



# **Legislative Tax Camp**

## **A Guide to Your Department of Taxes**

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Policy, Outreach, and Legislative Affairs

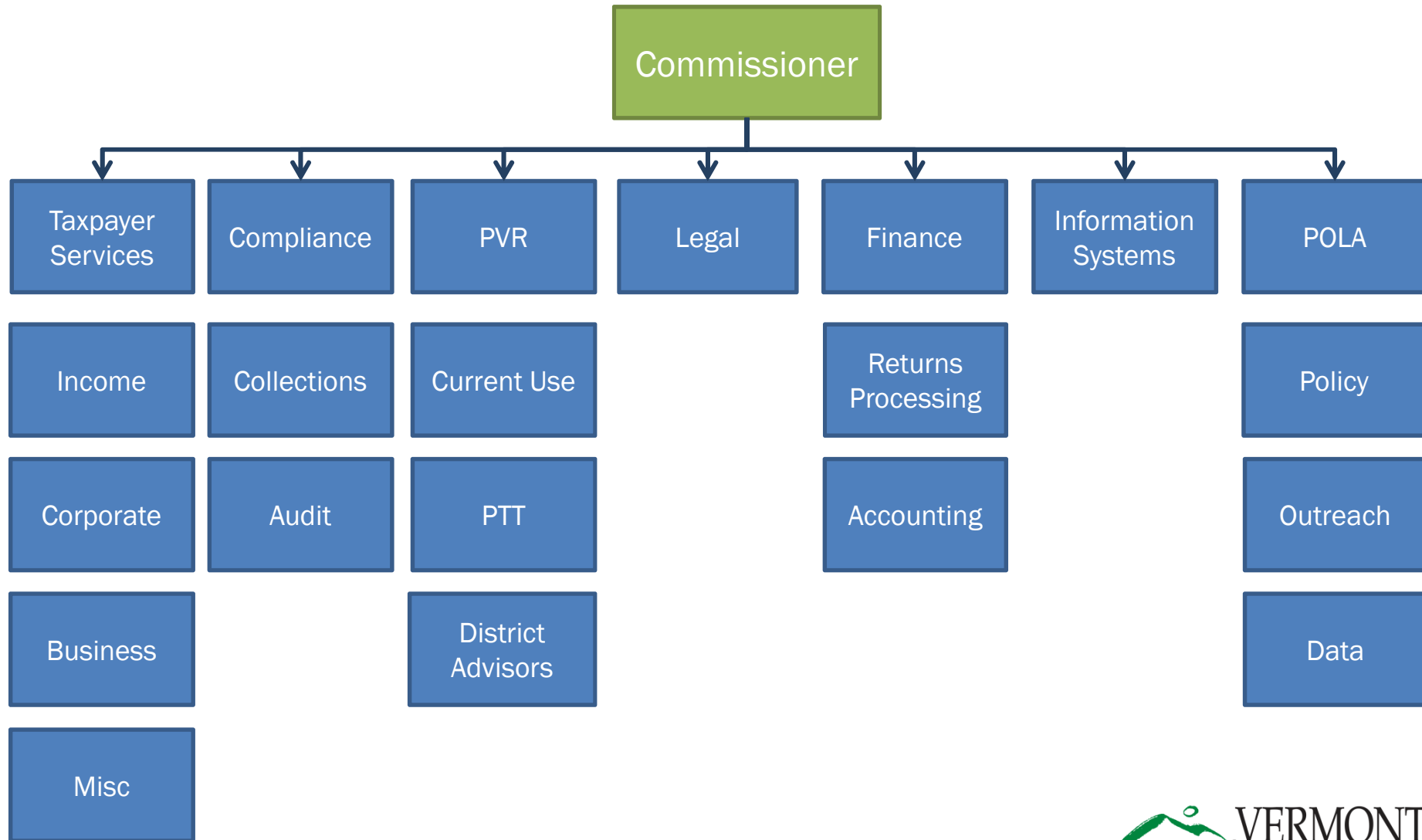
**Aaron Kaigle, Executive Assistant**

Vermont Department of Taxes

## 5 Goals for Today

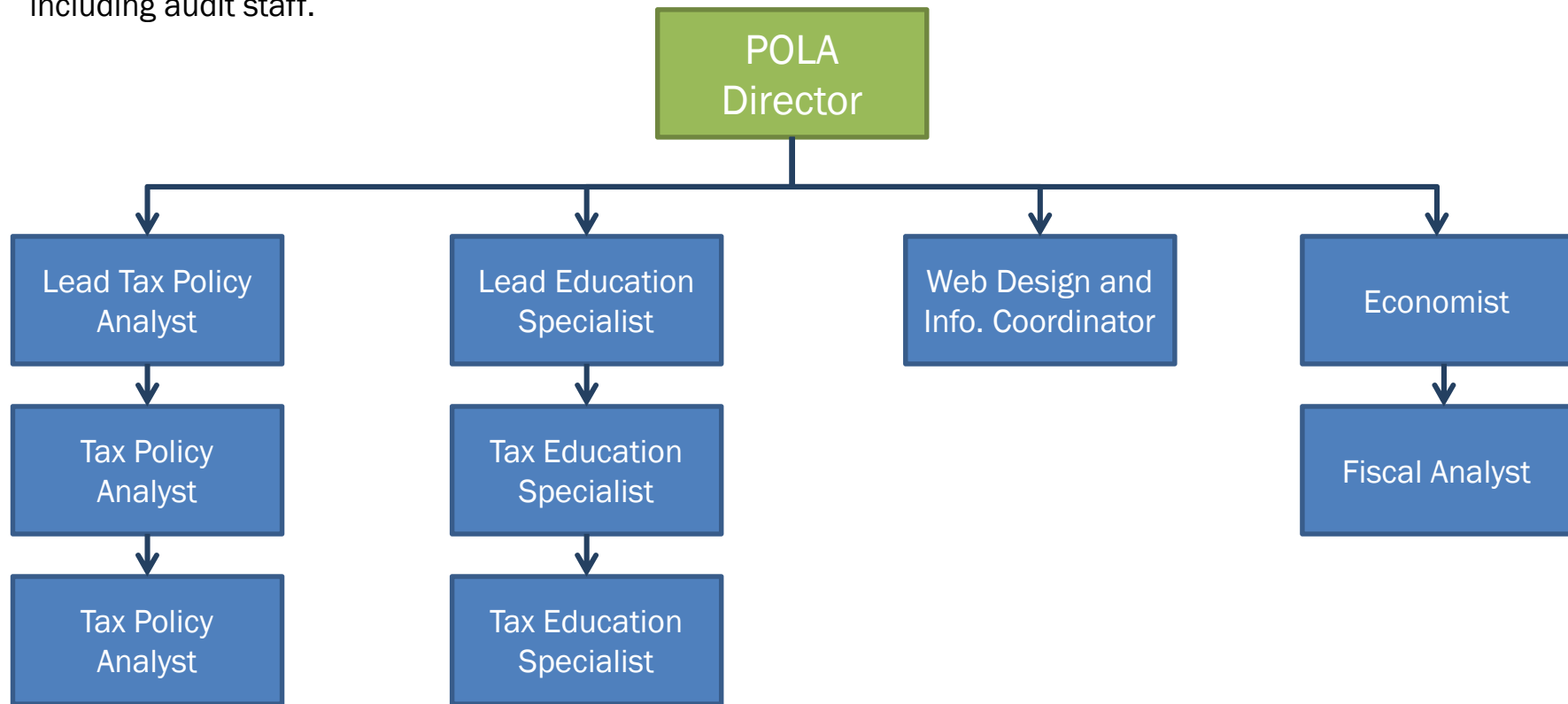
1. Overview of the Department of Taxes
2. Learn what to do for a “typical” constituent case
3. Understand our compliance (audit and collection) practices
4. Learn more about our outreach efforts to your constituents
5. Find out what’s new at the Department of Taxes

# The Vermont Department of Taxes



# Policy, Outreach, and Legislative Affairs (POLA)

POLA was formed in 2012 as a new division with a goal to enhance voluntary compliance through transparent policy development, education, and outreach. This division was created by repurposing existing positions, including audit staff.



All lawyers who research grey issues to give correct, consistent, clear guidance.

Work on all manner of communication, including industry events, fact sheets, and newsletters

## Anatomy of a Constituent Case

1. Who?
2. What?
3. When?
4. Where?

## Anatomy of a Constituent Case: Who?

### 1. Who?

Commissioner's office, 802-828-3763

[Aaron.Kaigle@state.vt.us](mailto:Aaron.Kaigle@state.vt.us)

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- Record the issue
- Work with operational units
- Ensure there is timely follow up

## Anatomy of a Constituent Case: What?

2. What can we share with you?

Nothing without permission of the taxpayer!

Vermont's tax confidentiality laws, 32 V.S.A. 3102

Key to confidentiality: permission from taxpayer

- Form 8821
- Power of Attorney (rare for legislators)

## **Anatomy of a Constituent Case: When?**

### 3. When will we respond?

- Acknowledgement to you same or next business day
- Constituent contact in approximately 3 business days, likely sooner
- Time to resolution varies



## Anatomy of a Constituent Case: Where

### 4. Where?

Your questions are routed to our team!

- Taxpayer Services
- Compliance
- PVR
- Legal
- Taxpayer Advocate
- IT
- POLA

## How do we audit?

Common bill and assessment scenarios:

- Brought to a Tax Examiner's attention by a computer edit
- Common error discovered
- The IRS sends data on Vermont filings
- The IRS sends a list of federal adjustments
- Compare HI-144 to Federal return information
- Non-filers discovered by comparing data from other sources. If they do not respond, an estimated assessment is prepared based on the best information available.

## How do we audit?

Common bill and assessment scenarios (cont):

- Business filings are reviewed for consistency either for registration across different tax types or for industry norms.
- Office or field audits are based on a variety of criteria.
- Assessments = approximately 5% of all filings reviewed, 1% of all filings.

## Re: Compliance Actions

The very best advice is to talk to the Tax Department.

- No tax problem is ever made better by failing to communicate with the Tax Department.
  - Installment payment agreements
  - Abatement under certain circumstances

## Sales and Use Tax Field Audits

Every year, the compliance division at the Vermont Department of Taxes completes around 180 tax field audits.

Over the past few years, several of those have raised questions.

Non-profit  
Admissions

Auctioneers

Elderly Housing  
Meals

Compost

Contractors

## Agricultural Equipment Exemption

This is a narrow use based exemption for agricultural equipment. The exemption is determined by how the machinery and equipment is actually used in an agricultural business.

Will it be used on a farm, orchard, nursery, or in a greenhouse or other similar structure primarily for the raising of agricultural or horticultural commodities for sale?

Will it be used in producing crops, dairy products, maple syrup, or raising livestock for sale?

Will it be used to produce tangible personal property *for sale*?

Will it be used *directly and exclusively* in the production of tangible personal property for sale?

If these are all answered, “yes,” then the item being purchased is exempt from Vermont Sales Tax.

# Agricultural Equipment Exemption

Will it be used *directly and exclusively* in the production of tangible personal property for sale?

“Directly and exclusively” means that the machinery or equipment is directly used to produce tangible personal property for sale at least 96% of the time it is operated. Use of the machinery before or after production is not a qualifying use. Maintenance, cleaning, and transportation are not considered to be part of production.

Isolated or occasional uses, such as limited production for personal consumption, are allowed if they total not more than four percent of the time the machinery or equipment is operated.

## Audit Aftermath – Internal Process

The Tax Department issues a bill to audited business. Similar businesses may also have been under audit, causing other bills to be generated.

The Tax Department position is reviewed through appeal.

The Tax Department works to clarify regulations and fact sheets around this issue for the future.

The Tax Department does outreach to educate taxpayers who might be in similar situations.



## Audit Aftermath – External Reaction

The Tax Department issues a bill to audited business. Similar businesses may also have been under audit, causing other bills to be generated.

The Tax Department position is reviewed through appeal.

The Tax Department works to clarify regulations and fact sheets around this issue for the future.

The Tax Department does outreach to educate taxpayers who might be in similar situations.

Taxpayer outcry over bills.

Taxpayers come to the legislature with this issue and ask for amnesty and new or wider exemption.

Legislature votes to create exemption for these taxpayers.

## Audit Aftermath – End Result

The Tax Department does outreach to educate taxpayers who might be in similar situations.

Legislature votes to create exemption for these taxpayers.

Exemption undermines the Tax Department regulation and collections are lost for the future.

## Why do we audit?



Majority of taxpayers are compliant

Compliant taxpayers:

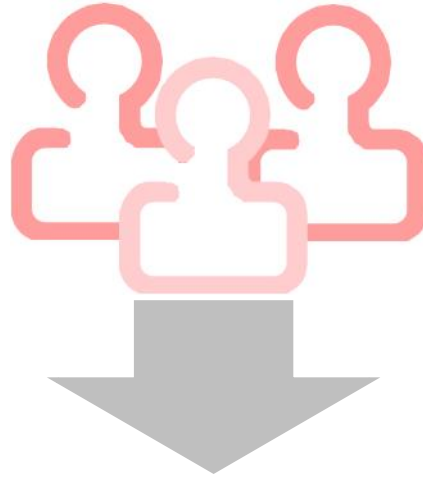
- Dutifully read the laws each year for updates
- Invest in technology such as point of sale software
- Train employees



Some taxpayers are *negligently* non-compliant.

- Tax isn't a priority
- Cost-benefit analysis, low risk of audit
- Do not keep up with complex law
- Do not keep meticulous books and records
- Does not have point of sale software

## Why do we audit?

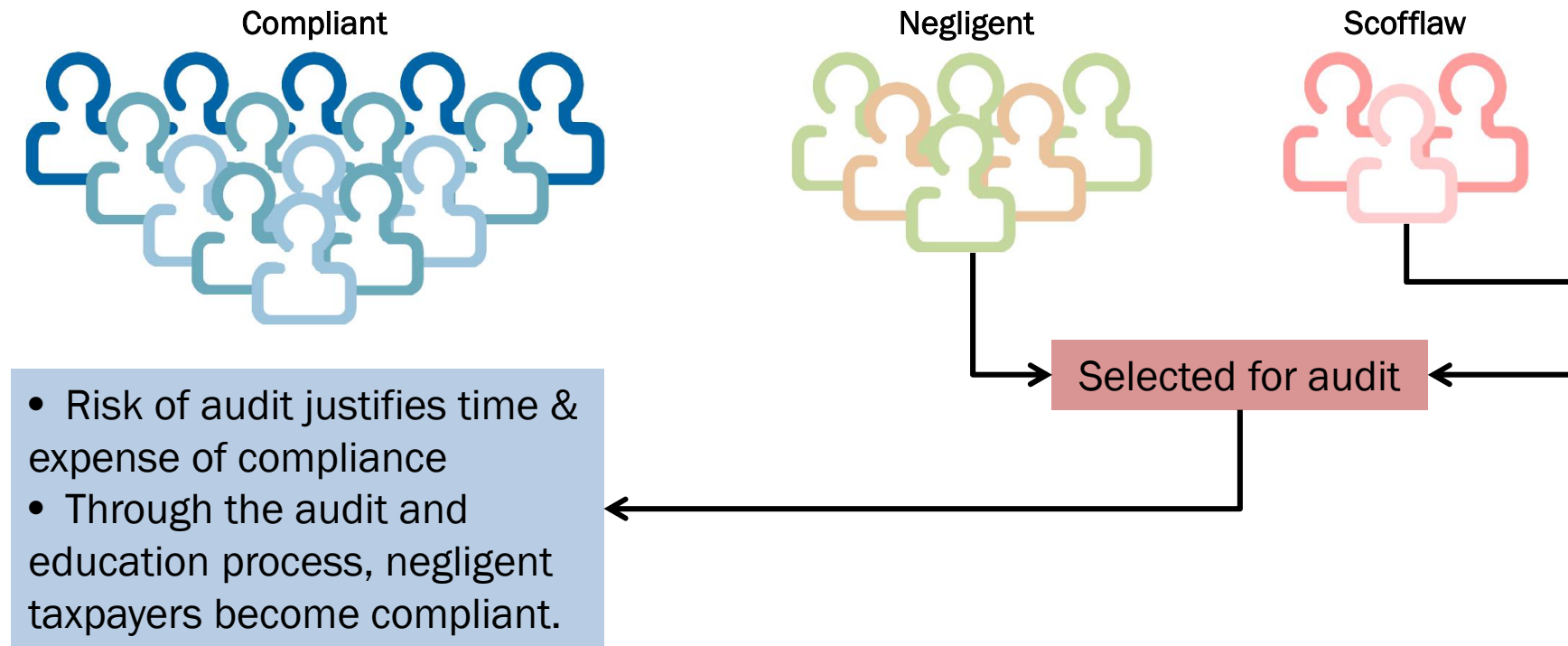


### Small number of taxpayers are *intentionally* non-compliant

- Cost-benefit: risk of being caught, severity of penalty vs. benefit from the competitive advantage of charging lower price.
- Has no intention of charging right tax

# Why do we audit?

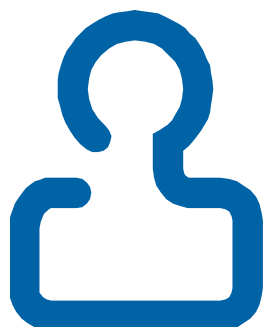
Studies show that audits increase voluntary compliance.<sup>1</sup>



<sup>1</sup> <http://aaajournals.org/doi/abs/10.2308/accr-50187>

## Why do we audit?

Audits are a necessary part of the process to ensure tax fairness for all of Vermont taxpayers.



### Diligent Taxpayer

- Software
- Books
- Records



### Sloppy Competitor

- Does not spend on compliance
- Undercuts price by not charging tax

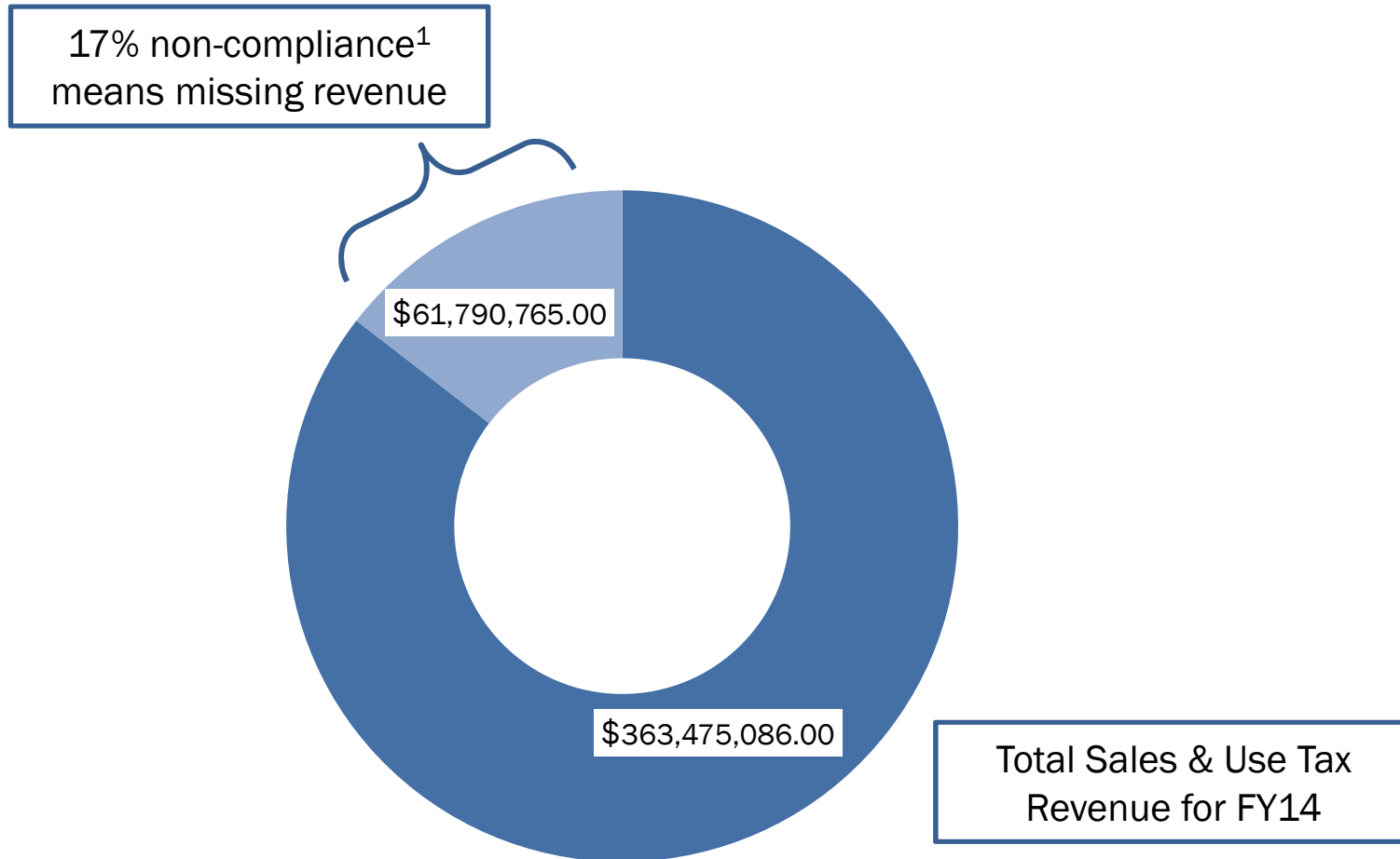


### Online Retailer

- Compliant
- Undercuts price by not having to charge sales tax

We focus on the unfairness of online retailers like Amazon, but our diligent taxpayers also lose businesses to stores down the street who are not playing by the rules... either intentionally or negligently.

## Why do we audit?



<sup>1</sup> Based on IRS non-compliance estimate

## Why do we audit?

The indirect effect of audits is, on average, about eleven times as large as the audit's direct effect on revenue in a given year.<sup>1</sup>

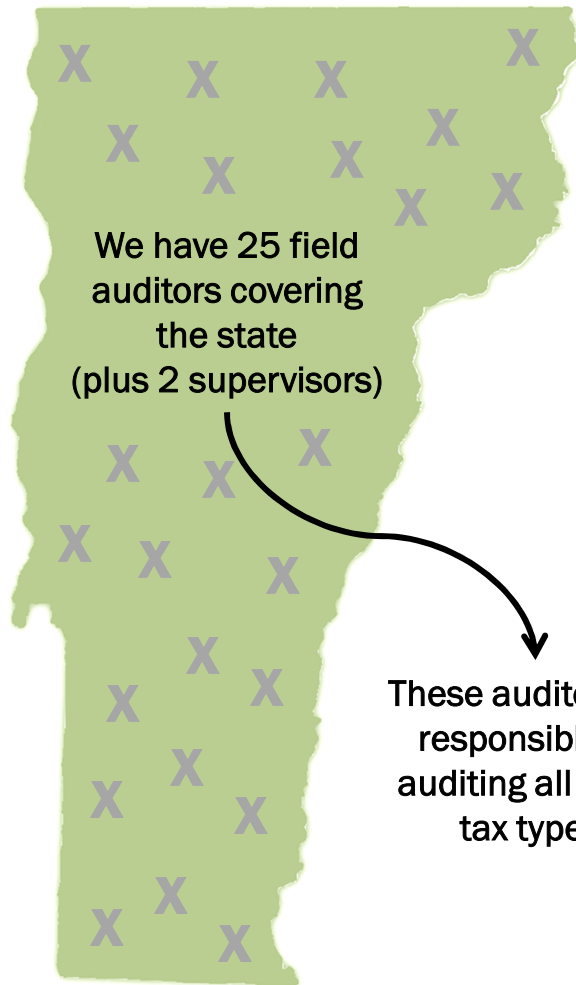


This means that an audit that directly yields \$10,000 will also indirectly yield an additional \$110,000 over time.

<sup>1</sup> [www.irs.gov/pub/irs-soi/pub1916b.pdf](http://www.irs.gov/pub/irs-soi/pub1916b.pdf)



## Sales and Use Audit Coverage



33,500 sales and use tax filers  
 $\div$  25 field auditors

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1 auditor for every 1,340 taxpayers

9,800 taxpayers (who remit >\$25,000/yr)  
 $\div$  25 field auditors

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1 auditor for every 392 large taxpayers

## Next Steps . . .

### **Department Initiatives**

POLA

Modernization

Other

### **Statutory Changes?**

“One Free Pass”

Vendor Compensation

Simplify Complex Law

## Modernized Systems

The Department has started the work towards a modernized, integrated tax system – VTax.



This is a 4 year, multimillion dollar project intended to integrate all of our processing. The result will be one platform for all functions (e.g., return processing, correspondence, accounting) for all tax types.

This also includes seamless online services for taxpayers.

VTax will provide much improved service, making it easier and more convenient for voluntary compliance. It will also allow us to further modernize our audit techniques.

## Other Initiatives

- Two tax advisory boards
  - Tax Technical Working Group
  - Vermont Tax Advisory Board
- Increased use of voluntary disclosure
  - Targeted mailings on use tax
  - General initiative aimed at small businesses:  
“Know What You Owe”
- Redrafting of technical bulletins
- Attended 23 industry events in 2014.

**Coming Soon . . .**

## New Initiatives for 2015

### Standard Operating Procedure for Appeals

- We are finishing a draft SOP designed to provide transparent timelines to move an appealed case along from assessment to hearing in 18 months
- Will start implementation in 2015

### Audit Selection, Procedure, and Assessment

- The new IT system will give us modern tools to improve our audit processes, everything from how businesses are selected, additional opportunities for voluntary come forwards, more refined assessments
- For example, we will pilot programs where we define markers of non-compliance, and give businesses the opportunity to explain the discrepancy or come forward to clear up without penalty prior to audit

## Expensive “One Free Pass”

Various proposals to issue warnings instead of assessments for a taxpayer’s first audit would likely create substantial costs.

### Direct Cost

The past three years, we have collected approximately \$4M per year on assessments for sales and use tax.

The vast majority of these assessments are on first-time taxpayers who would be subject to a “free pass” allowance.

### Indirect Cost

There would be considerably less incentive to be diligent about applying tax, putting at risk the over \$360M that we collect voluntarily.

If just 5% more non-compliance:  
additional \$18M lost/year

If 10% more non-compliance:  
additional \$36M lost/year

## Other States: Vendor Compensation

45 states impose a sales and use tax. A majority (27) provide some discount or reimbursement to vendors.

Amount ranges from 0.25% to 5.0% tax collected, with most falling between 1% and 3%.

1% would cost about \$3.6M/annually.

This aligns incentive to collect. Vendors can use the money to:

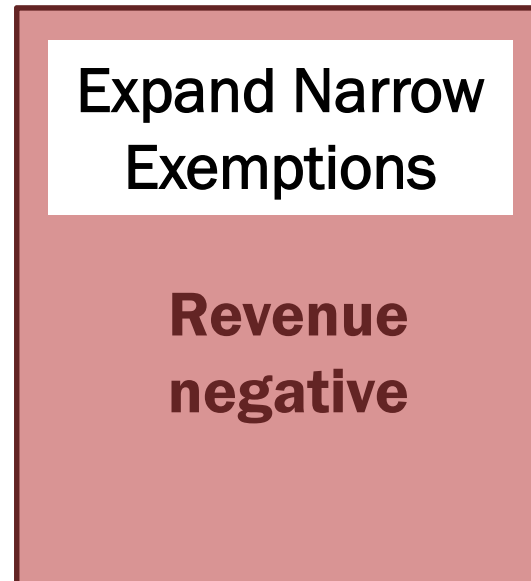
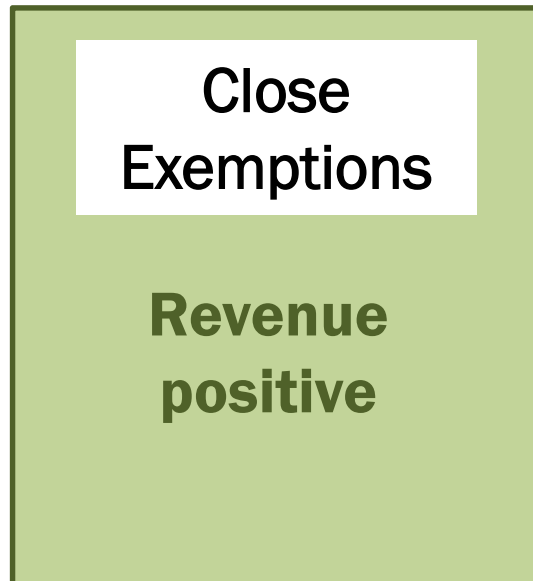
Train

Purchase point of  
sale software

Buffer for audit

## Possible Legislative Responses: Simplify Complex Law

Deliberate or negligent non-compliance often involve vendor's liberal use of narrow exemptions.





## Tax Season Update

- Tax season opens for both federal and state filing on Jan. 20
- Forms will be available online, or by request only (this is the same policy as last year)
- E-filing continues to grow in popularity for Vermonters – 78% of all filers file their taxes electronically
- Call Center Hours:
  - Monday, Tuesday, Thursday, Friday 7:45-4:30PM
  - Wednesdays staff will be processing returns and refunds (all other lines remain open)

## Delinquent Taxpayers List



In an effort for further tax fairness, Act 174 of 2014 granted the Department permission to publish the names of top 100 business and 100 individuals with the highest amounts of tax debt.

After two letters were sent notifying those who might appear on the list, the lists were published on Jan. 12, 2015.

28 other states publish lists of delinquent taxpayers – to date it has helped collect over \$720,000 in back taxes owed

## Affordable Care Act and Tax Season

Starting in 2014, everyone in U.S. required to file taxes must:

- **Have health care coverage:** includes private insurance plans, Medicaid, Medicare, all major medical coverage

OR

- **Have a health care coverage exemption:** special exemption in 2014 for those who did not get health care coverage until May 1<sup>st</sup>  
<https://www.healthcare.gov/fees-exemptions/exemptions-from-the-fee/>

OR

- **Make a shared responsibility payment**



## Affordable Care Act Resources

Vermont Health Connect  
Customer Service Center:  
**(855) 899-9600** Toll Free  
[www.vermonthhealthconnect.com](http://www.vermonthhealthconnect.com)

[IRS Local Taxpayer Advocate - Vermont](#) (or call **802-859-1052**)

Vermont Legal Aid, Office of the  
Healthcare Advocate:

[www.vtlawhelp.org/health](http://www.vtlawhelp.org/health)

**1-800-917-7787**

**1-800-889-2047**

Vermont Low Income Tax  
Program:

<http://www.irs.gov/Individuals/Free-Tax-Return-Preparation-for-You-by-Volunteers>



## Legislators: For More Information

- Jacqueline M. Rose, MPH
  - Education and Outreach Manager, Vermont Health Connect
  - [Jacqueline.Rose@state.vt.us](mailto:Jacqueline.Rose@state.vt.us)
- Devon Green, J.D.
  - Special Counsel for Tax Legislation
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Find more information on our website at:

[tax.vermont.gov](https://tax.vermont.gov)

Facebook/VTDeptTaxes

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Contact us with any questions!

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