

# **FLORIDA DEPARTMENT OF REVENUE**



## **Taxpayers' Rights Advocate**

### **Annual Report**

**July 1, 2019-June 30, 2020**

# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

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## **Section 1: Taxpayer Rights and the Taxpayer Rights Advocate**

The Taxpayer Rights Advocate (TRA) is a statutory position administratively placed within the Department of Revenue's Executive Direction and Support Services Program. In this report, the Florida Department of Revenue is denoted by the abbreviation DOR. Under 2018 legislation, TRA is appointed by and reports to the Chief Inspector General and may be removed from office only by the Chief Inspector General. For administrative purposes only, TRA is under the general supervision of the DOR Executive Director. A copy of the 2018 statutes applicable to TRA operations is in [Section 5](#) of this report.

### **Constitutional and Statutory Requirements for Taxpayer Rights**

Article I, Section 25, of the Florida Constitution, provides for taxpayer rights in the State of Florida, and is presented below in its entirety.

*"Taxpayers' Bill of Rights.—By general law the legislature shall prescribe and adopt a Taxpayers' Bill of Rights that, in clear and concise language, sets forth taxpayers' rights and responsibilities and government's responsibilities to deal fairly with taxpayers under the laws of this state. This section shall be effective July 1, 1993."*

*"History.—Proposed by Taxation and Budget Reform Commission, Revision No. 2, 1992, filed with the Secretary of State May 7, 1992; adopted 1992."*

The 1992 Florida Legislature passed legislation creating the Taxpayer's Bill of Rights. These rights are set forth in section 213.015, F.S. (2018), a copy of which is in Section 4 of this report. The Taxpayer's Bill of Rights specifies that Florida taxpayers have the right to request assistance from a DOR Taxpayer Rights Advocate, who is responsible for facilitating the resolution of taxpayer complaints and problems not resolved through the normal administrative channels within DOR. TRA's role is addressed further in sections 20.21(3) and 213.018, F.S., as discussed below.

### **TRA's Role Provided in Florida Statutes**

Under section 20.21(3), F.S., TRA's responsibilities include: 1) facilitating the resolution of taxpayer complaints and problems which have not been resolved through normal administrative channels within DOR; 2) issuing a stay action on behalf of a taxpayer who has suffered or is about to suffer irreparable loss as a result of action by DOR; and 3) producing an annual report. Note: the requirement for TRA to produce an annual report was enacted in 2018. This report is the third under the new legislation.

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Section 213.018, F.S., clarifies that TRA's duty to facilitate the resolution of taxpayer complaints is to assure that taxpayer rights are safeguarded and protected during the tax determination and collection processes.

Section 213.018(2)(a), F.S., clarifies that a stay order, also referred to as a taxpayer assistance order, may be issued only as an extraordinary measure and cannot be used to contest the merits of a tax liability or as a substitute for informal protest procedures or normal administrative or judicial proceedings. Generally, it is not necessary for TRA to issue a stay order, because DOR generally cooperates in allowing TRA time to review taxpayer issues and facilitate resolution.

## **TRA's Limited Scope of Authority**

Taxpayers or taxpayer representatives contact TRA regarding their unresolved issues relating to DOR's general tax process. TRA does not administer DOR's general tax process, which is administered by other DOR organizational units. While TRA works with other DOR organizational units, TRA is not authorized to act as a substitute for any of them.

TRA is not authorized to represent a taxpayer, but TRA can and does serve as an advocate for the rights of taxpayers under Florida law. In facilitating the resolution of taxpayer issues, TRA is bound by the same legal criteria as the organizational units that administer the general tax laws. TRA has no authority to create or impose rights or responsibilities not provided in law. TRA cannot serve as a substitute for the normal administrative or judicial proceedings for the review of tax determinations. See section 213.018(2)(a), F.S., in [Section 5](#) of this report.

Unlike the general tax process, which is administered at the state level by DOR, the property tax process is administered in each county by local officials. Accordingly, TRA does not handle taxpayer inquiries about local property tax matters. When TRA receives such an inquiry, TRA refers it to DOR's Property Tax Oversight Program, which provides information to the taxpayer about the local property tax.

## **TRA's Resources**

TRA relies upon the DOR Executive Director to provide needed resources. TRA has had two tax specialists available to confer with taxpayers regarding their questions and problems. These two positions consist of the Taxpayer Rights Advocate and an experienced Tax Law Specialist.

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The computer system available for TRA to maintain information about taxpayer contracts during FY 2018-2019 was newly created and implemented after the 2018 legislation to assist in providing the information required by the changes in the law. For FY 2018-2019, TRA was provided with a different information system expected to produce improved detail for its Annual Report. However, due to the short timeframe available for designing, developing, and implementing this system, substantial improvements were made in 2019. The design and development of a better system for coding, storing, and maintaining needed information will be an ongoing project as the need for system improvements are made. The TRA used the improved information tracking system throughout FY 2019-2020.

#### **Overview of TRA's Operations**

TRA tax operations include receiving, evaluating, researching, and responding to customer inquiries regarding general tax matters, conducting a taxpayer outreach survey, and performing other tasks within DOR. TRA's general tax operations are described in [Section 2](#) of this report.

TRA's general tax operations are oriented around: 1) tax types, other facts, and applicable law; 2) DOR's general tax processes and procedures; and 3) the Florida Taxpayer's Bill of Rights in section 213.015, F.S. The complete text of the Taxpayer's Bill of Rights is in [Section 5](#) of this report.

Other TRA tax-related operations include but are not limited to: 1) informing Florida taxpayers of their rights and TRA's role primarily through speaking engagements; 2) working with DOR management and staff to improve knowledge, processes, publications, and customer service; and 3) producing an annual report with recommendations for improving taxpayer services.

TRA works with management and staff in other DOR organizational units including the General Tax Administration Program (GTA), the Office of General Counsel (OGC), the Technical Assistance and Dispute Resolution office (TADR), the Property Tax Oversight Program, the Information Systems Program (ISP), the Office of Workforce Management, the Inspector General's office and the Executive Director's office. In these working relationships, TRA provides and receives information and assistance.

The subjects of these interactions may include but are not limited to: responses to customer inquiries, taxpayer surveys, audits, discovery, collections, operational research and trends, customer service, website improvements, technology development, tax-related research, process improvements, rulemaking, statistical sampling, data review and analysis, legislative review, litigation, education and training, and technical advisories.

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TRA's objectives for the upcoming fiscal year are to continue: 1) assisting Florida taxpayers with resolving state tax matters not resolved through the normal channels; 2) identifying and recommending improvements in DOR's administration of state taxes; and 3) identifying and taking steps to improve taxpayer services.

## **Steps Taken by TRA to Improve Taxpayer Services**

Steps TRA has taken to improve taxpayer services include the following.

- Recommendations for Legislation to Improve Taxpayer Services.
- Recommendations for Administrative Actions to Improve Taxpayer Services.
- Annual Employee Training and Acknowledgement of the Taxpayer's Bill of Rights.
- Improved TRA's Internet Presence.
- Continual Improvement of a Better Information System.

## **Steps TRA is Planning to Take to Improve Taxpayer Services**

These steps include the following.

- Recommendations for Legislation to Improve Taxpayer Services.
- Recommendations for Administrative Actions to Improve Taxpayer Services.
- Improve Agency Responsiveness to TRA's Recommendations and Initiatives.
- Continue to Review the Results of GTA's Post-Audit Surveys.
- Enhance Training for DOR Employees on the Taxpayer's Bill of Rights.
- Continuation of an Improved Information System.

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## TRA's Recommendations for Legislative Action

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.*"

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.

*(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 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.*



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The impact of this recommended legislation will be to improve the implementation of the Florida Taxpayer's Bill of Rights.

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. The TRA proposed the following Legislative Proposal in February 2020, and again proposes the following:

In subsection 20.21(3), F.S., a paragraph (d) would be created, 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.

## **Section 2: TRA Tax-Related Operations**

This section describes TRA's tax-related operations, which are oriented around: 1) tax types, other facts, and applicable law, 2) DOR's general tax processes and procedures, and 3) the Florida Taxpayer's Bill of Rights set forth in section 213.015, F.S. The complete text of the Taxpayer's Bill of Rights is in [Section 5](#) of this report. Florida law provides for taxpayer rights, and these rights must be observed and protected.

### **Overview of the DOR General Tax Process**

DOR is responsible for administering Florida's state tax laws in a fair, consistent, and efficient manner. Promoting voluntary compliance is an important part of DOR's mission to ensure that all taxpayers pay their applicable taxes. To promote voluntary compliance, DOR provides a taxpayer education webpage that explains how taxpayers can access DOR's educational publications, online tutorials, and webinars. DOR implemented the webinars in partnership with SCORE (Service Corps of Retired Executives), a nonprofit association of volunteer business counselors.

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DOR also has an obligation to monitor compliance and take necessary action to encourage compliance with tax laws. DOR's tax administration duties include conducting audits and performing discovery and collection activities. In DOR's administration of tax laws, the rights of taxpayers must be observed and protected. During the audit process, DOR reportedly provides audited taxpayers with information on taxpayer rights, but TRA recommends that DOR establish a requirement that each audited taxpayer be provided a copy of the Taxpayer's Bill of Rights at the beginning and end of each audit.

DOR's general tax process is administered primarily by a DOR organizational unit known as the General Tax Administration Program (GTA). Another DOR organizational unit, known as Technical Assistance and Dispute Resolution (TADR), also has a key role in DOR's general tax process by: 1) providing technical assistance services to taxpayers, taxpayer representatives, and GTA, and 2) providing dispute resolution services when taxpayers dispute tax assessment or refund determinations made by GTA. Additionally, DOR's Office of General Counsel (OGC) provides legal review of general tax issues.

TRA is independent of GTA and TADR and, under Florida law, TRA cannot serve as a substitute for GTA and TADR. Likewise, TRA cannot serve as a substitute for the normal administrative or judicial proceedings for the review of tax determinations. See section 213.018(2)(a), F.S.

TRA routinely interacts with GTA, TADR, and OGC regarding the general tax process. TRA uses GTA computer systems to verify information or conduct research.

DOR partners in the general tax process include, but are not limited to, the following.

- Taxpayers
- Businesses and employers
- Local governments
- Third party debt collectors
- National tax associations
- Tax Section of the Florida Bar
- Professional accounting organizations such as FICPA and AICPA
- Florida Department of Agriculture and Consumer Services
- Florida Department of Economic Opportunity
- U.S. Department of Labor
- Internal Revenue Service
- U.S. Customs Service

DOR administers over 30 taxes and fees, including the sales and use tax, reemployment assistance tax, documentary stamp tax, corporate income tax, motor fuel tax, communication services tax, and insurance premium tax, among others.

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## Types of Tax-Related Contacts Handled by TRA

In this report, TRA generally defines the term "contact" as communication originating from outside DOR on tax-related matters and that are received directly by TRA or referred to TRA. TRA tax-related contacts are divided into the following five categories.

- **Requests:** These are requests for assistance on subjects such as tax forms, taxability of a situation generally, appeal rights, taxpayer rights, etc.
- **Inquiries:** These are contacts regarding the specific details of a taxpayer's account such as appeal rights and deadlines, notices, payments, etc.
- **Complaints:** These are contacts where taxpayers or representatives express dissatisfaction with DOR or an employee regarding an audit, notice, assessment, collection activity, penalty, interest, customer service, etc.; complaints include post-audit review cases where the taxpayer contacts TRA directly for assistance.
- **Post-Audit Reviews:** These are contacts where a taxpayer account is in the collections process, the appeals period has expired, and the taxpayer has contacted DOR collections staff and collections staff has referred the taxpayer to TRA and provided to TRA documentation regarding the taxpayer's issues; TRA reviews the documentation to prepare for any direct contact from the taxpayer given the time-sensitive nature of the collections process.
- **Other Contacts:** These are contacts that do not fall within any of the other contact categories and include compliments. Compliments are defined as an expression of appreciation for assistance provided by any member of DOR. This category also includes Comments/Other, which includes any other TRA contact that does not fit within the other established contact types. The Comments/Other category includes governmental advisories.

As shown below, Table 1 and Figure 1 contain an analysis of the tax-related contacts handled by TRA in FY 19-20. The "Other Contacts" category included one compliment, and two comments. The number of overall tax-related contacts in FY 19-20, was an increase of 106. The increase was primarily due to the number Requests received which went from 218 in FY 18-19, to 290 in FY 19-20.

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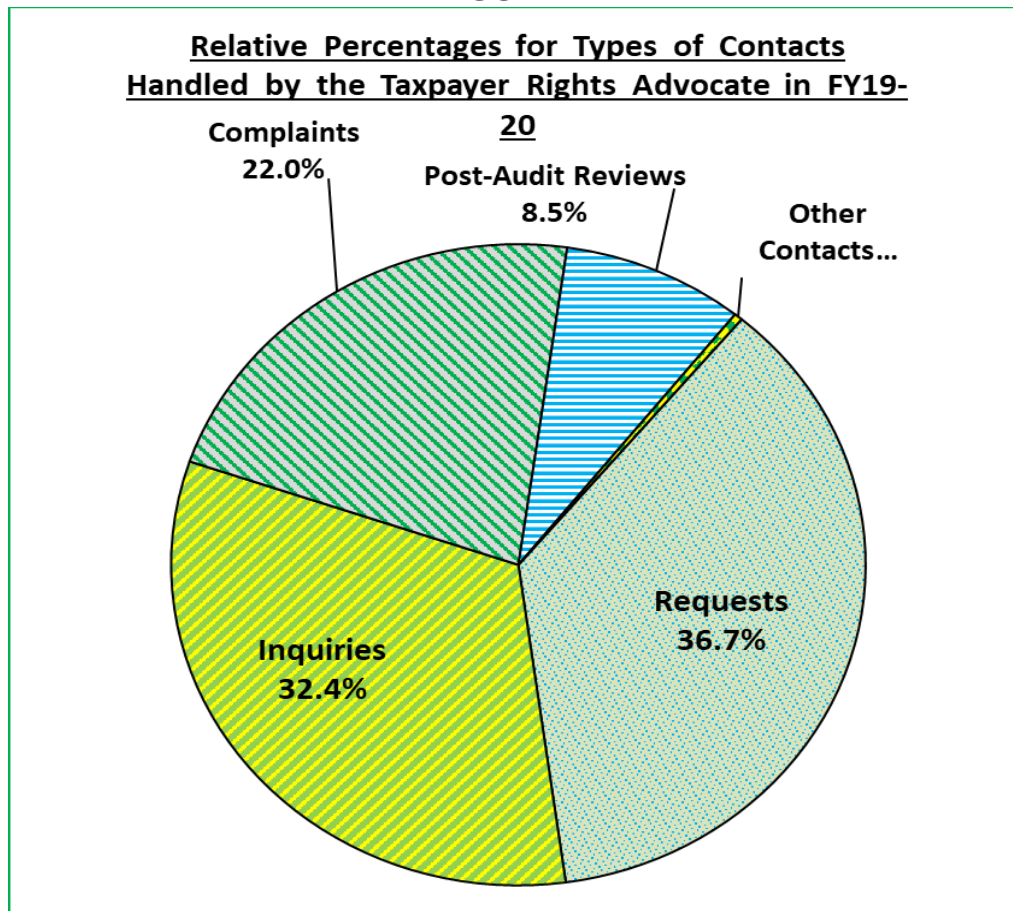
**TABLE 1**

<b>Types of Contacts Handled by the Taxpayer Rights Advocate in FY19-20</b>		
<b>Contact Type</b>	<b>Number of Contacts</b>	<b>Percent of Total Contacts</b>
Requests	290	36.7%
Inquiries	256	32.4%
Complaints	174	22.0%
Post-Audit Reviews	67	8.5%
Other Contacts	3	0.4%
Totals =	790	100.0%

Note: Most or all state tax-related contacts, regardless of whether the contact meets the strict definition of a complaint, can provide useful information on ways to improve tax administration and taxpayer services and, thus, are useful for addressing statutory requirements.

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**FIGURE 1**



## **Overview of TRA Procedures for Handling Tax-Related Contacts**

In handling taxpayer contacts, TRA generally needs to ask questions and conduct research to identify pertinent facts of the case such as the tax type, DOR activity involved, and taxpayer circumstances. This information enables TRA to identify the issue and taxpayer rights involved and find a reasonable solution consistent with facts and law. In many cases, handling tax-related contacts involves extensive research and communication to identify or verify the relevant facts and applicable law.

Additionally, handling tax-related contacts often requires TRA to research statutes, rules, and agency procedures to identify reasonable solutions. It is necessary to identify the standards applicable to the facts of the tax matter that is the subject of the contact. These standards include substantive law and the Taxpayer's Bill of Rights set forth in section 213.015, F.S. In handling tax-related contacts, TRA is bound by the same

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standards as GTA in administering the general tax process. Generally, tax-related contacts received by TRA involve complex issues.

#### TRA Tax-Related Contacts Analyzed by Tax Type

Four DOR-administered tax types are the most common for tax-related contacts handled by TRA. These are: sales and use tax, reemployment assistance tax, documentary stamp tax, and corporate income tax. Summarized below are these four, along with a category for other tax-related contacts.

- **Sales and Use Tax:** This contact type involves the taxes provided in Chapter 212, F.S. It includes the state sales tax, the use tax, and the discretionary sales surtax. The sales tax is applied to transactions such as: retail sales of taxable items; rentals, leases, or other licenses to use real property; and rentals of short-term living accommodations such as hotel rooms. The use tax is due on the use or consumption of taxable goods or services when sales tax was not paid at the time of purchase. In most counties, there is a discretionary sales surtax that applies to most transactions subject to the sales or use tax. The discretionary sales surtax is a local-option, county-imposed tax that is collected along with sales tax; it is then sent to DOR and DOR distributes the tax to counties for use in funding authorized local projects.
- **Reemployment Assistance Tax:** This contact type involves the reemployment assistance tax provided in Chapter 443, F.S. This is a tax on wages paid by Florida employers to provide partial, temporary income to workers who lose their jobs through no fault of their own and who are able and available to work.
- **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, and mortgages, liens, and other evidences of indebtedness.
- **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.
- **Other Tax-Related Contacts:** This category may include contacts about other tax types such as motor fuel tax, communication services tax, insurance premium tax, or other taxes or fees administered by DOR.

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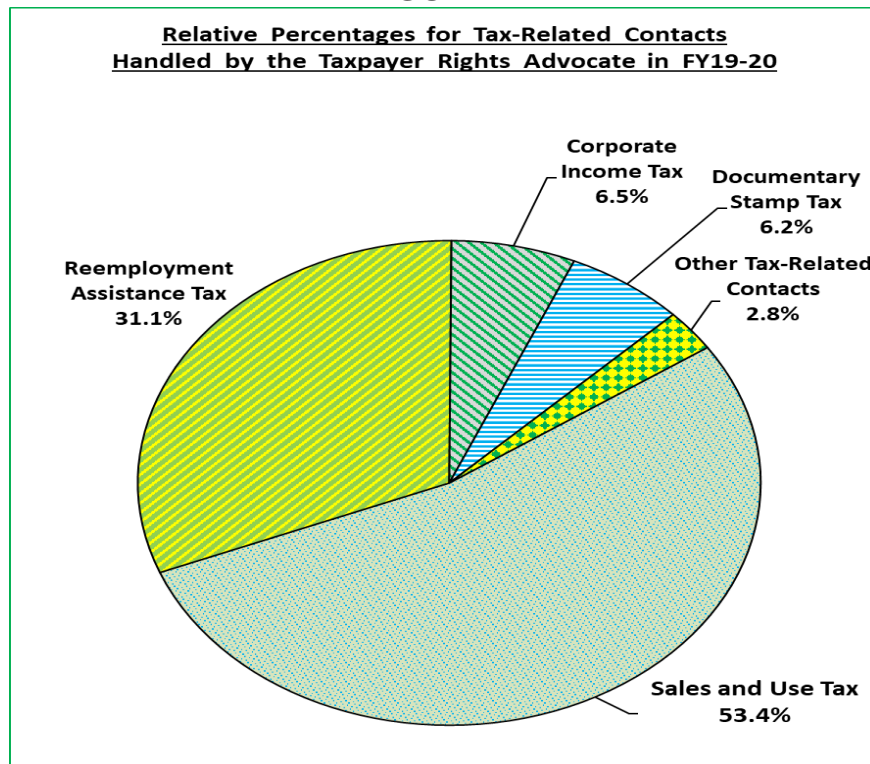
Table 2 and Figure 2 below contain an analysis by tax type of the tax-related contacts handled by TRA in FY 19-20. The "Other Tax-Related Contacts" category includes a variety of other tax types administered by DOR, as well as property tax contacts which TRA refers to DOR's Property Tax Oversight Program for handling.

**TABLE 2**

<b>Tax-Related Contacts Handled by the Taxpayer Rights Advocate in FY19-20</b>		
<b>Tax Type</b>	<b>Number of Contacts</b>	<b>Percent of Total Contacts</b>
Sales and Use Tax	422	53.4%
Reemployment Assistance Tax	246	31.1%
Corporate Income Tax	51	6.5%
Documentary Stamp Tax	49	6.2%
Other Tax-Related Contacts	22	2.8%
Totals =	790	100.0%

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**FIGURE 2**



Contacts in the Sales and Use Tax category comprised about two-thirds of all tax-related contacts handled by TRA in FY 18-19; however, that percentage dropped to just over half of the contacts in FY 19-20. The TRA saw a dramatic increase in the number of Reemployment Assistance Tax category which went from 7.3% in FY 18-19, to 31.1% in FY 19-20. This change in the Reemployment Assistance Tax category may be attributed to the rise in the number of unemployed related to the COVID-19 pandemic in the latter part of FY 19-20.

### **TRA Tax-Related Complaints Analyzed by Tax Type**

As explained above, complaints are a type of contact where taxpayers or taxpayer representatives express dissatisfaction with DOR or an employee regarding an audit, notice, assessment, collection activity, penalty, interest, customer service, etc.

Table 3 and Figure 3 below contain an analysis by tax type of the tax-related complaints handled by TRA in FY 19-20. The "Other Tax-Related Complaints" category includes a variety of other tax types administered by DOR, as well as 14 property tax complaints which TRA referred to DOR's Property Tax Oversight Program for handling.



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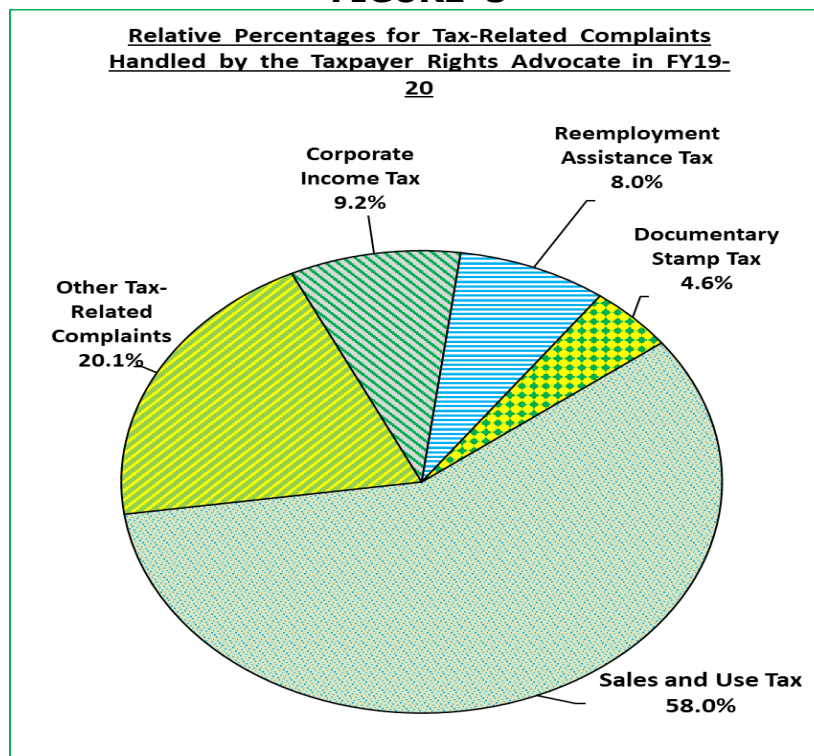
The TRA experienced a slight drop in the number of Complaints handled in FY 19-20, at 174, compared with FY 18-19, when the TRA handled 193, mainly in the Sales and Use Tax type. Sales and Use Tax type Complaints comprised of 66.8% in FY 18-19, and dropped to 58% in FY 19-20.

**TABLE 3**

<b>Tax-Related Complaints Handled by the Taxpayer Rights Advocate in FY19-20</b>		
<b>Tax Type</b>	<b>Number of Complaints</b>	<b>Percent of Total Complaints</b>
Sales and Use Tax	101	58.0%
Other Tax-Related Complaints	35	20.1%
Corporate Income Tax	16	9.2%
Reemployment Assistance Tax	14	8.0%
Documentary Stamp Tax	8	4.6%
Totals =	174	100.0%

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**FIGURE 3**



## **Section 3: Legislative and Administrative Matters**

### **TRA Recommendations for Legislative Action**

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.*"

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. TRA 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

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that all taxpayers are afforded their rights under Florida law. Accordingly, TRA 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 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.*

The impact of this recommended legislation will be to improve the implementation of the Florida Taxpayer's Bill of Rights. Notably, four of these five subsections are among the top eight subsections involved in tax-related contacts handled by TRA in FY 19-20, as highlighted in yellow in Table 4 below. Please note the number of provisions tracked within the TRA tracking system are significantly higher than the number of overall contacts to the TRA because the tracking system was designed to capture more than one of the statutory provisions in the Taxpayers' Bill of Rights, if more than one of the provisions is involved in a particular contact. Section 213.015(1), Fla. Stat., is the highest percent of requested taxpayer assistance.

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**TABLE 4**

<b>Taxpayer Bill of Rights Statutes Relating to Contacts Handled by the Taxpayer Rights Advocate in FY19-20</b>		
<b>Brief Summaries of Statutes in the Taxpayer Bill of Rights</b>	<b>Number of Contacts</b>	<b>Percent of Total Contacts</b>
<b><u>213.015(1)</u></b> : Right to available information and prompt, accurate responses to questions and requests for tax assistance	776	55.9%
<b><u>213.015(8)</u></b> : Right to appeal, through formal or informal proceedings, any adverse decisions relating to determinations in the audit or collections processes, etc.	380	27.4%
<b><u>213.015(10)</u></b> : Right, under certain conditions, to procedures for retirement of tax obligations by installment payment agreements, etc.	99	7.1%
<b><u>213.015(6)</u></b> : Right to be informed of certain impending collection actions and to receive 30 days' notice to pay the liability or seek further review	29	2.1%
<b><u>213.015(3)</u></b> : Right to be represented by qualified persons; to have procedural safeguards; be treated professionally by DOR staff; have audit activities conducted at reasonable time and place; etc.	28	2.0%
<b><u>213.015(17)</u></b> : Right for DOR to implement appropriate automated or electronic business methods for efficiency and effectiveness (such as E-filing) at less cost and effort for taxpayers	23	1.7%
<b><u>213.015(5)</u></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.	19	1.4%
<b><u>213.015(21)</u></b> : Right to fair and consistent application of state tax laws by DOR	17	1.2%
Other	16	1.2%
Totals =	1387	100.0%

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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., should provide the expressed statutory authority needed to provide for a preliminary draft. The TRA proposed the following Legislative Proposal in February 2020, and again proposes the following:

In subsection 20.21(3), F.S., a paragraph (d) would be created, 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.

The Executive Director made a similar request in his July 1, 2020, Response to the TRA Annual Report for FY 18-19. See the cover page of DOR's response attached as an [Addendum "B"](#). The DOR response to the TRA's preliminary draft of this Annual Report is included in this final TRA Annual Report for FY 19-20, and can be found as [Addendum "D"](#).

## **GTA Legislative Concepts Supported by TRA**

TRA supports the following four GTA legislative concepts for 2021 because these concepts would increase fairness, reduce the burden on taxpayers, and/or provide clarity. On September 22, 2020, DOR provided to TRA the text presented below for these GTA concepts. TRA takes no position regarding any other DOR legislative concepts.

### **Electronic Records/Sales Tax Audit**

**Statutory Reference:** Section 212.13, Florida Statutes

**Current Situation:** Sales and use tax statutes specify the records dealers are required to maintain and make available to the Department for inspection during reasonable hours at the dealer's place of business. As technology has advanced, many dealers maintain records in an electronic format and can easily provide electronic records to the Department. However, some dealers refuse to share their records without a physical visit. Due to the pandemic, physical visits are currently suspended.

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**Proposed Change:** Amend s. 212.13(2), F.S., updating statutory language to better reflect current circumstances. Add language requiring dealers to provide electronic records when the dealer currently maintains the records in an electronic format and remove language that references a physical visit requirement.

#### **Forwarding Agent Certificate**

**Statutory Reference:** Sections 212.06 and 213.053, Florida Statutes

**Current Situation:** Florida law provides that tangible personal property is not subject to sales tax when it is purchased from a vendor and directly delivered to a licensed exporter (forwarding agent) for export. Certain vendors may inadvertently charge tax for these purchases since verifying the tax-exempt status can be difficult. Some years ago, the Department executed an agreement with a forwarding agent based on circumstances at the time and provided an on-line verification of the forwarding agent's tax status. Three subsequent agreements followed. The Department has recently determined a different process is needed to address this matter, due to changing circumstances.

**Proposed Change:** Create a process that allows forwarding agents to apply for and receive, upon approval and verification, a Certificate of Forwarding Agent Address. The certificate can be provided to vendors to ensure the tax-free status of purchases directly delivered to the forwarding agent's address for export. An on-line system of certificate verification will be also be established.

#### **Heavy Minerals Tax Rate**

**Statutory Reference:** Section 211.3106, Florida Statutes

**Current Situation:** Current law imposes a tax on those who engage in the business of severing heavy minerals from the soils or waters of this state for commercial use. The heavy minerals tax rate is specified in statute to be calculated each year based on the producer price index (PPI) for titanium dioxide published by the U.S. Bureau of Labor Statistics (BLS). Due to a lack of data, BLS is no longer posting the PPI for titanium dioxide. The Department is permitted to adopt a tax rate by rule based on a comparable index; however, the Department is unable to identify an appropriate comparable index.

**Proposed Change:** Recommend that the current calculated tax rate be specified as the statutory rate. The current rate reflects the 2020 tax rate calculation that followed the statutory formula when the PPI for titanium dioxide was last published by the Bureau of Labor Statistics.

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## Theft Of State Funds

**Statutory Reference:** Section 212.15, Florida Statutes

**Current Situation:** When a dealer collects sales tax from customers but fails to remit those tax dollars to the state, the Department may pursue criminal prosecution through local state attorney offices. These prosecutions often involve multiple collection periods where the dealer has collected but failed to remit taxes. Aggregation of collection periods is not specifically provided for in sales tax law.

**Proposed Change:** Provide specific authority to allow aggregation of collection reporting periods to determine the degree of criminal offense for the prosecution of failure to remit taxes.

## Administrative Issues and TRA Recommended Actions

Described below are administrative issues encountered by taxpayers, along with TRA's recommended administrative solutions. These issues and recommendations were first presented in TRA's Annual Report for FY 17-18 issued on December 31, 2018; and were also subsequently addressed in the TRA's Annual Report for FY 18-19, issued on December 31, 2019. The DOR responded to the TRA's Annual Report for FY 17-18, in October 2019; and, DOR responded to the TRA's Annual Report for FY 18-19, on July 1, 2020. A copy of DOR's July 1, 2020, responses to each of these ten issues and recommendations is in the [Addendum "B"](#) of this report. A Summary of the Administrative Issues identified in FY 18-19; the DOR's response; and the status are included in the chart found on pages 34-50 of this report. See [Addendum "A"](#). On October 9, 2020, the TRA provided to DOR Executive management a copy of the preliminary draft of this TRA Annual Report for FY19-20. On November 4, 2020, the TRA received the DOR's response, which is included as [Addendum "D"](#). The TRA identifies the following eight Administrative Issues; TRA Recommended Actions; DOR's Response in Summary; and the TRA's Reply for FY19-20:

1. Administrative Issue: During the collections process after an audit, if the taxpayer provides a statement of facts alleging that DOR is in error, collections staff may, but are not required to, perform a discretionary evaluation to ensure DOR is only seeking to collect taxes that are owed. TRA often receives contacts regarding these reviews from taxpayers in the collections process. The objectivity of some of these reviews needs improvement and some of the written reviews need more descriptive information.

TRA Recommendation: This issue has been ongoing for more than two decades. In 1999, the Deputy General Counsel, provided a legal memorandum on how to

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address these issues. From 1999 until 2015, these reviews were conducted by a Tax Conferee in Technical Assistance and Dispute Resolution (TADR). Although these types of reviews were supposed to be extraordinary and rare, the process became overburdened, and there was a substantial backlog in handling these matters in TADR. In 2015, GTA assigned a Governmental Analyst in their Field Operations to conduct these reviews. DOR should ensure that these discretionary reviews are conducted in an impartial, objective manner by persons with training and skill in evaluating the relevance and sufficiency of evidence and making written findings thereon that provide succinct explanations and reasons for the determination.

This issue continues. The post-audit review process occurs when a taxpayer account is in the collections process, the appeals period has expired, and the taxpayer has contacted DOR collections staff who refer the matter to collections or audit staff for review of the taxpayer's information. If collections staff sends the taxpayer's information to TRA, TRA reviews the documentation to prepare for any direct contact from the taxpayer given the time-sensitive nature of the collections process. During FY 18-19 and without any notice or explanation, GTA changed the process for these reviews. During FY 19-20, there were more unilateral changes and the TRA is not copied on all of these review decisions. The number of post audit reviews has been decreasing since FY 17-18, when there were over 350 reviews; FY 18-19, there were 247; and in FY 19-20 there were 199 reviews, and the TRA only received 65. Apparently, some of these reviews are now done by local office managers and staff. TRA recommends that these reviews be done by persons independent of the audit and collections processes. These reviews should be viewed as a quality assurance step to minimize the possibility of collections error. TRA again recommends improvements on this issue.

DOR's Response in Summary (complete Response can be found in the [Addendum "D"](#)) The Department has responded to this issue that was identified in the TRA Annual Reports for FY18-19, and FY19-20, and should be closed. The DOR is open to revisiting this provided more detailed information is provided.

TRA's Reply: The TRA meets with the DOR Executive staff on a monthly basis. During these monthly meetings, the TRA provides details to the Executives on matters that may reach the Executive level. This issue is the most common issue and is ongoing and will remain open.

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



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taxation process. TRA often receives contacts from taxpayers who inquire about collection activities taken by DOR against the taxpayer, such as filing tax warrants or freezing bank accounts.

TRA Recommendation: DOR should continue efforts to educate taxpayers on the taxation process and ensure that each notice sent to taxpayers explains these consequences. Also, DOR notices sent to taxpayers should provide contact information for a DOR representative who is knowledgeable about the tax type and notice type sent to the taxpayer and the potential consequences the taxpayer could face for not responding or for noncompliance in the taxation process. TRA recognizes that GTA has a high volume of work activity and that efficiency is a consideration. TRA again recommends improvement on this issue.

DOR's Response in Summary (complete Response can be found in the [Addendum "D"](#)): The Department has responded to this issue that was identified in the TRA Annual Reports for FY18-19, and FY19-20, and should be closed.

TRA's Reply: The TRA recognizes the high volume of notices that are sent out, and that specific service centers are listed on some of the notices but should also include specific contacts. The TRA anticipates that this will improve with the full implementation of the Department's imaging system. This issue will continue to be monitored by the TRA.

3. Administrative Issue: Taxpayers are often not aware of the provisions of the Taxpayer's Bill of Rights, including the right to procedures for the retirement of tax obligations by installment payment agreements which may be available under certain conditions. TRA often receives calls from audited taxpayers with questions about the audit including the question of why the taxpayer is being audited.

TRA Recommendation: DOR should provide education and training for taxpayers on the Taxpayer's Bill of Rights and should require that a copy of the Taxpayer's Bill of Rights is provided and explained to each audited taxpayer both at the beginning and end of each audit. Taxpayers should also receive an explanation of why they are being audited. TRA again recommends improvements on this issue.

DOR's Response in Summary (complete Response can be found in the [Addendum "D"](#)): The Department has responded to this issue that was identified in the TRA Annual Reports for FY18-19, and FY19-20, and should be closed.

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TRA's Reply: Annual training on the Taxpayers Bill of Rights was developed as a recommendation from the TRA as a result of the former Lt. Governor's request to meet and discuss audit issues with recently audited businesses. The TRA is committed to working with GTA staff to improve this annual training, and further expansion. This issue will continue to be monitored by the TRA.

4. Administrative Issue: Many taxpayers are not aware of DOR's authority, under certain factual situations and where consistent with law, to compromise and settle tax, interest, penalties, or fees. This authority has been delegated in writing to certain positions within DOR, but this authority does not appear to be exercised as delegated.

TRA Recommendation: Where consistent with facts and as allowed by law, DOR should exercise its delegated authority to compromise and settle these matters.

In the Addendum of this report is a complete copy of the DOR Executive Director's Delegation of Authority to Settle or Comprise Tax, Penalty, Interest, and Fees. This Delegation of Authority is dated May 15, 2019. TRA again recommends improvements on this issue.

DOR's Response in Summary (complete Response can be found in the [Addendum "D"](#)): The Department has responded to this issue that was identified in the TRA Annual Reports for FY18-19, and FY19-20, and should be closed. The DOR is open to revisiting this provided more detailed information is provided.

TRA's Reply: The TRA meets with the DOR Executive staff on a monthly basis. During these monthly meetings, the TRA provides details to the Executives on matters that may reach the Executive level. In the Department's Delegation of Authority there are different levels of compromise authority by various processes; however, if one process imposes penalties, other processes even when presented with reasonable cause refuse to exercise their delegated authority. This issue is one the most common issue and is ongoing and will remain open.

5. Administrative Issue: In tax-related contacts, sometimes a taxpayer will state to TRA that he or she did not receive notice or correspondence from DOR on a matter. In researching the matter, TRA will learn that DOR records show that DOR sent the document to the taxpayer but the system is unable to generate an original copy of the document sent to the taxpayer and TRA is unable to send to the taxpayer a copy of the original. Other times, taxpayers will state that they sent certain documents to DOR, but these documents will not be available in accessible electronic format.

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TRA Recommendation: TRA recognizes that GTA has a high volume of work activity and that efficiency is a consideration. GTA has taken steps to address this issue through better technology, but this solution will take some to implement. TRA supports GTA efforts to make improvements on this issue.

DOR's Response in Summary (complete Response can be found in the [Addendum "D"](#)): The Department has responded to this issue that was identified in the TRA Annual Reports for FY18-19, and FY19-20, and should be closed.

TRA's Reply: The TRA recognizes the high volume of notices that are sent out. The TRA anticipates that this will improve with the full implementation of the Department's imaging system. This issue will continue to be monitored by the TRA.

6. Administrative Issue: This problem is specific to the documentary stamp tax. Many taxpayers are not aware that certain documents involving real property transfers are subject to the excise tax on documents. Because of the operation of this tax and the associated time lags involved, it may be a few years (usually one to three) before the taxpayer learns the Department has audited the transfer instrument and made a tax assessment. In some cases, the taxpayer becomes aware of the tax liability when the taxpayer learns that a DOR tax lien appears on the taxpayer's credit report. These types of taxpayers are among the most upset customers served by TRA.

TRA Recommendation: DOR should expand efforts to provide information and education for Clerk of Court staff, lenders, and those involved in real estate closings including agents and attorneys. If not already done, DOR should develop an outreach plan to provide information and education to make these persons and taxpayers aware of the conditions under which this tax would be due. TRA again recommends improvements on this issue.

DOR's Response in Summary (complete Response can be found in the [Addendum "D"](#)): The Department has responded to this issue that was identified in the TRA Annual Reports for FY18-19, and FY19-20, and should be closed. The DOR is open to revisiting this provided more detailed information is provided. The Department routinely coordinates with the 67 clerks of court for process improvements, and in 2017 revitalized the training with the clerks of courts.

TRA's Reply: The TRA meets with the DOR Executive staff on a monthly basis. During these monthly meetings, the TRA provides details to the Executives on matters that may reach the Executive level. The TRA has recommended

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outreach efforts to more than just the clerk of courts, although it is the clerks of courts that should be identifying the underpayment of documentary stamp tax before the clerk officially records the document. The TRA would be interested in reviewing the November 2017 training that the Department provided to the clerks of courts. This issue is a common issue and is ongoing and will remain open.

7. Administrative Issue: This problem is specific to the documentary stamp tax. Often documentary stamp taxpayers do not receive notices and collections letters about a documentary stamp tax liability. This is because DOR sends notices and correspondence to the last known address of the taxpayer which may be the address of the transferred property. A common scenario is that the taxpayer no longer lives at the property and, thus, does not receive the DOR notices and correspondence. Sometimes the taxpayer becomes aware of the tax liability when the taxpayer learns that a DOR tax lien appears on the taxpayer's credit report. The taxpayer can have difficulty obtaining a copy of DOR's tax warrant against the taxpayer because DOR does not maintain a publicly accessible database of its tax warrants.

TRA Recommendation: DOR should develop a plan to better identify contact information for these types of taxpayers so that the taxpayer can receive notices and correspondence regarding the tax liability. Also, DOR should make available a public database of its tax warrants with sufficient information to enable taxpayers to find and obtain a copy of the tax warrant. TRA again recommends improvements on this issue.

DOR's Response in Summary (complete Response can be found in the [Addendum "D"](#)): The Department has responded to this issue that was identified in the TRA Annual Reports for FY18-19, and FY19-20, and should be closed. Maintaining a database as suggested by the TRA would be duplicative of other public records databases, and costly.

TRA's Reply: The TRA meets with the DOR Executive staff on a monthly basis. During these monthly meetings, the TRA provides details to the Executives on matters that may reach the Executive level. The DOR maintains a database for Sales and Use Tax Warrants of taxpayers with large unresolved tax liabilities. This database list is found on the Department's website entitled "Florida Delinquent Taxpayers". This database is duplicative of the SUT warrants that are filed with the clerks of court throughout the state. The TRA request a copy of the cost associated with the development, implementation, and maintenance of the SUT warrant database. A similar database for documentary stamp tax

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should not be as expensive to develop and maintain than the database used for SUT. This issue is a common issue and is ongoing and will remain open.

8. Administrative Issue: This problem is specific to the reemployment assistance tax. The rate for the reemployment assistance tax may change from year-to-year. Taxpayers are sometimes not aware of this year-to-year change and, as a result, use an incorrect rate in calculating their tax for a particular year.

TRA Recommendation: TRA recognizes that GTA has made improvements on this issue and will continue to monitor any taxpayer contacts on this issue. It is the TRA understanding that this issue will be addressed in the GTA imaging project.

DOR's Response in Summary (complete Response can be found in the [Addendum "D"](#)): The Department has responded to this issue that was identified in the TRA Annual Reports for FY18-19, and FY19-20, and should be closed.

TRA's Reply: The TRA recognizes that efforts have been made on this issue. The TRA anticipates that this will improve with the full implementation of the Department's imaging system and taxpayer portal. This issue will continue to be monitored by the TRA.

## **Section 4: TRA Analysis of GTA Post-Audit Survey Results**

### **Background and History**

In the prior Gubernatorial Administration, the then Lt. Governor Carlos Lopez-Cantera, met with the Department's Executives and conveyed a concern about dissatisfied business owners that had been audited. The Lt. Governor specifically asked that the TRA personally meet with recently audited taxpayers to get their input and experience. The TRA coincidentally had some upcoming business travel within a few weeks of meeting with the Lt. Governor, and the TRA coordinated the business travel and the Lt. Governor's request. GTA assisted with the coordination by providing a list of 15 recently audited businesses in the Central Florida area. The TRA reached out to all 15 of the businesses, and 3 businesses agreed to meet with the TRA. Two of the businesses requested that the TRA meet with their Power of Attorney (POA), and the other business owner agreed to meet with the TRA personally. The TRA met with the two businesses' respective POAs and attempted to meet with other business owner who was absent and unavailable when the TRA appeared at the business location at the predetermined date and time. Approximately two weeks after these meetings, the TRA

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met with the Lt. Governor to brief him on the outcome, and to present a 2-Prong Outreach effort for recently audited businesses. The 2-Prong effort included:

1. Modification of the then current GTA Satisfaction Survey to include a question asking the taxpayer if they would like to be contacted by the Taxpayers' Rights Advocate; and,
2. TRA developed a similar Survey as the GTA Satisfaction Survey, and the TRA would randomly sample recently audited taxpayers seeking their input.

## **TRA Post-Audit Surveys in Previous Years**

In the three fiscal years preceding the 2018-2019 fiscal year, TRA also conducted a post-audit survey of audited taxpayers for the CIT, SUT, and RT. TRA conducted its survey independently of GTA. TRA's post-audit survey was based on random samples of audited accounts that TRA periodically drew from the population of audited accounts for each of these three tax types.

In most cases, the taxpayer satisfaction levels indicated in TRA's survey responses were substantially like those from GTA's post-audit surveys. Given that TRA's survey results and GTA's survey results have been notably consistent, TRA did not conduct a post-audit survey in fiscal years 2018-2019, and 2019-2020. Maintaining and tracking the sampling process was labor intensive, and the TRA administrative staffing had been reduced. Not only was the TRA outreach survey process labor intensive it also required expert statistical analysis, which is no longer available to the TRA. The TRA analysis for five years consistently showed high satisfaction levels comparably to GTA's satisfaction survey analysis. The TRA will continue to review and monitor the GTA post audit satisfaction process.

## **TRA Analysis of GTA's Post-Audit Survey Results**

To assist TRA, GTA provides a copy of its quarterly survey reports to TRA. The GTA surveys contains a question for survey respondents to indicate that the respondent would like to be contacted by TRA to provide post-audit feedback directly to TRA. In FY 2018-2019, only one of the GTA survey respondents requested contact from TRA; and in FY 2019-2020, there were none.

GTA's post-audit survey results do not provide any indication of a systemic issue in the audit process of dissatisfied audited taxpayers. This does not reflect that all audited taxpayers are completely satisfied, as no business appreciates being audited by a governmental agency. The TRA will continue to respond and assist any specifically

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audited taxpayer that is unable to resolve their tax matter through the normal administrative or judicial processes.

## **Section 5: Statutes Pertaining Directly to TRA**

This section contains the text of sections 20.21(3), 213.018, and 213.015, F.S., all of which pertain directly to TRA.

### **Section 20.21(3), F.S., Regarding the Taxpayer Rights Advocate**

20.21 Department of Revenue.— There is created a Department of Revenue.

**Note:** *Subsections (1), (2), (4), (5), and (6) do not pertain directly to the Taxpayer Rights Advocate and are omitted here.*

(3) 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 taxpayers' rights advocate must report to the Chief Inspector General and may be removed from office only by the Chief Inspector General. The responsibilities of the taxpayers' rights advocate include, but are not limited to, the following:

(a) Facilitating the resolution of taxpayer complaints and problems which have not been resolved through normal administrative channels within the department, including any taxpayer complaints regarding unsatisfactory treatment of taxpayers by employees of the department.

(b) Issuing a stay action on behalf of a taxpayer who has suffered or is about to suffer irreparable loss as a result of action by the department.

(c) On or before January 1 of each year, the taxpayers' rights advocate shall furnish to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Inspector General a report that must include the following:

1. The objectives of the taxpayers' rights advocate for the upcoming fiscal year.
2. The number of complaints filed in the previous fiscal year.
3. A summary of resolutions or outstanding issues from the previous fiscal year report.

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4. A summary of the most common problems encountered by taxpayers, including a description of the nature of the problems, and the number of complaints for each such problem.
5. The initiatives the taxpayers' rights advocate has taken or is planning to take to improve taxpayer services and the department's responsiveness.
6. Recommendations for administrative or legislative action as appropriate to resolve problems encountered by taxpayers.
7. Other information as the taxpayers' rights advocate may deem advisable.

The report must contain a complete and substantive analysis in addition to statistical information.



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## **Section 213.018, F.S., Regarding the Taxpayers' Rights Advocate**

*The text of section 213.018, F.S. (2018), is presented below in its entirety.*

213.018 Taxpayer problem resolution program; taxpayer assistance orders.— A taxpayer problem resolution program shall be available to taxpayers to facilitate the prompt review and resolution of taxpayer complaints and problems which have not been addressed or remedied through normal administrative proceedings or operational procedures and to assure that taxpayer rights are safeguarded and protected during tax determination and collection processes.

(1) The Chief Inspector General shall appoint a taxpayers' rights advocate, and the executive director of the Department of Revenue shall designate adequate staff to administer the taxpayer problem resolution program.

(2) The taxpayers' rights advocate may, with or without a formal written request from the taxpayer, issue a taxpayer assistance order that suspends or stays actions or proposed actions by the department when a taxpayer suffers or is about to suffer a significant hardship as a result of a tax determination, collection, or enforcement process.

(a) Relief or remedy may be granted by a taxpayer assistance order only as an extraordinary measure. The process shall not be used to contest the merits of a tax liability or as a substitute for informal protest procedures or normal administrative or judicial proceedings for the review of a tax assessment or collection action or denial of refund.

(b) The running of the period of limitations on assessment shall be tolled from the date of a taxpayer's request for a taxpayer assistance order until either the date the request is denied or the date specified in the taxpayer assistance order, whichever is applicable.

## **Section 213.015, F.S., Regarding the Taxpayer's Bill of Rights**

*The text of section 213.015, F.S. (2018), is presented below in its entirety.*

**213.015 Taxpayer rights.**— There is created a Florida Taxpayer's Bill of Rights to guarantee that the rights, privacy, and property of Florida taxpayers are adequately safeguarded and protected during tax assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements which explain, in simple, nontechnical terms, the rights and obligations of the Department of Revenue

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and taxpayers. Section 192.0105 provides additional rights afforded to payors of property taxes and assessments. 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. The rights so guaranteed Florida taxpayers in the Florida Statutes and the departmental rules are:

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

(2) The right to request assistance from a taxpayers' rights advocate of the department, who shall be responsible for facilitating the resolution of taxpayer complaints and problems not resolved through the normal administrative channels within the department, including any taxpayer complaints regarding unsatisfactory treatment by department employees. The taxpayers' rights advocate may issue a stay order if a taxpayer has suffered or is about to suffer irreparable loss as a result of an action by the department (see ss. 20.21(3) and 213.018).

(3) The right to be represented or advised by counsel or other qualified representatives at any time in administrative interactions with the department, the right to procedural safeguards with respect to recording of interviews during tax determination or collection processes conducted by the department, the right to be treated in a professional manner by department personnel, and the right to have audits, inspections of records, and interviews conducted at a reasonable time and place except in criminal and internal investigations (see ss. 198.06, 199.218, 201.11(1), 203.02, 206.14, 211.125(3), 211.33(3), 212.0305(3), 212.12(5)(a), (6)(a), and (13), 212.13(5), 213.05, 213.21(1)(a) and (c), and 213.34).

(4) The right to freedom from penalty attributable to any taxes administered by the Department of Revenue; freedom from payment of uncollected sales, use, motor or diesel fuel, or other transaction-based excise taxes administered by the Department of Revenue; and to abatement of interest attributable to any taxes administered by the Department of Revenue, when the taxpayer reasonably relies upon binding written advice furnished to the taxpayer by the department through authorized representatives in response to the taxpayer's specific written request which provided adequate and accurate information (see ss. 120.565 and 213.22).

(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

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refunds; identifies any amount of tax, interest, or penalty due; and states the consequences of the taxpayer's failure to comply with the notice.

(6) The right to be informed of impending collection actions which require sale or seizure of property or freezing of assets, except jeopardy assessments, and the right to at least 30 days' notice in which to pay the liability or seek further review (see ss. 198.20, 199.262, 201.16, 206.075, 206.24, 211.125(5), 212.03(5), 212.0305(3)(j), 212.04(7), 212.14(1), 213.73(3), 213.731, and 220.739).

(7) The right to have all other collection actions attempted before a jeopardy assessment unless delay will endanger collection and, after a jeopardy assessment, the right to have an immediate review of the jeopardy assessment (see ss. 212.15, 213.73(3), 213.732, and 220.719(2)).

(8) The right to seek review, through formal or informal proceedings, of any adverse decisions relating to determinations in the audit or collections processes and the right to seek a reasonable administrative stay of enforcement actions while the taxpayer pursues other administrative remedies available under Florida law (see ss. 120.80(14)(b), 213.21(1), 220.717, and 220.719(2)).

(9) The right to have the taxpayer's tax information kept confidential unless otherwise specified by law (see s. 213.053).

(10) The right to procedures for retirement of tax obligations by installment payment agreements which recognize both the taxpayer's financial condition and the best interests of the state, provided that the taxpayer gives accurate, current information and meets all other tax obligations on schedule (see s. 213.21(4)).

(11) The right to procedures for requesting cancellation, release, or modification of liens filed by the department and for requesting that any lien which is filed in error be so noted on the lien cancellation filed by the department, in public notice, and in notice to any credit agency at the taxpayer's request (see ss. 198.22, 199.262, 212.15(4), 213.733, and 220.819).

(12) The right to procedures which assure that the individual employees of the department are not paid, evaluated, or promoted on the basis of the amount of assessments or collections from taxpayers (see s. 213.30(2)).

(13) The right to an action at law within the limitations of s. 768.28, relating to sovereign immunity, to recover damages against the state or the Department of Revenue for injury caused by the wrongful or negligent act or omission of a department officer or employee (see s. 768.28).

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(14) The right of the taxpayer or the department, as the prevailing party in a judicial or administrative action brought or maintained without the support of justiciable issues of fact or law, to recover all costs of the administrative or judicial action, including reasonable attorney's fees, and of the department and taxpayer to settle such claims through negotiations (see ss. 57.105 and 57.111).

(15) The right to have the department begin and complete its audits in a timely and expeditious manner after notification of intent to audit (see s. 95.091).

(16) The right to have the department actively identify and review multistate proposals that offer more efficient and effective methods for administering the revenue sources of this state (see s. 213.256).

(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.

(18) The right to waiver of interest that accrues as the result of errors or delays caused by a department employee (see s. 213.21(3)).

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

(20) The right to pay a reasonable fine or percentage of tax, whichever is less, to reinstate an exemption from any tax which a taxpayer would have been entitled to receive but which was lost because the taxpayer failed to properly register as a tax dealer in this state or obtain the necessary certificates entitling the taxpayer to the exemption (see s. 212.07(9)).

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

# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

## Addenda

### Addendum "A"

DOR Response to TRA Report for FY 2018-2019 Summary

	<b>TRA Identified Issue</b>	<b>TRA Recommendation</b>	<b>DOR Response</b>	<b>Status</b>
1	<p>Taxpayers often lack knowledge of the taxation process and lack knowledge of the consequences of not meeting deadlines, not responding to notices, and otherwise not taking responsive actions during the taxation process. TRA often receives contacts from taxpayers who inquire about collection activities taken by DOR against the taxpayer, such as filing tax warrants or freezing bank accounts.</p>	<p>DOR should work with the Department of State, Division of Corporations, to find ways of proactively identifying subchapter S corporations, thereby reducing the DOR work effort and reducing this unnecessary burden of taxpayers having to prove that they are legitimate subchapter S corporations.</p>	<p>The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.</p> <p>As background, the Department strives to continually improve education efforts to help taxpayers understand the taxation process and their tax responsibilities as Florida businesses. To help educate taxpayers and to encourage voluntary compliance, the consequences of noncompliance are stated in each notice of noncompliance issued by the Department.</p> <p>The Department sends over one million first notices, billings, and delinquencies to taxpayers every year. The contact information for the Department is designed to expedite handling and ultimate resolution of the taxpayer's issues. For example, given the high volume of initial notices of noncompliance, the Department's Taxpayer Services Contact Center is used to ensure prompt response and efficient resolution. If the case requires additional follow-up, contact information</p>	Monitoring

## Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

	TRA Identified Issue	TRA Recommendation	DOR Response	Status
			<p>for a specific Department representative is provided.</p> <p>As part of the ongoing effort in improving taxpayer education, the Department will continue to focus on opportunities for improvement in refining its communication.</p> <p>Additional information: The specific service center contact information is listed on the Notice of Final Assessment. Subsequent service center contact actions provide the taxpayer with specific agent information. Additionally, Taxpayer Services staff are trained to initially reach out to the taxpayer in order to avoid subsequent enforcement consequences (e.g., tax warrants and bank garnishments.)</p>	
2	<p>Taxpayers are often not aware of the provisions of the Taxpayer's Bill of Rights, including the right to procedures for the retirement of tax obligations by installment payment agreements which may be available under certain conditions. TRA often receives calls from audited taxpayers with questions about the audit including the question of why the taxpayer is being audited.</p>	<p>DOR should provide education and training for taxpayers on the Taxpayer's Bill of Rights, and should require that a copy of the Taxpayer's Bill of Rights is provided and explained to each audited taxpayer both at the beginning and end of each audit. Taxpayers should also receive an explanation of why they are being audited.</p>	<p>The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.</p> <p>As background, for the past several years, the Department has placed focus on heightening awareness of the Taxpayer Bill of Rights both internally and externally. The Department developed and implemented an annual training for employees on the importance of the Taxpayer Bill of Rights.</p> <p>Regarding external awareness, the Taxpayer Bill of Rights is provided to</p>	Monitoring

## Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

	TRA Identified Issue	TRA Recommendation	DOR Response	Status
			<p>taxpayers at the beginning and end of the audit process, as well as during collection and enforcement actions. Additionally, during the audit process, the taxpayers are educated on tax issues that relate to their specific business activities.</p> <p>From a global, external perspective, the Department's website contains a Quick Link for the Taxpayer Bill of Rights on its home page, as well as a resource link on the General Tax Administration Program's landing page entitled, "What to Expect from a Florida Tax Audit." Information on this link that is available to the public includes:</p> <p>How Was I Selected for an Audit?            What Types of Records Will I Need to Provide?            What are My Rights During an Audit?            Communicating and Meeting Deadlines            Can I Request Technical Assistance During the Audit?            What Happens When the Audit is Complete?            Other Audit-Related Information</p> <p>The Department embraces the importance of taxpayers having access to the Taxpayer Bill of Rights and as part of its normal course of business performs ongoing reviews for additional opportunities to heighten awareness.</p>	

## Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

	TRA Identified Issue	TRA Recommendation	DOR Response	Status												
			Additional information: The Department has processes in place that provide Taxpayer Bill of Rights education to employees and standard procedures for educating taxpayers. The Taxpayer Bill of Rights education to employees began in April 2015 and is deployed through the Department's Learning Management System. The Department provides the Taxpayer Bill of Rights to the taxpayer at the initiation of the audit. The Bill of Rights is discussed and explained to the taxpayer at beginning of the audit. During the close of the audit, the audit staff provides the taxpayer their options, such as payment in full, requirements for installment plan/stipulation agreements, and protest rights.													
3	Many taxpayers are not aware of DOR's authority, under certain factual situations and where consistent with law, to compromise and settle tax, interest, penalties, or fees. This authority has been delegated in writing to certain positions within DOR, but this authority does not appear to be exercised as delegated.	Where consistent with facts and as allowed by law, DOR should exercise its delegated authority to compromise and settle these matters.	<p>The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.</p> <p>As background, Florida law establishes the authority to compromise tax, interest, and penalty. The following table provides this compromise authority for positions within the General Tax Administration Program:</p> <table border="1"> <thead> <tr> <th>Position</th> <th>Tax</th> <th>Interest</th> <th>Penalty</th> </tr> </thead> <tbody> <tr> <td>Program Director</td> <td>\$200,000</td> <td>\$125,000</td> <td>Any Amount</td> </tr> <tr> <td>Deputy Program Director</td> <td>\$200,000</td> <td>\$125,000</td> <td>Any Amount</td> </tr> </tbody> </table>	Position	Tax	Interest	Penalty	Program Director	\$200,000	\$125,000	Any Amount	Deputy Program Director	\$200,000	\$125,000	Any Amount	Ongoing
Position	Tax	Interest	Penalty													
Program Director	\$200,000	\$125,000	Any Amount													
Deputy Program Director	\$200,000	\$125,000	Any Amount													



## Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

	TRA Identified Issue	TRA Recommendation	DOR Response				Status
			Revenue Program Administrators	\$75,000	\$62,500	\$250,000	
			Senior Tax Audit Administrators	n/a	\$62,500	\$250,000	
			Service Center Managers	n/a	\$62,500	\$250,000	
			Tax Audit Supervisors	n/a	\$1,250	\$37,500	
			Revenue Tax Audit Supervisors	n/a	\$1,250	\$37,500	
			<p>Tax and/or interest can only be compromised based on a finding of doubt as to liability or collectability. Penalty can be compromised based on a finding of reasonable cause. Sees. 213.21(3)(a), F.S., and Rules 12-13.007 and 12-13.0075, F.A.C.</p> <p>The General Tax Administration Program adheres to the appropriate compromise authority based on the specific facts and circumstances of each case and will continue to work with the Taxpayer Rights Advocate Office on any instances of perceived inconsistent application.</p>				
4	During the collections process after an audit, if the taxpayer provides a statement of facts alleging that DOR is in error, collections staff may, but are not	DOR should ensure that these discretionary reviews are conducted in an impartial, objective	The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.				Ongoing

## Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

	<b>TRA Identified Issue</b>	<b>TRA Recommendation</b>	<b>DOR Response</b>	<b>Status</b>
	<p>required to, perform a discretionary evaluation to ensure DOR is only seeking to collect taxes that are owed. TRA often receives contacts regarding these reviews from taxpayers in the collections process. The objectivity of some of these reviews needs improvement and some of the written reviews need more descriptive information.</p>	<p>manner by persons with training and skill in evaluating the relevance and sufficiency of evidence and making written findings thereon that provide succinct explanations and reasons for the determination.</p>	<p>As background, the term, "discretionary review" refers to taxpayers' requests for further review of their cases after their protest rights have expired.</p> <p>There is no statutory requirement for a "discretionary review." Reviewing cases after protest rights have expired is generally performed when there is clear evidence that the Department made an error. The Technical Assistance and Dispute Resolution (TADR) Process is generally the point of intake for these requests. The Process coordinates with the General Tax Administration Program and the Office of the General Counsel (OGG) to review the statement of facts. Within the General Tax Administration Program, a neutral senior level analyst within the GTA director's office performs a review of the specifics of the case, which is again reviewed by the Program Office, TADR, and if necessary, the OGC.</p> <p>Additional information: The Department works closely with the Taxpayer Rights' Advocate's Office on any instances of perceived Departmental error. Additionally, in June 2016, a senior level position was established in the General Tax Administration Program Office to serve as an internal taxpayer rights advocate liaison. Regarding the protest process, the Department provides taxpayers with the statutory guidelines and timeframes for challenging proposed actions throughout the process. It is noted that the stated perception in</p>	

## Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

	TRA Identified Issue	TRA Recommendation	DOR Response	Status
			this recommendation is inaccurate. There were no changes to the process of review during FY 2018-19.	
5	In tax-related contacts, sometimes a taxpayer will state to TRA that he or she did not receive notice or correspondence from DOR on a matter. In researching the matter, TRA will learn that DOR records show that DOR sent the document to the taxpayer but the system is unable to generate an original copy of the document sent to the taxpayer and TRA is unable to send to the taxpayer a copy of the original. Other times, taxpayers will state that they sent certain documents to DOR, but these documents will not be available in accessible electronic format.	DOR should develop a system that maintains, in accessible electronic format, all original documents sent to or received from taxpayers.	<p>The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.</p> <p>As background, the Department sends more than three million system generated notices to taxpayers per year. Although notices can be reproduced, they will reflect the current date of reproduction.</p> <p>As part of thee-Services Taxpayer Portal project, the Department will analyze the types of notices and outbound correspondence to determine the feasibility and prioritization for programming resources to provide for self-service document access and retrieval. Additionally, the modernization of the Image Management System will receive the same analysis and determination.</p>	Monitoring
6	This problem is specific to the documentary stamp tax. Many taxpayers are not aware that certain documents involving real property transfers are subject to the excise tax on documents. Because of the operation of this tax and the associated time lags	DOR should expand efforts to provide information and education for Clerk of Court staff, lenders, and those involved in real estate closings including agents and	<p>The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.</p> <p>As background, the Department routinely coordinates with the 67 Clerks of Court and has made significant strides in its documentary stamp</p>	Ongoing

## Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

	<b>TRA Identified Issue</b>	<b>TRA Recommendation</b>	<b>DOR Response</b>	<b>Status</b>
	involved, it may be a few years (usually one to three) before the taxpayer learns the Department has audited the transfer instrument and made a tax assessment. In some cases, the taxpayer becomes aware of the tax liability when the taxpayer learns that a DOR tax lien appears on the taxpayer's credit report. These types of taxpayers are among the most upset customers served by TRA.	attorneys. If not already done, DOR should develop an outreach plan to provide information and education to make these persons and taxpayers aware of the conditions under which this tax would be due.	<p>review process. Examples of improvements include:</p> <ul style="list-style-type: none"> <li>• Improved data filters to assist in the identification of transactions where there is non-compliance (i.e. identify the types of deeds with the most common non-compliant issues).</li> <li>• Increased thresholds of the value of the property to focus on high dollar transactions</li> <li>• Third-party validation of address and contact information to ensure proper noticing to the taxpayer</li> <li>• Reduction of caseload inventory to ensure the handling of more current Transactions</li> </ul> <p>Additionally, with the November 2017 of its Taxpayer Education and Outreach Process, the Department is reviewing documentary stamps materials as part of a revitalized training with the Clerks of the Court.</p>	
7	This problem is specific to the documentary stamp tax. Often documentary stamp taxpayers do not receive notices and collections letters about a documentary stamp tax liability. This is because DOR sends notices and correspondence to the last known address of the taxpayer which may be the address of the transferred property. A	DOR should develop a plan to better identify contact information for these types of taxpayers so that the taxpayer can receive notices and correspondence regarding the tax liability. Also, DOR	<p>The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.</p> <p>As background, the Department employs a third-party postal verification solution to refine address information.</p> <p>The Department is unaware of this being a significant issue and encourages the TRA to</p>	Ongoing

## Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

	TRA Identified Issue	TRA Recommendation	DOR Response	Status
	<p>common scenario is that the taxpayer no longer lives at the property and, thus, does not receive the DOR notices and correspondence. Sometimes the taxpayer becomes aware of the tax liability when the taxpayer learns that a DOR tax lien appears on the taxpayer's credit report. The taxpayer can have difficulty obtaining a copy of DOR's tax warrant against the taxpayer because DOR does not maintain a publicly accessible database of its tax warrants</p>	<p>should make available a public database of its tax warrants with sufficient information to enable taxpayers to find and obtain a copy of the tax warrant.</p>	<p>coordinate with the TRA liaison that was established in 2016 within the GTA Director's Office specifically to work with the TRA in resolving outstanding taxpayer issues. Additionally, it would be beneficial for the TRA to provide case specifics and statistical information to support sound decision making and case resolution.</p> <p>Regarding a public database, currently, warrants, liens and judgement lien certificates are filed with the court and many court records are available online. Replicating the information on the Department's website would be duplicative and costly due to the resources needed to create and maintain the database. Additionally, it is not clear if 213.053(20), F.S., permits the Department to choose to disclose only certain taxpayers (i.e., documentary stamp tax).</p>	
8	<p>This problem is specific to the reemployment assistance tax. Taxpayers subject to the reemployment assistance tax are often not aware of a key filing requirement and, as result, are assessed penalties when they do not comply with this requirement. At the top of Form RT-6, just under the form title, the following statement appears: "<i>Employers are required to file quarterly tax/wage reports</i>"</p>	<p>DOR should ensure that its taxpayer education efforts for the reemployment assistance tax address this filing requirement and the consequences of not filing this form. Also, TRA recommends that Form RT-6 be amended to increase the legibility of the</p>	<p>The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.</p> <p>As background, the Department has a host of taxpayer education efforts to address filing requirements and consequences including, but not limited to the following:</p> <ul style="list-style-type: none"> <li>• Sending reminder emails to all e-filing taxpayers and others who subscribe, which include the due dates and filing requirements.</li> </ul>	Closed

## Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

	TRA Identified Issue	TRA Recommendation	DOR Response	Status
	<p><u>regardless of employment activity or whether any taxes are due.</u>" (underlining added for emphasis). This important notice appears in a font that is small, light, and very difficult to notice.</p>	<p>statement notifying taxpayers of their duty to file this form "regardless of employment activity or whether any taxes are due." Also, a linked web address should be provided on this form to take taxpayers to a calendar of due dates for filing.</p>	<ul style="list-style-type: none"> <li>• Conducting quarterly conference calls with tax preparer associations. Topics include:               <ul style="list-style-type: none"> <li>○ Statutory or rule changes that would affect them which recently included a rule change to allow penalty waiver requests to be made telephonically.</li> <li>○ Policy/procedure changes. Examples include the Department's alignment of SSN guidelines with the Social Security Administration's guidelines, ensuring the validity of SSNs</li> <li>○ Briefing on recent newsworthy activities such as the mailing of tax rate notices and various statistics regarding tax rates.</li> </ul> </li> <li>• Increasing the font size of the sentence referenced on the Employers Quarterly Report (Form RT-6), "Employers are required to file quarterly tax/wage reports regardless of employment activity or whether any taxes are due".</li> <li>• Providing a web address for the newly added "General Timelines for Employers" web page, which advises employers of important dates (to be completed during annual form revision process).</li> </ul>	

## Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

	<b>TRA Identified Issue</b>	<b>TRA Recommendation</b>	<b>DOR Response</b>	<b>Status</b>
9	This problem is specific to the reemployment assistance tax. The rate for the reemployment assistance tax may change from year-to-year. Taxpayers are sometimes not aware of this year-to-year change and, as a result, use an incorrect rate in calculating their tax for a particular year.	A linked web address should be provided on Form RT-6 to take taxpayers to a web page to find the correct tax rate.	<p>The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.</p> <p>As background, the Department provides multiple avenues by which an employer may access his or her reemployment tax rate.</p> <ul style="list-style-type: none"> <li>• Initially communicated through a personalized mailing of the Taxpayer's Annual Tax Rate Notices in December, the month prior to the effective date of the rate.</li> <li>• Prepopulated per employer on his or her electronically filed returns.</li> <li>• Prepopulated per employer on his or her printed, hardcopy tax returns.</li> <li>• Available through the Department's online file and pay website.</li> <li>• Available by calling Taxpayer Services (850-488-6800) self-service option offered 24 hours a day, 7 days a week.</li> </ul> <p>Additionally, the Department will reference on the Reemployment Tax Forms as a reminder the web address for the Reemployment Tax File and Pay website where employer tax rates can be accessed.</p>	Monitoring
10	This problem is specific to the corporate income tax. Corporations that are classified by the IRS as subchapter S	DOR should work with the Department of State, Division of Corporations, to find	The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.	Closed

## Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

	<b>TRA Identified Issue</b>	<b>TRA Recommendation</b>	<b>DOR Response</b>	<b>Status</b>
	<p>corporations are not required to file the Florida corporate income tax. DOR conducts a data match with the Florida Department of State, Division of Corporations, to identify corporations that are registered with the Division of Corporations but are not registered with DOR. These unregistered corporations will receive a penalty notice from DOR for failure to file the Florida corporate income tax. Upon proof that the corporation is a subchapter S corporation, DOR updates its database and removes the penalty.</p>	<p>ways of proactively identifying subchapter S corporations, thereby reducing the DOR work effort and reducing this unnecessary burden of taxpayers having to prove that they are legitimate subchapter S corporations.</p>	<p>As background, generally, a corporation does not know it is a Sub-S corporation when it files with the Department of State. Additionally, the Florida Secretary of State does not collect information on whether a for-profit corporation is a Sub S corporation for federal income tax purposes.</p> <p>However, the Department does embrace this issue, and with the implementation of the Corporate Income Tax additional information database in September 2019, corporations will now have the ability to indicate their Subchapter S status. This will result in updated account information in the Department's account management records, eliminating a Sub-S corporation's corporate income tax obligation- and subsequent billings.</p>	



# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

## Addendum "B"

DOR Response to TRA Report for FY 2018-2019



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

**Jim Zingale**  
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

July 1, 2020

The Honorable Melinda Miguel  
Chief Inspector General  
Office of the Chief Inspector General  
Executive Office of the Governor  
Tallahassee, Florida 32399

Subject: Taxpayers' Rights Advocate's Annual Report for Fiscal Year 2018-19

Dear Ms. Miguel:

Enclosed please find the Department's response to the Taxpayers' Rights Advocate's annual report for fiscal year 2018-19.

### Overview

Comparing this annual report with the previous year's report (FY 2017-18), the FY 2018-19 annual report does not identify any new administrative issues or recommendations for the Department. In response to the FY 2018-19 annual report, the Department has provided its previous response, along with supplemental information. The Department has responded to each of the items raised in the two reports and does not have any additional information to provide. As such, the Department respectfully requests closure of these items.

### Background

The issuance of an annual report by the Taxpayers' Rights Advocate is a relatively new process. This requirement was enacted into law in 2018. The report is due on or before January 1 of each year. The law outlines the content of the report and specifies the parties who are to receive the report: the Governor, President of the Senate, Speaker of the House of Representatives and Chief Inspector General.

### First Annual Report (FY 2017-18)

On or about January 1, 2019, the Taxpayers' Rights Advocate issued the first annual report under the new law. The Department received the report after it was published. After receiving the report, the Department met with the Taxpayers' Rights Advocate to discuss the report and

# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

The Honorable Melinda Miguel  
Chief Inspector General  
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the Department's response. Having not received any additional contact from the Taxpayers' Rights Advocate after these meetings, the Department assumed that its response and actions had addressed the issues raised in the report.

## Second Annual Report (FY 2018-2019)

On January 1, 2020, the Taxpayers' Right Advocate submitted the FY 2018-19 annual report to you, the Governor, the President of the Senate and the Speaker of the House of Representatives. This report contained the same issues for improvement that were specified in the previous annual report (FY 2017-18) and included the Department's written response to the previous report (FY 2017-18) as an attachment.

On January 7, 2020, at the Department's request, the Taxpayers' Rights Advocate provided a copy of the FY 2018-19 annual report to the Department. Although previously requested, the Department had not been provided an opportunity to meet with the Taxpayers' Rights Advocate to discuss the 2018-19 annual report before it was finalized and submitted to policymakers.

## Process Improvements

Ideally, policymakers should receive a report that contains all the following in one report: the Taxpayers' Rights Advocate's findings and recommendations, the Department's response to those findings and recommendations, and the Taxpayers' Rights Advocate's rebuttal to the Department's response.

For the future, the Department proposes the following process improvements:

- The Department requests that a meeting be scheduled with the Department no later than October 15 of each year to discuss the Taxpayers' Rights Advocate's preliminary report.
- The Department requests 20 working days to provide a written response to the preliminary report.
- The Department requests that its response be included with the final report at the time the report is issued.
- The Department requests that the Taxpayers' Rights Advocate provide a copy of the final report to the Department at the time that the final report is submitted to policymakers.

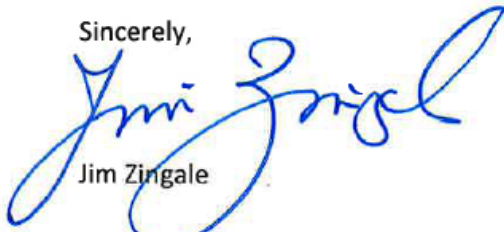
# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

The Honorable Melinda Miguel  
Chief Inspector General  
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The Department believes that by following these best practices, a more informative, accurate and comprehensive report will be produced.

If you would like to discuss this further, I am available at your convenience.

Sincerely,



Jim Zingale

Enclosure

Copy: Taxpayers' Rights Advocate

# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020



Department of Revenue Response

**Taxpayer Rights Advocate Annual Report for Fiscal Year 2018-19**

July 1, 2020

<b>1. Problem</b>	<p><b>Taxpayers often lack knowledge of the taxation process</b> and lack knowledge of the consequences of not meeting deadlines, not responding to notices, and otherwise not taking responsive actions during the taxation process. The Taxpayer Rights Advocate often receives inquiries from taxpayers who inquire about collection activities taken by DOR against the taxpayer, such as filing tax warrants or freezing bank accounts.</p>
<b>Recommendation</b>	<p><b>DOR should continue efforts to educate taxpayers on the taxation process and ensure that each notice sent to taxpayers explains these consequences.</b> Also, DOR notices sent to taxpayers should provide contact information for a DOR representative who is knowledgeable about the tax type and notice type sent to the taxpayer and the potential consequences the taxpayer could face for not responding or for noncompliance in the taxation process.</p> <p><b>TRA Update for FY18-19:</b> TRA recognizes that GTA has a high volume of work activity and that efficiency is a consideration. TRA again recommends improvement on this issue.</p>
<b>Response</b>	<p><b>The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.</b></p> <p>As background, the Department strives to continually improve education efforts to help taxpayers understand the taxation process and their tax responsibilities as Florida businesses. To help educate taxpayers and to encourage voluntary compliance, the consequences of noncompliance are stated in each notice of noncompliance issued by the Department.</p> <p>The Department sends over one million first notices, billings, and delinquencies to taxpayers every year. The contact information for the Department is designed to expedite handling and ultimate resolution of the taxpayer's issues. For example, given the high volume of initial notices of noncompliance, the Department's Taxpayer Services Contact Center is used to ensure prompt response and efficient resolution. If the case requires additional follow-up, contact information for a specific Department representative is provided.</p> <p>As part of the ongoing effort in improving taxpayer education, the Department will continue to focus on opportunities for improvement in refining its communication.</p> <p><b>Additional information:</b> The specific service center contact information is listed on the Notice of Final Assessment. Subsequent service center contact actions provide the taxpayer with specific agent information. Additionally, Taxpayer Services staff are trained to initially reach out to the taxpayer in order to avoid subsequent enforcement consequences (e.g., tax warrants and bank garnishments.)</p>

# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020



Department of Revenue Response

**Taxpayer Rights Advocate Annual Report for Fiscal Year 2018-19**

July 1, 2020

<b>2. Problem</b>	<p><b>Taxpayers are often not aware of the provisions of the Taxpayer's Bill of Rights</b>, including the right to procedures for the retirement of tax obligations by installment payment agreements which may be available under certain conditions. The Taxpayer Rights Advocate often receives calls from audited taxpayers with questions about the audit including the question of why the taxpayer is being audited.</p>
<b>Recommendation</b>	<p><b>DOR should provide education and training for taxpayers on the Taxpayer's Bill of Rights and should require that a copy of the Taxpayer's Bill of Rights is provided and explained</b> to each audited taxpayer both at the beginning and end of each audit. Taxpayers should also receive an explanation of why they are being audited.</p> <p><b>TRA Update for FY18-19:</b> TRA again recommends improvements on this issue.</p>
<b>Response</b>	<p><b>The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.</b></p> <p>As background, for the past several years, the Department has placed focus on heightening awareness of the Taxpayer Bill of Rights both internally and externally. The Department developed and implemented an annual training for employees on the importance of the Taxpayer Bill of Rights. Additionally, it is included in the Department's tax audit training.</p> <p>Regarding external awareness, the Taxpayer Bill of Rights is provided to taxpayers at the beginning and end of the audit process, as well as during collection and enforcement actions. Additionally, during the audit process, the taxpayers are educated on tax issues that relate to their specific business activities.</p> <p>From a global, external perspective, the Department's website contains a Quick Link for the Taxpayer Bill of Rights on its home page, as well as a resource link on the General Tax Administration Program's landing page entitled, "What to Expect from a Florida Tax Audit." Information on this link that is available to the public includes:</p> <ul style="list-style-type: none"> <li>How Was I Selected for an Audit?</li> <li>What Types of Records Will I Need to Provide?</li> <li>What are My Rights During an Audit?</li> <li>Communicating and Meeting Deadlines</li> <li>Can I Request Technical Assistance During the Audit?</li> <li>What Happens When the Audit is Complete?</li> <li>Other Audit-Related Information</li> </ul> <p>The Department embraces the importance of taxpayers having access to the Taxpayer Bill of Rights and as part of its normal course of business performs ongoing reviews for additional opportunities to heighten awareness.</p>

# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020



Department of Revenue Response

**Taxpayer Rights Advocate Annual Report for Fiscal Year 2018-19**

July 1, 2020

	<p>Additional information: The Department has processes in place that provide Taxpayer Bill of Rights education to employees and standard procedures for educating taxpayers. The Taxpayer Bill of Rights education to employees began in April 2015 and is deployed through the Department's Learning Management System. The Department provides the Taxpayer Bill of Rights to the taxpayer at the initiation of the audit. The Bill of Rights is discussed and explained to the taxpayer at beginning of the audit. During the close of the audit, the audit staff provides the taxpayer their options, such as payment in full, requirements for installment plan/stipulation agreements, and protest rights.</p>																																
<p><b>3. Problem</b></p>	<p><b>DOR's use of compromise authority</b> – Many taxpayers are not aware of DOR's authority, under certain factual situations and where consistent with law, to compromise and settle tax, interest, penalties, or fees. This authority has been delegated in writing to certain positions within DOR, but this authority does not appear to be exercised as delegated.</p>																																
<p><b>Recommendation</b></p>	<p>Where consistent with facts and as allowed by law, <b>DOR should exercise its delegated authority</b> to compromise and settle these matters.</p> <p><b>TRA Update for FY18-19:</b> In the Addendum of this report is a complete copy of the DOR Executive Director's Delegation of Authority to Settle or Compromise Tax, Penalty, Interest, and Fees. This Delegation of Authority is dated January 29, 2019. TRA again recommends improvements on this issue.</p>																																
<p><b>Response</b></p>	<p><b>The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.</b></p> <p>As background, Florida law establishes the authority to compromise tax, interest, and penalty. The following table provides this compromise authority for positions within the General Tax Administration Program:</p> <table border="1" data-bbox="581 1381 1365 1703"> <thead> <tr> <th>Position</th> <th>Tax</th> <th>Interest</th> <th>Penalty</th> </tr> </thead> <tbody> <tr> <td>Program Director</td> <td>\$200,000</td> <td>\$125,000</td> <td>Any Amount</td> </tr> <tr> <td>Deputy Program Director</td> <td>\$200,000</td> <td>\$125,000</td> <td>Any Amount</td> </tr> <tr> <td>Revenue Program Administrators</td> <td>\$75,000</td> <td>\$62,500</td> <td>\$250,000</td> </tr> <tr> <td>Senior Tax Audit Administrators</td> <td>n/a</td> <td>\$62,500</td> <td>\$250,000</td> </tr> <tr> <td>Service Center Managers</td> <td>n/a</td> <td>\$62,500</td> <td>\$250,000</td> </tr> <tr> <td>Tax Audit Supervisors</td> <td>n/a</td> <td>\$1,250</td> <td>\$37,500</td> </tr> <tr> <td>Revenue Tax Audit Supervisors</td> <td>n/a</td> <td>\$1,250</td> <td>\$37,500</td> </tr> </tbody> </table> <p>Tax and/or interest can only be compromised based on a finding of doubt as to liability or collectability. Penalty can be compromised based on a finding of</p>	Position	Tax	Interest	Penalty	Program Director	\$200,000	\$125,000	Any Amount	Deputy Program Director	\$200,000	\$125,000	Any Amount	Revenue Program Administrators	\$75,000	\$62,500	\$250,000	Senior Tax Audit Administrators	n/a	\$62,500	\$250,000	Service Center Managers	n/a	\$62,500	\$250,000	Tax Audit Supervisors	n/a	\$1,250	\$37,500	Revenue Tax Audit Supervisors	n/a	\$1,250	\$37,500
Position	Tax	Interest	Penalty																														
Program Director	\$200,000	\$125,000	Any Amount																														
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Revenue Program Administrators	\$75,000	\$62,500	\$250,000																														
Senior Tax Audit Administrators	n/a	\$62,500	\$250,000																														
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# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020



Department of Revenue Response

**Taxpayer Rights Advocate Annual Report for Fiscal Year 2018-19**

July 1, 2020

	<p>reasonable cause. See s. 213.21(3)(a), F.S., and Rules 12-13.007 and 12-13.0075, F.A.C.</p> <p>The General Tax Administration Program adheres to the appropriate compromise authority based on the specific facts and circumstances of each case and will continue to work with the Taxpayer Rights Advocate Office on any instances of perceived inconsistent application.</p>
<b>4. Problem</b>	<p><b>Discretionary Reviews</b> – During the collections process after an audit, if the taxpayer provides a Statement of Facts alleging that DOR is in error, collections staff may, but are not required to, perform a discretionary evaluation to ensure DOR is only seeking to collect taxes that are owed. The Taxpayer Rights Advocate often receives inquiries from taxpayers in the collections process regarding these reviews. The objectivity of some of these reviews needs improvement and some of the written reviews need more descriptive information.</p>
<b>Recommendation</b>	<p><b>DOR should ensure that these discretionary reviews are conducted in an impartial, objective manner by persons with training and skill in evaluating the relevance and sufficiency of evidence and making written findings thereon that provide succinct explanations and reasons for the determination.</b></p> <p><b>TRA Update for FY18-19:</b> This issue continues. The post-audit review process occurs when a taxpayer account is in the collections process, the appeals period has expired, and the taxpayer has contacted DOR collections staff who refer the matter to collections or audit staff for review of the taxpayer's information. If collections staff sends the taxpayer's information to TRA, TRA reviews the documentation to prepare for any direct contact from the taxpayer given the time-sensitive nature of the collections process. During FY 18-19 and without any notice or explanation, GTA changed the process for these reviews. Apparently, some of these reviews are now done by local office managers and staff. TRA recommends that these reviews be done by persons independent of the audit and collections processes. These reviews should be viewed as a quality assurance step to minimize the possibility of collections error. TRA again recommends improvements on this issue.</p>
<b>Response</b>	<p><b>The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.</b></p> <p>As background, the term, "discretionary review" refers to taxpayers' requests for further review of their cases after their protest rights have expired.</p> <p>There is no statutory requirement for a "discretionary review." Reviewing cases after protest rights have expired is generally performed when there is clear evidence that the Department made an error. The Technical Assistance and Dispute Resolution (TADR) Process is generally the point of intake for these requests. The Process coordinates with the General Tax Administration Program and the Office of the General Counsel (OGC) to review the statement</p>

# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020



Department of Revenue Response

**Taxpayer Rights Advocate Annual Report for Fiscal Year 2018-19**

July 1, 2020

	<p>of facts. Within the General Tax Administration Program, a neutral senior-level analyst within the GTA director's office performs a review of the specifics of the case, which is again reviewed by the Program Office, TADR, and if necessary, the OGC.</p> <p><i>Additional information: The Department works closely with the Taxpayer Rights' Advocate's Office on any instances of perceived Departmental error. Additionally, in June 2016, a senior level position was established in the General Tax Administration Program Office to serve as an internal taxpayer rights advocate liaison. Regarding the protest process, the Department provides taxpayers with the statutory guidelines and timeframes for challenging proposed actions throughout the process. It is noted that the stated perception in this recommendation is inaccurate. There were no changes to the process of review during FY 2018-19.</i></p>
<p><b>5. Problem</b></p>	<p><b>Regenerating Notices; Imaging Correspondence</b> – In handling taxpayer inquiries, sometimes a taxpayer will state to the Taxpayer Rights Advocate that he or she did not receive notice or correspondence from DOR on a matter. In researching the inquiry, the Taxpayer Rights Advocate will learn that DOR records show that DOR sent the document to the taxpayer, but the system is unable to generate an original copy of the document sent to the taxpayer and the Taxpayer Rights Advocate is unable to send to the taxpayer a copy of the original. Other times, taxpayers will state that they sent certain documents to DOR, but these documents will not be available in accessible electronic format.</p>
<p><b>Recommendation</b></p>	<p><b>DOR should develop a system</b> that maintains, in accessible electronic format, all original documents sent to or received from taxpayers.</p> <p><b>TRA Update for FY18-19:</b> TRA recognizes that GTA has a high volume of work activity and that efficiency is a consideration. GTA has taken steps to address this issue through better technology, but this solution will take some to implement. TRA supports GTA efforts to make improvements on this issue.</p>
<p><b>Response</b></p>	<p><b>The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.</b></p> <p>As background, the Department sends more than three million system-generated notices to taxpayers per year. Although notices can be reproduced, they will reflect the current date of reproduction.</p> <p>As part of the e-Services Taxpayer Portal project, the Department will analyze the types of notices and outbound correspondence to determine the feasibility and prioritization for programming resources to provide for self-service document access and retrieval. Additionally, the modernization of the Image Management System will receive the same analysis and determination.</p>



# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020



Department of Revenue Response

Taxpayer Rights Advocate Annual Report for Fiscal Year 2018-19

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<b>6. Problem</b>	<p><b>Awareness of Doc Stamp Liability</b> - This problem is specific to the documentary stamp tax. Many taxpayers are not aware that certain documents involving real property transfers are subject to the excise tax on documents. Because of the operation of this tax and the associated time lags involved, it may be a few years (usually one to three) before the taxpayer learns the Department has audited the transfer instrument and made a tax assessment. In some cases, the taxpayer becomes aware of the tax liability when the taxpayer learns that a DOR tax lien appears on the taxpayer's credit report. These types of taxpayers are among the most upset customers served by TRA.</p>
<b>Recommendation</b>	<p>DOR should expand efforts to provide information and education for Clerk of Court staff, lenders, and those involved in real estate closings including agents and attorneys. If not already done, <b>DOR should develop an outreach plan to provide information and education</b> to make these persons and taxpayers aware of the conditions under which this tax would be due.</p> <p><b>TRA Update for FY18-19:</b> TRA again recommends improvements on this issue.</p>
<b>Response</b>	<p><b>The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.</b></p> <p>As background, the Department routinely coordinates with the 67 Clerks of Court and has made significant strides in its documentary stamp review process. Examples of improvements include:</p> <ul style="list-style-type: none"> <li>• Improved data filters to assist in the identification of transactions where there is non-compliance (i.e. identify the types of deeds with the most common non-compliant issues).</li> <li>• Increased thresholds of the value of the property to focus on high dollar transactions</li> <li>• Third-party validation of address and contact information to ensure proper noticing to the taxpayer</li> <li>• Reduction of caseload inventory to ensure the handling of more current transactions</li> </ul> <p>Additionally, with the November 2017 of its Taxpayer Education and Outreach Process, the Department is reviewing documentary stamps materials as part of a revitalized training with the Clerks of the Court.</p>
<b>7. Problem</b>	<p><b>Doc stamp notices; old addresses</b> – This problem is specific to the documentary stamp tax. Often documentary stamp taxpayers do not receive notices and collections letters about a documentary stamp tax liability. This is because DOR sends notices and correspondence to the last known address of the taxpayer which may be the address of the transferred property. A common scenario is that the taxpayer no longer lives at the property and, thus, does not receive the DOR notices and correspondence. Sometimes the taxpayer</p>

# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020



Department of Revenue Response

**Taxpayer Rights Advocate Annual Report for Fiscal Year 2018-19**

July 1, 2020

	<p>becomes aware of the tax liability when the taxpayer learns that a DOR tax lien appears on the taxpayer's credit report. The taxpayer can have difficulty obtaining a copy of DOR's tax warrant against the taxpayer because DOR does not maintain a publicly accessible database of its tax warrants.</p>
<b>Recommendation</b>	<p>DOR should <b>develop a plan to better identify contact information</b> for these types of taxpayers so that the taxpayer can receive notices and correspondence regarding the tax liability. Also, DOR should <b>make available a public database of its tax warrants</b> with sufficient information to enable taxpayers to find and obtain a copy of the tax warrant.</p> <p><b>TRA Update for FY18-19:</b> TRA again recommends improvements on this issue.</p>
<b>Response</b>	<p><b>The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.</b></p> <p>As background, the Department employs a third-party postal verification solution to refine address information.</p> <p>The Department is unaware of this being a significant issue and encourages the TRA to coordinate with the TRA liaison that was established in 2016 within the GTA Director's Office specifically to work with the TRA in resolving outstanding taxpayer issues. Additionally, it would be beneficial for the TRA to provide case specifics and statistical information to support sound decision making and case resolution.</p> <p>Regarding a public database, currently, warrants, liens and judgement lien certificates are filed with the court and many court records are available online. Replicating the information on the Department's website would be duplicative and costly due to the resources needed to create and maintain the database. Additionally, it is not clear if s. 213.053(20), F.S., permits the Department to choose to disclose only certain taxpayers (i.e., documentary stamp tax).</p>
<b>8. Problem</b>	<p><b>Reemployment tax filing requirement</b> – This problem is specific to the reemployment assistance tax. Taxpayers subject to the reemployment assistance tax are often not aware of a key filing requirement and, as result, are assessed penalties when they do not comply with this requirement. At the top of Form RT-6, just under the form title, the following statement appears: <i>"Employers are required to file quarterly tax/wage reports <u>regardless of employment activity or whether any taxes are due.</u>"</i> (underlining added for emphasis). This important notice appears in a font that is small, light, and very difficult to notice.</p>
<b>Recommendation</b>	<p>DOR should ensure that its taxpayer education efforts for the reemployment assistance tax address this filing requirement and the consequences of not filing this form.</p>

# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020



Department of Revenue Response

**Taxpayer Rights Advocate Annual Report for Fiscal Year 2018-19**

July 1, 2020

	<p>Also, the Taxpayer Rights Advocate recommends that Form RT-6 be amended to increase the legibility of the statement notifying taxpayers of their duty to file this form <i>"regardless of employment activity or whether any taxes are due."</i> Also, a linked web address should be provided on this form to take taxpayers to a calendar of due dates for filing.</p>
<p><b>Response</b></p>	<p><b>TRA Update for FY18-19:</b> TRA recognizes that GTA has made improvements on this issue and will continue to monitor any taxpayer contacts on this issue.</p> <p><b>The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.</b></p> <p>As background, the Department has a host of taxpayer education efforts to address filing requirements and consequences including, but not limited to the following:</p> <ul style="list-style-type: none"> <li>• Sending reminder emails to all e-filing taxpayers and others who subscribe, which include the due dates and filing requirements.</li> <li>• Conducting quarterly conference calls with tax preparer associations. Topics include:             <ul style="list-style-type: none"> <li>○ Statutory or rule changes that would affect them which recently included a rule change to allow penalty waiver requests to be made telephonically.</li> <li>○ Policy/procedure changes. Examples include the Department's alignment of SSN guidelines with the Social Security Administration's guidelines, ensuring the validity of SSNs</li> <li>○ Briefing on recent newsworthy activities such as the mailing of tax rate notices and various statistics regarding tax rates.</li> </ul> </li> <li>• Increasing the font size of the sentence referenced on the Employers Quarterly Report (Form RT-6), "Employers are required to file quarterly tax/wage reports regardless of employment activity or whether any taxes are due".</li> <li>• Providing a web address for the newly added "General Timelines for Employers" web page, which advises employers of important dates (to be completed during annual form revision process).</li> </ul>
<p><b>9. Problem</b></p>	<p><b>Reemployment tax rates</b> – This problem is specific to the reemployment assistance tax. The rate for the reemployment assistance tax may change from year-to-year. Taxpayers are sometimes not aware of this year-to-year change and, as a result, use an incorrect rate in calculating their tax for a particular year.</p>
<p><b>Recommendation</b></p>	<p>A linked web address should be provided on Form RT-6 to take taxpayers to a web page to find the correct tax rate.</p>

# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020



Department of Revenue Response

**Taxpayer Rights Advocate Annual Report for Fiscal Year 2018-19**

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	<p><b>TRA Update for FY18-19:</b> TRA recognizes that GTA has made improvements on this issue and will continue to monitor any taxpayer contacts on this issue.</p>
<b>Response</b>	<p><b>The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.</b></p> <p>As background, the Department provides multiple avenues by which an employer may access his or her reemployment tax rate.</p> <ul style="list-style-type: none"> <li>• Initially communicated through a personalized mailing of the Taxpayer's Annual Tax Rate Notices in December, the month prior to the effective date of the rate.</li> <li>• Prepopulated per employer on his or her electronically filed returns</li> <li>• Prepopulated per employer on his or her printed, hardcopy tax returns</li> <li>• Available through the Department's online file and pay website</li> <li>• Available by calling Taxpayer Services (850-488-6800) self-service option offered 24 hours a day, 7 days a week.</li> </ul> <p>Additionally, the Department will reference on the Reemployment Tax Forms as a reminder the web address for the Reemployment Tax File and Pay website where employer tax rates can be accessed.</p>
<b>10. Problem</b>	<p><b>S-corporation income tax liability</b> – This problem is specific to the corporate income tax. Corporations that are classified by the IRS as subchapter S corporations are not required to file the Florida corporate income tax. DOR conducts a data match with the Florida Department of State, Division of Corporations, to identify corporations that are registered with the Division of Corporations but are not registered with DOR. These unregistered corporations will receive a penalty notice from DOR for failure to file the Florida corporate income tax. Upon proof that the corporation is a subchapter S corporation, DOR updates its database and removes the penalty.</p>
<b>Recommendation</b>	<p>DOR should <b>work with the Department of State, Division of Corporations, to find ways of proactively identifying subchapter S corporations</b>, thereby reducing the DOR work effort and reducing this unnecessary burden of taxpayers having to prove that they are legitimate subchapter S corporations.</p> <p><b>TRA Update for FY18-19:</b> TRA recognizes that GTA has made improvements on this issue and will continue to monitor any taxpayer contacts on this issue.</p>
<b>Response</b>	<p><b>The Department addressed this issue in response to the FY 2017-18 annual report, and recommends this item be closed.</b></p> <p>As background, generally, a corporation does not know it is a Sub-S corporation when it files with the Department of State. Additionally, the Florida Secretary of State does not collect information on whether a for-profit corporation is a Sub S corporation for federal income tax purposes.</p>

# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020



Department of Revenue Response

Taxpayer Rights Advocate Annual Report for Fiscal Year 2018-19

July 1, 2020

	<p>However, the Department does embrace this issue, and with the implementation of the Corporate Income Tax additional information database in September 2019, corporations will now have the ability to indicate their Subchapter S status. This will result in updated account information in the Department's account management records, eliminating a Sub-S corporation's corporate income tax obligation and subsequent billings.</p>
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# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

## Addendum "C"

DOR Delegation of Authority to Settle or Compromise Tax, Penalty, Interest, or Fees



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

**Jim Zingale**  
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

floridarevenue.com

**DA-40**

### DELEGATION OF AUTHORITY TO SETTLE OR COMPROMISE TAX, PENALTY, INTEREST, AND FEES

I hereby delegate to the positions identified in Appendix A, the authority to settle or compromise a taxpayer's liability for any tax, penalty, interest or fee assessed under any of the chapters specified in subsection 72.011(1), Florida Statutes. This delegation is made in accordance with subsections 213.21(2) and (3), Florida Statutes, and Rule 12-13.004, Florida Administrative Code.

The authority granted herein shall not be re-delegated.

This delegation is duly executed pursuant to the authority granted in Rule 12-3.007, Florida Administrative Code, and remains in effect until specifically rescinded in writing.

Dated this 15<sup>th</sup> day of May, 2019, in Tallahassee, Leon County, Florida.

  
\_\_\_\_\_  
Jim Zingale  
Executive Director  
Florida Department of Revenue

# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

## APPENDIX A DELEGATION OF AUTHORITY TO SETTLE OR COMPROMISE TAX, PENALTY, INTEREST, AND FEES

### I. All Cases Except Those in Litigation

#### Executive Office

Position	Tax	Interest	Penalty
Deputy Executive Director	\$500,000	Any Amount	Any Amount

#### Office of the General Counsel

Position	Tax	Interest	Penalty
General Counsel	\$500,000	Any Amount	Any Amount
Deputy General Counsel	\$500,000	Any Amount	Any Amount

### II. Cases in Litigation

#### Executive Office

Position	Tax	Interest	Penalty
Deputy Executive Director	Any Amount	Any Amount	Any Amount

#### Office of the General Counsel

Position	Tax	Interest	Penalty
General Counsel	Any Amount	Any Amount	Any Amount
Deputy General Counsel	Any Amount	Any Amount	Any Amount
Chief Assistant General Counsel	\$200,000	\$150,000	\$250,000
Executive Senior Attorney	\$100,000	\$75,000	\$125,000
Assistant General Counsel	\$100,000	\$75,000	\$125,000

### III. Cases in Protest

#### Office of the General Counsel

Position	Tax	Interest	Penalty
Chief Assistant General Counsel	\$200,000	\$125,000	Any Amount
Executive Senior Attorney	\$100,000	\$75,000	\$250,000
Assistant General Counsel	\$100,000	\$75,000	\$250,000

#### Office of Technical Assistance and Dispute Resolution

Position	Tax	Interest	Penalty
Director	\$200,000	\$125,000	Any Amount
Deputy Director	\$200,000	\$125,000	Any Amount
Revenue Program Administrators	\$75,000	\$62,500	\$250,000

# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

## General Tax Administration

Position	Tax	Interest	Penalty
Program Director	\$200,000	\$125,000	Any Amount
Deputy Program Director	\$200,000	\$125,000	Any Amount
Revenue Program Administrators	\$75,000	\$62,500	\$250,000
Senior Tax Audit Administrators	0	\$62,500	\$250,000
Service Center Managers	0	\$62,500	\$250,000
Tax Audit Supervisors	0	\$1,250	\$75,000
Revenue Tax Audit Supervisors	0	\$1,250	\$37,500
Tax Specialists	0	0	\$12,500
Revenue Specialists	0	0	\$3,750

## General Tax Administration – Taxpayer Services Process

Position	Tax	Interest	Penalty
Process Manager	\$75,000	\$62,500	\$250,000
Revenue Program Administrators	\$2,500	\$2,500	\$75,000
Revenue Administrators	\$2,500	\$2,500	\$75,000
Tax Specialist Administrators	\$2,500	\$2,500	\$75,000

### IV. Cases in Collection

#### Office of the General Counsel

Position	Tax	Interest	Penalty
Chief Assistant General Counsel	\$200,000	\$100,000	Any Amount
Assistant General Counsel	\$50,000	\$50,000	\$75,000

## General Tax Administration

Position	Tax	Interest	Penalty
Program Director	\$200,000	\$125,000	Any Amount
Deputy Program Director	\$200,000	\$125,000	Any Amount
Revenue Program Administrators	\$62,500	\$62,500	\$250,000
Service Center Managers	\$5,000	\$5,000	\$100,000
Revenue Administrator	\$2,500	\$2,500	\$75,000
Tax Specialists	\$1,250	\$1,250	\$12,500
Revenue Specialists	0	0	\$3,750

## General Tax Administration – Taxpayer Services Process

Position	Tax	Interest	Penalty
Process Manager	\$62,500	\$62,500	\$250,000
Revenue Program Administrators	\$2,500	\$2,500	\$75,000
Revenue Administrators	\$2,500	\$2,500	\$75,000



# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

Tax Specialist Administrators	\$2,500	\$2,500	\$75,000
Tax Law Specialists	\$1,250	\$1,250	\$12,500
Senior Tax Specialists	\$1,250	\$1,250	\$12,500
Operations Analysts	0	0	\$12,500
Tax Specialists	0	0	\$12,500
Revenue Specialists	0	0	\$3,750

## V. Cases in Criminal Investigations – Investigations Support Unit

### General Tax Administration

Position	Tax	Interest	Penalty
Revenue Program Administrator	\$62,500	\$62,500	\$250,000
Senior Tax Specialist	\$62,500	\$62,500	\$250,000
Tax Specialist	\$62,500	\$62,500	\$250,000

## VI. Cases in Audit

### General Tax Administration

Position	Tax	Interest	Penalty
Program Director	\$200,000	\$125,000	Any Amount
Deputy Program Director	\$200,000	\$125,000	Any Amount
Revenue Program Administrators	\$62,500	\$62,500	\$250,000
Senior Tax Audit Administrators	\$62,500	\$62,500	\$250,000
Service Center Manager (Out of state)	\$1,250	\$1,250	\$75,000
Tax Audit Supervisors	0	0	\$37,500
Revenue Tax Audit Supervisors	0	0	\$37,500

## VII. Refunds

### General Tax Administration

Position	Tax	Interest	Penalty
Program Director	0	0	Any Amount
Deputy Program Director	0	0	Any Amount

### General Tax Administration – Refund Process

Position	Tax	Interest	Penalty
Program Administrator	0	0	\$250,000
Revenue Program Administrators	0	0	\$100,000
Tax Audit Supervisors	0	0	\$37,500
Revenue Tax Audit Supervisors	0	0	\$37,500

# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

## Addendum "D"

DOR's Response to TRA's Preliminary Draft of Annual Report for FY19-20



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

**Jim Zingale**  
Executive Director

5050 West Tennessee Street, Tallahassee, FL 32399

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November 3, 2020

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

Subject: Taxpayers' Rights Advocate's Annual Report for Fiscal Year 2019-20

Dear Mr. Loebig:

Thank you for providing the Department of Revenue with a draft of the Taxpayers' Rights Advocate's annual report for fiscal year 2019-2020.

The Department has reviewed the draft report and compared it with your two previous reports. As a result of this review, the Department makes the following observations:

- The draft report makes no new findings or recommendations.
- The draft report closes two issues that were listed in the 2017-2018 and 2018-2019 reports.
- The draft report carries forward eight issues that were previously listed in the 2017-2018 and 2018-2019 reports.

Of the eight issues carried forward, the draft report indicates that the following four issues are in monitoring status (see Addendum – DOR Response to TRA Report for FY 2018-2019 Summary starting on page 32):

- Taxpayers' often lack of knowledge of the taxation process (The Department recommends closure.)
- Taxpayers are often not aware of the provisions of the Taxpayer's Bill of Rights (The Department recommends closure.)
- Regenerating notices; imaging correspondence (The Department recommends closure.)
- Reemployment tax rates (The Department recommends closure.)

For the reasons provided in the enclosed chart, the Department again recommends closure of these items. If these items are not closed, the report should reflect that these items are in monitoring status in the text of the report. Currently, the issue and recommendation statements in the body of the report (Administrative Issues – page 21 – 25), the status provided in the chart contained in the addendum (pages 32-43), and the Department's FY 2018-19

# Taxpayers' Rights Advocate Annual Report Fiscal Year 2019-2020

Patrick Loebig  
Page Two

response appear to be inconsistent with one another. The Department requests that these be consistent in the final report.

The draft report indicates that the following four topics are ongoing and recommends that the Department take further action:

- Discretionary reviews (The Department recommends closure.)
- The Department's use of compromise authority (The Department recommends closure.)
- Awareness of documentary stamp liability (The Department recommends closure.)
- Documentary stamp notices; old addresses (The Department recommends closure.)

The Department has provided detailed information regarding each of these issues in two prior responses. This information is in the enclosed chart. Without more detailed information about the specific cases and frequency of the problem, the Department is unable to take further action to address the issues and recommendations. As a result, the Department considers these matters closed but is open to revisiting them if more detailed information, including the frequency of the problem, is provided.

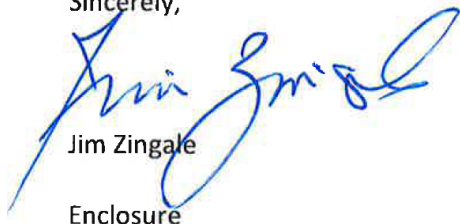
If these eight items remain active in the final report, the Executive Director requests the following information on a monthly basis going forward to assist the Department with further review of the reported problems:

- The number of complaints falling into each of the categories for which the Taxpayers' Rights Advocate recommends continuation in the final report
- Information corresponding to those complaints that will allow the Department to conduct further analysis into the specific concerns of the Taxpayers' Rights Advocate and taxpayer

This additional information will allow the Department to review the specific situation and identify the complaint's root cause when the complaint is made.

The Department appreciates the opportunity to respond to the draft report and is available to discuss the matter further.

Sincerely,



Jim Zingale

Enclosure

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<p>1. <b>Problem</b> <b>TRA Status:</b> <b>Ongoing</b></p>	<p><b>Discretionary Reviews:</b> During the collections process after an audit, if the taxpayer provides a statement of facts alleging that DOR is in error, collections staff may, but are not required to, perform a discretionary evaluation to ensure DOR is only seeking to collect taxes that are owed. TRA often receives contacts regarding these reviews from taxpayers in the collections process. The objectivity of some of these reviews needs improvement and some of the written reviews need more descriptive information.</p>
<p><b>Recommendation</b></p>	<p>This issue has been ongoing for more than two decades. In 1999, the Deputy General Counsel, provided a legal memorandum on how to address these issues. From 1999 until 2015, these reviews were conducted by a Tax Conferee in Technical Assistance and Dispute Resolution (TADR). Although these types of reviews were supposed to be extraordinary and rare, the process became overburdened, and there was a substantial backlog in handling these matters in TADR. In 2015, GTA began conducting these reviews by a Governmental Analyst in their Field Operations. <b>DOR should ensure that these discretionary reviews are conducted in an impartial, objective manner by persons with training and skill in evaluating the relevance and sufficiency of evidence and making written findings thereon that provide succinct explanations and reasons for the determination.</b></p> <p>This issue continues. The post-audit review process occurs when a taxpayer account is in the collections process, the appeals period has expired, and the taxpayer has contacted DOR collections staff who refer the matter to collections or audit staff for review of the taxpayer's information. If collections staff sends the taxpayer's information to TRA, TRA reviews the documentation to prepare for any direct contact from the taxpayer given the time-sensitive nature of the collections process. During FY 18-19 and without any notice or explanation, GTA changed the process for these reviews. During FY 19-20, there were more unilateral changes and the TRA is not copied on all of these review decisions. The number of post audit reviews has been decreasing since FY 17-18, when there were over 350 reviews; FY 18-19, there were 247; and in FY 19-20 there were 199 reviews, and the TRA only received 65. Apparently, some of these reviews are now done by local office managers and staff. TRA recommends that these reviews be done by persons independent of the audit and collections processes. These reviews should be viewed as a quality assurance step to minimize the possibility of collections error. TRA again recommends improvements on this issue.</p>
<p><b>Response</b></p>	<p><b>The Department addressed this issue in response to the 2017-2018 and 2018-2019 annual reports. Without more detailed information about the specific cases and frequency of the problem, the Department is currently unable to take further action. As a result, the Department considers this issue closed but is open to revisiting it if more detailed information, including the frequency of the problem, is provided.</b></p> <p>As background, the term, "discretionary review" refers to taxpayers' requests for further review of their cases after their protest rights have expired.</p>

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	<p>There is no statutory requirement for a "discretionary review." Reviewing cases after protest rights have expired is generally performed when there is clear evidence that the Department made an error. The Technical Assistance and Dispute Resolution (TADR) process is generally the point of intake for these requests. The process coordinates with the General Tax Administration (GTA) program and the Office of the General Counsel (OGC) to review the statement of facts. A neutral, senior-level analyst within the GTA director's office reviews the case's details, which are again reviewed by the GTA program office, TADR, and if necessary, OGC.</p> <p>Further, the Department works closely with the Taxpayers' Rights Advocate on any instances of perceived Departmental error. Additionally, in June 2016, a senior-level position was established in the GTA program office to serve as an internal Taxpayers' Rights Advocate liaison. Regarding the protest process, the Department provides taxpayers with the statutory guidelines and timeframes for challenging proposed actions throughout the process. It is noted that the stated perception in this recommendation is inaccurate. There were no changes to the process of review during FY 2019-20.</p>
<p><b>2. Problem</b> <b>TRA Status:</b> <b>Monitoring</b></p>	<p>Taxpayers often lack knowledge of the taxation process and lack knowledge of the consequences of not meeting deadlines, not responding to notices, and otherwise not taking responsive actions during the taxation process. The Taxpayer Rights Advocate often receives inquiries from taxpayers who inquire about collection activities taken by DOR against the taxpayer, such as filing tax warrants or freezing bank accounts.</p>
<p><b>Recommendation</b></p>	<p>DOR should continue efforts to educate taxpayers on the taxation process and ensure that each notice sent to taxpayers explains these consequences. Also, DOR notices sent to taxpayers should provide contact information for a DOR representative who is knowledgeable about the tax type and notice type sent to the taxpayer and the potential consequences the taxpayer could face for not responding or for noncompliance in the taxation process.</p> <p>TRA recognizes that GTA has a high volume of work activity and that efficiency is a consideration. TRA again recommends improvement on this issue.</p>
<p><b>Response</b></p>	<p>The Department addressed this issue in response to the 2017-2018 and 2018-2019 annual reports. Without more detailed information about the specific cases and frequency of the problem, the Department is currently unable to take further action. As a result, the Department considers this issue closed but is open to revisiting it if more detailed information, including the frequency of the problem, is provided.</p> <p>As background, the Department strives to continually improve education efforts to help taxpayers understand the taxation process and their tax responsibilities as Florida businesses. To help educate taxpayers and to encourage voluntary</p>

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	<p>compliance, the consequences of noncompliance are stated in each notice of noncompliance the Department issues.</p> <p>The Department sends more than 1.4 million first notices, billings, and delinquencies to taxpayers every year. The contact information for the Department is designed to expedite handling and ultimate resolution of the taxpayer's issues. For example, given the high volume of initial notices of noncompliance, the Department has a Taxpayer Services Contact Center to ensure prompt response and efficient resolution. If the case requires additional follow-up, Taxpayer Services provides contact information for a specific Department representative.</p> <p>As part of the ongoing effort in improving taxpayer education, the Department will continue to focus on opportunities for improvement in refining communication.</p> <p>Further, the specific service center contact information is listed on the <i>Notice of Final Assessment</i>. Subsequent service center contact actions provide the taxpayer with specific agent information. Additionally, Taxpayer Services staff are trained to initially reach out to the taxpayer to avoid subsequent enforcement consequences (e.g., tax warrants and bank garnishments).</p>
<p>3. <b>Problem</b> <b>TRA Status:</b> <b>Monitoring</b></p>	<p>Taxpayers are often not aware of the provisions of the Taxpayer's Bill of Rights, including the right to procedures for the retirement of tax obligations by installment payment agreements which may be available under certain conditions. TRA often receives calls from audited taxpayers with questions about the audit including the question of why the taxpayer is being audited.</p>
<p><b>Recommendation</b></p>	<p>DOR should provide education and training for taxpayers on the Taxpayer's Bill of Rights and should require that a copy of the Taxpayer's Bill of Rights is provided and explained to each audited taxpayer both at the beginning and end of each audit. Taxpayers should also receive an explanation of why they are being audited.</p> <p>TRA again recommends improvements on this issue.</p>
<p><b>Response</b></p>	<p>The Department addressed this issue in response to the 2017-2018 and 2018-2019 annual reports. Without more detailed information about the specific cases and frequency of the problem, the Department is currently unable to take further action. As a result, the Department considers this issue closed but is open to revisiting it if more detailed information, including the frequency of the problem, is provided.</p> <p>As background, for the past several years, the Department has focused on heightening awareness of the Taxpayer Bill of Rights both internally and externally. The Department developed and implemented an annual training for employees on the importance of the Taxpayer Bill of Rights. Additionally, it is included in the Department's tax audit training.</p>

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	<p>Regarding external awareness, the Taxpayer Bill of Rights is provided to taxpayers at the beginning and end of the audit process, as well as during collection and enforcement actions. During the audit process, the taxpayers are also educated on tax issues that relate to their specific business activities.</p> <p>From an external perspective, the Department's website contains a Quick Link for the Taxpayer Bill of Rights on the home page, as well as a resource link on GTA's landing page entitled, "What to Expect from a Florida Tax Audit." Information on this publicly available link includes:</p> <ul style="list-style-type: none"> <li>• How Was I Selected for an Audit?</li> <li>• What Types of Records Will I Need to Provide?</li> <li>• What are My Rights During an Audit?</li> <li>• Communicating and Meeting Deadlines</li> <li>• Can I Request Technical Assistance During the Audit?</li> <li>• What Happens When the Audit is Complete?</li> <li>• Other Audit-Related Information</li> </ul> <p>The Department embraces the importance of taxpayers having access to the Taxpayer Bill of Rights and, as part of the normal course of business, performs ongoing reviews for additional opportunities to heighten awareness.</p> <p>Further, the Department has processes in place that provide Taxpayer Bill of Rights education to employees and standard procedures for educating taxpayers. The Taxpayer Bill of Rights education to employees began in April 2015 and was deployed through the Department's Learning Management System. The Department provides and explains the Taxpayer Bill of Rights to the taxpayer at the initiation of the audit. During the close of the audit, the audit staff informs the taxpayer of their options, such as payment in full, requirements for installment plan/stipulation agreements, and protest rights.</p>
<p>4. <b>Problem</b> <b>TRA Status:</b> <b>Ongoing</b></p>	<p><b>DOR's use of compromise authority</b> – Many taxpayers are not aware of DOR's authority, under certain factual situations and where consistent with law, to compromise and settle tax, interest, penalties, or fees. This authority has been delegated in writing to certain positions within DOR, but this authority does not appear to be exercised as delegated.</p>
<p><b>Recommendation</b></p>	<p>Where consistent with facts and as allowed by law, DOR should exercise its delegated authority to compromise and settle these matters.</p> <p>In the Addendum of this report is a complete copy of the DOR Executive Director's Delegation of Authority to Settle or Compromise Tax, Penalty, Interest, and Fees. This Delegation of Authority is dated May 15, 2019. TRA again recommends improvements on this issue.</p>
<p><b>Response</b></p>	<p><a href="#">The Department addressed this issue in response to the 2017-2018 and 2018-2019 annual reports. Without more detailed information about the</a></p>

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	<p>specific cases and frequency of the problem, the Department is currently unable to take further action. As a result, the Department considers this issue closed but is open to revisiting it if more detailed information, including the frequency of the problem, is provided.</p> <p>As background, Florida law establishes the authority to compromise tax, interest, and penalty. The following table provides this compromise authority for positions in the GTA program:</p> <table border="1" data-bbox="532 674 1307 982"> <thead> <tr> <th>Position</th> <th>Tax</th> <th>Interest</th> <th>Penalty</th> </tr> </thead> <tbody> <tr> <td>Program Director</td> <td>\$200,000</td> <td>\$125,000</td> <td>Any Amount</td> </tr> <tr> <td>Deputy Program Director</td> <td>\$200,000</td> <td>\$125,000</td> <td>Any Amount</td> </tr> <tr> <td>Revenue Program Administrators</td> <td>\$75,000</td> <td>\$62,500</td> <td>\$250,000</td> </tr> <tr> <td>Senior Tax Audit Administrators</td> <td>n/a</td> <td>\$62,500</td> <td>\$250,000</td> </tr> <tr> <td>Service Center Managers</td> <td>n/a</td> <td>\$62,500</td> <td>\$250,000</td> </tr> <tr> <td>Tax Audit Supervisors</td> <td>n/a</td> <td>\$1,250</td> <td>\$37,500</td> </tr> <tr> <td>Revenue Tax Audit Supervisors</td> <td>n/a</td> <td>\$1,250</td> <td>\$37,500</td> </tr> </tbody> </table> <p>Tax and/or interest can be compromised based only on a finding of doubt as to liability or collectability. Penalty can be compromised based on a finding of reasonable cause. See s. 213.21(3)(a), F.S., and Rules 12-13.007 and 12-13.0075, F.A.C.</p> <p>The GTAd program adheres to the appropriate compromise authority based on the specific facts and circumstances of each case and will continue to work with the Taxpayers' Rights Advocate on any instances of perceived inconsistent application.</p>	Position	Tax	Interest	Penalty	Program Director	\$200,000	\$125,000	Any Amount	Deputy Program Director	\$200,000	\$125,000	Any Amount	Revenue Program Administrators	\$75,000	\$62,500	\$250,000	Senior Tax Audit Administrators	n/a	\$62,500	\$250,000	Service Center Managers	n/a	\$62,500	\$250,000	Tax Audit Supervisors	n/a	\$1,250	\$37,500	Revenue Tax Audit Supervisors	n/a	\$1,250	\$37,500
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<p>5. Problem TRA Status: Monitoring</p>	<p><b>Regenerating Notices; Imaging Correspondence</b> – In handling taxpayer inquiries, sometimes a taxpayer will state to the Taxpayer Rights Advocate that he or she did not receive notice or correspondence from DOR on a matter. In researching the inquiry, the TRA will learn that DOR records show that DOR sent the document to the taxpayer, but the system is unable to generate an original copy of the document sent to the taxpayer and the TRA is unable to send to the taxpayer a copy of the original. Other times, taxpayers will state that they sent certain documents to DOR, but these documents will not be available in accessible electronic format.</p>																																
<p>Recommendation</p>	<p>TRA recognizes that GTA has a high volume of work activity and that efficiency is a consideration. GTA has taken steps to address this issue through better technology, but this solution will take some to implement. TRA supports GTA efforts to make improvements on this issue.</p>																																
<p>Response</p>	<p>The Department addressed this issue in response to the 2017-2018 and 2018-2019 annual reports. Without more detailed information about the</p>																																



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	<p>specific cases and frequency of the problem, the Department is currently unable to take further action. As a result, the Department considers this issue closed but is open to revisiting it if more detailed information, including the frequency of the problem, is provided.</p> <p>As background, the Department sends more than three million system-generated notices to taxpayers per year. Although notices can be reproduced, they will reflect the current date of reproduction.</p> <p>As part of the e-Services Taxpayer Portal project, the Department will analyze the types of notices and outbound correspondence to determine the feasibility and prioritization for programming resources to provide self-service document access and retrieval. Additionally, the modernization of the Image Management System will receive the same analysis and determination.</p>
<p>6. Problem TRA Status: Ongoing</p>	<p><b>Awareness of Doc Stamp Liability</b> - This problem is specific to the documentary stamp tax. Many taxpayers are not aware that certain documents involving real property transfers are subject to the excise tax on documents. Because of the operation of this tax and the associated time lags involved, it may be a few years (usually one to three) before the taxpayer learns the Department has audited the transfer instrument and made a tax assessment. In some cases, the taxpayer becomes aware of the tax liability when the taxpayer learns that a DOR tax lien appears on the taxpayer's credit report. These types of taxpayers are among the most upset customers served by TRA.</p>
<p>Recommendation</p>	<p>DOR should expand efforts to provide information and education for Clerk of Court staff, lenders, and those involved in real estate closings including agents and attorneys. If not already done, DOR should develop an outreach plan to provide information and education to make these persons and taxpayers aware of the conditions under which this tax would be due.</p>
<p>Response</p>	<p>TRA Update for FY19-20: TRA again recommends improvements on this issue. The Department addressed this issue in response to the 2017-2018 and 2018-2019 annual reports. Without more detailed information about the specific cases and frequency of the problem, the Department is currently unable to take further action. As a result, the Department considers this issue closed but is open to revisiting it if more detailed information, including the frequency of the problem, is provided.</p> <p>As background, the Department routinely coordinates with the 67 clerks of court and has made significant strides in the documentary stamp review process. Examples of improvements include:</p> <ul style="list-style-type: none"> <li>• Improved data filters to assist in identifying transactions with non-compliance issues (i.e., identify the types of deeds with the most common non-compliant issues)</li> <li>• Increased thresholds of the value of the property to focus on high-dollar transactions</li> </ul>

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	<ul style="list-style-type: none"> <li>• Third-party validation of address and contact information to ensure proper noticing to the taxpayer</li> <li>• Reduction of caseload inventory to ensure the handling of more current transactions</li> </ul> <p>Additionally, in November 2017, as part of the Taxpayer Education and Outreach Process, the Department reviewed documentary stamps materials as part of a revitalized training with the clerks of court.</p>
<p>7. <b>Problem</b> <b>TRA Status:</b> <b>Ongoing</b></p>	<p><b>Doc stamp notices; old addresses</b> – This problem is specific to the documentary stamp tax. Often documentary stamp taxpayers do not receive notices and collections letters about a documentary stamp tax liability. This is because DOR sends notices and correspondence to the last known address of the taxpayer which may be the address of the transferred property. A common scenario is that the taxpayer no longer lives at the property and, thus, does not receive the DOR notices and correspondence. Sometimes the taxpayer becomes aware of the tax liability when the taxpayer learns that a DOR tax lien appears on the taxpayer's credit report. The taxpayer can have difficulty obtaining a copy of DOR's tax warrant against the taxpayer because DOR does not maintain a publicly accessible database of its tax warrants.</p>
<p><b>Recommendation</b></p>	<p>DOR should develop a plan to better identify contact information for these types of taxpayers so that the taxpayer can receive notices and correspondence regarding the tax liability. Also, DOR should make available a public database of its tax warrants with sufficient information to enable taxpayers to find and obtain a copy of the tax warrant.</p> <p>TRA again recommends improvements on this issue.</p>
<p><b>Response</b></p>	<p>The Department addressed this issue in response to the 2017-2018 and 2018-2019 annual reports. Without more detailed information about the specific cases and frequency of the problem, the Department is currently unable to take further action. As a result, the Department considers this issue closed but is open to revisiting it if more detailed information, including the frequency of the problem, is provided.</p> <p>As background, the Department employs a third-party postal verification solution to refine address information.</p> <p>The Department is unaware of this being a significant issue and encourages the TRA to coordinate with the TRA liaison that was established in 2016 in the GTA director's office specifically to work with the TRA in resolving outstanding taxpayer issues. Additionally, it would be beneficial for the TRA to provide case specifics and statistical information to support sound decision making and case resolution.</p> <p>Regarding a public database, currently, warrants, liens and judgment lien certificates are filed with the court, and many court records are available online.</p>

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	<p>Replicating the information on the Department's website would be duplicative and costly due to the resources needed to create and maintain the database. Additionally, it is not clear if s. 213.053(20), F.S., permits the Department to choose to disclose only certain taxpayers (i.e., documentary stamp tax).</p>
<p>8. <b>Problem</b> <b>TRA Status:</b> <b>Monitoring</b></p>	<p><b>Reemployment tax rates</b> – This problem is specific to the reemployment assistance tax. The rate for the reemployment assistance tax may change from year-to-year. Taxpayers are sometimes not aware of this year-to-year change and, as a result, use an incorrect rate in calculating their tax for a particular year.</p>
<p><b>Recommendation</b></p>	<p>A linked web address should be provided on Form RT-6 to take taxpayers to a web page to find the correct tax rate.</p> <p>TRA recognizes that GTA has made improvements on this issue and will continue to monitor any taxpayer contacts on this issue.</p>
<p><b>Response</b></p>	<p><b>The Department addressed this issue in response to the 2017-2018 and 2018-2019 annual reports. Without more detailed information about the specific cases and frequency of the problem, the Department is currently unable to take further action. As a result, the Department considers this issue closed but is open to revisiting it if more detailed information, including the frequency of the problem, is provided.</b></p> <p>As background, the Department provides multiple avenues by which an employer may access his or her reemployment tax rate.</p> <ul style="list-style-type: none"> <li>• Initially communicated through a personalized mailing of the <i>Taxpayer's Annual Tax Rate Notice</i> in December, the month prior to the effective date of the rate</li> <li>• Prepopulated per employer on his or her electronically filed returns</li> <li>• Prepopulated per employer on his or her printed, hardcopy tax returns</li> <li>• Available through the Department's File and Pay website</li> <li>• Available by calling Taxpayer Services (850-488-6800) self-service option offered 24 hours a day, 7 days a week</li> </ul> <p>Additionally, the Department's Reemployment Tax forms reference the web address for the Reemployment Tax File and Pay website where employers can access their tax rates.</p>