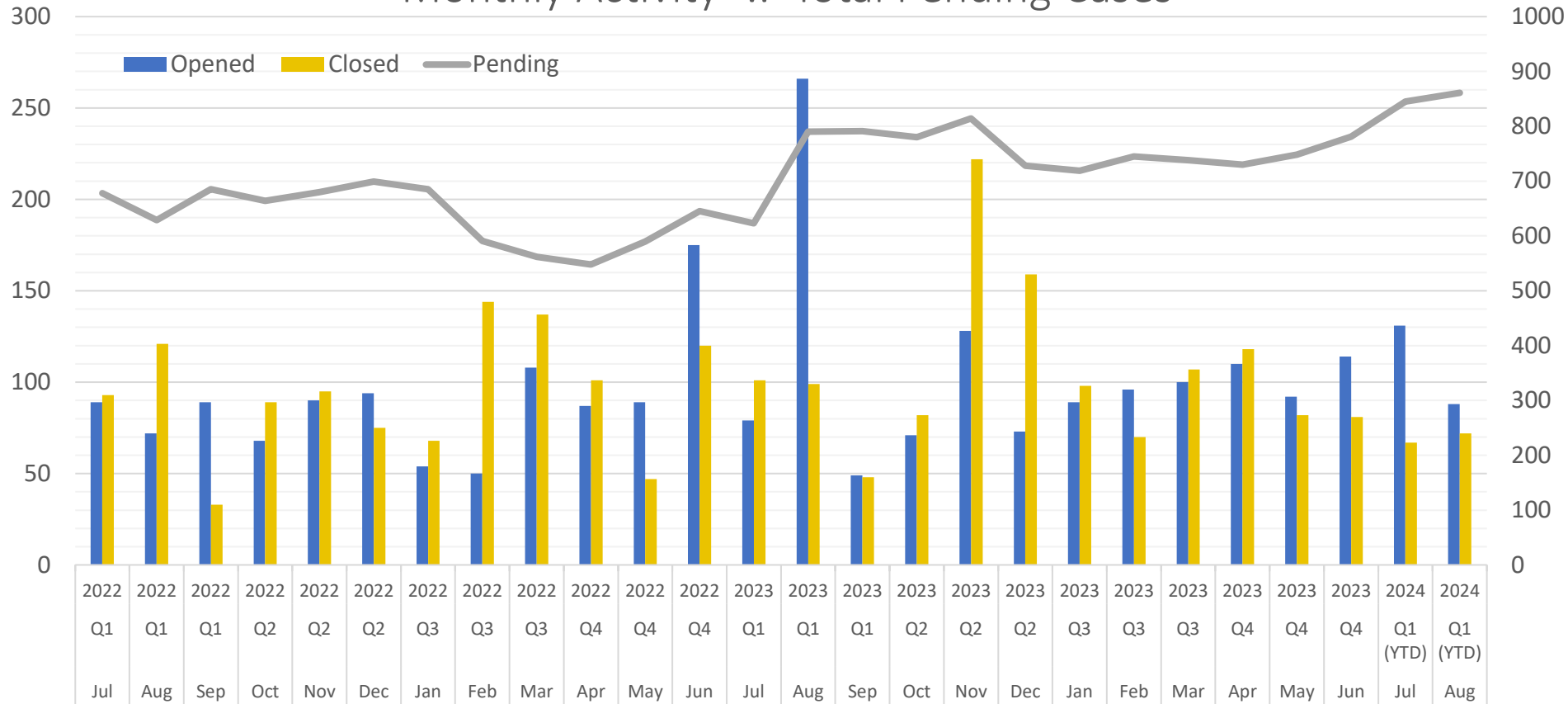
% of Cases Aged Over 90+ Days



\* Y-axis minimum adjusted for purpose of comparison

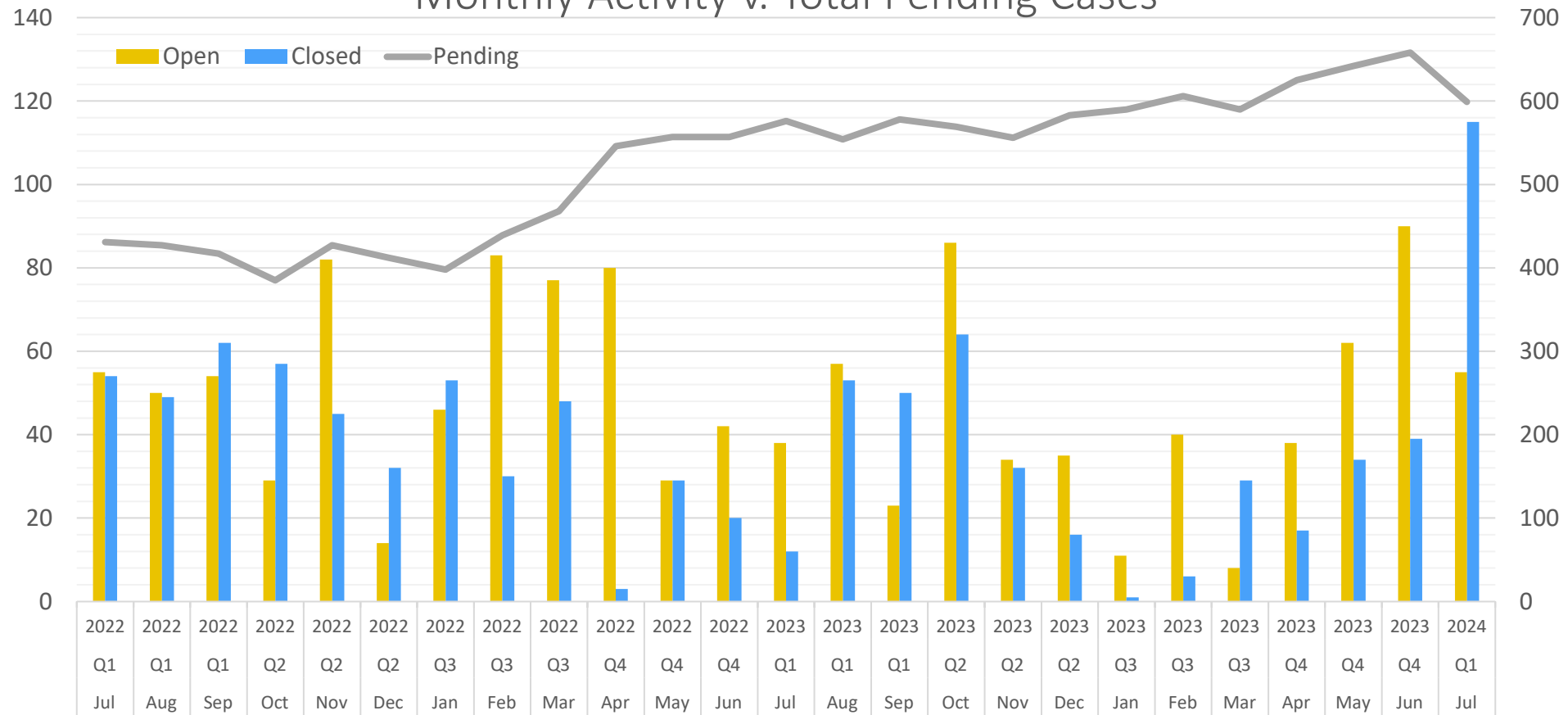
# BOA Board of Appeals

## Monthly Activity v. Total Pending Cases



# ALJ Administrative Hearings

## Monthly Activity v. Total Pending Cases





# Illinois Department of Revenue

## **Legal Services**

**Colin Bowes-Carlson**  
General Counsel

**Alexis Overstreet**  
Deputy General Counsel  
Sales & Excise Tax Policy

**Brian Fliflet**  
Deputy General Counsel  
Income Tax Policy

# Litigation Updates

- *PepsiCo Inc. & Affiliates v. IDOR*
  - Tax Tribunal: 16-TT-82; 17-TT-16
  - First District Appellate Court: 1-23-0913
  - 7<sup>th</sup> Judicial Circuit Court (Sangamon Co.): 2022-TX-000155
- Tax Tribunal decision appealed to First District Appellate Court
- Protest Monies Act claim in Sangamon County Circuit Court
- Main 80/20 question: *Is this a mechanical test?*
- IDOR asserts ability to look at economic reality

# Litigation Updates

- *PepsiCo Inc. & Affiliates v. IDOR*
- From Judge Conway's ruling at the Tax Tribunal:

*“It is astonishing that a sophisticated tax department, like Pepsi's, would create such an aggressive tax strategy to create a non-operational shell company ... whose sole purpose was to make billions of dollars of [Frito-Lay's] domestic snack line income, previously recognized for State of Illinois income tax calculations, disappear with a few strokes of a pen, without addressing the merits of such an endeavor with in-depth factual and legal analyses.”*

# Litigation Updates

- *American TCRG SN4057, LLC v. IDOR*
  - Tax Tribunal: 22-TT-04
  - Appealed to First District Appellate Court
- Taxpayer challenges assessment of state Aircraft Use Tax, local use tax, and penalties
- Case decided on cross motions for summary judgment, with two prongs of *Complete Auto* at issue

# Litigation Updates

- *American TCRG SN4057, LLC v. IDOR*
- First prong → substantial nexus?
  - Plane leased to Illinois company for use in Illinois (lease is taxable use)
  - Several flights in and out of Illinois
  - Oversight and management of aircraft from Illinois
  - Plane purchased with Illinois address, through an Illinois-based representative, registered to FAA in Illinois, leased in Illinois to Illinois lessees

# Litigation Updates

- *American TCRG SN4057, LLC v. IDOR*
- Fourth prong → fairly related?
  - City of Chicago is part of Illinois!
  - Extensive use of Illinois airports
  - Maintenance and repair in Illinois from Illinois companies
  - Leases governed by Illinois law

# Litigation Updates

- *American TCRG SN4057, LLC v. IDOR*
- Local use tax
  - Whether RTA or Cook County, exempt as non-resident when read together with Illinois Aeronautics Act
- Imposition of penalties upheld

# Litigation Updates

- *Carle Foundation v. IDOR, Champaign County BoR, Cunningham Township, City of Urbana*
  - Circuit Court (Champaign County): No. 08L202
  - Fourth District Appellate Court: 2023 IL App (4<sup>th</sup>) 200121
- Hospital property tax exemption case
- Circuit court granted exemptions in February 2020
- Fourth District upheld circuit court decision in August 2023



# Litigation Updates

- *Carle Foundation v. IDOR, Champaign County BoR, Cunningham Township, City of Urbana*
- Section 15-86 enacted to clarify “*the considerable uncertainty surrounding the test for charitable property tax exemption, especially regarding the application of a quantitative or monetary threshold.*”
- Section 15-86 → hospital qualifies for exemption if the value of charitable services provided equals or exceeds hospital’s estimated property tax liability

# Litigation Updates

- *Carle Foundation v. IDOR, Champaign County BoR, Cunningham Township, City of Urbana*
- Illinois Constitution, article IX, section 6: “*The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery, and charitable purposes.*”

# Business Incentives

- Enterprise Zones (EZ)
- High Impact Businesses (HIB)
- Reimagining Energy and Vehicles (REV)
- Manufacturing Illinois Chips for Real Opportunity (MICRO)
- Data Centers
- River Edge Redevelopment Zone

# Business Incentives

## Available Exemptions

- Building Materials – ROT / UT
- Utilities
  - Electricity Excise Tax
  - Gas Revenue Tax
  - Gas Use Tax
  - Public Utilities Act
  - Telecommunications Excise Tax
  - Telecommunications Infrastructure Maintenance Fee
  - Simplified Municipal Telecommunications Tax

# Business Incentives

## Available Exemptions

	EZ	HIB	REV	MICRO	Data Center	River Edge
Building Materials Exemption	✓	✓	✓	✓	✓	✓
Electricity Excise Tax	✓	✓	✓	✓		
Gas Revenue Tax	✓	✓				
Gas Use Tax	✓	✓				
Public Utilities Act	✓	✓	✓	✓		
Telecommunications Excise Tax	✓	✓	✓	✓		
Telecommunications Infrastructure Maintenance Fee	✓	✓	✓	✓		
Simplified Municipal Telecommunications Tax	✓	✓	✓	✓		

- Building Materials
  - Enterprise Zones and River Edge Zones must be certified by DCEO
  - HIB, REV, MICRO, and Data Centers – taxpayers must apply to DCEO for Certification
  - DCEO sends Certificate to IDOR
    - NOTE: DCEO issues the exemption certificate from ROT, UT, SOT, SUT, and locally imposed taxes for Data Centers
- Utilities
  - Utilities Exemptions are NOT available for Data Centers or River Edge
  - EZ, HIB, REV, and MICRO taxpayers must apply to DCEO for certification
  - DCEO sends Certificate to IDOR

- Business Materials Exemption
  - Enterprise Zones and River Edge Zones
    - IDOR sends an informational pdf to the zone administrator
    - Zone administrator must submit a request for an Enterprise Zone Building Materials Exemption Certificate to IDOR
  - HIB / REV / MICRO
    - IDOR reaches out to collect contact information for the business's or project's administrator
    - IDOR sends informational pdf to the administrator
      - How to navigate IDOR's online system
      - How to create projects and BMECs pertaining to each project
  - Requests for all BMECs are done through an online portal
  - Once the BMEC is issued, it can be accessed using the same online portal

# Business Incentives

## Procedure for IDoR

<https://www.revenue.state.il.us/app/ezci/SessionNotice.html>



### ***Building Materials Exemption Certificates***

#### **Notice**

You are about to begin a Building Materials Exemption Certificates session. During your session, it is important to observe the following guidelines:

- Do NOT use your browser's back button to navigate.
- Navigate using only the buttons provided on each page.
- Use the Exit buttons provided to properly terminate your session.

[Help](#)  
[Contacts](#)

Next

Exit





# Business Incentives

## Procedure for IDoR



### *Building Materials Exemption Certificates*

#### Getting Started

Zone Administrator

HIB / REV

Certificate Applicant

**Select an option on the left:**

**Zone Administrator** - Apply for, review or rescind certificates for contractors or other entities working on projects in your Enterprise or River Edge Redevelopment Zone.

**HIB / REV** - Apply for, review or rescind certificates for contractors or other entities working on your High Impact Business (HIB) / Reimaging Electric Vehicles (REV) projects.

**Certificate Applicant** - View, manage and print building materials exemption certificates that have been issued to your business.

[Help](#)  
[Contacts](#)

Next

Exit



- Utilities
  - Exemptions not available for Data Centers or River Edge
  - No certificate from IDOR needed
  - DCEO sends certificate to IDOR
  - IDOR legal office sends notice of the exemption to utilities

- Each construction contractor or other entity needs their own certificate
- Must have active Exemption Certificate at time of purchase
- Purchaser must give supplier either:
  - The purchaser's certificate issued by IDOR, or
  - A completed EZ-1 certificate with the purchaser's BMEC number on it

# Annexations & Disconnections

- Check MyTax account for updated certificates and/or rate change letters.
- Use the tax rate finder at MyTax Illinois for their tax rates.
- “Search by Local Government,” not “Search by Address” in tax rate finder.
- If notified by a municipality that you have been annexed but you have not been notified by IDOR,
  - Likely the municipality has not reported the annexation to IDOR
  - Contact LTAD so we can correct this.
- Look at your property tax bill
  - If paying property taxes to a municipality but the business authorization from IDOR shows business in the county’s jurisdiction, then
    - Likely the municipality has not reported the annexation to IDOR
    - Contact LTAD so we can correct this.

# Rulemakings

- Cleanups
  - 130, Retailers' Occupation Tax – SECOND NOTICE
  - 510, Public Utilities Revenue Act – SECOND NOTICE
  - 150, Use Tax
  - 160, Service Use Tax
- Implementations
  - Part 850, Local Government Revenue Recapture Act – SECOND NOTICE
  - 130.333, Sustainable Aviation Fuel – FIRST NOTICE
  - 130.340, Rolling Stock – FIRST NOTICE
  - Parking Excise Tax
  - REV/MICRO

# Income Tax Developments

- Investment Partnerships
  - Amendment to 86 IAC 100.9730
  - Definition expanded to allow private equity/venture capital funds to qualify
  - New Form K-1-P(4) for investment partnership withholding
- Sales Factor special rules
  - Vendor allowances: 86 IAC 100.3380(c)(8)
  - Cost sharing agreements: 100.3380(c)(9)

# Income Tax Developments

- Pass-through Entity Tax
  - Table of states with similar taxes removed from Schedule CR
  - See Publication 129
- EDGE Credit
  - Amendment to 86 IAC 100.2198: General clean up, clarify how credit is claimed and flows through to partnerships and S corp shareholders
  - Amendment to 86 IAC 100.7380: Implement use of credit against withholding tax for startup taxpayers

# Illinois Department of Revenue

## Contact Information

Telephone : 217-785-7570

E-mail :  
[rev.directors.office@illinois.gov](mailto:rev.directors.office@illinois.gov)

Website : [tax.illinois.gov](http://tax.illinois.gov)



## Questions?

***Sláva Ukrayíni!***

