




## Department of Taxation

Office of the Tax Commissioner  
30 East Broad St. 22<sup>nd</sup> Floor  
Columbus, Ohio 43215  
(614) 466-2166 Fax (614) 466-6401  
tax.ohio.gov

TO: Randall J. Meyer, Inspector General

FROM: Joseph W. Testa, Tax Commissioner 

DATE: January 17, 2014

RE: Ohio Department of Taxation's Response to Report of Investigation issued November 21, 2013. File ID No. 2012-CA00083

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The Office of the Inspector General (OIG) recently concluded an investigation at the Ohio Department of Taxation (ODT) regarding credit balances existing on the ITAS computerized tax administration system ("ITAS Investigation"). The report of investigation included eight recommendations and asked ODT to respond within sixty (60) days with a plan detailing how the recommendations will be implemented. ODT's responses are detailed below following each of the recommendations issued by your office.

### Recommendations

1. **Notify the taxpayers identified as having an overpayment on their account from the list provided on July 18, 2012, regarding the balance on their account.**

#### Taxation's Response

This work began in December of 2012 in other tax types not subject to the ITAS Investigation. To date, ODT has refunded more than \$11 million from credit balances identified in the Commercial Activities Tax (CAT). Under current law, the taxpayer is required to submit a refund request form in writing to ODT. Beginning in 2012 with CAT and subsequent to the release of your report for the ITAS taxes, we have prepopulated the refund request form for the taxpayer indicating the overpayment we have identified and requested that the taxpayer sign and return the form based upon the statutory requirement. As many as 50% of the taxpayers so notified have failed to respond and claim their money.

ODT is moving forward to work all the accounts with credit balances in ITAS. This work involves three broad tasks: 1. Initiating correspondence with taxpayers where the validity of the credit balance is undeterminable based on the information within ODT; 2. Allocating purported credit balances to the proper account or time period, offsetting an unpaid tax liability; and, 3. Corresponding with taxpayers who are owed money.

2. **Create a policy to proactively identify and notify taxpayers of any future potential overpayments.**

#### Taxation's Response

ODT adopted a policy in December 2012 and implemented procedures to notify businesses of overpayments as they occur, and to research existing credit balances within statute. However there is no statutory requirement to mandate future administrations to do the same. Merely creating a policy fails to go far enough to protect taxpayers.

As noted in Item 1, notifying taxpayers with prepopulated refund claim forms has proved to be an insufficient method to return monies owed to taxpayers. Working with the Administration and the General Assembly, the legislature has introduced HB 402 and SB 263 which will do several things:

1. Mandate that future Tax Commissioners notify taxpayers of the existence of credit balances;
  2. Make systematic changes to preclude the credit balance from existing in the first place;
  3. Permit ODT to utilize any overpayment against tax liabilities in the next reporting period as well as other types of tax debt and certified liabilities;
  4. Permit ODT to unilaterally issue refunds to taxpayers without requiring taxpayers to file a refund request form.
- 3. Identify and issue payments to taxpayers who did not receive their approved refunds from 2009. Also issue interest payments to those taxpayers who did receive their refunds but interest had been withheld.**

#### **Taxation's Response**

To date, ODT has issued more than \$7.5 million in taxes and interest related to the accounts that had been approved in 2009 but were never processed, and continues to work through the list. ODT has run a query to identify the refund payments that were issued for tax only without the interest, ODT is in the process of bringing the interest calculations up to date, in preparation for issuing payments that will make the taxpayers whole.

- 4. Review the list of accounts with assessments that also have potential overpayments and contact the taxpayers to determine if the overpayment should be removed to cover the liabilities.**

#### **Taxation's Response**

Notwithstanding the legislative changes ODT is seeking, as described above, ODT began an earnest effort in November 2013 to notify taxpayers of the overpayments that were subject to the ITAS investigation. Since the release of your ITAS report, ODT has reconciled nearly 100 tax periods, clearing more than \$200,000 in tax liabilities.

- 5. Create formal policies and procedures regarding the supervisory review of the report identifying financial transactions made by tax agents.**

#### **Taxation's Response**

In addition to the policy change in December 2012, ODT promulgated procedures. On April 1, 2013, ODT issued the Business Tax Account Modification Guide, which documents the procedures that must be followed when modifying the balances in business tax accounts. The guide includes procedures for the tax agent who effectuates the financial transaction, and the supervisor who reviews the tax agent's work. The reviewers examine the data, looking for patterns of abuse and for areas where agent training is needed. Depending upon the situation, disciplinary action may be initiated. Reviewers document which transactions were reviewed and the results of that review utilizing the Work Review Template. Upon completion, the supervisory reviews are sent to ODT's Internal Audit Division where they are catalogued and stored.

These guidelines were placed on ODT's learning management system and all employees working with business taxes were required to review and acknowledge receipt electronically. All new employees to ODT are required to review and acknowledge the Business Tax Account Modification Guide.



**6. Determine if a new “review items” report should be created.**

**Taxation’s Response**

Several new reports have been written and are being generated on a regular basis from ITAS and STARS. (Note that two taxes previously administered in ITAS went “live” in STARS on October 28, 2013: employer withholding and school district withholding.) These reports identify transactions that modify any account balances and are reviewed by a supervisor. Other reports capture credit balance activity: refunds issued, new credit balances generated by current taxpayer activity (filing an amended return, for example) and credit balances that have been resolved. The management staff in the business tax areas report weekly to the deputy tax commissioner on the status of credit balances.

**7. Create standard language and documentation requirements to be reported in notes fields in ITAS.**

**Taxation’s Response**

The Business Tax Account Modification Guide discussed in Item 5 also provides specific instructions for placing notes in ITAS. Employees must place a note in the system detailing the reason for each transaction/adjustment type performed. Further, detailed notes must explain the reason why the account was modified including the source and reason for the change.

STARS provides employees with canned notes available through a “drop down” box. Employees must select the canned note that corresponds to why the account was modified including the source and reason for the change. Additional details can be documented through the use of free-form text.

**8. Ensure payments made through Ohio Business Gateway are posted to the correct tax period in ITAS.**

**Taxation’s Response**

The taxpayer (or the taxpayer’s authorized representative) is responsible for key-entering the correct information through the Ohio Business Gateway (OBG). Key-entry errors sometimes occur. Because taxpayers file and pay current tax returns, delinquent tax returns and amended tax returns using OBG, it is not feasible to automatically populate the tax period. To mitigate this, ODT has developed methods to identify new credit balances in a timely manner, so they can be investigated and resolved as soon as is practical. Please note that sales tax is the only ITAS tax that mandates electronic filing through the OBG. About 50% of the employer withholding and school district withholding returns are still being filed using paper forms. OBG is in the process of enhancing its functionality for employer withholding and school district withholding, which will pave the way for future mandatory electronic filing for these taxes.

Thank you for allowing ODT the opportunity to respond to OIG’s recommendations. If you need further information, please contact Marjorie Kruse, Deputy Tax Commissioner for Audit and Compliance, directly at 466-8525 or 995-1872 (Northland).