



Ohio

Department of
Taxation

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POLICY

Policy: Fraud, Theft, Waste, and Abuse	Number: ODT-012	Effective: July 1, 2015
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1. Authority

The Tax Commissioner issues Ohio Department of Taxation (herein referred to as the "Department") Policy ODT-012 in accordance with Ohio Revised Code (ORC) § 5703.05. ORC § 5703.05 grants the Tax Commissioner powers, functions, and duties including the authority to manage and direct all operations of the Department.

2. Purpose

The purpose of this policy is to establish the guidelines and procedures to facilitate the prevention and detection of fraud, theft, waste and abuse against the Department and the State of Ohio. This policy requires the enforcement of controls and promotes consistent, legal and ethical organizational behavior by:

- Assigning responsibility for reporting fraudulent acts;
- Providing guidelines to conduct investigations of suspected fraudulent acts;
- Establishing the Department's Internal Audit program as the primary facilitator for the investigation of suspected fraudulent acts;
- Requiring each employee to complete fraud awareness training annually.

3. Applicability

This policy applies to all Departmental employees (including management, consultants, vendors, contractors, outside agencies, or any person doing business with the Department or in any other relationship with the Department).

4. Definitions

- 4.1. **Fraud.** Personal enrichment through the deliberate misuse or misapplication of resources or assets.
- 4.2. **Theft.** The act of taking something from someone unlawfully.
- 4.3. **Waste.** The loss or misuse of Department resources that results from deficient practices, system controls or decisions.
- 4.4. **Abuse.** The intentional, wrongful or improper use of resources or misuse of rank, position or authority that causes the loss or misuse of resources.

4.5. **Fraudulent Acts.** Any and all activities that could result in fraud, theft, waste or abuse.

5. Policy

The Department does not tolerate any type of fraud, theft, waste or abuse. All employees are responsible for the prevention and detection of fraud, misappropriations and other inappropriate conduct. All suspected fraudulent acts must be reported to a Deputy Tax Commissioner, Internal Audit, Executive Administrator of Human Resources, or the Chief Counsel.

Failure to comply with this policy subjects an employee (including management) to disciplinary action, up to and including termination. Failure to comply by a consultant, vendor, contractor, outside agency or any person doing business with the Department or in any other relationship with the Department could result in the cancellation or immediate termination of the business or other relationship between the person or the entity and the Department.

Internal Audit has the primary responsibility for the investigation of all suspected fraudulent acts as defined by this policy. No employee, bargaining or exempt, should attempt to conduct investigations or interviews/interrogations related to any suspected fraudulent act.

If the investigation substantiates that fraudulent activities occurred, Internal Audit will issue their findings or refer the matter to appropriate personnel, both internal and external sources. Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with the Tax Commissioner's Office.

5.1. Actions that May Constitute Fraudulent Acts

Fraudulent acts include but are not limited to the following:

- Any dishonest act that could result in fraud, theft, waste or abuse;
- Any theft, embezzlement, diversion of a payment, bribery, conspiracy, collusion or concealment of facts;
- Forgery or alteration of any document or account belonging to the State;
- Forgery or alteration of a check, bank draft, promissory note, security, money order or any other financial document;
- Impropriety or irregularity in the handling or reporting of money as well as financial transactions (e.g., electronic fund transfers (EFT), credit card transactions, checks);
- Unauthorized use or misuse of State property, vehicles, equipment, materials, or records;
- Any computer related activity involving the alteration, destruction, forgery or manipulation of data for fraudulent purposes or misappropriation of State-owned software;
- Any misrepresented claim for reimbursement of expenses;
- Any misrepresentation that affects payroll (e.g., time keeping and payroll systems, including hours worked or reasons for taking leave);
- Profiting as a result of insider knowledge of State actions or information gained through employment;
- Unauthorized disclosure of confidential or proprietary information to outside parties;
- Unauthorized disclosure of business activities engaged in or contemplated by the State;
- Acceptance or solicitation of anything of material value from contractors, vendors, taxpayers, or persons providing services/materials to the Department (See the Ohio Ethics Law and Related Statutes);
- Waste of the Department's appropriations (e.g., purposefully not taking advantage of early-bird or prompt-pay discounts or any pattern whether purposeful or not);
- The use of the Department's equipment or supplies to conduct personal business;
- The use of non-confidential taxpayer information to solicit or direct customers on behalf of an outside business;

- Misappropriation, destruction, removal or inappropriate use of records, furniture, fixtures, supplies, property held in custody, securities, funds, equipment, or other assets; or
- Any similar or related inappropriate conduct.

6. Procedures

6.1. Prevention

6.1.1. Control Activities

Management is responsible for governance, risk management and the creation, implementation and effective operation of internal controls. All Department employees play an active role in improving operations in the prevention of fraudulent acts by understanding and complying with established controls and procedures. Internal Audit plays a primary role in fraud prevention through the evaluation of the effectiveness of internal controls.

Control activities help ensure that any risks that may affect the Department's administration of its duties are minimized or mitigated. Control activities occur throughout the Department and must not be circumvented or omitted. The following are examples of control activities:

- Security of assets and records;
- Segregation of duties;
- Documented procedures;
- Advance approvals;
- Written authorizations;
- Documented verifications;
- Reconciliations for accuracy and completeness;
- Explanations for unusual activity;
- Performance reviews; and
- Corrective actions.

6.1.2. Annual Fraud Awareness Training

All Department employees are required to complete Fraud Awareness training annually. After completing the training, the employee's acknowledgement will be obtained, indicating that the employee received the training and understood its content.

6.2. Detection

Controls must be monitored on a regular basis, as part of the normal course of operations, to ensure the controls are working properly. Internal Audit and Human Resources play a role in monitoring control activities.

All Department employees are responsible for being aware of the types of fraudulent activities including but not limited to the instances described in section 5.1 of this policy.

6.2.1. Duty to Report

6.2.1.1. Management and Supervisors

Management and supervisors have a duty to report all suspected fraudulent acts, including reports from employees or other individuals, to a Deputy Tax Commissioner, Internal Audit, Human Resources, the Chief Counsel, the Tax Fraud Hotline at (800) 757-6091, or the Internal Fraud Hotline at (614) 752-0742. Management does not have the authority to

determine the merits of a report of suspected fraudulent acts. Investigations will be conducted in accordance with Section 6.3. of this policy.

In addition, management is expected to recognize risks and exposures inherent in their area of responsibility and to be aware of indications of fraud and related misconduct, and to report such risks or indications to a Deputy Tax Commissioner, Internal Audit, Human Resources, or the Chief Counsel.

6.2.1.2. Employees

Any employee who suspects a fraudulent act has occurred or has a potential to occur must immediately notify his/her supervisor, a Deputy Tax Commissioner, Internal Audit, Human Resources, Chief Counsel, the Tax Fraud Hotline at (800) 757-6091, or the Internal Fraud Hotline at (614) 752-0742. This includes reporting poor procedures or inadequate oversight by management. Additionally, the Ohio Auditor of State's office maintains a system for the reporting of fraud, including misuse of public money by any official or office. This system allows all Ohio citizens, including public employees, the opportunity to make anonymous complaints through a toll free number at 1-866-FRAUD-OH (1-866-372-8364), the Auditor of State's website, www.ohioauditor.gov, or through the United States mail at Ohio Auditor of State's office, Special Investigations Unit, 88 East Broad Street, P.O. Box 1140, Columbus, OH 43215.

6.2.1.3. Retaliation

Retaliation will not be tolerated. The Department will not tolerate any form of retaliation against individuals providing information concerning suspected fraudulent acts. Every effort will be made to protect the rights and reputations of everyone involved, including the individual who, in good faith, alleges perceived misconduct, as well as the alleged violator(s).

6.3. Investigation

Great care must be taken in the investigation of suspected fraudulent activity or wrongdoing so as to avoid mistaken accusations or alerting suspected individuals that an investigation is underway. Upon receiving a report of wrongdoing or suspected fraudulent acts, Internal Audit shall document the contact and conduct a preliminary investigation to determine the credibility of the report. If the report is credible, Internal Audit shall follow the guidelines provided below.

On determining that a report is not credible or is not a report of a fraudulent act, Internal Audit shall document this determination, including support for the determination.

6.3.1. Authorization for Investigating Suspected Fraudulent Acts

Members of Internal Audit will have:

- Free and unrestricted access to all Department records and premises, whether owned or rented or designated as a telecommute work location; AND
- The authority to examine, copy, and remove all or any portion of the contents of State-owned files, desks, cabinets, computers, vehicles, other storage facilities on the premises including personal property as part of the work place environment or used to assist with official duties without prior knowledge or consent of any individual when such inspection is within the scope of their investigation.

6.3.2. Performance of the Investigation

Any required investigative activity shall be conducted without regard to the suspected wrongdoer's length of service, position/title, relationship to the Department, or any other irrelevant mitigating circumstance.

Internal Audit shall maintain appropriate documentation regarding incidents of suspected or alleged fraudulent acts. Internal Audit shall develop and maintain guidelines for access to and security of this documentation.

6.3.3. Discipline

If an investigation results in a recommendation to terminate an individual or other disciplinary action, the recommendation will be reviewed for approval by Human Resources and/or Chief Counsel and, if necessary, by outside entities before any such action is taken. Restitution may be demanded as part of the discipline.

Disciplinary action may be taken if a report is made in bad faith, or if an employee intentionally reports false or misleading information.

Disciplinary action may be taken if an employee suspects or discovers fraudulent activity and fails to report as required by this policy. Similarly, any member of management who does not pass along every report of suspected fraudulent activity made by an employee or other person may be subject to disciplinary action.

6.4. Media Contact

Any employee, including those of Internal Audit, contacted by the media with respect to an audit investigation or any other matter shall refer such contacts to the Director of Communications.

6.5. Communication and Documentation

At appropriate stages and at the conclusion of an internal investigation, Internal Audit will communicate with the Tax Commissioner's Office, the Executive Administrator of Agency Performance, the Chief Counsel, and the Deputy Tax Commissioner of the area(s) investigated. If the allegations are founded or if there is cause for immediate action, the matter will be forwarded to external sources such as the State Highway Patrol, the Inspector General and/or the local police.

Internal Audit will make recommendations to the Tax Commissioner and the appropriate Deputy Tax Commissioner. Internal Audit will advise on the development of controls to aid in the prevention of future similar occurrences.

The Internal Audit Administrator shall maintain appropriate documentation of each investigation conducted.

6.6. Confidentiality

Internal Audit treats all information it receives as confidential. Except as required by law or as set forth in this policy, the person making a report will remain anonymous and no information concerning the status of an investigation will be disseminated to others without due cause. All inquiries concerning the activity under investigation from the suspected individual, his or her attorney or representative, or any other inquirer should be directed to Internal Audit or the Chief Counsel.

Employees should observe strict confidentiality by not discussing the case, facts, suspicions or allegations with anyone unless specifically asked to do so as part of the investigation.

Ohio Department of Taxation
Fraudulent Acts Policy Decision Matrix

Action Required	Executive Mgmt	Line Mgmt	Internal Audit	Human Resources	Org Developmt	Chief Counsel	Communications	Revenue Acctg	Budget/Fiscal
1. Controls to Prevent Fraud	SR	SR	S	S	S	S	S	S	S
2. Incident Reporting	S	S	SR	SR	S	S	S	S	S
3. Investigation			P	S		S			
4. Referral to Law Enforcement			SR			SR			
5. Recovery of Money						SR			SR
6. Recommendations to Prevent Fraud	S	S	P	S	S	S	S	S	S
7. Internal Control Review			P						
8. Handle Cases of a Sensitive Nature	S		SR	SR		S			
9. Publicity / Press Releases	S		S			S	P		
10. Civil Litigation			S			P			
11. Corrective Action / Recommendations to Prevent Recurrence	S	SR	SR			S			
12. Monitor Recoveries			P					S	
13. Proactive Fraud Auditing		S	P						
14. Fraud Awareness Training		S		SR	SR		S		
15. Risk Analysis of Areas of Vulnerability	S	S	P						
16. Hotline			P			S			

P (Primary Responsibility)

S (Secondary Responsibility)

SR (Shared Responsibility)