



Florida Department of Revenue
Office of the Executive Director

Jim Zingale
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

October 16, 2019

Mr. Patrick Loebig
Taxpayers' Rights Advocate
Office of the Chief Inspector General
Executive Office of the Governor
Tallahassee, Florida 32399

Subject: Taxpayers' Rights Advocate Annual Report for Fiscal Year 2017-18

Dear Mr. Loebig,

Enclosed, please find the Department's formal response to the Taxpayers' Rights Advocate Annual Report for Fiscal Year 2017-18, pursuant to Section 20.21(3)(c), Florida Statutes.

Sincerely,

Jim Zingale

Enclosure



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| <p>1. Problem</p> | <p>Taxpayers often lack knowledge of the taxation process and lack knowledge of the consequences of not meeting deadlines, not responding to notices, and otherwise not taking responsive actions during the taxation process. The Taxpayer Rights Advocate often receives inquiries from taxpayers who inquire about collection activities taken by DOR against the taxpayer, such as filing tax warrants or freezing bank accounts.</p> |
| <p>Recommendation</p> | <p>DOR should continue efforts to educate taxpayers on the taxation process and ensure that each notice sent to taxpayers explains these consequences. Also, DOR notices sent to taxpayers should provide contact information for a DOR representative who is knowledgeable about the tax type and notice type sent to the taxpayer and the potential consequences the taxpayer could face for not responding or for noncompliance in the taxation process.</p> |
| <p>Response</p> | <p>The Department strives to continually improve education efforts to help taxpayers understand the taxation process and their tax responsibilities as Florida businesses. To help educate taxpayers and to encourage voluntary compliance, the consequences of noncompliance are stated in each notice of noncompliance issued by the Department.</p> <p>The Department sends over one million first notices, billings, and delinquencies to taxpayers every year. The contact information for the Department is designed to expedite handling and ultimate resolution of the taxpayer’s issues. For example, given the high volume of initial notices of noncompliance, the Department’s Taxpayer Services Contact Center is used to ensure prompt response and efficient resolution. If the case requires additional follow-up, contact information for a specific Department representative is provided.</p> <p>As part of the ongoing effort in improving taxpayer education, the Department will continue to focus on opportunities for improvement in refining its communication.</p> |
| <p>2. Problem</p> | <p>Taxpayers are often not aware of the provisions of the Taxpayer’s Bill of Rights, including the right to procedures for the retirement of tax obligations by installment payment agreements which may be available under certain conditions. The Taxpayer Rights Advocate often receives calls from audited taxpayers with questions about the audit including the question of why the taxpayer is being audited.</p> |
| <p>Recommendation</p> | <p>DOR should provide education and training for taxpayers on the Taxpayer’s Bill of Rights, and should require that a copy of the Taxpayer’s Bill of Rights is provided and explained to each audited taxpayer both at the beginning and end of each audit. Taxpayers should also receive an explanation of why they are being audited.</p> |
| <p>Response</p> | <p>For the past several years, the Department has placed focus on heightening awareness of the Taxpayer Bill of Rights both internally and externally. The</p> |



| | <p>Department developed and implemented an annual training for employees on the importance of the Taxpayer Bill of Rights. Additionally, it is included in the Department’s tax audit training.</p> <p>Regarding external awareness, the Taxpayer Bill of Rights is provided to taxpayers at the beginning and end of the audit process, as well as during collection and enforcement actions. Additionally, during the audit process, the taxpayers are educated on tax issues that relate to their specific business activities.</p> <p>From a global, external perspective, the Department’s website contains a Quick Link for the Taxpayer Bill of Rights on its home page, as well as a resource link on the General Tax Administration Program’s landing page entitled, “What to Expect from a Florida Tax Audit.” Information on this link that is available to the public includes:</p> <p>How Was I Selected for an Audit? What Types of Records Will I Need to Provide? What are My Rights During an Audit? Communicating and Meeting Deadlines Can I Request Technical Assistance During the Audit? What Happens When the Audit is Complete? Other Audit-Related Information</p> <p>The Department embraces the importance of taxpayers having access to the Taxpayer Bill of Rights and will continue to review additional opportunities to heighten awareness.</p> | | | | | | | | | | | | | | | | |
|--------------------------------|---|-----------|------------|----------|---------|------------------|-----------|-----------|------------|-------------------------|-----------|-----------|------------|--------------------------------|----------|----------|-----------|
| <p>3. Problem</p> | <p>DOR’s use of compromise authority – Many taxpayers are not aware of DOR’s authority, under certain factual situations and where consistent with law, to compromise and settle tax, interest, penalties, or fees. This authority has been delegated in writing to certain positions within DOR, but this authority does not appear to be exercised as delegated.</p> | | | | | | | | | | | | | | | | |
| <p>Recommendation</p> | <p>Where consistent with facts and as allowed by law, DOR should exercise its delegated authority to compromise and settle these matters.</p> | | | | | | | | | | | | | | | | |
| <p>Response</p> | <p>Florida law establishes the authority to compromise tax, interest, and penalty. The following table provides this compromise authority for positions within the General Tax Administration Program:</p> <table border="1" data-bbox="537 1682 1497 1858"> <thead> <tr> <th>Position</th> <th>Tax</th> <th>Interest</th> <th>Penalty</th> </tr> </thead> <tbody> <tr> <td>Program Director</td> <td>\$200,000</td> <td>\$125,000</td> <td>Any Amount</td> </tr> <tr> <td>Deputy Program Director</td> <td>\$200,000</td> <td>\$125,000</td> <td>Any Amount</td> </tr> <tr> <td>Revenue Program Administrators</td> <td>\$75,000</td> <td>\$62,500</td> <td>\$250,000</td> </tr> </tbody> </table> | Position | Tax | Interest | Penalty | Program Director | \$200,000 | \$125,000 | Any Amount | Deputy Program Director | \$200,000 | \$125,000 | Any Amount | Revenue Program Administrators | \$75,000 | \$62,500 | \$250,000 |
| Position | Tax | Interest | Penalty | | | | | | | | | | | | | | |
| Program Director | \$200,000 | \$125,000 | Any Amount | | | | | | | | | | | | | | |
| Deputy Program Director | \$200,000 | \$125,000 | Any Amount | | | | | | | | | | | | | | |
| Revenue Program Administrators | \$75,000 | \$62,500 | \$250,000 | | | | | | | | | | | | | | |



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|---------------------------------|---|---------------------------------|-----------|----------|-----------|-------------------------|-----|----------|-----------|-----------------------|-----|---------|----------|-------------------------------|-----|---------|----------|
| | <table border="1" data-bbox="540 304 1495 514"> <tr> <td>Senior Tax Audit Administrators</td> <td>n/a</td> <td>\$62,500</td> <td>\$250,000</td> </tr> <tr> <td>Service Center Managers</td> <td>n/a</td> <td>\$62,500</td> <td>\$250,000</td> </tr> <tr> <td>Tax Audit Supervisors</td> <td>n/a</td> <td>\$1,250</td> <td>\$37,500</td> </tr> <tr> <td>Revenue Tax Audit Supervisors</td> <td>n/a</td> <td>\$1,250</td> <td>\$37,500</td> </tr> </table> <p data-bbox="495 552 1511 682">Tax and/or interest can only be compromised based on a finding of doubt as to liability or collectability. Penalty can be compromised based on a finding of reasonable cause. See s. 213.21(3)(a), F.S., and Rules 12-13.007 and 12-13.0075, F.A.C.</p> <p data-bbox="495 720 1484 850">The General Tax Administration Program adheres to the appropriate compromise authority based on the specific facts and circumstances of each case and will continue to work with the Taxpayer Rights Advocate Office on any instances of perceived inconsistent application.</p> | Senior Tax Audit Administrators | n/a | \$62,500 | \$250,000 | Service Center Managers | n/a | \$62,500 | \$250,000 | Tax Audit Supervisors | n/a | \$1,250 | \$37,500 | Revenue Tax Audit Supervisors | n/a | \$1,250 | \$37,500 |
| Senior Tax Audit Administrators | n/a | \$62,500 | \$250,000 | | | | | | | | | | | | | | |
| Service Center Managers | n/a | \$62,500 | \$250,000 | | | | | | | | | | | | | | |
| Tax Audit Supervisors | n/a | \$1,250 | \$37,500 | | | | | | | | | | | | | | |
| Revenue Tax Audit Supervisors | n/a | \$1,250 | \$37,500 | | | | | | | | | | | | | | |
| <p>4. Problem</p> | <p>Discretionary Reviews – During the collections process after an audit, if the taxpayer provides a Statement of Facts alleging that DOR is in error, collections staff may, but are not required to, perform a discretionary evaluation to ensure DOR is only seeking to collect taxes that are owed. The Taxpayer Rights Advocate often receives inquiries from taxpayers in the collections process regarding these reviews. The objectivity of some of these reviews needs improvement and some of the written reviews need more descriptive information.</p> | | | | | | | | | | | | | | | | |
| <p>Recommendation</p> | <p>DOR should ensure that these discretionary reviews are conducted in an impartial, objective manner by persons with training and skill in evaluating the relevance and sufficiency of evidence and making written findings thereon that provide succinct explanations and reasons for the determination.</p> | | | | | | | | | | | | | | | | |
| <p>Response</p> | <p>The term, “discretionary review” refers to taxpayers’ requests for further review of their cases after their protest rights have expired.</p> <p>There is no statutory requirement for a “discretionary review.” This type of review is purely discretionary and is generally performed when there is clear evidence that the Department made an error. The Technical Assistance and Dispute Resolution (TADR) Process is generally the point of intake for these requests. The Process coordinates with the General Tax Administration Program and the Office of the General Counsel (OGC) to review the statement of facts. Within the General Tax Administration Program, a neutral senior-level analyst performs a review of the specifics of the case which is again reviewed by the Program Office, TADR, and if necessary, the OGC.</p> <p>The Department will continue to work with the Taxpayer Rights Advocate Office on any instances of perceived Departmental error.</p> | | | | | | | | | | | | | | | | |



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| <p>5. Problem</p> | <p>Regenerating Notices; Imaging Correspondence – In handling taxpayer inquiries, sometimes a taxpayer will state to the Taxpayer Rights Advocate that he or she did not receive notice or correspondence from DOR on a matter. In researching the inquiry, the Taxpayer Rights Advocate will learn that DOR records show that DOR sent the document to the taxpayer, but the system is unable to generate an original copy of the document sent to the taxpayer and the Taxpayer Rights Advocate is unable to send to the taxpayer a copy of the original. Other times, taxpayers will state that they sent certain documents to DOR, but these documents will not be available in accessible electronic format.</p> |
| <p>Recommendation</p> | <p>DOR should develop a system that maintains, in accessible electronic format, all original documents sent to or received from taxpayers.</p> |
| <p>Response</p> | <p>The Department sends more than three million system-generated notices to taxpayers per year. Although notices can be reproduced, they will reflect the current date of reproduction.</p> <p>As part of the e-Services Taxpayer Portal project, the Department will analyze the types of notices and outbound correspondence to determine the feasibility and prioritization for programming resources to provide for self-service document access and retrieval. Additionally, the modernization of the Image Management System will receive the same analysis and determination.</p> |
| <p>6. Problem</p> | <p>Awareness of Doc Stamp Liability - This problem is specific to the documentary stamp tax. Many taxpayers are not aware that certain documents involving real property transfers are subject to the excise tax on documents. Because of the operation of this tax and the associated time lags involved, it may be a few years (usually one to three) before the taxpayer learns the Department has audited the transfer instrument and made a tax assessment. In some cases, the taxpayer becomes aware of the tax liability when the taxpayer learns that a DOR tax lien appears on the taxpayer’s credit report. These types of taxpayers are among the most upset customers served by TRA.</p> |
| <p>Recommendation</p> | <p>DOR should expand efforts to provide information and education for Clerk of Court staff, lenders, and those involved in real estate closings including agents and attorneys. If not already done, DOR should develop an outreach plan to provide information and education to make these persons and taxpayers aware of the conditions under which this tax would be due.</p> |
| <p>Response</p> | <p>The Department routinely coordinates with the 67 Clerks of Court and has made significant strides in its documentary stamp review process. Examples of improvements include:</p> <ul style="list-style-type: none"> • Improved data filters to assist in the identification of transactions where there is non-compliance (i.e. identify the types of deeds with the most common non-compliant issues). |



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| | <ul style="list-style-type: none"> • Increased thresholds of the value of the property to focus on high dollar transactions • Third-party validation of address and contact information to ensure proper noticing to the taxpayer • Reduction of caseload inventory to ensure the handling of more current transactions <p>Additionally, with the recent deployment of its Taxpayer Education and Outreach Process, the Department is reviewing documentary stamps materials as part of a revitalized training with the Clerks of the Court.</p> |
| <p>7. Problem</p> | <p>Doc stamp notices; old addresses – This problem is specific to the documentary stamp tax. Often documentary stamp taxpayers do not receive notices and collections letters about a documentary stamp tax liability. This is because DOR sends notices and correspondence to the last known address of the taxpayer which may be the address of the transferred property. A common scenario is that the taxpayer no longer lives at the property and, thus, does not receive the DOR notices and correspondence. Sometimes the taxpayer becomes aware of the tax liability when the taxpayer learns that a DOR tax lien appears on the taxpayer’s credit report. The taxpayer can have difficulty obtaining a copy of DOR’s tax warrant against the taxpayer because DOR does not maintain a publicly accessible database of its tax warrants.</p> |
| <p>Recommendation</p> | <p>DOR should develop a plan to better identify contact information for these types of taxpayers so that the taxpayer can receive notices and correspondence regarding the tax liability. Also, DOR should make available a public database of its tax warrants with sufficient information to enable taxpayers to find and obtain a copy of the tax warrant.</p> |
| <p>Response</p> | <p>The Department has made recent strides to better identify taxpayer contact information by employing a third party postal verification solution to refine address information.</p> <p>The Department will continue to work with the Taxpayer Rights Advocate Office on any instances of incorrect addresses.</p> <p>Regarding a public database, currently, warrants, liens and judgement lien certificates are filed with the court and many court records are available online. Replicating the information on the Department’s website would be duplicative and costly due to the resources needed to create and maintain the database. Additionally, it is not clear if s. 213.053(20), F.S., permits the Department to choose to disclose only certain taxpayers (i.e., documentary stamp tax).</p> |
| <p>8. Problem</p> | <p>Reemployment tax filing requirement – This problem is specific to the reemployment assistance tax. Taxpayers subject to the reemployment assistance tax are often not aware of a key filing requirement and, as result, are assessed penalties when they do not comply with this requirement. At the</p> |



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| | <p>top of Form RT-6, just under the form title, the following statement appears: <i>“Employers are required to file quarterly tax/wage reports <u>regardless of employment activity or whether any taxes are due.</u>”</i> (underlining added for emphasis). This important notice appears in a font that is small, light, and very difficult to notice.</p> |
| <p>Recommendation</p> | <p>DOR should ensure that its taxpayer education efforts for the reemployment assistance tax address this filing requirement and the consequences of not filing this form.</p> <p>Also, the Taxpayer Rights Advocate recommends that Form RT-6 be amended to increase the legibility of the statement notifying taxpayers of their duty to file this form <i>“regardless of employment activity or whether any taxes are due.”</i> Also, a linked web address should be provided on this form to take taxpayers to a calendar of due dates for filing.</p> |
| <p>Response</p> | <p>The Department has undergone extensive taxpayer education efforts to address filing requirements and consequences including, but not limited to the following:</p> <ul style="list-style-type: none"> • Sending reminder emails to all e-filing taxpayers and others who subscribe, which include the due dates and filing requirements. • Conducting quarterly conference calls with tax preparer associations. Topics include: <ul style="list-style-type: none"> ○ Statutory or rule changes that would affect them which recently included a rule change to allow penalty waiver requests to be made telephonically. ○ Policy/procedure changes. Examples include the Department’s alignment of SSN guidelines with the Social Security Administration’s guidelines, imposing a penalty on invalid SSNs ○ Briefing on recent newsworthy activities such as the mailing of tax rate notices and various statistics regarding the new minimum rate. • Increasing the font size of the sentence referenced on the Employers Quarterly Report (Form RT-6), “Employers are required to file quarterly tax/wage reports regardless of employment activity or whether any taxes are due”. • Providing a web address for the newly added “General Timelines for Employers” web page, which advises employers of important dates (to be completed during annual form revision process). |
| <p>9. Problem</p> | <p>Reemployment tax rates – This problem is specific to the reemployment assistance tax. The rate for the reemployment assistance tax may change</p> |



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| | <p>from year-to-year. Taxpayers are sometimes not aware of this year-to-year change and, as a result, use an incorrect rate in calculating their tax for a particular year.</p> |
| Recommendation | <p>A linked web address should be provided on Form RT-6 to take taxpayers to a web page to find the correct tax rate.</p> |
| Response | <p>The Department provides multiple avenues by which an employer may access his or her reemployment tax rate.</p> <ul style="list-style-type: none"> • Initially communicated through the Taxpayer’s Annual Tax Rate Notices in December, the month prior to the effective date of the rate. • Prepopulated on electronically filed returns • Prepopulated on printed, hardcopy tax returns • Available through the Department’s online file and pay website • Available by calling Taxpayer Services (850-488-6800) self-service option offered 24 hours a day, 7 days a week. <p>As a recent addition, during the annual form revision process, the Department will reference as a reminder the web address for the Reemployment Tax File and Pay website where employer tax rates can be accessed.</p> |
| 10. Problem | <p>S-corporation income tax liability – This problem is specific to the corporate income tax. Corporations that are classified by the IRS as subchapter S corporations are not required to file the Florida corporate income tax. DOR conducts a data match with the Florida Department of State, Division of Corporations, to identify corporations that are registered with the Division of Corporations but are not registered with DOR. These unregistered corporations will receive a penalty notice from DOR for failure to file the Florida corporate income tax. Upon proof that the corporation is a subchapter S corporation, DOR updates its database and removes the penalty.</p> |
| Recommendation | <p>DOR should work with the Department of State, Division of Corporations, to find ways of proactively identifying subchapter S corporations, thereby reducing the DOR work effort and reducing this unnecessary burden of taxpayers having to prove that they are legitimate subchapter S corporations.</p> |
| Response | <p>Generally, a corporation does not know it is a Sub-S corporation when it files with the Department of State. Additionally, the Florida Secretary of State does not collect information on whether a for-profit corporation is a Sub S corporation for federal income tax purposes.</p> <p>However, the Department does embrace this issue, and with the implementation of the Corporate Income Tax additional information database in September 2019, corporations will now have the ability to indicate their Subchapter S status. This will result in updated account information in the</p> |



Department of Revenue Response

Taxpayer Rights Advocate Annual Report for Fiscal Year 2017-2018

October 14, 2019

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| | Department's account management records, eliminating a Sub-S corporation's corporate income tax obligation and subsequent billings. |
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