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PERFORMANCE REVIEW STATE TAX DIVISION

AUDIT OVERVIEW

Since the State Made Business Registration Certificates Permanent in 2010, It Is More Reason for the Tax Division to Increase the Use of Its Authority to Suspend or Revoke Business Certificates in Addressing Noncompliant Businesses and Proprietors Who Are Not Conducting Business.



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Note: On Monday, February 6, 2017, the Legislative Manager/Legislative Auditor's wife, Elizabeth Summit, began employment as the Governor's Deputy Chief Counsel. Most or all the actions discussed and work performed in this report occurred after this date. However, the Governor's Deputy Chief Counsel was not involved in the subject matter of this report, nor did the audit team have any communications with her regarding the report. As Deputy Chief Counsel, the Legislative Auditor's wife is not in a policy making position within the Executive Branch. Therefore, the Performance Evaluation and Research Division does not believe there are any threats to independence with regard to this report as defined in A3.06.a and A3.06.b of the Generally Accepted Government Auditing Standards. Furthermore, the Legislative Auditor has instructed the Director of Performance Evaluation and Research Division to document and discuss any issues he believes are a threat to the division's independence with the President of the Senate and the Speaker of the House due to Ms. Summit's position.

CONTENTS

Executive Summary 7

Issue 1: Since the State Made Business Registration Certificates Permanent in 2010, It Is More Reason for the Tax Division to Increase the Use of Its Authority to Suspend or Revoke Business Certificates in Addressing Noncompliant Businesses and Proprietors Who Are Not Conducting Business 11

List of Tables

Table 1: Breakdown of Noncompliant Business Accounts, Accounts With Invalid Business Certificates or No Business Activity Within the Sample..... 13

Table 2: Sampled Businesses With Valid Business Certificates, But No Evidence of Business Activity..... 14

Table 3: Sampled Proprietors Without Valid Business Certificates and Those Who Conducted Business.. 19

Table 4: Business Accounts for Sampled Proprietors Who Conducted Business With Expired Two-Year Certificates..... 20

Table 5: Breakdown of the Sampled Businesses That Owe Taxes and Corrective Actions Taken by the Tax Division 21

Table 6: Business Registration Suspensions and Revocations By Initiating Entity Calendar Years 2011 through 2016 24

List of Figures

Figure 1: Status of Sampled 2016 Registration Accounts 11

Figure 2: Noncompliant Business Accounts in PERD Sample..... 14

Figure 3: Open Accounts Without Valid Business Certificates in PERD Sample 18

List of Appendices

Appendix A: Transmittal Letters..... 27

Appendix B: Objective, Scope and Methodology 29

Appendix C: Legislative Services Legal Opinion 31

Appendix D: Agency Response 33

EXECUTIVE SUMMARY

The Legislative Auditor conducted an Agency Review of the Department of Revenue pursuant to W.Va. Code §4-10-8(b)(1). As part of this review, a performance audit was conducted on the West Virginia Tax Division. The Department of Revenue oversees the Tax Division, which is responsible for the administration and enforcement of the State's tax laws as well as equitably assessing and collecting all taxes created by West Virginia Code. The highlights of this review are discussed below.

Report Highlights

Issue 1: Since the State Made Business Registration Certificates Permanent in 2010, It Is More Reason for the Tax Division to Increase the Use of Its Authority to Suspend or Revoke Business Certificates in Addressing Noncompliant Businesses and Proprietors Who Are Not Conducting Business.

- Thirty-two (32) percent of sampled business accounts was found to be in compliance with applicable tax laws. Thirteen (13) percent of business tax accounts represents noncompliant proprietors who were behind in paying their tax liabilities or did not file appropriate tax returns. Twenty-eight (28) percent had no evidence of ever conducting business since they received their business certificates.
- The law enacted in 2010 to make business registration certificates permanent has resulted in a large number of business accounts for proprietors who are likely not conducting business or do not have valid business certificates.
- PERD estimates that there are over 90,000 of the 322,332 total active business accounts that show no evidence of business activity, and there are an additional 87,000 accounts for proprietors who do not have valid business certificates.
- Although the Legislative Auditor determines that there is sufficient authority in Code to cancel or revoke business registration certificates of proprietors who are not conducting business, the Tax Department does not believe there is clear authority to take such action.

PERD's Response to the Agency's Written Response.

On December 27, 2018, PERD received a written response from the State Tax Commissioner. It should be noted that after having an exit conference with the Tax Division, PERD made revisions to its original draft report and at the request of the Tax Division removed language that referenced the Tax Division being "lenient." In addition, PERD made clarifications as to which business accounts would be defined as compliant, noncompliant, having no evidence of business activity, and businesses without valid certificates. PERD requested that the Tax Division respond to the updated version of the report. However, in the agency's official response, it addressed certain aspects of the prior draft report that had been revised.

While the Tax Division does not agree with the Legislative Auditor's conclusion that failure to revoke business registration certificates has a significant impact on general compliance of tax payers, it agrees that the business registration certificate database "*includes considerable obsolete information*" and its business registration process needs to be reviewed and improved. The Tax Division agrees with the Legislative Auditor on certain issues but disagrees on its ability to solve the problems. Some of these issues are as follows:

Agency Response: The Tax Division's response refers to PERD's sample of 382 accounts of a population of 322,332 "active" GenTax business accounts and indicates that it is only 0.5 percent of the total database, insinuating that the sample is not statistically significant.

PERD Response: In order for PERD to create its sample, we requested a list of all companies with active business registration certificates for calendar year 2016. The sample size of 382 business registration accounts is statistically significant and therefore, is representative of the total account population. It is common for statistically significant samples be a relatively small percentage of a population. In fact, national surveys representing the views of millions of American voters often are based on sample sizes of 1,000 to 1,200 respondents. PERD's sample of 382 is representing a total population of only 322,332 accounts.

Agency Response: The Legislative Auditor takes the position that the Department has authority to initiate the revocation process of licenses of proprietors who are not conducting business. The Department does not believe there is clear authority to revoke business licenses of entities that are simply not conducting business.

PERD Response: It is the opinion of the Legislative Auditor that the Tax Division does have the authority to revoke, cancel, or suspend a business registration certificate if a business is not conducting business as stated in the report. The Tax Division agrees that it was not the intention of the Legislature to allow entities who are not in business to indefinitely hold business registration certificates.

It is the opinion of the Legislative Auditor that the Tax Division is arguing over statutory language in order to defend its inaction in eliminating business registration certificates for businesses that are currently not conducting business or have never begun business activities. The Tax Division indicated that if it had the ability to cancel inactive business registration accounts, it would assist in reducing the number of dormant accounts in its GenTax system. If the Tax Division acknowledges the benefit of reducing dormant accounts but does not believe that it has clear enough authority to cancel or revoke business registration certificates for businesses that have ceased business activity, it should seek statutory clarification in this area. Furthermore, the Tax Division should consider seeking legislation that would reestablish a renewal process for business registration certificates which would be an efficient way for it to address the issue of dormant or nonresponsive accounts.

Agency Response: Regarding businesses with expired business registration certificates, the Tax Division claims that when the change was made to permanent registration certificates, many businesses that were no longer in business simply did not renew to the permanent registration and did not formally close their accounts. The Tax Division indicates that since there are no valid business registration certificates to revoke, closing these accounts should be done.

PERD Response: No where in the report does PERD indicate that the Tax Division should revoke these licenses since it is clear there are no licenses to revoke. The Legislative Auditor agrees that these accounts with expired registration certificates should be closed in the manner suggested by the Tax Division. The Legislative Auditor suggests that if the Tax Division can do this for businesses without active business registrations, then it should also initiate the 20-day process of revoking business certificates of proprietors who have ceased business or have never conducted business.

Agency Response: The Tax Division strongly disagrees with the language used by PERD to describe the actions of the Tax Division when dealing with a certain delinquent business proprietor as described in the report. In addition, the Tax Division has the opinion that immediately revoking a business license of a delinquent taxpayer, assuming they stop doing business when the certificate is revoked, severely inhibits their ability to address a delinquency as there will be no cash flow to pay their debt.

PERD Response: It is the opinion of the Legislative Auditor that although the Tax Division did take corrective actions regarding the delinquent proprietor described in the report, enabling proprietors to go long periods of time without paying large amounts of wage withholding taxes or sales taxes could potentially result in the State losing large amounts of tax revenue. More importantly, the Legislative Auditor takes a strong position that wage withholding taxes and sales taxes collected do not belong to the proprietors. These are trust fund taxes entrusted to proprietors and should be regarded more seriously by the Tax Division. The Tax Division also takes a strong stance by stating that “Businesses that owe delinquent trust fund taxes are stealing from the State of West Virginia and this type of behavior must be stopped.” However, it is the Legislative Auditor’s opinion that if the Tax Division feels strongly against proprietors misusing trust fund taxes, then the Tax Division should strengthen its collection efforts against delinquent business proprietors that owe trust fund tax liabilities by utilizing its full enforcement authority.

There are many cases where a business becomes delinquent and over time its tax liability grows. Even with corrective actions applied by the Tax Division to encourage delinquent businesses to pay their tax liabilities, the increase of penalties and interest can push a business out of business, owing substantial amounts to the State, and not being able to pay its delinquency.

Recommendations

1. *The Legislative Auditor recommends that the Tax Department utilize the authority granted in §11-12-5 of the West Virginia Code to appropriately and timely initiate the process to revoke, cancel or suspend business registration certificates in addressing business tax delinquencies.*
2. *Pursuant to West Virginia Code §11-12-5(a), the Tax Department should appropriately revoke all business registration certificates when it is evident that proprietors are not conducting business as indicated by tax returns not being filed, returns filed with no business activity reported for numerous tax periods, as requested by a proprietor or by any other appropriate indicator.*

3. *The Tax Department should consider seeking statutory clarification for cancelling or revoking business registration certificates of proprietors who show no evidence of conducting business if it feels like it lacks authority.*
4. *The Tax Department should consider seeking legislation that would reestablish a renewal process of four to five years for business registration certificates.*

ISSUE 1

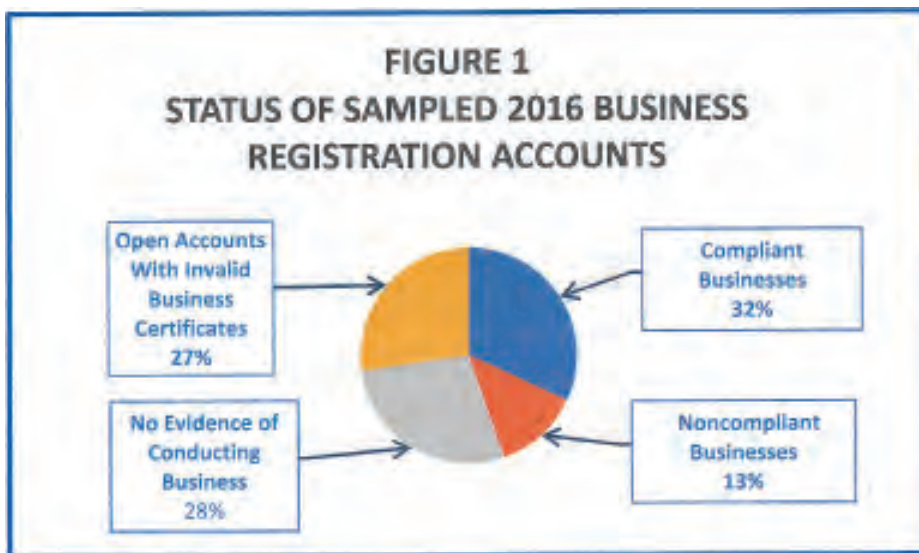
Since the State Made Business Registration Certificates Permanent in 2010, It Is More Reason for the Tax Division to Increase the Use of Its Authority to Suspend or Revoke Business Certificates in Addressing Noncompliant Businesses and Proprietors Who Are Not Conducting Business.

Issue Summary

Figure 1 below shows the results of a statistically significant random sample of business tax accounts of the Department of Revenue as of the year 2016. Thirty-two (32) percent of business accounts was found to be in compliance with applicable tax laws. Thirteen (13) percent of business tax accounts represents noncompliant proprietors who were behind in paying their tax liabilities or did not file appropriate tax returns. Twenty-eight (28) percent had no evidence of ever conducting business since they received their business certificates. It is not known if these companies are conducting business and refuse to submit tax returns or are not conducting business. In addition, the Tax Division maintains many open accounts (27 percent) for proprietors who do not have valid business registration certificates, some of which still conducted business. PERD estimates that the Tax Division maintains nearly 178,000 business accounts for proprietors who are likely not conducting business or do not have valid business certificates, which is 55 percent of all business tax accounts. This number will continue to grow under a permanent business certificate system, and having to maintain and monitor a growing number of these accounts may divert appropriate enforcement activity away from other accounts, resulting in a loss of revenue. The law enacted in 2010 to make business registration certificates permanent did not intend for them to be held permanently if business is not being conducted.

Thirty-two (32) percent of business accounts was found to be in compliance with applicable tax laws. Thirteen (13) percent of business tax accounts represents noncompliant proprietors who were behind in paying their tax liabilities or did not file appropriate tax returns. Twenty-eight (28) percent had no evidence of ever conducting business since they received their business certificates.

The Tax Division maintains many open accounts (27 percent) for proprietors who do not have valid business registration certificates, some of which still conducted business. PERD estimates that the Tax Division maintains nearly 178,000 business accounts for proprietors who are likely not conducting business or do not have valid business certificates, which is 55 percent of all business tax accounts.



PERD concludes that by maintaining such a large number of unproductive business tax accounts, the Tax Division is imposing upon itself an administrative burden that may be diverting resources away from meaningful enforcement activities and possible loss of revenue by not initiating its authority to revoke, cancel or suspend business registration certificates under appropriate conditions. The use of this authority is a prerequisite for stronger enforcement actions such as criminal prosecution if proprietors persist in noncompliance.

Most of the Tax Division’s Business Registration Accounts Show No Evidence of Business Activity or Proprietors Do Not Have Valid Business Certificates.

PERD took a random, statistically significant sample from a list provided by the Tax Division of 322,332 “active” or open business accounts as of calendar year 2016. The audit objective was to determine the extent to which the Tax Division utilizes its statutory enforcement authority to improve tax collections and minimize loss of revenue to the State. The original sample consisted of 384 active business accounts. However, two accounts in the sample were closed; therefore, the sample totaled 382. PERD determined the status of each business in terms of compliance in paying taxes and filing appropriate tax returns for all tax accounts associated with the business, as well as the enforcement actions taken by the Tax Division.

In order to conduct business in the state, a proprietor must be granted a business registration certificate. It is important to note that each business certificate does not necessarily represent a distinct proprietor or company because by law (W. Va. Code §11-12-3(b)(1)) a proprietor must have a separate business registration certificate for each fixed location of his or her business. Prior to July 1, 2010, a business registration certificate was good for two years. However, effective July 1, 2010, the Legislature discontinued the two-year business certificate and went to a permanent certificate upon payment of \$30 when two-year business certificates expired or for new issuances of certificates (W. Va. Code §11-12-5(a)).

As previously shown in Figure 1, PERD’s analysis of a sample of 382 business accounts found that 32 percent of the accounts and the businesses associated with them were compliant with business registration laws. These proprietors did not owe taxes and all appropriate tax returns were filed. In addition, 13 percent of open business accounts were noncompliant with business registration laws. Either they were delinquent in paying due taxes, did not file tax returns appropriately, or

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did not provide other required information to the Tax Commissioner.¹ Twenty-eight (28) percent of open business accounts had no evidence of business activity, and the remaining 27 percent represents business accounts for proprietors who do not have valid business registration certificates. These accounts represent either proprietors who did not complete the business registration application or they did not renew their two-year certificates to the permanent business registrations.

Table 1 below provides a breakdown of business accounts within the sample that were either noncompliant or did not have valid business certificates. Many of the noncompliant accounts had multiple compliance issues such as not paying taxes and not filing tax returns. In some cases, tax returns are filed without payment or with insufficient payment. Proprietors were considered noncompliant by PERD if:

1. proprietors required to file annually did not pay taxes or file returns for at least the previous year,
2. quarterly filers did not pay due taxes or file returns for at least the previous two quarters,
3. or monthly filers did not pay due taxes or file returns for at least the previous three months.

Twenty-eight (28) percent of open business accounts had no evidence of business activity, and the remaining 27 percent represents business accounts for proprietors who do not have valid business registration certificates. These accounts represent either proprietors who did not complete the business registration application or they did not renew their two-year certificates to the permanent business registrations.

When extrapolated to the total population, PERD estimates that there are over 90,000 of the 322,332 total active business accounts that show no evidence of business activity, and there are over 87,000 accounts for proprietors who do not have valid business certificates. These accounts total close to 178,000, which represent 55 percent of the Tax Division’s open business tax accounts.

Table 1 Breakdown of Noncompliant Business Accounts, Accounts With Invalid Business Certificates or No Business Activity Within the Sample	
Noncompliant Business Registration Accounts	Number of Businesses in the Sample
1. Delinquent in Paying Due Taxes.	36
2. Failure to Submit Required Tax Returns.	13
No Evidence of Conducting Business	107
Open Accounts Without a Valid Business Certificate	
1. Two-Year Business Certificates That Were Not Renewed to the Permanent Business Certificate.	65
2. Incomplete Business Registration Applications.	39

Source: PERD’s calculations from business registration data provided by the Tax Division.

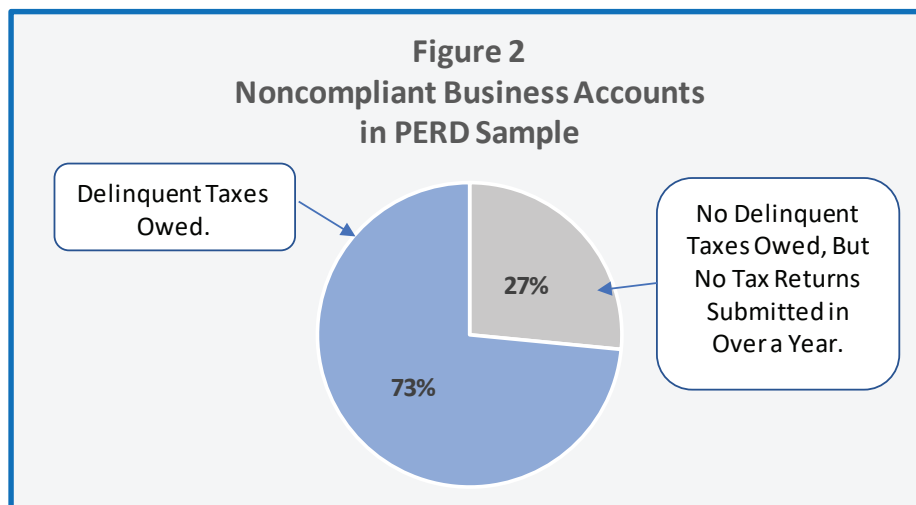
¹ Several accounts indicate that business was formerly conducted, taxes were paid but tax returns were no longer being filed. This suggests the cessation of business and no notice indicating cessation of business was sent to the Tax Department as required by W. Va. §11-12-10.

Table 2 shows the number of business accounts in the sample that show no evidence of conducting business. The table shows the number of accounts and the last year in which a tax return was submitted after a permanent business registration certificate was received. As can be seen, many proprietors with valid business certificates have not filed tax returns for several years, and nearly half of them never filed a return since receiving their business certificates. Furthermore, many tax returns that were submitted had no business activity.

Table 2	
Sampled Businesses With Valid Business Certificates, But No Evidence of Business Activity	
Last Year Returns Were Submitted With No Business Activity	Number of Businesses
2010	4
2011	12
2012	4
2013	2
2014	7
2015	9
2016	11
2017	5
No Returns Ever Submitted	53
Total	107

Source: PERD analysis of sampled business accounts provided by the Tax Division.

In addition, there is a portion of businesses in the noncompliance category that are likely not conducting business as well (see Figure 2).



Although most noncompliant businesses are delinquent in paying taxes (73 percent), 27 percent of the sampled noncompliant businesses represents proprietors who do not owe taxes but have not file appropriate tax returns in over a year. Some of these proprietors have more than one tax account set up but have not filed appropriate tax returns in over a year for all of them. Some of these proprietors may not be conducting business any longer and have not notified the Tax Department that they are no longer conducting business as required by W. Va. §11-12-10. **When extrapolated to the total population, it is estimated that the Tax Division may have close to another 11,000 business tax accounts for proprietors who do not owe taxes but have not file appropriate tax returns for one or more tax accounts.** It is possible that many of these proprietors have ceased doing business.

When extrapolated to the total population, it is estimated that the Tax Division may have close to another 11,000 business tax accounts for proprietors who do not owe taxes but have not file appropriate tax returns for one or more tax accounts.

Proprietors Who Did Not File Tax Returns Are Likely Not Conducting Business and Their Business Certificates Should Be Revoked.

The Tax Division requires appropriate tax returns be filed even when no business is conducted. This is necessary because when tax returns are not submitted, it is unknown if proprietors are still conducting business and refuse or neglect to submit tax returns or if they are no longer conducting business. In either case, the Tax Division must continue to monitor these businesses and contact them to determine their status and if they have tax liabilities. As previously stated, it is estimated that the Tax Division may have 11,000 noncompliant businesses who have not filed appropriate tax returns for one or more taxes, and another 90,000 accounts for proprietors who show no evidence of conducting business for any tax account.

Given that in these cases tax returns have not been submitted in several years, it is likely these proprietors are no longer conducting business. When the Legislature authorized the permanent business registration certificate in 2010, it stated that the certificate of registration:

When the Legislature authorized the permanent business registration certificate in 2010, it stated that the certificate of registration: shall be permanent until cessation of the business for which the certificate of registration was granted or until it is suspended, revoked or canceled by the Tax Commissioner (W. Va. Code §11-12-5(a)).

shall be permanent until cessation of the business for which the certificate of registration was granted or until it is suspended, revoked or canceled by the Tax Commissioner (W. Va. Code §11-12-5(a)) [emphasis added].

Therefore, the Legislature did not intend for individuals to hold certificates of registration indefinitely if they are not conducting business. Moreover, according to W. Va. Code §11-12-10, whenever any person ceases to engage in business in this state, it is that person's duty to notify the Tax Commissioner in writing of the discontinuance of his or her business. However, according to the Tax Division, "*The reality is that businesses*

seldom notify the Tax Commissioner when they are going out of business or selling or transferring the business to a third party.”

It is in the best interest of the State to revoke business registration certificates when there is ample evidence that proprietors are not conducting business. Although proprietors are required to inform the Tax Commissioner of the cessation of business, the Tax Department should not be at the mercy of noncompliant proprietors. By the agency’s own admittance, maintaining these accounts results in unnecessary billing and collection activities, which can be very difficult and time consuming for the agency. Ultimately, this results in a burdensome increase in the caseload for tax agents that diverts their time away from more important cases.

Since certificates of registration are now permanent, the number of open business accounts with no business activity will continue to grow. With the number of these accounts estimated between 90,000 to 100,000, they are a source of inefficiency, an unnecessary burden on the agency administratively and on its computer system. These issues will only worsen as more permanent business certificates are issued and the agency does not revoke them appropriately.

When PERD requested the agency explain why it does not revoke business certificates of proprietors who are likely not conducting business, the Tax Division responded by stating:

Tax cannot cancel business accounts simply because a business has not filed returns for successive years in light of the §11-12-10 notice requirement, and because the entity may still be engaged in business but not filing returns. The Tax Department does have the option under the provisions of West Virginia Code §11-12-5(b)(4) to cancel or revoke a business license, but it must first notify the business at least twenty days prior to the cancellation or revocation. The taxpayer may then file a petition for appeal with the Office of Tax Appeals to protest the cancellation or revocation. Currently, the Tax Department does not have the resources to undertake this process to cancel “delinquent” accounts on a widespread basis.

The agency acknowledges that proprietors “**may still be engaged in business but not filing returns.**” This is even more reason under the law to revoke such business certificates given the large number of these accounts. Additionally, the Legislative Auditor obtained a legal opinion from Legislative Services (see Appendix C) stating that W.Va. Code §11-12-5(b) grants the Tax Division the authority to cancel business registration certificates in connection with W.Va. §11-10-5e for companies that show no evidence of business activity and do not comply with W.Va. Code §11-12-10 to inform the Tax Division that it is not conducting business.

According to the Tax Division, “The reality is that businesses seldom notify the Tax Commissioner when they are going out of business or selling or transferring the business to a third party.”

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PERD finds the reluctance by the agency to revoke these certificates as illogical. The agency certainly has the resources to send out notices to proprietors concerning the revocation of their business certificates, and it is unlikely that many if any of these nonresponsive proprietors will appeal the revocations. In fact, the agency should welcome appeals if they occur in order to have the opportunity to communicate with nonresponsive proprietors and possibly instill a more compliant business environment. Moreover, the Legislative Auditor does not expect all of these accounts to be addressed simultaneously given the large number. A gradual process will certainly be necessary. **It is the Legislative Auditor's conclusion that the Tax Division is imposing an administrative burden on itself by unduly relying on proprietors to be responsive and compliant, and by not exercising its statutory authority to appropriately revoke business certificates. The Legislative Auditor recommends that the Tax Department seek legislation reinstating a renewal process for business registration certificates that would terminate business certificates for proprietors who show no evidence of conducting business. However, a longer renewal time of maybe four to five years should be considered.**

It is the Legislative Auditor's conclusion that the Tax Division is imposing an administrative burden on itself by unduly relying on proprietors to be responsive and compliant, and by not exercising its statutory authority to appropriately revoke business certificates. The Legislative Auditor recommends that the Tax Department seek legislation reinstating a renewal process for business registration certificates that would terminate business certificates for proprietors who show no evidence of conducting business.

Another reason the Tax Division claims businesses with no business activity still have business certificates is that its electronic data system is unable to interface with the county assessors' electronic data processing system network. According to the Tax Division, a duty of county assessors is to provide to the Tax Commissioner by December 1st of each year a list of businesses added to the assessment rolls in the assessor's county and businesses that have discontinued operations and been removed from the assessment rolls as required by W.Va. Code §7-7-6A(4). Each August, the Tax Commissioner provides each county assessor with an electronic record containing the names and addresses of all businesses in the assessor's county that have a business registration certificate. County assessors fulfill their statutory obligation by making changes to information in the electronic data processing system network for property tax administration as stated in W.Va. Code §11-1A-21.

Another reason the Tax Division claims businesses with no business activity still have business certificates is that its electronic data system is unable to interface with the county assessors' electronic data processing system network.

However, according to the Tax Division, the work being done by the county assessors is not available to the Tax Division's business registration unit because the property tax computer system used by the county assessors is separate and apart from the computer system used by the Tax Division to administer the taxes and fees collected by the Tax Division. The Tax Division has indicated to PERD that it is currently in the process of replacing the property tax computer system. Once the new computer system is installed, the Tax Division will work on making the information provided by the county assessors available to the business registration unit in an automated manner.

The Legislative Auditor recognizes the need to improve the electronic infrastructure with county assessors to facilitate communication and transmittal of important information. Nevertheless, this will not

serve as a substitute for appropriately revoking business certificates nor will it solve the present situation. Although the Legislative Auditor determines that there is sufficient authority in Code to cancel or revoke business registration certificates of proprietors who are not conducting business, the Tax Department does not believe there is clear authority to do such. **Therefore, the Legislative Auditor recommends that the Tax Department seek statutory clarification for cancelling or revoking business registration certificates of proprietors who show no evidence of conducting business.**

Business Is Conducted By Proprietors Without Valid Business Certificates

As was previously shown in Table 1, 104 of the sampled open accounts represent proprietors who do not have valid business certificates. This represents 27 percent of the agency's open accounts (see Figure 1 above). Below, Figure 3 shows that these open accounts are without valid certificates either because proprietors did not renew their two-year certificates to permanent certificates in 2010 or 2011 (63 percent), or they did not complete business registration applications (37 percent). In either case, these proprietors are not authorized to conduct business. Some (7) proprietors within the sample paid for their certificates despite their applications being incomplete.

Therefore, the Legislative Auditor recommends that the Tax Department seek statutory clarification for cancelling or revoking business registration certificates of proprietors who show no evidence of conducting business.

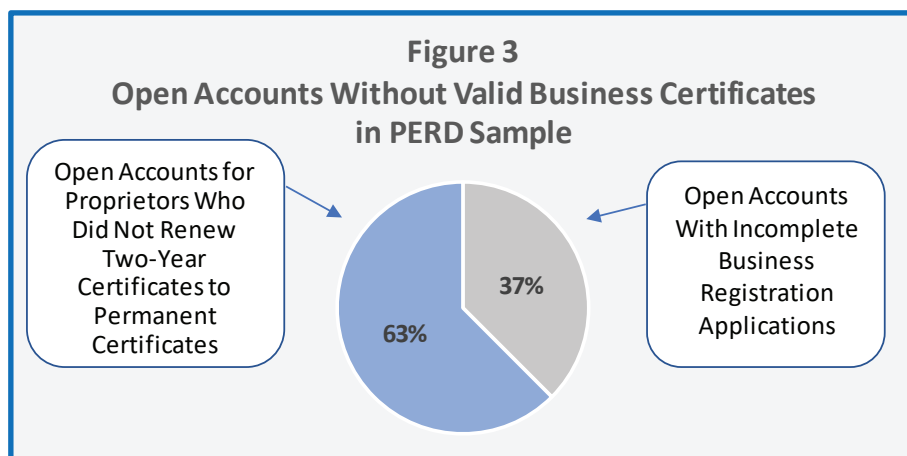


Figure 3 shows that these open accounts are without valid certificates either because proprietors did not renew their two-year certificates to permanent certificates in 2010 or 2011 (63 percent), or they did not complete business registration applications (37 percent).

Going from a two-year business certificate to a permanent one has resulted in a relatively large number of open accounts with expired certificates. Some proprietors with expired certificates owe taxes. According to the Tax Division, “As a consequence of the 2010 change, our business registration tax database includes considerable obsolete information.” PERD’s sample confirms this, and when we extrapolate to the total population, we estimate that the Tax Division has over 87,000 “active” or open business accounts for proprietors who have

expired business certificates or did not complete the business registration application. The Tax Division further indicated that it considers accounts active if proprietors did not close their accounts and the original licenses were not suspended, revoked, or otherwise indicated as unable to be renewed, even if proprietors did not renew their two-year business licenses or complete their applications. Maintaining this many open accounts for proprietors who do not have valid business certificates impedes an efficient and effective operation.

This condition is compounded in that some proprietors conduct business without valid certificates. Table 3 shows that of the 39 accounts for proprietors with incomplete business registration applications, 23 of them filed tax returns with tax payments as of 2018. The Tax Division sent letters to these 39 proprietors informing them that it is a criminal offense to conduct business in the state without business certificates. There are no taxes owed by the 23 proprietors who conducted business without a business certificate. In addition, of the 65 businesses that have expired two-year business certificates, 10 of them filed tax returns showing business activity for years after their licenses expired.

The Tax Division further indicated that it considers accounts active if proprietors did not close their accounts and the original licenses were not suspended, revoked, or otherwise indicated as unable to be renewed, even if proprietors did not renew their two-year business licenses or complete their applications.

Table 3 Sampled Proprietors Without Valid Business Certificates and Those Who Conducted Business		
Accounts With Incomplete Business Registration Applications		Accounts With Expired Two- Year Business Certificates
Conducted Business	Did Not Conduct Business	Conducted Business
23	16	10

Sources: PERD analysis of a sample of business accounts provided by the Tax Division.

Table 4 shows account information for the 10 proprietors who conducted business on expired two-year certificates. The table shows the number of years tax returns were filed after business certificates expired, the amounts owed in taxes and the last year in which the company filed tax returns. There were only two accounts in the sample that accumulated relatively large amounts in delinquent taxes. The other proprietors continued to do business in the state, filed tax returns and paid taxes timely. Proprietors #2 and #4 owed relatively small amounts prior to the expiration of their certificates; however, the amounts increased substantially while they operated on an expired certificate. In the case of Proprietor #4, there is no evidence that a business certificate was ever issued. However, for Proprietor #2, eight liens were assigned to the wage withholding account from September 2009 through June

There are no taxes owed by the 23 proprietors who conducted business without a business certificate. In addition, of the 65 businesses that have expired two-year business certificates, 10 of them filed tax returns showing business activity for years after their licenses expired.

2013. The proprietor had an initial outstanding balance of between \$500 to \$1,000 in 2009 which then accumulated to a balance of between \$50,000 and \$75,000.² The account was closed in December 2012 by the proprietor and the last return was received in March 2013. Although the Tax Division employed several enforcement actions and engaged in communication with the proprietor, there is no evidence that the Tax Division filed criminal charges in magistrate court. The Tax Division has been unable to contact the proprietor via mail and a stop-mail order³ was issued in February 2016.

Although the Tax Division employed several enforcement actions and engaged in communication with the proprietor, there is no evidence that the Tax Division filed criminal charges in magistrate court.

Table 4
Business Accounts for Sampled Proprietors
Who Conducted Business With Expired Two-Year Certificates

Proprietor	Initial Tax Liability	Year Liability Began	Last Year a Tax Return Was Filed	Current Taxes Owed	Status of Business Certificate
Proprietor #1	\$0.00	N/A	2014	\$0.00	No Certificate Ever Issued
Proprietor #2	\$500-\$1000	2009	2013	\$50,000-\$75,000	Expired Two-Year Certificate
Proprietor #3	\$0.00	N/A	2018	\$0.00	Expired Two-Year Certificate
Proprietor #4	\$300-\$700	2009	2015	\$5,000-\$10,000	No Certificate Ever Issued
Proprietor #5	\$0.00	N/A	2018	\$0.00	Expired Two-Year Certificate
Proprietor #6	\$0.00	N/A	2017	\$0.00	No Certificate Ever Issued
Proprietor #7	\$0.00	N/A	2018	\$0.00	Expired Two-Year Certificate
Proprietor #8	\$200-\$500	2018	2018	\$200-\$500	Expired Two-Year Certificate
Proprietor #9	\$0.00	N/A	2018	\$0.00	No Certificate Ever Issued
Proprietor #10	\$0.00	N/A	2018	\$0.00	No Certificate Ever Issued

Source: PERD analysis of a sample of business accounts provided by the Tax Division.

² Pursuant to a confidentiality agreement with the West Virginia Department of Revenue, tax information specific to an individual business cannot be disclosed; therefore, tax data are expressed in monetary ranges.

³ The GenTax system enables the Tax Division to issue stop-mail orders when the Tax Division is unable to contact businesses due to returned mail of notices it had delivered. The stop mail order stops any mail from being sent. However, mail will still be generated and noted on the account. Of the 382 businesses from the sample, 39 were issued a stop mail order.

Permanent Business Certificates Are More Reason to Use Suspension or Revocation Enforcement to Manage Tax Delinquency.

PERD’s sample contains 36 businesses that owe taxes totaling \$1,536,157. Failure to pay the full amount of tax by the due date result in interest and penalties being assessed to the unpaid taxes. The average amount owed by delinquent businesses is \$42,671, and the median amount is \$517. Table 5 shows a breakdown of the 36 delinquent businesses by the year of the last tax return filed and some of the enforcement actions taken by the Tax Division; such as Notice of Financial Assessment (NOFAs), 10-day Compliance Letters, liens, and payment plans. However, as Table 5 shows, there are no actions of business certificate revocations. The table indicates that most delinquent businesses have discontinued communication with the Tax Division to make payments or file tax returns for several years despite the agency’s enforcement actions. In addition, it should be noted that although the Tax Division has applied a considerable number of liens over the years, PERD identified only a few payment plans established to help businesses resolve their delinquencies. Moreover, most of the taxes owed are recent debts and attributed to businesses that are still conducting business and continued to file returns during 2018.

PERD’s sample contains 36 businesses that owe taxes totaling \$1,536,157.

Year of Last Contact	# of Businesses	# of NOFAs	# of 10-Day Letters	# of Active Liens	# of Payment Plans	Sum of Tax Owed
2005	6	0	0	2	0	\$2,154
2006	1	0	0	1	0	\$125
2007	2	0	0	1	0	\$784
2008	1	0	0	1	0	\$155
2009	3	5	5	12	2	\$65,547
2011	3	5	1	1	0	\$30,727
2013	4	8	5	9	0	\$52,956
2014	1	0	0	0	0	\$688
2015	2	0	0	1	0	\$9,675
2016	4	7	0	2	0	\$1,377
2017	2	8	8	4	1	\$23,151
2018	7	34	4	6	5	\$1,348,818*
Total	36	67	23	40	8	\$1,536,157

*Source: PERD’s calculation from a sample of business registration accounts provided by the Tax Division.
Of the total \$1,348,818, a large portion is attributed to two businesses - \$500,000 to \$1 million for one proprietor; and between \$300,000 and \$500,000 for another proprietor that has filed a petition for reassessment regarding its tax liability.

The examples of Table 5 accentuate a concern with permanent business certificates when the Tax Division refuses to appropriately revoke them. **Many of the delinquent businesses that have made no attempt to pay due taxes in several years still have valid business certificates, and there is nothing to prevent them from resuming business activity.** Another problem is that the State willingly takes on high-risk businesses. Prior to 2010, when business registration renewals were required every two-years, the Tax Division used the GenTax risk score system to determine a company's standing before renewing its business license. Risk scores are calculated by GenTax using the outstanding balance, specific transactions, timeliness of filing returns, collection history, and other factors as criteria. Before the 2010 statutory amendment permitting permanent business certificates, the threshold for refusing the renewal of a business certificate was a risk score of 5,000. Of the 36 sampled businesses that had an outstanding tax balance, 4 of them had risk scores over 5,000. One proprietor who owes between \$500,000 and \$1 million in wage withholding taxes has a risk score of 36,200. Under the two-year certificate system, high-risk businesses could be denied renewal of their business certificates. However, since certificates are permanent, risky businesses like these will maintain their business certificates unless the Tax Division suspends or revokes them, which it rarely does. Therefore, GenTax's risk score is a moot management tool.

Many of the delinquent businesses that have made no attempt to pay due taxes in several years still have valid business certificates, and there is nothing to prevent them from resuming business activity.

The Tax Department's Reluctance to Use the Full Extent of Its Enforcement Authority Puts the State at Risk of Losing Millions in Revenue and Allows Proprietors to Address Delinquencies on Their Own Terms.

One of the 2018 delinquency cases shown above in Table 5 reveals a pattern of not using the full extent of enforcement authority that PERD has identified in previous audits. As Table 5 indicates, one proprietor in the PERD sample owed between \$500,000 and \$1 million in wage withholding taxes at the end of 2017. This is the result of the proprietor not remitting to the Tax Department amounts withheld from its employees' wages for the last three quarters of 2017. The Legislative Auditor directed PERD to update this proprietor's information to include 2018 data. **The records show that the Tax Division allowed the proprietor to submit wage withholding tax returns without payments for four consecutive quarters.** This proprietor has a history of late wage withholding payments. It should be noted that the proprietor made a payment in June 2017 for wage withholding taxes due for the fourth quarter of 2016. By the second quarter of 2018, the proprietor owed between \$1.5 million to \$2 million in wage withholding taxes. No payment plans were established during this four-quarter period, one lien was issued in January 2018 and several notices were mailed. One such notice is a 10-

Before the 2010 statutory amendment permitting permanent business certificates, the threshold for refusing the renewal of a business certificate was a risk score of 5,000. Of the 36 sampled businesses that had an outstanding tax balance, 4 of them had risk scores over 5,000.

day Compliance Letter indicating that failure to pay the amount due could result in the legal action of revocation of the proprietor's business registration certificate. However, this is an enforcement action the Tax Division rarely uses. Payments were made in May and June 2018 that made the proprietor current in its wage withholding taxes through the third quarter.

Although the proprietor is current and the Tax Division took several enforcement actions, the Legislative Auditor contends that the Tax Department did not act sooner and with stronger enforcement actions since the amounts at issue are funds withheld directly from employee wages and entrusted to the proprietor to remit directly to the Tax Department. **In the opinion of the Legislative Auditor, the Tax Department is not assertive enough in preventing the growth of delinquencies of withholding taxes and other taxes collected for the State by businesses.** Thus, the Tax Department places the State at the mercy of proprietors who collect taxes from employee wages and sales taxes from customers but remit these taxes when it is convenient for them, instead of on the statutorily required terms.

Although the proprietor is current and the Tax Division took several enforcement actions, the Legislative Auditor contends that the Tax Department did not act sooner and with stronger enforcement actions since the amounts at issue are funds withheld directly from employee wages and entrusted to the proprietor to remit directly to the Tax Department.

The Tax Division Maintains That Suspensions and Revocations of Business Certificates Are Ineffective.

The Tax Division insists that revoking or suspending business registration certificates as an enforcement tool is ineffective. In previous PERD audits dating back to 2006, the Tax Division has asserted that revoking business certificates pursuant to W. Va. Code §11-12-5(b) should be used sparingly and putting companies out of business would provide no opportunity to operate and, thus, no hope of recouping the liability owed to the State. The Tax Division claims that many businesses will continue doing business despite a revoked business certificates.

The Tax Division uses several enforcement letters to address delinquent businesses, such as those listed below. However, the 10-Day Compliance Letter is the only one that mentions revocation of a proprietor's business certificate as a possible legal action. The other letters refer to penalties and interest continuing to accrue, or liens being applied to the proprietor's property if the stated amount is not paid by an appropriate date. Distress warrants can also be issued which authorizes a levy or seizure of any property or wages of a proprietor. However, the Tax Division stated to PERD that placing levies on tangible personal property or closing businesses that owe considerable sales taxes or wage withholding taxes are enforcement tools of last resort.

The Tax Division insists that revoking or suspending business registration certificates as an enforcement tool is ineffective.

- Statement of Account (SOFA),
- Notice of Assessment (NOFA),

- Notice of Proposed Tax Lien,
- Notice of Tax Lien, and
- 10-Day Compliance Letter.

Table 6 illustrates that suspensions and revocations of business registration certificates by the Tax Division is relatively small and are far less than that of suspensions due to Sheriff/Property Tax violations. According to the Tax Division, suspensions and revocations of business certificates initiated by sheriffs are enforced once it receives written requests from county sheriffs.

The Tax Division asserts that it does not have enough revenue agents to appropriately visit all counties in the state to assist in collecting tax liabilities from delinquent businesses.

Table 6
Business Registration Suspensions and Revocations
By Initiating Entity
Calendar Years 2011 through 2016

Year	Tax Division		Sheriff		Workers Compensation		Total
	Suspension	Revocation	Suspension	Revocation	Suspension	Revocation	
2016	1	12	210	0	-	-	223
2015	0	16	521	1	-	-	538
2014	1	10	58	0	-	-	69
2013	8	17	430	0	-	-	455
2012	12	22	244	0	-	-	278
2011	38	61	581	0	77	37	794

Source: Tax Division.

The Tax Division asserts that it does not have enough revenue agents to appropriately visit all counties in the state to assist in collecting tax liabilities from delinquent businesses. According to the Tax Division, one tool it uses to enforce State tax laws is by deploying revenue agents to visit taxpayers to collect delinquent taxes and/or delinquent tax returns before the business registration certificate is revoked. However, the Tax Division indicated that it has only 22 revenue agents to cover 55 counties; of which, 42 of the counties do not have a revenue agent who resides in the county.

According to the Tax Division, when it identifies a business without a business registration certificate, either because it never had one or it has been revoked, cancelled or suspended, the enforcement tools available to the Tax Commissioner are “limited.” One option it has at its disposal is to file misdemeanor criminal charges in magistrate court. However, the Tax Division stated that:

“... some magistrates do not perceive this to be a serious criminal charge. Hearings often get delayed. Orders issued by magistrates are sometimes ineffective. Some businesses [sic] owners we have charged do not come into

According to the Tax Division, when it identifies a business without a business registration certificate, either because it never had one or it has been revoked, cancelled or suspended, the enforcement tools available to the Tax Commissioner are “limited.”

compliance even after they are ordered by the magistrate to do so.”

Nevertheless, although the Tax Division considers its enforcement tools as ineffective, by not utilizing the full extent of its enforcement authority and holding noncompliant businesses accountable for their delinquency, the Tax Division is coincidentally contributing to a culture of noncompliance. Therefore, further resulting in the State losing tax revenue.

Conclusions

The findings of this report reflect the findings of previous PERD reports concerning the Tax Division’s use of its statutory enforcement authority in addressing noncompliant businesses. PERD finds that although the Tax Division makes extensive use of warning notifications, liens and levies in responding to noncompliant proprietors, the Tax Division continues to disregard the strongest enforcement tool of initiating the process of canceling, revoking or suspending business registration certificates with the intention of having companies settle their delinquencies on terms dictated by the State and not on proprietors’ terms. The reluctance to appropriately initiate revoking or suspending business certificates is not maximizing the collection of outstanding tax liabilities. In addition, not appropriately revoking business certificates is creating additional problems now that the State enacted permanent business certificates. PERD estimates that there are between 177,000 to 188,000 business accounts for proprietors who are likely not conducting business or do not have valid business certificates. The large number of these accounts is an unnecessary administrative burden and the number will continue to grow over time if the Tax Division continues to disregard revoking business certificates. The law enacted in 2010 to make business registration certificates permanent did not intend for business certificates to be held permanently if business is not being conducted. The Tax Department should seek legislation that would reestablish a renewal process of four to five years for business registration certificates if it determines a renewal process to be more efficient than revoking certificates.

The Tax Division’s reluctance to use its full enforcement authority is not maximizing the State’s tax revenues. Moreover, it creates an unfair advantage for the competitors of delinquent companies and it is resulting in inefficiencies. The Legislative Auditor recommends that the Tax Division utilize its full statutory authority *granted under W. Va. Code §11-12-5* to cancel, revoke or suspend business registrations in an appropriate and timely manner, and to remove the large number of accounts for proprietors who have no business activity. Initiating the revocation process is a prerequisite for stronger enforcement actions if proprietors persist in noncompliance.

Although the Tax Division considers its enforcement tools as ineffective, by not utilizing the full extent of its enforcement authority and holding non-compliant businesses accountable for their delinquency, the Tax Division is coincidentally contributing to a culture of noncompliance. Therefore, further resulting in the State losing tax revenue.

PERD finds that although the Tax Division makes extensive use of warning notifications, liens and levies in responding to noncompliant proprietors, the Tax Division continues to disregard the strongest enforcement tool of initiating the process of canceling, revoking or suspending business registration certificates with the intention of having companies settle their delinquencies on terms dictated by the State and not on proprietors’ terms.

Recommendations

1. *The Legislative Auditor recommends that the Tax Department utilize the authority granted in §11-12-5 of the West Virginia Code to appropriately and timely initiate the process to revoke, cancel or suspend business registration certificates in addressing business tax delinquencies.*
2. *Pursuant to West Virginia Code §11-12-5(a), the Tax Department should appropriately revoke all business registration certificates when it is evident that proprietors are not conducting business as indicated by tax returns not being filed, returns filed with no business activity reported for numerous tax periods, as requested by a proprietor or by any other appropriate indicator.*
3. *The Tax Department should consider seeking statutory clarification for cancelling or revoking business registration certificates of proprietors who show no evidence of conducting business if it feels it lacks clear authority.*
4. *The Tax Department should consider seeking legislation that would reestablish a renewal process of four to five years for business registration certificates.*

Appendix A Transmittal Letter

WEST VIRGINIA LEGISLATURE *Performance Evaluation and Research Division*

Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0610
(304) 347-4890
(304) 347-4939 FAX



John Sylvia
Director

November 30, 2018

Dale W. Steager, State Tax Commissioner
State Tax Division
West Virginia Department of Revenue
1001 Lee St, E
Charleston, WV 25301

Dear Commissioner Steager:

This is to transmit a draft copy of the performance review of the State Tax Division. For confidentiality reasons, we are sending two separate reports to you: one version that includes particular proprietor tax information for the Tax Division only; and another version that will be presented to the public that excludes such information. The report is tentatively scheduled to be presented during the January 6 through 8, 2019 interim meetings of the Joint Committee on Government Operations, and the Joint Committee on Government Organization. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions committee members may have during or after the meeting.

We need to schedule an exit conference to discuss any concerns you may have with the report. We would like to have the meeting on December 12 through 19, 2018. Please notify us to schedule an exact time. In addition, we need your written response by noon on Friday, December 21, 2018 in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 304-340-3192 by Thursday, January 3, 2019 to make arrangements.

We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

John Sylvia
John Sylvia

Enclosure

Joint Committee on Government and Finance

Appendix B

Objective, Scope and Methodology

The Performance Evaluation and Research Division (PERD) within the Office of the Legislative Auditor conducted this performance review of the West Virginia Tax Division as part of the agency review of the Department of Revenue as required by W.Va. Code §4-10-8(b)(1). The Department of Revenue oversees the Tax Division, which is responsible for the administration and enforcement of the State's tax laws as well as equitably assessing and collecting all taxes created by West Virginia Code.

Objective

The objective of this audit is to determine the extent to which the Tax Division utilizes its statutory enforcement authority to improve tax collections and minimize loss of revenue to the State.

Scope

The scope of this review is focused solely on the enforcement actions of the Tax Division related to business taxes for businesses with an active business registration account in calendar year 2016, as previously addressed in PERD reports submitted in 2006 and 2010. Information contained in this review was collected from the Tax Division's GenTax computer system for the years 2007 through the third quarter of 2018, including historical legacy system data converted to GenTax. PERD did not review personal income tax information.

Methodology

The primary source of information for this review is the West Virginia Tax Division. Specifically, analysis was conducted through interviews with Tax Division staff, obtaining information provided by the Tax Division, and collecting taxpayer data on-site by PERD from the Tax Division's GenTax computer system. In order to test the sufficiency and appropriateness of the information collected from GenTax, PERD was able to cross-reference information by reviewing correspondence between the taxpayer and the Tax Division. PERD drew a random, statistically significant sample from a list of business registration certificates provided by the Tax Division that it considered being active during calendar year 2016. The sample has a 5 percent margin of error and a confidence level of 95 percent. The initial sample of 384 business registration certificate accounts was representative of the overall population of 322,332 business registration certificate accounts provided by the Tax Division. PERD had correspondence with the Tax Division in order to determine that the number of accounts provided was sufficient and appropriate. A confidentiality agreement between PERD and the West Virginia Department of Revenue was established. Pursuant to the agreement, tax information specific to an individual business will not be disclosed in the report.

Initially, PERD determined from the sample the populations that consisted of what PERD defined as "In Compliance" and "Non-Compliance." PERD reviewed data from the GenTax system for the sampled business registrations and the business tax accounts associated with them, such as Wage Withholding Tax accounts and Sales & Use Tax accounts. PERD defined businesses as being in compliance as those that did not have any tax liabilities and were up to date with submitting tax returns as required. Businesses were considered to be non-compliant in cases that W.Va. Code §11-12-5 should be considered. There are many cases in which in the strictest sense and technically are in non-compliance but would be inappropriate to consider using W.Va. Code §11-12-5 due to the chance that a business being a little late submitting its return or paying taxes. PERD's practical definition of non-compliance included: three or more monthly tax returns missing, two or more quarterly returns not filed, more than one annual return are missing, or the most recent

annual return is more than three months late (The same time periods applied for business not paying taxes on time). PERD reviewed GenTax data for businesses considered to be non-compliant to determine what enforcement actions the Tax Division had taken in an effort to encourage the businesses to comply with State tax laws, such as assessment letters, enforcement notices, liens, and levies. In addition, PERD reviewed GenTax data to determine if non-compliant businesses were actively conducting business. PERD was able to evaluate the integrity of the data of the accounts through correspondence between the Tax Division and proprietors. PERD determined the data to be sufficient and appropriate.

While conducting its analysis, PERD determined that there were a large number of sampled businesses that had no evidence of business activity or had an invalid business registration. As a result, two more categories were created. Sampled businesses that had no documentation of any business activity after obtaining a permanent business registration were placed into the “No Evidence of Conducting Business” category, and businesses that either had an expired business registration or an incomplete registration were placed into the “Open Accounts with Invalid Business Certificates” category. In addition, PERD reviewed GenTax data to determine if businesses without a valid business registration were actively conducting business.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix C

Legislative Services Legal Opinion

MEMORANDUM

TO:	John Sylvia, Director Performance Evaluation & Research Division
FROM:	Jaclyn Schiffour, Counsel
SUBJECT:	Cancellation of business registration certifications by the Tax Division
DATE:	January 4, 2019
CC:	Rich Olsen, Director Legislative Services

This request is in response to the Performance Evaluation and Research Division's ("PERD") question regarding a tax audit. The Tax Division has cited a lack of resources that would preclude the department to cancel, suspend, or revoke business registration certificates based on businesses that are likely no longer in operation or have not filed the required tax returns in several years. PERD estimates the number of open business accounts with no reported business activity number between 90,000 to 100,000.

Issue: Are business registration certificates canceled upon cessation of the business and if not, what code permits the Tax Division to ensure the system does not become overly burdened by cancelling business registration certificates?

Short Answer: Yes, business registration certificates are considered canceled upon cessation of the business. However, the Tax Division has the authority to ensure those inactive accounts have ceased operations by canceling, suspending, or revoking any business registration certificate.

According to W. Va. Code §11-12-10, any person ceasing to engage in business must report the cessation to the Tax Division to cancel the business registration certificate. However, based upon both the high number of businesses without activity and the Tax Division's own admission, there are not enough business owners reporting ceased business operations to the Tax Division. This leaves the Tax Division with no way to be certain that a business with no activity is currently in operation or not. W. Va. Code §11-12-5(a) states:

“Notwithstanding any other provisions of this code to the contrary, any certificate of registration granted on or after July 1, 2010, shall not be subject to the foregoing requirement that it be renewed, but shall be permanent until *cessation of the business* for which the certificate of registration was granted or until it is suspended, revoked or canceled by the Tax Commissioner.” (Emphasis added).

Furthermore, the Tax Division is granted the authority to suspend, revoke or cancel any business registration certificate in W. Va. Code §11-12-5(a) and §11-12-5(b). Because a business is required to notify the Tax Division when it ceases to operate, the Tax Division may interpret the failure to file the required tax returns as a willful refusal or neglect to file as stated in W. Va. Code §11-12-5(b)(1)(B). In W. Va. Code §11-12-5(b)(4), there are specific notice references that must be met before a business registration certificate may be suspended, revoked, or canceled. This includes providing notice at least twenty days prior to the date a registration certificate is suspended, revoked, or canceled and stating a reason for the action in addition to referring to W. Va. Code §11-10-5e.

In W. Va. Code §11-10-5e, notice is considered accepted upon mailing notice to the last known business or personal address of the taxpayer or acceptance by a person known to the taxpayer when sent through certified or registered mail. In any case, W. Va. Code §11-10-5e places the burden of proving notice was unsuccessfully served on the taxpayer. W. Va. Code §11-12-5(b)(4) further states that the taxpayer must file a petition in order to appeal to any suspension, revocation, or cancellation of a business registration certificate within twenty days of receipt of the notice. Failure to file a petition within twenty days of receipt would likely lead to the suspension, revocation, or cancellation of the business registration certificate.

Although the initial numbers of inactive businesses are high, between 90,000 to 100,000, the Tax Division would likely be able to cancel many of these business registration certificates by sending notice to the last known address of the business or taxpayer. If the business has ceased operations, the taxpayer is likely to allow the business registration certificate to be cancelled by the Tax Division without petition for appeal. If, however, the business is still in operation and has failed to file tax returns, the Tax Division will likely be able to recover back taxes or assist the taxpayer to file an exemption for the business if the business meets such requirements. Furthermore, the burden on the Tax Division would be lessened by cancelling business registration certificates that should have been cancelled automatically when the business ceased operation. Although the initial workload may be high, the Tax Division can complete notice in sections that would ease the burden on the division, while encouraging other taxpayers to notify the Tax Division when a business ceases operating.

In conclusion, W. Va. Code §11-12-5(b) grants the Tax Division the authority to cancel business registration certificates in connection with W. Va. Code §11-10-5e. W. Va. Code §11-12-10 should automatically cancel any business registration certification when the business ceases to operate and the taxpayer is required to notify the Tax Division. Because the taxpayer's do not notify the Tax Division the business is no longer operational, the Tax Division may cancel business registration certifications on its own for a willful refusal or neglect to file tax returns.

Appendix D Agency Response



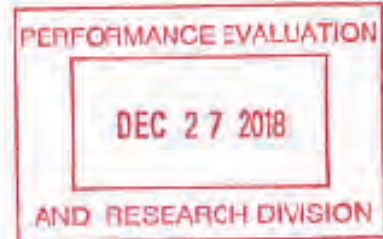
Dave Hardy
Secretary of Revenue

Dale W. Steager
State Tax Commissioner

STATE TAX DEPARTMENT

December 27, 2018

John Sylvia
Director
West Virginia Legislature
Performance Evaluation and Research Division
Building 1, Room W-314
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0810



Dear Mr. Sylvia:

This is the Tax Department's response to the performance report on business registration and the State Tax Division issued by the Legislative Auditor. Taxpayers engaging in business in West Virginia are required to have business licenses. Prior to July 1, 2010 taxpayers were required to renew their license every two years. After July 1, 2010, business licenses became permanent upon issuance.

OVERVIEW

Prior to 2010, taxpayers were required to renew their business registration certificate every two years. Legislation was passed in 2010 to make business registration certificates permanent and no longer subject to periodic renewals.

The Legislative Auditor reviewed 382 of the 322,332 business accounts maintained in the Tax Department's computer database as "active." The Tax Department (the "Department") considers accounts "active" if the taxpayer did not close the account and the original license was not suspended, revoked, or otherwise indicated as unable to be renewed, even if the taxpayer did not renew their business registration certificate subsequent to 2010 to get a permanent certificate. It should be noted that including these types of nonrenewed dormant accounts in "active" accounts contributes to the number of invalid business certificates cited in the report. This is further discussed below.

Based on its review of "active" accounts, the Legislative Auditor made the following recommendations:

1. The Legislative Auditor recommends that the Tax Department utilize the authority granted in §11-12-5 of the West Virginia Code to appropriately and timely initiate the process to revoke, cancel or suspend business registration certificates in addressing business tax delinquencies.
2. Pursuant to West Virginia Code §11-12-5(a), the Tax Department should appropriately revoke all business registration certificates when it is evident that proprietors are not conducting business as indicated by tax returns not being filed, returns filed with no

- business activity reported for numerous tax periods, as requested by a proprietor or by another appropriate indicator.
- 3. The Tax Department should consider seeking statutory clarification for cancelling or revoking business registration certificates of proprietors who show no evidence of conducting business.
- 4. The Tax Department should consider seeking legislation that would reestablish a renewal process of four to five years for business registration certificates.

While the Department does not agree with the Legislative Auditor's conclusion that failure to revoke business registration certificates has a significant impact on general compliance of taxpayers, the Department does agree the business registration certificate database and its business registration process need review and improvement. In fact, the Department, prior to the Legislative Auditor's review, was developing plans for a business registration improvement project for implementation during 2019. This plan was discussed with representatives of the Legislative Auditor during the audit exit interview. Other projects such as addressing critical workforce issues, installing and programming for two new remittance processors which are used to process tax payments, and enhancing tax enforcement programs have dominated the Department's available resources since the new administration took office in January 2016. These considerations were also defined during the exit interview.

While the Department agrees that the business registration certificate database and business registration process need review and improvement, it does not agree with the Legislative Auditor's assertions that the Department is lenient in its treatment of noncompliant taxpayers or the Auditor's description of the scope of the issue. While enhanced enforcement actions were limited during previous administrations, particularly due to repeated cuts in the Department's budget that resulted in dwindling enforcement resources, there has been renewed emphasis under the current administration on enhanced enforcement actions such as liens, business license revocations, criminal charges for operating without a license, and seizure and sales of noncompliant taxpayer's assets.

For example, the Governor's Jobs Act and Tax Compliance Task Force report, issued October 12, 2017, gave rise to several pieces of proposed legislation, some of which was passed during the 2nd Special Legislative Session of 2017 and during the 2018 session. This legislation resulted in the sharing of tax information with agencies such as DSH and the Auditor's Office and special hiring practices for the Department. This legislation is of great assistance in enhancing enforcement by identifying noncompliant taxpayers before they are awarded contracts or by allowing offsets of payments by finalized tax debt, and by allowing the Department to accelerate its hiring of additional enforcement personnel and retention of existing personnel.

REVIEW OF THE FINDINGS

The performance report reviewed a sample of 382 accounts of a population of 322,332 "active" Gentax business accounts to review the practices of the State Tax Division. While the report states this is statistically significant, it should be noted it represents only 0.5% of the total database. In addition, there may be some portions of the file that are over or under represented in the sample.

The legislative auditor split the sample taxpayer database into four categories. Each of these categories is discussed in the comments that follow.

- 32% compliant accounts – These are accounts that were compliant with business registration laws because they did not owe taxes and all appropriate tax returns were filed.
- 28% with no evidence of conducting business- These are accounts that are likely not conducting business due to their not being any evidence of their physically doing business in West Virginia since they received their license.
- 27% with invalid business registration certificates- These are accounts that have invalid business registration certificates because these proprietors did not complete the business registration application, or they did not renew, in 2010, their two-year certificates to obtain permanent business registrations.
- 13% noncompliant accounts – There were accounts that the auditor decided were not compliant with business registration laws because either they were delinquent in paying due taxes or they did not file tax returns, or both.

Taxpayers that Show No Evidence of Conducting Business

The Department considers accounts active if the taxpayer did not close the account and the original license was not suspended, revoked, or otherwise indicated as unable to be renewed, even if the taxpayer did not renew their business registration certificate in 2010 to get a permanent business registration certificate.

An "active" Gentax account does not necessarily mean an active taxpayer. The Department does not remove accounts in Gentax since there is a need to maintain history on taxpayers. The database goes back more than 10 years and includes converted data from periods prior to the date of conversion to Gentax. The converted data may or may not be reliable.

Under the provisions of W. Va. Code §11-12-10, taxpayers are supposed to notify the Department when they cease to engage in business in West Virginia. It states as follows:

Whenever any person ceases to engage in business within this State by reason of the discontinuance, sale or transfer or by any other means of disposition of the business, it shall be his duty to notify the Tax Commissioner in writing of the discontinuance, sale or transfer or other disposition of the business, the date thereof and the name and address of the seller or transferor and purchaser or transferee thereof.

While this provision exists, taxpayers commonly do not notify the Tax Department when they cease to engage in business. Therefore, many times the Tax Department does not know when a business may have ceased activity and its accounts should be closed.

The Legislative Auditor takes the position that the Department has authority to revoke licenses of taxpayers that are not conducting business. The Department does not believe there is clear authority to revoke business licenses of entities that are simply not conducting business.

There are limited reasons why business registration accounts can be revoked. W. Va. Code §11-12-5(b) lists those reasons:

(b) *Revocation, cancellation or suspension of certificate. —*

(1) The Tax Commissioner may cancel, revoke or suspend a business registration certificate at any time during a registration period if:

(A) The registrant filed an application for a business registration certificate, or an application for renewal thereof, that was false or fraudulent.

(B) The registrant **willfully refused or neglected** to file a tax return or to report information required by the Tax Commissioner for any tax imposed by or pursuant to this chapter.

(C) The registrant **willfully refused or neglected** to pay any tax, additions to tax, penalties or interest, or any part thereof, when they became due and payable under this chapter, determined with regard to any authorized extension of time for payment.

(D) The registrant neglected to pay over to the Tax Commissioner on or before its due date, determined with regard to any authorized extension of time for payment, any tax imposed by this chapter which the registrant collects from any person and holds in trust for this state.

(E) The registrant abused the privilege afforded to it by article fifteen or fifteen-a of this chapter to be exempt from payment of the taxes imposed by such articles on some or all of the registrant's purchases for use in business upon issuing to the vendor a properly executed exemption certificate, by failing to timely pay use tax on taxable purchase for use in business or by failing to either pay the tax or give a properly executed exemption certificate to the vendor.

(F) The registrant has failed to pay in full delinquent personal property taxes owing for the calendar year.

There is no provision that allows the Tax Commissioner to revoke a business registration license simply because a taxpayer is not currently engaged in business. Failure to engage in business is not a valid reason to revoke a business registration certificate.

Similar to the fact that failure to engage in business is not a valid reason to revoke a business registration certificate, failure to file returns is not a valid reason to revoke a business registration certificate, unless the taxpayer has engaged in business and is "required" to file a return.

West Virginia Code §§11-12-5(b)(1)(B) and (C) address the failure to file returns. These sections use the terms "willfully refused or neglected". "Willfully" is not defined in the business registration tax statute or in the West Virginia Tax Procedure and Administration Act, W. Va. Code § 11-10-1 *et seq.* It can be stated that a good-faith misunderstanding of the law or a good-faith belief that one is not violating the law negates willfulness, whether or not the claimed belief or misunderstanding is objectively reasonable. See *Cheek v. United States*, 498 U.S. 192, 111 S. Ct. 604, 112 L.Ed.2d 617 (1991).

In addition to the requirement that the failure to file must be "willfully refused or neglected", the return not filed must be one required by the Tax Commissioner. A taxpayer that has nothing to report is generally not under a legal obligation to file a return.

Consumers sales and use tax returns, for example, are only required by statute from any person liable for payment of sales or use tax. See W. Va. Code § 11-15-21(a). Withholding tax returns are only required if the business has paid wages and withheld taxes from those wages. See W. Va. Code §§11-21-71 and 11-21-74. Of course, the Department would like for taxpayers to file returns

when no tax is due so that we know that a failure to file is not inadvertent. Sometimes a taxpayer may file a return when none is required to start the running of the statute of limitations provided in W. Va. Code § 11-10-15 on issuance of an assessment. Still, not filing a return does not necessarily make a business noncompliant.

According to the Legislative Auditor's report, proprietors were considered noncompliant if:

1. Proprietors required to file annually did not pay taxes or file returns for at least the previous year,
2. Quarterly filers did not pay due tax or file return for at least the previous two quarters
3. Or monthly filers did not pay due taxes or file returns for at least the previous three months

As previously stated, the fact that a taxpayer does not file returns does not automatically mean the taxpayer is noncompliant. In order to be required to file returns, a taxpayer must be engaged in business. The Legislative Auditor did adjust their sample to address accounts such as governmental entities or religious organization who may be registered to be able to assert their sales tax exemptions. See, e.g., W. Va. Code § 11-12-3(c). However, there are some accounts listed as noncompliant that simply may no longer be engaged in business at this time and therefore are not required to file. Of course, which accounts are truly noncompliant versus not engaged in business is not readily determinable without further investigation outside the scope of this audit.

The Legislative Auditor made the following recommendations in its report:

- *The Tax Department should consider seeking statutory clarification for cancelling or revoking business registration certificates of proprietors who show no evidence of conducting business.*
- *The Tax Department should consider seeking legislation that would reestablish a renewal process of four or five years for business registration certificates.*

The Department is willing to consider seeking statutory clarification on cancelling business registration certificates of proprietors who show no evidence of conducting business. If the Department had the ability to cancel inactive business registration accounts, it would assist in reducing the number of dormant accounts in its system.

The Department would like to explore some alternative method of closing dormant accounts short of the revocation procedures currently set forth in West Virginia Code §11-12-5(b) (4) due to the amount of resources necessary to revoke a business license under the current provisions. In order to revoke a business license, the Department must first notify the business at least twenty days prior to the cancellation or revocation. The taxpayer may then file a petition for appeal with the Office of Tax Appeals to protest the cancellation or revocation. While many of these accounts might be nonresponsive, if only a small percentage file petitions for appeal, it will increase the number of appeals in the Office of Tax Appeals which currently has a backlog of appeals. Additionally, the Department does not have the legal resources to undertake revocation of dormant accounts on a widespread basis even if we have statutory authority to do so.

The Legislative Auditor also suggests requiring taxpayers to periodically renew their business registration licenses to address the issue of dormant accounts and incorrect addresses. A period between registrations of four or five years was suggested by the legislative auditor.

Businesses Without Valid Business Certificates

The legislative audit report found based upon their sample that 27% of the open accounts did not have valid business registration certificates. According to the report, these accounts represent either proprietors who did not complete the business registration application or that did not renew their two-year certificates to obtain a permanent business registration certificate.

Upon investigation, it was determined that several of these entities had registered with the Secretary of State's Office but had not continued their registration with the Department. Some entities will register with the Secretary of State's Office but not complete their registration with the Department because they have not yet engaged in business in West Virginia. It is probable that the entity registered with the Secretary of State because of a possibility of doing business in West Virginia but did not actually engage in business in the state.

In addition, when the change was made to permanent registration certificates, many businesses that were no longer in business simply did not make the change to the permanent registration certificates but did not formally close their accounts. Again, this does not make them noncompliant since they are no longer engaged in business. It does create "deadwood" in the database.

It would also not be possible for the Department to revoke the accounts without proper business registration certificates since there is no license to revoke. As an alternative, and in response to the Legislative Auditor's recommendations, the Department could notify those taxpayers who (i) did not renew their business license in 2010, (ii) have made no attempt to register since 2010, and (iii) have not filed any returns since that time that their accounts are being closed if they do not respond within thirty days of notification. This may close approximately 45,000 dormant accounts without need of revocation procedures since there was no renewal by these taxpayers in 2010 and there has been no attempt to file returns or renew the license in the last eight years.

Noncompliant Taxpayers

The report found that 13% of active accounts were noncompliant and either had delinquencies or had not filed appropriate tax returns. We again note that the database has not been routinely purged of uncollectible accounts since the agency is not statutorily empowered to write off uncollectible debt. Many of these delinquencies could be businesses that are no longer engaged in business in West Virginia or could be debt that can no longer be collected due to its age and for which we no longer have an enforceable tax lien in effect. As previously mentioned, legacy accounts, accounts established before the Department's current computer system, Gentax, became operational, are also in the database.

While compliance actions such as assessments, liens, levies and contacts by revenue agents and other enforcement personnel are taken against noncompliant taxpayers, revocation or suspension of the business license is typically only done in the most egregious cases when other methods of forced collection have failed. The Department typically allows an opportunity for a taxpayer to come back into compliance before revoking its business license. If a taxpayer cannot conduct business, it is much more difficult for it to pay its debt to the State of West Virginia.

RESPONSES TO CONCLUSIONS OF THE LEGISLATIVE AUDITOR

Proprietors Who Did Not File Tax Returns Are Likely Not Conducting Business

The Department agrees that proprietors who have a business registration certificate but do not file tax returns for a period of years are likely not conducting business in West Virginia today. The Department also agrees that it was not contemplated by the Legislature that entities who are not in business should not indefinitely hold business registration certificates. When the business registration tax was enacted in 1970, business registration certificates were renewed annually. Therefore, this was not an issue. This is only an issue today because, once issued, business registration certificates are permanent. As pointed out earlier in this document, businesses, although required by statute to do so, rarely notify the Department that they are no longer conducting business or more likely that they are never going to start business activities. The Legislative Auditor ("PERD") asserts that the Department "certainly has the resources" to send out notices and revoke nonresponsive proprietors' licenses and that it is not likely that many of these businesses would appeal the revocation.

The Department agrees that seemingly inactive accounts add to the administrative burden on the Department. However as previously discussed, the Department cannot cancel business accounts simply because a business has not filed returns for successive years. There is no clear statutory authority to do that. In addition, as previously discussed, the Department does not have the legal resources to revoke dormant business accounts on a widespread basis.

As previously mentioned, the Department is planning a major overhaul of the business registration process in 2019. The application for business registration needs to be revised and these revisions will need to be programmed. The Department will need to coordinate this activity with the Secretary of State who maintains the business 4 West Virginia website, which allows persons to submit an electronic application for business registration. As part of this process we are exploring options that may be available to us to eliminate deadwood in the business registration database. The Department takes exception to the Legislative Auditor's conclusion that having deadwood in the business registration database, that is not accessible to the general public, somehow fosters a culture of noncompliance within the business community.

Using Suspension or Revocation Enforcement to Manage Tax Delinquency

In PERD's sample there were two businesses that had substantial delinquencies. One of these delinquencies **is not a finalized debt and the taxpayer has filed a petition for reassessment, so enforcement action is unlawful and inappropriate at this time.**

The other taxpayer that had a substantial delinquency is well known to the Department and has been the subject of many enforcement actions by the Department. Listed below are the enforcement actions taken in 2017-2018 related to current delinquencies of the delinquent taxpayer mentioned in the report:

- Sent at least fourteen billing notices in 2017 and 2018 for the delinquency and imposed penalties and interest on this taxpayer as required by statute. This taxpayer **has paid significant** amounts of penalties and interest in the past for their failure to pay timely.
- Issued four assessments for nonpayment of withholding tax during 2017 and 2018.
- Filed a lien on the delinquency in January 2018.
- Sent five non-filer letters in 2017 and 2018. The taxpayer was also issued a 10-day Compliance Letter which basically says you are now subject of forced collection actions in February 2018.

- There has been repeated contact with the taxpayer by one of our regional offices to get the taxpayer to comply. The taxpayer paid in May 2018.
- This taxpayer is also now scheduled for a field audit. In fact, we have hand delivered a 10-day audit letter.

In this particular situation, the taxpayer is a chronic slow payer who eventually pays the tax along with significant penalty additions to tax and statutory interest. Taxpayers can clearly avoid paying additions to tax and interest by timely filing returns and paying the taxes owed. Why this taxpayer does not timely file and pay remains a mystery. The Department has a MyTaxes feature at its website. Any business can register for a MyTaxes account through which the business can file business tax returns and remit taxes including, but not limited to sales tax and employer withholding taxes.

Again, the PERD report states that the Department's actions in the case involving the delinquent taxpayer discussed above were "lenient." We strongly disagree. The statement is made that the Department "allowed" the taxpayer to file returns without payment for four quarters. The Tax Department did not "allow" that taxpayer to not file, the taxpayer chose to not file, and the Department took appropriate steps to bring the taxpayer back into compliance and was able to do so without reaching the revocation process stage. **The Department took many actions against this taxpayer to get them to comply and pay penalties and interest as a result of their delayed filing and payment.**

The taxpayer is a chronic slow payer, but as previously noted does eventually pay the amount due with significant penalties and interest. Immediately revoking a business license of a delinquent taxpayer, assuming they stop doing business when the certificate is revoked, severely inhibits their ability to address a delinquency as there will be no cash flow to pay their debt. The Department will continue to monitor this account and address their failure to timely pay through billings, liens and contact by revenue agents. We will continue to use what procedures and tools are available to us by statute to address their delinquency. **The Department was not lenient in this case.**

Prior to this administration, the Department did not aggressively pursue delinquent taxpayers. That practice has changed. As previously mentioned, the Governor's Jobs Act and Tax Compliance Task Force gave rise to legislative proposals that were passed during the October 2017 Special Session and in 2018, which were helpful in enhancing enforcement actions. In addition, with the assistance of the Legislature and the Department of Personnel we have added field auditor positions and revenue agent positions and increased salaries of our critical workforce.¹ Enforcement activities had deteriorated under previous administrations in large part because budget restrictions prevented us from sending field auditors outside West Virginia to audit taxpayers as well as hiring and retaining critical personnel. Our enforcement efforts are focusing on businesses that owe delinquent consumers sales and service taxes they collected and on delinquent employer withholding taxes. These are "trust fund" taxes. Businesses that owe delinquent trust fund taxes are stealing from the State of West Virginia and this type of behavior must be stopped.

¹ The Department has made two successful proposals to the Personnel Board to increase salaries of its critical audit, collection and enforcement workforce and is planning to present another proposal in January.

Suspending or Revoke Business Registration Certificates to Manage Tax Delinquency

The statement is made by PERD that the Department does not utilize the full extent of its enforcement authority by not revoking business licenses. While the Department may not suspend or revoke business licenses on a widespread basis, it does revoke licenses when pursuing enhanced enforcement actions against taxpayers and also suspends business licenses when notified by county sheriffs that the taxpayer has a property tax delinquency. Many of the businesses that have been the subject of enhanced enforcement action had already had their business registration certificate revoked.

The PERD report mentioned that the Department claims that many businesses will continue doing business despite a revoked business certificate. This is actually what happens in many situations. Unfortunately, revocation of a business registration certificate is usually not effective in and of itself in compelling compliance. Additional enforcement action is often necessary. Sometimes this is as simple as having a revenue agent visit the business about filing missing tax returns and/or paying delinquent taxes. Other cases require enhanced enforcement efforts. The increased efforts of our enhanced enforcement team during the past 21 months has resulted in more revocations of business registration certificates and increased collection of delinquent taxes. In several of these revocation cases, the businesses continued to operate without a license.

When this occurs, an investigator is assigned to collect evidence that the business is still operating. Criminal charges are then filed in magistrate court for operating a business without a business registration certificate. In several of these cases, the owner of the business was convicted of a misdemeanor and the magistrate would order the business closed until the business came into compliance. However, the business owner would then transfer the business to a family member or attempt to start a new business entity. If the business is transferred to another entity, the Department has issued a successor liability assessment against the new owners. If the owner attempts to start a new business entity, the Department would then reject the license or revoke it if it was incorrectly issued.

As previously stated, revoking a business registration certificate does not automatically bring a taxpayer into compliance: continued enforcement actions, including liens, 10-day letters, levies, issuance of successor liability assessments and personal contact by revenue agents and criminal investigators and other enhanced enforcement personnel bring delinquent taxpayers back into compliance or result in the business being seized and the assets sold.

SUMMARY

To summarize, the Department agrees that work needs to be done on the business registration process. In fact, the Department has already planned a major overhaul of its process and will work with the Secretary of State's Office on improving the process of registration. Discussions with the Secretary of State's Office are underway. The Department also agrees that the business registration database needs to be reviewed and deadwood removed, or accounts designated as inactive. This can be done partially by notifying taxpayers who did not renew their licenses since 2010 and have not filed any returns since then and closing these accounts. However, this is not without cost and use of valuable resources that are being used to address taxpayers known to be in business who are delinquent taxpayers.

The Department has approximately 100 vacant positions. While personnel hiring conditions have improved, the Department still has difficulty finding qualified applicants for the salaries we can pay. The Department could accomplish more if we had additional qualified employees. This situation has improved somewhat as a result of recommendations by the Governors Jobs Act and Tax Compliance Task Force and actions by the Legislature and the Department of Personnel.

Contrary to the Legislative Auditor's report statement, not filing returns does not mean a taxpayer is noncompliant. While PERD may assert that the Department can revoke business licenses due to failure to file returns, it is the position of the Department that it lacks statutory authority to simply revoke or cancel a business license due to inactivity. It is our position that the Department can only revoke or cancel a business license when a business willfully fails to file required returns.

The Department has greatly increased its enhanced enforcement actions since the beginning of 2017 and plans to continue to increase these efforts. The Department has recently reactivated its seizure program to pursue taxpayers who have failed to remit trust fund taxes and have a known finalized delinquency. It is our opinion that a targeted enforcement program is a more effective and productive use of the Department limited resources than engaging in widespread revocation of business registration certificates that belong to seemingly dormant businesses.

The Legislative Auditor has recommended that instituting a renewal process for business registration would be a more efficient way to address the issue of dormant or nonresponsive accounts. In addition, it could be helpful in updating addresses and information on active accounts. As more municipalities impose municipal sales and use taxes, it becomes more important to know where the business collecting the tax, or that should be collecting the tax, is physical located. This need will be even greater should the Home Rule Pilot Program be extended and expanded to all municipalities and should county commissions be authorized to impose sales and use taxes. Such a process could be performed using our online program, MyTaxes, as a platform allowing businesses to renew their licenses online quickly and securely.

Please do not hesitate to contact this office if you have any questions concerning this memorandum. Thank you for your cooperation.

Sincerely,



Dale W. Steager
State Tax Commissioner



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