



Montana Department of Revenue

Montana Real Estate Post-Transaction Compliance Projects

Report to the Revenue and Transportation Interim Committee
April 30, 2010

Purpose of the Report

- Provide background information on real estate post transaction compliance initiatives
- Update on the compliance initiatives findings and results
- Summarize the department's experience and taxpayer feedback

Background

- Compliance Initiatives
 - Cross-match real estate data with individual and business income tax data
 - The cross-match results identify:
 - Non-filers
 - Underreporting of income
 - Suspicious transactions

- Gain on the transfer of real estate is Montana source income
 - In simple terms, Montana source income is income or gain from property in Montana or from transactions or activities that take place in Montana. (15-30-2101 (18) and 15-31-403, MCA)

- Tax due from the income or gains earned on real estate transactions in Montana is not a *new tax*

Background

Real Estate Sales Documents:

- *Form 1099-S; Proceeds From Real Estate Transactions (Attachment B)*
 - IRS form required to be filed to report the sale or exchange of real estate
 - Generally required when consideration is given in the following types of exchanges:
 - Improved or unimproved land
 - Permanent structures, including any residential, commercial, or industrial buildings (including condominiums and stock in a cooperative housing corporation)
 - Lump-sum timber payments (for exchanges completed after May 28, 2009)
 - Information included on the Form 1099-S
 - Filer's name and address
 - Seller's name and address; transferred property address, legal description, and closing date
 - Gross proceeds from the sale or exchange

- *Realty Tax Certificate - RTC (Attachment A)*
 - The instrument used to record the transfer of all real estate in Montana
 - Also used for water rights administration
 - Information included on RTC:
 - Seller and buyer data
 - Property description
 - Type of transfer
 - Sales price

1099-S Compliance Project

- 1099-S forms from calendar years 2004 through 2005 were cross-matched.
- Approximately 3,000 letters have been mailed to non-filers.
- Initial data indicated a non-resident non-filer rate of approximately 80% and a resident non-filer rate of approximately 4%.
- These letters have generated 1,470 returns being filed, a response rate of roughly 49%. The department has not received a response from 51% of those who received a letter despite our efforts.
- Total collections are approximately \$4,450,000. Non-residents were 65% of the total collections.
- The 2009 Legislature passed SB181 which requires information agents to file 1099-S forms with the department. The review of the 2009 1099-S forms will begin in the fall of 2010.

RTC Compliance Project

- The project included the data capture and review of every RTC filed in the state for the years 2003-2006 and half of 2007.
- For this time period, there were over 400,000 property transactions in Montana's 56 counties.
- Data entry for the 400,000 RTCs took over 6 months.
- Taxpayer ID numbers (SSN or FEIN) were not present on all transactions.
 - Names and/or addresses on some RTCs were not included.
 - Requires a manual verification to determine if the individual has filed an income tax return.
- Non-taxable transactions were included and had to be reviewed and separated out

Realty Transfer Certificate Project

as of March 31, 2010

	Non-Resident	Resident	Unknown	Total
Total RTC Transactions				416,689
Number of RTC's Reviewed	73,287	295,220	40,961	409,468
Non-Taxable	32,044	138,154	21,267	191,465
Potentially Taxable	41,243	157,066	19,694	218,003
Non-Filer Letters Issued	15,243	6,811		22,054
No Response to Non-Filer Letter	3,416	1,821		5,237
Cases Resolved without Tax Due	7,716	3,542		11,258
Cases In Progress	1,854	906		2,760
Returns Filed	2,257	542		2,799
Taxes Paid	\$ 9,036,553	\$ 1,981,632		\$ 11,018,185
Average Per Return	\$ 4,004	\$ 3,656		\$ 3,936
<i>Measuring Compliance Results:</i>				
<i>Initial Non-Filer %</i>	65.00%	47.00%		
<i>Post Compliance Non-Filer %</i>	36.96%	4.34%		10.12%

Summary

- Post-Transaction Collections are less efficient, less effective and more intrusive
 - Failure to file and pay is a real problem
 - Taxpayer Leakage – taxpayers drop out of the system – Die, Disappear, or Don't Comply
 - Taxpayers can experience additional cost and inconvenience
 - Withholding systems are more efficient and effective
 - No practicable administrative solution for non-responding non-residents
- Real estate compliance projects led to identification of other noncompliance findings in areas such as pass-through entities.