



MEMORANDUM

To: Revenue and Transportation Interim Committee

From: Rich Bechtel, Director Office of Taxpayer Assistance *REB*

Date: February 10, 2014

Re: Report on the Department of Revenue's Office of Taxpayer Assistance

BACKGROUND

In 1991 the Legislature created the Office of Taxpayer Assistance when it enacted the Taxpayer Bill of Rights (MCA 15-1-222 & 223).

Several years before, the Department saw an increase in taxpayer appeals to the State Tax Appeal Board (STAB) and as a result began reviewing its practices. Two important legislative initiatives grew out of the review for the 1991 session:

1. The department worked with a committee of the State Bar Association to create a uniform and inexpensive appeal process for taxpayers and to provide a way for the department to resolve issues before they reach STAB or the courts. That work culminated in SB 445 which Senator Doherty introduced at the request of the department and the Legislature enacted (MCA 15-1-211).
2. At the same time there was a national conversation about creating a Taxpayer Bill of Rights. This was due to a number of high profile IRS collections cases and the desire to address taxpayer concerns before they reached the need for dispute resolution. The department took the opportunity to create a special advisory committee to review the issue. It was composed of state agency and DOR employees, 2 representatives from MACO, an IRS representative, and a lawyer who represented taxpayers on a regular basis. That group drafted SB 279 which created a Taxpayer Bill of Rights and this office to implement it. While not a formal member, the Montana Society of CPAs also participated in the drafting. Senator Brown introduced the bill at the request of the Department and his colleagues promptly enacted it.

The Montana Taxpayer Bill of Rights and the Taxpayer Assistance Office mirror the provisions first enacted by Arizona in 1986 and quickly emulated by another 12 states and then by Congress in 1988 after 7 years of hearings.

Originally in 1991, the Department held a vacant position open to create the Taxpayer Assistance Office. However, as things transpired, the funding was eliminated and the Department dispersed the functions throughout the agency.

Eventually in 2008, after 17 years, Director Dan Bucks brought the resources together to formally create the office and I am the first person to serve in the new position.

RESPONSIBILITIES

The Office

- monitors the Department's compliance with the Taxpayer Bill of Rights,
- ensures taxpayers have access to materials on the department's tax, audit, collection and appeals processes that are easily understandable,
- provides independent management level review of taxpayer complaints and problems,
- receives and evaluates complaints about abusive and inefficient behavior by department employees, and
- makes recommendations to the director to address concerns identified in carrying out these responsibilities.

The office provides special attention to cases where a taxpayer has been unsuccessful in solving a problem through the Department's normal procedures and channels or where communications with the department have broken down. The office does not address issues of fact or law that are considered by the Office of Dispute Resolution. However, it tries to understand the underlying causes of citizen concerns, and if they are inherent in the department's system, correct them so they do not reoccur.

When organizing the office, the department learned that in the intervening-years similar offices added advocacy on behalf of a taxpayer as a responsibility. They found taxpayers sometimes need the help of an advocate in navigating through the administrative processes and in reaching satisfactory solutions, so the department has incorporated that task as well into the work of this office.

TRENDS

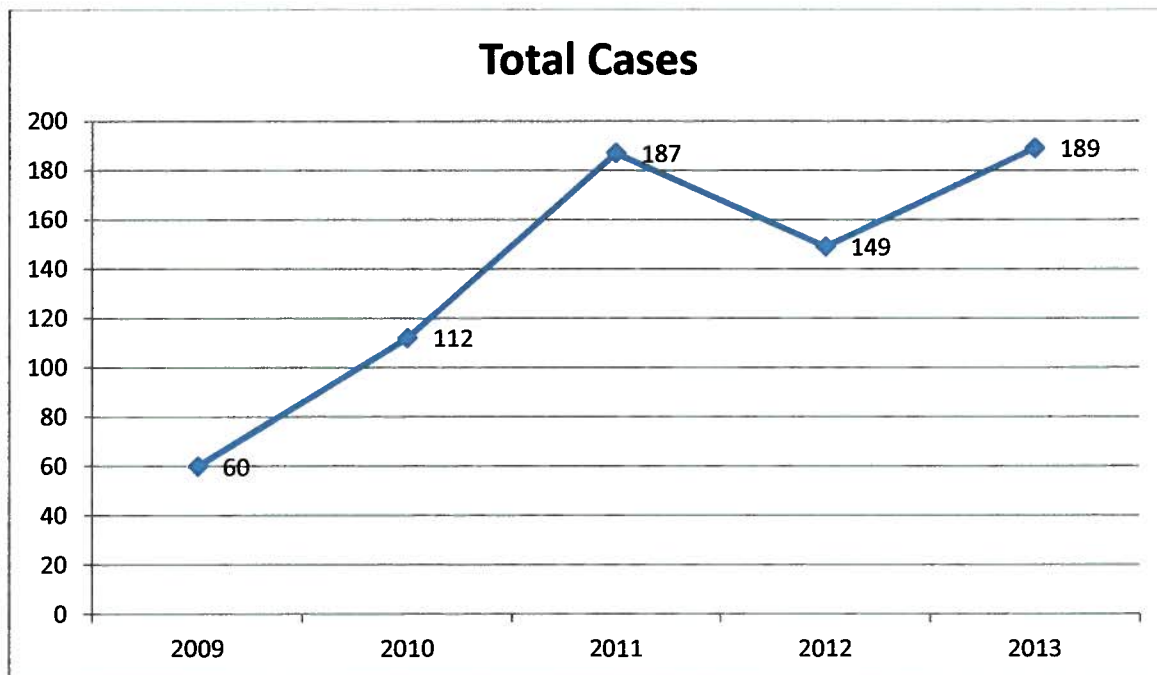
For many years the Department has emphasized addressing taxpayer questions and difficulties where they first arise--with the staff member actually processing a return, handling an audit, or seeking payment of an outstanding balance. Our Call Center and tax specialists also help taxpayers as they go about preparing their returns and paying their taxes.

For this reason, the Office of Taxpayer Assistance handles the small volume of cases that haven't been resolved through normal process or in which miscommunication between the taxpayer and the department have arisen.

These cases are unlikely to disappear in the near future. As I am sure you have heard many times in the past, a letter or call from the department can cause great anxiety. In almost every case taxpayers want to do the right thing. Yet they are often afraid to open the letters or return the calls. When they do, worry and fear can cloud their thinking and hearing. As a result miscommunication and distrust can arise even when they are working with our most skilled and sensitive staff.

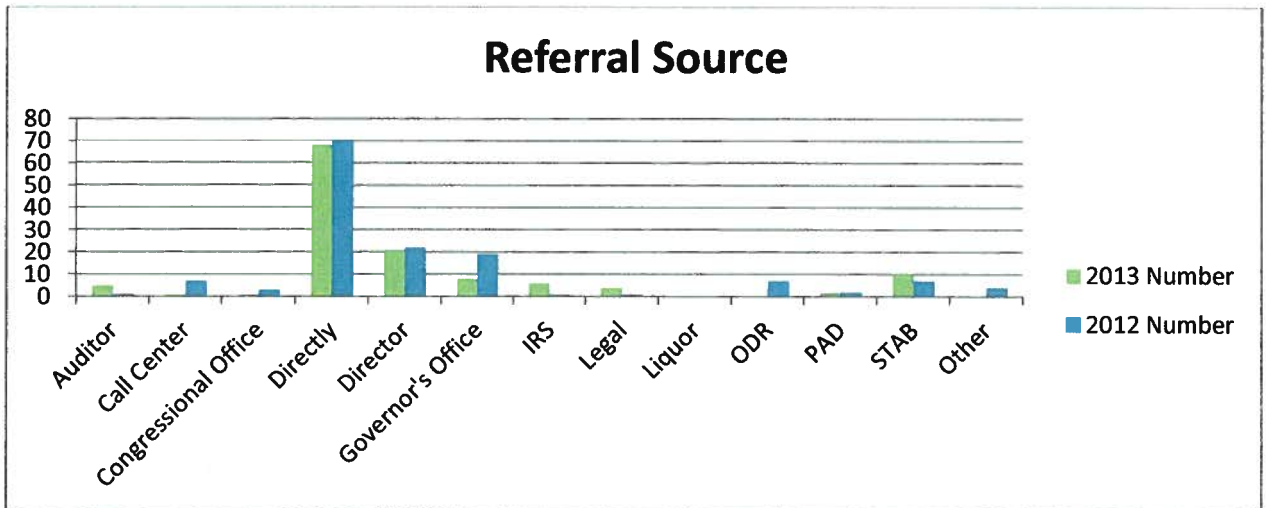
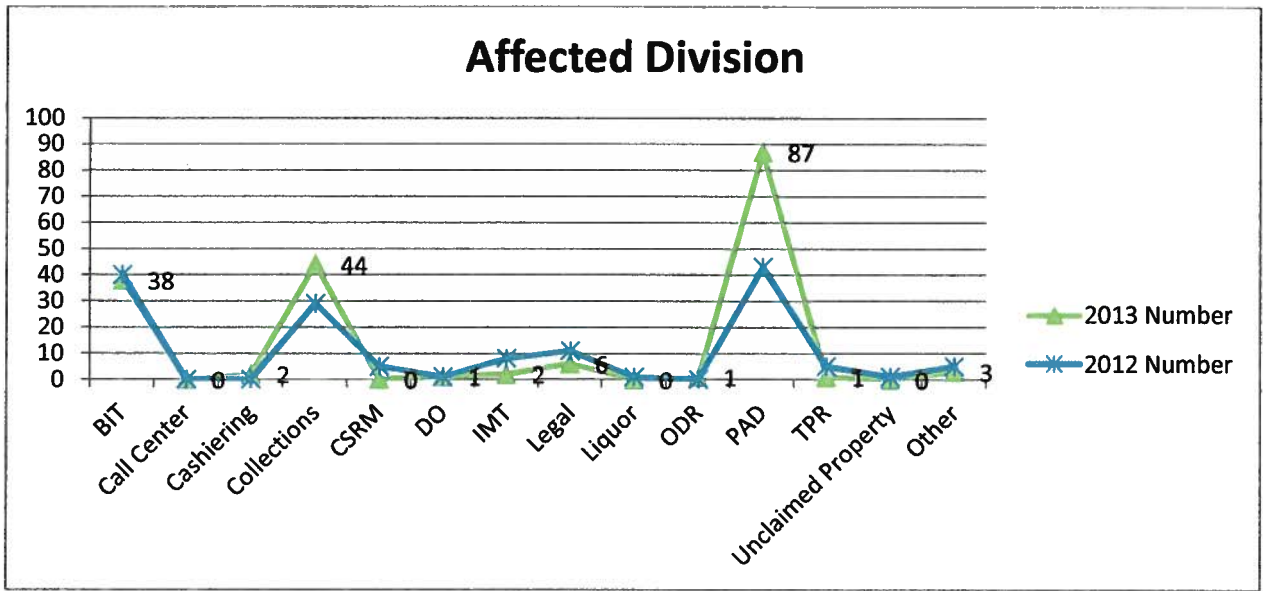
In its first year (2009) the office handled about 60 cases. The director's office referred about 60% of them, while the Governor's office, legislators, and other agencies accounted for about another 30%. Our Call Center referred most of the remaining cases. 2009 was a reappraisal year, so about 50% of the cases concerned property taxes, while the rest were evenly divided between income tax and collections issues.

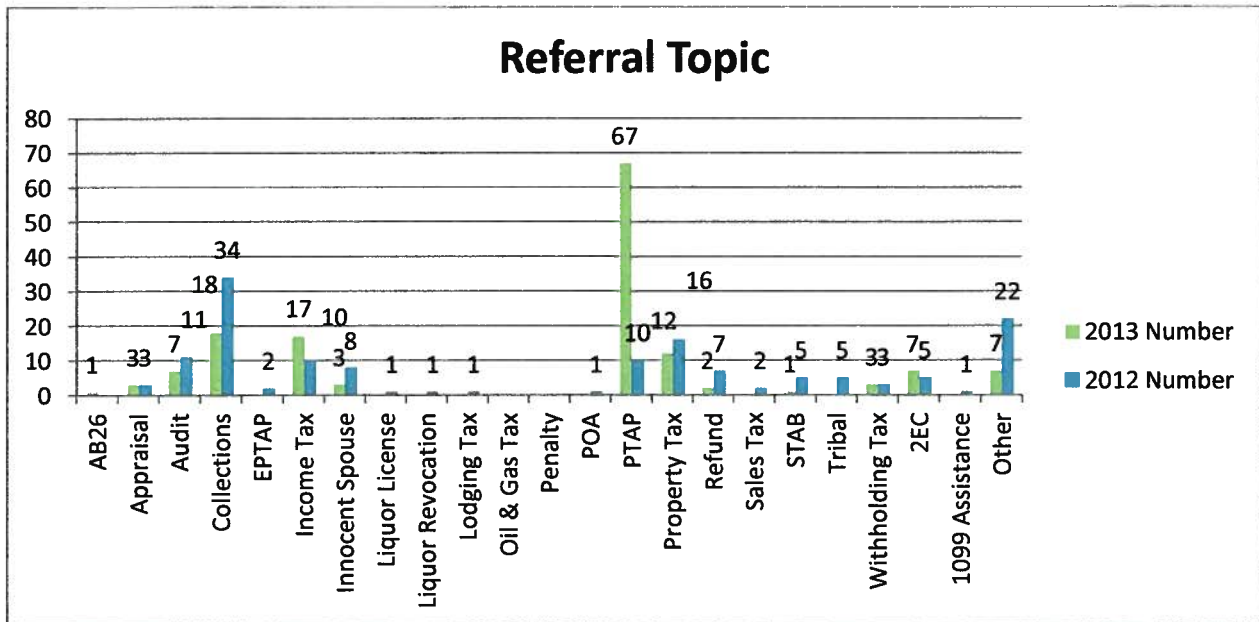
Over time the number of cases has ranged from 60 in 2009 to 112 in 2010, 187 in 2011, 149 in 2012 and 189 in 2013. Referrals from the director, governor's office and the legislature have remained about the same in number but have fallen as a percentage of the total calls. Over this time direct calls from taxpayers have increased to over 60% of the case load.



For 2012 the office implemented a much more formal tracking system which allows us to see issues and trends more clearly and to learn how to better help our citizens. As cases arise, we can go back and immediately see how we handled similar cases in the past.

This database generated the attached charts. They illustrate that issues arise about equally among our Income Tax and Property Tax Divisions and Collections Bureau although we are likely to see a larger percentage of property tax cases in 2015 when the next reappraisal takes effect.





Average Days to Close Case	
2012	2013
8	11

In studying this trend, it appears the average number of days the office spent on cases increased in the last two years primarily because of the larger volume of cases and their complexity.

ADDRESSING SYSTEMIC ISSUES

Each year the office targets long term and systemic issues for resolution. I would like to highlight for you two examples from last year.

Property Tax Assistance Program (PTAP)

For some time this Interim committee has been concerned about low participation in PTAP and the Extended Property Tax Assistance Program (EPTAP), expanding their benefits and reach, reducing the notch effect in the assistance they provide, and generally improving their effectiveness. During the 2009-2010 interim the committee studied a range of initiatives like a property tax circuit breaker, using a common definition of income for all of the programs, a mortgage deferral program, and instituting installment payments for property taxes. In an effort to increase participation in the existing programs, the 2009 Legislature enacted HB 658, which in part directed counties to insert into their property tax bills an ongoing notice that listed each of the property tax assistance programs that are available to taxpayers (MCA 15-16-101 2vi).

In response to these legislative initiatives and intent, as well as recognizing the volume of cases concerning property tax assistance, the Office of Taxpayer Assistance organized a team that developed a yellow insert for each paper and electronic tax return booklet that highlighted the PTAP, Montana Disabled Veteran program, and Elderly Homeowner Tax credit and how to

participate in them. The team also developed a property tax calculator which taxpayers and our local offices could use to determine whether they qualified for PTAP as well as the 2EC. If they did qualify, the calculator estimated their benefits under the two programs. The team also sent a postcard to taxpayers who might be eligible for PTAP and informed them how to learn more about the program. These new efforts appear to have increased PTAP participation by 20% in 2013.

Also late in 2013 we experienced an unusual number of prior year PTAP participants appealing application denials for the following year. The Director asked this office to look into the situation and we learned that a large number of the participants for whom the program was first designed—widows, widowers, pensioners, and disabled with income below the program's thresholds are unable to consistently navigate the rigors of the annual application process. The department is studying how to address this issue and may bring the committee or the next legislature some ways to remedy the problem.

Collections

During enactment of the Taxpayer Bill of Rights in 1991 a committee member asked about the restrained language on the right of taxpayers to use installment payments and noted that the "worst travesty of all is still the warrant for distraint," which establishes a tax lien against a taxpayer's real and personal property. At that time the department was allowing payment plans as a last resort but discouraging them because they were costly to administer. Similarly, other states were warning taxpayers before they would issue a warrant for distraint while the Montana Department of Revenue was not.

These collection issues are long behind us. Today installment payment plans are encouraged and the department notifies a taxpayer before a lien is issued and provides the taxpayer an opportunity to challenge or satisfy the obligation before the lien is even put in place. Typically, filing a lien comes late in the collection process and is filed in most cases where the debtor has been uncooperative.

However, much is happening in this field. This year the office began to consult with the Internal Revenue Service (IRS) and studied its Fresh Start Initiative, which launched 3 years ago in response to the long simmering recession. The IRS has found collection revenues actually increase when taxpayers (within constraints) are able to enter into and configure their own payment plans. It also is experimenting with how it uses and does not use tax liens.

The department's Collection Bureau has already embraced some of these innovations and the department has a working group studying what other parts of the initiative make sense to emulate.

While the department's mission is to improve the quality of life for all Montanans through public service and effective administration of the state's tax and liquor laws, the nature of taxation can sometimes lead to conflict between the department and taxpayers. Through the wisdom of the Legislature in 1991 the TPA Office helps to smooth the rough edges off the tax system and provide taxpayers with prompt and effective assistance. The Office strives for efficient and effective service in delivering its mission for the citizens of Montana.