

STATE OF LOUISIANA LEGISLATIVE AUDITOR

Department of Revenue
State of Louisiana
Baton Rouge, Louisiana

August 16, 2000



Financial and Compliance Audit Division

Daniel G. Kyle, Ph.D., CPA, CFE
Legislative Auditor

LEGISLATIVE AUDIT ADVISORY COUNCIL

MEMBERS

Representative Edwin R. Murray, Chairman
Senator J. "Tom" Schedler, Vice Chairman

Senator Robert J. Barkan
Senator Foster L. Campbell, Jr.
Senator Lynn B. Dean
Senator Willie L. Mount
Representative Rick Farnar
Representative Victor T. Stally
Representative T. Taylor Townsend
Representative Warren J. Triche, Jr.

LEGISLATIVE AUDITOR

Daniel G. Kyle, Ph.D., CPA, CFE

DIRECTOR OF FINANCIAL AND COMPLIANCE AUDIT

Albert J. Robinson, Jr., CPA

This document is produced by the Legislative Auditor, State of Louisiana, Post Office Box 94387, Baton Rouge, Louisiana 70804-0387 in accordance with Louisiana Revised Statute 24:515. Thirty-four copies of this public document were produced at an approximate cost of \$72.00. This material was produced in accordance with the standards for state agencies established pursuant to R.S. 43:31. A copy of this document is available on the Legislative Auditor's Web site at www.la.state.la.us.

In compliance with the Americans With Disabilities Act, if you need special assistance relative to this document, or any documents of the Legislative Auditor, please contact Wayne "Skip" Irwin, Director of Administration, at 225-733-3800.

**DEPARTMENT OF REVENUE
STATE OF LOUISIANA
Baton Rouge, Louisiana**

**Financial Related Audit and
Independent Auditor's Report
Dated July 28, 2000**

Under the provisions of state law, this report is a public document. A copy of this report has been submitted to the Governor, to the Attorney General, and to other public officials as required by state law. A copy of this report has been made available for public inspection at the Baton Rouge office of the Legislative Auditor.

August 10, 2000

DEPARTMENT OF REVENUE
STATE OF LOUISIANA
Baton Rouge, Louisiana

Financial Related Audit and
Independent Auditor's Report
Dated July 26, 2006

CONTENTS

	Page No.
Executive Summary	v
Independent Auditor's Report	1
Review of Policies and Procedures	3
Finding and Recommendation	11
	Appendix
Schedule of the Ten Largest Delinquent Taxpayers	A
Management's Response to the Finding and Recommendation and the Corrective Action Plan	B

**DEPARTMENT OF REVENUE
STATE OF LOUISIANA**

**Financial Related Audit of
Non-Current Accounts Receivable**

EXECUTIVE SUMMARY

The Louisiana Department of Revenue collects taxes specifically assigned by law to the Department. At June 30, 1999, the Department's records reflect \$208.7 million owed by delinquent taxpayers. A material portion of this receivable has not been reported in the state's financial statements because collection is remote. An analysis of the \$208.7 million receivable reveals the following:

- \$124.8 million was estimated as uncollectible.
- \$172 million was over one year old.
- \$52.8 million was attributed to withholding taxes, of which \$12.6 million was reported as uncollectible.
- \$68.7 million was attributed to sales taxes, of which \$46.9 million was reported as uncollectible.

Other items of interest include the following:

- The ten largest delinquent taxpayers as of March 2000 owed approximately \$8.4 million collectively.
- Louisiana has no jurisdiction in other states to collect taxes owed by delinquent taxpayers that leave this state.
- A considerable amount of time elapses from the date of non-payment by a taxpayer to the date actual collection effort begins. As much as 18.5 months can elapse before the account is assigned to an analyst/tax officer for collection.

The following represents a summary of the significant findings that resulted from our financial related audit of non-current accounts receivable at the Department of Revenue. Detailed information is contained in the Findings and Recommendations section of the report.

- Since May 5, 1998, the Department has not had an effective contract with an out-of-state collection agency that can pursue delinquent taxpayers that leave the state.

LEGISLATIVE AUDITOR

DEPARTMENT OF REVENUE STATE OF LOUISIANA Executive Summary (Continued)

- There was no evidence that the Department has pursued the principal owners of businesses or the officers, directors, or managers of corporations for payment of sales and withholding taxes owed, as allowed by Louisiana Revised Statute 47:1561.1.
- The Department does not have policies and procedures to ensure that refunds are not issued to individual taxpayers whose business accounts have been placed in uncollectible status.
- The Department does not provide adequate documentation to verify that all attempts to effect collection have been completed before a taxpayer's account is deemed uncollectible.
- The Department does not have adequate disclosure in accordance with Louisiana Revised Statute 30:710C regarding the reporting of debts and receivables owed to the department. As of June 30, 1998, the Department had unreported proposed assessments of system taxes alone for \$070 million.
- The Department is not charging off uncollectible receivables in a timely manner.
- The Department only bills taxpayers for amounts due that exceed \$8.99 for each tax period.
- The Department is allowed by Louisiana Revised Statute 47:1562-1573 to levy upon or seize property or the rights to property of delinquent taxpayers. Over the past three years, the Department has not performed any real property seizures to satisfy a taxpayer's debt.



HAROLD STELL, P.E., CPA, FEA
LEGISLATIVE AUDITOR

OFFICE OF
LEGISLATIVE AUDITOR
STATE OF LOUISIANA
BATON ROUGE, LOUISIANA 70804-4000

NEW ORLEANS: 584-3333
POST OFFICE BOX 9490
TELEPHONE: 584-5770
FACSIMILE: 584-5700

July 28, 2000

Independent Auditor's Report

**DEPARTMENT OF REVENUE
STATE OF LOUISIANA
Baton Rouge, Louisiana**

We performed a financial related audit of the non-current accounts receivable at the Department of Revenue. The objectives of our audit were to determine if the internal controls are effectively designed, documented, and placed into operation as they relate to the overall effort by management to record, track, and collect non-current accounts receivable due the Department of Revenue.

Our audit was performed in accordance with Government Auditing Standards, issued by the Comptroller General of the United States, applicable to a financial related audit. Our limited procedures consisted of (1) interviewing certain Departmental personnel; (2) examining selected taxpayer accounts; (3) reviewing collection contracts; (4) reviewing applicable Louisiana laws and regulations; (5) reviewing applicable Departmental policies, procedures, rules, and regulations, and (6) making inquiries to the extent we considered necessary to achieve our purpose.

These limited procedures are substantially less in scope than an audit of financial statements in accordance with government auditing standards, the purpose of which are to provide assurance on the entity's presented financial statements, assess the entity's internal control, and assess its compliance with laws and regulations that could materially impact its financial statements. Had we performed such an audit, or had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

Based on the application of the procedures referred to previously, the accompanying finding and recommendation represent those conditions that we feel warrant attention by the appropriate parties. Management's responses to the finding and recommendation presented in this report are included in Appendix B.

LEGISLATIVE AUDITOR

DEPARTMENT OF REVENUE
STATE OF LOUISIANA
Financial Related Audit, 2008

This report is intended solely for the information and use of the Department of Revenue and its management and is not intended to be, and should not be, used by anyone other than those specific parties. Under Louisiana Revised Statute 24:513, this report is distributed by the Legislative Auditor as a public document.

Respectfully submitted,



Daniel G. Kyle, CPA, CFE
Legislative Auditor

BB-DL-H26P-08

(p. 10)

**DEPARTMENT OF REVENUE
STATE OF LOUISIANA
Baton Rouge, Louisiana**

REVIEW OF POLICIES AND PROCEDURES

CREATION AND DUTIES

The Louisiana Department of Revenue is a department within the executive branch of government of the State of Louisiana. The Department maintains its headquarters in Baton Rouge along with offices in eight regions and two districts. The Department is responsible for assessing, evaluating, and collecting consumer, producer, and any other state taxes specifically assigned by law to the Department.

The Department's accounts receivable included in the state's Comprehensive Annual Financial Report represent amounts collected within 45 days of year-end, regardless of the tax period. Non-current accounts receivable at year-end result from final assessments by the department of taxes owed to the State of Louisiana and are usually not collected within 45 days of year-end. The non-current accounts receivable are not accounted for in the typical manner that accounts receivable in an ordinary business are accounted for because of the nature of the accounts receivable. Accounts receivable in a business setting result from the sale of goods or services, whereas accounts receivable at the Department of Revenue result from the nonpayment of taxes and the Department's compliance with the law to enforce tax collections.

OBJECTIVES

The objectives of our financial related audit were to determine whether the Department of Revenue's policies and procedures to record, track, and collect non-current accounts receivable have been documented and placed into operation in accordance with legal requirements and management's intentions. This report does not address collection of current accounts receivable.

AUDIT SCOPE AND METHODOLOGY

Our audit was performed in accordance with Government Auditing Standards, issued by the Comptroller General of the United States, applicable to a financial related audit. Financial related audits include audits of (1) segments of financial statements; (2) internal controls over compliance with laws and regulations; (3) internal controls over financial reporting and/or safeguarding assets; and (4) compliance with laws and regulations. The audit included a review of records and reports prepared and used by the Department to account for its non-current accounts receivable.

LEGISLATIVE AUDITOR

DEPARTMENT OF REVENUE STATE OF LOUISIANA Review of Policies and Procedures (Continued)

Our limited procedures consisted of the following:

1. Interviewing certain Departmental personnel
2. Examining selected taxpayer accounts
3. Reviewing collection contracts
4. Reviewing applicable Louisiana laws and regulations
5. Reviewing applicable Departmental policies, procedures, rules, and regulations
6. Making inquiries to the extent we considered necessary to achieve our purpose

BILLING PROCEDURES AND REPORTING REQUIREMENTS

Billing Procedures

Louisiana Revised Statute (R.S.) 47:1562-1573 states that the Secretary of the Department has the legal authority to order an audit, investigation, or examination to determine or estimate the amount of tax owed if a taxpayer fails to file a tax return or if a return or report does not correctly reflect the tax owed. These tax assessments are proposed assessments based on prior filings or minimum amounts provided by law. The proposed assessments are made known to the taxpayer through billing notices sent at various intervals, as explained later in this section.

The Department maintains two separate billing systems, one for system taxes (IAR System) and one for non-system taxes (Manual System).

- Billings for system taxes are accounted for through the automated accounts receivable system. The main function of this system is to determine when a tax period has been overpaid, underpaid, or not paid, and to generate an automated refund or bill accordingly. The automated accounts receivable system at the Department also computes penalty and interest due by law and when to bill.
- Coverage tax is the major non-system tax within the department. The master inventory of billings for non-system taxes are accounted for on a manual basis. Penalty and interest is manually calculated and included in the amounts on the master inventory. Audit Review and the non-system tax sections have their own procedures for recognizing receivables for non-system taxes and deciding when to bill.

LEGISLATIVE ADDENDUM

DEPARTMENT OF REVENUE STATE OF LOUISIANA

Review of Policies and Procedures (Continued)

The following is a summary of billing notices and the intervals at which they are sent to taxpayers:

- **Ten (10) Day Notice** is a final assessment sent when a taxpayer has filed a return but has failed to send the proper payment with that return. As provided by R.S. 47:1568, any tax due as shown on the face of the return filed by a taxpayer is considered assessed and that assessment shall be collectible by distraint (seizure) and sale. As a result, a 10-day notice is considered to be a final assessment by the Department.
- **Fifteen (15) Day Notice** is a proposed assessment sent when a taxpayer fails to file a return or when a return was filed with errors that result in additional taxes due. R.S. 47:1563 provides that the taxpayer can protest the amount determined to be due and the Department can consider the protest before making a final determination of the amount due. Consequently, a 15-day notice is not considered to be a final assessment because it is subject to change.
- **Thirty (30) Day Notice** is a proposed assessment sent when a return is filed that does not correctly compute the liability of the taxpayer, and an audit, investigation, or examination is made to determine the tax, penalty, and interest due. R.S. 47:1563 provides that the taxpayer can protest the amount determined to be due and the Department can consider the protest before making a final determination of the amount due. As a result, a 30-day notice is not considered to be a final assessment because it is subject to change.
- **Sixty (60) Day Notice** is a final assessment sent when the taxpayer has failed to respond to a proposed assessment. R.S. 47:1565 provides that the taxpayer has sixty calendar days from the date of the notice to either pay the amount of the assessment or to appeal to the Board of Tax Appeals for a redetermination of the assessment. If an appeal is not filed with the Board of Tax Appeals within the sixty-day period, the assessment shall be final and collectible by distraint and sale.
- **Final Notice Before Seizure (FNBS)** is mailed when there is no response from the taxpayer after the final assessments (i.e., 10-day notice or 60-day notice) have been sent. The FNBS is a letter advising the taxpayer that he/she has 10 days from the date of the letter to pay the taxes, interest, and penalties owed. If the taxpayer fails to pay the amount due, then the Department has the right to garnish and/or distraint any property of a taxpayer via a Warrant for Distraint, i.e., the Department has the right to levy upon, seize, and sell any of the taxpayer's property or rights to property. This will include goods, chattels, effects, stock, securities, bank accounts, evidence of debt, wages, real estate, and other forms

LEGISLATIVE AUDITOR

DEPARTMENT OF REVENUE STATE OF LOUISIANA

Review of Policies and Procedures (Continued)

of property for the purpose of satisfying any assessment of tax, penalty, or interest due.

Reporting Requirements

R.S. 30:790(1) requires that the Department shall report to the Commissioner of Administration and to the Joint Legislative Committee on the Budget on a quarterly basis all relevant information regarding debts and receivables owed to the Department. The quarterly accounts receivable report includes (a) the qualified gross receivable amount, (b) the qualified estimated uncollectible receivable amount, and (c) the total associated write-offs for the quarter.

- (a) The qualified gross receivable includes cases in which a taxpayer did not include the proper payment with the tax return; recorded payments have been negated because the checks were returned by the bank (NSFs); and audits of taxpayer accounts have identified amounts due to the Department.
- (b) The qualified estimated uncollectible receivable includes taxpayer accounts classified in an uncollectible warrant for distraint (UW) status on the Department's system. Before a taxpayer's account is placed in UW status, it must be in the final assessment stage, and the Department must use all available resources to locate the taxpayer in accordance with the Department's "Tax Officer Procedures for Warrants." The Department's Field Group Policy Memorandum No. 304 provides the guidelines for determining the uncollectibility of a warrant for distraint.
- (c) In accordance with the Department's Policy and Procedure Memorandum (PPM) No. 30.16, the write-offs for the quarter include final tax assessments that have warrants for distraint issued for ten years or more as of June 30 of that year.

Proposed assessments, which may be legally owed to the Department, are not included in the quarterly report to the Commissioner of Administration and to the Joint Legislative Committee on the Budget.

ANALYSIS OF NON-CURRENT ACCOUNTS RECEIVABLE

An analysis of the Department's non-current accounts receivable balances disclosed the following:

LEGISLATIVE AUDITOR

DEPARTMENT OF REVENUE
STATE OF LOUISIANA
Review of Policies and Procedures (Continued)

**Analysis of Non-Current Receivables
For the Three Fiscal Years Ended June 30, 1999**

	<u>Balance at June 30, 1997</u>	<u>Balance at June 30, 1998</u>	<u>Balance at June 30, 1999</u>
Gross Non-Current Receivables	\$200,170,560	\$270,029,550	\$385,724,130
Less: Estimated Uncollectibles	<u>124,492,708</u>	<u>87,008,634</u>	<u>124,894,671</u>
Net Non-current Receivables	<u>\$85,677,852</u>	<u>\$183,020,916</u>	<u>\$260,829,459</u>

- For the three years analyzed, the Department classified an average of 47% of the gross receivables as uncollectible.
- In accordance with PFA# No. 30.18, the Department charged off uncollectible assessments that had been outstanding for 10 years or more as of June 30, 1998, and June 30, 1998, for \$13,487,848 and \$38,828,848, respectively. The Department did not charge off any assessments during fiscal year ended June 30, 1997.
- As of June 30, 1999, an aging of non-current receivables revealed that over \$172 million or 66% of the gross non-current receivables are over one year old.
- In the state of Louisiana, employers are required by law to withhold income tax for both residents and nonresidents employed in the state. As of June 30, 1999, the Department reported \$32,822,172 as gross receivables attributed to withholding taxes, of which \$42,578,276 (38.3%) was noted as uncollectible.
- In addition, qualified Louisiana dealers are required to collect the proper sales taxes from customers and file returns with the Department. As of June 30, 1999, the Department reported \$69,655,901 as gross receivables attributed to sales taxes, of which \$40,348,585 (58.1%) was noted as uncollectible.
- As of June 30, 1999, the Department had 789,369 notices issued along with 280,893 warrants, for a total of 1,070,263 outstanding assessments.
- As of June 30, 1999, non-current receivables included \$5,675,836 for NSF checks. The NSF checks represented payments of \$2,279,953 for sales tax and \$3,395,873 for withholding tax.

LEGISLATIVE MONITOR

DEPARTMENT OF REVENUE STATE OF LOUISIANA

Review of Policies and Procedures (Continued)

A review of delinquent taxpayer business accounts disclosed the ten largest taxpayers owed approximately \$5.4 million collectively. The taxpayers' names and information were obtained from the Department's enforcement administrative procedures' records, which we feel are public records once the enforcement procedures have begun and lists have been perfected. For more information, see Appendix A.



REVIEW OF POLICIES AND PROCEDURES

Our audit included a review of the Department's policies and procedures, an analysis of the collection process, and tests of the Department's procedures regarding the collection effort for non-current accounts receivable. Our audit disclosed some concerns:

1. Louisiana has no jurisdiction in any other states to collect taxes owed by taxpayers that leave the state. The Department must depend on out-of-state collection agencies to collect those delinquent taxes.

LEGISLATIVE ACTION

DEPARTMENT OF REVENUE STATE OF LOUISIANA

Review of Policies and Procedures (Continued)

- A considerable amount of time elapses from the date of a taxpayer's non-payment to the date an analyst/tax officer begins to pursue a Warrant for Distraint. The Department takes a reactive approach to collection during the automated assessment period. There is a time lapse from 68 days to 18.5 months before the account is assigned to an analyst/tax officer who will begin to pursue a Warrant for Distraint. However, at any time, a response from the taxpayer will cause the assessment to be assigned to an analyst/tax officer for collection and for the billing process to start over again with a 10-, 15-, or 30-day notice.
- For returns filed with no compliance, the system places a 28 to 34-day hold on the assessment. After the holding period, the system will then generate a 10-day notice of tax due. If no compliance is received within 34 days, the system then generates a Warrant for Distraint. Approximately 68 days or two months will elapse before the account is assigned to an analyst/tax officer who will begin to pursue a Warrant for Distraint.
- For returns filed with errors that cause additional tax to be due, the system places a 20 to 34-day hold on the assessment. After the holding period, the system generates a 15-day proposed assessment. If no payment is received within 34 days, the system will generate a formal assessment. If no response is received within 67 days after the formal assessment, the system generates a Warrant for Distraint. Therefore, approximately 138 days or four and one-half months will elapse before the account is assigned to an analyst/tax officer who will begin to pursue a Warrant for Distraint.
- For monthly non-filers, such as taxpayers that owe sales and withholding taxes, approximately 40 days lapse from the due date of the return before a proposed assessment is issued. The assessment is based on the taxpayers' prior returns. If the taxpayer still does not file a return, 34 additional days lapse before the system will generate a formal assessment. If no return is filed or payment received within 67 days after the formal assessment, the system generates a Warrant for Distraint. Therefore, approximately 141 days or four and one-half months will elapse before the account is assigned to an analyst/tax officer who will begin to pursue a Warrant for Distraint.
- For annual non-filers, such as taxpayers that owe individual income taxes, the Department will issue a proposed assessment approximately one year and 45 days after the due date of the return. An additional 34 days will lapse before the system will generate a formal assessment, and if still no return is filed, an additional 67 days will pass before the system generates a Warrant for Distraint. Therefore, approximately 18.5 months will elapse before the account is assigned

LEGISLATIVE AUDITOR

DEPARTMENT OF REVENUE STATE OF LOUISIANA

Review of Policies and Procedures (Concluded)

to an analyst/tax officer who will begin to pursue a Warrant for Distraint. Additional time delays are caused by the untimeliness of the Interstate match.

For annual non-filers, such as taxpayers that owe corporate taxes, the Department will issue a proposed assessment approximately 200 days or eight and one-half months after the due date of the return. At least 294 days or nine and one-half months will pass before the system will generate a formal assessment, and if still no return is filed, an additional 67 days will pass before the system generates a Warrant for Distraint. Therefore, approximately one year will expire before the account is assigned to an analyst/tax officer who will begin to pursue a Warrant for Distraint.

After the time has elapsed to process the assessments, as indicated previously, but before the collection process can begin, the Department must re-verify that the debt is still valid and that the information contained in the return is correct. Therefore, cases can remain dormant for a considerable length of time before an analyst/tax officer begins to pursue the Warrant for Distraint. These time delays can vary depending on the different procedures used by the Collection Division and the regional offices.

DEPARTMENT OF REVENUE
STATE OF LOUISIANA

FINDINGS AND RECOMMENDATION

**Inadequate Collection Effort for
Non-current Accounts Receivable**

The Department of Revenue did not have adequate procedures and internal control to ensure that its collection effort for non-current accounts receivable is effective. The Department's *Polices and Procedures Manual (PPM)*, *Collection Division Desk Manual*, and the *Field Service Manual* discuss the procedures that should be followed when taxpayers receive final assessments. Final assessments apply when a taxpayer has filed a return and has not made any payment; proper payment was not made (i.e., NSF check) in accordance with the return, or an audit, investigation, or examination identifies taxes due. A final assessment also occurs when the taxpayer does not file a return and the Department assesses a tax, and the taxpayer fails to remit payment or file an appeal within the prescribed amount of time.

Our analysis of the collection process, which included 24 individual taxpayer accounts and 24 business accounts classified as uncollectible, disclosed the following:

1. Section III.A. of the *Collection Division Desk Manual*, titled "Collection Agency Accounts," states that "Out-of-state warrants based on a return, NSF check, or audit are placed in uncollectible status and will be sent out on the first of each month to the collection agency." The Department has not had an effective contract with a collection agency since May 5, 1998. The prior collection agency changed owners and, in accordance with the provisions of the contract, all uncollectible accounts were returned to the Department. The Department and the Office of Contractual Review did not approve a new contract until November 18, 1999. Six of the 24 (25%) individual taxpayer accounts tested, totaling \$64,424, met the criteria for out-of-state collections. However, as of May 22, 2008, the Department had not sent any out-of-state uncollectible accounts to the collector.
2. There was no evidence that the Department pursued, in accordance with R.S. 47:1501.1, the principal owners of businesses or the officers, directors, or managers of corporations for payment of sales and withholding taxes owed, totaling \$302,036, for 11 of the 24 (46%) business accounts tested. These statutes provide for the personal liability of officers of corporations and give the Department alternative means of enforcing collection of individual income taxes withheld from employee wages and sales taxes collected from consumers. In addition, the Department does not have policies and procedures to ensure that documentation is maintained to identify the business owner or agent of record. The Department did not document the business owner or agent of record for 13 of the 24 (54%) business accounts tested, totaling \$132,410.

LEGISLATIVE AUDITOR

DEPARTMENT OF REVENUE STATE OF LOUISIANA Finding and Recommendation (Continued)

3. The Department does not have policies and procedures to ensure that refunds are not issued to individual taxpayers whose business accounts have been placed in uncollectible status. Nine owners of the 24 (38%) business accounts tested received personal refunds totaling \$5,008, even though the businesses owed money to the state.
4. The Department did not provide adequate documentation to verify that all attempts to effect collection had been completed before the account was deemed uncollectible:
 - a. The Field Services Manual section titled "Tax Officer Procedures for Warrants" lists ten resources available to update taxpayer records when there is no response to the Final Notice Before seizure (FNBS) letters. Documentation did not indicate that the Department had used all available avenues to locate taxpayers for collection in accordance with that policy. In 10 of the 24 (50%) individual accounts tested, totaling \$50,394, and 21 of the 24 (88%) business accounts tested, totaling \$328,704, further research may have revealed a better address or location of the taxpayer. For instance, none of the accounts showed evidence that the option of checking the utility company for possible forwarding addresses was used.
 - b. Section 18.13 of the Collection Division Desk Manual titled "Uncollectible Warrants" states that the Note section on In-lieu queue (the taxpayer's electronic file) must include documentation of the actions taken to enforce collection. The Department has not provided enough information to adequately document the reasons for uncollectibility and provide an adequate audit trail for final assessments placed in uncollectible status. In seven of the 24 (29%) individual taxpayer accounts tested, totaling \$19,473, the Note section of the In-lieu queue revealed that the taxpayer folder did not contain adequate notes to justify the uncollectible status. Twenty-five of the 24 (87%) business accounts, totaling \$395,868, did not contain notes to justify the uncollectible status. In addition, the Department could not provide documentation noting actions taken to enforce collection on the items tested.
 - c. Neither the Department's Policies and Procedures Manual, the Collection Division Desk Manual, nor the Field Services Manual had adequate procedures to guide follow-up on In-state processed assessments placed in uncollectible status. After the In-state assessments were placed in uncollectible status in 11 of the 24 (46%) In-state, individual taxpayer accounts tested, totaling \$22,589, they became dormant accounts and collection efforts stopped. The Department relies on the federal/state

LEGISLATIVE AUDITOR

DEPARTMENT OF REVENUE STATE OF LOUISIANA

Finding and Recommendation (Continued)

match or the taxpayer subsequently bring a return to regenerate the account through the system for collection. If the accounts are not regenerated by these means, no additional effort occurs.

5. The Department does not have adequate disclosure of accounts receivable in accordance with R.S. 38:76(C). This statute requires that each state agency report to the Commissioner of Administration and to the Joint Legislative Committee on the Budget on a quarterly basis all relevant information regarding debts and receivables owed to the agency. The information should include major revenue sources, the age, and the collectibility. The Department, however, currently reports only those receivables derived from final assessments, with no disclosure of proposed assessments. Consequently, the quarterly reports are misleading as to the actual dollar amount of estimated accounts receivable due to the department. As of June 30, 1999, the Department had unreported proposed assessments of system taxes (LART) totaling \$870,060,100.
6. PFM No. 30.19 titled "Charging-Off Uncollectible Tax Receivables" states that the Department should, as of June 30 of each year, charge off uncollectible assessments that have been outstanding for ten years or more. The annual write-off for fiscal year ended June 30, 1999, which should have been reported in the fiscal year-end quarterly report, did not occur until February 14, 2000. As a result, the quarterly reports for June, September, and December 1999, that were submitted to the Commissioner of Administration and to the Joint Legislative Committee on the Budget in accordance with R.S. 38:76(C) were overstated.
7. In accordance with PFM No. 30.17, the Department only bills taxpayers for amounts due that exceed \$9.99 for each tax period. This policy states that the use of this amount will be periodically reviewed and appropriate recommendations will be made to management concerning the raising or lowering of this amount. The Department has not updated this policy since November 1, 1988, when the cost of issuing and collecting a bill was determined to be \$9.33.
8. An updated and complete copy of the *Field Services Manual*, used by the Field Services Division and the regional offices, could not be provided when requested; three sections of the *Field Services Manual* were missing. There are no centralized procedures used statewide to focus the field and region's efforts on collections. Without adequate consistent written procedures, the Department's effort to collect non-current accounts receivable is greatly restricted.

DEPARTMENT OF REVENUE
STATE OF LOUISIANA

Finding and Recommendation (Continued)

9. R.S. 47:1563-1573 provides that any person in possession of property or rights to property subject to distraint, upon which a levy has been made, shall, upon demand by the secretary of Revenue, surrender the property or rights to the secretary. The secretary shall sell at public auction for cash to the highest bidder an amount of the property distrainted to satisfy the tax, penalties, interest, and costs due. Over the past three years, the Department has not performed any seizures of taxpayers' real property to sell at public auction.

The Department's failure to establish and/or implement adequate procedures and controls resulted in an inadequate collection effort. Although most established procedures appear adequate, the department's failure to implement those procedures and aggressively pursue the collection of delinquent taxes allows businesses and business owners that are delinquent to continue to operate in the State of Louisiana. By placing more emphasis on the overall collection effort, the Department could possibly have recovered an additional \$500,000 in taxes owed by the individual and business taxpayers analyzed in this report.

Recommendation

To ensure that an adequate collection effort is made and to enhance the Department's collection efforts of non-current accounts receivable, the Department should implement the following procedures:

1. The Department should maintain an effective and active contract with an appropriate collection agency at all times and develop policies and procedures to send all out-of-state assessments determined to be uncollectible to the collection agency.
2. The Department should develop policies and procedures to ensure that sufficient documentation is maintained to identify the principal owners of businesses or the agent of record in order to pursue collection from individual owners for payment of sales and withholding taxes owed by businesses.
3. The Department's policies and procedures should be reviewed to include specific procedures regarding the issuance of refunds to individual taxpayers that may owe taxes from businesses owned.
4. The Department should update and require adherence to its procedures that require detailed documentation of collection efforts for each assessment deemed to be uncollectible. This will ensure that all procedures have been exhausted before the collection effort is ceased.

LEGISLATIVE AUDITOR

DEPARTMENT OF REVENUE STATE OF LOUISIANA

Finding and Recommendation (Continued)

5. The Department should include the amount of proposed assessments, which may be legally owed the Department, as supplementary information to the quarterly reports.
6. The Department should adhere to PPM No. 30.16, and, as of June 30 of each year, charge off uncollectible assessments that have been outstanding for ten years or more.
7. The Department should review its PPM No. 30.17 regarding billing tolerances and resist the policy on minimum billing thresholds.
8. An updated and complete copy of the Field Services Manual should be made available to all personnel involved in the collection process.
9. The Department should exercise its right by law to seize real property or rights to property subject to distress and sell the property at public auction to satisfy tax liabilities.
10. The Department should seek legislative assistance in determining whether publication of delinquent taxpayers could be accomplished to assist in the collection of such taxes.

In summary, the Department of Revenue should implement and/or update its policies and procedures to ensure that its collection efforts of non-current accounts receivable are effective and that an adequate collection effort is made to collect all non-current accounts receivable due the Department of Revenue. Management concurred with the finding and recommendation and outlined a plan of corrective action. Management also noted an observation regarding the comments in the Executive Summary and the review and analysis of the Department's policies and procedures concerning the collection process, especially as it relates to annual reminders (see Appendix B, page 1).

Appendix A

Schedule of the Ten Largest Delinquent Taxpayers

**DEPARTMENT OF REVENUE
NON-CURRENT ACCOUNTS RECEIVABLE**

**Schedule of the Ten Largest Delinquent Taxpayers
As of March 2009**

Taxpayer	Tax Type	Tax Periods	Balance Due	Business Status/For Secretary of State
Southern Marketing Inc.	Gasoline Special Funds	Various Beginning January 07	\$1,099,626.10	Not Active
Applause Refining Corp.	Corp Inc/Pan	0708	1,029,828.81	Active
Taxpayer 07*	Sales Withholding Gasoline State Funds	Various Beginning February 08	1,214,688.00	Not Active
Paradeys B*	Gasoline (044) 1988	Various Beginning January 07	1,189,130.87*	Active
Seven Forty Eight Inc.	Corp Inc/Pan	Various Beginning December 07	\$77,240.01	Not Active
Taxpayer 07*	Withholding Gasoline	Various Beginning January 08	\$60,907.34	Active
McAllen Oil Co., Inc.	Sales Spec Funds	Various Beginning July 02	\$40,749.31	Not Active
Taxpayer 07*	Corp Inc/Pan	Various Beginning December 08	\$33,214.88	Active
Taxpayer 17*	Sales Corp Inc/Pan	Various Beginning April 08	\$10,073.03	Not Active
Taxpayer 07*	Withholding Gasoline Corp Inc/Pan	Various Beginning December 07	\$44,144.01	Not Active
		Total	\$9,089,079.54	

* The taxpayer's name cannot be disclosed because the department did not file a lien against the taxpayer.

Appendix B

Management's Response to the Finding and Recommendation and the Corrective Action Plan



H. A. "Skip" Taylor, Jr.
Governor

STATE OF LOUISIANA
DEPARTMENT OF REVENUE

Executive Director
Secretary

August 11, 2008

Dr. Daniel G. Kyle, CPA, CFE
Legislative Auditor
Office of Legislative Auditor
Post Office Box 94397
Baton Rouge, Louisiana 70804-9397

Dear Dr. Kyle:

I have reviewed your report entitled "Financial Related Audit of Non-Current Accounts Receivable" and offer to you the following responses:

The Department recognizes the need to improve its collection process. We are committed to and have already begun to upgrade our technology and enhance our collection efforts through the application of IBM's business transformation (BT) methodology. In 1998, the Department decided to apply the BT methodology to the accounts receivable and collection areas to maximize the benefits of our Redesign efforts. We believe the results will reflect significant improvements to our collection process and will address many of the concerns stated in this finding.

Before we address your findings and recommendations, please note the following observations regarding your comments in the Executive Summary and your review and analysis of the Department's policies and procedures concerning the collection process, especially as it relates to normal non-filers:

The report states that the time between date of non-payment and the actual date that collection efforts begin is considerable and that as much as 36.5 months can pass before the account is assigned to an analyst/auditor for collection. These statements are very misleading. The Department considers the collection process to begin as soon as the first billing notice is issued, not when it is assigned to an analyst/auditor, because the Department receives responses on approximately 40% of the billing notices. Some of the delays you cited are attributed to "hold" periods. It must be understood that these "holds" are necessary evils to avoid erroneous billings from being issued which are not cost effective and create a negative impression of the Department. The "holds" allow the Department sufficient time to process all payments and returns that have been received in response to billings. Due to the limited staffing the Department is afforded to process payments and returns, these "holds" have a tendency to give the false impression that the Department is taking a reactive approach to collections. The time period, 36.5 months, only comes into play when an annual tax is involved and is the exception not the norm.

Because extensions to file tax returns are allowed by statute for these taxes, the Department is unable to begin the collection process immediately after the due date of the return.

Our comments and actions planned or taken regarding the findings and recommendations are as follows:

1. Due to the sale of the collection agency in contrast with the Department, all collection activity was required to be suspended until such time that a request for a new contract could be bid and awarded. The delay in contracting with a new collection agency is attributable mainly to the lengthy process required by state law and through no fault of the Department. A new contract has been approved and all policies and procedures understood by both parties. As a result, accounts were assigned to the new collection agency on June 14, 2000. Under normal circumstances, the expiration of the contract is known in advance and the necessary steps are taken to ensure that this process is uninterrupted.
2. According to Department procedures, once a corporate account is determined to be uncollectible, attempts are made to identify a corporate officer that can be held liable for the tax debt. Although we did not have an opportunity to review the tested accounts, we find certain that this procedure was performed in most cases, if not all. Procedures require that the Secretary of State's records be reviewed to determine the corporate officers. The signatures of those officers must be found on the tax returns or checks to prove responsibility. Without this evidence, the Department is unable to pursue officer liability and the account is deemed uncollectible. It is possible that we may be lax in documenting our efforts; however, the primary responsibility has been fulfilled. To ensure consistent practices to expedite and manage the collection workflow, the Department is in the process of developing a manual to establish uniform guidelines and procedures for collections as recommended by the IIT effort.
3. The Department does have procedures in place regarding the issuance of refunds to taxpayers that owe taxes from previous years. On an annual basis, the Collection Division receives a computer-generated list of business accounts and a report of officer liability accounts with liabilities in various or uncollectible status. A garnishment code is manually entered on a business owner's individual income tax account prior to the income tax refund season to effect any refund that should be applied to an outstanding liability on a business account. Unless this process is updated on a daily basis, which is not feasible, some accounts will be missed. In its Redesign Project, the Department will be addressing this issue to make the garnishment an automated process. Additionally, these names will also be furnished to the Internal Revenue Service for garnishment of federal income tax refunds under a new program to begin in January 2001.

4. Department procedures allow an account to be made uncollectible only after all attempts have been made to contact the taxpayer and no levy sources can be located. In the procedures, possible sources for locating the taxpayer are offered such as utility companies. Businesses, such as utility companies, are not required to furnish the Department any information and many elect not to do so because it is of no benefit to them. The procedures require that sufficient documentation be supplied for supervisory review before an account is accepted as uncollectible. Again, without having reviewed the non accounts, it is possible that the Department may be lax in documenting all efforts made to locate and collect the tax debt. However, the Department must consider the cost effectiveness of procedures in light of the limited resources assigned to the collection activity.

In reference to the procedures whereby an account is placed in uncollectible status and no positive effort is made to determine the collectability, the Department, at present, does not have the manpower to reassess the accounts. We feel that the procedure in place has served its purpose very well and in the most cost effective manner in which to handle this particular situation. Beginning January 2011, the Department will participate in the Internal Revenue Service (Ireland) Offset Program. This program will be used as an additional collection tool for uncollectible accounts. This should assist the Department in its collection efforts.

5. We feel that the proposed assessments should not be reported on the quarterly receivable report as they do not represent a legally enforceable amount due to the state until they reach the final assessment stage. To include the \$870 million in receivables on the quarterly report would grossly overstate the amount of assets (receivables) owned by the state. However, the Department will begin providing proposed assessment data as supplementary information to the quarterly accounts receivable report.

The Department issues over 200,000 non-filing assessments annually. Although we will pursue collection based on the assessed amount, it is viewed as a tool to encourage the taxpayer to file a return for the appropriate tax period. If the return is filed, the estimated assessment is canceled and the amount due is based on the taxpayer's filing. Because most of the proposed assessments represent an estimated amount of tax, the collective amounts are extremely overstated. We will review our assessment procedures to determine if there is a way to calculate a more realistic amount of tax due.

6. The Department concurs with this finding. Modifications to the computer program that generates the amount to be charged-off were necessary to determine the correct amount for fiscal year ending June, 1999. Due to limited IT resources and the mandated requirement to become Y2K compliant, the successful completion of this task was delayed. This situation should not occur in the future and the charging-off of uncollectible tax receivables should be completed timely.

7. In accordance with PFM No. 30.17, billing thresholds were reviewed last year as part of the Department's RT efforts. Assessments between \$10 and \$50 represent approximately 13% of all active warrants but less than 1% of the outstanding receivables. Since changes to our computer system through the Redesign Project will allow us the opportunity to consolidate tax periods on one billing notice, recommendations were made to delay increasing the threshold at this time. In addition, the Department must be sensitive to the comments made on numerous occasions during the 2000 Regular Legislative Session that state agencies were not aggressively pursuing accounts because of the small amount of money owed.
8. The Department is aware of the need for consistent written procedures and has undertaken this task in its RT efforts. The deliverables of this project include the development of uniform statewide guidelines and procedures for the Unified Collections System.
9. The Department levies and seizes bank accounts, garnishes wages, and seizes cash register receipts. This type of seizure action is effective and widely used by the Department. The seizure of real property is a risky venture due to the liability placed on the Department once it takes possession of the property. Many factors must be considered in determining the feasibility of such action. As part of its restructuring plan, the Department will review its policies and procedures regarding seizures and determine whether additional cost-effective opportunities exist and what steps should be taken in this area.
10. Additional initiatives are being considered to reduce the accounts receivable balances, such as participation via an exchange agreement with other states to aid in the enforcement and collection of tax liabilities. This project is currently underway by the Southeastern Association of Tax Administrators (SEATA). An exchange agreement has been drafted and is being reviewed by the member states for compliance with their laws.

Another initiative is the publication of delinquent taxpayers on the Internet and newspapers throughout the state. A team of Department employees is diligently working on this idea for possible implementation in January, 2001.

The Department will also pursue legislation in the next session to expand the utilization of a collection agency to supplement in-state collection activities.

As evidenced by our Business Transformation and continuous improvement efforts, the Department is committed to establishing a more effective and aggressive collection process. Consequently, we are in the process of evaluating the use of our resources to cost-effectively comply with and enforce the tax collection laws. Likewise, we strive to always comply with the State's reporting requirements and appreciate your assistance and recommendations in this area.

Appendix A contains taxpayer-related information that your staff has determined to be a part of the public record due to the filing of a tax lien. Because there may be questions about Appendix A, we would like to note that the Department of Revenue discloses confidential information to the Legislative Auditor's staff for the purpose of completing an audit of the Department of

Dr. Daniel G. Kyle
August 11, 2000
Page 5

Revenue in accordance with R.S. 47:1508 B. (10). This statute also states that the information furnished shall remain confidential and privileged by the legislative auditor, however it does not cover public records. Furthermore, please note that the Department is also examining the restrictions and opportunities relating to public disclosure of delinquent taxpayers, which is being done now by other states.

Please contact me or Mr. Kenneth Conway, Assistant Secretary, if you have additional questions regarding corrective actions.

Sincerely,



Cynthia Bridges
Secretary