

# OHIO's



## statetaxreport

No. 61

Ohio Department of Taxation

Fall 2001

### ***Amnesty: Spread the Word***

#### **COMMENTS** *from the commissioner*



*Commissioner Zaino*

On October 15, 2001, the Ohio Tax Amnesty Program begins with a promise of benefit for everyone involved. For qualifying delinquent taxpayers, amnesty is a 'one time only' opportunity to pay off their tax debt while avoiding penalty and half of the interest owed. For the state, counties and many schools, amnesty offers a source of new money in tight times. Perhaps most important, for the millions of individual and business taxpayers of Ohio, amnesty will increase the level of fairness in the tax system by attracting those who haven't been paying their fair share.

In August, the Department went to the State Controlling Board requesting funding for the program. We asked for and received \$500,000. That money will cover most of the program costs, including advertising and staff support for employees working solely on amnesty. We will be hiring part-time, intermittent employees

authorized to forgive penalty and one-half of the interest charges in exchange for full and prompt payment of all tax and half the interest.

Amnesty involves nine taxes: personal income; sales and use; corporate franchise; public utility; personal property; school district income; employer withholding; school district employer withholding; and, pass-through entity. Amnesty is only available to taxpayers with liabilities the Department does not know about. Taxes that have been billed or assessed by the Department of Taxation or for which an audit by the Department is underway are not eligible for amnesty.

During the amnesty program, taxpayers or their representatives should remit payment and applicable interest charges for all taxes due, with the exception of personal property tax. For personal property tax, payment is not made at the time of the filing, but after receipt of the preliminary assessment certificate issued by the county auditor following the filing of the return.

***We don't want to lose you! Please send us your e-mail address.***

*See page 7 for details.*

to complete the day-to-day tasks that our employees now working on amnesty would normally do. The advertising program is critical as research shows that successful amnesty programs have been heavily advertised. We are estimating the program will bring in about \$17 million in revenue for the state and an additional \$5 million annually from newly enrolled taxpayers. Many other states have conducted tax amnesty programs with success and I predict that Ohio will have a successful program as well.

Ohio's Tax Amnesty Program, which runs from October 15, 2001 through January 15, 2002, offers certain taxpayers an incentive to file outstanding returns and pay "qualifying delinquent taxes" owed to the Ohio Department of Taxation. "Qualifying delinquent taxes" are taxes that on May 1, 2001 were due and payable from a taxpayer or employer, that were unreported, underreported and/or remain unpaid. During the program, we are

If any of your clients have fallen behind on their taxes, I urge you to encourage them to come forward and take advantage of amnesty. After it's over, we will be stepping up our enforcement and auditing efforts. Beginning with the creation of the Audit Division (see the *Amnesty—cont'd.* on page 9

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## ***New Homestead Income Brackets***

The total eligible income brackets for the homestead exemption schedules have been increased. The revised income brackets and corresponding reduction in taxable value apply to tax year 2002 (collected in calendar year 2003) for real property and to tax year 2003 (collected in calendar year 2003) for manufactured or mobile homes. The eligible income brackets and the corresponding reduction in taxable value are, for the first time this year, adjusted for inflation using the Gross Domestic Product (GDP) deflator, as produced by the Bureau of Economic Analy-

sis (BEA) for the period of July 1, 2000 to June 30, 2001. The BEA data for this period suggest a deflator of 1.8 percent.

The homestead exemption is a form of property tax relief for qualified elderly and disabled homeowners. Property tax reductions are granted to low-income homeowners who are either 65 years of age or older, or who are permanently and totally disabled. This exemption includes manufactured homes.

<b>Total Income</b>	<b>Reduce Taxable/Assessable Value by the Lesser of</b>
Under \$12,500	\$5,100 or 75% of taxable value
Between \$12,500 and \$18,300	\$3,100 or 60% of taxable value
Between \$18,300 and \$24,100	\$1,000 or 25% of taxable value
More than \$24,100	-0-

Applications for the homestead exemption are available at all county auditors' offices.

## ***Personal Exemption Amount Increased***

The personal income tax exemption amount for the taxpayer, spouse, and dependents for tax year 2001 has been increased to \$1,150. The exemption amount for tax year 2000 was \$1,100.

The personal exemption is, by law, adjusted each year for inflation using the Gross Domestic Product (GDP) deflator, as pro-

duced by the Bureau of Economic Analysis (BEA) for the period of July 1, 2000 to June 30, 2001. The BEA data for this period suggest a deflator of 1.8 percent. The law states that the amount of the exemption, once adjusted for the deflator, is to be rounded upward to the nearest multiple of \$50.

## ***Nexus Information Releases Coming Soon***

*Submitted by Fred Nicely, Chief Legal Counsel*

Gearing up for Ohio's tax amnesty program, Commissioner Zaino will be issuing four information releases covering nexus in the near future. "Nexus" is the term often used to indicate whether an out-of-state taxpayer has enough contacts with a state for that state to impose a tax. The releases cover four taxes: Ohio's use tax responsibilities for out-of-state sellers; Ohio's corporation franchise tax for an out-of-state corporation; Ohio's personal income tax imposed on non-residents; and, Ohio's pass-through entity tax imposed on certain pass-through entities doing business in this state. The releases will address what types of contacts with the state create a tax filing responsibility with this Department for the above taxes. For the taxes based on income, an explanation is also provided of the limitations imposed by federal Public Law 86-272.

In addition to addressing what contacts create nexus, the

information releases provide a list of contacts, or "safe harbors," that will not create a tax filing responsibility. Most of the safe harbors are provided for administrative convenience. The safe harbors listed address numerous issues ranging from how often can an out-of-state entity be present in this state to the impact of using a website that is located on a server in this state.

The information releases will be posted on ODT's website, [www.state.oh.us/tax](http://www.state.oh.us/tax), by the end of September. An out-of-state entity that has nexus as provided for under one or more of the information releases is advised to contact this Department. If the Department has not already contacted you, we encourage you to use the tax amnesty program. For more information regarding the tax amnesty program, please refer to Commissioner Zaino's article, *Comments from the Commissioner*, on the front page.

## Department Accomplishments

As of July 1, Thomas Zaino has been Tax Commissioner for two years, over halfway through the appointed term. Listed below are some of the Department's accomplishments made during this time, and some of the objectives Commissioner Zaino plans to fulfill over the next 15 months or so.

Some of the accomplishments include:

- **Mission Statement and Motto**

In 1999, the Department's Mission Statement and Motto were redefined. Employees continue to fulfill our mission of *providing quality service to Ohio taxpayers by helping them comply with their tax responsibilities and by fairly applying the tax law*. The new motto fits the employees of this Department. Commissioner Zaino continually receives e-mails and letters illustrating how the employees *CARE—Courteous, Accurate, Responsive and Equitable*.

- **Strategic Vision**

In January, 2000, a seventeen-member team from the Department developed a Strategic Vision to enable us to address many of the Department's human resource issues and enhance our ability to perform our Mission. Numerous Implementation Teams (I-Teams) were created and we have implemented or are starting to implement many of their suggestions. An I-Team consists of a core set of individuals who must evaluate a certain idea, develop a plan to implement the idea, and implement the idea. As a result, the Department has undergone some major organizational changes, including the new Audit Division and the restructured Legal Division. This reorganization continues to be a huge undertaking.

- **Public Utility Settlements**

The utilities, including all the major electric and telephone companies in the state, filed lawsuits seeking refunds totaling \$3.9 billion. Governor Taft directed Commissioner Zaino to pursue settlements, which were achieved because all of the parties involved received some benefit. These agreements would not have been reached without the teamwork and effort of the Department's staff. If the utility companies had won their lawsuits, local school districts and governments, which receive the property taxes, would have had to pay back the nearly \$4.0 billion out of their current operating funds.

- **Taxpayer Services Bill**

House Bill 612 (123rd General Assembly) became effective on September 29, 2000. The purpose of the bill was to streamline and simplify a variety of regulations and laws dealing with tax administration and compliance. The bill focused on revising or eliminating provisions which imposed undue burdens on taxpayers, the Department, or both.

- **ESTATE TAX LAW CHANGES**

During 2000, administrative, as well as legislative, changes were made to the Estate Tax law. Senate Bill 108 became effective on September 29. Changes were made by the Department to ease taxpayer compliance.

- **Career Paths**

When he became Tax Commissioner, Mr. Zaino stated that one of his priorities was the development of a new system of

opportunities for the Department's tax professionals. The employees' union and management recently designed new job classifications to provide better-defined career path opportunities and to focus on employee development and training. The revision of the Tax Commissioner Agent series and the creation of the new Tax Audit Agent series are major steps in providing the employees with better-defined career paths and changing the way the Department serves taxpayers.

- **Filing Options**

Filing requirements continue to be made simpler for taxpayers, saving time and money for both them and the state of Ohio. The requirements for TeleFile continue to be expanded to include more taxpayers. Direct deposit of refunds was first offered in 2000. New in 2001 were the credit card payment option for income taxes and the e-mail system.

There is still work to be done and challenges that lie ahead.

- **A New Budget**

Serious cuts have been made to the Department's budget over the new biennium. There will be many tough decisions to make along the way. We need to evaluate where budget cuts can be made that will not interfere with our primary mission.

- **Reorganization**

There is a lot of work to do to fully transition to a full-time Audit Division and to adopt a new paradigm for providing taxpayer service. With hard work and patience, we will make the transition as smooth as possible.

- **Ohio Award for Excellence**

The process of applying for the Ohio Award for Excellence, which is the state version of the Malcolm Baldrige National Quality Award, has been started. What we seek in applying for the award is feedback from a team of OAE examiners to give us guidance on how to serve the taxpayers better while making the Department an even greater place to work. No matter what we do or how long we have been doing it, there's always room to improve. (See article on page 2.)

- **A Second Taxpayer Services Bill**

A second Taxpayer Services Bill is about to be introduced. This bill contains new ideas, along with some ideas that were submitted for House Bill 612, that were not fully developed and explored. Like the first bill, the purpose 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.

- **Employee Training**

We are currently working on setting a standard for employee training in the Department. This will include different types of courses, ranging from technical tax training to management and professional development training.

Watch future issues of the *Ohio's State Tax Report* for updates on these objectives.

# COURT *decisions*

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

## CORPORATE FRANCHISE TAX

*Farm Credit Services of Mid-America v. Zaino* (2001), 91 Ohio St. 3d 564

An agricultural credit association ("ACA") sought exemption from corporate franchise tax, contending that it was, and is, a federal instrumentality. It based this contention on the fact that the entities which had merged to form the ACA were federal instrumentalities under the federal Farm Credit Services Act. However, the federal statute does not provide that ACA's are federal instrumentalities, and the Court therefore rejected the contention that the ACA was exempt from Ohio corporate franchise tax.

*Minnesota Mining & Manufacturing Co. v. Tracy* (June 8, 2001), BTA No. 98-1010

The taxpayer contended that Ohio Revised Code 5733.04(I), which provides for a 15% expense allowance to be netted against foreign dividends received, is in violation of the Foreign Commerce Clause of the U.S. Constitution. The BTA found this to be the same issue decided on behalf of the taxpayer by the Ohio Supreme Court in *Emerson Electric Co. v. Tracy* (2000), 90 Ohio St. 3d 157, and so held.

*Value City Department Stores, Inc. v. Zaino* (July 27, 2001), BTA No. 00-1069

A corporation assessed for interest charges relating to tax year 1994 filed a petition for reassessment which was dismissed by the Tax Commissioner for failing to prepay the assessment, as required under Ohio Revised Code 5733.11(E). The BTA affirmed the dismissal.

## MOTOR VEHICLE FUEL TAX

*Automated Petroleum, Inc. v. Tracy* (July 13, 2001), BTA No. 98-980

A motor vehicle fuel dealer was assessed for making untaxed sales to another dealer without obtaining an exemption certificate



or other documentation of exemption. The assessed dealer contended that the second dealer sold some of the fuel to farmers who used the fuel in an exempt manner, and that it – the assessed dealer – should be given credit for those sales. The BTA rejected this contention, holding that motor vehicle fuel dealers are required to collect and remit taxes and are not entitled under Ohio Revised Code Chapter 5735 to a credit for arguably exempt sales made by their customers to third parties.

## PERSONAL INCOME TAX

*Kemppel v. Zaino* (2001), 91 Ohio St. 3d 420

The taxpayers were Florida residents and shareholders in Logan Machine Co., a Subchapter S corporation located in Akron which in 1989 dissolved and distributed the proceeds from the net assets to the shareholders. The taxpayers calculated their non-resident income tax credit by treating the proceeds as non-business income and allocating it outside Ohio. The Tax Commissioner's agents audited the return and adjusted it by including the proceeds in business income and allocating it to Ohio. The Court found that the proceeds from the gain on the sale of the intangible property was not business income under either the transactional or functional tests because the sale on dissolution was not in the regular course of business; it was a one-time event which terminated the business.

*Francis Special Risk, Inc. v. Zaino* (August 3, 2001), BTA No. 00-74

Non-Ohio resident shareholders of a Subchapter S corporation allocated outside Ohio their income from the corporation's interest, dividends and capital gains generated in Ohio, contending that it was non-business income. The Tax Commissioner

assessed this income as business income generated in the ordinary course of business in Ohio. The BTA affirmed, as the taxpayer did not provide evidence on which to find otherwise.

*Keith L. Welch v. Zaino* (July 20, 2001), BTA No. 00-960

An Ohio income tax filer who received W-2 wages of more than \$50,000.00 during each of the years 1994, 1996 and 1997 filed Ohio returns showing federal adjusted gross income (FAGI) of \$2,100.00, \$0.00, and \$0.00 respectively. Upon audit, the taxpayer's FAGI was adjusted and he was assessed tax, penalty and interest. He contended that although he received "remuneration" from his employers, he did not have income because the money received from his employers was not from a taxable "source" of income and thus not includable in the definition of "gross income" as provided in 26 U.S.C. 61(a): "...gross income means all income from whatever source derived..." (Ohio Revised Code 5747.01 adopts the income tax definitions of the Internal Revenue Code.) The BTA rejected this argument, pointing out that other provisions of the Internal Revenue Code make it clear that the name by which payment for employment is designated is immaterial.

## PERSONAL PROPERTY TAX

*National PharmPak Services, Inc. v. Lawrence* (July 27, 2001), BTA Nos. 99-1014, 99-1015, 99-1016

BTA held that a pharmaceutical packager which received inventory from outside Ohio at its Ohio distribution warehouses, inspected it, repackaged it, and shipped it to customers outside Ohio did not qualify for the "for storage only" exemption of Ohio Revised Code 5701.08. The inventory *did* qualify for the reduced listing percentages under H.B. 630, eff. July 22, 1994, codified at R.C. 5711.22(C)(1). That section provides that merchandise "shipped from outside this state and held in this state in a warehouse or a place of storage without further manufacturing or

*Court Cases—cont'd. on next page*

*Court Cases—cont'd. from previous page*

processing and for storage only and for shipment outside this state, but that is taxable...shall be listed and assessed at" specified reduced rates.

**REAL PROPERTY**

*Youngstown Foursquare Church v. Zaino* (June 29, 2001), BTA No. 99-1367

The portion of the real property of a church which was leased to a ballet company and to a council on aging was found not to be exempt because it was not used exclusively as a place of public worship, as required for exemption under Ohio Revised Code 5709.07.

*Thomaston Woods Limited Partnership v. Lawrence* (June 15, 2001) BTA No. 99-551

A limited partnership which provides low-income housing claimed exemption under Ohio Revised Code 5709.12 for the portion of its real property which was leased to a Head Start program. Ohio Revised Code 5709.12 grants exemption to property belonging to a charitable or educational institution or to the state or a political subdivision and used exclusively for charitable or public purposes by the institution, the

state or political subdivision. The BTA held that the limited partnership may be an "institution" within the meaning of the statute, but its primary use of the property is leasing, not using it for charitable work. Accordingly, the claim for exemption was denied.

**SALES AND USE TAX**

*Edmund Stinn v. Tracy* (August 3, 2001), BTA No. 00-74

The corporate secretary and one-third shareholder of Midwest Teleproductions, Inc. was held not to be liable for unpaid sales tax under Ohio Revised Code 5739.33 because his involvement with the corporation was minimal and he did not have fiscal responsibility.

*L-S II Electro Galvanizing Company v. Tracy* (June 29, 2001) BTA 98-412, 99-244

Grindstones which continually polish steel rollers which roll sheet metal being galvanized were assessed as cleaning, maintenance or repair items under Ohio Revised Code 5739.01(E)(9). The grindstones remove any particles on the rollers that would cause blemishes in the sheet metal. The BTA held the grindstones to be exempt under Revised Code 5739.011(B)(4) as equipment

"otherwise necessary for the continuation of the manufacturing operation".

*Philip A. Lehman v. Tracy* (July 27, 2001), BTA No. 97-1573

BTA held that 45% owner and vice-president of a corporation which ran a tavern was not personally liable for unpaid sales tax for periods after he was shut out of the business by the corporate management. He had very limited involvement with the business and was only on the premises three or four times. At one point prior to the assessment period he became aware of delinquencies in taxes and he insisted that the corporate management pay them.

*Ronald Davis v. Tracy* (June 8, 2001), BTA No. 98-1037

The sales manager / corporate secretary of a corporation which failed to remit sales tax was found not personally responsible under Ohio Revised Code 5739.33 by the BTA because he did not sign sales tax returns nor write checks nor supervise those who did during the audit period.

*Sherie K. Hess, dba Hess Auto Service v. Zaino* (June 15, 2001), BTA No. 99-1737

A vendor who failed to remit all of the sales tax she collected contended that she should be granted full penalty relief because she had been cooperative during the audit. The BTA found that there was no showing that the Tax Commissioner had abused his discretion in allowing only a partial relief of penalty.

*Zawahri, Inc. v. Tracy* (July 13, 2001), BTA No. 98-121

A vendor who operated a convenience carry-out failed to maintain sales records as required under Ohio Revised Code 5739.02(B). Upon audit, the vendor provided several cash register tapes and purchase records for two months. The Tax Commissioner's agent determined from this information that there had been an underpayment of sales tax, and the vendor was assessed. The vendor raised several objections to the methodology and computations used in the audit, but the BTA affirmed the agent's use of purchase records and other information to determine total taxable sales and sales tax due.

**Tax Calendar at-a-Glance****Oct.**

<b>15</b>	Monthly Income Tax Withholding Return
<b>22</b>	Monthly Kilowatt Hour (kWh) Tax Return
<b>23</b>	Monthly and Semiannual Sales Tax Returns
<b>23</b>	Monthly Consumer and Direct Pay Returns
<b>23</b>	Quarterly Consumer Use Tax Returns
<b>23</b>	Quarterly Direct Pay Sales Tax Return

**Nov.**

<b>15</b>	Monthly Income Tax Withholding Return
<b>20</b>	Monthly Kilowatt Hour (kWh) Tax Return
<b>20</b>	Quarterly Natural Gas Distribution (MCF) Tax Return
<b>23</b>	Monthly and Semiannual Sales Tax Returns
<b>23</b>	Monthly Consumer and Direct Pay Returns

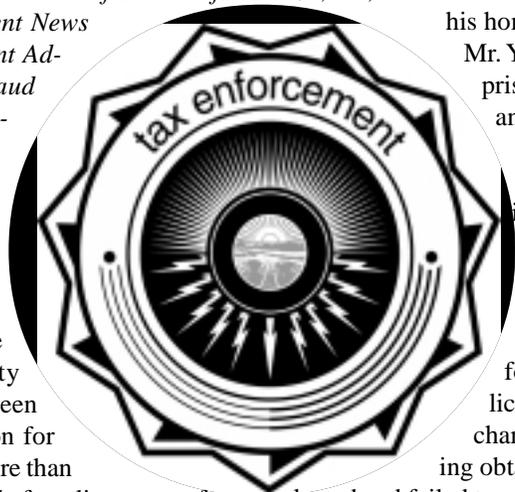
**Dec.**

<b>17</b>	Monthly Income Tax Withholding Return
<b>20</b>	Monthly Kilowatt Hour (kWh) Tax Return
<b>24</b>	Monthly and Semiannual Sales Tax Returns
<b>24</b>	Monthly Consumer and Direct Pay Returns

# TAX enforcement news

The following information is a list of convictions secured by the Enforcement Division of the Ohio Department of Taxation from May through July, 2001. Tax Enforcement News is compiled by Robert M. Bray, Assistant Administrator, Enforcement Division. Fraud complaints can be e-mailed to the Enforcement Division at [Enforcement@tax.state.oh.us](mailto:Enforcement@tax.state.oh.us).

James Yee of Akron pleaded guilty in Akron County Common Pleas Court to three counts of filing false income tax returns over a three-year period. Mr. Yee was a cashier for the Summit County Treasurer's Office. He had previously been sentenced to 27 months in federal prison for failure to pay federal income taxes on more than one million dollars. Mr. Yee was suspected of stealing money from the county, but it was never proven in court. According to *The Akron Beacon Journal*, "...Prosecutors remain suspicious of Yee



because of the \$1,000,000 he tried to hide from tax collectors, the \$2,000,000 in cash investigators found during a search warrant of his home and the 700 guns he had ready to sell...." Mr. Yee was sentenced to spend three years in state prison after serving his federal time and pay tax and interest of \$152,499.

Jeffrey Colaiacuvo of Dayton pleaded guilty in Tuscarawas County Common Pleas Court to three counts of failure to remit sales tax, two counts of filing a false tax return and one count of grand theft. Mr. Colaiacuvo owns and operates Coco's Garage in Dover. An enforcement agent noticed there was no vendor's license and there were no invoices indicating tax charged. An investigation led to sales records being obtained from the business. Mr. Colaiacuvo collected and failed to remit \$32,077. He was sentenced to 60 days in jail and given two years probation and ordered to pay the state the taxes owed.

*Enforcement—cont'd. on next page*

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

## Sales Tax Violations

NAME	BUSINESS	CITY	VIOLATION
Robert Brockway	Concession Supply	Toledo	2 counts – failure to file sales tax return
Michelle Richardson	Steel Addictions	Toledo	1 count – failure to collect sales tax 1 count – no vendor's license
Paul Moore	None	Columbus	1 count – no vendor's license
Waldo & Associates	Waldo & Associates	Perrysburg	2 counts – failure to file sales tax returns
David Kireta	River Mist Marina	Toronto	1 count – failure to file sales tax return
Abdeliziz Aboukassim	None	Cincinnati	1 count – no vendor's license
Evelyn Majewski	Bayview Banquet Room & Catering	Toledo	2 counts – failure to file sales tax returns
Pat Gifford	Bulldog Pizza	Columbus	1 count – failure to collect sales tax
Valerie Shelly	Point Café	Greenville	1 count – failure to file sales tax return

## Tobacco Violations

NAME	BUSINESS	CITY	VIOLATION
Hussien Odat	Safeway Food	Cleveland	Failure to maintain "other tobacco products" invoice
Ken Ford	Smoker's Friendly	Gallipolis	No cigarette license
Greg Rossi	Smoker's Paradise	Uhrichsville	No "other tobacco" license
Gary Sanders	Piccolos Wine Shop	Norwalk	1 count—falsification of "other tobacco products" records
William Sigg	Short Stop	Defiance	No cigarette license
Cashman's Club III	Cashman's Club III	Defiance	No cigarette license
Shell Exceptional Car Care	Shell Exceptional Car Care	Defiance	No cigarette license
Michael Belles	Shell Oil	Jeffersonville	No cigarette license

# PRO-files

## ODT's Restructuring—A 'Who Does What' Primer

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

Two components of the Ohio Department of Taxation (ODT) with which practitioners often interact have recently undergone significant restructuring. They are the Audit Division and the Tax Appeal Division in the Office of Chief Counsel. An understanding of the new alignment of these units will help practitioners in assisting their clients.

ODT administers numerous state taxes, the largest of which are income, withholding, personal property, sales/use and corporate franchise. Historically, auditing for the various taxes was performed by the respective tax divisions. For example, the Sales and Use Tax Division used to perform field audits as well as computer program compliance audits. In the 1990's the responsibility for performing computer program audits was centralized. Effective July 1, 2001, responsibility for performing field audits for the major business taxes (i.e. sales/use tax, corporation franchise tax, and personal property tax) has likewise been centralized.

The new Audit Division is headed by Mike Johnson who stresses that auditing agents will be focused on maintaining a presence in the field. Audit selection will be based on guidelines issued by the Operating Divisions, research by the central staff of the Audit Division as well as on the insights offered by individual auditors. Three regional managers in Ohio and one at each of ODT's out-of-state Taxpayer Service Centers (Los Angeles, Chicago, New York/New Jersey) will assign audits. As part of their review, audi-

tors can provide taxpayers and their representatives with information regarding tax laws, rules and ODT's policies as they apply to the taxpayer's business.

The Audit Division includes an audit review section and an audit resolution section. Audit review insures consistency across all audit regions. Audit resolution seeks to resolve factual audit and accounting issues on an informal basis.

Legal issues arising from audits are resolved by the Tax Appeal Division of ODT's Chief Counsel's office. Charles Rhilinger is the new administrator of that section. His division is responsible for reviewing petitions for reassessment and some refund claims. When a taxpayer has filed a petition, a final determination will be issued which addresses in writing all of the issues raised in the petition. Margaret Brewer is the administrator of the Appeals Management Division. The section works with tax cases on appeal to the Board of Tax Appeals, Ohio Supreme Court, and various other jurisdictions.

The new structure of ODT's audit and legal review components is designed to provide Ohio taxpayers and their representatives with the most efficient enforcement of Ohio's tax laws possible. As always, practitioners are encouraged to work with ODT's staff to improve service to Ohio's taxpayers.

### **Delivering Improved Service**

**In order to deliver tax information to you in a faster, more convenient manner while reducing our printing and postage costs, we are exploring alternative methods of publishing and distributing the *Ohio's State Tax Report*.**

**E-mail is the most effective, cost-efficient and timely system for delivering this newsletter, but . . . WE NEED YOUR E-MAIL ADDRESS to make it work. Please forward your address to [angela\\_darity@tax.state.oh.us](mailto:angela_darity@tax.state.oh.us) by November 30. We will not share your e-mail address with anyone.**

**Our plan is to deliver the next issue to you electronically. It will be distributed in a pdf format (version 4.0 or later). The newsletter will also be available on our web site at [www.state.oh.us/tax](http://www.state.oh.us/tax). If you don't already have it, you may want to download the latest version of Adobe Acrobat Reader at [www.adobe.com](http://www.adobe.com) (Acrobat Reader is free). After this issue, *Ohio's State Tax Report* will no longer be available in print.**

*Enforcement—cont'd. from previous page*

Michael Meyers of Toledo pleaded guilty to one count of collecting and failing to remit sales tax and one count of collecting and failing to remit withholding taxes. Mr. Meyers owns and operates a bar known as "Diggers" in Toledo. The business was placed on the "Habitual Offender Program" for failure to file tax returns and had its vendor's license suspended for failing to comply with the program. An investigation indicated the business continued to operate. Records were obtained via a grand jury subpoena. Those records indicated \$32,000 in sales tax and \$920 in withholding were not remitted to the state. The judge ordered Mr. Meyers to make restitution to the state and was given five years probation.

Dylan Morris of Waverly pleaded guilty in Pike County Common Pleas Court to one count of possession of untaxed cigarettes. He was sentenced to six months in prison in Lucasville. This was part of an undercover operation in the Pike County area. Mr. Dylan purchased several cartons of untaxed cigarettes in the operation.

# INTERNET *update*

Information recently added to the Ohio Department of Taxation's website ([www.state.oh.us/tax](http://www.state.oh.us/tax)) includes:

## Amnesty Information

Through January 15, 2002, you will find amnesty application forms, a calculator that will compute interest due online, answers to the most frequently asked questions and the most current amnesty news available. Remember, amnesty is limited to unknown tax liabilities and only certain tax types. If a taxpayer qualifies, Ohio is authorized to forgive penalty and one-half of the interest charges in exchange for **full and prompt payment of all tax and half the interest.**

## Register Your Business by Telephone

For your convenience, the Ohio Department of Taxation will register your business by telephone. Call 1-888-405-4089 (press #1 after the message), and you can register Seller's Use accounts (UT-1000), Consumer's Use accounts (UT-1008), Employer

Withholding accounts (IT-1) or School District Withholding accounts.

## Public Utility Property Tax Loss Reimbursement Amounts

The tax loss reimbursement process provided for in Senate Bills 3 and 287 is explained. As well, the spreadsheets included on the website show reimbursement amounts for all jurisdictions in the state sorted by the home county of the jurisdiction. (See the Tax Reimbursement Amounts article on this page.)

## Update Your School District Number

To update your school district number on file, you will need your social security number and PIN (Personal Identification Number) found at the top of your letter, and your school district number found on the listing enclosed with your letter.



## Reporting Requirements Waived for RICs, REITs & REMICs

The Tax Commissioner has waived the 2002 reporting requirement for Real Estate Investment Trusts (REITs), Regulated Investment Companies (RICs) and Real Estate Mortgage Investment Conduits (REMICs). For 2002, principals of these entities are not required to submit any list of names, addresses, and social security or federal identification numbers of investors, shareholders and others who had any interest, or had invested, in the entity

at any time during the 2001 calendar year.

Such entities are exempt from taxation for the 2002 calendar year as corporations and are exempt from taxation for the same year as dealers in intangibles, even though they will not be submitting reports.

## Tax Reimbursement Amounts

*Submitted by Michael Sobul, Tax Analysis*

In mid-July, the Ohio Department of Taxation published the tax reimbursement amounts for local governments under the utility tax restructuring bills, Senate Bills 3 and 287. Senate Bill 3 reduced the tangible personal property taxes of electric utilities and Senate Bill 287 did the same for gas utilities. The two bills created the kilowatt hour tax (SB 3) and the thousand cubic foot tax (SB 287) to provide money to hold schools and local governments harmless for the property tax reductions. In all, property tax losses of nearly \$290 million annually will be reimbursed to schools and local governments beginning in February, 2002. Spreadsheets containing the reimbursement amounts by type of governmental unit can be found on the internet at: [www.state.oh.us/tax/business\\_taxes\\_public\\_utility\\_property\\_tax\\_loss\\_reimbr.html](http://www.state.oh.us/tax/business_taxes_public_utility_property_tax_loss_reimbr.html)

## Make Someone Fame-ous

Don't forget to submit your nomination for Ohio's Tax Hall of Fame as soon as possible. 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.

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.

## ***Collections Consolidated***

*Submitted by James Kamerick, Executive Administrator, Taxpayer Processing Center*

The Treasurer of State has agreed to transfer the collection of sales, corporate franchise, and excise taxes into the Ohio Department of Taxation (ODT) Processing Division. Meetings with the Treasurer of State were initiated after Commissioner Zaino's retreat at Deer Creek in 2000 with a team of Taxation employees. It was at the retreat where discussions began regarding the reorganization of the Department. Legislation was subsequently enacted to effect this change which will provide increased efficiencies and better government for the taxpayers of Ohio.

The sales tax forms will be the first to be integrated to the ODT Processing Center in January, 2002. The corporate franchise tax and excise tax returns are not scheduled for integration until July 1, 2002. Taxation will receive operating funds from the

Treasurer of State and a number of their employees will be transferred to the Processing Center.

Currently, there are two project teams responsible for implementing the changes. The first project team is responsible for the programming, installation and testing of a new remittance processing machine which was purchased to handle the increased workload generated by the sales tax returns. The second project team is responsible for ensuring a smooth transition of the transfer of job functions between the Treasurer of State and the Department of Taxation. The goal is to successfully integrate the sales tax collections into the Processing Center with minimal impact to the taxpayers of Ohio. This requires considerable planning and a coordinated effort by both offices.

# **INFORMATION** *releases*

## **Excise and Motor Fuel Tax**

*Habitual Filing Problems—May 25, 2001*

This information release outlines many of the habitual errors and mistakes that are made on motor fuel tax returns. If you file motor fuel tax returns, please carefully review the release and if necessary, correct any of the problems that may affect your return.

*Prompt Filing of Motor Fuel Tax Returns—May 25, 2001*

Section 5735.06 of the Revised Code requires Ohio licensed motor fuel dealers to file a tax return with the Treasurer of State on or before the last day of the month following the reporting period. The policy of the Department is to begin proceedings to

revoke the license of dealers determined to be "habitually delinquent."

*Tire Fee Rate Increase for All Tire Fee Registrants—July 26, 2001*

The 123rd General Assembly increased the fee on the sale of replacement tires from \$.50 cents to \$1.00 per tire. This fee increase is effective September 5, 2001. All tires sold on or after September 5, 2001 should reflect this new rate.

Visit the Department's website—[www.state.oh.us/tax](http://www.state.oh.us/tax)—to view the information releases in their entirety.

*Amnesty—cont'd. from front page*

PRO-files article on page 7) 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.

Taxpayers should know that amnesty applicants will not be a specifically targeted audit population, however, taxpayers filing for amnesty will not be automatically excluded from an audit if they are selected through the normal auditing cycle.

Visit our website, [www.state.oh.us/tax](http://www.state.oh.us/tax), to find answers to the most frequently asked questions, download a tax amnesty application, or e-mail us your comments or questions. You may also visit any of the Taxpayer Service Centers located around the state, or call 1-800-304-3211, and an agent will assist you with your tax amnesty questions. Remember, amnesty ends January 15, 2002, so — don't let your clients miss this tax deadline!

## ***Notice of Medical Savings Account 2001 Deduction***

For tax year 2001, the maximum deduction for contributions to Medical Savings Accounts is \$3,440. Last year, the maximum deduction was \$3,340. The deduction amount is based on the pre-

vious year's inflation rate as calculated from the Consumer Price Index for the urban Midwest Region produced by the Bureau of Labor Statistics.



P.O. Box 530  
Columbus, Ohio 43216-0530

## ***Sales and Use Tax Returns to Change***

*Submitted by Timothy Sachs, Sales and Use Tax Division*

An ongoing ODT effort to streamline and simplify sales and use tax reporting is producing a different look for most sales and use tax returns for the year 2002. The only return not changing will be the Ohio, State, County and Transit Sales tax return, form ST 10. The changes are being made to simplify filing, reduce the number of different forms, and reduce data entry costs.

Current sales tax returns, ST 10 G, for multi-location vendors; ST 10 T, Transient and Service vendors; ST 10 D, Delivery vendors and UT 1018, for out-state Seller's, will be combined into one return, the Universal Sales Tax Return, form UST-1.

Current use tax returns, UT 1014, for registered Consumers and ST 902 A, for Direct Pay Permit holders, will be combined into one return, the Universal Use Tax Return, form UUT-1.

Whether a sales or use tax return is filed, the current account number will remain the same.

The redesigned returns will be mailed in booklets that will contain the returns for the entire 2002 year. Businesses will receive either a short or long form version depending on the number of counties in which sales or purchases were reported on previous returns. Watch for more information about the returns and mailing dates in the next issue.

### ***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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