

OHIO'S



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Ohio Department of Taxation

Summer 2001

A New Session, A New Bill

A second Taxpayer Services Bill is about to be introduced. The first bill, House Bill 612 (123rd General Assembly), became effective on September 29, 2000. You may recall that the bill was passed unanimously in both the Ohio House of Representatives and the Ohio Senate in its original version. The main purpose of these Taxpayer Service Bills is to improve taxpayer service and tax administration by addressing certain technical, procedural and policy issues to which the Department is bound by law, but which provide undue burdens on the taxpayers, the Department, or both.

TPS^{II}

Senator Robert Spada, a Republican from Parma Heights, will be the new Taxpayer Service bill's sponsor. This second bill contains new ideas, along with some ideas that were submitted for House Bill 612, that were not fully developed and explored. Some of the issues included in this bill are:

GENERAL

Assessment Correction Notice—The proposed bill codifies our practice of reviewing and modifying assessments without a required hearing where the taxpayer provides the pertinent information. This practice provides quicker resolution of the taxpayer's assessment. The taxpayer will have a sixty-day period in which to appeal the

modified assessment. In addition, the proposed change provides that only one such modification may be made. These changes apply to the personal income tax, sales and use tax, corporation franchise tax, public utility tax, fuel use tax, motor fuel tax, cigarette tax, municipal income tax on electric companies, scrap tire fee, horse racing tax, liquor tax, and severance tax.

CORPORATE FRANCHISE TAX/PERSONAL INCOME TAX

Net Operating Loss—Currently, for taxable years beginning on or after January 1, 1982 and ending before August 6, 1997, the net operating loss carryforward period for corporate franchise tax filers is 15 years. This change to 20 years for taxable years beginning on or after August 6, 1997 brings Ohio into conformity with the federal statutes for taxpayers with net operating losses.

Safe Harbor Language—If the taxpayer pays 100% of the previous year's tax liability or 90% of the current year's tax liability, whichever is less, the penalty for underpaying estimated liability is avoided. Interest, however, is not avoided and is calculated according to the due dates of the payment.

Relief from Personal Liability—Current law holds an employee liable for the income tax even where the employer withheld the tax but did not remit it to the state. This change would relieve the employee from the tax liability except where there is evidence of

A New Session—cont'd. on page 5

Fueling Up a New Enforcement Program

Ohio Department of Taxation Enforcement agents are gearing up to kick-off a dyed diesel fuel testing program early this summer that is expected to increase state fuel tax revenues by as much as \$10 million. The fuel tax is used to maintain Ohio's highways.

There are two types of diesel fuel sold in Ohio. One, purposely dyed red, is used for off-road farm and construction vehicles and to heat homes. The other, which is clear, is the legal fuel for motor vehicles that travel the state's highways and is subject to state and federal motor fuel taxes.

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District Offices Now Taxpayer Service Centers

Numerous changes have been taking place at the Department over the last several months, and will continue to. All of these changes revolve around the mission of how to best "provide quality service to Ohio taxpayers by helping them comply with their tax responsibilities and by fairly applying the tax law."

A new project, called e-CARE (see article on page 3), is driving the Department to adopt a Customer Relationship Management (CRM) business methodology. CRM is an integrated technology and business approach that the Department will follow, allowing employees to serve the customers in the most effective manner. This will require that the Department reengineer the way

it deals with its customers.

As a first step, and to reflect the changes resulting from the reorganization, the District Offices are being renamed the Taxpayer Service Centers. The Taxpayer Service Centers' primary functions are to provide taxpayer service and administer compliance programs. The original Income Tax Service Center will now be called the Processing Center. Its function will remain the same. In the next 12-18 months, the role of the Taxpayer Service Centers will evolve as the Department shifts to a new customer relationship management approach to serving taxpayers.

Columbus Office Moves; New Service Centers Open

Responding to a tighter budget, Commissioner Zaino decided against renewing the lease on the Department's Route 161 location in Columbus. This move will save nearly \$500,000 over the biennium. The lease expires on June 30, 2001. The Columbus District Office, Estate Tax and Central Audit Divisions are currently located there.

The decision to not renew this lease was tough, but unavoidable. The Department has significantly fewer people than it used to, and has available space in other buildings (i.e., Rhodes Tower and 800 Freeway Drive). Given the budget, consolidating and cutting costs is a decision right for the times and taxpayers.

With that decision, the Department has accelerated other changes. The Columbus District Office is being renamed the Columbus Taxpayer Service Center and will have two locations. One location will be 800 Freeway Drive North, which has easy access and free parking for taxpayers. The other location, Rhodes State Office Tower (20th floor), will serve taxpayers living on the south side of the city, who have other busi-

ness downtown, or who ride the bus. The Rhodes Tower is a central location for all bus routes. The existing Income Tax Service Center at 1030 Freeway Drive will now be named the Processing Center.

The Estate Tax Division and a big portion of the new Audit Division will soon be located at 800 Freeway Drive. The Audit Division's Administrative employees will be located in the Rhodes Tower (20th Floor). Some Information Services Division employees currently located at 800 Freeway Drive will remain at this location, while other employees will relocate to the State of Ohio Computer Center in Columbus.

Commissioner Zaino said, "The decision to move out of our Route 161 location was done to address our serious budget problems. At the same time, we have used this change to maximize our existing space and people resources, while also improving taxpayer service in Columbus. We needed to confront the problems at hand. This approach is reasonable, sensible, and responsible."

Fueling Up—cont'd. from page front page

Commissioner Zaino says the dyed fuel-testing program is expected to do two things. First, if the experience of surrounding states is repeated in Ohio, the agents will find some vehicles illegally running on dyed fuel. Violators are assessed the tax and are subject to fines and even jail time. Second, the program will deter those who might otherwise use dyed fuel because they know they could get caught.

Specially trained agents from the Department's Enforcement Division will carry out the Ohio dyed fuel-testing program at random locations around the state. The agents also will be checking vehicles for valid International Fuel Tax Association (IFTA) and

Fuel Use Tax (FUT) stamps. IFTA stamps are required of commercial trucks that travel through several states. FUT stamps are required of commercial trucks that travel only in Ohio.

Anyone caught running with untaxed diesel fuel on the highway is subject to a first-degree misdemeanor charge, which can result in a fine of up to \$1,000 and up to six months in jail. There can also be a civil penalty of \$1,000 for the use of dyed fuel on the highway.

The Department's Enforcement Division has a toll-free number that anyone can call to report a suspected violation of Ohio's tax laws. The number is 1-800-757-6091.

COMMENTS *from the commissioner*



Commissioner Zaino

We have entered an era where it seems the easier and faster someone can complete a task, the better. Here at the Ohio Department of Taxation, we are keeping up with the technology trends of today. We continue to make Department requirements simpler for taxpayers, saving time and money for both them and the state of Ohio.

We have introduced numerous income tax filing electronic initiatives over the last few years, including TeleFile, E-File, and direct deposit. New this year was the credit card payment option for income taxes and the eMail system.

This year, a record number of Ohio taxpayers chose to file their income tax returns electronically or by telephone. The Department received just under 1.6 million 'paperless' returns. Last year, electronic and TeleFile returns totaled 1.3 million. By filing electronically, taxpayers are saving the state money. Electronic returns cost \$.30 to process; TeleFile returns cost about \$.40; and paper returns about \$.71. Paperless returns resulted in a savings of over \$600,000.

The eligibility for TeleFile expanded again for tax year 2000, giving more Ohio taxpayers the option of using this filing method. Over 460,000 taxpayers filed their return using the telephone. This was an increase of 11.2 percent over last year's TeleFile returns.

A record number of Ohio taxpayers opted to file their income tax returns electronically (e-File). More than 1.1 million returns

were e-Filed, an increase of almost 30 percent over the previous year. I expect this number to continue to grow each year, as people continue to be more comfortable and proficient with computers.

The number of Ohio taxpayers choosing to have their refund deposited directly into their bank account doubled from last year. When selecting direct deposit, along with TeleFiling or e-Filing, taxpayers received their refunds within seven to ten days. Each direct deposit refund check is \$.40 cheaper to issue than a paper check. Taxpayers who selected direct deposit saved the state an additional \$177,000.

For the first time on the state level, we offered taxpayers the option of paying their tax due with a credit card. Although there is a two and a half percent fee charged by the vendor, over \$1 million of taxes were paid by credit card.

Starting in January, we gave taxpayers the opportunity to e-mail their questions to agents within the Department. The e-mail system responded to more than 14,000 taxpayer inquiries in its first three months of service to Ohio taxpayers. We responded to most inquiries within two business days and we answered many questions the same business day. As expected for the income tax season, over 57 percent of all inquiries referenced personal income tax. Taxpayers continue to praise this new service.

All of these electronic initiatives are a win-win situation for both taxpayers and the state of Ohio. If you haven't already, I want to encourage you to take advantage of these electronic initiatives next filing season, saving yourself time and the state money.

A New Technology Initiative

A new information technology initiative is in its beginning stage here at the Department. It is called *e-CARE*, which is obviously a play on words taken from the Department's Motto: Courteous, Accurate, Responsive and Equitable. To both keep up with and take advantage of the technology trends of today, *e-CARE* was created to offer more convenient computer services to taxpayers.

e-CARE will provide the following benefits:

- A county extranet, electronically linking the Department and county officials;
- Enhanced on-line filing and payment options for taxpayers (sales tax, personal property tax, etc.);
- One-stop problem resolution of taxpayer inquiries; and
- Taxpayer access to their tax account data and self-service options.

Further, many operational benefits will accrue to the Department, including preservation of employee knowledge of Department functions and procedures (which is important because of the number of management employees who will reach retirement within the next four years).

To obtain the benefits described above, the Department must first adopt an appropriate Customer Relationship Management (CRM) business methodology. CRM is an approach that Department employees will follow to serve customers in the best possible manner. This will require that the Department reengineer the way it deals with stakeholders. No longer will the Department have a traditional call center, but a contact center. The contact center will encompass all of the ways in which the Department communicates with taxpayers, whether it be face-to-face, over the phone or internet, by mail or e-mail.

e-CARE—cont'd. on page 9

COURT *decisions*

The following are significant decisions of the Board of Tax Appeals (BTA) announced in March through May, 2001. Court decisions are compiled by Peter Angus, Esq., CPA, Problem Resolution Officer.

CORPORATE FRANCHISE TAX

Abitibi-Price Corp. and Subsidiaries v. Tracy (March 2, 2001), BTA No. 98-401

Amended corporate franchise tax returns submitted with a transmittal letter indicating the amount of refund requested but without a refund claim form were held to be adequate to satisfy core jurisdictional requirements and to constitute substantial compliance with R.C. 5733.12 for purposes of filing a claim for refund within the three-year period of limitations.

EXCISE TAX

Kelleys Island Caddy Shack v. Zaino (May 18, 2001), BTA No. 00-819

The taxpayer, a vendor on Kelleys Island, contended that the Resort Island Excise Tax, R.C. 5739.101-105, violated the Ohio Constitution because it does not operate uniformly throughout the state as is required of laws of a general nature under Article II, Section 26. In *Put-In-Bay Isl. Tax v. Colonial, Inc.* (1992), 65 Ohio St. 3d 449, the predecessor statutes to R.C. 5739.101-105 were held to be unconstitutional. Subsequent to that case, the statutes were amended by Am.H.B. 327. The **BTA ruled** that it did not have the authority to find acts of the General Assembly to be unconstitutional, and so it affirmed the action of the Tax Commissioner.

MOTOR VEHICLE FUEL TAX

Nagia Saleh v. Zaino (April 20, 2001), BTA No. 00-644

BTA affirmed the denial of a dealer's motor vehicle fuel shrinkage claim that was not filed within the time prescribed by R.C. 5735.141.

PERSONAL INCOME TAX

William Lonabarger v. Zaino (March 23, 2001), BTA No. 00-950

The taxpayer was assessed for non-filing of personal income tax returns for 1994 and 1995. In his petition for reassessment



he indicated he was not an Ohio resident but he did not, upon request, provide evidence of filing in another state. The petition was dismissed for untimeliness and the **BTA affirmed**.

Will Frazee, Executor, Estate of Thomas O. Stolz v. Zaino (April 20, 2001), BTA No. 00-1381

The **BTA affirmed** that there was no jurisdiction to consider a petition of a personal income tax assessment if the payment requirements of R.C. 5747.13(E)(4) were not met. Taxpayer appealed this decision to the Ohio Supreme Court on May 21, 2001.

PERSONAL PROPERTY TAX

S & Z Tool & Die Co., Inc. v. Tracy (April 6, 2001), BTA No. 98-430

The taxpayer filed "902" claims for deductions from book value for years 1994 and 1995 based on the allocation of a two-step arm's-length sale of the stock which occurred in 1992 and 1995. The **BTA found** the evidence presented by the taxpayer to be insufficient to support its claims for deduction.

PUBLIC UTILITY PROPERTY TAX

GTE North Incorporated v. Tracy (March 30, 2001), BTA No. 98-893

The taxpayer contended that its rights under the Equal Protection Clause of the U.S. Constitution were violated by applying an 88% listing percentage to determine its public utility property tax liability for 1997. The **BTA found** that it did not have the authority to find an act of the General Assembly unconstitutional, and so affirmed the final determination of the Tax Commissioner. This decision was appealed to the Ohio Supreme Court on April 12, 2001.

REAL PROPERTY

Madisonville Comm. Urban Redevelopment Corp. v. Tracy (March 2, 2001) BTA

No. 98-858

An urban redevelopment corporation, organized to improve private economic development and to spur job growth in the community, sought exemption from real property taxes under R.C. 5709.121. The **BTA held** that the corporation was not a charitable or educational institution and therefore failed to meet the statutory requirements for exemption.

SALES TAX

Simon Zalben, Responsible Party of Cleveland Trinidad Paving Co. v. Tracy (May 11, 2001) BTA No. 98-1303

The BTA declined to dismiss an appeal on the basis that it was filed by a non-attorney, but it did dismiss for lack of specification of error in the appeal notice. The notice stated: "We hereby appeal the attached determination regarding the proposed assessment of \$10,681.29 against our client. The commissioner's findings are arbitrary, capricious, and void of any reference to the facts presented by petitioner." The **BTA held** that this failed to specify error, as required by R.C. 5717.02 to invoke the BTA's jurisdiction.

In the following BTA cases, vendors were audited for sales tax compliance and found not to have maintained the required sales records: *2233 Professor, Inc. v. Zaino* (April 20, 2001) BTA No. 00-1804; *Wooley Bulley's Inc. v. Zaino* (May 11, 2001) BTA No. 99-1362, 99-1363; *Shirley Khan v. Zaino* (April 6, 2001) BTA No. 00-108; *St. Clair 105 Foods, Inc. v. Zaino* (March 23, 2001) BTA No. 99-2015; *Dennison Beverage & Produce, Inc. v. Tracy* (March 2, 2001) BTA 99-2088; *Abed, Inc., dba Patriot Food Mart v. Tracy* (March 9, 2001) BTA No. 98-968; *A B Beverage Corporation v. Zaino* (May 18, 2001) BTA No. 00-677. To establish sales tax liability, sales were re-constructed using the vendors' purchase records and mark-up percentages based on analyses of sales. The vendors raised various objections to the audit methodologies but were unable to establish error in the actions of the Tax Commissioner's agents, and so the assessments were **affirmed by the BTA**.

A New Session—cont'd. from front page

collusion between the employer and employee.

MOTOR FUEL/FUEL USE TAX

Fuel Use Tax Language—Several years ago, the Ohio Department of Taxation entered into the International Fuel Use Tax Agreement (IFTA). The Highway Use Tax was repealed, but the framework to administer the new Fuel Use Tax was contained within the Highway Use Tax statutes, so the statutes were never repealed. The proposed changes modernize the statutes to reflect the current Fuel Use Tax. The changes generally replace 'highway' with 'fuel' and delete out-dated or duplicative language.

SALES AND USE TAX

Disclosure of Vendor's License, Direct Pay Permit and Sellers' Use Tax License Information—Allows employees of the Ohio Department of Taxation to disclose the name and address of the business, the vendor's license number and the status (inactive or active) of the account. Similar in-

formation may be disclosed on direct pay permits or sellers' use tax accounts upon request.

Refunds Directly to Consumer—Traditionally, sales tax refunds could only be made directly to consumers under very limited circumstances. The normal route was for the consumer to request a refund from the vendor and the vendor to apply for the refund from the state. While vendors may still apply for refunds of the tax they paid on behalf of their customers, the statute is changed to allow direct refunds to consumers under certain circumstances.

Mobile Telecommunications Sourcing Act—Congress recently enacted the Mobile Telecommunications Sourcing Act. The sales tax has been changed to reflect the Federal Act's siting guidelines. The effective date of this change will be August 1, 2002.

Expand Direct Pay Authority—The proposed language would authorize the Tax Commissioner to expand the use of a

sales tax direct pay permit. Large purchasers who may not be able to determine at the time of purchase whether the item will be used in a taxable or non-taxable manner generally use direct pay permits. Traditionally, these permit holders have been restricted primarily to manufacturers and construction contractors. Under the proposal, direct pay permits may be extended to other taxpayers in order to improve the efficiency of tax administration. Qualifying criteria might include such things as a minimum average tax liability, excellent filing history, machine readable records, etc.

The bill is currently being reviewed by Division Administrators of the Ohio Department of Taxation, the Governor's office, and numerous interested parties, including: the Ohio Chamber of Commerce, Ohio State Bar Association, and the Ohio Truckers' Association. The Department is hopeful that the bill will be introduced in the Ohio Senate early this summer. Watch future issues for the latest developments on the Taxpayer Services Bill II.

Tax Calendar at-a-glance

July

16	Monthly Income Tax Withholding Return
20	Monthly Kilowatt Hour (kWh) Tax Return (electric distribution companies)
20	Monthly Kilowatt Hour (kWh) Tax Return (self-assessing purchaser)
23	Monthly and Semiannual Sales Tax Returns
23	Monthly Consumer and Direct Pay Returns
23	Quarterly Consumer Use Tax Return
23	Quarterly Direct Pay Sales Tax Return

August

15	Monthly Income Tax Withholding Return
20	Monthly Kilowatt Hour (kWh) Tax Return (electric distribution companies)
20	Monthly Kilowatt Hour (kWh) Tax Return (self-assessing purchaser)
23	Monthly and Semiannual Sales Tax Returns
23	Monthly Consumer and Direct Pay Returns

Sept.

17	Monthly Income Tax Withholding Return
17	Quarterly Estimated Income Tax Return
20	Monthly Kilowatt Hour (kWh) Tax Return (electric distribution companies)
20	Monthly Kilowatt Hour (kWh) Tax Return (self-assessing purchaser)
24	Monthly and Semiannual Sales Tax Returns
24	Monthly Consumer and Direct Pay Returns

Small Business Tax Workshops

New or prospective small business owners and self-employed persons can learn about their tax rights and responsibilities by attending the next Small Business Tax Workshop. These workshops are offered free of charge and are sponsored by the Ohio Department of Taxation and the Internal Revenue Service. Most workshops are being offered in cooperation with Small Business Development Centers, which are part of the Ohio Department of Development. Workshops are designed to provide a general overview of business taxes.

Participants receive workbooks and a business tax kit that contain forms and publications necessary for complying with business tax requirements. A complete list of the dates and locations of the workshops are located on the Department's internet site at www.state.oh.us/tax under the *What's New* section.

TAX enforcement news

The following information is a list of convictions secured by the Enforcement Division of the Ohio Department of Taxation from February through April, 2001. Tax Enforcement News is compiled by Robert M. Bray, Enforcement Division. Fraud complaints can be e-mailed to the Enforcement Division at Enforcement@tax.state.oh.us.

Odell Thomas of Mansfield pleaded guilty in the Richland County Common Pleas Court to two counts of collecting and failing to remit sales tax and one count of theft of sales tax money. Mr. Thomas owns and operates B & O Heating & Cooling in Mansfield. A complaint was received from the Mansfield Police Department in regards to the business collecting and failing to remit sales tax. An investigation led to a list of customers who were interviewed and documentation was obtained as to the sales tax being collected. No vendor's license was present, indicating there was no means to remit the sales tax collected. Mr. Thomas was ordered to pay the state of Ohio \$30,692. He presented a check in the amount of \$17,303 on the day of sentencing. Mr. Thomas was placed in a diversion program. Once all money has been paid, Mr. Thomas will be released from the criminal conviction.

Gordia Williams of Republic pleaded guilty in the Seneca County Common Pleas Court to three counts of collecting and failing to remit sales tax and one count of theft of sales tax money. Ms. Williams owns and operates Farmer's Café located in Republic. A complaint was received from the Toledo Taxpayer Service Center (formerly the Toledo District Office). The complaint alleged the business had not filed sales tax returns over a period of several months. An investigation led to obtaining a search warrant to acquire records. The records were analyzed and it was determined the business owed in excess of \$15,540. Ms. Williams was sentenced to three years community control

(probation), remain gainfully employed and ordered to pay \$15,549 over the next three years. Ms. Williams paid \$15,549 on the day of sentencing.



The combined effort of the Ohio Department of Taxation's Enforcement Division and the Columbus Taxpayer Service Center (formerly the Columbus District Office) resulted in Calvin Higgins being ordered to pay over \$700,000 in back taxes, penalty and interest to the state. On February 28, Mr. Higgins entered into the Franklin County Diversion Program. This agreement was reached after Mr. Higgins was indicted on 114 counts of both collecting and failing to remit state sales tax, and fraudulent filing of state sales tax returns. In the agreement, Mr. Higgins has been ordered to pay \$748,089 in sales tax, penalty, and interest. If Mr. Higgins defaults on the monthly payments of about \$8,000, then he will be found guilty and sentenced accordingly for all 114 counts. The Enforcement Division conducted the criminal investigation, while the Columbus Taxpayer Service Center completed the audit. Mr. Higgins owns and operates the C & S Lounge in Columbus. Information was received, indicating Mr. Higgins was not reporting all of his sales tax. Search warrants were conducted, leading to the charges of compliance.

Richard Nusbaum of Camden pleaded guilty in Preble County Common Pleas

Court to one count of collecting and failing to remit sales tax and one count of theft of sales tax money. Mr. Nusbaum owns and operates ESI Public Safety Supply & Equipment. Information was received from a taxpayer indicating sales tax was charged on a transaction and not remitted. An investigation led to charges being filed and the subsequent conviction. Mr. Nusbaum was placed in the Diversion Program, given 100 hours of community service and ordered to pay the state of Ohio, Department of Taxation \$234.

Richard Laney of Ravenna pleaded guilty in Cuyahoga County Common Pleas Court to one count of collecting sales tax and failing to remit it. He was placed on probation and ordered to pay restitution. Mr. Laney owns and operates Mattress Distributors in Bedford Heights. A complaint from a taxpayer led to the investigation. Sufficient information was obtained to execute a search warrant at the business location. Business records were obtained and analyzed, leading to the subsequent charges and conviction. Mr. Laney was ordered to pay the State of Ohio \$58,044, which he paid the day of sentencing.

Yury and Igor Abramovsky of the Cleveland area each pleaded guilty in the Lake County Common Pleas Court to collecting and failing to remit sales tax. The couple operated Computer Star Computer System in Mayfield Heights. Information was received indicating sales tax was being collected and not remitted. Records indicated \$11,133 was not remitted to the state of Ohio. One-year probation was ordered in the case along with court ordered restitution in the amount of \$11,133. The entire amount was paid the day of sentencing.

Enforcement—cont'd. on next page

PRO-files

New Tax Amnesty Program May Present Compliance Opportunities

Submitted by Peter Angus, Esq., CPA, Problem Resolution Officer

Tax practitioners may have an opportunity to help clients clear up prior tax problems through the state's new amnesty program. The amnesty program was designed to enhance taxpayer compliance, get new taxpayers on the rolls and generate needed revenue for the state's General Revenue Fund. Penalty and one-half of any interest otherwise due will be waived under the program. The amnesty program, part of H.B. 94 which was signed by the governor, will apply to personal property tax, public utility excise tax, corporate franchise tax, sales and use tax and personal income tax. The program applies to "qualifying delinquent taxes" which are defined in the legislation as those which, on May 1, 2001, were due and payable from a taxpayer, vendor, seller or employer and that remain unpaid, but not including taxes which have been billed or assessed by the Department of Taxation or for which an audit by the Department is underway.

The window for applying for amnesty is October 15, 2001 through January 15, 2002. During that period, for public utility excise tax, corporate franchise tax, sales and use

tax and personal income tax, taxpayers or their representatives should remit payment and file returns along with the appropriate tax amnesty form disclosing previously unreported liabilities. For personal property tax, payment is not made at the time of the filing of the return but after receipt of the preliminary assessment certificate issued by the county auditor following the filing of a return by the taxpayer.

In fairness to the vast majority of taxpayers who are fully compliant, enhanced enforcement in areas of non-compliance is planned as a follow-up to the amnesty program. Because the statutes of limitations do not apply to unreported liabilities, taxpayers who still have outstanding liabilities following the amnesty filing period still face substantial audit exposure.

Beginning with the creation of the Audit Division on July 1 of this year, the Department will resurrect its traditionally aggressive NEXUS program that has been rather dormant in recent years. By January 2002 and the end of the amnesty program, the Audit Division will be prepared to pursue

identified businesses that are "doing business in Ohio" and are not registered for the appropriate Ohio taxes. With new technology, we will be gearing up for this endeavor. As a result, we will be much more thorough and capable of identifying non-filers and increasing compliance through the efforts of the new Audit Division.

Ohio's neighboring states have had considerable success with their various amnesty programs. All of those states but Kentucky allowed any taxpayer to participate. Ohio's amnesty program is only open to taxpayers with a liability undiscovered by ODT. In 1986, Michigan generated \$109 million and West Virginia raised \$15 million under their amnesty programs. Kentucky raised \$61 million through its program in 1988. Pennsylvania added \$90 million to its coffers in 1996. Ohio expects to generate \$17 million in fiscal year 2002, and about \$5 million in subsequent years as a result of newly-compliant taxpayers on the tax rolls.

Watch the Department's website for more details: www.state.oh.us/tax

Enforcement—cont'd. from previous page

The following tables are summaries of convictions concerning sales tax violations and tobacco charges.

Sales Tax Violations

NAME	BUSINESS	CITY	VIOLATION
Robert Pound	Pound's Flower Shop	Newark	1 count – failure to file sales tax return
Gardos Pizza		Columbus	1 count – no vendor's license 1 count – failure to collect sales tax
Farah Atto Jr.	OLOL Entertainment	Columbus	1 count – no vendor's license 1 count – failure to collect sales tax
Ed Dezanett	Proclass Electronics	Perrysburg	1 count – no vendor's license
Raymon Bryant	Village Antiques	Sunbury	1 count – no vendor's license

Tobacco Violations

NAME	BUSINESS	CITY	VIOLATION
James Armstrong	Mr. T Carryout	Columbus	No cigarette license
Brent Johnson	Johnson's Supermarket	Gallipolis	No cigarette license

Over 28,000 cigars were confiscated.

Making the Case for Tax Dollars

On May 10, Commissioner Zaino testified before the Senate Finance and Financial Institutions Committee. Following is the Commissioner's testimony regarding the Department's budget.

"Chairman White and members of the Committee, I am here to testify in support of the Ohio Department of Taxation's budget recommendation for the 2002-2003 biennium.

The Department's mission is to provide quality service to Ohio taxpayers by helping them comply with their tax responsibilities and by fairly applying the tax laws. After I joined the Department as Tax Commissioner in July 1999, we established three goals:

1. Adopt a taxpayer service focus;
2. Modernize our operations and the tax law; and
3. Address our human resource development issues.

We have taken a number of steps to achieve each of these goals and to fulfill our mission. Last year, the Department proposed and the General Assembly unanimously enacted the Taxpayer Services Bill, House Bill 612. The bill helped modernize the tax system and ease many administrative burdens born by taxpayers and the Department, without a substantial revenue impact. The Department also supported the passage of Senate Bill 108, legislation that relieved the majority of Ohio estates from having to pay or even file Estate Tax returns. The Department has also simplified and streamlined several administrative procedures for the Estate Tax that will save estates approximately \$12 million in legal fees each year.

We have modernized our operations in many ways, including by:

- Providing direct deposit of income tax refunds;
- Encouraging the increased use of electronic filing and tele-filing;
- Expanding our toll-free telephone capabilities;
- Providing e-mail access to the Department for taxpayers and customers; and
- Permitting credit card payment of personal income taxes.

Finally, with regard to our last goal, we have started to address our human resource development issues. Over the next three years, nearly half of our management will be eligible to retire. To help address this pending problem, we are working with our employees' union and our management to design new job classifications

to provide better defined career path opportunities and to focus on employee development and training.

Although we have come a long way in fulfilling our mission and achieving our goals, we still have further to go. The proposed budget will help us get there.

I would like to point out that in order to reflect more accurately the costs of administering several non-GRF "special fund" programs, we realigned our appropriation requests to match those costs. In some instances, this has resulted in a decrease of our appropriation, and in some cases it has resulted in an increase.

The Department fully realizes the serious fiscal challenges facing all of us in state government, and stands willing to do our part in meeting these challenges. The Executive Budget contemplated no increase in staffing for the Department of Taxation. We have been able to adjust to the Fiscal Year 2001 cuts of 2% by instituting a series of spending restrictions on hiring, promotions, travel, printing, and mailing.

The reductions made in the House will cut our GRF appropriations by approximately \$1.8 million in each fiscal year, mainly in the 321 operating line item. While these reductions are significant, the appropriations in the House budget will be sufficient to continue operating the Department at its current level of efficiency and productivity, especially if we are given the management tools we need to effectively manage our workforce resources. As you know, funds for the various programs of state and local government are dependent upon the revenue enforcement capabilities of the Department of Taxation. That is why I hope you will support the level of funding that is in the budget before you. With these appropriations, I am confident that we can continue to do our job with the degree of professionalism that you have come to expect from the Department.

We look forward to working with the General Assembly to make further improvements to Ohio's tax system in the next biennium. Thank you for this opportunity to appear before you today and to tell you about our goals and initiatives."

Editor's Note: Deadlines prevented us from explaining how the state budget will impact the Ohio Department of Taxation.

Calling all Nominators!

If you wish to recognize the worthy, please send your nomination for Ohio's Tax Hall of Fame by September 30, 2001. The Ohio Tax Hall of Fame was created last year to acknowledge those people who have significantly contributed to the development, administration or operation of Ohio's state tax system. Former Ohio Tax Commissioner Stanley J. Bowers was the first inductee.

The next inductee will be announced at the Ohio Tax Conference in January, 2002 in Columbus. Mail your nominations to:
Ohio Department of Taxation
Tax Commissioner's Office
30 East Broad Street, 22nd Floor
Columbus, Ohio 43215

The Tax Hall of Fame is jointly sponsored by the Ohio Department of Taxation and the Ohio Chamber of Commerce.

INFORMATION *releases*

GENERAL INFORMATION RELEASES

Discretionary Penalty—April 2, 2001

The purpose of this informational release is to explain the changes made to many of the Department's penalty provisions under the Taxpayer Services Bill, House Bill 612 (effective 9/29/2000). Prior to this law change, most of the Department's penalty provisions were mandatory, meaning most tax assessments were issued with a penalty. No discretion was permitted even in cases of exemplary taxpayer compliance. If a taxpayer wanted to seek a penalty remission, the taxpayer had to file a petition for reassessment, have a hearing with the Department's Legal Division, and wait for the Tax Commissioner's final determination on the matter. It was not unusual for this process to take nearly one year.

Use and List of Authorized Delivery Services—April 2, 2001

The purpose of this informational release is to explain the correct way to use an authorized delivery service and provide a list of authorized delivery services. Ohio law pursuant to R.C. 5703.056(B) allows the Tax Commissioner to approve authorized delivery services as an alternative to using the U.S. Postal Service in certain situations to file time sensitive tax payments or tax documents. [Informational Release G2000-3](#) (*Authorized Delivery Services*—September 29, 2000) covers the procedures for approving a delivery service. (See page 12 for authorized delivery services.)

CORPORATE FRANCHISE TAX

Corporation Franchise Tax Nexus for Non-resident Lim-

ited Partners Following the UCOM Decision—March 15, 2001

The Ohio Board of Tax Appeals (BTA) recently issued its franchise tax decision, *UCOM, Inc. v. Tracy* (May 26, 2000), BTA No. 97-K-880, unreported, (*UCOM*).

EXCISE AND MOTOR FUEL TAX

Motor Fuel Imported into Ohio from Michigan—March 15, 2001

The purpose of this informational release is to address the legislation recently passed by Michigan which involves motor fuel pulled from a terminal rack in Michigan. The legislation became effective April 1, 2001, and requires that the Michigan terminal operator charge and collect either the Michigan motor fuel tax (if the fuel is staying in Michigan) or the destination state's motor fuel tax (Ohio's tax if the fuel is destined for Ohio).

SALES AND USE TAX

Federal Luxury Tax—Revised March, 2001

This information release contains the table used to calculate the federal luxury tax. The federal excise tax, which is levied on the seller when the first retail sale or lease of a luxury passenger vehicle occurs, will be calculated using the rates and threshold amounts for the periods specified in the table. Since the luxury tax is levied on the seller, it becomes part of the cost of doing business. The seller may choose to recover all or part of this tax from the consumer much like any other expense. That portion of the luxury tax that is passed on to the consumer becomes part of the "price" for calculating sales and use tax, even if it is separately stated on the consumer's bill.

e-CARE—cont'd. from page 3

The objective of the project's first phase is to:

- Identify the "best practices" for achieving one-stop problem resolution and managing customer relationships;
- Produce a clear, complete and accurate set of requirements for implementing these "best practices"; and
- Identify the technology tools needed to obtain the project benefits.

The work to be performed in this first phase of the project is critical as it lays the foundation for the Department to move from defining its CRM vision, to procurement of the appropriate technology, to achieving the vision of assisting the taxpayer in a consistently effective way regardless of how they contact the Department (i.e., telephone, mail, e-mail, etc.) or the issue they are contacting the Department about. This up front analy-

sis will be a key determinant of the success of *e-CARE*.

During the tool implementation phase of *e-CARE*, the Department will submit a detailed Request for Proposal to assist in implementing the CRM methodology. The goal will be to obtain core technology tools (much of it web-based) that create an environment that is conducive to the use of commercial off-the-shelf software and that can be expanded over the life of the project to obtain the project benefits. Through this phase of the project, the Department will build on the core technology to achieve the project benefits.

Employees continue to fulfill the Department's Motto and Mission of improving customer service and the goal of modernizing the Department's operations. *e-CARE* is just another good example of this. Please watch future editions of the *Ohio's State Tax Report* for *e-CARE* developments.

INTERNET *update*

The Ohio Department of Taxation's website (www.state.oh.us/tax) continues to be a great source of information. Some of the recent additions include:

- **News Release - Farmland tax values drop in 23 Ohio counties.**

Farmland values used in determining property tax bills dropped an average of \$27 per acre – about 10% – over the past three years. The decline will affect taxes on agricultural land in 23 Ohio counties for 2001, 2002 and 2003. The values were recently calculated by the Ohio Department of Taxation. View the entire press release on the internet.

- **Sales Tax Managed Audit and Voluntary Disclosure Guidelines Change Effective April 1, 2001**

The Ohio Department of Taxation, Sales and Use Tax Division, changed the guidelines for Managed Audits and Voluntary Disclosures. Thousands of taxpayers have taken advantage of these programs in the past in order to avoid payment of penalties on past liabilities and to more easily comply with their sales and use tax obligations in the future. Taxpayers can view the release in its entirety on the internet.

- **New Fill-in Forms**

Numerous fill-in forms, including the IT-1040 and IT-1040 EZ, have been created. The TBOR-1—Declaration of Tax Representative and the Sales and Use Tax Certificates of Exemption have also been converted to fill-in forms. These forms allow taxpayers to complete the forms on their computers without printing out a blank form and entering information in by hand, or, worse yet, trying to find a typewriter to use. The Forms Division has been working hard to create these forms, and plan to eventually have most major forms available in this format.

- **What Kind of Vendor Am I?**

A link was added to the Sales and Use Tax Forms page that takes the taxpayer to a chart that explains the different kinds of

vendors and the appropriate forms that need to be filed.

- **New Forms Added**

The Excise and Motor Fuel Tax Division placed the new kilowatt hour tax forms and the motor fuel refund application on the internet site.

- **Publication Available**

Guidelines for Filing Ohio Personal Property Tax Returns will soon be available on the Department's website. The booklet, which provides examples of personal property tax returns and schedules for different types of businesses, has been updated for tax year 2001. Fill-in property tax forms will also be available within the next few weeks.

- **Certified Interest Rate Table**

State law mandates that each year the Tax Commissioner computes the interest rate for the following calendar year. Interest is charged on money taxpayers owe to the state for underpayment or late payment of taxes, other tax delinquencies and tax assessments. The state also applies this rate to any money it may owe individuals or businesses who over-pay their taxes. The new table on the internet shows the interest rate for each year from 1983-2001.

- **Employment Page**

This new employment addition to the website offers visitors the opportunity to see what jobs are available and has links to the form(s) that need to be completed to apply for a job.

Recently, three new additions in the *What's New* section were: *Find answers to your small business tax questions—Free workshops begin in June*; *Check the status of your Income Tax refund online*; and *Pay your individual and school district Income Tax by credit card*. For taxpayer convenience, the last two options continue to be available, even though the filing deadline is past.

Statistically Speaking

Submitted by William Marshall, Administrator, Sales and Use Tax Division

During the week of May 14-18, 2001, a group of 17 Ohio auditors and supervisors came to Columbus to attend the second of three courses in the use of statistical sampling in tax auditing. The training was sponsored by the Sales and Use Tax Division and was conducted by Harold Jennings, Computer Audit Service Administrator from the Multistate Tax Commission, and Dr. Al Kvanli, Associate Professor from the University of North Texas. The Ohio auditors were joined by some of their counterparts from the states of Arizona, California, and Pennsylvania

in learning some of the latest techniques used in auditing that are more efficient and accurate for states and taxpayers alike.

According to Brad Tomlinson, Group Supervisor, Central Audit Staff, "We have had increasing exposure to statistical sampling through taxpayers and practitioners. This class was very beneficial in clarifying the theory and calculations behind the procedures that are currently used by many other states."

Toll-free phone numbers

Below is a list of the Ohio Department of Taxation's toll-free phone numbers. Every toll-free number has 24-hour access to an expansive list of FAQ's (frequently asked questions).

1-800-282-1780 - Personal Income Tax Line - Calls relating to Individual Income and School District Income Taxes.

1-800-282-1782 - Forms Line - Automated Forms Request Line allowing taxpayers to have a business or individual income tax form faxed or mailed to them.

1-800-282-1784 - Personal Income Tax and School District Income Tax Refund Inquiry - Automated line allowing taxpayers to inquire on outstanding individual and school district income tax refunds.

1-888-405-4039 - Business Taxpayer Service Line - General calls relating to Sales, Use, Employer Withholding, School District Withholding and Corporate Franchise Taxes.

1-888-405-4089 - Registration Line - General calls relating to business registrations for Sales, Use, Employer Withholding, School District Withholding and Corporate Franchise Taxes.

1-888-405-4091 - Individual Billing Line - General and response calls relating to bills issued on Individual Income Tax.

1-888-297-2911 - Individual Assessments Line - General and response calls relating to assessments issued on Individual Income Tax.

1-888-297-3540 - Business Billing Line - General and response calls relating to bills issued on Sales, Use, Employer Withholding, School District Withholding and Corporate Franchise Taxes.

1-888-297-7150 - Business Assessments Line - General and response calls relating to bills issued on Sales, Use, Employer Withholding, School District Withholding and Corporate Franchise Taxes.

1-800-757-6091 - Enforcement Division Hotline - Report a violation of Ohio's tax laws.

1-800-304-3211 - Disaster Relief Hotline - Special line dedicated to handling calls related to special filing requirements implemented after the Governor declares a disaster zone. (Note: this line is not activated until a disaster is declared.)

Law Briefing Draws a Crowd

Submitted by William Marshall, Administrator, Sales and Use Tax Division

On May 22, 2001 the Ohio Department of Taxation and the Ohio Licensed Beverage Association co-sponsored a continuing legal education seminar on transfers and renewals of liquor permits. The purpose of the seminar was to facilitate understanding and cooperation among private attorneys practicing liquor law and the Department of Commerce's Division of Liquor Control, Revenue Recovery Section of the Attorney General's Office, and the Ohio Department of Taxation's Sales and Use Tax Division. Historically, tax compliance in this business sector has been difficult and taxpayers risk losing liquor permit privileges if they are not able to remain current with their sales and withholding tax obligations. The 120 registrants attended the seminar in the auditorium of the Division of Police Headquarters in Columbus, Ohio.

Speakers from the Department of Taxation included Marsha Hanes, Linda Erler, and Robert Sicuro. Judy Patton from the office of the Attorney General and Peter Patitsas from the Department of Commerce spoke to add valuable insights from their

respective agencies. Issues covered were tax compliance programs, procedures for transfers and renewals of permits, collection procedures, and issues in bankruptcies, receiverships and appeals. Marc Myers, Counsel to the Ohio Licensed Beverage Association, added legal perspectives from the private practice of law in this unique area. The program concluded with a panel of representatives from the participating state agencies responding to a variety of questions from the audience.

Participants' evaluations of the program were very positive and several practitioners suggested that the seminar be repeated periodically. Robert Sicuro, Sales Tax Division Counsel stated, "Any time taxpayers' counsel and representatives from state government can cooperatively engage one another in an effort to further understand tax compliance issues, you create a win-win situation. The co-sponsorship by the Ohio Licensed Beverage Association and the participation by all these state agencies made this seminar particularly successful."



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Delivering More Choices

The Tax Commissioner recently approved another authorized delivery service company - UPS. (Federal Express is the other authorized delivery service company.) Through House Bill 612, 123rd General Assembly, the options for delivering materials were expanded beyond the U.S. Postal Service. The authorization of a delivery service only applies to certain services of an authorized company.

The general information release on the Department's website reflects the following authorized delivery services:

<u>Company</u>	<u>Delivery Service</u>
UPS	UPS Next Day Air
UPS	UPS Next Day Air Saver
UPS	UPS 2nd Day Air
UPS	UPS 2nd Day Air A.M.
FedEx	FedEx Priority Overnight
FedEx	FedEx Standard Overnight, and
FedEx	FedEx 2 Day

Our Mission:

To provide quality service to Ohio taxpayers by helping them comply with their tax responsibilities and by fairly applying the tax law.

Our Motto:

We CARE about the quality of our service.

*Courteous
Accurate
Responsive
Equitable*

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