

OHIO's



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Ohio Department of Taxation

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COMMENTS *from the commissioner*



*Commissioner
William Wilkins*

ODT continues to make progress with having more returns filed electronically each filing year. I am pleased to report that over 2.4 million taxpayers chose to file their state returns electronically. Paperless or electronic methods include *Ohio I-File*, TeleFile and IRS e-file. Approximately 5.3 million returns were filed.

As in recent years, ODT promoted electronic filing, in hopes that fewer taxpayers would file paper returns. This goal was achieved again this year, as it is estimated that the number of electronic returns submitted increased by 9.3 percent over last year. Nearly 46 percent of Ohio taxpayers filed paperless returns for 2003. That is an increase of over 200,000 returns from last year, which translates into a considerable savings of tax dollars. Paper returns cost approximately \$3.00 to process, whereas electronic returns on average cost \$1.15 to process.

The week before the filing deadline, we held a press conference promoting electronic filing methods. We reminded taxpayers of the benefits of filing electronically, including receiving their refund within five to seven days, as opposed to six to eight weeks with a paper return.

Electronic filing is the best way to go for the taxpayer, and it is the best way to go for those who worry about how tax dollars are spent. Everybody complains about taxes. Electronic filing is one way they can do something about it. People who filed their tax returns electronically saved Ohio millions of tax dollars.

This was the second year for *Ohio I-File* to be offered. In its first year about 115,000 taxpayers used *Ohio I-File*. This year, the number of users nearly doubled with 211,000 using the free and easy filing system. Many taxpayers praised *Ohio I-File*. One user said, "I just finished I-Filing my 2003 return. It couldn't have been easier or faster. Nobody likes paying taxes, but this really helps make it a painless experience. Thank you for providing this most valuable service."

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As was the case last year, not as many taxpayers chose TeleFile as their filing method. That is because many who would typically TeleFile chose *Ohio I-File* instead. Last year over 534,000 used TeleFile, compared with over 436,000 this year.

The largest portion of electronically filed returns came in by way of IRS e-file. Over 1.8 million taxpayers filed using the IRS system. This was an increase of 13 percent over last year. The Ohio and school district income tax returns can be attached to federal e-file returns. The attached returns are then downloaded from the IRS data center daily and uploaded to ODT's mainframe computer. Taxpayers could use their personal computer and tax preparation software or they could use an authorized e-file provider.

More taxpayers chose to have their refunds deposited directly into their bank accounts this year over last year. To take advantage of direct deposit, taxpayers were required to file using a paperless method. More than 960,000 taxpayers chose to have their refunds deposited in their bank accounts. One taxpayer said, "I wanted to convey how amazed I was at the speed of your processing this year. You are doing a great job! I filed my return on Monday and the refund was deposited on Friday. That is just incredible."

The figures in this article are as of May 28. These numbers are not final, even though the filing deadline is past.

Streamlined Sales Tax Project

Ohio is participating in the **Streamlined Sales Tax Project**. The **SSTP** is a multi-state initiative to make sales tax laws, rules, and systems more uniform across states and thus easier for retail merchants to collect states' sales taxes. Ohio has changed some of its laws to conform to the provisions of the **SSTP**. The ultimate goal of the **SSTP** is to encourage out-of-state retailers – primarily catalog and Internet companies – to collect the sales tax of Ohio and other states. Ohio's state and local governments lose an estimated \$600 million (annually) on untaxed sales by out-of-state merchants.

Ohio law changes will soon be affecting many Ohio retailers, primarily those that sell food and make delivery sales. There are three key dates for implementing the **SSTP** that Ohio retailers need to prepare for – **July 1, 2004**, **January 1, 2005**, and **July 1, 2005**. The Ohio Department of Taxation is also taking a number of steps to help retailers with these changes.

July 1, 2004 marks the date when the definition of what constitutes "food" changes, resulting in some changes regarding what is and is not taxable. Under the new definition, "food" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

The definition of "food" includes the following items, which are not taxable when consumed off the premises where they are sold:

- bottled, unsweetened water and ice
- fruit and vegetable juice with more than 50 percent juice content
- sweetened beverages that contain milk, a milk product, or a milk substitute

The definition of "food" does not include the following items, which are all taxable:

- alcoholic beverages
- dietary supplements

- soft drinks
- tobacco

Food consumed off the premises remains tax free. Food consumed on the premises is still taxable. Purchases using food stamps also remain not taxable.

January 1, 2005 is the earliest date retailers can begin collecting sales tax based on the location of delivery sales, marking a change in how the rate of sales tax is charged for such sales. The change means that Ohio retailers who sell a taxable product in one county and then ship that product to a customer in another county in Ohio will charge the sales tax rate in effect in the county where the customer takes delivery. (Most sales of taxable services are already subject to similar provisions, e.g. the tax charged is determined by the consumer's location where the service is performed or received. Out-of-state vendors who deliver to an Ohio address are already required to charge the sales tax in effect at the point of delivery.) An amendment to H.B. 204 gives retailers a six-month transition period to implement the change.

July 1, 2005 is the date the change in taxing delivery sales becomes mandatory. The Ohio Department of Taxation has launched a number of initiatives to assist retailers in preparing for this change.

- a free, web-based Geocoding service will be available in September 2004 which will identify the correct sales tax for every Ohio address and allow retailers to track and report sales by location
- a dedicated, toll-free number (1-800-304-3211) and an e-mail address (accessed from either the Department's Web site or the SSTP Web page) provides a rapid response to retailer questions; this service began operating in May 2004
- a SSTP Web page on the Department's Web site features up-to-date information and links to helpful resources; this service began operating in May 2004
- seminars for retailers, trade associations, accounting groups, and tax practitioners will educate stakeholders about the SSTP-related change
- the Department will meet periodically with the County Auditors Association for input on local issues affected by the change
- the Department is committed to working with other state tax agencies to develop the most effective systems and approaches regarding the SSTP

For more detailed information, consult the Streamlined Sales Tax Web page on the ODT Web site, tax.ohio.gov.

2003 Brief Summary Now Available

The 2003 edition of *Ohio's Taxes – A Brief Summary of Major State and Local Taxes in Ohio* is now available. This publication provides the rates, revenues, rules, distributions, and other important provisions of all principal taxes in Ohio. It's a valuable and handy reference for anyone needing quick information on state and local taxes.

The publication will soon be available on our Web site at tax.ohio.gov. Click on the *Research* tab and you will find the *Brief Summary* under *Publications*. To request a hard copy, e-mail us from our Web site. Look for the "E-Mail Us" link found at the top, right-hand corner of the home page.

PRO-files

Compliance Division – Helping Ohio Taxpayers Comply with Their Tax Responsibilities

By Peter Angus, Legal Counsel, Compliance Division

“To provide quality service to Ohio taxpayers by helping them comply with their tax responsibilities....”

Some Ohio taxpayers need a gentle nudge to remind them to *comply with their tax responsibilities*. For them, the agents and staff of the Compliance Division *provide quality service* in the way of notices, bills and assessments, more than a million a year, as a matter of fact. The Compliance Division partners with the Taxpayer Services Division and the Taxpayer Service Centers to accomplish its mission. Programs run by the Compliance Division cover all of the major taxes.

TYPES OF COMPLIANCE PROGRAMS

INCOME TAX DELINQUENCY PROGRAM

The list of contacts for the income tax delinquency program starts with a list from the Internal Revenue Service that shows the names of all taxpayers with an Ohio address who filed federal returns for a given year. This list is compared with a list of ODT filers for the same year. Those whose names appear on the IRS's list but not on ODT's are notified of their filing requirements. Although the IRS does not penalize taxpayers for non-filing or late filing if they are due a refund, the Ohio Revised Code does require timely filing even if a refund is due. Many taxpayers whose names appear on the list of contacts for the program actually do not owe a return. They are people who moved to Ohio in the early months of the year, filed their federal return for the previous year (the taxable year of the program), and used their Ohio address. The most recent income tax delinquency program was for taxable year 2001 when 10,210 notices were sent.

SCHOOL DISTRICT INCOME TAX DELINQUENCY PROGRAM

The list of contacts for the school district income tax delinquency program starts with the list of Ohio income tax filers who entered a taxing school district number on their Ohio returns but did not submit a corresponding school district income tax return. One hundred thirty-three of Ohio's 612 school districts levy the tax. As with the state delinquency program, some false hits occur because people enter their information for the taxable year in the subsequent year. Thus, people who moved from a non-taxing district into a taxing school district in the early months of the year often enter their current district, instead of the one for the taxable year they are reporting on. Some of the complications in this program arise from the fact that people frequently move from one school district to another during a year. So, they may owe partial year returns for one or more districts. The most recent school district income tax delinquency program was for taxable year 2000 when 74,538 notices were sent. Of these, 35,213 assessments totaling \$9,835,000 were issued to taxpayers who did not respond to the notices.

INCOME TAX NON-REMITTANCE PROGRAM

Income tax filers who report balances due but do not submit timely payment are issued notices requesting payment. The notices normally begin the first week of June for all income tax returns processed to that point. The notices go out daily after that until the processing of all returns is completed.

INCOME TAX VARIANCE PROGRAM

The information from paper returns is keyed by ODT's data entry operators on a first-in-first-keyed basis. The mainframe computer then runs checks of the calculations shown on the returns. Errors are noted, and the computer generates notices to taxpayers informing them of discrepancies. These computer checks are run every night after data entry is complete, and the notices are sent the following day.

FEDERAL ADJUSTED GROSS INCOME TAX PROGRAM

The IRS provides ODT with data on the adjusted gross income, filing status, and the number of exemptions claimed for Ohio taxpayers on their federal returns. This data is compared to the figures reported by Ohio taxpayers on their Ohio returns. When discrepancies are found, taxpayers are sent correction notices. For taxable year 2001, 23,785 notices were sent, and \$2,918,823 additional revenue was collected.

INCOME TAX CP2000 PROGRAM

The IRS runs matching programs to see that income such as interest paid by a bank to a particular individual is reported on that individual's federal income tax return. This is done by comparing the interest and Social Security number on the IRS Form 1099 with the interest reported on the federal income tax return for that Social Security number. Other items of income which the IRS cross-matches include gains from sales of real estate, dividends, royalties, and income paid to independent contractors. After the IRS runs its program, it provides to ODT data on the Ohio taxpayers who were contacted under the program and who agreed to pay the additional tax due. Because ODT only receives data on the taxpayers who agreed to the IRS action, most of the taxpayers contacted by ODT agree to pay balances due. For taxable year 2001, 5,543 notices were sent and \$831,556 additional revenue was collected.

SALES TAX DELINQUENCY PROGRAM

The 294,000 vendors and other use tax account holders are required to file periodically, regardless of whether or not they have a liability. Every month, about 15,000 of these taxpayers fail to file required returns. They are sent billing notices which request that they file their returns. About half of these taxpayers respond to the notice with a return and/or payment. A number of these taxpayers report that they are out of business, and they wish to have their accounts cancelled. The delinquencies of the remaining 7,500 vendors who do not respond are assessed, and about half respond with a return and/or payment before ODT certifies them to the Ohio Attorney General for collection.

EMPLOYER WITHHOLDING TAX DELINQUENCY PROGRAM

Employers file periodic returns (monthly or quarterly) and year-end reconciliation returns. The Compliance Division compares total amounts reported on the periodic returns for a given year against the amount shown on the year-end report. Notices are sent to the employers asking for clarifying information when there are discrepancies. The most recent run of this program resulted in the sending of 20,690 notices

BUSINESS NON-REMITTANCE PROGRAMS

Non-remittance notices are issued to corporation franchise taxpayers, employers (including employers for school district income tax), and vendors.

CORRESPONDENCE AND TELEPHONE CALLS

Many taxpayers who receive a bill or an assessment from ODT call or write concerning the matter. All of these require responses by Compliance or Service Center agents and adjustments to the ODT records maintained in ITAS and/or CICS. Compliance Division and Taxpayer Service agents provide taxpayers with whatever explanation of the ODT correspondence is required, take information from the taxpayers, and make whatever adjustments to the billings and assessments are necessary.

The Compliance Division handles petitions received in response to assessments, except for a limited number of cases which go to the Tax Appeals Division. Agents of the Compliance Division research the petitioned assessment, contact the taxpayer, and either adjust or affirm the assessment, based on the information available.

Flea Markets and Vendors' Licenses

Ohio Department of Taxation (ODT) enforcement agents, in visits to a number of Ohio flea markets recently, cited almost 100 merchants for making retail sales without vendors' licenses. Ohio Tax Commissioner William W. Wilkins said the visits were prompted, in part, by complaints from merchants who were properly licensed but were being undersold by unlicensed merchants who weren't collecting tax.

"It's a matter of fairness, and it's the law. Everyone needs to be playing by the same rules. You need a vendor's license to sell in Ohio," Commissioner Wilkins said. "That goes for sales at a big department store or a little stand at a flea market."

Some of the flea markets visited by ODT enforcement agents included three in southwest Ohio (Caesar's Creek, Turtle Creek, Trader's World), two in the Cleveland area (Jamie's Flea Market and the East Side Flea Market) and two in the Toledo area (Cardinal Flea Market and Ed Wahl Flea Market). Those cited face fines of \$25 to \$100 and civil assessments for unpaid back taxes. Agents also found flea market operators keeping sloppy or incomplete records, which can subject them to fines.

Vendors at flea markets or any exhibition in Ohio where sales are made are bound by the following rules:

- If a vendor sells in one county, the vendor's license must be obtained from the auditor of that county.
 - A vendor who makes sales in more than one county must have a transient vendor's license. The license can be obtained from any ODT Taxpayer Service Center or downloaded from the ODT Web site at: tax.ohio.gov. Licenses obtained at a county auditor's office or an ODT taxpayer service center can be issued the day of application. Vendors can check the ODT Web site or call 1-800-282-1782 toll free for an application. The Web site also carries addresses of all ODT Taxpayer Service Centers.
 - A vendor's license cost is \$25. Transient vendors' licenses must be prominently displayed.
 - The sales tax charged is the sales tax rate for the county in which the sales are made. Sales tax rates vary from county to county in Ohio.
 - ODT enforcement officers also check for tobacco products sold at flea markets to make sure all tobacco taxes have been paid and tobacco licenses are posted.
 - Operators of such events must keep vendor records. The records shall include the vendors' names, permanent addresses, vendors' license numbers and types of goods sold. Such records must be kept four years and they are subject to inspection by the Ohio Tax Commissioner. Failure to keep records can result in fines from \$25 to \$100.
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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 Internal Revenue Service and the Ohio Department of Taxation. Most workshops are being offered in cooperation with the Ohio Department of Development, Small Business Development Centers, that provide professional, in-depth counseling and training to entrepreneurs to help create a strong climate for small business growth.

Workshops are designed to provide a general overview of business taxes. Participants receive a business tax kit that contains forms and publications necessary for complying with business tax requirements. Several types of workshops are offered. General Business workshops are designed to provide a general overview of business taxes, types of business and business structures, advantages and disadvantages of each type, tax filing requirements, record keeping, estimated tax requirements and employment taxes. The Ohio Department of Taxation participates in General Business workshops.

Please note: This schedule is subject to change. Cancellations may occur and other workshops may be scheduled throughout the year. For the latest updates, call the number listed for the workshop you are interested in attending. If you are unable to attend a workshop after registering, please call and cancel. Class sizes are limited and others are waiting for reservations. Following is a list of Small Business Tax Workshops scheduled from July through December 2004.

CLARK COUNTY

November 19, 9 a.m. – 4 p.m.

General Small Business Workshop

Small Business Development Center
300 East Auburn Avenue
Springfield, OH 45505-4703
To register, call (937) 322-7821
or e-mail joann@smbusdev.org

CLERMONT COUNTY

August 11, 9 a.m. – 4:30 p.m.

General Small Business Workshop

Clermont Small Business Development Center
Clermont Chamber of Commerce
553 Chamber Drive
Milford, OH 45150
To register, call (513) 576-5000

DELAWARE COUNTY

August 10 and November 9, 9 a.m. – 4 p.m.

General Small Business Workshop

SBDC/Delaware Career Center
Delaware Area Career Center, South Campus
Delaware, OH 43015
To register, call (740) 548-0708 Ext. 3222

FAIRFIELD COUNTY**December 1, 9 a.m. – 4 p.m.****General Small Business Workshop**

OSBDC Region 1 and
Lancaster Fairfield County Chamber of Commerce
One North Broad
Lancaster, OH 43130-5450
To register, call (740) 653-8251 or by mail
One North Broad, P.O. Box 2450,
Lancaster, OH 43130-5450

HAMILTON COUNTY**October 14, 8:30 a.m. – 4 p.m.****General Small Business Workshop**

SBDC at University of Cincinnati
Corporate Tower, 7th Floor Conference Room
7162 Reading Road
Cincinnati, OH 45237
To register, call (513) 556-2074

LUCAS COUNTY**August 20 and November 19, 9 a.m. – 4:30 p.m.****General Business Tax Workshop**

Toledo Small Business Development Center
Toledo Edison Building
300 Madison Avenue, 8th Floor
Toledo, OH 43604
To register, call (419) 243-8191 Ext. 267

PORTAGE COUNTY**December 3, 9 a.m. – 4:30 p.m.****General Small Business Workshop**

Kent Regional Business Alliance
College of Business Administration, Room 300
Kent State University
Kent, OH 44242
To register, call (330) 672-1275

WARREN COUNTY**September 2, 9 a.m. – 4 p.m.****General Small Business Workshop**

SBDC at University of Cincinnati &
Warren County Dept. of Economic Development
300 E. Silver Street
Young Conference Room, 3rd Floor
Lebanon, OH 45036
To register, call (513) 695-1224

FRANKLIN COUNTY**July 21, August 18, September 22, October 20,
November 17, and December 22****All 9 a.m. – 4:30 p.m.****General Business Workshops**

All workshops held at the
Columbus Metropolitan Main Library
96 S. Grant Avenue, Main Auditorium
Columbus, OH 43215
To register, call (614) 225-6910, or by mail
Region 1 Ohio Small Business Development Center
37 N. High St., Columbus, OH 43215

LOGAN COUNTY**November 10, 9 a.m. – 4 p.m.****General Small Business Workshop**

Small Business Development Center
2280 St. Rt. 540
Bellefontaine, OH 43311
To register, call (937) 599-6275 Ext. 437
Or e-mail dlivingston@ohp.k12.oh.us

MAHONING COUNTY**July 21, 9 a.m. – 3:30 p.m.****General Business Workshop**

Ohio SBDC at Youngstown State University
Youngstown Business Incubator
241 Federal Plaza West, Suite 101
Youngstown, OH 44503
To register, call (330) 746-3350

TUSCARAWAS COUNTY**August 11 and October 20, 9 a.m. – 4 p.m.****General Business Workshops**

OSBDC at Kent State University – Tuscarawas Campus
330 University Drive NE
Science & Advanced Technology Building
New Philadelphia, OH 44663
To register, call (330) 308-7434 or mail the Ohio
Small Business Development Center at Kent State
Tuscarawas Campus at the above address.

COURT *decisions*

The following are significant decisions of the Board of Tax Appeals (BTA), the Ohio Courts of Appeals and the Ohio Supreme Court during March, April and May 2004. These informational summaries of tax decisions are compiled by Peter Angus, Legal Counsel, Compliance Division.

CORPORATION FRANCHISE TAX

First National Bank of Lebanon v. Zaino (March 19, 2004), BTA 2003-627

The taxpayer elected S corporation status as of January 1, 1998. It claimed it owed no corporation franchise tax for tax year 1998, which is based on taxable year 1997. The BTA did not agree, and held that the S corporation election affects the taxable year – but not the tax year – in which it is made. The taxpayer therefore was liable for the 1998 corporation franchise tax based on taxable year 1997.

PERSONAL INCOME TAX

Stephen D. Smith v. Zaino (March 12, 2004), BTA 2003-901

Under the authority of Section 6103(d) of the Internal Revenue Code, the IRS provided the Ohio Department of Taxation with information regarding the federal adjusted gross income of the taxpayer for comparison with what the taxpayer had reported on his Ohio return. The taxpayer was assessed based on this information. He filed a petition asserting that the IRS was still considering his amended returns for the years in question. However, because he did not substantiate this assertion with documentation from the IRS, his petition was denied. The BTA affirmed the Tax Commissioner's action.

Michael and Suzanne Luken v. Zaino (April 30, 2004), BTA 2003-1021

The taxpayers filed returns for 2000 and 2001 indicating zero adjusted gross income and claiming a refund of all of their Ohio income tax withheld. Subsequent to correspondence with the taxpayer, assessments were issued for unreported income and for filing frivolous returns. The taxpayers contended that wages are not included within the definition of "income." The BTA affirmed the Tax Commissioner's rejection of this contention.

REAL PROPERTY TAX EXEMPTIONS

Bethesda Healthcare, Inc. v. Wilkins (2004), 101 Ohio St.3d 420

A healthcare facility which had 501(c)(3) status under the Internal Revenue Code sought exemption for its fitness facility under Ohio Revised Code 5709.12, which provides: "Real and tangible personal property belonging to institutions that is used exclusively for charitable purposes shall be exempt from taxation." The taxpayer showed that eight free scholarships had been awarded for use of the fitness facility, out of a total of 5,400 members. The court held that, on these facts, the taxpayer had failed to show that the use of the property was exclusively for charitable purposes. The exemption was denied.

Healing Word Church v. Zaino (March 12, 2004), BTA 2003-779

A church sought exemption for a vacant parcel of realty under Ohio Revised Code 5709.07, which exempts "houses used exclusively for public worship, the books and furniture in them, and the ground attached to them that is not leased or otherwise used with a view toward profit and that is necessary for their proper occupancy, use, and enjoyment." Although the church had the general intent of expanding its building and using the vacant parcel as a parking lot at some future time, the plans to do so were remote, according to the taxpayer's witness. Accordingly, the BTA affirmed the denial of exemption.

SALES/USE TAXES

Gen. Motors Corp. v. Wilkins (2004), 102 Ohio St.3d 33

An auto manufacturer was assessed on its purchases of materials used by its dealers in performing warranty repairs. The manufacturer contended that the repairs were not taxable because sales tax applies to transactions in which "...an item of tangible personal property is or is to be repaired..." and Ohio Revised Code 5701.03 provides that "'Personal property' does not include...motor vehicles registered by the owner thereof..." The Supreme Court found, through an analysis of numerous references to motor vehicles in Title 57, that this definitional provision was limited to *ad valorem* taxes. Accordingly, the sales tax assessments on warranty repairs were affirmed. The court also rejected the taxpayer's contention that it was not the consumer of the transactions in which the dealers repaired customers' cars in transactions fulfilling the taxpayer's warranty obligations.

Hemmelgarn & Sons, Inc. v. Zaino (April 9, 2004), BTA 2002-473

Tractor-trailers with refrigeration units were exempted under Ohio Revised Code 5739.02(B)(17) by the BTA as directly used in agriculture. According to the owner, the refrigerated tractor-trailers are used to transport eggs from farms on which he owns laying hens to his egg processing facility. Precise refrigeration is necessary during transportation to prevent disease. Also exempted were feed trucks which the owner used to transport feed to his various egg farms. The owner testified that the use of dedicated trucks was necessary to prevent dangerous contaminants from entering the chicken feed.

Edwin P. Morrow v. Zaino (April 9, 2004), BTA 2003-542

An attorney who was assessed as a responsible party for unpaid sales tax paid the assessment and filed a refund claim, contending that he was not properly liable under Ohio Revised Code 5739.33. He had invested in Discount Computers, Inc. in 1987 as a shareholder, and he testified at the BTA that he was inactive in the business until he was informed in 1991 that the business manager was not paying expenses. Upon investigation, he found that there had been mismanagement, and he became active in helping wind up the business. The business manager, who was also assessed, submitted a statement saying that the attorney was a 75 percent shareholder and an active participant in the business. The manager did not appear at the hearing, although he was subpoenaed. The BTA held that the attorney was not liable for unpaid sales tax during the period. The Tax Commissioner contended that the attorney was without standing to seek a refund under Ohio Revised Code 5739.07 because the statute, during the applicable period, specified that only vendors could be granted refunds. The BTA rejected this contention.

Gary L. Lipinsky v. Zaino (May 7, 2004) BTA 2003-923

The taxpayer purchased a yacht and did not pay sales or use tax at the time of the transaction. He contended that he was not the proper party to pay the tax and that, in any event, the vessel was not subject to tax because it had been documented by the U.S. Coast Guard. The BTA rejected these contentions because the sales documents did not reflect sales/use tax having been paid, and no exemption is obtained by having a vessel documented by the U.S. Coast Guard.

Administrative Changes

Joseph Hammond is the new Administrator of the Taxpayer Services Division (TPS). Mr. Hammond started his career with ODT in 1984 working at the Columbus District Office.

After years of auditing for sales and use tax, Mr. Hammond became a member of the ITAS Implementation Team in 1997. In 1998, he joined the Taxpayer Services Division as a Supervisor. Prior to this appointment, Mr. Hammond was an Assistant Administrator in TPS.

New on the Internet

New information is continually added to ODT's Web site at tax.ohio.gov. Below are recently added items.

RULES

Recently added to ODT's Web site is a Rules section. The purpose of this page is to provide the public with proposed and effective rules pertaining to the Ohio Administrative Code 5703. The page is continuously updated so you no longer need to wait for the rules to be published elsewhere. Visit ODT's Web site, select "Practitioner" then "Ohio Administrative Code (Rules) – Proposed Rules and Final Rules" under "Laws and Rules."

STREAMLINED SALES TAX PROJECT

Information has been added to ODT's Web site about the Streamlined Sales Tax Project (SSTP). Ohio is participating in the SSTP, which is a multi-state initiative to make sales tax laws, rules, and systems more uniform across states and thus easier for vendors to collect states' sales taxes. Ohio has changed some of its laws to conform to the provisions of the SSTP. This Web page provides the latest information on those changes. The ultimate goal of the SSTP is to encourage out-of-state vendors – primarily catalogue and Internet companies – to collect Ohio's sales tax and other states' sales taxes. Ohio's state and local governments lose an estimated \$600 million (annually) on untaxed sales by out-of-state vendors.

Go to ODT's Web site at tax.ohio.gov and select "SSTP – Streamlined Sales Tax Project" in the bottom right-hand corner of the home page.

INFORMATION *releases*

The following information releases were issued by the Department in the last several months. The topics addressed are summarized below. Please visit our Web site at tax.ohio.gov and click on "Releases" at the top of the home page to view all the information releases in their entirety.

CORPORATE FRANCHISE TAX AND OHIO INCOME TAX – INDIVIDUAL

IT-CFT 2001-01 – Sales Factor Situsing Revisions – April 19, 2004

The purpose of this information release is to explain, in question and answer format, the corporation franchise tax (CFT) sales factor situsing provisions following the adoption of the business/nonbusiness concept enacted by Amended Substitute House Bill 95 (H.B. 95) of the 125th General Assembly and to explain the subsequent amendments to the sales factor situsing provisions enacted by Substitute House Bill 127 (H.B. 127) of the 125th General Assembly.

MOTOR FUEL TAX

XT-2004-01 – Revised Definition of Transit Buses – February 12, 2004

The 125th General Assembly recently passed Amended Substitute House Bill 127 (H.B.127). This bill changed the definition of "transit bus" to include buses with seating capacities fewer than ten persons. Previously, only transit buses that had a seating capacity of more than ten persons were eligible under the refund provisions of the motor fuel tax. This change is effective March 11, 2004.

SALES TAX

ST-2004-01 – Food Definition Change Effective July 1, 2004 – May, 2004

The purpose of this information release is to address the new definition of "food" in Ohio Revised Code ("R.C.") section 5739.01(EEE) that takes effect July 1, 2004. This change in the definition of "food" is one of several changes made in Amended Substitute House Bill 95 (H.B.95) of the 125th Ohio General Assembly to bring Ohio statutes in compliance with the terms of the Streamlined Sales and Use Tax Agreement. What constitutes food is important because food consumed off the premises is not subject to Ohio sales tax.

TAX enforcement news

The following information is a list of convictions secured by the Enforcement Division of the Ohio Department of Taxation in February, March and April 2004. Tax Enforcement News is compiled by Robert M. Bray, Administrator, Enforcement Division. Fraud complaints can be e-mailed to the Enforcement Division at Taxenforcement@tax.state.oh.us.

Timothy P. Tremmel of Richfield was convicted in Summit County Court of Common Pleas of two counts of possession of untaxed cigarettes and two counts of trafficking with the intent to avoid tax, both fourth degree felonies. Mr. Tremmel was fined \$1,500 and sentenced to 14 months on each charge, to be served concurrently. The Ohio Department of Taxation, Enforcement Division, Cleveland Office was informed by the Richfield Village Police Department that an informant had been approached at a truck stop by Mr. Tremmel to purchase Russian Marlboro cigarettes. The investigation lead to search warrants being executed by the Richfield Village Police. The search resulted in the arrest of two other individuals, who were also convicted of cigarette and drug charges.

Daniel Moore, owner of The Classic Cigar Company, of Brownsburg, Indiana, was convicted in Hamilton County Common Pleas Court for possession of untaxed other tobacco products and trafficking in tobacco products with the intent to avoid tax, both fourth degree felonies. Mr. Moore was sentenced to three years community controlled probation, five years driver's license suspension and court costs to be paid through the probation department. The Ohio Department of Taxation received an anonymous complaint alleging that a business known as The Classic Cigar Company was setting up a booth at the North Coast Golf Show to sell cigars from Cuba. An undercover purchase was made at the booth and 2,273 various cigars were confiscated at the show. The cigars were forfeited to the state of Ohio.

Statewide Enforcement Delinquent Program, also known as "Operation Pay-up," has resulted in citations and/or the conviction of 374 vendors, caused 3,948 returns to be filed and a total of \$2,415,655 to be collected as of May 31, 2004.

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

Assorted Cigarette Violations

NAME	BUSINESS	CITY	VIOLATION
Paul Frilling	Penn Traffic	St. Mary's	(1) Count No Cigarette License
Kerry Gor	Snack Box	Dublin	(1) Count No Cigarette License
John Long	Baltimore Hometown Classic	Baltimore	(1) Count No Cigarette License
Thomas Schuh	Tom's Drive-Thru	Harrison	(1) Count No Cigarette License
Larry McGregor	Port Royal	Toledo	(1) Count No Cigarette License
Peggie Gillespie	Frank Gillespie Co.	Columbus	(1) Count No Cigarette License
Richard Powell	Monterey Services Inc.	Dayton	(1) Count Failing to Mark Invoices
Cantrell Oil	Winchester Wholesale	Winchester	(1) Count Improperly Marking Other Tobacco Product Invoices

Assorted Sales Tax Violations

NAME	BUSINESS	CITY	VIOLATION
Molly Cook	Levering Florist	Crooksville	(1) Count Failure To File Sales Tax Returns
Chad Mullet	Mullet Flooring	Marysville	(1) Count Failure To File Sales Tax Returns
Matthew Coleman	Extra Touch Auto Care	Toledo	(1) Count Failure To File Sales Tax Returns
Danny Hinson	A-P Appliance Inc.	New Richmond	(1) Count Failure To File Sales Tax Returns
Bonnie Sponsler	Nu Yu Beauty Studio	Findlay	(1) Count Failure To File Sales Tax Returns
Randy Akins	East of Chicago Pizza	Delaware	(1) Count Failure To File Sales Tax Returns
William Rigoni	Generation Jamz	Port Clinton	(1) Count Failure To File Sales Tax Returns
Douglas Alexander	Holiday Village Resort	Port Clinton	(1) Count Failure To File Sales Tax Returns
Dennis McBride	American Eagle	Sidney	(1) Count Failure To File Sales Tax Returns
Bruce Jasadzinski	Z's Flooring	Xenia	(1) Count Failure To File Sales Tax Returns
Charles Paul	Muffler Brothers	Springfield	(1) Count Failure To File Sales Tax Returns
Catherine Scholtz	Stuck on Scrapbooks	Beavercreek	(1) Count Failure To File Sales Tax Returns
Mary Saylor	Just 4 You	Fairfield	(1) Count Failure To File Sales Tax Returns
Michael Volbert	5 Acres Unlimited	Lakeview	(1) Count Failure To File Sales Tax Returns
Darin Eskridge	X Sports Ultimate Paintball	Batavia	(1) Count Failure To File Sales Tax Returns
Stephen Sweat	Village Hardware	Jamestown	(1) Count Failure To File Sales Tax Returns
Dalena Vanmeter	The Game Store	Powell	(1) Count Failure To File Sales Tax Returns
Henry Holbrook Jr.	Elite V8 Cycles	Columbus	(1) Count Failure To File Sales Tax Returns
Paul Shaffer	Julie's Café	New Straitsville	(1) Count Failure To File Sales Tax Returns
Joseph Murrell	Murrell's Auto Body	Mount Orab	(1) Count Failure To File Sales Tax Returns
Diane Goodman	Randy's Diner LTD	Mount Orab	(3) Counts Failure To File Sales Tax Returns
Robin Thomas	Tropical Breeze Tanning	Warren	(1) Count Failure To File Sales Tax Returns
R. Rowan	Bryan Ranch House	Bryan	(2) Counts Failure To File Sales Tax Returns
Larry Bisignano	Larry's Body Shop	Bellevue	(1) Count Failure To Collect Sales Tax (1) Count No Vendor's License
Richard Syx Jr.	Syx's Paint & Floors	Springfield	(1) Count Failure To File Sales Tax Returns
Robert Lovett	Lovett's Video Center, Inc.	Newark	(1) Count Failure To File Sales Tax Returns
Mark Pentz	Calvin Group Inc.	Westerville	(1) Count Failure To File Sales Tax Returns
Denise Fisher	Denise's Diner	Centerburg	(1) Count Failure To File Sales Tax Returns
Frank Johnson	Johnson's Appliance	Heath	(1) Count Failure To File Sales Tax Returns
Steven Waspe	Columbus Clean Air Inc.	Newark	(1) Counts Failure To File Sales Tax Returns
William Roper	R & B Games	Portage	(1) Count Failure To File Sales Tax Returns
Donna Dehart	Broken Arrow	Sardinia	(1) Count Failure To File Sales Tax Returns
Todd Ewing	Coral Bay Spa	Lima	(1) Count Failure To File Sales Tax Returns
Dhansukh Patel	Piqua Hospitality Inc.	Troy	(1) Count Failure To File Sales Tax Returns
Mr. Stahl	Stahl's Automotive	Arlington	(1) Count Failure To File Sales Tax Returns
Ted Young	MAACO	Oregon	(1) Count Failure To File Sales Tax Returns
David Murphy	West Main Auto Repair	Peebles	(1) Count Failure To File Sales Tax Returns
Christopher Crawford Corporation	Tan Lines Tanning Else, Inc.	Hillsboro Dayton	(1) Count Failure To File Sales Tax Returns (1) Count Failure To File Sales Tax Returns
Peggy Kerenstew	Finishing Touches Inc.	Sidney	(1) Count Failure To File Sales Tax Returns
Rickey Pitzer	Classic Diner	Leesburg	(1) Count Failure To File Sales Tax Returns
Jerry Van Dyke	Van Dyke's Auto Repair	Greensfield	(1) Count Failure To File Sales Tax Returns
Mark Owen	Highland Automotive Detailing	Akron	(1) Count Failure To File Sales Tax Returns
Roy Drake	RT Auto Service	Shreve	(1) Count Failure To File Sales Tax Returns
Mark Hasenmeier	Hasenmeier Towing	Sandusky	(1) Count Failure To File Sales Tax Returns

Assorted Sales Tax Violations Cont'd.

NAME	BUSINESS	CITY	VIOLATION
Andrew Bernstein	Bristish Auto Care	Powell	(1) Count Failure To File Sales Tax Returns
Harold Kaser	Delaware Animal Clinic	Delaware	(1) Count Failure To File Sales Tax Returns
R.H. Clausell	Check Point Auto Body & Collision Inc.	Columbus	(1) Count Failure To File Sales Tax Returns
OK Sohn	Wig City	Lima	(1) Count Failure To File Sales Tax Returns
Yvette Anderson	Macomber Mkt.	Toledo	(1) Count Failure To File Sales Tax Returns
Sherman Weller	Hemlock Café	Jamestown	(1) Count Failure To File Sales Tax Returns
Deborah Ewing	Debbie's Upholstery	Lynchburg	(1) Count Failure To File Sales Tax Returns

Tax Calendar at-a-Glance**July**

- 15** Monthly Income Tax Withholding Returns
- 20** Monthly Kilowatt Hour (KWH) Tax Return
- 23** Monthly and Semiannual Sales Tax Returns
- 23** Monthly Consumer Use and Direct Pay Returns
- 23** Quarterly Consumer Use Tax Returns
- 23** Quarterly Direct Pay Sales Tax Returns

Aug.

- 02** Quarterly Income Tax Withholding Returns
- 16** Monthly Income Tax Withholding Returns
- 16** Quarterly Estimated Income Tax Return
- 20** Monthly Kilowatt Hour (KWH) Tax Return
- 20** Quarterly Natural Gas Distribution (MCF) Tax Return
- 23** Monthly and Semiannual Sales Tax Returns
- 23** Monthly Consumer Use and Direct Pay Returns

Sept.

- 15** Monthly Income Tax Withholding Returns
- 20** Monthly Kilowatt Hour (KWH) Tax Return
- 23** Monthly and Semiannual Sales Tax Returns
- 23** Monthly Consumer Use and Direct Pay Returns

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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