

Ohio State Tax Report

No. 91

Ohio Department of Taxation

Summer 2009

New State Budget, Same Forward Direction on Tax Reform

Each new state budget brings with it a multitude of tax changes. House Bill 1, signed into law by Governor Ted Strickland on July 17, is no different. But when it comes to taxation in Ohio, the most significant part of the 3,120-page state budget bill may be the changes that it doesn't contain.

The fiscal year 2010-11 budget contains nothing that substantively changes the course of the reforms and tax reductions that the Department of Taxation has gradually been phasing in since mid-2005. In other words, the tax reform effort that began four years ago remains on track to be fully implemented this fiscal year.

As a result, the corporation franchise and tangible personal property taxes will become a thing of the past for the vast majority of Ohio businesses as they are fully phased out. And for individual taxpayers, Ohio's personal income tax rates will be 21 percent lower across the board in 2009 than they were in 2004, the year before the tax reform effort began.

"Our people and our businesses are struggling to stay afloat in the midst of the worst economic crisis since the Great Depression," Governor Strickland said following the

General Assembly's passage of H.B. 1. "This budget protects them from tax increases they simply cannot afford."

Overall, the five-year program of tax reforms and reductions will mean an estimated \$2.1 billion in annual savings for taxpayers starting in fiscal year 2010, which began July 1. This figure includes the creation of the commercial activity tax and reflects the net effect of all other tax law changes associated with House Bill 66, enacted in mid-2005.

Protecting the ongoing reforms wasn't easy. Ohio's latest budget plan was crafted during a steep national recession that sent revenue forecasts southward. During fiscal year 2009, tax collections into the state's General Revenue Fund fell by 12 percent; an additional decline of 7 percent is expected during fiscal year 2010. Declines of this magnitude have not occurred in at least a half century in Ohio.

Despite those challenges the governor and lawmakers opted to reduce spending and explore other options rather than reverse course on some of the most sweeping changes to Ohio's tax laws in generations.

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Enforcement Sweep on Tobacco Products Yields Success

Ohio Department of Taxation enforcement agents and excise tax agents conducted a two-day sweep through Mahoning and Trumbull counties in April that resulted in six misdemeanor charges and a haul of untaxed tobacco products.

The agents conducted 135 inspections during the sweep. Bob Bray, Taxation enforcement chief, said the area was a focus partly because it is near the border of Pennsylvania, which does not tax other tobacco products. In Ohio, a 17 percent tax applies to the wholesale price of tobacco products other than cigarettes.

Misdemeanor charges during the sweep included three against businesses for not having cigarette licenses and three against businesses for violating state law by selling individual cigarettes. Other charges may be filed pending further investigations.

Agents also confiscated untaxed tobacco products, including 51,967 cigars, 7,464 cigar wraps (tobacco leaf used to make cigarettes), 257 pouches of roll-your-own loose

cigarette tobacco, 12 bags of chewing tobacco, 136 tins of snuff and 314 single stick cigarettes.

A major goal of the sweep was to detect unscrupulous merchants who obtain tobacco products from Pennsylvania in order to avoid the Ohio tax. The intent is to level the playing field for store owners who are playing by the rules and only selling tobacco products on which tax has been applied. 

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Commissioner's Column

Tax Reform on Track Despite Historic Recession

As we indicate in our cover story, the tax reforms that this department has been shepherding since 2005 are very much on track despite an extremely tight budget brought on by the deep national recession.

What may not be immediately clear is just how pronounced and widespread the effects of this national recession have been.

For example, *State Tax Notes* recently reported that overall state tax revenues in all 50 states fell 11.7 percent in the first quarter of 2009, compared with the same three months in 2008. That's the sharpest decline on record, according to this widely-respected tax publication.

A look back in history also suggests this recession is quite different from other recent downturns. For example, the effects of the 1991 recession were relatively mild. Ohio revenues actually grew 0.1 percent during that fiscal year. A decade later, the 2001 recession resulted in a 1.1 percent decline in state revenue.

In contrast, state revenues fell 12 percent in fiscal year 2009, which ended June 30. That may be the steepest one-year drop since the Great Depression; it is certainly the steepest drop in the past half century. Fiscal year 2010 revenues are expected to fall another 7 percent from fiscal year 2009 levels. Only in fiscal year 2011 is a small increase in revenues finally expected.

Compounding matters: Unlike the federal government, Ohio does not have the luxury of spending more than it takes in. The state budget must be balanced – and that meant some very difficult decisions in light of the \$3.2 billion budget gap that faced state policy makers this summer.

Rather than raise taxes, Governor Strickland and state lawmakers chose to make other difficult decisions, including \$2.4 billion in spending reductions and other budget adjustments.

Part of the recent budget agreement reached by the governor and state lawmakers challenges the Ohio Department of Taxation to be part of the solution.

A core mission of the Department of Taxation is to help Ohioans comply with their tax responsibilities. One of the ways we carry out this mission is through

audit and compliance programs. These efforts promote fairness, by assuring the vast majority of Ohioans who make honest efforts to play by the rules that those who aren't following the law will eventually be discovered.

As one might expect, these efforts also generate revenue for the state's General Revenue Fund, the state's primary fund for budget purposes. In fiscal 2008, for example, the department's audit and compliance programs generated \$440 million in revenue. This figure is not a count of bills or assessments issued to taxpayers. This reflects actual revenue received by the state as a result of the hard work of our employees in efforts ranging from billing programs and desk exams to formal audits and innovative data-driven "discovery" efforts.

Recognizing that such efforts ensure fairness while generating additional state funds, the General Assembly decided to provide an increased appropriation for the Department of Taxation with the understanding that it be used to hire additional auditors and other employees devoted to compliance efforts.

Specifically, the department was budgeted an additional \$15 million during the next two fiscal years based on the understanding that this investment would result in an additional \$49 million in revenue for the General Revenue Fund. This works out to a net gain of \$34 million. In other words, that's \$34 million worth of services that did not have to be cut in the two-year budget signed into law on July 17.

In making this added investment in the department, the legislature has placed its trust in us to keep our promise. Knowing the department as I do, it is one challenge that I am confident we can meet. 



Tax Commissioner Richard Levin

Budget – Cont'd. from pg. 1

H.B. 1 includes a number of other tax law changes. A sampling:

Commercial activity tax (CAT) deadlines: H.B. 1 includes several changes designed to simplify compliance for business owners and tax practitioners, including:

All quarterly CAT returns will now be consistently due on the 10th day of the second month following the end of a calendar quarter – meaning, Feb. 10, May 10, Aug. 10, and Nov. 10. Previously, quarterly CAT returns were due on the 40th day after the end of each quarter. This meant that deadlines fell inconsistently on different days of the month, depending on the quarter.

The due date for annual CAT filers – meaning, those businesses with under \$1 million in annual taxable gross receipts – has been moved from Feb. 9 to May 10. This is intended to help tax practitioners by moving the deadline outside of the personal income tax filing season.

More details on these and other changes are available in information release CAT 2009-01, available on the department's Web site (tax.ohio.gov).

Motion picture production tax credit: H.B. 1 creates a refundable tax credit that may be claimed against the personal income or corporate franchise tax for motion picture production work performed in Ohio. Productions with budgets that exceed \$300,000 may qualify for the credits, which are based on 35 percent of payroll expenditures for Ohio resident cast and crew and 25 percent of other eligible production expenses. The value of each credit may not exceed \$5 million per production, and the total credits

to be issued are capped at \$10 million for fiscal year 2010 and \$20 million for fiscal year 2011. The Department of Development will issue all credits. For details on the application process, contact the Ohio Film Office at (614) 644-5156 or visit discoverohiofilm.com.

New markets tax credit: H.B. 1 authorizes a nonrefundable tax credit with a four-year carryforward against the corporation franchise and insurance taxes for financial and insurance institutions that invest in "Community Development Entities," as defined by the federal New Markets Tax Credit program. To qualify, a taxpayer must first qualify for the federal credit program by holding an equity investment in a qualified Community Development Entity. A business may be awarded a maximum of \$1 million in credits and the Ohio Department of Development may annually issue a maximum of \$10 million credits.

Technology investment tax credit cap increased: Previously, the Department of Development was prohibited from awarding more than \$30 million in technology investment tax credits. H.B. 1 increased this cap to \$45 million, granting the incentive program an additional \$15 million. The credit may be rewarded to taxpayers investing in Ohio businesses engaged in bio-technology, information technology, and certain other activities related to research and technology development, so long as the Ohio business produces annual gross income or net book value under \$2.5 million. The credit may be claimed by taxpayers subject to the personal income tax, corporate franchise tax, dealers in intangible tax, or the public utility excise tax. ○

Taxation Officials Provide Updates at Columbus Seminar

Ohio Department of Taxation staff members provided updates on several state taxes to tax professionals at a seminar in Columbus on July 31.

The Institute for Professionals in Taxation sponsored the one-day seminar which was highlighted by a luncheon address by Ohio Tax Commissioner Richard A. Levin.

Taxation staff presented information on the corporate franchise tax, personal income tax, sales tax, tax discovery, commercial activity tax, court cases and rectifying certified tax debt.

The department has been proud to be involved in providing information to tax professionals at this well-attended seminar for a number of years. ○



Taxation's Steve Russell, assistant administrator of the Audit Division, provides an update to tax professionals at the seminar.



Legal Update

The following are significant decisions of the Board of Tax Appeals (BTA), the Ohio Courts of Appeals and the Ohio Supreme Court from April through June 2009. These informational summaries of tax decisions are compiled by Peter Angus, Legal Counsel, Compliance Division.

Corporation Franchise Tax

Nestle R&D Center, Inc. v. Levin (April 30, 2009), Slip Opinion No. 2009-Ohio-1929

A corporation submitted an application to the Ohio Department of Development for a credit for 60% of the income tax withholding associated with newly-created jobs for taxable year 2000 (corporation franchise tax year 2001). The Department of Development issued the certificate on Dec. 6, 2004, and the corporation filed a corporation franchise tax refund based on the certificate in January 2005. The Ohio Department of Taxation dismissed the refund claim since it was beyond the three-year statute of limitations in R.C. 5733.12(B). The corporation contended that the statute did not bar its refund claim as the limitations period did not begin to run until it received the certificate allowing the job credit for taxable year 2000, which did not occur until Dec. 6, 2004. The Ohio Supreme Court agreed, and held that the issuance on Dec. 6, 2004 of the certificate for taxable year 2000 retroactively established the illegal and excessive character of payments attributable to the tax year 2001 corporation franchise tax up to the amount of the credit (and also that the taxpayer would be entitled to collect the excess of credit over payments, if any). At that point the refund claim accrued for purposes of the limitations period and, as a result, the filing of the refund claim in January 2005 was timely.

Current Agricultural Use Valuation

Safreed & Randolph v. Carroll County Board of Revision & County Auditor (May 12, 2009), BTA 2006-1735

A landowner's claim for "current agricultural use valuation" (CAUV) for 40 acres for 2006 was challenged by the Carroll County Auditor. The record showed that the property had about 8 acres of hay and the rest was wooded area. The wooded area was managed as a timber lot from the 1970s through the early 1990s, but had not been in a forestry program nor logged in the three calendar years prior to 2006, the year in question. Under Ohio Revised

Code 5713.30(A)(4), property is eligible for CAUV if it has been devoted exclusively to agricultural use during the previous three consecutive calendar years. Although the owner contended that it was his intent to use the woods for commercial timber, there was no evidence of such use of the property during the three lookback years. Accordingly, CAUV status for the property was denied for 2006.

Vernon v. Knox County Board of Revision & County Auditor (May 12, 2009), BTA 2006-1397

A landowner's claim for "current agricultural use valuation" (CAUV) for 95 acres for 2005 was challenged by the Knox County Auditor. The record showed that the property was planted with soybeans in 2002 and 2006. However, the property was not farmed in 2003, 2004, and 2005 due to adverse weather conditions. Under Ohio Revised Code 5713.30(A)(4), property is eligible for CAUV if it has been devoted exclusively to agricultural use during the previous three consecutive calendar years. The lookback years for 2005 were 2002, 2003 and 2004. The property owner was able to show that the property was farmed in 2002 and that there was good reason not to farm it in 2003 and 2004. Additionally, the property owner did nothing to convert the use of the property from agricultural use. The BTA ruled that the property owner was entitled to CAUV for 2005.

Employer Withholding

Academy Electronics Repair, Inc. v. Levin (May 19, 2009), BTA 2009-532

An employer was assessed for failure to report and pay income tax withholdings. The employer filed a petition for reassessment but did not pre-pay the assessment as required by 5747.13(E)(5). Accordingly, the petition was dismissed, and the BTA affirmed the dismissal.

Acorn Solutions, Inc. v. Levin (May 5, 2009), BTA 2009-245

An employer was assessed for failure to remit income tax withholdings. The employer submitted a petition for reassessment requesting penalty abatement and later paid the assessment. The petition was dismissed because the assessment was not paid at the time the petition was filed, as required by Ohio Revised Code 5747.13(E). The BTA affirmed the dismissal of the petition.

Lowry Plumbing of Canton, Inc. v. Levin (May 5, 2009), BTA 2009-450

An employer was assessed for failure to remit income tax withholdings. The employer submitted a petition for reassessment requesting penalty abatement but did not pay the assessment. The petition was dismissed because the assessment was not paid at the time the petition was filed, as required by Ohio Revised Code 5747.13(E). The BTA affirmed the dismissal of the petition.

Personal Income Tax

Romie Conn, Jr. v. Levin (May 12, 2009), BTA 2007-421

A taxpayer was assessed in 2004 for failure to file his 1994 and 1995 Ohio income tax returns. He filed a petition to have penalties abated, but did not prepay the assessment as required by Ohio Revised Code 5747.13(E). Accordingly, the petition was dismissed by the Tax Commissioner, and the BTA affirmed the dismissal.

Personal Property Tax

CCAЕ, Incorporated, dba Columbus Car Audio & Accessories, v. Wilkins (June 9, 2009) BTA 2006-1612

A personal property taxpayer sought to participate in the amnesty program authorized by Amended Substitute House Bill 66 (2005) after receiving a letter regarding delinquent tax. A portion of the uncodified section of the bill excluded certain taxes from the amnesty program as follows: "Qualifying delinquent taxes" and "qualifying delinquent personal property taxes" do not include any tax for which a notice of assessment or audit has been issued, for which a bill has been issued, which relates to a tax period that ends after the effective date of this section, or for which an audit has been conducted or is currently being conducted." The BTA held that the taxpayer's receipt of a letter from the Department of Taxation inquiring about delinquent tax did not disqualify the taxpayer from participating in the amnesty program. The matter was remanded to the Commissioner.

The Robbins Company v. Levin (May 19, 2009), BTA 2006-2345

A company that manufactures and sells earth-boring machinery contended that some of the property assessed was in fact idle and therefore not subject to personal property tax. The taxpayer failed to present evidence concerning this at the BTA hearing, and, therefore, the Commissioner's assessment was affirmed.

Real Property Exemption

Alderwoods Cemetery Holdings, Inc. v. Levin (June 2, 2009), BTA 2007-239

A non-profit corporation sought exemption for a cemetery property under Ohio Revised Code 5709.14. The corporation purchased the property on Jan. 15, 2002. The Tax Commissioner granted exemption for 2004 and remission of tax, penalty and interest for 2003. Because the corporation was not the owner of the property on the tax lien dates for 2001 and 2002, remission was not granted by the

Tax Commissioner for those years. The BTA affirmed this denial of remission for those years.

Groveport-Madison Local Board of Education v. Wilkins & the Apostolic Church International USA Columbus Assembly (May 19, 2009), BTA 2006-1801

A school district appealed an exemption granted by the Tax Commissioner to a church for property it bought to construct a new church building. Although it had not razed the old building yet, the church had demonstrated an intent, since the purchase in 2004 and as of the relevant tax lien date of Jan. 1, 2005, to build a church on the property, as demonstrated by its pursuance of financing, securing of construction plans, removal of a structure and trees on the property, and testimony related to the original purpose for acquiring the property. The BTA affirmed the Commissioner's action.

City of North Royalton v. Levin (June 2, 2009), BTA 2009-195

The City of North Royalton filed six applications for real property exemption seeking exemption from real property taxation for tax year 2008 and remission of taxes for tax year 2007. The Cuyahoga County Auditor indicated in each application that real property taxes were due. Ohio Revised Code 5713.08 provides, in part: "An application for exemption of property shall include a certificate executed by the county treasurer certifying one of the following: (1) That all taxes, assessments, interest, and penalties levied and assessed against the property sought to be exempted have been paid in full for all of the tax years preceding the tax year for which the application for exemption is filed..." The Tax Commissioner dismissed the applications for lack of jurisdiction on the basis of this statute. The BTA affirmed the Commissioner's action.

Erievew Metal Treating Co. v. Levin (April 14, 2009), BTA 2008-118

A lessee of realty filed an application for exemption of its leased property, but did not specify in its application if it met the requirement of Ohio Revised Code 5715.27(A), which provides that "a lessee for an initial term of not less than thirty years of any property may file an application." Because of this lack of specification, the Tax Commissioner determined that he did not have jurisdiction to consider the claim for exemption, and the BTA affirmed.

Mt. Olive Community Development Corp. v. Wilkins (May 19, 2009), BTA 2006-1487

A church purchased an abandoned Cleveland school building with the hope of razing it and building a new facility to be used for community services. However, no action had been taken to accomplish this as of the tax lien date. The evidence demonstrated that the abandoned school building had been boarded up and not used for any

purpose. The BTA held that the property did not qualify for exemption because nothing in the record would support a finding that the primary use of the property was for public worship.

NBC-USA Housing, Inc.-Five (dba) Love Zion Manor v. Wilkins (April 21, 2009), BTA 2006-1492

A corporation sought exemption for residential real property under Ohio Revised Code 5709.12, which permits exemption for property used exclusively for charitable purposes. While several helpful and meaningful services are provided to the corporation's residents, the primary purpose of the housing is to provide "safe, sanitary, affordable housing" to the tenants. The corporation's primary purpose is to use the subject property as federally subsidized residential housing, and therefore, the BTA held that the property does not qualify for an exemption under Revised Code 5709.12. The corporation has appealed the decision to the Ohio Supreme Court.

True Praise & Deliverance Ministries, Inc. v. Levin (May 12, 2009) BTA 2007-530

A church sought exemption for its building and the 17 acres on which it is located. Much of the acreage is the front lawn of the church. The Tax Commissioner granted exemption for the building and a portion of the real estate, but denied exemption as to the rest. The BTA reversed, holding that the subject property is a single parcel of land, in use as a church. The entire acreage, while not indispensable to the use of the church's building as a place of worship, is reasonably appropriate to that purpose.

Sales/Use Tax

Home Depot USA, Inc. v. Levin (2009), 121 Ohio St.3d 482

A vendor sought to take the bad debt deduction allowed under Ohio Revised Code 5739.121 for credit sales in which the purchaser defaulted on payment. Revised Code 5739.121 permits the deduction for bad debts "charged off as uncollectible on the books of the vendor." In this case, the vendor had licensed another entity to issue credit cards with the vendor's name and logo; the credit defaults were against the credit card company, not the vendor itself, although the credit card company did charge the vendor a "bad debt loss factor." The Supreme Court held that the vendor was not entitled to the bad debt deduction for bad debts incurred by the credit card company.

333 Elyria, Inc. v. Levin (April 28, 2009), BTA 2007-1164

The operator of a gas station/delicatessen in Cleveland was audited and assessed for under-reporting its taxable sales. The vendor had not kept complete records of sales,

as required by Ohio Administrative Code 5703-9-2. The vendor appealed the 50% penalty included in the assessment. The audit showed that the vendor was reporting about 15% of its sales as taxable, whereas a more reliable figure was about 75% taxable. The BTA found no error in the imposition of the 50% penalty.

Christopher M. DeVito v. Wilkins (May 19, 2009), BTA 2006-2197

A lease of a car was entered into by Mr. DeVito in December 2003, at which time the sales tax rate for Cuyahoga County was 8%. Accordingly, that rate was applied to the payments anticipated in the lease and paid at the inception of the lease, in accordance with Ohio Revised Code 5739.02(A)(2), which provides: "In the case of a lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer ***, the tax shall be collected by the vendor at the time the lease or rental is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee or renter under the lease agreement. ***"

Mr. DeVito filed a refund application when the Cuyahoga County rate was reduced to 7.5% in July 2005. However, the BTA affirmed the Commissioner's denial of the refund, since the payments were due and paid at the time of the inception of the lease, not over the term of the lease.

J.Z.E. Electric, Inc. v. Wilkins (May 19, 2009), BTA 2006-2218

An electrical contractor hired personnel through an employment agency. The contractor was assessed use tax on the cost of those leased employees. Under Ohio Revised Code 5739.01(JJ) sales include "providing or supplying personnel, on a temporary or long-term basis, to perform work or labor under the supervision or control of another, when the personnel so supplied receive their wages, salary, or other compensation from the provider of the service." The contractor contended that one of the exceptions to this definition applied in its case, namely, that the personnel were provided "pursuant to a contract of at least one year between the service provider and the purchaser that specifies that each employee covered under the contract is assigned to the purchaser on a permanent basis." However, the contractor was not able to show that the employees were assigned on a permanent basis. The assessment was affirmed.

S. Mitchum, Inc. v. Levin (May 12, 2009), BTA 2007-296

The BTA affirmed a sales tax assessment against a vendor operating a deli that failed to properly collect and remit sales tax on sales of cigarettes and other tobacco products. The vendor did not maintain complete sales records, as required by Ohio Administrative Code 5703-9-2. Therefore, the tax agents obtained records from the

vendor's suppliers. The records indicated an underreporting of sales. The vendor was assessed based on estimated sales of purchased inventory.

School District Income Tax

Sprague v. Levin (April 14, 2009), BTA 2008-2540

A taxpayer's petition for reassessment was dismissed because he failed to pre-pay the assessment as required by Ohio Revised Code 5747.13(E). 



Tax Enforcement News

The following convictions were received by the Enforcement Division of the Ohio Department of Taxation from February 2009 through April 2009. Enforcement News is compiled by Robert M. Bray, administrator of the Enforcement Division. Fraud complaints can be e-mailed to Taxenforcement@state.tax.oh.us



During the period, the Enforcement Division executed four search warrants, conducted 395 tobacco inspections and collected \$550,746.21. Confiscations included 430 packs of untaxed cigarettes, 80,433 cigars, 7,594 blunt wraps, 314 single cigarettes, 829 pouches of roll your own tobacco, 12 pouches of chewing tobacco and 136 cans of snuff.

Tax Preparer Goes to Prison for Third Time

Marvin Johnson, from Columbus, pleaded guilty for the third time to stealing sales tax from the state. He was convicted in 1990 for the same charge and spent one year in prison, followed by another 1½ years in prison after a subsequent conviction for the same offense. In 2007, Johnson was again observed conducting tax business at the department's Northland building in Columbus. An investigation found that Johnson had again stolen sales tax from clients and the state, and he was again convicted. Due to Johnson's age, the judge was lenient and placed him on probation under the condition that he cease preparing taxes. He continued to prepare tax returns and was sent directly to prison to serve a three-year and three-month sentence.

Selling Untaxed Cigarettes Gets Auction House Owner in Trouble

Timothy Petit, of Greenfield Auction House in Greenfield, pleaded guilty to possessing and trafficking in untaxed cigarettes. He was sentenced to three years of community control, fined \$2,000 and required to forfeit all seized tobacco products and the monies associated with them.

After receiving complaints from three different individuals about untaxed cigarettes being sold at the auction house at cut-rate prices, the Greenfield Police Department notified the department. Taxation enforcement agents vis-

ited the auction house and pretended to be patrons. One enforcement agent purchased 70 packs of cigarettes from Petit that did not bear Ohio tax stamps.

Upon being advised of the violations, Petit explained that he had purchased the cigarettes at a sheriff's sale in Tennessee along with tax stamps from that state. Enforcement agents seized 193 packs of cigarettes from Petit that did not bear Ohio tax stamps.

Columbus Tobacco Distributor Pleads Guilty to Falsifying Sales Tax Returns

A routine audit in 2006 of Noor Distribution by excise tax agents found that the company had been underreporting its tobacco product purchases and underpaying the tax. Specifically, the company, owned by Hussein Khalil, of Columbus, had bought \$4.34 million in products from three manufacturers over a three-year period, but had only paid taxes on \$848,335 in sales.

Enforcement agents subsequently searched the business and seized 4,500 pouches of tobacco, 355,258 cigars, 93,674 wraps and tubes and three boxes of records. On April 29, 2009, Khalil pleaded guilty to falsifying tax returns for the company and six counts of prohibition against making a false return. He was sentenced to two years in prison, ordered to pay \$1.87 million in restitution for back taxes and penalties and fined \$15,000.

Enforcement Agents Thwart Owner's Effort to Halt Tobacco Inspection

Enforcement agents attempted to conduct a cigarette and tobacco inspection at a gas station in Huber Heights owned by Nicholas Tashman doing business as Giant Dayton, LLC.

Tashman was arrested after blocking the entrance and refusing to allow the enforcement agents to enter his business on numerous occasions during the inspection attempt. Tashman pleaded guilty to charges of resisting arrest, obstructing official business and disorderly conduct. He was sentenced to five years of community control, a \$1,000 fine and a six-month suspended jail sentence.

Business Owner Pleads No Contest to Failure to Pay Taxes

Larry A. VanBrackel pleaded no contest in Defiance County Court of Common Pleas to charges of failure to remit sales tax collected, aggravated theft, failure to remit income tax withholding for employees and failure to file withholding tax returns. VanBrackel, who owned A. VanBrackel and Sons, Inc. of Defiance, failed to file 41 monthly sales tax returns beginning in 2003 as well as 37 employee withholding returns. He was sentenced to five years of community control, given a suspended seven-year prison sentence and ordered to pay restitution in the amount

of \$129,239 to the state. The violations were discovered through the department's delinquency program.

Not So Clean Business

Multiple violations of not filing and remitting taxes spelled doom for a business in Port Clinton. Shiloh Cleaning Services, Inc. failed to file and remit sales and withholding taxes for reporting periods going back to January, 2005. The Ottawa County Grand Jury indicted the defendants on eight different counts. After restitution and court-ordered on-going payments, the business was forced to close.

Task Force Forces Tax Collection

What began as a routine initiative in 2006 proved to be a far-reaching and decisive tax collection effort that involved many agencies, organizations and individuals. The Organized Crime Task Force was saddled with the daunting task of identifying, investigating and indicting at least 14 businesses in the Youngstown area guilty of violating Ohio tax laws, primarily concerning untaxed other-tobacco products and unpaid sales tax. The effort involved a great deal of collaboration with various agencies in the Youngstown area and required a great deal of time and energy on behalf of Taxation enforcement employees. Search warrants, seizures and subpoenas involved many law enforcement and court officials in and around the Mahoning County area. The effort culminated in February with the guilty plea of Franco Jassi and the court-ordered forfeiture of \$10,000 to be paid to the Mahoning Valley Law Enforcement Trust Fund as well as \$3,500 to be paid to the state treasury as restitution for untaxed tobacco products.

Cooperation Yields Convictions of Violators

A case that spanned 18 months and involved numerous enforcement employees culminated in April with the sentencing of two principals of a company that had attempted to swindle the state out of withholding taxes. Victor A. Timler Jr. and Christine C. Patridge, owners of the Patridge Rainmaker Company in Canal Winchester, were given probation and were ordered to perform community service and to pay restitution for failing to remit withholding taxes and for filing fraudulent tax returns. Taxation's Enforcement Division became involved after it received a tip from another state agency.

Tobacco Taxes = Big Buck\$

A case involving about \$200,000 in uncollected tobacco tax due the state was adjudicated on Feb. 17 in Cuyahoga County. Omar Abdelqader, owner of A to Z Wholesale, pleaded guilty to aggravated theft charges. In addition to paying restitution of \$199,434 as well as court costs, Ab-

delqader has to perform 100 hours of community service and serve three years of probation. The case involved the teamwork of the Excise Tax Department; Alcohol, Tobacco, and Firearms agents; Cuyahoga County Prosecutor's Office and others.

Carryout Carryings-On

A tip to the department's Web site led to a conviction regarding Cash's Carryout of Lima. The business was found guilty of one count of grand theft and two counts of failure to file withholding returns. The business is required to pay restitution. The investigation led enforcement agents to conduct a search warrant for business records. An analysis of those records was conducted and the results presented to the Allen County Prosecutor's office. Cooperation with Allen County law enforcement and court officers was crucial to the successful prosecution of this case.

Guilt by Association

Implicated by evidence from a different case, LLB, Inc., a tobacco distributor, was discovered to have been under-reporting and trafficking in untaxed tobacco products. By the time the investigation was complete, it was revealed that the initial findings were just the tip of the iceberg in terms of volume and unpaid taxes due. The owner, Antoun Saydeh, pleaded guilty in Cuyahoga County Common Pleas Court to one count of trafficking in other tobacco products with intent to avoid taxes, a fourth-degree felony. He was placed on five years of probation and ordered to pay nearly \$53,000 in taxes owed.

Unreported Tax Liability Costly

A lead developed from a search warrant involving another case, resulted in the conviction of Ray's Wholesale in Cleveland. It was determined that the company failed to pay tax on other tobacco products it sold. Riyadh Ladadwa pleaded guilty in Cuyahoga County Common Pleas Court to one count of trafficking in other tobacco products with intent to avoid taxes. The judge ordered the repayment of the taxes owed and ordered Ladadwa not to be involved with any further tobacco businesses.

Auditor's Tip Leads to Sales Tax Conviction

A tip from a Taxation auditor led to the conviction of Prime Time Limousine Service in Medina. The report indicated the business had collected sales tax and failed to remit the tax to the state of Ohio. William Rienenrth pleaded guilty in Medina County Common Pleas Court to one count of theft in excess of \$ 5,000, a fourth-degree felony. He was ordered to pay all taxes owed and placed in the first time offender program.

As Simple as ABC

A tip from another state agency led to an investigation of ABC Countertops, which had collected, but failed to remit withholding taxes from employees. The Lucas County Common Pleas Court ordered the business to pay all of

the withholding owed and ordered Taxation to monitor all future payments to verify the company remains in compliance. 



Cigarette/Other Tobacco Products Violations

Business	County	City	Violation
Nidal Khrais	Hamilton	Cincinnati	One count failure to maintain other tobacco records
Amali's Mini Mart	Hamilton	Cincinnati	One count disorderly conduct amended from charge of no cigarette license
Happy Cat	Athens	Glouster	One count attempt to possess untaxed tobacco
Serv A Rack	Cuyahoga	Cleveland	One count possession of untaxed cigarettes
Maggiorie's Drive-Thru	Stark	Canton	One count trafficking in cigarettes without a retail license and one count failure to post a license
Mustaphe Toure	Hamilton	Cincinnati	One count trafficking in cigarettes without a retail license
Nabless Discount Corp	Hamilton	Cincinnati	One count disorderly conduct reduced from selling individual cigarettes
Steubenville Convenience	Jefferson	Steubenville	One count failure to maintain tobacco records, one count trafficking in other tobacco products without a license and one count failure to file an other tobacco return
Gregory Peck	Hamilton	Cincinnati	One count illegal distribution of tobacco to a minor
Dawit Zeleke	Hamilton	Cincinnati	One count retailer's duty to affix cigarette tax stamps
Big Apple	Mahoning	Youngstown	One count failure to comply with cigarette laws/sale of single cigarettes
One Stop	Mahoning	Youngstown	One count trafficking in cigarettes without a retail license
Sunny's Sunoco	Wood	Perrysburg	One count attempted trafficking in cigarettes without a retail license
Sarann Phann	Hamilton	Cincinnati	One count trafficking in cigarettes without a retail license
Redwood Carryout	Hamilton	Cincinnati	One count failure to comply with cigarette laws

Assorted Sales/Withholding Tax Violations

Business	County	City	Violation
York Gym	Cuyahoga	Parma	Two counts failure to file sales tax returns
VA Chef Inc.	Hamilton	Cincinnati	One count failure to file sales tax returns and one count failure to collect withholding
Pack Rats Sportscard	Cuyahoga	Brooklyn	Two counts failure to file sales tax returns
The Reading Railroad	Lucas	Sylvania	One count failure to file sales tax returns
JC Carpet LLC	Licking	Pataskala	One count failure to file sales tax returns
Mattress One LLC	Licking	Heath	One count failure to file sales tax returns
Mallows Appliance Sales Inc	Montgomery	Kettering	One count failure to file sales tax returns
The Advantage Club	Licking	Newark	One count failure to file sales tax returns
Heath Petland	Licking	Heath	One count failure to file sales tax returns
Gary Allman	Hamilton	Cincinnati	One count failure to file sales tax returns
Total Speedy	Lorain	Wickliffe	One count failure to file sales tax returns
Bay Foodliner	Fairfield	Lithopolis	One count failure to file sales tax returns
Jazzy Looks	Cuyahoga	Maple Heights	Two counts failure to file sales tax returns
Kelly Eaglin	Warren	Morrow	Two counts failure to file sales tax returns
Country Carpets	Fairfield	Lancaster	One count failure to file sales tax returns

Assorted Sales/Withholding Tax Violations

Business	County	City	Violation
Wilham Enterprises	Guernsey	Cambridge	Two counts failure to file sales tax returns
360 Clothing Studios	Cuyahoga	Cleveland	One count failure to file sales tax returns
Speed of Light	Lucas	Toledo	One count attempt to fail to file sales tax returns
Appliance Connection II	Lucas	Toledo	One count failure to file sales tax returns
Salvatore Capelli Salon	Wood	Perrysburg	One count failure to file sales tax returns
CD Warehouse	Hamilton	Cincinnati	One count failure to file sales tax returns
True Value	Sandusky	Woodville	One count failure to file sales tax returns
BBS Tool Group	Erie	Sandusky	Two counts failure to file sales tax returns
D.D. Wightman	Fairfield	Lancaster	One count failure to file sales tax returns and one count failure to collect tax
Pap's Auto & Service	Cuyahoga	Cleveland	Three counts failure to file sales tax returns
Proforma	Cuyahoga	Cleveland	Two counts failure to file sales tax returns
Urban Revolution	Cuyahoga	Cleveland	Two counts failure to file sales tax returns
Circle Pizza	Vinton	McArthur	One count failure to file sales tax returns
Perz Fine Floors 2	Lucas	Toledo	Two counts failure to file sales tax returns
Loving Touch	Cuyahoga	Maple Heights	Two counts failure to file sales tax returns
Advanced Custom & Collision	Lucas	Toledo	One count no vendor's license and one count failure to collect sales tax

Assorted Sales/Withholding Tax Violations

Business	County	City	Violation
Tangles	Stark	Magnolia	One count failure to file sales tax returns
Yummies	Lucas	Toledo	One count failure to file sales tax returns
Fess Inc.	Cuyahoga	Cleveland	Two counts failure to file sales tax returns
Sportscards & Collectibles	Lucas	Toledo	One count failure to file sales tax returns
Necessities	Seneca	Tiffin	Two counts failure to file sales tax returns
Averill Simons	Summit	Norton	Two counts failure to file sales tax returns
Mr. T's House of Fabrication	Summit	Akron	One count of failure to file sales tax returns
Peer Mitha LLC	Champaign	Urbana	Two counts of failure to file sales returns
Ashcraft Tree Service	Hancock	Findlay	One count to failure to file sales tax returns
Dawit Zeleke	Hamilton	Cincinnati	One count disorderly conduct regarding the failure to file sales tax returns
Thy Phan	Cuyahoga	Cleveland	One count failure to file sales tax returns
Goodie's BBQ	Hamilton	Cincinnati	One count no vendor's license
Janko Marong	Hamilton	Cincinnati	One count no vendor's license
Catalifinos	Fairfield	Pickerington	One count failure to file sales tax returns
B/G Restaurant	Hamilton	Cincinnati	Two counts failure to file sales tax returns
G & K Sales	Lorain	North Ridgeville	Three counts failure to file sales tax returns

Assorted Sales/Withholding Tax Violations

Business	County	City	Violation
Tregoning & Company	Cuyahoga	Cleveland	One count failure to file sales tax returns
Bridal Gallery	Williams	Bryan	Two counts failure to file sales tax returns
Eyeglass Co.	Cuyahoga	Chagrin Falls	Two counts failure to file sales tax returns
Rose Haven Floral	Cuyahoga	Middleburg Heights	One count failure to file sales tax returns
Shonk & DeMastry	Fairfield	Lancaster	One count no vendor's license

Calendar at-a-glance

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July

15

Monthly Income Tax Withholding Return

20

Monthly Kilowatt Hour Tax Return

23

Monthly Sales Tax Return

23

Monthly Consumer Use and Direct Pay Return

23

Quarterly Consumer Use and Direct Pay Return

23

Semiannual Sales Tax Return

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Quarterly Income Tax Withholding Return

Aug.

10

Quarterly Commercial Activity Tax Return

15

Monthly Income Tax Withholding Return

20

Monthly Kilowatt Hour Tax Return

20

Quarterly Natural Gas Distribution Tax Return

24

Monthly Sales Tax Return

24

Monthly Consumer Use and Direct Pay Return

Sept.

15

Monthly Income Tax Withholding Return

15

Quarterly Estimated Income Tax Return

21

Monthly Kilowatt Hour Tax Return

23

Monthly Sales Tax Return

23

Monthly Consumer Use and Direct Pay Return

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

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