

FLORIDA DEPARTMENT OF REVENUE



Taxpayer Rights Advocate

Annual Report

For the Fiscal Year

July 1, 2017 through June 30, 2018

Taxpayer Rights Advocate’s Annual Report FY17-18

Table of Contents

| | |
|---|-----------|
| Section 1: Taxpayer Rights and the Taxpayer Rights Advocate..... | 1 |
| Constitutional and Statutory Requirements for Taxpayer Rights | 1 |
| TRA’s Role Provided in Florida Statutes | 1 |
| TRA’s Limited Scope of Authority | 2 |
| TRA’s Resources | 2 |
| Overview of TRA’s Operations | 3 |
| Steps Taken by TRA to Improve Taxpayer Services..... | 4 |
| Steps TRA is Planning to Take to Improve Taxpayer Services | 4 |
| TRA’s Recommendations for Legislative Action | 5 |
| Section 2: TRA’s General Tax Operations | 6 |
| Overview of the DOR General Tax Process | 6 |
| Overview of TRA Procedures for Handling Taxpayer Complaints (Inquiries) | 7 |
| Categories for Taxpayer Complaints (Inquiries) Handled by TRA..... | 8 |
| Summary of Taxpayer Complaints (Inquiries) Handled by TRA | 9 |
| Common Problems and TRA’s Recommendations for Administrative Action..... | 10 |
| Section 3: TRA’s Independent Taxpayer Outreach Process | 14 |
| Introduction and Purpose of TRA’s Independent Taxpayer Outreach Process..... | 14 |
| Independent Survey Sampling of Audited Accounts | 14 |
| Response Trends for TRA’s Independent Survey..... | 15 |
| Summary of Survey Responses Requesting TRA Contact..... | 16 |
| Summary of All Survey Responses for RT Audits..... | 17 |
| Summary of All Survey Responses for CIT and SUT Audits..... | 19 |
| Summary of Independent Taxpayer Outreach Process | 21 |
| Section 4: Statutes Pertaining Directly to TRA | 23 |
| Section 20.21(3), F.S., Regarding the Taxpayer Rights Advocate..... | 23 |
| Section 213.018, F.S., Regarding the Taxpayer Rights Advocate | 24 |
| Section 213.015, F.S., Regarding the Taxpayer’s Bill of Rights..... | 25 |

Taxpayer Rights Advocate's Annual Report FY17-18

Section 1: Taxpayer Rights and the Taxpayer Rights Advocate

The Taxpayer Rights Advocate is a statutory position administratively placed within the Department of Revenue's Executive Direction and Support Services Program. In this report, the Florida Department of Revenue is denoted by the abbreviation DOR. The abbreviation TRA denotes the Office of the Taxpayer Rights Advocate. Under 2018 legislation, TRA is appointed by and reports to the Chief Inspector General and may be removed from office only by the Chief Inspector General. For administrative purposes only, TRA is under the general supervision of the DOR Executive Director. A copy of the 2018 statutes applicable to TRA operations is in Section 4 of this report.

Constitutional and Statutory Requirements for Taxpayer Rights

Article I, Section 25, of the Florida Constitution, provides for taxpayer rights in the State of Florida, and is presented below in its entirety.

***"Taxpayers' Bill of Rights.—**By general law the legislature shall prescribe and adopt a Taxpayers' Bill of Rights that, in clear and concise language, sets forth taxpayers' rights and responsibilities and government's responsibilities to deal fairly with taxpayers under the laws of this state. This section shall be effective July 1, 1993."*

"History.—Proposed by Taxation and Budget Reform Commission, Revision No. 2, 1992, filed with the Secretary of State May 7, 1992; adopted 1992."

The 1992 Florida Legislature passed legislation creating the Taxpayer's Bill of Rights. These rights are set forth in section 213.015, F.S. (2018), a copy of which is in Section 4 of this report. The Taxpayer's Bill of Rights specifies that Florida taxpayers have the right to request assistance from a DOR Taxpayer Rights Advocate, who is responsible for facilitating the resolution of taxpayer complaints and problems not resolved through the normal administrative channels within DOR. TRA's role is addressed further in sections 20.21(3) and 213.018, F.S., as discussed below.

TRA's Role Provided in Florida Statutes

Under section 20.21(3), F.S., TRA's responsibilities include: 1) facilitating the resolution of taxpayer complaints and problems which have not been resolved through normal administrative channels within DOR; 2) issuing a stay action on behalf of a taxpayer who has suffered or is about to suffer irreparable loss as a result of action by DOR; and 3) producing an annual report. Note: the requirement for TRA to produce an annual report was enacted in 2018. This report is the first under the new legislation.

Taxpayer Rights Advocate's Annual Report FY17-18

Section 213.018, F.S., clarifies that TRA's duty to facilitate the resolution of taxpayer complaints is to assure that taxpayer rights are safeguarded and protected during the tax determination and collection processes.

Section 213.018(2)(a), F.S., clarifies that a stay order, also referred to as a taxpayer assistance order, may be issued only as an extraordinary measure and cannot be used to contest the merits of a tax liability or as a substitute for informal protest procedures or normal administrative or judicial proceedings. Generally, it is not necessary for TRA to issue a stay order, because DOR generally cooperates in allowing TRA time to review taxpayer issues and facilitate resolution.

TRA's Limited Scope of Authority

Taxpayers or taxpayer representatives contact TRA regarding their unresolved issues relating to DOR's general tax process. TRA does not administer DOR's general tax process, which is administered by other DOR organizational units. While TRA works with other DOR organizational units, TRA is not authorized to act as a substitute for any of them.

TRA is not authorized to represent a taxpayer, but TRA can and does serve as an advocate for the rights of taxpayers under Florida law. In facilitating the resolution of taxpayer issues, TRA is bound by the same legal criteria as the organizational units that administer the general tax laws. TRA has no authority to create or impose rights or responsibilities not provided in law. TRA cannot serve as a substitute for the normal administrative or judicial proceedings for the review of tax determinations. See section 213.018(2)(a), F.S., in Section 4 of this report.

Unlike the general tax process, which is administered at the state level by DOR, the property tax process is administered in each county by local officials. Accordingly, TRA does not handle taxpayer inquiries about local property tax matters. When TRA receives such an inquiry, TRA refers it to DOR's Property Tax Oversight Program (PTO), which provides information to the taxpayer about the local property tax.

TRA's Resources

TRA relies upon the DOR Executive Director to provide needed resources. TRA has had two tax specialists available to confer with taxpayers regarding their questions and problems. These two positions consisted of the Taxpayer Rights Advocate and an experienced Tax Law Specialist. TRA receives part time support with advanced technical subjects from an Intra-Departmental Projects Administrator within DOR. TRA had another non-specialist support position that provided limited research and analysis assistance. This non-specialist position recently became vacant and, given TRA's increased workload, TRA requested that it be upgraded to a Tax Law Specialist and this request was granted. TRA is currently working to fill this new tax specialist position so

Taxpayer Rights Advocate's Annual Report FY17-18

that TRA will have three tax specialists to confer with taxpayers, conduct tax-related research, facilitate resolution of problems, assist in improving taxpayer rights training, assist in the development of better technology, and perform other duties.

The computer system available for TRA to maintain information about taxpayer inquiries during FY 2017-2018 was dated and not capable of handling the detailed information desired for TRA's first annual report produced under 2018 legislation. Therefore, this first annual report may lack some detail because the new report requirements were unknown until near the end of FY 2017-2018, which is the timeframe applicable to this first report under the new legislation. For FY 2018-2019, TRA was provided with a different information system expected to produce improved detail for the next annual report due at the end of 2019. However, due to the short timeframe available for designing, developing, and implementing this system, it is not perfect and will need substantial improvements in 2019. The design and development of a better system for coding, storing, and maintaining needed information will be an ongoing project.

Overview of TRA's Operations

TRA tax operations include receiving, evaluating, researching, and responding to customer inquiries regarding general tax matters, conducting a taxpayer outreach survey, and performing other tasks within DOR. TRA's general tax operations are described in Section 2 of this report. TRA's independent taxpayer outreach process is described in Section 3 of this report.

TRA's general tax operations are oriented around: 1) tax types, other facts, and applicable law; 2) DOR's general tax processes and procedures; and 3) the Florida Taxpayer's Bill of Rights in section 213.015, F.S. The complete text of the Taxpayer's Bill of Rights is in Section 4 of this report.

Other TRA tax-related operations include but are not limited to: 1) informing Florida taxpayers of their rights and TRA's role primarily through speaking engagements; 2) working with DOR management and staff to improve knowledge, processes, publications, and customer service; and 3) conducting TRA's independent taxpayer outreach process described in Section 3 of this report.

TRA works with management and staff in other DOR organizational units including the General Tax Administration Program (GTA), the Office of General Counsel (OGC), the Technical Assistance and Dispute Resolution office (TADR), the Property Tax Oversight Program (PTO), the Information Systems Program (ISP), the Office of Workforce Management, the Inspector General's office and the Executive Director's office. In these working relationships, TRA provides and receives information and assistance.

The subjects of these interactions may include but are not limited to: responses to customer inquiries, taxpayer surveys, audits, discovery, collections, operational research

Taxpayer Rights Advocate's Annual Report FY17-18

and trends, the hiring process, customer service, website improvements, technology development, tax-related research, process improvements, rulemaking, statistical sampling, data review and analysis, legislative review, litigation, education and training, and technical advisories.

Steps Taken by TRA to Improve Taxpayer Services

These steps include the following.

- Annual Employee Training and Acknowledgement of the Taxpayer Bill of Rights: Under this initiative, each DOR employee involved in the general tax process must now complete training on the Taxpayer's Bill of Rights and acknowledge that the employee understands the content and will comply. This training was enhanced to include a requirement that employees complete a quiz to pass the training.
- Improved Internet Presence of TRA: DOR's main webpage was improved to include quick links to the Taxpayer's Bill of Rights and to information about TRA. This improved public access to information on taxpayer rights and TRA services.
- TRA's Independent Taxpayer Outreach Process for Audited Taxpayers: This was initiated to give a periodic random sample of audited taxpayers an opportunity to provide feedback by completing a TRA survey form. This outreach effort is entirely independent of those involved in DOR's general tax processes.
- Design and Development of an Improved Information System: This fast-track project was initiated in response to 2018 legislation requiring TRA to perform more detailed analyses of taxpayer problems and provide recommended solutions. As noted previously, this project will be ongoing in the foreseeable future.
- Expanded Subject Matter Expertise: When a non-specialist position became vacant, TRA requested that the position be upgraded to a Tax Law Specialist, which will provide a third TRA tax specialist to confer with taxpayers, conduct tax-related research, resolve taxpayer problems, and perform related duties to serve taxpayers.

Steps TRA is Planning to Take to Improve Taxpayer Services

These steps include the following.

- Ensuring that Audited Taxpayers Receive a Copy of the Taxpayer's Bill of Rights: TRA will recommend that each audited taxpayer be provided with a copy of the Taxpayer's Bill of Rights both at the beginning of the audit and at the time a Notice of Proposed Assessment is issued when the audit is completed.

Taxpayer Rights Advocate's Annual Report FY17-18

- Review of the Taxpayer Outreach Process: TRA will review the independent survey of audited taxpayers and make any changes that could provide more information on ways to improve tax administration and taxpayer services.
- Enhanced Training on the Taxpayer Bill of Rights for DOR Employees: TRA will recommend that this training be enhanced to include examples of applying the bill of rights and that the training quiz be expanded.
- Implementation of Training for Taxpayers on the Taxpayer Bill of Rights: TRA will recommend that DOR expand its online training for taxpayers to include training for taxpayers on the Taxpayer's Bill of Rights.
- Design and Development of an Improved Information System: This project will be ongoing in the foreseeable future to enable TRA to develop and apply better coding systems to facilitate more detailed analyses of taxpayer problems.

TRA's Recommendations for Legislative Action

In 2018, the Legislature enacted a requirement for TRA to recommend legislative action as appropriate to resolve problems encountered by taxpayers. A common problem is a lack of taxpayer knowledge regarding taxpayer rights in the taxation process. There is also a need to improve DOR employees' knowledge and implementation of taxpayer rights. The opening paragraph in section 213.015, F.S., commonly known as the Florida Taxpayer's Bill of Rights, states in part: "*The rights afforded taxpayers to ensure that their privacy and property are safeguarded and protected during tax assessment and collection are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue.*"

However, in the Taxpayer's Bill of Rights, subsections (1), (5), (17), (19), and (21) lack any references to other statutes that implement these five subsections. TRA believes this statutory deficiency should be addressed to help ensure that taxpayers are afforded their rights fairly and consistently. The statutes should contain affirmative, specific duties for the agency to act to ensure that all taxpayers are afforded their rights under Florida law. Accordingly, TRA recommends legislation to implement, in other parts of Florida Statutes, the following five subsections from the Taxpayer's Bill of Rights.

(1) The right to available information and prompt, accurate responses to questions and requests for tax assistance.

(5) The right to obtain simple, nontechnical statements which explain the reason for audit selection and the procedures, remedies, and rights available during audit, appeals, and collection proceedings, including, but not limited to, the rights pursuant to this Taxpayer's Bill of Rights and the right to be provided with a narrative description which explains the basis of audit changes,

Taxpayer Rights Advocate's Annual Report FY17-18

proposed assessments, assessments, and denials of refunds; identifies any amount of tax, interest, or penalty due; and states the consequences of the taxpayer's failure to comply with the notice.

(17) The right to have the department actively investigate and, where appropriate, implement automated or electronic business methods that enable the department to more efficiently and effectively administer the revenue sources of this state at less cost and effort for taxpayers.

(19) The right to participate in free educational activities that help the taxpayer successfully comply with the revenue laws of this state.

(21) The right to fair and consistent application of the tax laws of this state by the Department of Revenue.

The impact of this recommended legislation will be to improve the implementation of the Florida Taxpayer's Bill of Rights.

Section 2: TRA's General Tax Operations

This section describes TRA's general tax operations, which are oriented around: 1) tax types, other facts, and applicable law, 2) DOR's general tax processes and procedures, and 3) the Florida Taxpayer's Bill of Rights set forth in section 213.015, F.S. The complete text of the Taxpayer's Bill of Rights is in Section 4 of this report. Florida law provides for taxpayer rights, and these rights must be observed and protected.

Overview of the DOR General Tax Process

DOR is responsible for administering Florida's state tax laws in a fair, consistent, and efficient manner. Promoting voluntary compliance is an important part of DOR's mission to ensure that all taxpayers pay their applicable taxes. To promote voluntary compliance, DOR provides a taxpayer education webpage that explains how taxpayers can access DOR's educational publications, online tutorials, and webinars. DOR implemented the webinars in partnership with SCORE (Service Corps of Retired Executives), a nonprofit association of volunteer business counselors.

DOR also has an obligation to monitor compliance and take necessary action to encourage compliance with tax laws. DOR's tax administration duties include conducting audits and performing discovery and collection activities. In DOR's administration of tax laws, the rights of taxpayers must be observed and protected. During the audit process, DOR reportedly provides audited taxpayers with information on taxpayer rights, but TRA recommends that DOR establish a requirement that each audited taxpayer be provided a copy of the Taxpayer's Bill of Rights at the beginning and end of each audit.

Taxpayer Rights Advocate's Annual Report FY17-18

DOR's general tax process is administered primarily by a DOR organizational unit known as the General Tax Administration Program (GTA). Another DOR organizational unit, known as Technical Assistance and Dispute Resolution (TADR), also has a key role in DOR's general tax process by: 1) providing technical assistance services to taxpayers, taxpayer representatives, and GTA, and 2) providing dispute resolution services when taxpayers dispute tax assessment or refund determinations made by GTA. Additionally, DOR's Office of General Counsel (OGC) provides legal review of general tax issues.

TRA is independent of GTA and TADR and, under Florida law, TRA cannot serve as a substitute for GTA and TADR. Likewise, TRA cannot serve as a substitute for the normal administrative or judicial proceedings for the review of tax determinations. See section 213.018(2)(a), F.S.

TRA routinely interacts with GTA, TADR, and OGC regarding the general tax process. TRA uses GTA computer systems to verify information or conduct research.

DOR partners in the general tax process include, but are not limited to, the following.

- Taxpayers
- Businesses and employers
- Local governments
- Third party debt collectors
- National tax associations
- Tax Section of the Florida Bar
- Professional accounting organizations such as FICPA and AICPA
- Florida Department of Agriculture and Consumer Services
- Florida Department of Economic Opportunity
- U.S. Department of Labor
- Internal Revenue Service
- U.S. Customs Service

DOR administers over 30 taxes and fees, including the sales and use tax, reemployment assistance tax, documentary stamp tax, corporate income tax, motor fuel tax, communication services tax, and insurance premium tax, among others.

Overview of TRA Procedures for Handling Taxpayer Complaints (Inquiries)

Note: In this report, the terms "inquiries" and "complaints" are used as synonymous terms. Under 2018 legislation, the term "complaint" is used in connection with problem areas for which TRA is expected to recommend corrective action. Each taxpayer inquiry, regardless of whether it meets the strict definition of a complaint, can provide useful information on ways to improve tax administration and taxpayer services and, thus, is useful for addressing statutory requirements.

Taxpayer Rights Advocate's Annual Report FY17-18

In handling taxpayer inquiries, TRA generally needs to ask questions of the customer and conduct some research to identify the tax type involved and other pertinent facts of the case. The tax type and other facts help TRA identify the problem and a reasonable solution consistent with facts and law. In many cases, handling general tax inquiries involves extensive research and communication to identify or verify the facts needed for appropriate handling of the inquiry.

Additionally, handling general tax inquiries often requires TRA to research statutes, rules, and agency procedures to identify reasonable solutions. It is necessary to identify the standards applicable to the facts of the tax matter that is the subject of the inquiry. These standards include substantive law and the Taxpayer's Bill of Rights set forth in section 213.015, F.S. In handling taxpayer inquiries, TRA is bound by the same standards as GTA in administering the general tax process. Generally, tax inquiries received by TRA involve complex issues.

Categories for Taxpayer Complaints (Inquiries) Handled by TRA

For reporting purposes, the taxpayer complaints handled by TRA are categorized by the four tax types listed and summarized below. These four tax types (Sales and Use Tax, Reemployment Assistance Tax, Documentary Stamp Tax, and Corporate Income Tax) comprise about 97 percent of the taxpayer complaints handled by TRA. The fifth complaint category is a general category that comprises only about three percent of all taxpayer complaints handled by TRA. Categorizing inquiries by tax type helps to facilitate research, communication, and problem identification.

- **Sales and Use Tax:** This inquiry type refers to inquiries about the taxes provided in Chapter 212, F.S. It includes the state sales tax, the use tax, and the discretionary sales surtax. The sales tax is applied to transactions such as: retail sales of taxable items; rentals, leases, or other licenses to use real property; and rentals of short-term living accommodations such as hotel rooms. The use tax is due on the use or consumption of taxable goods or services when sales tax was not paid at the time of purchase. In most counties, there is a discretionary sales surtax that applies to most transactions subject to the sales or use tax. The discretionary sales surtax is a local-option, county-imposed tax that is collected along with sales tax; it is then sent to DOR and DOR distributes the tax to counties for use in funding authorized local projects.
- **Reemployment Assistance Tax:** This inquiry type refers to inquiries about the reemployment assistance tax provided in Chapter 443, F.S. This is a tax on wages paid by Florida employers to provide partial, temporary income to workers who lose their jobs through no fault of their own and who are able and available to work.

Taxpayer Rights Advocate’s Annual Report FY17-18

- **Documentary Stamp Tax:** This inquiry type refers to inquiries about the tax provided in sections 201.02, 201.07, and 201.08, F.S. This is an excise tax on documents such as deeds, bonds, notes and other written obligations to pay money, and mortgages, liens, and other evidences of indebtedness.
- **Corporate Income Tax:** This inquiry type refers to inquiries about the tax provided in Chapter 220, F.S. Generally, all corporations, associations, or entities doing business, earning income, or existing in Florida are required to file a Florida Corporate Income/Franchise Tax Return.
- **Other General Tax Inquiries:** This category may include inquiries regarding other tax types such as motor fuel tax, communication services tax, insurance premium tax, or other taxes or fees administered by DOR.

Summary of Taxpayer Complaints (Inquiries) Handled by TRA

Note: In this report, the terms “inquiries” and “complaints” are used as synonymous terms. Under 2018 legislation, the term “complaint” is used in connection with problem areas for which TRA is expected to recommend corrective action. Each taxpayer inquiry, regardless of whether it meets the strict definition of a complaint, can provide useful information on ways to improve tax administration and taxpayer services and, thus, is useful for addressing statutory requirements.

Taxpayer inquiries handled by TRA in FY 2017-2018 are summarized in Table 1 below.

TABLE 1

| General Tax Inquiries Handled by the Taxpayer Rights Advocate in FY 2017-2018 | | |
|--|----------------------------|-----------------------------------|
| Tax Type | Number of Inquiries | Percent of Total Inquiries |
| Sales and Use Tax | 490 | 67% |
| Reemployment Assistance Tax | 102 | 14% |
| Documentary Stamp Tax | 73 | 10% |
| Corporate Income Tax | 44 | 6% |
| Other General Tax Inquiries | 22 | 3% |
| Totals = | 731 | 100% |

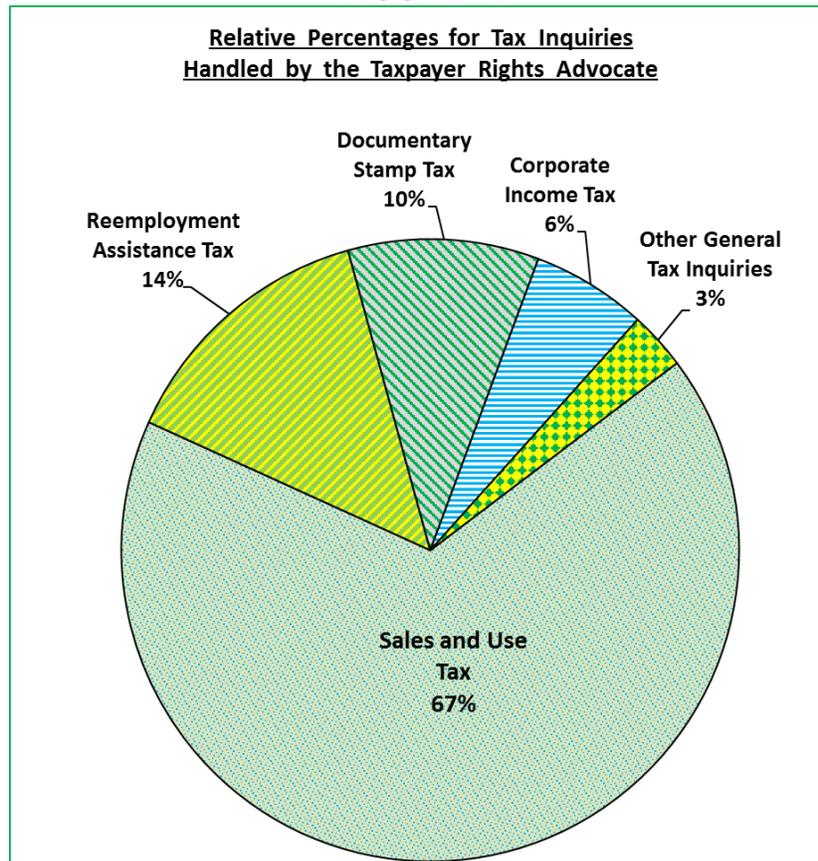
The first column above shows the tax type, or category, for the inquiries handled by TRA. The second column shows the number of inquiries handled by tax type. The third

Taxpayer Rights Advocate's Annual Report FY17-18

column shows the number of inquiries for each tax type expressed as a percentage of the total inquiries for the year and these relative percentages were used to create Figure 1 below.

Inquiries in the Sales and Use Tax category comprise about two-thirds of all general tax inquiries handled by TRA. This high relative percentage is not surprising given the large number of taxpayer accounts involved and the magnitude of this tax type. Information provided to TRA by a DOR representative indicates that the Sales and Use Tax comprised about 72 percent of DOR administered revenues in FY 2017-2018.

FIGURE 1



Common Problems and TRA's Recommendations for Administrative Action

Described below are some common problems encountered by taxpayers, along with TRA's recommended administrative solutions.

- Problem: Taxpayers often lack knowledge of the taxation process and lack knowledge of the consequences of not meeting deadlines, not responding to notices, and otherwise not taking responsive actions during the taxation process.

Taxpayer Rights Advocate's Annual Report FY17-18

TRA often receives inquiries from taxpayers who inquire about collection activities taken by DOR against the taxpayer, such as filing tax warrants or freezing bank accounts.

TRA Recommendation: DOR should continue efforts to educate taxpayers on the taxation process and ensure that each notice sent to taxpayers explains these consequences. Also, DOR notices sent to taxpayers should provide contact information for a DOR representative who is knowledgeable about the tax type and notice type sent to the taxpayer and the potential consequences the taxpayer could face for not responding or for noncompliance in the taxation process.

- Problem: Taxpayers are often not aware of the provisions of the Taxpayer's Bill of Rights, including the right to procedures for the retirement of tax obligations by installment payment agreements which may be available under certain conditions. TRA often receives calls from audited taxpayers with questions about the audit including the question of why the taxpayer is being audited.

TRA Recommendation: DOR should provide education and training for taxpayers on the Taxpayer's Bill of Rights, and should require that a copy of the Taxpayer's Bill of Rights is provided and explained to each audited taxpayer both at the beginning and end of each audit. Taxpayers should also receive an explanation of why they are being audited.

- Problem: Many taxpayers are not aware of DOR's authority, under certain factual situations and where consistent with law, to compromise and settle tax, interest, penalties, or fees. This authority has been delegated in writing to certain positions within DOR, but this authority does not appear to be exercised as delegated.

TRA Recommendation: Where consistent with facts and as allowed by law, DOR should exercise its delegated authority to compromise and settle these matters.

- Problem: During the collections process after an audit, if the taxpayer provides a statement of facts alleging that DOR is in error, collections staff may, but are not required to, perform a discretionary evaluation to ensure DOR is only seeking to collect taxes that are owed. TRA often receives inquiries from taxpayers in the collections process regarding these reviews. The objectivity of some of these reviews needs improvement and some of the written reviews need more descriptive information.

TRA Recommendation: DOR should ensure that these discretionary reviews are conducted in an impartial, objective manner by persons with training and skill in evaluating the relevance and sufficiency of evidence and making written findings thereon that provide succinct explanations and reasons for the determination.

Taxpayer Rights Advocate's Annual Report FY17-18

- Problem: In handling taxpayer inquiries, sometimes a taxpayer will state to TRA that he or she did not receive notice or correspondence from DOR on a matter. In researching the inquiry, TRA will learn that DOR records show that DOR sent the document to the taxpayer but the system is unable to generate an original copy of the document sent to the taxpayer and TRA is unable to send to the taxpayer a copy of the original. Other times, taxpayers will state that they sent certain documents to DOR, but these documents will not be available in accessible electronic format.

TRA Recommendation: DOR should develop a system that maintains, in accessible electronic format, all original documents sent to or received from taxpayers.

- Problem: This problem is specific to the documentary stamp tax. Many taxpayers are not aware that certain documents involving real property transfers are subject to the excise tax on documents. Because of the operation of this tax and the associated time lags involved, it may be a few years (usually one to three) before the taxpayer learns the Department has audited the transfer instrument and made a tax assessment. In some cases, the taxpayer becomes aware of the tax liability when the taxpayer learns that a DOR tax lien appears on the taxpayer's credit report. These types of taxpayers are among the most upset customers served by TRA.

TRA Recommendation: DOR should expand efforts to provide information and education for Clerk of Court staff, lenders, and those involved in real estate closings including agents and attorneys. If not already done, DOR should develop an outreach plan to provide information and education to make these persons and taxpayers aware of the conditions under which this tax would be due.

- Problem: This problem is specific to the documentary stamp tax. Often documentary stamp taxpayers do not receive notices and collections letters about a documentary stamp tax liability. This is because DOR sends notices and correspondence to the last known address of the taxpayer which may be the address of the transferred property. A common scenario is that the taxpayer no longer lives at the property and, thus, does not receive the DOR notices and correspondence. Sometimes the taxpayer becomes aware of the tax liability when the taxpayer learns that a DOR tax lien appears on the taxpayer's credit report. The taxpayer can have difficulty obtaining a copy of DOR's tax warrant against the taxpayer because DOR does not maintain a publicly accessible database of its tax warrants.

TRA Recommendation: DOR should develop a plan to better identify contact information for these types of taxpayers so that the taxpayer can receive notices and correspondence regarding the tax liability. Also, DOR should make available a public database of its tax warrants with sufficient information to enable taxpayers to find and obtain a copy of the tax warrant.

Taxpayer Rights Advocate's Annual Report FY17-18

- Problem: This problem is specific to the reemployment assistance tax. Taxpayers subject to the reemployment assistance tax are often not aware of a key filing requirement and, as result, are assessed penalties when they do not comply with this requirement. At the top of Form RT-6, just under the form title, the following statement appears: "*Employers are required to file quarterly tax/wage reports regardless of employment activity or whether any taxes are due.*" (underlining added for emphasis). This important notice appears in a font that is small, light, and very difficult to notice.

TRA Recommendation: DOR should ensure that its taxpayer education efforts for the reemployment assistance tax address this filing requirement and the consequences of not filing this form. Also, TRA recommends that Form RT-6 be amended to increase the legibility of the statement notifying taxpayers of their duty to file this form "*regardless of employment activity or whether any taxes are due.*" Also, a linked web address should be provided on this form to take taxpayers to a calendar of due dates for filing.

- Problem: This problem is specific to the reemployment assistance tax. The rate for the reemployment assistance tax may change from year-to-year. Taxpayers are sometimes not aware of this year-to-year change and, as a result, use an incorrect rate in calculating their tax for a particular year.

TRA Recommendation: A linked web address should be provided on Form RT-6 to take taxpayers to a web page to find the correct tax rate.

- Problem: This problem is specific to the corporate income tax. Corporations that are classified by the IRS as subchapter S corporations are not required to file the Florida corporate income tax. DOR conducts a data match with the Florida Department of State, Division of Corporations, to identify corporations that are registered with the Division of Corporations but are not registered with DOR. These unregistered corporations will receive a penalty notice from DOR for failure to file the Florida corporate income tax. Upon proof that the corporation is a subchapter S corporation, DOR updates its database and removes the penalty.

TRA Recommendation: DOR should work with the Department of State, Division of Corporations, to find ways of proactively identifying subchapter S corporations, thereby reducing the DOR work effort and reducing this unnecessary burden of taxpayers having to prove that they are legitimate subchapter S corporations.

Taxpayer Rights Advocate’s Annual Report FY17-18

Section 3: TRA’s Independent Taxpayer Outreach Process

Introduction and Purpose of TRA’s Independent Taxpayer Outreach Process

The purpose of TRA’s taxpayer outreach process is to obtain independent taxpayer feedback on DOR’s audits of taxpayer accounts. The taxpayer outreach process is focused on the following three state taxes: Corporate Income Tax (CIT); Sales and Use Tax (SUT); and Reemployment Assistance Tax (RT or RAT). The outreach process is based on a random sample of audited accounts drawn periodically by TRA from the population of audited accounts for each of these three tax types.

In this section on TRA’s independent outreach process, the term “taxpayer” denotes both the actual person or entity responsible for paying taxes and any authorized representatives of the actual taxpayer who complete and return survey forms.

Independent Survey Sampling of Audited Accounts

TRA conducts the outreach process independently of GTA. To enable TRA to obtain the population of audited accounts for sampling, GTA provides TRA with independent, direct, read-only access to the GTA audit databases containing information about the accounts for which GTA completed an audit for the CIT, SUT, or RT. For each of these tax types, TRA draws an independent, stratified random sample from the population of taxpayer accounts for which an audit was recently completed. A completed audit is one where GTA has issued a Notice of Proposed Assessment (NOPA).

Table 2 below contains an example of a periodic sampling plan employed by TRA. This example shows how a periodic sample size of 50 audited accounts was prorated for the CIT, SUT, and RT accounts based on their relative percentages of the total population of audited accounts. The last column in Table 2 shows the number of audited accounts for each tax type that TRA randomly selected for the survey.

Taxpayer Rights Advocate's Annual Report FY17-18

TABLE 2

| Example of Stratified Random Sampling Plan for CIT-SUT-RT Audits | | | | | |
|---|--|---|-------------------------------------|---|--|
| Population Analysis and Sample Allocation for Audited Accounts | | | | | |
| Type of Audited Account | Population Size for Each Audit Type | Audit Type Population as a % of Total Population | Overall Periodic Sample Size | Prorated Allocation of Sample Size | Applied Allocation of Sample Size |
| Corporate Income Tax | 82 | 6.4% | 50 | 3.20 | 3.0 |
| Sales and Use Tax | 655 | 51.1% | 50 | 25.55 | 26.0 |
| Reemployment Tax | 545 | 42.5% | 50 | 21.26 | 21.0 |
| Totals | 1,282 | 100.0% | | 50.00 | 50 |

NOTE: Due to rounding, sometimes applied sample size will not equal planned sample size.

TRA uses a random number generator to draw a random sample of audited taxpayer accounts from each of the three tax types. For each of these randomly selected accounts, TRA sends a letter and survey form to the audited taxpayer to provide the taxpayer with an opportunity to give feedback by returning a survey. The letter explains that the taxpayer can provide feedback by completing and returning the form. TRA uses a survey form containing nine survey items (see Tables 5 and 6 for a listing of these items) and the following five response categories: Far Exceeded Expectations, Exceeded Expectations, Met Expectations, Fell Below Expectations, and Fell Far Below Expectations.

Response Trends for TRA's Independent Survey

In Table 3 below, Column 2 shows that TRA sent post-audit survey forms to a total of 553 randomly selected, audited taxpayers with audits completed in FY 2017-2018. Column 3 in Table 3 shows that these taxpayers returned a total of 98 completed surveys, resulting an overall survey response rate of 17.7 percent (see bottom of Column 4 in Table 3). The overall response rate of 17.7 percent was calculated by dividing the total surveys returned (98) by the total surveys sent (553).

As seen by comparing Columns 5 and 6 in Table 3 below, TRA's sampling plan is designed to provide a representative sample of audited taxpayers with an opportunity to give feedback on the audit process. However, TRA has no control over the number or representativeness of taxpayer responses to the survey. The surveys sent were for accounts selected at random, but the surveys returned were selected solely at the responding taxpayer's discretion. Thus, the returned surveys are non-probability samples, which are a common, imperfect, and cost-effective way of obtaining customer feedback through surveys.

Taxpayer Rights Advocate's Annual Report FY17-18

The differences between the percentages in Columns 5 and 7 are attributable to the variation in survey response rates in Column 4.

TABLE 3

| Relative Percentages for Population of Audited Accounts, Surveys Sent, and Surveys Returned for FY 2017-2018 | | | | | | | |
|---|--|------------------------|----------------------------|----------------------|---|-------------------------|-----------------------------|
| Column | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Type of Audited Account | Number of Accounts in Audited Population | Number of Surveys Sent | Number of Surveys Returned | Survey Response Rate | Percent of Accounts in Audited Population | Percent of Surveys Sent | Percent of Surveys Returned |
| CIT | 835 | 30 | 1 | 3.3% | 5.5% | 5.4% | 1.0% |
| SUT | 8,644 | 313 | 52 | 16.6% | 57.1% | 56.6% | 53.1% |
| RT | 5,662 | 210 | 45 | 21.4% | 37.4% | 38.0% | 45.9% |
| Totals | 15,141 | 553 | 98 | 17.7% | 100.0% | 100.0% | 100.0% |

Summary of Survey Responses Requesting TRA Contact

Of the 98 audited taxpayers who returned a completed TRA survey, four responded affirmatively to the survey question regarding TRA contact, indicating a TRA contact request rate of about 4.1 percent. In each case, the taxpayer's verbal feedback was consistent with the survey responses summarized in Table 4 below.

TABLE 4

| Summary of Survey Responses Requesting TRA Contact | | | | | | | | |
|--|------------|------------|---------------------------|-----------------------|------------------|-------------------------|-----------------------------|----------------------|
| Survey No. | Audit Type | Left Blank | Far Exceeded Expectations | Exceeded Expectations | Met Expectations | Fell Below Expectations | Fell Far Below Expectations | Total Item Responses |
| 1 | RAT | | 9 | | | | | 9 |
| 2 | SUT | | 5 | 1 | 3 | | | 9 |
| 3 | SUT | | | 3 | 6 | | | 9 |
| 4 | SUT | | | 5 | 4 | | | 9 |
| Category Totals = | | | 14 | 9 | 13 | 0 | 0 | 36 |
| Percent of Total = | | | 38.9% | 25.0% | 36.1% | 0.0% | 0.0% | |
| Percent of Item Responses Indicating Taxpayer Expectations were Met or Exceeded = | | | | | | | | 100.0% |

The second row in Table 4 includes the five survey response categories from which a taxpayer can select in responding to TRA's survey which contains nine survey items (for

Taxpayer Rights Advocate's Annual Report FY17-18

a listing of these nine survey items, see Tables 5 and 6 on pages 18 and 20). The five response categories are: Far Exceeded Expectations, Exceeded Expectations, Met Expectations, Fell Below Expectations, and Fell Far Below Expectations.

In Table 4, the first three response categories are highlighted in yellow because, when combined, the percentages in these response categories provide an indication of taxpayer satisfaction with these four audits. The last row in Table 4 shows a composite satisfaction indication of 100 percent for these four survey responses. However, caution is urged in drawing conclusions from the information in Table 4 due to the small number of taxpayers requesting TRA contact and due to other reasons described below.

As noted in Table 4, none of the survey items were left blank and each of the four respondents completed all nine survey items. Post-audit survey respondents who requested contact are generally expected to be less satisfied than all respondents, but that was not the case in FY 2017-2018.

The sample survey responses summarized in Table 4 are solely from audited taxpayers who returned a survey requesting TRA contact. The survey results in Table 4 represent only a very small subset of all respondents and exclude the 94 survey respondents who did not request TRA contact. The audit satisfaction indication in Table 4 may not be representative of all respondents nor of all audited taxpayers and should not be relied upon for conclusions about the audit satisfaction of all respondents nor of all audited taxpayers. The audit satisfaction indication in Table 4 can only be relied upon to show the overall audit satisfaction for the four survey responses summarized in Table 4.

Summary of All Survey Responses for RT Audits

Table 5 on page 18 contains a summary of taxpayer feedback on 45 RT audits completed during July 2017 through June 2018. Of these 45 audited taxpayers who returned a survey to TRA, 44 of them did not request TRA contact and one of them did.

In Table 5, the third row includes the five survey response categories from which a taxpayer can select in responding to each of the nine TRA survey items listed in the second column. The first three response categories are highlighted in yellow because, when combined, the percent of item responses in these three categories provides an indication of taxpayer satisfaction with the audits. The last column in Table 5 contains the combined percent of item responses indicating the extent to which taxpayer expectations were met or exceeded.

The end of the last row in Table 5 contains a composite satisfaction indication (96.9 percent) which encompasses taxpayer responses for all nine TRA survey items within the first three response categories. This composite indication has the added benefit of including responses to all survey items.

Taxpayer Rights Advocate's Annual Report FY17-18

TABLE 5

Summary of All Survey Responses for RT Audits Completed July 2017 through June 2018

A total of 45 RT taxpayer surveys were returned. Some survey items were left blank, and these were excluded from the total number of item responses and from calculations of the percent of item responses indicating taxpayer expectations were met or exceeded.

| Item ID | TRA Survey Items | Left Blank | Far Exceeded Expectations | Exceeded Expectations | Met Expectations | Fell Below Expectations | Fell Far Below Expectations | Total Item Responses | Met or Exceeded |
|---|--|------------|---------------------------|-----------------------|------------------|-------------------------|-----------------------------|----------------------|-----------------|
| a. | Promptness of the auditor in keeping appointments | 4 | 36.6% | 24.4% | 36.6% | 0.0% | 2.4% | 41 | 97.6% |
| b. | Lack of disruptions to your business by the auditor | 1 | 38.6% | 25.0% | 36.4% | 0.0% | 0.0% | 44 | 100.0% |
| c. | Appropriate length of time to conduct the audit | 0 | 37.8% | 26.7% | 28.9% | 4.4% | 2.2% | 45 | 93.3% |
| d. | Professionalism of the auditor | 0 | 60.0% | 24.4% | 13.3% | 0.0% | 2.2% | 45 | 97.8% |
| e. | Auditor's knowledge of the audit/tax issues | 2 | 51.2% | 20.9% | 23.3% | 4.7% | 0.0% | 43 | 95.3% |
| f. | Education you received about Florida's tax law | 4 | 26.8% | 26.8% | 39.0% | 4.9% | 2.4% | 41 | 92.7% |
| g. | Auditor's explanation of any proposed adjustments | 5 | 42.5% | 30.0% | 27.5% | 0.0% | 0.0% | 40 | 100.0% |
| h. | Auditor's explanation of your appeal rights, including procedures and the time available for you to exercise such rights | 4 | 39.0% | 14.6% | 43.9% | 0.0% | 2.4% | 41 | 97.6% |
| i. | Your overall audit experience | 0 | 42.2% | 26.7% | 28.9% | 0.0% | 2.2% | 45 | 97.8% |
| Total Item Responses for Each Category = | | | 161 | 94 | 118 | 6 | 6 | 385 | 373 |
| Percent of Total for Each Response Category = | | | 41.8% | 24.4% | 30.6% | 1.6% | 1.6% | | 96.9% |

Taxpayer Rights Advocate's Annual Report FY17-18

Summary of All Survey Responses for CIT and SUT Audits

Table 6 on page 20 contains a summary of taxpayer feedback on one CIT audit and 52 SUT audits completed during July 2017 through June 2018. Of these 53 audited taxpayers who returned a survey to TRA, 50 of them did not request TRA contact and three of them did (these three had an SUT audit).

In Table 6, the third row includes the five survey response categories from which a taxpayer can select in responding to each of the nine TRA survey items listed in the second column. The first three response categories are highlighted in yellow because, when combined, the percent of item responses in these three categories provides an indication of taxpayer satisfaction with the audits. The last column in Table 6 contains the combined percent of item responses indicating the extent to which taxpayer expectations were met or exceeded.

The end of the last row in Table 6 contains a composite satisfaction indication (99.1 percent) which incorporates taxpayer responses for all nine TRA survey items within the first three response categories. This composite indication has the added benefit of including responses to all survey items.

Note: The CIT and SUT survey results are combined and presented together because of the relatively small number of CIT audits and survey responses. Calculated separately, the composite satisfaction indications for the CIT and SUT are 100.0 and 99.1, respectively.

Taxpayer Rights Advocate's Annual Report FY17-18

TABLE 6

| Summary of All Survey Responses for CIT & SUT Audits Completed July 2017 through June 2018 | | | | | | | | | |
|--|--|------------|---------------------------|-----------------------|------------------|-------------------------|-----------------------------|----------------------|-----------------|
| A total of one CIT and 52 SUT taxpayer surveys were returned. Some survey items were left blank, and these were excluded from the total number of item responses and from calculations of the percent of item responses indicating taxpayer expectations were met or exceeded. | | | | | | | | | |
| Item ID | TRA Survey Items | Left Blank | Far Exceeded Expectations | Exceeded Expectations | Met Expectations | Fell Below Expectations | Fell Far Below Expectations | Total Item Responses | Met or Exceeded |
| a. | Promptness of the auditor in keeping appointments | 7 | 43.5% | 21.7% | 32.6% | 2.2% | 0.0% | 46 | 97.8% |
| b. | Lack of disruptions to your business by the auditor | 7 | 39.1% | 21.7% | 37.0% | 2.2% | 0.0% | 46 | 97.8% |
| c. | Appropriate length of time to conduct the audit | 3 | 30.0% | 38.0% | 28.0% | 2.0% | 2.0% | 50 | 96.0% |
| d. | Professionalism of the auditor | 2 | 52.9% | 27.5% | 19.6% | 0.0% | 0.0% | 51 | 100.0% |
| e. | Auditor's knowledge of the audit/tax issues | 2 | 51.0% | 21.6% | 27.5% | 0.0% | 0.0% | 51 | 100.0% |
| f. | Education you received about Florida's tax law | 4 | 32.7% | 30.6% | 36.7% | 0.0% | 0.0% | 49 | 100.0% |
| g. | Auditor's explanation of any proposed adjustments | 1 | 44.2% | 21.2% | 34.6% | 0.0% | 0.0% | 52 | 100.0% |
| h. | Auditor's explanation of your appeal rights, including procedures and the time available for you to exercise such rights | 3 | 40.0% | 22.0% | 38.0% | 0.0% | 0.0% | 50 | 100.0% |
| i. | Your overall audit experience | 0 | 37.7% | 37.7% | 24.5% | 0.0% | 0.0% | 53 | 100.0% |
| Total Item Responses for Each Category = | | | 185 | 121 | 138 | 3 | 1 | 448 | 444 |
| Percent of Total for Each Response Category = | | | 41.3% | 27.0% | 30.8% | 0.7% | 0.2% | | 99.1% |

Taxpayer Rights Advocate's Annual Report FY17-18

Summary of Independent Taxpayer Outreach Process

DOR's audits of taxpayer accounts are part of the fair and consistent administration of Florida's state tax laws. These audits are conducted to encourage compliance with Florida tax laws, educate taxpayers about those laws, and promote voluntary compliance. However, it is fair to say that few taxpayers are pleased to receive an audit notice from DOR and some taxpayer dissatisfaction with the audits is normal and expected.

Table 7 contains summaries of all taxpayer responses to post-audit surveys conducted separately by TRA and GTA. The second column titled "Type of Taxpayer Outreach" denotes that TRA provided a random sample of audited taxpayers with an opportunity to give feedback by returning a survey and that GTA provided the same opportunity to each of the audited taxpayers. However, the surveys returned (see fourth column titled "Number of Surveys Returned") were selected solely at the responding taxpayer's discretion. Thus, the last two columns in Table 7 show the survey results of non-probability samples, which are a common, imperfect, and cost-effective way of obtaining customer feedback through surveys. The taxpayer feedback collected in TRA's independent outreach process does not show evidence of a systemic problem in the audit process. However, there can still be problems not reflected in survey responses.

Table 7

| Audit Satisfaction Indications for All Taxpayer Responses to TRA's and GTA's Post-Audit Surveys for FY17-18 | | | | |
|--|----------------------------------|--------------------------|-----------------------------------|---------------------------------------|
| Reporting Unit | Type of Taxpayer Outreach | Audit Survey Type | Number of Surveys Returned | Audit Satisfaction Indications |
| TRA | Random Sample | RT | 45 | 96.9% |
| GTA | Population | RT | 157 | 96.1% |
| TRA | Random Sample | CIT & SUT | 53 | 99.1% |
| GTA | Population | CIT & SUT | 154 | 91.6% |

The TRA and GTA audit satisfaction indications in the last column in Table 7 are notably consistent for the RT. However, the difference between the satisfaction indications was a bit higher for the CIT and SUT survey results. A possible reason for this is that GTA's survey invitation is sent to each audited taxpayer along with the Notice of Proposed Assessment. The displeased taxpayers may have been more likely to respond quickly at the time the notice was received, and to not respond to TRA's survey received later.

Taxpayer Rights Advocate's Annual Report FY17-18

TRA researched the difference between the TRA and GTA survey results for the CIT and SUT combined, and found that GTA had a total of 16 CIT audit survey responses. These 16 responses produced an average satisfaction indication of 93.7 percent. Of the 16 CIT respondents, one was completely dissatisfied and 15 were completely satisfied.

For GTA's SUT survey, TRA found that the average satisfaction indication was 91.3 percent, as shown in the last row in Table 8 below. The SUT audit satisfaction indications in Table 8 reflect the average results of 138 survey responses. These results suggest there may be an opportunity to improve SUT audits, particularly regarding the length of time to complete the audit and the overall audit process.

Table 8

| GTA Survey Results by Survey Item for the SUT for FY17-18 | | |
|--|--|---------------------------------------|
| Item ID | Survey Items | Audit Satisfaction Indications |
| a. | Promptness of the auditor in keeping appointments | 93.5% |
| b. | Lack of disruptions to your business by the auditor | 93.5% |
| c. | Appropriate length of time to conduct the audit | 88.4% |
| d. | Professionalism of the auditor | 92.0% |
| e. | Auditor's knowledge of the audit/tax issues | 91.3% |
| f. | Education you received about Florida's tax laws from the auditor | 91.8% |
| g. | Auditor's explanation of any proposed adjustments | 90.4% |
| h. | Auditor's explanation of your appeal rights, including procedures and the time available for you to exercise such rights | 93.3% |
| i. | Your overall audit experience | 87.6% |
| | Average = | 91.3% |

Taxpayer Rights Advocate's Annual Report FY17-18

Section 4: Statutes Pertaining Directly to TRA

This section contains the text of sections 20.21(3), 213.018, and 213.015, F.S., all of which pertain directly to TRA.

Section 20.21(3), F.S., Regarding the Taxpayer Rights Advocate

20.21 Department of Revenue.— There is created a Department of Revenue.

Note: *Subsections (1), (2), (4), (5), and (6) do not pertain directly to the Taxpayer Rights Advocate and are omitted here.*

(3) The position of taxpayers' rights advocate is created within the Department of Revenue. The taxpayers' rights advocate shall be appointed by the Chief Inspector General but is under the general supervision of the executive director for administrative purposes. The taxpayers' rights advocate must report to the Chief Inspector General and may be removed from office only by the Chief Inspector General. The responsibilities of the taxpayers' rights advocate include, but are not limited to, the following:

(a) Facilitating the resolution of taxpayer complaints and problems which have not been resolved through normal administrative channels within the department, including any taxpayer complaints regarding unsatisfactory treatment of taxpayers by employees of the department.

(b) Issuing a stay action on behalf of a taxpayer who has suffered or is about to suffer irreparable loss as a result of action by the department.

(c) On or before January 1 of each year, the taxpayers' rights advocate shall furnish to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Inspector General a report that must include the following:

1. The objectives of the taxpayers' rights advocate for the upcoming fiscal year.
2. The number of complaints filed in the previous fiscal year.
3. A summary of resolutions or outstanding issues from the previous fiscal year report.
4. A summary of the most common problems encountered by taxpayers, including a description of the nature of the problems, and the number of complaints for each such problem.

Taxpayer Rights Advocate's Annual Report FY17-18

5. The initiatives the taxpayers' rights advocate has taken or is planning to take to improve taxpayer services and the department's responsiveness.
6. Recommendations for administrative or legislative action as appropriate to resolve problems encountered by taxpayers.
7. Other information as the taxpayers' rights advocate may deem advisable.

The report must contain a complete and substantive analysis in addition to statistical information.

Section 213.018, F.S., Regarding the Taxpayer Rights Advocate

The text of section 213.018, F.S. (2018), is presented below in its entirety.

213.018 Taxpayer problem resolution program; taxpayer assistance orders.— A taxpayer problem resolution program shall be available to taxpayers to facilitate the prompt review and resolution of taxpayer complaints and problems which have not been addressed or remedied through normal administrative proceedings or operational procedures and to assure that taxpayer rights are safeguarded and protected during tax determination and collection processes.

(1) The Chief Inspector General shall appoint a taxpayers' rights advocate, and the executive director of the Department of Revenue shall designate adequate staff to administer the taxpayer problem resolution program.

(2) The taxpayers' rights advocate may, with or without a formal written request from the taxpayer, issue a taxpayer assistance order that suspends or stays actions or proposed actions by the department when a taxpayer suffers or is about to suffer a significant hardship as a result of a tax determination, collection, or enforcement process.

(a) Relief or remedy may be granted by a taxpayer assistance order only as an extraordinary measure. The process shall not be used to contest the merits of a tax liability or as a substitute for informal protest procedures or normal administrative or judicial proceedings for the review of a tax assessment or collection action or denial of refund.

(b) The running of the period of limitations on assessment shall be tolled from the date of a taxpayer's request for a taxpayer assistance order until either the date the request is denied or the date specified in the taxpayer assistance order, whichever is applicable.

Taxpayer Rights Advocate's Annual Report FY17-18

Section 213.015, F.S., Regarding the Taxpayer's Bill of Rights

The text of section 213.015, F.S. (2018), is presented below in its entirety.

213.015 Taxpayer rights.— There is created a Florida Taxpayer's Bill of Rights to guarantee that the rights, privacy, and property of Florida taxpayers are adequately safeguarded and protected during tax assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements which explain, in simple, nontechnical terms, the rights and obligations of the Department of Revenue and taxpayers. Section 192.0105 provides additional rights afforded to payors of property taxes and assessments. The rights afforded taxpayers to ensure that their privacy and property are safeguarded and protected during tax assessment and collection are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue. The rights so guaranteed Florida taxpayers in the Florida Statutes and the departmental rules are:

- (1) The right to available information and prompt, accurate responses to questions and requests for tax assistance.
- (2) The right to request assistance from a taxpayers' rights advocate of the department, who shall be responsible for facilitating the resolution of taxpayer complaints and problems not resolved through the normal administrative channels within the department, including any taxpayer complaints regarding unsatisfactory treatment by department employees. The taxpayers' rights advocate may issue a stay order if a taxpayer has suffered or is about to suffer irreparable loss as a result of an action by the department (see ss. 20.21(3) and 213.018).
- (3) The right to be represented or advised by counsel or other qualified representatives at any time in administrative interactions with the department, the right to procedural safeguards with respect to recording of interviews during tax determination or collection processes conducted by the department, the right to be treated in a professional manner by department personnel, and the right to have audits, inspections of records, and interviews conducted at a reasonable time and place except in criminal and internal investigations (see ss. 198.06, 199.218, 201.11(1), 203.02, 206.14, 211.125(3), 211.33(3), 212.0305(3), 212.12(5)(a), (6)(a), and (13), 212.13(5), 213.05, 213.21(1)(a) and (c), and 213.34).
- (4) The right to freedom from penalty attributable to any taxes administered by the Department of Revenue; freedom from payment of uncollected sales, use, motor or diesel fuel, or other transaction-based excise taxes administered by the Department of Revenue; and to abatement of interest attributable to any taxes administered by the Department of Revenue, when the taxpayer reasonably relies upon binding written advice furnished to the taxpayer by the department through authorized representatives

Taxpayer Rights Advocate's Annual Report FY17-18

in response to the taxpayer's specific written request which provided adequate and accurate information (see ss. 120.565 and 213.22).

(5) The right to obtain simple, nontechnical statements which explain the reason for audit selection and the procedures, remedies, and rights available during audit, appeals, and collection proceedings, including, but not limited to, the rights pursuant to this Taxpayer's Bill of Rights and the right to be provided with a narrative description which explains the basis of audit changes, proposed assessments, assessments, and denials of refunds; identifies any amount of tax, interest, or penalty due; and states the consequences of the taxpayer's failure to comply with the notice.

(6) The right to be informed of impending collection actions which require sale or seizure of property or freezing of assets, except jeopardy assessments, and the right to at least 30 days' notice in which to pay the liability or seek further review (see ss. 198.20, 199.262, 201.16, 206.075, 206.24, 211.125(5), 212.03(5), 212.0305(3)(j), 212.04(7), 212.14(1), 213.73(3), 213.731, and 220.739).

(7) The right to have all other collection actions attempted before a jeopardy assessment unless delay will endanger collection and, after a jeopardy assessment, the right to have an immediate review of the jeopardy assessment (see ss. 212.15, 213.73(3), 213.732, and 220.719(2)).

(8) The right to seek review, through formal or informal proceedings, of any adverse decisions relating to determinations in the audit or collections processes and the right to seek a reasonable administrative stay of enforcement actions while the taxpayer pursues other administrative remedies available under Florida law (see ss. 120.80(14)(b), 213.21(1), 220.717, and 220.719(2)).

(9) The right to have the taxpayer's tax information kept confidential unless otherwise specified by law (see s. 213.053).

(10) The right to procedures for retirement of tax obligations by installment payment agreements which recognize both the taxpayer's financial condition and the best interests of the state, provided that the taxpayer gives accurate, current information and meets all other tax obligations on schedule (see s. 213.21(4)).

(11) The right to procedures for requesting cancellation, release, or modification of liens filed by the department and for requesting that any lien which is filed in error be so noted on the lien cancellation filed by the department, in public notice, and in notice to any credit agency at the taxpayer's request (see ss. 198.22, 199.262, 212.15(4), 213.733, and 220.819).

Taxpayer Rights Advocate's Annual Report FY17-18

- (12) The right to procedures which assure that the individual employees of the department are not paid, evaluated, or promoted on the basis of the amount of assessments or collections from taxpayers (see s. 213.30(2)).
- (13) The right to an action at law within the limitations of s. 768.28, relating to sovereign immunity, to recover damages against the state or the Department of Revenue for injury caused by the wrongful or negligent act or omission of a department officer or employee (see s. 768.28).
- (14) The right of the taxpayer or the department, as the prevailing party in a judicial or administrative action brought or maintained without the support of justiciable issues of fact or law, to recover all costs of the administrative or judicial action, including reasonable attorney's fees, and of the department and taxpayer to settle such claims through negotiations (see ss. 57.105 and 57.111).
- (15) The right to have the department begin and complete its audits in a timely and expeditious manner after notification of intent to audit (see s. 95.091).
- (16) The right to have the department actively identify and review multistate proposals that offer more efficient and effective methods for administering the revenue sources of this state (see s. 213.256).
- (17) The right to have the department actively investigate and, where appropriate, implement automated or electronic business methods that enable the department to more efficiently and effectively administer the revenue sources of this state at less cost and effort for taxpayers.
- (18) The right to waiver of interest that accrues as the result of errors or delays caused by a department employee (see s. 213.21(3)).
- (19) The right to participate in free educational activities that help the taxpayer successfully comply with the revenue laws of this state.
- (20) The right to pay a reasonable fine or percentage of tax, whichever is less, to reinstate an exemption from any tax which a taxpayer would have been entitled to receive but which was lost because the taxpayer failed to properly register as a tax dealer in this state or obtain the necessary certificates entitling the taxpayer to the exemption (see s. 212.07(9)).
- (21) The right to fair and consistent application of the tax laws of this state by the Department of Revenue.