



Office of Taxpayer Assistance

September 17, 2009

The Montana Legislature enacted the Taxpayer Bill of Rights and established the Office of Taxpayer Assistance within the Department of Revenue in 1991.

Until late last year, the Department was dispersing these functions throughout its divisions. The Director has consolidated these functions into the centralized Office of Taxpayer Assistance and Public Outreach. The goal is to fully integrate throughout the agency a culture of customer service that honors and fully complies with the Taxpayer Bill of Rights. (See attachments Taxpayer Bill of Rights MCA 15-1-222 & 223).

Vision

Our vision is to protect the rights of Montana taxpayers and to uphold the Montana Constitution's recognition of individual dignity. Part of this vision is understanding that Montana citizens and their representatives created the tax system and that the agency is responsible to them. And through our actions we must embody this understanding in managing the tax system and serving Montana's citizens.

Efficient administration through quality communication and useful educational materials helps citizens meet their tax responsibilities without making errors and reduces misunderstanding and anxiety.

We seek to resolve taxpayers' problems and questions at the lowest possible level, ideally with the staff member appraising property, processing a return or handling an audit. Fortunately, most problems are resolved this way. When they are not, we refer the problems to supervisors or tax specialists who can further help the taxpayer. A limited number of cases prove more difficult and come to the attention of the Director, who resolves them or refers them to the Office of Taxpayer Assistance.

How the Office Works

The Office's major responsibilities include:

- providing easily understandable materials on the department's tax, audit, collection and appeals processes;
- monitoring Department policy and process for compliance with the Taxpayer Bill of Rights;
- providing independent management level review of complaints and problems;
- receiving and evaluating complaints about abusive and inefficient behavior of employees;
- identifying laws and procedures that on a reoccurring basis are barriers to taxpayers fulfilling their tax obligations and suggest remedies to these systemic problems.

In fulfilling these responsibilities, we strive to give personal help to citizens in understanding the department's various programs and processes. Our goal is to reduce unnecessary confusion, duplication, inconvenience and cost to taxpayers.

We work hard to reopen communications where citizens have been unable to resolve problems through the department's normal processes, and strive to solve taxpayer problems consistently across divisions.

We also seek creative solutions to problems while treating each citizen equitably, while recognizing the department's compliance program responsibilities. We also strive to answer the central concerns and fears of taxpayers without being defensive and without trying to prove agency actions are always correct.

Problem Resolution

In 1986, Arizona became the first state to adopt a Taxpayer Bill of Rights. Arizona, and several other states, created an office of problem resolution to implement those rights. Later, states created offices of taxpayer assistance or an office of taxpayer advocate. Whatever the name is, problem resolution, assistance and advocacy are at the heart of their mission.

In Montana, the Office of Taxpayer Assistance is independent of the Department's divisions and reports directly to the Director to ensure a fresh management-level review of the cases referred to the office.

These cases are generally instances where taxpayers have tried unsuccessfully to resolve their problems through the Department's normal channels. The Office works with the taxpayer until the problem is resolved and often convenes division and bureau experts to assist with the additional review.

Approximately 60 percent of the referrals come from the director's office, and about 30 percent come from legislators, the Governor's Citizens' Advocate Office and other agencies. The rest come through the Department's Call Center and direct calls. About 50 percent of cases concern property tax issues, while slightly less concern income tax or collections issues.

Examples

Property tax: Taxpayers may have objections to the appraisal and valuation of their property. Many times, disputes concern the calculation of the property's market value, but also can include charges of invasion of taxpayer privacy, incorrect profiles of their property, lien sales over which the department has no jurisdiction, and favoritism or unequal treatment of neighbors.

If this type of case is referred to us, we will visit with the taxpayer and review the case with the division leadership and the local property tax office. We look at the accuracy of the property profile and the recently sold neighboring properties that were used for comparison in determining the sale value of the property. We encourage the taxpayer to preserve and exercise their appeal rights. Where personalities have become part of the issue or distrust has developed, we ask that a manager from a different area or region meet with the taxpayer and try to re-establish effective communication.

Income tax: Taxpayers may have objections to a number of issues related to income tax. Objections may be about the calculation of additional taxes owed, disallowance of deductions and credits or the delay in receiving notices of such changes, which are often driven by Internal Revenue Service reports. Concerns may also arise from the calculation of penalties and interest, tampering with their tax returns, the speediness of refunds and changes to the amount to be refunded and audit selection. Other issues that may come up are retaliation for past appeals or questioning of department decisions, bullying, the department not apologizing for mistakes and not accepting responsibility, and hardship.

In any of these scenarios—again, if referred to the Office—we review the cases with division leadership, ask division staff to analyze the complaint, and make recommendations to the director. In complicated cases or where mistakes may have been made, the office often asks a senior auditor, who has not worked on the case, to take a fresh look at the entire file.

As in property tax cases, personalities can complicate resolution, so the Office works to re-establish trust so dialogue and communication can occur. If an informal review cannot settle differences, the Office helps the taxpayer move their case to the Office of Dispute Resolution.

Taxpayer Assistance and Advocacy

One of our responsibilities to Montana citizens is to provide taxpayers with easily understandable materials on the department's tax, audit, collection and appeals processes. We promote clarity and usefulness in all forms of communication, including clearer and simpler letters, forms and reports.

Many of these documents are on the department's website. However, we are just beginning to review these materials and work with the divisions to update them. Orienting the website around the needs of the taxpayer is also a high priority of ours. We are the director's representative and host for many of the department's teams that are dedicated to the continuous improvement of its processes and the materials that explain them.

Examples

Writing Project: Over the past five years, a major priority of the Department has been to ensure that all communications are clear, concise and respectful to citizens. Working with one of the nation's most respected linguists, Roger Shuy, we created a Writing Project that has significantly improved the written communications (forms, instructions and correspondence) that we provide to taxpayers.

Better communications have benefited both the taxpayer and the department. Because taxpayers understand the issues involved and know the department's expectations, their levels of frustration and anxiety are reduced. As a result, we receive fewer taxpayer calls, appeals and errors. This enables our auditors to focus on more difficult taxpayer cases.

Forms Team: Of equal importance are the Department's tax forms and instruction booklets. The forms team meets throughout the year updating the forms to reflect changes in state and federal law and in making the forms and booklets clearer and easier to understand. The team has added graphics, adopted a question-and-answer approach, and included check lists to help the taxpayer more easily navigate over thirty different tax types. The benefits of simpler, more understandable forms are again better taxpayer compliance, less frustration and fewer errors and calls.

Montana Code Annotated

15-1-222. Taxpayer bill of rights. The department of revenue shall in the course of performing its duties in the administration and collection of the state's taxes ensure that:

(1) the taxpayer has the right to record any interview, meeting, or conference with auditors or any other representatives of the department;

(2) the taxpayer has the right to hire a representative of the taxpayer's choice to represent the taxpayer's interests before the department or any tax appeal board. The taxpayer has a right to obtain a representative at any time, except that the selection of a representative may not be used to unreasonably delay a field audit that is in progress. The representative must have written authorization from the taxpayer to receive from the department confidential information concerning the taxpayer. The department shall provide copies to the authorized representative of all information sent to the taxpayer and shall notify the authorized representative concerning contacts with the taxpayer.

(3) except as provided in subsection (5), the taxpayer has the right to be treated by the department in a similar manner as all similarly situated taxpayers regarding the administration and collection of taxes, imposition of penalties and interest, and available taxpayer remedies unless there is a rational basis for the department to distinguish them;

(4) the taxpayer has the right to obtain tax advice from the department. The taxpayer has a right to the waiver of penalties and interest, but not taxes, when the taxpayer has relied on written advice provided to the taxpayer by an employee of the department.

(5) at the discretion of the department, upon consideration of all facts relevant to the specific taxpayer, the taxpayer has the right to pay delinquent taxes, interest, and penalties on an installment basis. This subsection applies only to taxes collected by the department, provided the taxpayer meets reasonable criteria.

(6) the taxpayer has the right to a complete and accurate written description of the basis for any additional tax assessed by the department;

(7) the taxpayer has the right to a review by management level employees of the department for any additional taxes assessed by the department;

(8) the taxpayer has the right to a full explanation of the available procedures for review and appeal of additional tax assessments;

(9) the taxpayer, after the exhaustion of all appropriate administrative remedies, has the right to have the state tax appeal board or a court, or both, review any final decision of the department assessing an additional tax. The taxpayer shall seek a review in a timely manner. A taxpayer is entitled to collect court costs and attorney fees from the department for frivolous or bad faith lawsuits as provided in [25-10-711](#).

(10) the taxpayer has the right to expect that the department will adhere to the same tax appeal deadlines as are required of the taxpayer unless otherwise provided by law;

(11) the taxpayer has the right to a full explanation of the department's authority to collect delinquent taxes, including the procedures and notices that are required to protect the taxpayer;

(12) the taxpayer has the right to have certain property exempt from levy and seizure as provided in Title 25, chapter 13, part 6, and any other applicable provisions in Montana law;

(13) the taxpayer has the right to the immediate release of any lien the department has placed

on property when the tax is paid or when the lien is the result of an error by the department;

(14) the taxpayer has the right to assistance from the department in complying with state and local tax laws that the department administers; and

(15) the taxpayer has the right to be guaranteed that an employee of the department is not paid, promoted, or in any way rewarded on the basis of assessments or collections from taxpayers.

History: En. Sec. 2, Ch. 619, L. 1991; amd. Sec. 1, Ch. 376, L. 2007.

15-1-223. Office of taxpayer assistance. (1) The department of revenue shall establish and maintain an office of taxpayer assistance.

(2) The office shall assist taxpayers by:

(a) providing easily understandable tax information on audits and corrections and review procedures of the department;

(b) providing easily understandable information on appeal procedures;

(c) answering questions regarding preparing and filing of returns and reports with the department; and

(d) locating documents or payments filed with or submitted to the department.

(3) The office of taxpayer assistance shall also:

(a) receive and evaluate complaints related to improper or abusive behavior or inefficient service provided by employees of the department and recommend appropriate action to the director of the department to resolve the complaints;

(b) compile data on the number and type of taxpayer complaints received and evaluate the actions taken to resolve complaints;

(c) survey taxpayers to obtain their evaluation of the quality of service provided by the department;

(d) monitor the department's compliance with the taxpayer bill of rights and report any abuses to the director of the department;

(e) monitor the department's collection activities to:

(i) report any abuses in collection activities by the department to the director;

(ii) recommend to the director whether a particular collection activity should be stopped if the taxpayer has not had an adequate opportunity to discuss alternative means of payment; and

(f) perform any other functions that the director may assign to assist taxpayers in complying with Montana's tax laws.

(4) The department may charge a fee of \$1 for processing a complaint.

History: En. Sec. 3, Ch. 619, L. 1991; amd. Sec. 2, Ch. 376, L. 2007.