

## Overzealous Computer Systems and Tax Notice Issues at the Pennsylvania Department of Revenue

This article illustrates how SMC government advocacy works for you.

- The problem of inaccurate tax notices was identified by SMC's Working Group on Tax.
- SMC's government committee added the tax notice issue to their 2016 legislative agenda and developed talking points for the state position papers.
- The tax notice issue and other key issues were discussed at more than 25 meetings with lawmakers in May when SMC members and staff traveled to Harrisburg for SMC's Annual Grassroots Lobbying Trip.
- Lawmakers listened to all of the key issues; the tax notice issue really grabbed their attention.
- A lawmaker arranged a meeting for SMC with the appropriate contact and agency.
- Follow-up and problem solving is ongoing.



The Problem: It is no secret that, given shrinking budgets and problems with understaffing, federal and state revenue departments are relying ever more heavily on computer systems to perform much of the analysis and processing tasks related to tax filings. The PA Department of Revenue ("DOR") is no

exception, and unfortunately, an already difficult situation has been further complicated by a relatively new, merciless computer system.

The new system has proven to be a source of more problems than solutions. Technical issues began in 2011 and 2012 when the PA DOR commenced with implementation of its computer modernization initiative.

An endless number of tax notices have since been mailed to taxpayers, placing the burden on them to refute the mostly inaccurate claims and adjustments. The process has generated revenue for the Commonwealth as it unjustly retains refunds due to taxpayers and requests payment from others who are unable or unwilling to counter the DOR's assertions.

While the burden of proof is always on the taxpayer to defend and provide substantial authority for tax positions taken, the PA DOR seems to benefit from the average taxpayer's limited knowledge of PA's incredibly intricate tax laws. This is not an issue that should be

overlooked. The notices in question are for businesses and individuals alike, and the errors made by the computer system can be substantial. It is important that taxpayers are informed regarding the best course of action to pursue when faced with a tax notice that demands payment.

Course of Action: Although instinct might urge an individual to pay the notice quickly to resolve the matter, we generally caution against this. Instead, one should closely examine the notice, consider the amounts shown, and compare it to the actual return that was filed. If you determine that the tax notice is incorrect, which is very often the case, you should take steps to resolve the problem.

■ A phone call and written correspondence to the PA DOR should be the first two avenues pursued.

Unfortunately, resolving the problem using these two steps is generally not going to happen. In many situations you will need to take the case to a higher level such as an appeals hearing. We know this can be overwhelming, and in many cases, you will need help from a CPA or a tax attorney who routinely works with the PA DOR. Many clients have directly felt the pain resulting from PA's poor computer systems implementation and subsequent oversights. It is not uncommon for our office to receive multiple PA DOR notices each week.

■ Our advice to clients has been to forward all notices received directly to our attention, as quickly as possible.

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Based on discussions with other CPA firms, the problem is statewide and being felt by many practitioners and taxpayers doing business within the Commonwealth.

■ Our experience shows that most of the adjustments and assessments detailed in the computer generated notices are overstated and are often completely inaccurate. The job then is to convince PA of its error. On many occasions we have taken tax notice issues through the appeals process and have successfully had them resolved with no change to the originally filed returns.

While resolution is the desired result, that process requires an investment of time and resources and often proves expensive. It is extremely frustrating for PA taxpayers to pay a professional for services for the purpose of resolving an incorrect tax notice. Thousands of dollars are being spent by taxpayers to resolve fictitious tax notices. In many cases the tax notices end up being incorrect, proving all of the effort to be a complete waste of time and taxpayer resources.

The Problem was Addressed with State Lawmakers: Given the clear financial impact this issue has had on PA taxpayers, Grossman Yanak & Ford LLP and SMC Business Councils ("SMC") have worked to address this ongoing problem.

In May 2016, more than 30 SMC members and staff (business owners, GYF and other professionals) traveled to Harrisburg for an annual day of grassroots lobbying on Capitol Hill. We met face-to-face with over 25 lawmakers and their staff. At each meeting SMC's top issues were discussed. Whenever the inaccurate tax notice issue was discussed, it promptly caught the attention of lawmakers. The feedback we received from the meetings was positive,

**The Solution and Future Steps**: In early June GYF and SMC had conversations with John Kaschak, Deputy Secretary of Taxation, PA DOR, regarding our concerns. Deputy Secretary Kaschak made clear his intention to ensure that the Commonwealth is working to resolve the problems with the current systems.

Through additional correspondence with Kaschak, we have emphasized the critical nature of the problem and the significant taxpayer dollars that are being wasted. While we understand that all of the issues will not be resolved anytime soon, we are happy to know that the grassroots lobbying trip was successful; together we've alerted the PA DOR about small business tax concerns and dissatisfaction with the status quo.

Hopefully, all of our extensive efforts will continue to pay off.

Don Johnston is a Tax Partner and Alex Palmer is a Senior Tax Associate with Grossman Yanak & Ford LLP. Head-quartered in Pittsburgh, Pennsylvania, the firm provides full service accounting, tax and business valuations services to small and medium-sized businesses and their owners. Don can be reached at 412-338-9309.

## **Capitol Stock & Franchise Tax Refunds**

It is important to be aware of other issues created by the DOR's inattention to detail. One example involves the phase-out of the Pennsylvania Capital Stock Tax. Many taxpayers who are no longer required to file Form RCT-101 are finding that, in spite of requesting a refund of overpaid account balances on their final 2015 return, the DOR is applying the refund to tax year 2016. If a tax return is not required to be filed in 2016 how will the refund be obtained? We advise clients to contact the DOR and request that the refund be issued immediately so that it's not lost in the shuffle and forgotten.

## Helpful PowerPoint from the PA DOR

John Kaschak, Deputy Secretary of Taxation, PA DOR, sent a PowerPoint about their tax practitioner email service that explains the online customer service center. It includes a place to submit questions, links to all of the department's electronic filing services for use by tax professionals. Individuals, businesses, and tax professionals can file returns and reports, make payments, view filing history, register businesses and file appeals electronically for PA personal income tax and business taxes.

For a copy of the powerpoint, email eileenanderson@smc.org.