

**TAXPAYER RIGHTS ADVOCATE
ANNUAL REPORT
FISCAL YEAR 2003-04**



November 10, 2004

2003-2004 ANNUAL REPORT OF TAXPAYER RIGHTS ADVOCATE

TRA CASES OPENED

Three Hundred and Forty One (341) Taxpayer Rights Advocate case files were opened during the fiscal year 2003-04.

REFERRAL SOURCE ANALYSIS

The following represents the number of files opened as a result of various referral sources:

Referral Source	Number of Cases	Percentage
Direct Telephone Calls to TRA	83	24%
DOR Employee Referral	47	14%
Written Request by Taxpayer	55	16%
Director Referral	77	22%
Legislative Referral	26	8%
Other State Agency Referral	16	4%
Governor's Office Referral	25	8%
E-mail correspondence by Taxpayer	10	3%
Other	2	1%

TRA CASE TYPE ANALYSIS

Case Type	Number of Cases	Percentage
Liens/Warrants	114	33%
Sales Tax	21	6%
Stay in Collection	18	5%
Penalties & Interest	17	5%
Miscellaneous	16	5%
Tax Refunds	14	4%
Payment Agreement Request	13	4%
Bank Levy	12	4%
Withholding	12	4%
Assessments	11	3%

Wage Levy	9	3%
Offers to Compromise	9	3%
Licenses	8	2%
Audits	8	2%
Protective Claim for Refund	8	2%
Forms	7	2%
Statute of Limitations	7	2%
Amended returns	6	2%
IRS matters	5	1%
Amnesty	5	1%
Property Tax	5	1%
Electronic Filing	4	1%
Debt match	4	1%
Motor Carrier	3	1%
Corporate Tax	3	1%
Innocent Spouse Relief	1	1%
Tuition Tax Credit	1	1%

2004-05 TRA OBJECTIVES

I. Application for Relief form

All of the forms issued by SCDOR which contain the Taxpayer Bill of Rights, also state that taxpayers “can file an application for relief” with the TRA. This form does not currently exist. I am in the process of devising a form for taxpayers to complete which will be helpful in determining the level of relief or assistance a taxpayer may require.

II. Outline proposal to management on conducting an annual public hearing for Taxpayer Rights

Currently, a number of states hold mandated annual public hearings to provide the public with an opportunity to express their concerns, suggestions and comments directly to management. Taxpayers are given the option of attending the hearing in person or submitting written comments. I will research and outline the benefits of such a hearing and submit a proposal to management for consideration.

III. Revision of Chapter 58 of Title 12-Taxpayer Bill of Rights

This chapter of the code needs to be updated to reflect current processes and policies of the Department. In addition, the statutes need to be reorganized to better educate taxpayers of their rights and obligations and to improve taxpayer compliance.

DOR EDUCATION INITIATIVES

I. Publications

The Department published the following manuals and other publications:

South Carolina Tax Incentives for Economic Development – 2004 Edition

South Carolina Property Tax – 2004 Edition

South Carolina Department of Revenue Legislative Update for 2003

South Carolina Corporate Income Taxes – 2003 Edition

In the upcoming year, the Department plans to update the above publications.

The following publications have recently been updated and put on the DOR website to assist average taxpayers¹ :

- Guide to South Carolina Tuition Tax Credit
- Homeowners's Guide to Property Taxes in S.C.
- Moving to South Carolina: A Tax Guide for New Residents
- 2004 High School Guide to SC Income Tax
- Your Rights and Obligations as a South Carolina Taxpayer

II. Taxpayer Education Projects

The following projects were included in the 2003-2004 business plan to develop and provide educational opportunities to stakeholders and obtain feedback from these contacts.

¹ These are in addition to a number of other basic tax guides accessible from the DOR website.

- Increase number and frequency of taxpayer education seminars
- Expand educational opportunities for all major taxes, including on-line learning modules
- Develop on-line registration and payment system for taxpayer education
- Develop centralized mechanism for reporting all taxpayer education initiatives (e.g., forms and instructions, speaking engagements, Director's initiatives, VITA, taxpayer assistance walk-in's, tax seminars, and educational materials developed)

02-03: Work with other areas of the agency and pilot with the Contact Center to design a feedback system that would provide an easy way to collect customer feedback.

01-02: Evaluate benchmarking data, rank the Department, set goals for Fiscal Years 2002, 2003, 2004, and 2005, revise the long-range plan accordingly, and implement the Fiscal Year 2002 objectives. Design an agency-wide system for obtaining stakeholder feedback, develop a plan for specific areas of the agency and implement it on a small scale through the Contact Center during FY01-02.

00-01: Develop a five year plan for a structured, systematic stakeholder feedback system to receive and respond to their concerns and suggestions, and implement the year 1 objectives.

The following represents a synopsis of the progress of these projects:

YEAR TO DATE REPORT (6/30/04): Our goal this year is to increase the numbers of taxpayers we reach by developing relationships with various associations or organizations to assist with marketing. During July a seminar was co-sponsored with the SC Hospital Association and targeted the financial officers of state hospitals. In August we conducted a seminar for Manufacturers in association with the SC Manufacturers Alliance with 54 attendees. In September the focus was on the Construction Industry with a total of 40 pa participants. We were assisted with publicity by the Association of General Contractors and the SC Homebuilders Association. We partnered with the SC Hospitality Association in November to conduct a Sales & Use Tax Seminar for the Hospitality Industry at the USS Yorktown in Charleston. A total of 37 people attended. In December we held a Sales & Use Tax Seminar for Educational Institutions in cooperation with 192 people attending. The Health Care Sales & Use Tax Seminar was planned and advertised with the help of the

SC Hospital Association and the Medical Board of LLR. It was scheduled for January but was cancelled due to bad weather and rescheduled for February only to be cancelled again for bad weather. This seminar will be held in June. In March we conducted a SC Taxes for Manufacturers which included Property Tax and Sales Tax with an attendance of 88 people. In April we partnered with the SC Merchants Association to conduct a Sales & Use Tax for Retailers with a total of 46 people attending. In May we presented a Sales & Use Tax Seminar for the Construction Industry again with 35 people attending. We also partnered with the SC Department of Commerce in presenting Jobs Development Credit seminars with 40 people attending this calendar year.

The free monthly Sales Tax Forms Workshops were continued with a total of 335 people attending this year so far. Response to these workshops continues to be very positive and our taxpayer assistance officers report they have been a very positive factor in improving taxpayer relations. It is good to be able to refer taxpayers to the class when they come in the office wanting help.

Four pilot sessions of a new free Withholding Tax Workshop were launched in September & October with 87 people attending. Feedback from these sessions was excellent and plans were made to conduct them monthly in the new calendar year. The seminars have been attended by 106 people since January.

We continue to supply instructors for the Small Business Tax Workshops which are presented around the state in conjunction with the IRS and the Employment Security Commission on a monthly basis. Our instructors met in July and came up with a standard presentation and handout to make it easier for them to teach and send a more consistent message across the state. Again this year we participated in the Clemson Tax Schools by providing instructors, taxpayer assistance and a manual. This year 960 people attended this school. Our website continues to be a great place to advertise our seminars and other educational efforts and we continue to add materials to the site including a electronic learning module on the Withholding Tax and manuals and presentation materials from the seminars we've conducted.

III. News Releases

Fifty-one (51) news releases were issued by the Office of Public Affairs during fiscal year 2003-04.

IV. Advisory Opinions

During the fiscal year July 1, 2003 through June 30, 2004, the Department issued the following advisory opinions that have assisted in the education of all taxpayers or taxpayers in specific industries:

Advisory opinions are approved by the Director and are binding on Department employees; however, they do not have the force or effect of law and are not binding on the public. They are intended to provide the public with guidance as to the Department's administrative position so members of the public will not be surprised by its opinion and to ensure that the Department's position is the same from office to office and employee to employee. Advisory opinions are published on the Department's website (www.sctax.org) under "Tax Policy."

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|-------------------------|---|
| SC Revenue Ruling #03-1 | Universal Service Fund Surcharge
(Sales and Use Tax) |
| SC Revenue Ruling #03-2 | Medicines, Prosthetic Devices and Other Medical Supplies
(Sales and Use Tax) |
| SC Revenue Ruling #03-3 | Gifts – Multistate Transactions
(Sales and Use Tax) |
| SC Revenue Ruling #03-4 | Nexus Creating Activities for Income Taxes
(Income Tax) |
| SC Revenue Ruling #03-5 | Software
(Sales and Use Tax) |
| SC Revenue Ruling #03-6 | State Tax Add-Backs
(Income Tax) |
| SC Revenue Ruling #04-1 | Accommodations Furnished to Government Employees, Diplomats, and Nonprofit Employees
(Sales Tax on Accommodations) |

- SC Revenue Ruling #04-2 Transferor Affidavit Exemption
(All Taxes)
- SC Revenue Ruling #04-3 Contingent Fees in State Tax Matters
(All Taxes)
- SC Revenue Ruling #04-4 Telephone Calling Cards
(Sales and Use Tax)
- SC Revenue Ruling #04-5 Charges for Copies of Medical Records
(Sales and Use Tax)
- SC Revenue Ruling #04-6 Deed Recording Fee
- SC Revenue Ruling #04-7 Machine Exemption
(Sales and Use Tax)
- SC Revenue Ruling #04-8 Fundraising Events by Nonprofit Organizations
(Sales Tax, Admissions Tax and ABC)
- SC Revenue Ruling #04-9 Federal Government Construction Contracts
(Sales and Use Tax)
- SC Revenue Ruling #04-10 Personal Watercrafts – Maximum Tax Provisions
(Sales and Use Tax)
- SC Revenue Ruling #04-11 Bingo Ticket Standards
(Bingo)
- SC Revenue Ruling #04-12 Vacation Homes, Second Homes and Places of
Abode
(Sales Tax on Accommodations)
- SC Information Letter #03-20 Tax Legislative Update for 2003

The Department issued other advisory opinions that may be of assistance to taxpayers; but since they were issued to specific taxpayers (Private Letter Rulings), they are not listed here. In addition, the Department publishes several information letters

throughout the year that update taxpayers on the interest rate for overpayments and underpayments, county rankings for the job tax credit, local sales and taxes, the sales tax holiday, etc.)

In the coming year, the Department plans to add a calendar year index of its advisory opinions to its website. This will be in addition to the alphabetical index presently on the website. The Department will continue to issue advisory opinions during the upcoming year and may issue opinions concerning the sales tax on communications, property taxation and electric utilities, the casual excise tax, and tax incentives involving motion picture production companies.

V. Regulation Proposals

The Department recommended the following regulation changes that were approved by the General Assembly and will improve taxpayer compliance:

Document Number 2826

Sales Tax Machine Exemption – Regulation Amended

SC Regulation 117-302.5 has been amended to add information concerning material handling machinery and/or mechanical conveyors. This additional information incorporates the provisions of former SC Regulation 117-174.134, updated with respect to case law and legislative changes since its initial promulgation.

Document Number 2850

Reorganization of Property Tax Regulations

Document No. 2850 repealed Article 6 of Chapter 117, with the exception of SC Regulation 117-105, of the SC Code of Regulations and creates nine new regulations concerning property taxation in a new Article 37. These new regulations became effective on June 25, 2004. Property tax regulations are now combined so that all regulations concerning one subject matter can be found in one regulation and therefore one place in the regulation code. In addition, each regulation has several “subsections” numbered in a manner to allow future issues concerning the same subject matter to be added on and still be in the same place in the regulation code as other similar issues.

In the upcoming year, the Department plans to place a calendar on its website that keeps taxpayers updated on the status of various regulations being proposed by the Department to the General Assembly. This Department is also proposing several regulations during the upcoming year, including a sales tax regulation concerning the machine exemption, the revision of an ABL regulation on applications, the repeal of an outdated property tax regulation, the repeal of an outdated sales tax regulation on bulk sales, and a revision of the property tax regulation that defines real and personal property.

LEGISLATIVE CHANGES

The following tables outline the Department’s recommended legislative changes that were approved by the General Assembly and will improve taxpayer compliance:

2003 LEGISLATIVE IMPLEMENTATION TABLE

Bill & Section Number	Brief Summary	Code Section
Budget Part IB		
Section 19.10 Vetoed	Exemption from admissions tax for State Museum	
56DD. 35	Increase in application and permit fees for ABL	
56DD.37	Increase in Type II COD Licenses	
63.2 Vetoed	Performance excellence on Baldrige requirements	
63.53	No interest, penalties on active duty income with regard to estimated taxes for military	
63.54	Military service annual leave	
64.11	Collection assistance fee	

Bill & Section Number	Brief Summary	Code Section
64.13	Data Warehouse	
64.17	Bankruptcy	
69A.1	Salary supplements for Auditors and Treasurers	
72.39 Deleted	No longer required to print costs on publications	
72.51 Deleted	Prohibition on paying professional dues to ABA	
72.67	Debt collection reports	
72.90	Best management practices	
72.93	Employees at will	
72.97	DMV/County Treasurer's Study	
72.101	Parking Fees	
Bills		
28	Checkoff for SCLEAP	12-6-5090
71	Extension of time to file and pay property taxes for military	12-39-360
107	Expansion of Tourism Review Committee	6-4-35
228 Section 1	Food manufacturer's license	61-6-710
2	Retail dealers can maintain and sell containers of one hundred milliliters	61-6-1500
3	Out of state shipper's license Shipment of wine	61-4-745 61-4-757
4	Deletion of obsolete language	12-21-1610
5	Department has authority on all alcohol and beer and wine issues except hours of operation	61-2-80
274 Section 1	Leasing of vehicles by armed forces personnel not subject to property taxes	12-37-220

Bill & Section Number	Brief Summary	Code Section
2	Low income housing property tax exemption effective date	
3A	Tax credits not refundable	12-2-100
3B	Person definition applies to other titles	12-2-20
3C	Definitions apply to all titles administered by department	12-2-25
3D	Withholding on sales of residences	12-8-580
3E1	Conformity	12-6-40
3E2	Bonus depreciation not included in conformity	12-6-50
3E3	Taxation of homeowners associations	12-6-540
3F	Deed recording fee terminology	12-13-50
3G-3K	May propose regulations rather than shall	12-13-70 12-20-150 12-28-940 12-43-210 12-43-230
3L	Summons on tax matters	12-54-110
3M1	Data for jobs tax credit	12-6-3360
3M2	Terminology on research expenses	12-6-3415
3M3	Family Independence Credit	12-6-3470
3N	Pass through of credits	12-6-3310
3O1	Corporate moratorium data to be used - applies to insurance premium taxes	12-6-3365
3O2	Designation of counties	12-6-3365
3O3	Repeal of 12-10-35	12-10-35
3P	Data for Simplified Fee	12-44-30
3Q	Data for Little Fee	4-12-30
3R	Small business trusts	12-6-535

Bill & Section Number	Brief Summary	Code Section
3S	Subchapter S – Consolidated returns	12-6-5020
3U	Reimbursement for streamlining committee	12-35-40
3W	Sales tax credits when taxes paid in another state	12-36-1310
3X	Lien costs	12-53-40
3Y	Transfer of assets tax liability responsibility	12-54-124
3Z	Reference correction on interest calculation	12-54-25
3AA	Reference correction	12-54-240
3BB	Federal subpoenas	12-54-240
3CC	Class action suits	12-60-80
3DD	Appeal time-ninety days on proposed assessments	12-60-440
3DD	Final determination on proposed assessments	12-60-450
3DD	Assignment of sales tax refunds	12-60-470
3DD	Jeopardy assessments	12-60-910
3EE	Appeal time on real property tax assessments	12-60-2110
3FF	Clarification on department’s motor vehicle registration list	12-60-2510
3GG	Rehabilitation credit	12-6-3535
3HH	Deletion of DMV in Revenue Procedures Act	12-60-3310
3II	Family Privacy Act – personal information	30-2-30
3JJ	Effective date on low income housing property tax exemption	12-37-220
3KK1	Governmental entity for GEAR	12-4-580
3KK2-6	Debt setoff	12-56-20
3MM	Education related to accommodation tax repealed	6-4-30
3NN	Savings clause	

Bill & Section Number	Brief Summary	Code Section
300	Bundled transactions	12-36-910
3PP	Exemption for respiratory virus drugs	12-36-2120
3QQ	Utility credit	12-20-105
3RR	Retraining credit for apprenticeship programs	12-10-95
3SS1	Reassessment program delay	
3SS2-3VV	Shift from SIC to NAICS	Various
3WW1	Exemption for portable toilets	12-36-2120
3WW2	Notification of policy changes	12-4-385
3WW3	Refund of audits on portable toilets	
3XX	Checkoff for litter program	12-6-5085
3YY-3AAA	Fee-in-lieu of property tax	12-44-10 4-12-10 4-29-67
3BBB	Substitutes “user fee” for tax	Title 12 Chapter 28
407 Section 1	Wine samplings	61-6-1640
2	Deletion of “domestic wine” definition	12-21-1010
3	Transfer of ABL license in same county within ninety days	61-2-135
4	Allows for more control of hours of operation for locals	61-4-120
5	Clarification on terminology	61-4-510
6	Signage requirements	61-4-520
7	Deletes unconstitutional language related to wineries	61-4-1510
8	Signage requirements	61-6-180

Bill & Section Number	Brief Summary	Code Section
9	No permit required for auditoriums or coliseums to allow possession or consumption of alcohol or beer and wine	61-6-500
10	Elimination of red dot requirements	61-6-1510
11	Employees or agents of nonprofits restrictions on hours of operation	61-6-1600
12	Allows licensed premises to include pool decks	61-6-1610
13	Limits on hours of operation	61-6-1610
14	Signage requirements	61-6-1820
15	LOP distributions made by State Treasurer	61-6-2010
16	Question on ballots for LOP referendums	61-6-2010
17	Clarification	61-6-4010
18	Restrictions on underage advertising	61-6-4170
19	Repeal of unconstitutional section	12-21-1040
497	Assessment on aircraft	12-43-360
516 Section 1	Jobs tax credit – bankrupt companies	12-6-3360
2	Holding companies calculation of license fees	12-20-50
550	LOST misallocation corrections	
552	Fee for manufacturer plates	
3259	Darlington County School District Tax	
3410	Preservation of records at Archives	30-1-90
3630	Newberry County School District Tax	
3652	Hampton County Capital Project Sales Tax imposition	
3829	Annual leave for members of National Guard serving in military	
4118	Millage increase in Dillon County	

Bill & Section Number	Brief Summary	Code Section
Regulations		
2751	Repeals regulation related to the Tax Board of Review	
2780	Rearranging of administrative regulations	
2781	Rearranging of regulations related to miscellaneous taxes	
2807	Rearranging of ABL regulations	
2808	Protesting of ABL licensing	
2809	Rearranging of income tax regulations	