



July 12, 2016

Robert Coyne, Esquire
Executive Assistant Secretary
Commonwealth of Pennsylvania
Department of Revenue
1133 Strawberry Square
Harrisburg, PA 17128-1100

Dear Bob:

We hope this letter finds you well. As you are aware, the Philadelphia Chapter of Tax Executives Institute, Inc. ("TEI") has a State and Local Tax ("SALT") Committee that meets for breakfast on the fourth Wednesday of each month to discuss current topics in the SALT world.

Increasingly, members of our Committee have expressed concerns regarding the Pennsylvania Department of Revenue's ("DOR's") new corporation tax systems and procedures. The SALT Committee thus formed a Task Force to address these issues with the DOR. Its members are Randy Hutchinson of Comcast Corporation, Bill Kellogg of PwC, Wendi Kotzen of Ballard Spahr, Matt Melinson of Grant Thornton, Jeffrey Rhines of TE Connectivity, Ken Stoops of Deloitte, and Vito Cosmo of Grant Thornton.

Our purpose of the Task Force is to inform the DOR of our members' concerns and to offer possible, pragmatic remedies in a collaborative, mutually beneficial manner. We are aware you already know most, if not all, of the issues and are tirelessly working to resolve them. Our intent is not to complain or agitate. Rather, we seek remedies that will benefit all parties: Industry, the Practitioner Community, and the DOR. For instance, the principal remedy to address most of the below issues is to file a petition with the Board of Appeals. However, that course is costly, slow, and seemingly unnecessary for many of our issues, and the Board of Appeals' caseload is at epic proportions.

We have categorized the issues, below, for your convenience.



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General Matters of Tax Administration

1. Assessments of interest and/or penalty often are sent out before tax assessments. Our members have seen examples where there is a period of weeks or months between the time they receive an assessment of a penalty and the time they receive the tax assessment. This gap can be very confusing to the taxpayer receiving the notice. TEI maintains all assessments of tax, interest, and penalties should be included on the same document.
2. The DOR does not provide notice that an amended return or RAR adjustment has been received or whether the DOR accepted or rejected the amended return or RAR. TEI maintains the DOR should notify taxpayers that such filings have been received and whether they have been accepted or rejected.
3. Statements of account only show a single amount for the tax liability or credit available; they do not provide information enabling taxpayers to determine how the DOR calculated these amounts. TEI maintains taxpayers should be able to access assessments issued by the DOR and information enabling them to determine the basis for those assessments.
4. The DOR does not send taxpayers bills showing the amount of tax, interest and/or penalty due after the Board of Appeals or the Board of Finance and Revenue renders a decision on the merits or approves a compromise. Many taxpayers have internal rules and controls requiring an invoice to obtain approval to remit payments to a jurisdiction. TEI maintains the DOR should issue bills for tax, interest and/or penalties after rendering an administrative decision so taxpayers can remit payments to the DOR on a timelier basis.
5. Taxpayers are unable to determine what actions the DOR has taken in connection with debits and credits to their accounts, and thus cannot accurately track payments and credits when filing their returns. TEI maintains taxpayers should be able to access their debits and credits.

Specific Examples of Issues

1. **Out-of-Statute Tax Assessments:** In late 2015/early 2016, many taxpayers received “Late Filing Penalty” notices of assessment related to tax years for which the statute of limitations had already expired (such as for timely-filed returns for tax years 2008 and 2009). Although the reporting of Federal RAR changes could trigger such notices, in these situations, the taxpayers had not reported RARs. Moreover, the assessed penalties were not reported on the taxpayers’ statements of account.
2. **Clerical/Data Entry Errors in Assessments:** As an example, the DOR erroneously converted a taxpayer’s \$50,000,000 Federal tax loss to \$50,000,000 of Federal taxable income and issued a \$934,000 CNIT assessment. In the past, the DOR likely would have issued a billing notice enabling the taxpayer to seek an administrative correction without going through the formal appeal process. Because the DOR eliminated billing notices and now directly issues assessments, the taxpayer was required to file a petition with the Board of Appeals to correct this clerical error.



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3. **Lost Returns:** A taxpayer recently received a franchise tax assessment indicating no change in its tax liability, but showing no offsetting payments. The taxpayer learned through discussions with the Accounting Division that the DOR did not honor the taxpayer's request to transfer an overpayment from a prior year tax year because, according to the DOR, the taxpayer had not filed a RCT-101 for prior year. In addition, the DOR never notified the taxpayer that it believed the taxpayer had failed to file the return. The taxpayer determined in its investigation that it had timely filed the prior year's return and that all return receipt documentation was in place. This issue could have been resolved easily if the DOR had notified the taxpayer that it had no record of a filed return for the prior year.
4. **Debit Balance Appearing on Statement of Account Without Corresponding Assessment:** A taxpayer noticed a \$10,000,000 debit balance for a CNIT year when reviewing its statement of account. The taxpayer had not received a corresponding notice of assessment. The taxpayer panicked, questioning whether it had missed a Board of Appeals filing deadline. The taxpayer ultimately learned that notices of assessment are issued a full two months after the statement of account. To further confuse things, when the taxpayer finally received the notice of assessment, the assessment did not include a worksheet detailing the adjustment(s). The taxpayer was able to piece together the computation of the assessment only after two subsequent telephone calls with the DOR.

Possible Remedies

All of the above identified issues and examples appear to have one thing in common: they are a result of the DOR's new corporation tax system implemented a few years ago. The obvious remedy is to fix this corporation tax system, but we are aware that will take some time. Therefore, we offer the following pragmatic remedies in the meantime:

1. **Permit Administrative Resolution via the Bureau of Corporation Taxes**

TEI recommends that the DOR establish an administrative process via the Bureau of Corporation Taxes to resolve computational and procedural errors without the need to file a petition with the Board of Appeals. As a committee we would be happy to work with the DOR on coming up with a workable process for both the Taxpayer and the DOR.

2. **Amendment of the Amended Report Regulation – Reg. Sec. 151.14**

As mention in the General Matter of Tax Administration section of this letter, the amended return process is extremely difficult and ambiguous for corporate taxpayers. The adoption of Regulation 151.14 in 2010, combined with significant changes to the DOR's corporate tax system, has created the perfect storm: the system spawns clerical errors requiring an amended return, while the DOR now has the power to simply ignore amended returns, leaving taxpayers with out of statute claims without appeal rights. We respectfully request a simple time limitation and



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notification procedure so that taxpayers do not lose their appeal rights. However, true reform mandates that the DOR treat amended returns like the other states, and TEI maintains Regulation Section 151.14 should be changed to eliminate any ambiguity that exist today; as it stands, the regulation could be challenged successfully along Due Process grounds.

Taxpayers are incurring additional costs due to the DOR's processes and errors. TEI supports a streamlined resolution process that will enable errors to be corrected without going through the formal appeals process. We believe a streamlined process would benefit corporate taxpayers, the DOR, and the Board of Appeals alike.

We greatly appreciate your consideration of these matters and would appreciate the opportunity to meet with you and your team in the near future to discuss potential solutions that would benefit all parties. If you have any questions, please contact me at albert_a_pisanelli@vanguard.com or 610-669-1719.

Sincerely,

Albert A. Pisanelli

Tax Executives Institute, Inc.
Chair, State and Local Tax Committee, Philadelphia Chapter