

Ohio State Tax Report

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Use Tax Amnesty Program Gets Underway

The Ohio Department of Taxation (ODT) has begun mailing the first major batch of invitations to more than 200,000 businesses encouraging them to take advantage of the state's first use tax amnesty.

The amnesty will run from October 1, 2011 until May 1, 2013.

It's an opportunity for Ohio businesses to solve a tax problem they may not even know they have.

The use tax is a complement to the sales tax – same tax rate; same tax base – but ODT auditors are finding an increasing number of business taxpayers don't fully understand the tax or even know that they should be paying it.

Tax Commissioner Joe Testa says the goal of the amnesty is to increase awareness of the use tax among business taxpayers and educate them on how it works, "We do collect a significant amount of use tax but much of it comes from companies with substantial accounting and financial resources. It's the smaller companies without that kind of tax expertise on hand that struggle with or overlook use tax. With the amnesty, we're trying to make it as easy as possible for them to get a handle on the use tax."

In general, only suppliers with a physical presence in Ohio are obligated to collect sales tax. If a supplier is out of state, or out of the country, they often do not have to collect Ohio sales tax. That's when the use tax comes into play. If an Ohio company does not pay sales tax on a taxable product or service, then by state law, it is obligated

to pay use tax.

The use tax has been law since 1936. It was enacted to protect Ohio businesses whose customers were crossing state lines to avoid paying the recently enacted state sales tax.

Testa says despite its long history, the use tax is a relatively new issue for many businesses. "With the growth of the Internet and mail-order commerce, more and more companies are buying products and services from suppliers outside Ohio who don't collect sales tax. It can be complicated keeping track of what's taxable and what's not. The amnesty is designed to give taxpayers time to build greater understanding of the tax and pay off any outstanding use tax liability at the lowest possible cost."

The use tax amnesty allows businesses that owe use tax to pay back tax incurred since January, 2009 with no penalty or interest. The program also provides the option of entering into a payment plan, if the amount of tax owed exceeds \$1,000.

In exchange, businesses that sign up for amnesty must register for a use tax account and going forward, comply with all provisions of use tax law.

The Ohio Department of Taxation website – tax.ohio.gov – provides extensive resources to help business taxpayers learn about the use tax and sign up for the amnesty program if appropriate.

Businesses can also get information and assistance by calling ODT at 1-800-304-3211. ☎

Mailing of Income Tax Books and Forms to End

With eight of every 10 Ohio taxpayers now choosing the ease, speed and security of filing their income taxes electronically, the Ohio Department of Taxation will no longer mail paper income tax booklets and forms.

The move, combined with other postage and printing cost-savings measures, will save Ohio taxpayers \$1.2 million per year. This initiative is in keeping with Governor John Kasich's goals of finding efficiencies in state government to help reduce the tax burden on Ohioans.

"My commitment to Governor Kasich was that the Department of Taxation would be part of the solution in closing the budgetary gap we faced," said Tax Commissioner Joe Testa. (cont'd. on pg. 2)

What's Up Inside...

<i>Income Tax Reductions</i>	2
<i>Legal Update</i>	3
<i>Enforcement Report</i>	4
<i>Calendar</i>	10

Mailing (cont'd. from page 1)

In recent years, the department has pared its mailing list and most taxpayers have not received paper booklets and forms in some time. This includes those who electronically file their returns or who have their returns professionally prepared for them.

Instead of a tax booklet and form, taxpayers who had been getting those in the mail will instead receive a one-time notice from the department informing them of the change.

“Tax year 2011 will be our transition year,” said Testa. “We will mail notices one last time which will direct taxpayers to our toll free number and our website for details, forms and FAQs. Libraries and post offices receiving booklets this year will be asked to post a notice that this will be the last year for that practice as well.”

Taxpayers may visit our website at tax.ohio.gov or call toll free at 1-800-304-3211 

Income Tax Reductions Add Up to Real Savings

Income taxes in Ohio have declined each year for the last seven years and the reductions are adding up to real savings for Ohioans.

A family of four earning \$55,000 a year can look forward to paying 25.9 percent less in income taxes when tax year 2011 taxes are due next April than in tax year 2004 (see chart below). This represents a savings of \$389 as the family would have paid an income tax bill of \$1,502 seven years ago compared to \$1,113 this tax year.

Providing most of the Ohio income tax savings are the five reductions totaling 21 percent in House Bill 66 that was enacted into law in 2005 along with a host of other tax law changes. But that's only part of the story.

Two other factors have also contributed to a lower Ohio income tax bill – annual increases in the amount of income that Ohioans can exempt from their taxable income and the indexing of income tax rates to inflation.

From tax year 2004 to tax year 2011, the exemption deduction has increased \$50 a year for each Ohioan. A family of four can deduct \$6,600 of their income in tax year 2011, compared to \$5,200 in tax year 2004.


Ohio is required to index its nine individual income tax

tables to inflation rates to keep people from being pushed into a higher tax bracket when their paychecks are only keeping up with inflation.

Indexing was supposed to begin in 2005, but lawmakers pushed this adjustment back an additional five years to allow the tax reforms of HB 66 to be fully implemented.

In 2010, income tax brackets were adjusted for the first time, which resulted in a 0.9 percent reduction in state income taxes for tax year 2010. This year (tax year 2011) the adjustment is 1.2 percent.

The final income tax cut was originally scheduled for 2009, but state leaders opted to postpone it for two years in order to close a budget hole. That reduction will now be realized by Ohio income taxpayers when they file their tax year 2011 returns that are due in April 2012.

Now, all of the pieces of tax reduction are in place – the fifth planned income tax reduction of the tax reform package, the adjustment of brackets for inflation and increases in the exemption deduction. The result is real savings for Ohio families. 

	Tax Year							
	2004	2005	2006	2007	2008	2009	2010	2011
Federal (and Ohio) AGI	\$55,000	\$55,000	\$55,000	\$55,000	\$55,000	\$55,000	\$55,000	\$55,000
Exemption Deduction	5,200	5,400	5,600	5,800	6,000	6,200	6,400	6,600
Ohio Taxable Income	49,800	49,600	49,400	49,200	49,000	48,800	48,600	48,400
Tax on Ohio Taxable Income	1,847	1,759	1,673	1,587	1,502	1,493	1,479	1,389
Exemption Credit	80	80	80	80	80	80	80	80
Tax Less Exemption Credit	1,767	1,679	1,593	1,507	1,422	1,413	1,399	1,309
Joint Filing Credit	265	252	239	226	213	212	210	196
Ohio Income Tax	1,502	1,427	1,354	1,281	1,209	1,201	1,189	1,113
% Tax Decreased from Previous Year		4.99	5.12	5.39	5.62	0.66	1.00	6.39

An Ohio family of four earning \$55,000 a year will pay almost 26 percent or \$389 less in Ohio income tax in tax year 2011 (due in April 2012) than in tax year 2004.



Legal Update

The following are significant decisions of the Board of Tax Appeals (BTA), the Ohio Courts of Appeals and the Ohio Supreme Court from March 2011 through May 2011. These informational summaries of tax decisions are compiled by Raina Nahra, Legal Counsel, Office of Chief Counsel.

Personal Income Tax

Michael W. Schweitzer v. Levin (March 22, 2011) BTA # 2010-M-1512

The BTA dismissed on jurisdictional grounds a purported appeal in which the taxpayer did not file a copy of the notice of appeal with the Tax Commissioner as required under Ohio Revised Code 5717.02. The BTA ruled that it did not have jurisdiction to hear the appeal.

Kitty Cullin v. Levin (March 22, 2011) BTA # 2010-A-1921

The BTA dismissed on jurisdictional grounds a purported appeal that was not taken from a final determination of the Tax Commissioner as required under Ohio Revised Code 5717.02. The BTA ruled that it did not have jurisdiction to hear the appeal.

Suzy Shortt-Tucker v. Levin (April 26, 2011) BTA # 2010-K-577

The BTA affirmed the Tax Commissioner's school district income tax final determination on grounds that the taxpayer failed to pre-pay the required amount under Ohio Revised Code 5747.13(E)(2) in order to confer jurisdiction.

Edward Senu-Oke v. Levin (April 26, 2011) BTA # 2010-M-1965

The BTA affirmed the Tax Commissioner's final determination on grounds that the taxpayer failed to file the petition for reassessment within 60 days after service of the notice of assessment under Ohio Revised Code 5747.13(B) in order to confer jurisdiction.

Sales & Use Tax

Cottonwood, Inc. v. Levin (April 19, 2011) BTA # 2009-K-5

An Ohio taxpayer operating a business was assessed sales tax. The taxpayer sought waiver of the penalties and interest assessed, asserting that the tax had been paid. The BTA affirmed the Tax Commissioner's final determination, citing the taxpayer's failure to demonstrate an abuse of discretion by the Commissioner.

Real Property Exemption

The Chapel v. Testa (April 19, 2011) BTA # 2007-V-2

On reversal and remand by the Ohio Supreme Court in *The Chapel v. Testa*, Slip Opinion No. 2011-Ohio-545 (Feb. 10, 2011), the BTA adjusted its findings regarding the recreational acreage at issue. A church sought exemption for 57 acres under Revised Code 5709.07 as property used for public worship, and for 20 acres under Revised Code 5709.12 as property used for charitable purposes. The Tax Commissioner granted the exemption for the 57 acres but denied exemption for the 20 acre tract. The 20 acre tract was used by the public for softball, football, jogging and other activities. The Supreme Court stated that in order for the charitable exemption to apply under Ohio Revised Code 5709.12, the property must belong to an institution and be used exclusively for charitable purposes. Further, neither church ownership nor religious motivations defeat a claim for charitable use exemption. Based on the facts, the Court held that use of the 20 acres for public recreation constituted a charitable use. The Court ordered the exemption to be granted for the 20-acre tract. Moreover, it ordered the BTA to perform whatever further delineation of the exempt acreage may be necessary to determine the precise acreage to be exempted. On remand, the BTA concluded that 1.4424 acres of the 20-acre tract devoted to two oil wells on the property are to remain taxable. The BTA also determined that the property owner is entitled to remissions of tax made for 2000 and 2001.

Corporate Franchise Tax


Michael Falatok Enterprises, Inc. v. Levin (May 17, 2011) BTA # 2010-K-902

The BTA granted the Tax Commissioner's motion to dismiss on the grounds that the taxpayer failed to meet the pre-payment requirements under Ohio Revised Code 5747.11(E)(1) in order to confer jurisdiction and had not sufficiently specified error in the final determination.

M.A.T.S.D., Inc. v. Levin (May 17, 2011) BTA # 2010-K-1101

The BTA reversed the Tax Commissioner's final determination and remanded the matter for further review. The taxpayer disputed the final determination on grounds of its status as a taxpayer, and therefore was not required to remit any amount to confer the Commissioner's jurisdiction under Ohio Revised Code 5733.11(E)(5).

Employer Withholding Tax**Omkar Enterprises, Inc. v. Levin** (May 2, 2011) BTA # 2008-M-1631

The taxpayer was assessed a penalty on grounds that it failed to file its employer annual reconciliation of income tax withheld. The BTA affirmed the Tax Commissioner's final determination, citing the taxpayer's failure to demonstrate an abuse of discretion by the Commissioner when he denied the full abatement request. 

Tax Enforcement News

The following convictions were received by the Enforcement Division of the Ohio Department of Taxation from April 2011 through June 2011. Tax Enforcement News is compiled by Richard T. Shirk, administrator of the Enforcement Division. Fraud complaints can be e-mailed to taxenforcement@tax.state.oh.us



Asked why the business had failed to continue paying on the back taxes, James Wall explained that he had had some health issues and noted that business was slow. A few weeks later, the enforcement agents went back to Tackett Tire Sales and found the building to be empty and presumably closed.


In June 2011, Donna Walls entered a guilty plea in Kettering Municipal Court to two counts of failure to file sales tax returns. She was ordered to pay a fine of \$100 on each charge and to pay \$262.25 in court costs. She was also ordered to enter into a payment plan of \$50 a month until the balance is paid in full.

Cleveland Man Files 42 Income Tax Returns

Enforcement investigated and found that Larry Jackson, of Cleveland, used various Social Security numbers in filing 42 fraudulent income tax returns seeking refunds of \$24,886. He pled guilty to one count of theft, one count of attempted identity theft and one count of filing false tax return and received a suspended prison sentence, five years of community control and an order to pay restitution in the amount of \$28,361.

Arrest Halts Tax Evasion Scheme

On Sept. 27, 2010, enforcement agents were informed that Walid Zagari, of Cleveland, was operating a tobacco-tax fraud scheme by buying cigars from a Pennsylvania tobacco wholesaler and selling them to convenience stores in Ohio.

Zagari was arrested Oct. 4, 2010. Enforcement agents seized his van, a large amount of tobacco products and invoices related to the illegal sales. On May 6, 2011, he pled guilty to one count of money laundering, one count of aggravated theft, one count of possession of untaxed tobacco and eight counts of trafficking in untaxed tobacco. He was ordered to prison at Lorain Correctional Institute for two years. 

Sales Tax Evader Caught at Chicago Airport

The Hamilton County Court of Common Pleas sentenced James Jisu Rim to five years of probation, conditional upon employment verification. The defendant pled guilty to two counts of collecting and failing to remit sales tax. Rim was apprehended at O'Hare International Airport in Chicago, apparently while he was attempting to flee the country. He provided partial payment of \$10,000 of the past due sales taxes. The total amount of sales tax due is \$217,599, not including any of the remaining 12 periods of sales taxes that are unfiled and any withholding taxes and income taxes owed.

Failure to Comply Leads to More Problems

Donna Walls, of Kettering, co-owner of Tackett Tire Sales, stopped making sales tax payments in violation of a court order for the business to pay \$32,043 in unremitted, but collected sales taxes. When her payments ceased, she still owed \$20,000 in back sales taxes.

Enforcement agents went to the business and advised her husband James Walls, who co-owned and managed the company, that the company's vendor license was suspended and the business could no longer make taxable sales.

Assorted Sales Tax Violations

Subject Name	County	City	Violation
Michael D. Cosse	Clermont	Amelia	1 conviction failure to file sales tax returns
Paul D. Hency	Clermont	Amelia	1 conviction failure to file sales tax returns
Barry D. Mullins	Hamilton	Cincinnati	1 conviction failure to file sales tax returns
Edward M. Brock	Butler	Fairfield	1 conviction failure to file sales tax returns
Karen Reedy	Brown	Georgetown	1 conviction failure to file sales tax returns
Donna Walls/James Walls	Montgomery	Kettering	2 convictions failure to file sales tax returns
Gina L. Sipos	Summit	Akron	2 convictions failure to file sales tax returns
William Goodwin	Summit	Akron	2 convictions failure to file sales tax returns
David W. Posey	Washington	Belpre	2 convictions failure to file sales tax returns
Thomas L. Gamauf	Summit	Copley	2 convictions for failure to file sales tax returns
Kenneth J. Flack Jr.	Trumbull	Cortland	1 conviction for failure to file sales tax returns
Mark A. Thomas	Lorain	Elyria	2 convictions for failure to file sales tax returns
Ralph J. Gerke	Cuyahoga	Fairview Park	2 convictions for failure to file sales tax returns
Andrew A. Baytos Jr.	Trumbull	Niles	3 convictions for failure to file sales tax returns
Michael J. Krenciprock	Trumbull	Niles	3 convictions for failure to file sales tax returns
Jennifer K. Kirk	Mahoning	North Benton	3 convictions for failure to file sales tax returns
Dale E. Pratt	Portage	Rootstown	3 convictions for failure to file sales tax returns

Assorted Sales Tax Violations

Business	County	City	Violation
Harry P. Horton	Portage	Rootstown	3 convictions failure to file sales tax returns
Alan J. Pawlowski	Lorain	Vermilion	1 conviction no vendor's license and 2 convictions failure to file sales tax returns
Dennis R. Stiers	Washington	Vincent	1 conviction failure to file sales tax returns
Abbe L. Tomlin	Lawrence	Chesapeake	1 conviction failure to file sales tax returns
Bandr Bentarif	Franklin	Columbus	1 conviction failure to file sales tax returns
David W. Cotter	Franklin	Columbus	1 conviction failure to file sales tax returns
Diab S. Ellan	Franklin	Columbus	1 conviction failure to file sales tax returns
Kenneth W. Taylor	Franklin	Columbus	1 conviction failure to file sales tax returns
Samy O. Aweshaw	Franklin	Columbus	1 conviction failure to file sales tax returns
Timothy E. Dutton	Franklin	Columbus	1 conviction failure to file sales tax returns
Vi Huynh	Franklin	Dublin	1 conviction failure to file sales tax returns
Wayne C. Boyle	Franklin	Gahanna	1 conviction failure to file sales tax returns
Cortney L. Fairbanks	Franklin	Hilliard	1 conviction failure to file sales tax returns
David M. Agner	Franklin	Hilliard	1 conviction failure to file sales tax returns
Tuesday R. Miller	Franklin	Hilliard	1 conviction failure to file sales tax returns
James A. Beard	Fairfield	Lancaster	1 conviction failure to file sales tax returns
Subhi Saleh	Union	Marysville	1 conviction failure to file sales tax returns

Assorted Sales Tax Violations

Business	County	City	Violation
Melvin E. Stimmel	Henry	Napoleon	1 conviction for failure to file sales tax returns
Thomas L. Mezick	Huron	New London	1 conviction for failure to file sales tax returns
Glen M. Cowen	Huron	Norwalk	2 convictions for failure to file sales tax returns
Michael W. Romell	Huron	Norwalk	2 convictions for failure to file sales tax returns
Troy D. Reed	Henry	Okolona	2 convictions for failure to file sales tax returns
Ruben R. Bennett	Ottawa	Port Clinton	2 convictions for failure to file sales tax returns
Randall J. Bee	Lucas	Sylvania	1 conviction for failure to file sales tax returns
Gregory V. Graham	Knox	Mt. Vernon	1 conviction for failure to file sales tax returns
George C. Horlacher	Knox	Mt. Vernon	1 conviction for failure to file sales tax returns
Michael L. Shoewalter	Knox	Mt. Vernon	1 conviction for failure to file sales tax returns
Robert E. Wright	Licking	Newark	1 conviction for failure to file sales tax returns
Joseph Wagner	Licking	Pataskala	1 conviction for failure to file sales tax returns
Eric G. Ahlteen	Delaware	Powell	1 conviction for failure to file sales tax returns
Daniel M. Wheeler	Lawrence	Proctorville	1 conviction for failure to file sales tax return
Roger E. Madison III	Franklin	Reynoldsburg	1 conviction for failure to file sales tax return
Marcia E. Keirns	Seneca	Bloomville	2 convictions for failure to file sales tax returns
Tami Haught	Crawford	Bucyrus	2 convictions for failure to file sales tax returns

Cigarette and Tobacco Violations

Business	County	City	Violation
Eric Beach	Hamilton	Cincinnati	1 conviction no other tobacco products license
Singh A. Tejbir	Hamilton	Cincinnati	1 conviction no cigarette license
Ashraf Ahrabi	Montgomery	Fairborn	1 conviction no other tobacco products license
Bajram Bytyci	Ashtabula	Ashtabula	1 conviction retail/wholesale tobacco violation
Rached Bellhouane	Cuyahoga	Cleveland	1 conviction for no cigarette license
Walid Zagari	Cuyahoga	Cleveland	1 conviction each for money laundering, theft and possession of untaxed tobacco and eight convictions for trafficking in untaxed other tobacco products.
G. Hazzawi	Franklin	Columbus	1 conviction no cigarette license
Bradley Jesse	Ashtabula	Ashtabula	1 conviction each no other tobacco products license and no cigarette license
Michael A. Carson	Athens	Athens	1 conviction retail/wholesale tobacco violation
Allen Shannon	Hamilton	Cincinnati	1 conviction no cigarette license
Carl Pickens	Hamilton	Cincinnati	1 conviction no cigarette license
Gregory Peck	Hamilton	Cincinnati	1 conviction each no cigarette license and failure to collect sales tax
Lashauna Turnage	Hamilton	Cincinnati	1 conviction for disorderly conduct
Muneer J. Hanini	Cuyahoga	Cleveland	1 conviction failure to post license/single stick
Naser S. Najjar	Cuyahoga	Cleveland	1 conviction failure to post license/single stick
Yousef M. Suleiman	Cuyahoga	Cleveland	1 conviction failure to post license/single stick
Justin Bol Maker	Franklin	Columbus	1 conviction no cigarette license

Cigarette and Tobacco Violations

Business	County	City	Violation
Nimeh H. Tadros	Franklin	Gahanna	1 conviction each for retail/wholesale tobacco violation & no other tobacco products license
Roger Carlyle	Franklin	Gahanna	1 conviction no other tobacco products license
Michael T. Szymanski	Licking	Newark	1 conviction for no other tobacco products license
Osman M. Osman	Portage	Ravenna	1 conviction failure to file other tobacco products return
James Thomas Jr.	Preble	West Manchester	1 conviction possession of untaxed cigarettes
George Barhooome	Mahoning	Youngstown	1 conviction for falsifying tobacco records

Assorted Withholding/Income Tax Violations

Business	County	City	Violation
Larry Jackson	Cuyahoga	Cleveland	1 conviction each for disorderly conduct, identity theft and filing incomplete, false and fraudulent income/withholding tax returns
Pamela Woodring	Cuyahoga	Cleveland	1 conviction for filing incomplete, false and fraudulent income/withholding tax returns
Todd Helms	Sandusky	Clyde	1 conviction for filing incomplete false and fraudulent income/withholding returns

Calendar at-a-glance

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Oct.	
17	Monthly Income Tax Withholding Return
20	Monthly Kilowatt Hour Tax Return
24	Monthly Sales Tax Return
24	Monthly Consumer Use and Direct Pay Return
24	Quarterly Consumer Use and Direct Pay Return
31	Quarterly Income Tax Withholding Return
Nov.	
10	Quarterly Commercial Activity Tax Return
15	Monthly Income Tax Withholding Return
21	Monthly Kilowatt Hour Tax Return
21	Quarterly Natural Gas Distribution Tax Return
23	Monthly Sales Tax Return
23	Monthly Consumer Use and Direct Pay Return
Dec.	
15	Monthly Income Tax Withholding Return
20	Monthly Kilowatt Hour Tax Return
23	Monthly Sales Tax Return
23	Monthly Consumer Use and Direct Pay Return

The Ohio Department of Taxation's mission is to provide quality service to Ohio taxpayers by helping them comply with their tax responsibilities and by fairly applying the tax law.

The Ohio State Tax Report is published by the Ohio Department of Taxation as an information source. The articles it contains do not represent official opinions of the Ohio Tax Commissioner.

The editor of the Ohio State Tax Report is Howard Wheat. Email questions or comments to him at Howard_Wheat@tax.state.oh.us.

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