VERMONT DEPARTMENT OF TAXES

2022 TAXPAYER ADVOCATE ANNUAL REPORT

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SUBMITTED TO

House Committee on Ways and Means
Senate Committee on Finance

SUBMITTED BY

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To The Honorable Members of:
House Committee on Ways and Means
Senate Committee on Finance

In accordance with 32 V.S.A. § 3205(c), I submit the Vermont Taxpayer Advocate Annual Report for activity in calendar year 2021. The Vermont Taxpayer Advocate Annual Report is required to identify problems encountered by taxpayers interacting with the Vermont Department of Taxes as well recommend administrative and legislative actions to resolve those problems. The report shall also identify problems that affect an entire class of taxpayer or specific industry and present solutions.

The reporting period of this year's report contains activity from December 1, 2020 to December 1, 2021. During this period, the Taxpayer Advocate fielded over 1,000 phone calls. The majority of issues brought to the Department through these calls were able to be resolved with minimal intervention by the Taxpayer Advocate working with the Taxpayer Services division of the Department of Taxes.

Approximately 60 cases were reviewed for potential Extraordinary Relief with relief being granted in 54 of those cases. Of those 60 cases, 80% involved Property Tax Credits, 10% involved Renter Rebate, and 10% involved Personal Income Tax.

Respectfully submitted,

Jeffrey M. Dooley

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Description of Taxpayer Advocate

The Vermont Commissioner of Taxes created the Taxpayer Advocate in 2001. Under 32 V.S.A § 3205, the Vermont Department of Taxes must maintain a Taxpayer Advocate. The duties of that position include:

1. Identifying subject areas where taxpayers have difficulties interacting with the Department of Taxes;

2. Identifying classes of taxpayers or specific business sectors who have common problems related to the Department of Taxes;

3. Proposing solutions, including administrative changes to practices and procedures of the Department of Taxes;

4. Recommending legislative action as may be appropriate to resolve problems encountered by taxpayers;

5. Educating taxpayers concerning their rights and responsibilities under Vermont's tax laws;

6. Educating tax professionals concerning the Department of Taxes' regulations and interpretations by issuing bulletins and other written materials; and

7. Assisting individual taxpayers in resolving disputes with the Department of Taxes.

The legislation serves to codify the longstanding role and functions performed by the Taxpayer Advocate and highlights the Taxpayer Advocate's position to improve taxpayer services.

The legislation also requires the Taxpayer Advocate to report annually to the House Committee on Ways and Means and the Senate Committee on Finance. 32 V.S.A. § 3205(c). The Legislature prescribed the following information for the report:

- Actions taken by the Taxpayer Advocate to improve taxpayer services and responsiveness of the Department of Taxes

- Identification of problems encountered by taxpayers in interacting with the Department of Taxes, including specific recommendations for administrative and legislative actions to resolve the identified problems

- Identification of any problems that span an entire class of taxpayer or specific industry, proposing class or industry-wide solutions.

New Adminstrative Initiatives

Unemployment Adjustment Program

Issue: The American Rescue Plan Act (ARPA), signed into federal law on March 11, 2021, included a retroactive personal income tax provision for tax year 2020 which also impacted Vermont personal income taxes filed for tax year 2020. The provision excluded from taxation the first $10,200 of an individual's unemployment insurance (UI) benefits, so long as the modified adjusted gross income (AGI) reported on the tax return is less than $150,000 in 2020.

Because the exclusion was enacted after the filing season had opened, many Vermonters with unemployment benefits had already filed their state personal income tax return before the exclusion was available.

Administrative Resolution: To help these Vermonters get refunds from this exclusion without having to file amended returns themselves, the Vermont Department of Taxes undertook a novel internal program to recalculate Vermont personal income tax returns and issue refunds to 21,876 qualified taxpayers who had filed electronically in Vermont before the federal change was in effect.

Vermont was among the first states to commit to doing an in-house adjustment to returns that had already been filed. We were the smallest state and smallest tax revenue department, to embark on this effort.

Continued Effective Tax Administration During a Pandemic

Issue: The COVID-19 pandemic caused the Department to transition from approximately 149 employees working on site on a daily basis on March 23, 2020, to approximately 25 working on site on a daily basis on March 25, 2020. In November 2021, the Department began transitioning to hybrid in-office/telework model. This brought with it its own unique challenges, because equipment needed to be updated and employees needed to reacclimate themselves to an office environment. Since December 1, the rise of cases due to the omicron variant has caused additional complications.

Administrative resolution: The Department of Taxes' employees have been consistent in their flexibility and willingness to adapt to a constantly shifting situation. As a result of these efforts, the Department experienced virtually no decrease in efficiency of processing returns/refunds and continued to provide quality customer service throughout the filing season and beyond.

Statutory Proposal

Homestead Declaration/Property Tax Credit

Issue: Property Tax Credit claims have a statutory extended deadline of October 15. Currently, pursuant to 32 V.S.A. § 6068(b), a taxpayer is not entitled to any Property Tax Credit benefit if a claim is filed after October 15. This results in significant financial hardship for hundreds of Vermont taxpayers every year. The majority of other tax programs have a graduated penalty structure for late filed returns or claims.

Proposed resolution: 32 V.S.A. § 6068(b) & (c) is amended to read:

(b) Late-filing penalties. If the claimant fails to file a timely claim, the amount of the property tax credit under this chapter shall be reduced by $15.00, but not below $0.00, which shall be paid to the municipality for the cost of issuing an adjusted homestead property tax bill. ~~No benefit shall be allowed in the calendar year unless the claim is filed with the Commissioner on or before October 15.~~ Any claim filed after October 15 but on or before January 15 of the following year shall be assessed a 10% penalty. Any claim filed after January 15 but on or before March 15 shall be assessed a 20% penalty. No benefit shall be allowed unless a claim is filed with the Commissioner on or before March 15. Any property tax credit benefit issued under this chapter after October 15 will be issued directly to the claimant and will not alter the grand list of the town of the claimant's property.

(c) No request for allocation of an income tax refund ~~or for a renter rebate claim~~ may be made after October 15. Any renter credit claim filed after October 15 but on or before January 15 of the following year shall be assessed a 10% penalty. Any renter credit claim filed after January 15 but on or before March 15 shall be assessed a 20% penalty. No benefit shall be allowed unless a claim is filed with the Commissioner on or before March 15.

Long Term Consideration

Simplify and Remove Tight Time Restrictions from Property Tax Credit Program

By far, the amount of time and resources spent on assisting taxpayers with property tax credit issues outweighs time and resources spent on any other tax type. There are several reasons for this:

a. Those receiving property tax credits tend to be lower income taxpayers that are less sophisticated in dealing with paperwork and do not have the resources to hire a preparer or accountant.

b. The forms and the overall process are some of the most complicated forms and processes that the Department administers.

c. The deadlines are the strictest and have the harshest penalties for missing them, compared to other tax types.

d. The amount of a property tax credit tends to be significant relative to taxpayers' income so the consequences of not receiving it are often significant.

Some of the factors listed above cannot be helped given the nature of the program. Some of the factors should be looked at and consideration should be given to whether there is a better way to administer this program. The two factors that should be looked at are the complexity of the program and the strict nature of the deadlines.

As mentioned above, the property tax credit forms are among the most complicated forms that the Department of Taxes administers. It requires the filing of two separate forms that are two pages each with a total over 100 fields that potentially must be completed by the taxpayer. Both forms have several fields that if not filled in, or if accidentally filled in incorrectly, will result in denial of the taxpayer property tax credit entirely. This leads to many taxpayers making mistakes or omissions on their forms that result in a reduced or denied property tax credit. The Department sends letters to the majority of taxpayers that made a mistake or missed a required field but, even then, most taxpayers do not understand what went wrong or how to correct it.

A possible solution to this issue is to simplify the property tax credit program. This can be done by moving away from the concept of household income that is used for the program and towards a concept similar to MAGI that is used at the federal level for health care purposes.

The strict nature of the deadlines is also a major problem for many taxpayers. For most tax types, taxpayers have three years to amend their returns. A three-year period for property tax credit claims is unworkable for several reasons but the current October 15 deadline is also problematic. It gives taxpayers that filed on extension very little time to work with the Department to correct a problem with a property tax credit claim. In addition, a taxpayer that is notified of a problem well before October 15 may misunderstand the letter they receive or the consequences of the issue because of the complexity discussed above. These taxpayers may not realize that there is a problem until they receive their property tax bills in late September or early October and then will only have a week or two to correct the issue. Further, in some towns, the first property tax payment is not due until November 15. This means that some taxpayers never discover that something is wrong until they go to make their first payment, a month after they no longer have any remedy.

Another problem affects taxpayers whose mortgage company makes the property tax payments on the taxpayers' behalf. These taxpayers often do not find out what has happened until their bank contacts them because they do not have enough in escrow to cover their higher mortgage payment. One possible solution to this specific issue would be the graduated penalty structure recommended above.

Taxpayer Class or Industry Tax Issues

Class or Industry	Issue	Recommendation
Unemployed Individuals	The federal government passed legislation authorizing unprecedented unemployment benefits during the pandemic. This impacted a range of taxes in Vermont, including personal income tax and property tax credits. Issues related to these benefits were compounded when Congress passed legislation that changed the tax treatment of these benefits at the federal level in the middle of the filing season.	The Department did its best to remain agile and to adapt to these issues and changes. It should continue to monitor the issues that these benefits created and react accordingly.
Property Owners/Renters	The frantic housing market across the country and in Vermont over the last 18 months has or will cause the assessed value of many Vermont properties to increase substantially in a short period of time. A significant number of property owners may see their property taxes increase as a result, while their household income stays relatively unchanged. Similarly, as property values increase landlords may feel justified in raising rents, as they could otherwise sell the rental properties for a substantial gain. These renters may end up in a financial hardship, as their income has not substantially increased.	The Department and legislature should monitor how the increased property values are affecting Vermonters and determine if there are particular groups that need assistance and what form that assistance should take.