



# **Taxpayers' Rights Advocate Annual Report**

**Fiscal Year 2021-2022**

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# **Taxpayers' Rights Advocate Annual Report Fiscal Year 2021 - 2022**

## **Executive Summary**

The Taxpayers' Rights Advocate (Advocate) is a position created under s. 20.21(3), F.S., and reports to Melinda Miguel, Chief Inspector General of Florida in the Executive Office of the Governor. For administrative purposes the Advocate is under the general supervision of Dr. Jim Zingale, Executive Director of the Florida Department of Revenue. The current Advocate is Gary Gray who was appointed by the Chief Inspector General of Florida effective January 1, 2022.

The Advocate's Office received 1,033 contacts during FY 21/22. This is an increase of about 35% from the prior fiscal year where the Advocate's Office received 673 contacts. The majority of contacts received for both years are for issues relating to sales and use tax. Both fiscal years are reporting nearly half of all contacts are for this issue. About a third of all contacts received for both years include requests for assistance with the IRS, child support enforcement, other government and state agency assistance, and other issues unrelated to the Florida Department of Revenue.

The Annual Report for FY 20/21 provided 3 Legislative Recommendations and 10 Administrative Recommendations for the Department of Revenue to review. After reviewing these recommendations with the Department, the current Advocate will continue to review one of the three legislative issues. The remaining two will be closed. The Advocate is also recommending closure of 4 Administrative Recommendations as having been satisfactorily addressed by the Department. The remaining 6 Administrative Recommendations will continue to be monitored by the Advocate for the FY 22/23.

The Advocate is introducing 3 new Administrative Recommendations in this Annual Report for the Department to review. The Advocate also supports two ongoing Department initiatives in this Annual Report.

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## Section 1: General Overview and Responsibilities:

The Taxpayers' Rights Advocate (Advocate) is a position created under s. 20.21(3), F.S., and reports to the Chief Inspector General of Florida in the Executive Office of the Governor. For administrative purposes the Advocate is under the general supervision of the Executive Director of the Florida Department of Revenue. The current Advocate was appointed by the Chief Inspector General of Florida effective January 1, 2022.

The Advocate's responsibilities include:

- Facilitating the resolution of taxpayer complaints and problems which have not been resolved through normal administrative channels within the Department of Revenue.
- Issuing a stay action on behalf of a taxpayer who has suffered or is about to suffer an irreparable loss as a result of an action by the Department of Revenue.
- Producing an annual report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Inspector General of Florida which provides a summary of the work the Advocate did for the prior fiscal year along with any recommendations for improvement for the Department of Revenue and any initiatives the Advocate plans to work on for the upcoming fiscal year.

The Taxpayers' Rights Advocate is a tax advocate for the people of the State of Florida and although the primary focus is to assist taxpayers with their tax issues and problems, the Advocate believes this position should be a public advocate ready to assist any citizen regardless of the issue.

The Advocate's Office (Office) includes the Advocate along with two tax professionals who work together to assist taxpayers and the citizens of Florida. Most, but not all, of the contacts received by the Office are for tax issues related to the Department of Revenue, however, the Office strives to assist any taxpayer or citizen who contacts the Office.

## Section 2: Taxpayers' Rights Advocate Office Operations:

The Florida Department of Revenue (Department) and the Office have a strong collaborative relationship and work together to resolve taxpayer complaints and problems. The Department administers the tax laws of the State of Florida and the Office assists both the Department and taxpayers to resolve issues between the two. However, the Advocate cannot serve as a substitute for normal administrative or judicial procedures. The Advocate does not have any special authority to override or change a decision the Department might make in a taxpayer's case. In fact, the Advocate does not have the statutory authority to compromise or settle tax, interest, or penalty a taxpayer might owe. Instead, the Advocate becomes the voice of a taxpayer to negotiate the taxpayer's case before the Department and to help the Department understand facts about a taxpayer's case that might not have been shared previously. The Advocate also

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becomes the voice of the Department to help a taxpayer better understand how a given law applies to them or why a decision was made by the Department.

When handling taxpayer contacts, the Office listens to the taxpayer's issues and problems to gain an understanding of the case to determine what actions or assistance can be offered. The Office discusses the case with the taxpayer and follows up with research to identify and gather important facts about the case or account. Most of the tax-related cases requires extensive research and communication between the Office and the Department to better understand the issue and to gather additional facts about the case.

In addition, tax-related contacts often require the Office to research statutes, rules, and agency procedures. This is an important part of the Advocate's activities and helps our Office understand how the facts of a given case relate to Florida law and the Taxpayer's Bill of Rights under s. 213.015, F.S. It is important to note the Advocate is required to follow the same laws as the Department and our Office cannot tell a taxpayer they are relieved from following these laws. For example, a taxpayer who is required to make estimated sales tax payments under s. 212.11(1), F.S., might ask the Advocate to relieve them from this requirement. The Advocate does not have the authority to tell a taxpayer they can ignore the law or to tell the Department a taxpayer does not have to follow this law.

The Office does not handle contacts regarding local property tax matters or child support issues. These contacts are referred to the Department's Property Tax Oversight and Child Support Programs respectively.

### **Section 3: Taxpayers' Rights Advocate Case Management Tracking System:**

The Office uses a Cherwell based management case tracking system developed by programmers in the Department's Information Systems Program. This management system is called TRATS (Taxpayers' Rights Advocate Tracking System) and was placed in service on July 1, 2018, to capture taxpayer contacts. The Office captures the contacts name and business name, the relationship with the business (the owner of the business or a power of attorney) the tax type and tax issue (sales and use tax – penalty and/or interest), the location of the business (Taxpayer Service Center), identifying taxpayer numbers (the business partner number, EIN, and/or audit number), the reason for the contact (penalty waiver request), and how the case was closed (referred to a Taxpayer Service Center for resolution). The existing system, however, does not have the capability to easily track a case from the time it was received to how the case was ultimately resolved. This issue will be addressed later in this report.

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## Section 4: Taxpayers' Rights Advocate Office Contacts Received During FY 21/22:

### Office Contacts Received During FY 21/22 – Total Contacts:

This past fiscal year, the Office received 1,033 contacts for a variety of reasons and issues. As Table 1 and Figure 1 show below, the largest number of contacts were related to sales and use tax which represents almost half of all contacts. A third of the contacts received by the Office are related to federal tax returns, issues with other states and local agencies, and other non-tax related issues. Federal tax issue contacts make up the bulk of these with 206 (or about 20% of all contact types) contacts and although the Office has taken steps to reduce these contact types (see Administrative Issue 9 below), the Office welcomes any contact, call, or email, from the public and will provide tax advocate services to anyone regardless of the issue.

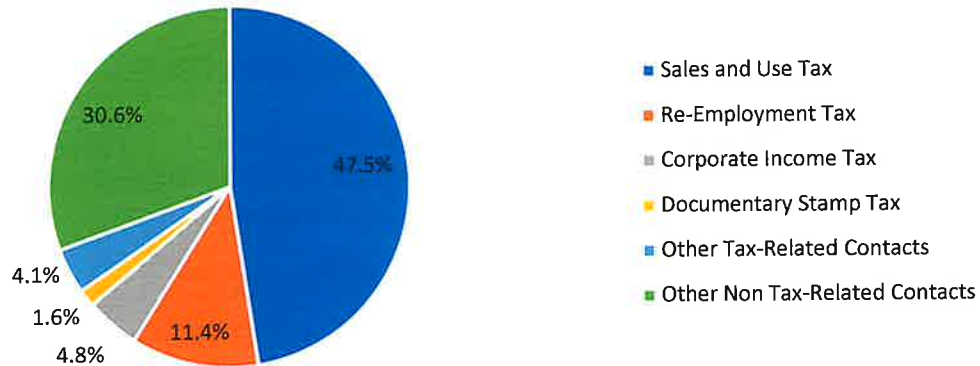
**TABLE 1**

<b>Total Contacts Received by the Office During FY 21/22</b>		
Tax Type	Number of Contacts	Percent of Total Contacts
Sales and Use Tax	491	47.5%
Re-Employment Tax	118	11.4%
Corporate Income Tax	50	4.8%
Documentary Stamp Tax	16	1.6%
Other Tax-Related Contacts	42	4.1%
Other Non-Tax-Related Contacts	316	30.6%
<b>Totals</b>	<b>1,033</b>	<b>100.0%</b>

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**FIGURE 1**

Relative Percentage of Total Contacts Received by the Office During FY 21/22



### Office Contacts Received During FY 21/22 by Tax Type:

Most of the contacts the Office receives are tax related. The most common tax type contacts are sales and use tax, reemployment assistance tax, documentary stamp tax, and Florida corporate income tax:

- **Sales and Use Tax:** This contact type involves the taxes provided in Chapter 212, F.S. It includes the state sales and use tax and the county imposed discretionary sales surtax. Sales and use tax and the discretionary sales surtax generally apply to the retail sale or rental of tangible personal property, transient rentals, commercial rentals, admissions, and various services.
- **Reemployment Assistance Tax:** This contact type involves the reemployment assistance tax provided in Chapter 443, F.S. Every state has an Unemployment Compensation Program. In Florida, legislation passed in 2012 changed the name of Florida's Unemployment Compensation Law to the Reemployment Assistance Program Law. Reemployment tax is paid by employers and the tax collected is deposited into the Unemployment Compensation Trust Fund for the sole purpose of paying reemployment assistance benefits to eligible claimants. The Florida Department of Revenue administers the reemployment tax, registers employers, collects the tax and wage reports due, assigns tax rates, and audits employers.
- **Documentary Stamp Tax:** This contact type involves the tax provided in sections 201.02, 201.07, and 201.08, F.S. This is an excise tax on documents such as deeds, bonds, notes, and other written obligations to pay money, mortgages, liens, and other evidence of indebtedness.

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- **Florida Corporate Income Tax:** This contact type involves the tax provided in Chapter 220, F.S. Generally, all corporations, associations, or entities doing business, earning income, or existing in Florida are required to file a Florida Corporate Income/Franchise Tax Return.

The Office also received other tax related contacts and non-tax related contacts as follows:

- **Other Tax-Related Contacts:** This category may include contacts received for other tax types such as communications services tax, motor fuel tax, pollutants tax, governmental leasehold tax, insurance premium tax, ad valorem or property tax, or other taxes or fees administered by the Department.
- **Other Non-Tax Related Contacts:** This category includes contacts received for the Internal Revenue Service, child support enforcement, other governmental and state agencies outside of the Department, and other non-tax issues.

Table 2 and Figure 2 below provide an analysis by tax type of the tax-related contacts handled by the Office during FY 21/22. Sales tax contacts represent the largest tax contact category by far with nearly 70% of all tax contacts. Reemployment tax follows a distant second with about 17%.

**TABLE 2**

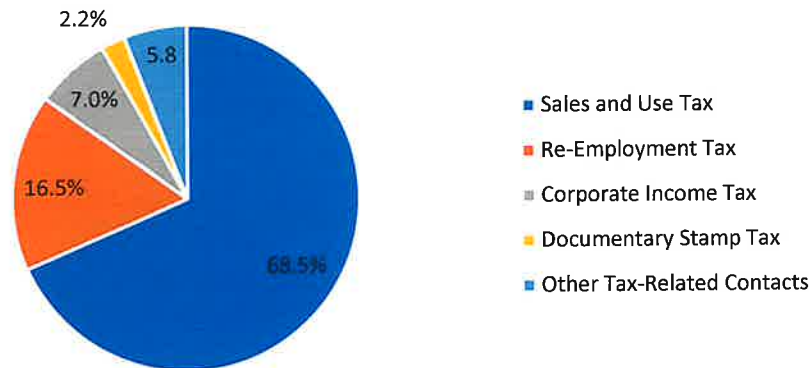
<b>Tax-Related Contacts Received by the Office During FY21-22</b>		
Tax Type	Number of Contacts	Percent of Total Contacts
Sales and Use Tax	491	68.5%
Re-Employment Tax	118	16.5%
Corporate Income Tax	50	7.0%
Documentary Stamp Tax	16	2.2%
Other Tax-Related Contacts	42	5.9%
Totals	717	100.0%



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FIGURE 2

Relative Percentage of Tax-Related Contacts Received by the  
Office During FY 21/22



## Office Contacts Received During FY 21/22 by Request Type:

The Office also identifies and records contacts into six different categories by the type of request the taxpayer is making. These categories include Requests, Inquiries, Complaints, Compliments, Post-Audit Reviews, and Other Contacts.

- **Requests:** These contacts are for assistance such as help with penalty, guidance on a tax issue, tax forms, and filing and paying tax.
- **Inquiries:** These are contacts regarding the specific details of a taxpayer's account such as tax return and payment information.
- **Complaints:** These are contacts where a taxpayer or their representative is not satisfied with the answer the Department might have given such as a penalty compromise denial.
- **Compliments:** These are contacts to recognize a Department of Revenue employee.
- **Post-Audit Reviews:** This is generally where a taxpayer has been audited by the Department, received a proposed assessment, have failed to submit a timely protest, and have lost their appeal rights.
- **Other Contacts:** These are contacts that do not fall within any of the contact types above.

In many cases a given contact can include several of the reasons above. For example, a taxpayer might call to complain about a denial of their request for a penalty compromise (Complaint) along with a request for assistance from the Office to help them with their request to have the penalty compromised (Request). Our tracking system currently only allows one Request Type per contact. The Office plans to analyze these contact types in the coming year to see if there are better ways to define the types of requests taxpayers are making.

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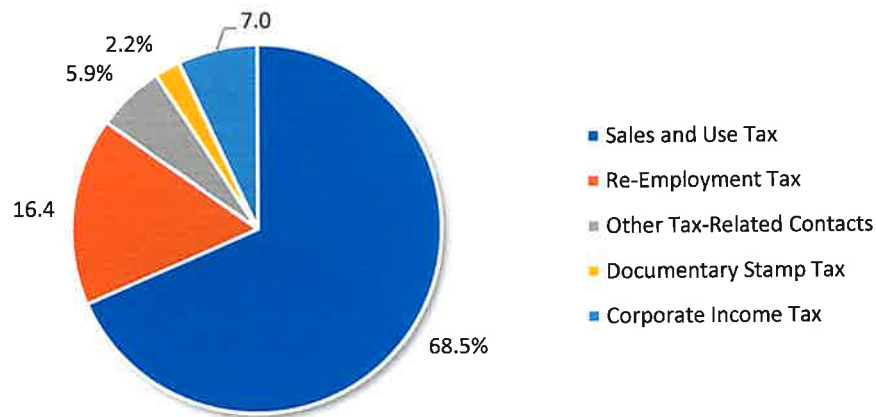
Table 3 and Figure 3 represent these contacts by tax type:

**TABLE 3**

<b>Tax Related Request Type Contacts Received by the Office During FY 21/22</b>							
Tax Type	Requests	Inquiries	Complaints	Compliments	Post Audit Reviews	Total Number of Contacts	Percent of Total Contacts
Sales and Use Tax	251	138	79	1	22	<b>491</b>	<b>68.5%</b>
Re-Employment Tax	58	40	20			<b>118</b>	<b>16.4%</b>
Corporate Income Tax	31	18	1			<b>50</b>	<b>7.0%</b>
Documentary Stamp Tax	7	3	4		2	<b>16</b>	<b>2.2%</b>
Other Tax-Related Contacts	19	7	16			<b>42</b>	<b>5.9%</b>
<b>Totals</b>	<b>366</b>	<b>206</b>	<b>120</b>	<b>1</b>	<b>24</b>	<b>717</b>	<b>100%</b>

**FIGURE 3**

Relative Percentage of Contacts by Tax-type Received by the Office in FY 21/22



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**Office Contacts Received During FY 21/22 by Request Type – Other Contacts:**

Table 4 represents other contacts received by request type.

**TABLE 4**

<b>Other Non-Tax Related Contacts Received by the Office During FY21/22</b>		
Contact Type	Number of Contacts	Percent of Total Contacts
Requests	206	65.2%
Inquiries	88	27.8%
Complaints	22	7.0%
<b>Totals</b>	<b>316</b>	<b>100.0%</b>

Combining the statistics from Tables 3 and 4 we find Requests are the largest contact type with a total of 572 (366+206) which is 55%. Inquiries follows second with a total of 294 (206+88) contacts which is 28%. Complaints follows third with a total of 142 (120+22) contacts which is 14%.

**Office Contacts Received During FY 21/22 by Location:**

The Department has 40 service centers throughout the US and in Florida. Table 5 below provides an analysis of the contacts received by the Office where a Department Service Center was identified. Contacts received with no specific location represents about two-thirds of all contacts. These are for contact types including federal tax returns, other non-tax related contacts, and general questions. The Department's Miami Service Center and it's Orlando Service Center received the largest number of location contacts.

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**TABLE 5**

<b>Contacts Received by the Office by Location During FY21/22</b>		
<b>DOR Location</b>	<b>Number of Contacts</b>	<b>Percent of Total Contacts</b>
No Location	700	67.76%
Miami	70	6.78%
Orlando	47	4.55%
Coral Springs	36	3.48%
Tampa	24	2.32%
Jacksonville	23	2.23%
West Palm Beach	23	2.23%
Lake City	14	1.36%
Fort Pierce	12	1.16%
Fort Myers	11	1.06%
Alachua	10	0.97%
Tallahassee	10	0.97%
Sarasota	8	0.77%
Largo	7	0.68%
Pensacola	7	0.68%
Daytona Beach	6	0.58%
Lakeland	6	0.58%
Melbourne	5	0.48%
Leesburg	4	0.39%
Maitland	4	0.39%
Panama City	3	0.29%
Clearwater	1	0.10%
Los Angeles, CA	1	0.10%
Naples	1	0.10%
<b>Totals</b>	<b>1,033</b>	<b>100.0%</b>

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**Office Contacts Received During FY 21/22 by Month:**

Table 6 below provides an analysis of contacts received by the Office by month during FY 21/22.

**TABLE 6**

Contacts Received by the Office During FY 21/22 by Month		
Year	Month	Count Total
<b>2021</b>	July	32
	August	50
	September	29
	October	38
	November	47
	December	53
<b>2022</b>	January	95
	February	85
	March	89
	April	188
	May	139
	June	188
		<b>1,033</b>

**Note:** There was a substantial increase in the number of contacts per month starting in January 2022. Prior to January 1, 2022, taxpayer advocacy contacts that did not go to the Advocate's Office but were instead sent to the Department were handled by Department personnel. The new Advocate was appointed on January 1, 2022, and all taxpayer advocacy contacts received by the Department after this date are now handled by the Advocate's Office.

**Office Contacts Received During FY 21/22 Related to a Right in the Taxpayer's Bill of Rights**

The Taxpayer's Bill of Rights, as provided for in s. 213.015, F.S., grant taxpayers 21 separate rights. These rights include the right to receive prompt and accurate answers to questions, the right to request assistance from a Taxpayer's Rights Advocate, the right to understand the reason selected for an audit, and the right to free educational activities to help the taxpayer successfully comply with the revenue laws of Florida. During conversations with taxpayers, the Office attempts to understand and include in the Advocate's Tracking System the right that might relate to the contact. The final Table, Table 7, provides the number of contacts related to a specific

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right in the Taxpayers Bill of Rights received by the Office during FY 21/22. Please note a contact may have more than one Bill of Rights issue and some contacts may not have any.

**TABLE 7**

Taxpayer's Rights Identified by the Advocate's Office During FY21/22		
Brief Summaries of Statutes in the Taxpayer Bill of Rights	Number of Contacts	Percent of Total Contacts
<b>213.015(1):</b> Right to available information and prompt, accurate responses, and requests for tax assistance.	574	76.33%
<b>213.015(8):</b> Right to appeal, through formal or informal proceedings, any adverse decisions relating to determinations in the audit or collections processes, etc.	35	4.66%
<b>213.015(10):</b> Right, under certain conditions, to procedures for retirement of tax obligations by installment payment agreements, etc.	6	0.80%
<b>213.015(21):</b> Right to fair and consistent application of state tax laws by DOR.	1	0.13%
<b>213.015(17):</b> Right for DOR to implement automated or electronic business methods efficiently and effectively (such as E-filing) at less cost and effort for taxpayers.	2	0.27%
<b>213.015(2):</b> Right to request assistance from a taxpayers' rights advocate for facilitation the resolution of taxpayer issues not resolved through the normal administrative channels.	18	2.39%
<b>213.015(11):</b> Right to procedures for requesting cancellation, release, or modification of liens filed in error by the DOR.	3	0.40%
<b>213.015(5):</b> Right to simple, nontechnical statements explaining reason for audit selection and the procedures, remedies, and rights available during audit, appeals, and collection proceedings, etc.	1	0.13%
<b>213.015(18):</b> Right to waiver of interest that accrues as the result of errors or delays caused by DOR delay.	1	0.13%
<b>213.015(20):</b> Right to pay reasonable fine or percentage of tax for failing to register or obtain timely certificates	1	0.13%
Other – This option was included to capture contacts that are unrelated to the Department of Revenue (IRS or other state agency related contacts).	110	14.63%
<b>Totals</b>	752	100.00%

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## Section 5: Review of and Recommendations for the FY 20/21 Legislative Issues:

The Annual Report for FY 20/21 identified 3 legislative issues as follows:

### Legislative Issue 1: Adding reference to implementing statutes in the Florida Taxpayer's Bill of Rights.

This issue was introduced in FY 17/18 and continued in fiscal years 18/19, 19/20, and 20/21.

Issue: The Annual Report cites two common problems.

Problem One: Florida taxpayers lack knowledge of their rights in the taxation process.

Problem Two: There is a need to improve the knowledge Department employees have about a taxpayer's rights.

Recommendation from the FY 20/21 Annual Report: The Annual Report references the opening paragraph in s. 213.015, F.S., commonly known as the Florida Taxpayer's Bill of Rights, which states in part:

*...The rights afforded taxpayers to ensure that their privacy and property are safeguarded and protected during tax assessment and collection are available insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue...*

The Annual Report continues with the following:

However, in the Taxpayer's Bill of Rights, subsections (1), (5), (17), (19), and (21) lack any references to other statutes that implement the substantive content of these five subsections. (The Taxpayers' Rights Advocate) believes this statutory deficiency should be addressed to help ensure taxpayers are afforded their rights fairly and consistently in the taxation process. The statutes should contain affirmative, specific duties for the agency to perform to ensure all taxpayers are afforded their rights under Florida law. Accordingly, (the Taxpayers' Rights Advocate) recommends legislation to implement, where appropriate in other parts of Florida Statutes, the following five subsections from the Taxpayer's Bill of Rights.

*(1) The right to available information and prompt, accurate responses to questions and requests for tax assistance.*

*(5) The right to obtain simple, nontechnical statements which explain the reason for audit selection and the procedures, remedies, and rights available during audit, appeals, and collection proceedings, including, but not limited to, the rights pursuant to this Taxpayer's Bill of Rights and the right to be provided with a narrative description which explains the*

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*basis of audit changes, proposed assessments, assessments, and denials of refunds; identifies any amount of tax, interest, or penalty due; and states the consequences of the taxpayer's failure to comply with the notice.*

*(17)The right to have the department actively investigate and, where appropriate, implement automated or electronic business methods that enable the department to more efficiently and effectively administer the revenue sources of this state at less cost and effort for taxpayers.*

*(19)The right to participate in free educational activities that help the taxpayer successfully comply with the revenue laws of this state.*

*(21)The right to fair and consistent application of the tax laws of this state by the Department of Revenue.*

Discussion: The Florida Taxpayer's Bill of Rights (Bill of Rights) was enacted by the 1992 Florida Legislature pursuant to Section 1, Chapter 92-315, L.O.F., and codified as Section 213.015, F.S. The placement of the Bill of Rights was in Chapter 213 which is the General Provisions of Florida's Revenue Laws.

The Advocate and the Department have not had a chance to work together on this issue. However, the Advocate has reviewed all the contacts the Office received from January 1, 2022, through June 30, 2022. During this period the Office received 695 contacts which is about 67% of all contacts (1,033) received for FY 21/22. During this time the Office did not receive any contacts from taxpayers who either complained or implied they did not know about or understand their rights in the taxation process. Our review during this period also indicates the Office received only two contacts from taxpayers who had read one of Florida's taxing or fee statutes and presented a position on a tax law. Based on these findings, the Advocate believes one of the ways to address this legislative recommendation is to analyze the root cause for the reasons why taxpayers contact the Department which are for the same reason taxpayers contact the Office. The overwhelming majority of contacts the Office receives are from taxpayers who did not file their return or pay their taxes timely and they have received a bill for late filing, or they failed to file a timely protest of an audit assessment and they have lost their appeal rights. Therefore, the Department should consider a more proactive approach in response to taxpayer contacts by looking for opportunities to reach out to taxpayers with reminders to file their tax returns and to pay their taxes on time or to file a timely protest of an audit assessment. These opportunities should help reduce the number of late tax returns and late tax payments and the loss of audit protest rights which will also reduce the number of contacts by taxpayers which should be one of the goals of the Department.

Regarding the second problem cited above for a need to improve the knowledge Department employees have about a taxpayer's rights, the Department requires General Tax Administration



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Program and certain other employees to complete annual training on the Taxpayer's Bill of Rights. It is also part of new hire training for all Department employees.

Advocate's Recommendation for FY 21/22: The Advocate will work with the Department to see if there are opportunities to include additional references in the Taxpayer's Bill of Rights to Florida's taxing and fee statutes to ensure that taxpayers are afforded their rights under Florida law. The Advocate also believes the Department should consider working to reduce the number of contacts from taxpayers by looking for opportunities to remind taxpayers to file and pay their taxes and to file protests of audit assessments timely. The Advocate plans to work with the Department this next fiscal year on this issue. See also Administrative Issue 3.

Regarding the second problem cited above for a need to improve the knowledge Department employees have about a taxpayer's rights, the Advocate supports the Department's efforts for annual training on the Taxpayer's Bill of Rights.

**Legislative Issue 2: Adding a statutory requirement to provide a draft of the Advocate's Annual Report to the Executive Director of the Florida Department of Revenue on or before October 15<sup>th</sup> of each year.**

This issue was introduced in FY 19/20 and continued in FY 20/21.

Issue and Advocate's Recommendation from the FY 20/21 Annual Report: In February 2020, the Department's Executive Director requested the Advocate provide a preliminary draft of the Annual Report before October 15<sup>th</sup> of each year. The Annual Reports for FY 19/20 and 20/21 reference an understanding by the Advocate that providing the Department with an opportunity to respond before issuance of the Annual Report would make for a more cohesive report. The Annual Reports note that the plain language of s. 20.21(3), F.S., does not provide the expressed statutory authority needed to provide for a preliminary draft and proposed the following language amending s. 20.21(3), F.S., as follows:

(d) On or before October 15 of each year, the taxpayer rights advocate shall provide to the office of the executive director a preliminary and tentative list of administrative issues and recommendations which may be included in the taxpayer rights advocate's annual report. Within 30 calendar days of receipt thereof, the office of the executive director shall provide to the taxpayer rights advocate a written response to such issues and recommendations. The response and the taxpayer rights advocate's answer to the response shall be included in the taxpayer rights advocate's final report.

Discussion and Advocate's Recommendation for FY 21/22: The Advocate has considered this legislative recommendation and recognizes the importance of the Department's Executive Director having a vested interest in the Annual Report. The Advocate has an excellent working

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relationship with the Executive Director and appreciates his interest in not only the Annual Report but also his interest in administrative issues such as staffing for the Office and his care and concern for the Office staff. The Advocate also believes providing the Executive Director with a draft of the Annual Report is a shared responsibility between the two but ultimately this responsibility rests with the Advocate. In other words, the Advocate should take the lead on providing a copy of the draft to the Executive Director and setting up a meeting with he and his staff to go over the draft allowing for a time of working together to ensure the final Annual Report meets the expectations of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Inspector General of Florida. The Advocate also believes it is important for the Advocate to meet with the Executive Director and his staff on a periodic basis to discuss taxpayer issues so that he and his staff are aware of taxpayer issues before they are seen on a draft Annual Report. Because the Advocate believes he is ultimately responsible for making sure the Executive Director of the Florida Department of Revenue has a chance to review a draft Annual Report and to meet with he and his staff to discuss the draft, the Advocate is closing this legislative issue.

**Legislative Issue 3: Amend s. 20.21(3), F.S., to make the Taxpayers' Rights Advocate completely independent of the Florida Department of Revenue and the Department's Executive Director.**

This issue was introduced in FY 20/21.

Issue and Advocate's Recommendation from the FY 20/21 Annual Report: The Annual Report provides the following:

Over the past two fiscal years, the current Executive Management team at the Department have made several increasing demands, in addition to requesting a preliminary draft of the Annual Report. These demands have included providing monthly reports in a format designed by the Department. These demands have created an ongoing workload issue on the [Advocate], while the Department removed staff that previously assisted in the development and drafting of the Annual Report. Based upon these increased demands, and others, the [Advocate] recommends that subsection 20.21(3), F.S.[.] be amended to make the Taxpayers' Rights Advocate completely independent of the Department, and the Executive Director.

Discussion and Advocate's Recommendation for FY 21/22: Subsection 20.21(3), F.S., provides the following:

The position of taxpayers' rights advocate is created within the Department of Revenue. The taxpayers' rights advocate shall be appointed by the Chief Inspector General but is under the general supervision of the executive director for administrative purposes. The

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taxpayers' rights advocate must report to the Chief Inspector General and may be removed from office only by the Chief Inspector General.

As mentioned previously in Legislative Issue 2 above, the Advocate has an excellent working relationship with the Executive Director. This relationship also extends to staff at the Department. The Office and the Department are working together nicely to help taxpayers with their tax issues. The demands or requests placed on the Advocate by the Department for periodic meetings and reports are a necessary part of working together to resolve taxpayer issues and the Advocate appreciates and welcomes these requests as an opportunity to work with the Department to make improvements where needed. Because the requests by the Department for meetings and reports are welcomed and encouraged by the Advocate, they are not a burden but a necessary part of the Department and the Advocate working together to ensure taxpayers are afforded their rights under Florida's Taxpayer's Bill of Rights. The Advocate is also ultimately responsible for preparing the Annual Report and he did not need assistance from Department staff to prepare this Annual Report. Based on the original legislative intent for the Advocate to be under the general supervision of the Executive Director of the Florida Department of Revenue, the Advocate believes this organizational structure is working as intended. The Advocate is closing this Legislative Issue.

## **Section 6: Review of and Recommendations for the FY 20/21 Administrative Issues:**

The Annual Report for FY 20/21 identified 10 administrative issues as follows:

1. Taxpayers fail to file a timely protest in response to an audit assessment and they have lost their appeal rights
2. Taxpayer's lack of knowledge of the Department's taxation process
3. Taxpayers are not aware of the Taxpayer's Bill of Rights
4. Department's compromise authority is not being used consistently
5. Department's inability to produce an original copy of a document
6. Taxpayer's lack of knowledge of Florida documentary stamp tax laws
7. Department's use of current addresses for documentary stamp tax issues
8. Taxpayer's awareness of reemployment tax rate
9. Advocate's Office overly burdened with IRS related contacts
10. Advocate's Office not advised of 19 referrals

**Administrative Issue 1: Taxpayers fail to file a timely protest in response to an audit assessment and they have lost their appeal rights.**

This issue was introduced in FY 17/18 and continued in fiscal years 18/19, 19/20, and 20/21.

Issue: This issue is generally for taxpayers who have been audited by the Department of Revenue, received a Notice of Proposed Assessment (NOPA), and who have failed to submit a timely

# Taxpayers' Rights Advocate

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protest. The proposed assessment has become a final assessment and the taxpayer has lost their protest rights. The case moves to the Department's Collections Process where it is assigned to a collector to collect the tax amount due along with interest and penalty.

During the collections process, if the taxpayer provides a "Statement of Facts" alleging the Department's audit assessment is not correct, collections staff may, but are not required to, perform a discretionary review of the audit assessment. The Office sometimes receives contacts from these audited taxpayers that are now in the Collections Process asking for assistance. The Annual Report noted the objectivity of some of these reviews by the Collections Process needs improvement with more descriptive information following the review.

Recommendation from the FY 20/21 Annual Report: The Annual Report noted this issue has been ongoing for more than two decades. In 1999, the Department's Deputy General Counsel at the time issued legal advice on how to address cases where a taxpayer had lost their protest rights following an audit. The resulting review process, which was expected to be rare, became overburdened with a substantial backlog. The Department made some changes to the review process, but the Annual Report notes some of the decisions made by the Department were conducted by Service Center managers and staff unilaterally and without any notice or explanation to the Advocate.

The Annual Report recommended these reviews should be conducted by employees independent of the audit and collections process and again recommended improvements on this issue.

Discussion: The Department responded to the Annual Report noting that an executive-led, cross functional team, dedicated to improving tax compliance was launched during the year and this issue was under the team's review. The team refined an existing process allowing taxpayers who do not agree with their final assessment to let the Department's collector know they wish to submit a protest. The collector is instructed to tell the taxpayer their protest rights have expired but they can submit a Statement of Facts (SOF) which outlines the taxpayer's disagreement with the final assessment. The SOF is reviewed and forwarded to a senior level position in Tallahassee outside of the audit and collection processes for further review. Some taxpayers contact the Office when their case moves to collections. In these instances, the Office reviews the audit file to determine if there are any due process issues while instructing the taxpayer to file a SOF with the Department's Collections Process. The taxpayer's case is logged in the Advocate's Tracking System and monitored as it moves through the Department.

An important consideration for this issue is the fact that neither the Department nor the Advocate have the statutory authority to reopen an audit when the assessment becomes a final assessment. There are rare cases where the Department finds that it did not send a NOPA to the correct address of a taxpayer. The Department considers this to be a due process issue and in

# Taxpayers' Rights Advocate Annual Report Fiscal Year 2021 - 2022

these rare cases the Department will resend the NOPA to the correct address which gives the taxpayer their original protest rights.

Taxpayers who have lost their protest rights provide many reasons why they did not file a timely protest. These include: the taxpayer or a member of their family or their power of attorney was sick (some are Covid related), there was a death in the taxpayer's family or a death of their power of attorney, they experienced a loss of their business and/or records due to a storm/hurricane, and they even mention trying to run their business and they simply forgot. Recognizing the fact taxpayers experience events in their life beyond their control that contribute to their failure to file a timely protest led the Department to propose a legislative concept to help these taxpayers. The concept allowed the Department to reopen a final assessment or refund denial for purposes of settling or compromising a liability or approving a denied refund request if the failure to initiate a timely challenge was the result of specified qualifying events which were beyond the control of the taxpayer. The concept also required that a request to reopen an assessment or refund denial for a qualifying event occur no later than 180 days from the date the assessment became final and clarifies that any decision by the Department regarding a taxpayer's request to compromise or settle a liability is not a final order subject to review under Chapter 120, F.S.

The concept was included in legislation relating to tax administration that was considered during the 2022 regular legislative session, however, the legislation did not become law. (See Section 15 of CS/CS HB 1041 and Section 14 of CS/CS SB 1382).

Advocate's Recommendation for FY 21/22: The Advocate supports the refined SOF process established by the Department's cross-functional team to give taxpayers who have lost their protest rights an opportunity to have their case reviewed. In support of the SOF process the Office does not need to see every SOF submitted by taxpayers. Taxpayers that contact the Office are assisted with filing their SOF and the case is followed as it moves through the review process to ensure the taxpayer's case receives proper consideration.

The Advocate recommends the Department continue its efforts to improve the Post-Audit Review Process. The Advocate would like to mention the Department has implemented an initiative to help taxpayers with the automation of reminder notices that are sent after a NOPA is issued. Reminder notices are issued to those taxpayers with unpaid assessments who have not filed a protest, requested a payment plan, or otherwise contacted the Department about the NOPA.

The Advocate also supports a legislative concept that would allow the Department to reopen a final assessment or refund denial for purposes of settling or compromising a liability or refund denial and recommends the Department consider proposing this legislative concept again for consideration in the 2023 regular legislative session. The Advocate will continue to monitor this administrative issue.

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## **Administrative Issue 2: Taxpayer's lack of knowledge of the Department's Taxation Process.**

This issue was introduced in FY 17/18 and continued in fiscal years 18/19, 19/20, and 20/21.

Issue: Taxpayers often lack knowledge of the taxation process and the consequences of not meeting deadlines, responding to notices, and not taking responsive actions during the taxation process.

Recommendation from the FY 20/21 Annual Report: The Annual Report's recommendation for this issue was the Department should continue efforts to educate taxpayers on the taxation process. The Annual Report also recommended each notice sent to a taxpayer should include a Department of Revenue employee's contact information who is knowledgeable about the tax. The notice should also include information about the potential consequences the taxpayer could face if they do not respond.

Discussion: The Department acknowledged this recommendation to improve taxpayer education and to add a specific contact representative along with their contact information to each notice sent to taxpayers. All notices sent to taxpayers are being reviewed to add this information as part of an ongoing taxpayer compliance improvement project.

The Department has created tax specific tutorials and brochures that are maintained on the Department's Taxpayer Education Website. The tutorials and brochures provide an overview of tax law along with guidance and instructions for filing tax applications and returns. The Department continues to expand this library of tutorials and brochures based on taxpayer feedback.

To help educate taxpayers and to encourage voluntary compliance, the consequences of noncompliance are included on each notice of noncompliance sent to taxpayers and the Department will continue to look for additional opportunities to improve taxpayer education.

Advocate's Recommendation for FY 21/22: The Advocate agrees and supports the Department recognizing this is an important issue for taxpayers. The Advocate will continue to monitor this administrative recommendation.

## **Administrative Issue 3: Taxpayers are not aware of the Taxpayer's Bill of Rights.**

This issue was introduced in FY 17/18 and continued in fiscal years 18/19, 19/20, and 20/21.

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Issue: Taxpayers are often not familiar with the provisions of Florida's Taxpayer's Bill of Rights, including the right to installment payment plans to pay the taxes they owe.

Recommendation from the FY 20/21 Annual Report: The Annual Report recommended the Department provide education and training for taxpayers on the Bill of Rights and should require that a copy of the 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.

Discussion: The Department requires employees in the Department's General Tax Administration Program to complete annual training on the Taxpayer's Bill of Rights.

The Department provides and explains the Taxpayer's Bill of Rights to the taxpayer at the start of an audit. During the audit process, taxpayers are educated on the tax issues that relate to their specific business activities. At the end of an audit the audit staff informs the taxpayer of their options, such as payment in full, requirements for installment payment plans, and protest rights.

The Department's Internet home page includes a Quick Link for the Taxpayer's Bill of Rights as well as a resource link on the Department's General Tax Administration's landing page under Resources titled, "Audit – What to Expect." Information on this publicly available link includes:

- How was I selected for an Audit?
- What types of records will I need to provide?
- What are my rights during an audit?
  - Includes a link to the Taxpayer's Bill of Rights
- Communicating and Meeting Deadlines.
- Can I request technical assistance during the audit?
- What happens when the audit is complete?
- Other Audit-Related Information.
  - Auditing in an Electronic Environment.
  - The Certified Audit Program.
  - The Voluntary Disclosure Program.
  - Tax Clearance Letters.

Advocate's Recommendation for FY 21/22: The Advocate believes there are opportunities to include a link or a reference to the Taxpayer's Bill of Rights on all notices and other forms of communication the Department sends to taxpayers. The Advocate will work with the Department during FY 22/23 to help identify these opportunities. The Advocate also believes there are opportunities to reduce the number of contacts received from taxpayers by looking for ways to remind taxpayers about their filing requirements and audit protest deadlines. The Advocate will continue to monitor this administrative issue.

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## **Administrative Issue 4: Department's compromise authority is not being used consistently.**

This issue was introduced in FY 17/18 and continued in fiscal years 18/19, 19/20, and 20/21.

**Issue:** Taxpayers are not aware of the Department's authority, under certain factual situations and where consistent with law, to compromise and settle tax, interest, penalties, or fees. The authority has been delegated in writing to certain positions within the Department, but this authority does not appear to be exercised as delegated.

**Recommendation from the FY 20/21 Annual Report:** Where consistent with facts and as allowed by law, the Annual Report recommended the Department should exercise its delegated authority to compromise and settle tax, interest, penalty, and fees without escalating the taxpayer's case to an employee in the Department, such as a supervisor, with more compromise authority.

**Discussion:** This issue has been reviewed and discussed with the Department. There are three processes in the Department's General Tax Program (GTA) where this issue might apply – the audit process, the collections process, and the appeals process. Certain employees in each one of these processes has compromise authority pursuant to Form DA-40, Delegation of Authority to Settle or Compromise Tax, Penalty, Interest, and Fees. The Department believes there are opportunities for improvement in response to this recommendation. The Executive Director of the Department created the Post Audit Review Oversight Team. The purpose of this team is to serve as a quality control process for both procedural issues and substantive issues arising from the Department's enforced compliance process which includes the audit and appeals processes with particular emphasis on matters occurring after the Department issues its Notice of Proposed Assessment following an audit. The team's focus on these areas includes a review of Notices of Decision, Notices of Reconsideration, Closing/Settlement Memorandum and the compromise of tax, interest, penalty, and fees; review of case inventory and backlogs; and a review of unique cases and tax issues that require heightened attention to ensure the Department's treatment is consistent and in accordance with the law.

**Advocate's Recommendation for 21/22:** The Advocate fully supports the creation of the Post Audit Review Oversight Team. Noting the team is focusing its efforts on the Department's enforced compliance processes, the Advocate believes the Department should consider creating a similar team focusing on GTA's collections process. The Advocate will continue to monitor this administrative recommendation.

## **Administrative Issue 5: Department's inability to produce a copy of an original document.**

This issue was introduced in FY 17/18 and continued in fiscal years 18/19, 19/20, and 20/21.



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Issue: When a taxpayer asks the Department to resend or reproduce a copy of an original notice of delinquency, billing, or some other notice of tax, interest, and penalty due with the original notice date, the Department's computer system is unable to reproduce the original document.

Recommendation from the 20/21 Annual Report: The Annual Report acknowledged there are a high volume of notices sent to taxpayers every year and supported the Department considering this issue as a strategic agency IT project. However, the Annual Report recommended the Department move the issue from a Departmental consideration to implementation.

Discussion: The Department has adopted this suggestion as a current strategic initiative.

Advocate's Recommendation for FY 21/22: The Advocate agrees this is an important issue for taxpayers and supports the Department's adoption of this issue as a strategic initiative. The Advocate will continue to monitor this administrative issue.

## **Administrative Issue 6: Taxpayer's lack of knowledge of Florida documentary stamp tax laws.**

This issue was introduced in FY 17/18 and continued in fiscal years 18/19, 19/20, and 20/21.

Issue: Taxpayers may not be aware that certain documents involving the transfer of real property in Florida are subject to documentary stamp tax.

Recommendation from the FY 20/21 Annual Report: The Department should expand efforts to provide education to the Clerks of the Court staff, lenders, and those involved in real estate closings about documentary stamp tax.

Discussion: The Department is developing two new tax tutorials – one will be for individuals transferring deeds to explain the potential documentary tax liability on these transactions and the second will be developed for use by the Clerks of the Court staff. The Department is also in the process of developing an outreach awareness plan on these two new tax tutorials.

Advocate's Recommendation for FY 21/22: The Advocate recommends the Department continue its efforts to develop and post these two new tax tutorials along with outreach public awareness efforts. The Advocate will continue to monitor this administrative issue.

## **Administrative Issue 7: Department's use of current addresses for documentary stamp tax issues.**

This issue was introduced in FY 17/18 and continued in fiscal years 18/19, 19/20, and 20/21.

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Issue: Some taxpayers who owe documentary stamp tax do not receive notice or the various collection letters from the Department because the address used by the Department may not be the correct address.

Recommendation from the FY 20/21 Annual Report: The Annual Report recommended the Department develop a plan to better identify a taxpayer's accurate address so the taxpayer can receive notice and correspondence from the Department regarding their tax liability. The Annual Report also recommended the Department create a public database of its tax warrants that would be available to the public so a taxpayer with a tax warrant would be able to find and obtain a copy of the warrant.

Discussion: The Advocate has met with the Department on this issue and significant efforts have been made to ensure documentary stamp tax audit and collection documents are sent to the taxpayer's correct address. The Department utilizes multiple sources for current address verification to ensure proper delivery of these documents to taxpayers. On a monthly basis, all taxpayer addresses are run through a national change of address process and public records database tools. These efforts by the Department have resulted in a significant decrease in the number of complaints for this issue. Of the 1,033 total contacts the Office received this past year only 16, or 1.6%, were related to documentary stamp tax, and only 4, or .4%, of these were complaints.

Since the efforts of the Department have resulted in a significant decrease in the number of complaints for this issue, a separate listing of tax warrants on the Department's website is probably not as beneficial as it may have been in the past. A consideration must also be made as to whether a redundant tax warrant website is the best use of taxpayer dollars. Warrant data, such as recordings and satisfactions, change constantly. Efforts by both county offices and the Department to ensure each respective warrant database reflects the same information might prove to be difficult and confusing to the public.

Advocate's Recommendation for FY 21/22: The Advocate acknowledges the significant efforts made by the Department to reduce the number of complaints received for this issue. The Advocate also believes a separate warrant database on the Department's website would not produce the benefits today as it may have in the past. Given the improvements made, and taking into consideration the Department's preliminary response, the Advocate is closing out this administrative issue.

#### **Administrative Issue 8: Taxpayer's awareness of reemployment tax rate.**

This issue was introduced in FY 17/18 and continued in fiscal years 18/19, 19/20, and 20/21.

# Taxpayers' Rights Advocate

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Issue: The reemployment tax rate for some taxpayers may change from year to year and some taxpayers are not aware of this change.

Recommendation from the FY 20/21 Annual Report: The Annual Report recommended the Department make every effort to educate taxpayers about their reemployment tax rate and to offer a reemployment tax rate hotline so taxpayers can verify their rate either online or by phone. The Office has not received any complaints for this issue since January of 2022. The Department should also make every effort to educate taxpayers on the charge for penalty when a return is filed late.

Discussion: The Department has acknowledged the importance of making reemployment tax rates available to employers and currently provides multiple opportunities for accessing those rates including:

- In December of each year, which is the month prior to the effective date of the tax rate, the Department mails a Reemployment Tax Rate Notice (Form RT-20) to all affected taxpayers.
- Tax rates are prepopulated on the employer's electronically filed tax returns.
- Tax rates are prepopulated on the employer's hard copy tax returns.
- Tax rates are available anytime using the Department's File and Pay website.
- Tax rates are available by calling the Department's Taxpayer Service number at 800-488-6800.
- The Department has provided a link on its website with instructions for obtaining the employer's tax rate.
- As part of its annual review, the Department continues to work to improve reemployment tax forms and publications to ensure instructions for obtaining employer's tax rates and penalties for non-compliance are prominently placed on forms and easy to understand.

Advocate's Recommendation for FY 21/22: The Advocate acknowledges the Department's efforts to provide opportunities for employers to find their reemployment tax rate and the penalties for noncompliance. The Advocate also acknowledges the Department's efforts to provide additional information to employers about reemployment tax. Noting the Office has not received any complaints from the public about this issue since January 2022, the Advocate is closing this administrative issue.

#### **Administrative Issue 9: Advocate's Office overly burdened with IRS related contacts.**

This issued was introduced in FY 20/21.

Issue: In FY 20/21, the Office received 341 contacts from the public asking for assistance with federal tax matters including personal income taxes, Covid Stimulus Payments, and child tax

# Taxpayers' Rights Advocate Annual Report Fiscal Year 2021 - 2022

credit issues. These contacts represented approximately 26% of all contacts received by the Office.

Recommendation from the FY 20/21 Annual Report: The Annual Report suggested adding language to the Advocate's website along with a message on the Advocate's voice recording that the Florida Taxpayers' Rights Advocate does not have the authority to help the public with their federal tax issues.

Discussion: In response to this recommendation the Department added a link on the Advocate's website to the IRS' Taxpayer Advocate's Office letting the public know the Florida Taxpayers' Rights Advocate does not have the authority to help the public with their federal tax issues. The same information was added to the Advocate's voice recording. These efforts have reduced the total number of contacts related to the IRS from 341 total contacts during FY 20/21 to 203 total contacts during FY 21/22. These efforts have also reduced the total percentage of contacts related to the IRS from about 26% during FY 20/21 to 20% during FY 21/22. The Office is also fully staffed to respond to these issues.

Advocate's Recommendation for FY 21/22: The Department has addressed this issue and no additional action is being recommended by the Advocate. Also, the public continues to contact the Office for assistance with their federal tax issues along with other issues not related to the Department. The Advocate believes this office should be an advocate for the people. Any citizen who seeks assistance from the Advocate will be helped regardless of the issue. The Advocate will close out this administrative issue.

## **Administrative Issue 10: Advocate not advised of 19 referrals.**

This issue was introduced in FY 20/21.

Issue: During FY 20/21, the Office received 673 contacts from the public that were referred to the Department for assistance. The Annual Report cited 19 case referrals (2.8%), where a specific recommendation was made to the Department and the Department either did not respond (11 cases – 1.6%) or did not follow the Office's full recommendation (4 cases – 0.6%).

Recommendation from the FY 20/21 Annual Report: The Annual Report recommended the Department develop a communication tool to be more responsive to Advocate recommendations.

Discussion: The Advocate has reviewed the 19 case referrals. Fifteen (15) case referrals were resolved the same day the case was referred to the Department. Two (2) case referrals were resolved two days after the referral. The remaining two (2) cases were resolved several weeks after the referral. All 19 cases were resolved.

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Regarding the 4 case referrals where the Department did not follow the full recommendation, the Advocate reviewed each of the taxpayer accounts in greater detail. For example, in one of the case referrals there was a recommendation for a full compromise of the penalty. In this case the taxpayer had a prior history of non-compliance by not filing their sales and use tax returns timely. The Department offered a partial penalty compromise which appears to be justified in this case.

The Department appreciates this recommendation and opportunities for improvement should be considered. It was for this reason the Department created two senior level positions within the Department's Collections Process in 2021 to help coordinate collection cases and referrals to the various Taxpayer Service Centers. In the past, the Office referred collection cases to each individual Service Center. Effective January 1, 2022, the Office refers collection cases to one of the two collection coordinators. This new process has worked extremely well. The Office now works with the collection coordinators to discuss the specific details of the referral, the Office recommendation for case resolution, feedback on how the case was resolved, and opportunities for improvement in the Collections Process.

Advocate's Recommendation for FY 21/22: The Advocate believes the new process of referring collections cases to the two new collection coordinators works extremely well and the Advocate is closing this administrative issue as having been resolved.

## **Summary of the Advocate's Recommendations for the Legislative and Administrative Issues for FY 21/22:**

The following graph summarizes the Annual Report's recommendations for the legislative and administrative issues addressed above. One (1) of the three (3) legislative issues will be continued. Four (4) of the administrative issues will be closed as having been satisfactorily addressed by the Department. Six (6) of the administrative issues will continue to be monitored.

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<b>Summary of the Advocate's Recommendations for the Legislative and Administrative Issues for FY 21/22</b>		
<b>Issue type</b>	<b>Details</b>	<b>Actions taken</b>
<b>Legislative Issue 1</b>	Adding reference to implementing statutes in the Florida Taxpayer's Bill of Rights	Continued
<b>Legislative Issue 2</b>	Adding a statutory requirement to provide a draft of the Advocate's Annual Report to the Executive Director of the Florida Department of Revenue on or before October 15 <sup>th</sup> of each year	Closed
<b>Legislative Issue 3</b>	Amend s. 20.21(3), F.S., to make the Taxpayers' Rights Advocate completely independent of the Florida Department of Revenue and the Department's Executive Director	Closed
<b>Administrative Issue 1</b>	Taxpayers fail to file a timely protest in response to an audit assessment and they have lost their appeal rights	Continued
<b>Administrative Issue 2</b>	Taxpayer's lack of knowledge of the Department's taxation process	Continued
<b>Administrative Issue 3</b>	Taxpayers are not aware of the Taxpayer's Bill of Rights	Continued
<b>Administrative Issue 4</b>	Department's compromise authority is not being used consistently	Continued
<b>Administrative Issue 5</b>	Department's inability to produce a copy of an original document	Continued
<b>Administrative Issue 6</b>	Taxpayer's lack of knowledge of Florida documentary stamp tax laws	Continued
<b>Administrative Issue 7</b>	Department's use of current addresses for documentary stamp issues	Closed
<b>Administrative Issue 8</b>	Taxpayer's awareness of reemployment tax rate	Closed
<b>Administrative Issue 9</b>	Office overly burdened with IRS related contacts	Closed
<b>Administrative Issue 10</b>	Office not advised of 19 referrals	Closed

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## Section 7: New Administrative Issues:

### **New Administrative Issue 1: Tax Warrants.**

Issue: The Office received two contacts during FY 21/22 from taxpayers who had received a tax warrant. These taxpayers were concerned these tax warrants were warrants for their arrest.

Recommendation: The Advocate recommends the Department add clarifying language on the warrant form letting taxpayers know the tax warrant they received is not a warrant for their arrest.

### **New Administrative Issue 2: Application for Special Estimation of Taxes for Boat, Motor Vehicle, or Aircraft Dealer.**

Issue: The Office received a complaint during FY 21/22 from a yacht broker who sold an expensive yacht with a sales price of more than \$200,000 during calendar year 2021. The sale of this yacht met the estimated sales tax threshold for his business for calendar year 2022. He received Form DR-300400: Boat, Motor Vehicle, or Aircraft Dealer Application for Special Estimation of Taxes in late October of 2021. This application allows boat, motor vehicle, and aircraft dealers to exclude the sale of each boat, motor vehicle, or aircraft with a sales price of \$200,000 or more from the estimated sales tax threshold calculations. The deadline for the application is on or before October 1. Therefore, the yacht broker missed the deadline to file for the special estimated sales tax treatment.

Recommendation: The Advocate recommends the Department send form DR-300400 to dealers who meet this qualifying condition well before the October 1 deadline.

### **New Administrative Issue 3: Send Taxpayer Correspondence to their Representatives.**

Issue: The Office received five comments from taxpayer representatives asking the Department to send copies of collection notices to the representative. Taxpayer representatives currently rely on their client taxpayer to tell them when they have a compliance problem with the Department. Taxpayer representatives believe they can help their client taxpayer and the Department by interceding on behalf of their client taxpayer before an issue escalates to costly collection processes.

Recommendation: The Advocate recommends the Department seek opportunities to send Department correspondence and collection notices to taxpayers and their representatives.

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## **Section 8: Ongoing Department Initiatives Supported by the Advocate:**

Initiative 1: The Department is currently looking for opportunities using email and text messaging capabilities to send correspondence to taxpayers. The Advocate fully supports the Department's efforts to use email and text messaging whenever possible.

Initiative 2: The Advocate also supports a legislative concept that would allow the Department to reopen a final assessment or refund denial for purposes of settling or compromising a liability or refund denial and recommends the Department consider proposing this legislative concept again for consideration in the 2023 regular legislative session.

## **Section 9: Other Advocate Activities:**

Post Audit Review Oversight Team: During FY 21/22, the Advocate was asked to serve as a member of the Post-Audit Review Oversight Team with the Department's Deputy Executive Director, the General Counsel, and the Tax Law Administration Oversight Process Owner. The purpose of this team is to serve as a quality control process for both procedural issues and substantive issues arising from the Department's enforced compliance process with particular emphasis on matters occurring after the Department issues its Notice of Proposed Assessment following an audit. The team's work focuses on these areas including review of Notices of Decision, Notices of Reconsideration, and Closing/Settlement Memorandum; review of case inventory and backlogs; and a review of unique cases and tax issues that require heightened attention to ensure the Department's treatment is consistent and in accordance with the law.

## **Section 10: Advocate Initiatives for FY 22/23:**

Enhance the Advocate's tracking system: The existing Advocate's Tracking System was developed and placed in service on 7/1/2018, to capture all incoming contacts to the Office. This tracking system captures the contacts name, business partner number and other identifying numbers, the reason for the contact, along with the case referral information, if applicable. The system, however, does not have a simple way to capture and track case resolution, especially in cases where the Office refers a case to the Department's Collections Process. This initiative is to enhance the existing TRATS System to easily capture case resolution information for reporting and management purposes and to see if there are other opportunities for improvement.

National Center for Taxpayer Rights: The Advocate contacted the National Center for Taxpayer Rights in Washington DC and plans to become an active voice for taxpayer advocacy issues on the national level in the coming years.



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## **Section 11: Department of Revenue Response:**



**Florida Department of Revenue**  
*Office of the Executive Director*

**Jim Zingale**  
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

November 7, 2022

Gary Gray  
Taxpayers' Rights Advocate  
Office of Taxpayers' Rights Advocate  
PO Box 5906  
Tallahassee, FL 32314-5906

**Subject: Taxpayers' Rights Advocate's Annual Report for Fiscal Year 2021-2022**

Dear Mr. Gray:

Thank you for providing the Department of Revenue with a copy of the Taxpayers' Rights Advocate's preliminary report for fiscal year 2021-2022. The Department appreciates the opportunity to provide input into the final report and attached you will find the Department's response to the administrative issues and recommendations discussed in the preliminary report.

I would like to highlight that the preliminary report touches on some areas that the Department is currently reviewing for process improvements. Your observations and suggestions are being considered as part of the Department's strategic planning process.

The Department's mission for general tax administration is to make it easier for taxpayers to comply with the law and ensure compliance in a fair and equitable manner. We appreciate insight and feedback that assists us in achieving this mission.

Sincerely,

Jim Zingale

Enclosure



## Legislative Issues

<p>Legislative Issue 1:</p>	<p><b><i>Adding reference to implementing statutes in the Taxpayer's Bill of Rights.</i></b></p> <p>From FY 20-21 Annual Report: In 2018, the Legislature enacted a requirement for TRA to recommend legislative action as appropriate to resolve problems encountered by taxpayers. A common problem is a lack of taxpayer knowledge regarding taxpayer rights in the taxation process. There is also a need to improve DOR employees' knowledge and implementation of taxpayer rights. The opening paragraph in section 213.015, F.S., commonly known as the Florida Taxpayer's Bill of Rights, states in part: "The rights afforded taxpayers to ensure that their privacy and property are safeguarded and protected during tax assessment and collection are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue.</p> <p>However, in the Taxpayer's Bill of Rights, subsections (1), (5), (17), (19), and (21) lack any references to other statutes that implement these five subsections. TRA believes this statutory deficiency should be addressed to help ensure that taxpayers are afforded their rights fairly and consistently. The statutes should contain affirmative, specific duties for the agency to act to ensure that all taxpayers are afforded their rights under Florida law. Accordingly, TRA recommends legislation to implement, in other parts of Florida Statutes, the following five subsections from the Taxpayer's Bill of Rights.</p> <ul style="list-style-type: none"><li>(1) The right to available information and prompt, accurate responses to questions and requests for tax assistance.</li><li>(5) The right to obtain simple, nontechnical statements which explain the reason for audit selection and the procedures, remedies, and rights available during audit, appeals, and collection proceedings, including, but not limited to, the rights pursuant to this Taxpayer's Bill of Rights and the right to be provided with a narrative description which explains the basis of audit changes, proposed assessments, assessments, and denials of refunds; identifies any amount of tax, interest, or penalty due; and states the consequences of the taxpayer's failure to comply with the notice.</li><li>(17) The right to have the department actively investigate and, where appropriate, implement automated or electronic business methods that enable the department to more efficiently and effectively administer the revenue sources of this state at less cost and effort for taxpayers.</li><li>(19) The right to participate in free educational activities that help the taxpayer successfully comply with the revenue laws of this state.</li></ul>
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	<p>(21) The right to fair and consistent application of the tax laws of this state by the Department of Revenue.</p> <p>The impact of this recommended legislation will be to improve the implementation of the Florida Taxpayer's Bill of Rights.</p>
<p><b>Advocate's Recommendation</b></p>	<p>The Advocate will work with the Department to see if there are opportunities to include additional references in the Taxpayer's Bill of Rights to Florida's taxing and fee statutes to ensure that taxpayers are afforded their rights under Florida law. The Advocate also believes the Department should consider working to reduce the number of contacts from taxpayers by looking for opportunities to remind taxpayers to file and pay their taxes and to file protests of audit assessments timely. The Advocate plans to work with the Department this next fiscal year on this issue. See also Administrative Issue 3.</p> <p>Regarding the second problem cited above for a need to improve the knowledge Department employees have about a taxpayer's rights, the Advocate supports the Department's efforts for annual training on the Taxpayer's Bill of Rights.</p>
<p><b>Department's Response</b></p>	<p>The Department agrees with the Advocate's recommendation to explore opportunities to include additional references to statutes in the Taxpayer's Bill of Rights and will support the Advocate to bring resolution and disposition to this issue. The responsibility to propose and find sponsorship of new legislation will be the Advocate's.</p> <p>The Department's response to the Advocate's second recommendation is found in the response to Administrative Issue 3.</p>
<p><b>Legislative Issue 2:</b></p>	<p><b><i>Add a statutory requirement to provide a draft of the Advocate's Annual Report to the Executive Director of the Department of Revenue on or before October 15<sup>th</sup> of each year.</i></b></p> <p>In February 2020, the DOR's Executive Director requested that the TRA provide a preliminary draft of the TRA Annual Report before October 15 of each year. The TRA understands the request and agrees that providing the DOR an opportunity to respond before the issuance of the Annual Report would make for a more cohesive report. The TRA believes that the plain language of s. 20.21(3), F.S., does not provide the expressed statutory authority needed to provide for a preliminary draft and proposed the language amending s. 20.21(3), F.S.</p>



<p><b>Advocate's Recommendation</b></p>	<p>FY 19-20 and FY 20-21: The Advocate proposed the following Legislative Proposal in February 2020, and again proposes the following:</p> <p>In subsection 20.21(3), F.S., a paragraph (d) would be created, as follows.</p>
	<p><u>(d) On or before October 15 of each year, the taxpayer rights advocate shall provide to the office of the executive director a preliminary and tentative list of administrative issues and recommendations which may be included in the taxpayer rights advocate's annual report. Within 30 calendar days of receipt thereof, the office of the executive director shall provide to the taxpayer rights advocate a written response to such issues and recommendations. The response and the taxpayer rights advocate's answer to the response shall be included in the taxpayer rights advocate's final report.</u></p> <p>FY 21-22: Because the Advocate believes he is ultimately responsible for making sure the Executive Director of the Florida Department of Revenue has a chance to review a draft Annual Report and to meet with he and his staff to discuss the draft, the Advocate is closing this legislative issue.</p>
<p><b>Department's Response</b></p>	<p>The Department agrees with the Advocate's decision to close this issue and will continue to be responsive and work within the agreed upon best-practice process and timeline.</p>
<p><b>Legislative Issue 3:</b></p>	<p><b><i>Amend s. 20.21(3), F.S., to make the Taxpayers' Rights Advocate completely independent of the Department of Revenue and the Department's Executive Director</i></b></p> <p>Over the past two fiscal years, the current Executive Management team at the Department have made several increasing demands, in addition to requesting a preliminary draft of the Annual Report. These demands have included providing monthly reports in a format designed by the Department. These demands have created an ongoing workload issue on the TRA, while the Department removed staff that previously assisted in the development and drafting of the Annual Report.</p>



<b>Advocate's Recommendation</b>	<p>FY 20-21: Based upon these increased demands, and others, the Advocate recommends that subsection 20.21(3), F.S., be amended to make the Taxpayers' Rights Advocate completely independent of the Department, and the Executive Director.</p> <p>FY 21-22: Based on the original legislative intent for the Advocate to be under the general supervision of the Executive Director of the Florida Department of Revenue, the Advocate believes this organizational structure is working as intended. The Advocate is closing this Legislative Issue.</p>
<b>Department's Response</b>	<p>The Department agrees with the Advocate's decision to close this issue and will continue to provide two full-time dedicated staff to the Advocate's Office, provide unlimited IT support, commit two full-time Department collection coordinators, and designate a senior-level liaison to work with the Advocate to ensure that taxpayer issues are fairly and consistently addressed in a timely manner according to the law. The question of independence is not a matter to be addressed by the Department.</p>

**Administrative Issues**

<b>Administrative Issue 1:</b>	<p><b><i>Taxpayers fail to file a timely protest in response to an audit assessment, and they lose their appeal rights.</i></b></p> <p>This issue is generally for taxpayers who have been audited by the Department of Revenue, received a Notice of Proposed Assessment (NOPA), and who have failed to submit a timely protest. The proposed assessment has become a final assessment and the taxpayer has lost their protest rights. The case moves to the Department's Collections Process where it is assigned to a collector to collect the tax amount due along with interest and penalty.</p> <p>During the collections process, if the taxpayer provides a "Statement of Facts" alleging the Department's audit assessment is not correct, collections staff may, but are not required to, perform a discretionary review of the audit assessment. The Office sometimes receives contacts from these audited taxpayers that are now in the Collections Process asking for assistance. The Advocate believes the objectivity of some of these reviews by the Collections Process needs improvement with more descriptive information following the review.</p>
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<p><b>Advocate's Recommendation</b></p>	<p>The Advocate supports the refined Statement of Facts (SOF) process established by the Department's cross-functional team to give taxpayers who have lost their protest rights an opportunity to have their case reviewed. In support of the SOF process the Office does not need to see every SOF submitted by taxpayers. Taxpayers that contact the Office are assisted with filing their SOF and the case is followed as it moves through the review process to ensure the taxpayer's case receives proper consideration.</p> <p>The Advocate recommends the Department continue its efforts to improve the PostAudit Review Process. The Advocate would like to mention the Department has implemented an initiative to help taxpayers with the automation of reminder notices that are sent after a NOPA is issued. Reminder notices are issued to those taxpayers with unpaid assessments who have not filed a protest, requested a payment plan, or otherwise contacted the Department about the NOPA.</p> <p>The Advocate also supports a legislative concept that would allow the Department to reopen a final assessment or refund denial for purposes of settling or compromising a liability or refund denial and recommends the Department consider proposing this legislative concept again for consideration in the 2023 regular legislative session. The Advocate will continue to monitor this administrative issue.</p>
<p><b>Department's Response</b></p>	<p>The Department agrees with the Advocate's recommendation to continue to improve the post-audit review process. The Department's executive-led, cross-functional team proposed legislative concepts to improve tax compliance and assist taxpayers. During the 2022 legislative session, the Department assisted the Legislature in proposing SB 1382 that would allow the Department, in limited circumstances, to reopen an audit or refund denial for review that has become final. The bill, which included other taxpayer assistance concepts, was passed by the Legislature but was vetoed by the Governor. The Department plans to reintroduce the concept in the 2023 legislative session.</p> <p>The Department continues to seek opportunities to make improvements to the postaudit process.</p>
<p><b>Administrative Issue 2:</b></p>	<p><b><i>Taxpayer's lack of knowledge of the Department's Taxation Process.</i></b></p> <p>Taxpayers often lack knowledge of the taxation process and the consequences of not meeting deadlines, responding to notices, and not taking responsive actions during the taxation process.</p>



<p><b>Advocate's Recommendation</b></p>	<p>The Advocate agrees and supports the Department recognizing this is an important issue for taxpayers. The Advocate will continue to monitor this administrative issue.</p>
<p><b>Department's Response</b></p>	<p>The Department agrees with the Advocate's decision. As part of its communications modernization strategic initiative, the Department continues to review and update communications it sends to taxpayers during the audit process to help taxpayers understand their deadlines and responsibilities. Twenty-eight audit letters have been revised, with five in production; nine audit notices are at varying stages of approval, with one in production. IT programming resources have been prioritized to incorporate into the Department's tax administration system the revised letters and notices.</p> <p>The focus of the revisions included:</p> <ul style="list-style-type: none"> <li>• Renaming forms to clarify purpose</li> <li>• Streamlining information provided to the taxpayer (e.g., from five pages to three)</li> <li>• Highlighting important deadlines and consequences if not met</li> <li>• Adding printed links to the Department's <i>What to Expect from a Florida Tax Audit</i> web page that provides relevant information. Accessible from this page is the Florida Taxpayer's Bill of Rights.</li> </ul>
<p><b>Administrative Issue 3:</b></p>	<p><b><i>Taxpayers are not aware of the Taxpayer's Bill of Rights.</i></b></p> <p>Taxpayers are often not familiar with the provisions of the Taxpayer's Bill of Rights, including the right to installment payment plans to pay the taxes they owe.</p>
<p><b>Advocate's Recommendation</b></p>	<p>The Advocate believes there are opportunities to include a link or a reference to the Taxpayer's Bill of Rights on all notices and other forms of communication the Department sends to taxpayers. The Advocate will work with the Department during FY 22/23 to help identify these opportunities. The Advocate also believes there are opportunities to reduce the number of contacts received from taxpayers by looking for ways to remind taxpayers about their filing requirements and audit protest deadlines. The Advocate will continue to monitor this administrative issue.</p>





<p><b>Department's Response</b></p>	<p>The Department agrees with the Advocate's recommendation to include links or references to the Taxpayer's Bill of Rights in its written communications. As part of its ongoing audit communications modernization initiative, the Department is adding to these documents printed links to its "What to Expect from a Florida Tax Audit" web page, that provides relevant information.</p> <p>This page is regularly maintained and provides information about the following topics: how was I selected for an audit; what types of records will I need to provide; what are my rights during an audit (with a link to the Florida Taxpayer's Bill of Rights); communicating and meeting deadlines; can I request technical assistance during the audit; what happens when the audit is complete; and other audit-related information.</p> <p>Additionally, when notifying taxpayers of their selection for audit and during all auditortaxpayer interactions throughout the audit process, a copy of the Florida Taxpayer's Bill of Rights is provided.</p>
<p><b>Administrative Issue 4:</b></p>	<p><b><i>Department's compromise authority is not being used consistently.</i></b></p> <p>Taxpayers are not aware of the Department's authority, under certain factual situations and where consistent with law, to compromise and settle tax, interest, penalties, or fees. The authority has been delegated in writing to certain positions within the Department, but this authority does not appear to be exercised as delegated.</p>
<p><b>Advocate's Recommendation</b></p>	<p>The Advocate fully supports the creation of the Post-Audit Review Oversight Team. Noting the team is focusing its efforts on the Department's enforced compliance processes, the Advocate believes the Department should consider creating a similar team focusing on GTA's collections process. The Advocate will continue to monitor this administrative recommendation.</p>
<p><b>Department's Response</b></p>	<p>The Department agrees with the Advocate's recommendation to create an oversight team to focus on the collections process, and will continue to monitor for inconsistencies throughout the Enforced Compliance Process. In March 2022, the Collections Process established the Enforcement Operations Oversight Team which, among other duties, reviews compromises and corrections working in concert with the</p>



	<p>Taxpayer Services Process. This team's review ensures fair and consistent handling of compromise requests in accordance with the law.</p> <p>An emphasis is also placed on training for managers and staff in the proper application of compromise. In addition, managers are required to conduct random samplings of compromises to identify issues for ongoing training opportunities.</p> <p>The Department has created a delegation of authority matrix for settlements and compromises and will disseminate to all processes to ensure all staff understand the compromise authority delegated to each employee class in accordance with the law. A required acknowledgment will be developed in the Department's Learning Management System.</p>
<p><b>Administrative Issue 5:</b></p>	<p><b><i>Department's inability to produce a copy of an original document.</i></b></p> <p>When a taxpayer asks the Department to resend or reproduce a copy of an original notice of delinquency, billing, or some other notice of tax, interest, and penalty due with the original notice date, the Department's computer system is unable to reproduce the original document.</p>
<p><b>Advocate's Recommendation</b></p>	<p>The Advocate agrees this is an important issue for taxpayers and supports the Department's adoption of this issue as a strategic initiative. The Advocate will continue to monitor this administrative issue.</p>
<p><b>Department's Response</b></p>	<p>The Department agrees with the Advocate's recommendation to generate copies of original notices sent. A new strategic initiative for IT programming to reproduce original notices, where the functionality does not currently exist, has been created and added to the program's strategic plan for consideration and prioritization.</p>
<p><b>Administrative Issue 6:</b></p>	<p><b><i>Taxpayer's lack of knowledge of Florida Documentary Stamp Tax laws.</i></b></p> <p>Taxpayers may not be aware that certain documents involving the transfer of real property in Florida are subject to documentary stamp tax.</p>
<p><b>Advocate's Recommendation</b></p>	<p>The Advocate recommends the Department continue its efforts to develop and post these two new tax tutorials along with outreach public awareness efforts. The Advocate will continue to monitor this administrative issue.</p>



<b>Department's Response</b>	The Department agrees with the Advocate's recommendation to increase documentary stamp educational efforts, and delivered presentations in the Fall of 2019, for the Clerks of Court. In 2020, presentations were also delivered to the GTA Taxpayer Services Process. These presentations covered:
	<ul style="list-style-type: none"><li>• Documentary stamp tax on documents that transfer interest in Florida real property</li><li>• Documentary stamp tax on written obligations and mortgages, liens, and other evidence of indebtedness (nonrecurring intangible tax).</li></ul> <p>Recently, the Department revised the documentary stamp tax content page on its website. Topic-specific accordion tabs provide definitions, rates and computations, document examples, and taxpayer scenarios that can be printed as a single brochure document. The page is regularly reviewed as a result of law changes or user surveys and suggestions for improved clarity. Feedback received on the Q&amp;A is evaluated at least annually with updates routinely made to increase the effectiveness of the question and its answer.</p> <p>The Department is developing two new tax tutorials, one for individuals transferring deeds, to explain the potential documentary stamp tax liability on these transactions, and one geared more to Clerks of Court. Both are expected to be released in the Summer of 2023, at which time the Department will execute an outreach plan to make interested parties aware of the new tutorials.</p>
<b>Administrative Issue 7:</b>	<b><i>Department's use of current addresses for Documentary Stamp Tax issues.</i></b>  Some taxpayers who owe documentary stamp tax do not receive notice or the various collection letters from the Department because the address used by the Department may not be the correct address.
<b>Advocate's Recommendation</b>	The Advocate recommends the Department continue its efforts to explore opportunities and benefits of creating a public database of tax warrants on its website. The Advocate will continue to monitor this administrative issue.



<p><b>Department's Response</b></p>	<p>The Department disagrees with the Advocate's decision to continue to monitor this issue, and recommends this issue be closed. The Department utilizes multiple sources for current address verification to ensure proper delivery to taxpayers receiving documentary stamp tax collection notices. On a monthly basis all taxpayer addresses are run through a national change of address process, and on a case-by-case basis, taxpayers' current addresses are searched using aggregated public records database tools. Currently, warrants, liens and judgment lien certificates are filed with the court and are available online to the public.</p> <p>With the additional verification of taxpayer addresses, the number of taxpayers experiencing this issue has been reduced substantially. The Taxpayers' Rights Advocate has recommended improvement each year since this issue's introduction, and has reported a steady decline in documentary stamp tax related complaints received year</p>
	<p>after year, with the current report showing 16 total contacts out of 1,033, or 1.6%, four of which were complaints.</p> <p>Because of this reduction, a separate listing of warrants on the Department's website may not prove to be as beneficial as it once might have, thus committing programming resources to establish and maintain this continually changing database would not be the most cost-effective use of the Department's limited IT resources.</p>
<p><b>Administrative Issue 8:</b></p>	<p><b><i>Taxpayer's awareness of Reemployment Tax rate.</i></b></p> <p>The reemployment tax rate for some taxpayers may change from year to year and some taxpayers are not aware of this change.</p>
<p><b>Advocate's Recommendation</b></p>	<p>The Advocate acknowledges the Department's efforts to provide opportunities for employers to find their reemployment tax rate and the penalties for noncompliance. The Advocate also acknowledges the Department's efforts to provide additional information to employers about reemployment tax. Noting the Office has not received any complaints from the public about this issue since January 2022, the Advocate is closing this administrative issue.</p>
<p><b>Department's Response</b></p>	<p>The Department agrees with the Advocate's decision to close this issue.</p>



<p><b>Administrative Issue 9:</b></p>	<p><b><i>Taxpayers’ Rights Advocate’s office overly burdened with IRS related contacts.</i></b></p> <p>In FY 20/21, the Office received 341 contacts from the public asking for assistance with federal tax matters including personal income taxes, Covid Stimulus Payments, and child tax credit issues. These contacts represented approximately 26% of all contacts received by the Office.</p>
<p><b>Advocate’s Recommendation</b></p>	<p>The Department has addressed this issue and no additional action is being recommended by the Advocate. Also, the public continues to contact the Office for assistance with their federal tax issues along with other issues not related to the Department. The Advocate believes this office should be an advocate for the people. Any citizen who seeks assistance from the Advocate will be helped regardless of the issue. The Advocate will close out this administrative issue.</p>
<p><b>Department’s Response</b></p>	<p>The Department agrees with the Advocate’s decision to close this issue.</p>

<p><b>Administrative Issue 10:</b></p>	<p><b><i>Taxpayers’ Rights Advocate’s office not advised of 19 referrals.</i></b></p> <p>During FY 20-21, the Office received 673 contacts from the public that were referred to the Department for assistance. The Annual Report cites 19 case referrals (2.8%), where a specific recommendation was made to the Department and the Department either did not respond (11 cases – 1.6%) or did not follow the Office’s full recommendation (4 cases – 0.6%).</p>
<p><b>Advocate’s Recommendation</b></p>	<p>The Advocate believes the new process of referring collections cases to the two new collection coordinators works extremely well and the Advocate is closing this administrative issue as having been resolved.</p>
<p><b>Department’s Response</b></p>	<p>The Department agrees with the Advocate’s decision to close this issue.</p>

**New Administrative Issues**

<p><b>New Administrative Issue 1:</b></p>	<p><b><i>Tax Warrants.</i></b></p> <p>The Office received several calls during FY 21/22 from taxpayers who had received a tax warrant. These taxpayers were concerned these tax warrants were warrants for their arrest.</p>
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<p><b>Advocate's Recommendation</b></p>	<p>The Advocate recommends the Department add clarifying language on the warrant form letting taxpayers know the tax warrant they received is not a warrant for their arrest.</p>
<p><b>Department's Response</b></p>	<p>The Department agrees with the Advocate's recommendation to improve communication with taxpayers and clearly state the purpose of each communication. All notices sent to taxpayers during the collections process are currently under review as part of ongoing process improvements. As areas of improvement are identified, strategic initiatives are developed and prioritized for IT hours.</p>
<p><b>New Administrative Issue 2:</b></p>	<p><b><i>Application for Special Estimation of Taxes for Boat, Motor Vehicle, or Aircraft Dealer.</i></b></p> <p>The Office received a complaint during FY 21/22 from a yacht broker who sold an expensive yacht with a sales price of more than \$200,000 during calendar year 2021. The sale of this yacht met the estimated sales tax threshold for his business for calendar year 2022. He received Form DR-300400: Boat, Motor Vehicle, or Aircraft Dealer Application for Special Estimation of Taxes in late October of 2021. This application allows boat, motor vehicle, and aircraft dealers to exclude the sale of each boat, motor</p>
	<p>vehicle, or aircraft with a sales price of \$200,000 or more from the estimated sales tax threshold calculations. The deadline for the application is on or before October 1. Therefore, the yacht broker missed the deadline to file for the special estimated sales tax treatment.</p>
<p><b>Advocate's Recommendation</b></p>	<p>The Advocate recommends the Department send form DR-300400 to dealers who meet this qualifying condition well before the October 1 deadline.</p>



<p><b>Department's Response</b></p>	<p>The Department agrees with the Advocate's recommendation; however, a review of the Department's annual mailing jobs shows that the <i>Boat, Motor Vehicle, or Aircraft Dealer Application for Special Estimation of Taxes</i> (Form DR-300400) is not sent to taxpayers unsolicited. Nonetheless, the issue with this taxpayer complaint is timing.</p> <p>At the beginning of the state fiscal year, the Department evaluates taxpayer filings from the preceding fiscal year to determine if statutory taxpayer filing changes are required. These include filing frequency changes (from quarterly to monthly), filing method changes (from paper returns to electronic filing), and taxpayer accounting changes (requiring payment of estimated tax). These changes driven by remittances exceeding certain monetary thresholds become effective the first filing of the following calendar year.</p> <p>This evaluation process cannot begin until June applied period returns have been filed, taxes have been remitted, filing errors have been examined and corrected, payments have been posted, and moneys have been reconciled and distributed to trust funds and local governments. These processes are not completed until more than two months after the end of the applied or filing period, which for estimated tax purposes, conflicts with the October 1<sup>st</sup> statutory deadline for submitting the Application for Special Estimation of Taxes.</p> <p>The Department will perform an analysis to determine if a legislative correction is warranted to change the October 1<sup>st</sup> date in statute and on the application; will propose a solution to identify the affected population; will schedule a mailing of the application well in advance of the deadline, and will work with eligible taxpayers who elect the special estimation method.</p>
<p><b>New Administrative Issue 3:</b></p>	<p><b><i>Send Taxpayer Correspondence to their Representatives.</i></b></p> <p>The Office received five comments from taxpayer representatives asking the Department to send copies of collection notices to the representative. Taxpayer representatives currently rely on their client taxpayer to tell them when they have a compliance problem with the Department. Taxpayer representatives believe they can</p>
	<p>help their client taxpayer and the Department by interceding on behalf of their client taxpayer before an issue escalates to costly collection processes.</p>
<p><b>Advocate's Recommendation</b></p>	<p>The Advocate recommends the Department seek opportunities to send Department correspondence and collection notices to taxpayers and their representatives.</p>



<p><b>Department's Response</b></p>	<p>The Department agrees with the Advocate's recommendation to seek opportunities to send correspondence and collection notices to taxpayers as well as their designated representatives. The Department will consult with taxpayer representatives to determine the need, however, the decision is ultimately the taxpayer's to designate whether third parties receive notices.</p> <p>The business requirements to afford taxpayers the capability to designate third parties to access accounts and receive communications will be reviewed and considered for inclusion in the Department's enterprise-wide customer communication management platform and citizen experience solution strategic initiatives.</p>
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