

Minutes
Tax Clearance Study Meeting
September 26, 2006

The initial tax clearance study meeting was held on September 26, 2006 at the Department of Taxation (TAX). The meeting was attended by representatives from the Department of Alcoholic Beverage Control (ABC), the Medical Society of Virginia, the International Paper Company, the Department of Planning and Budget (DPB), the Virginia Hospital and Healthcare Association, Southern States Cooperative, the Virginia Chamber of Commerce, the Department of Professional and Occupation Regulation (DPOR), the Department of Health Professions (DHP), Hunton and Williams, the Virginia Society of Enrolled Agents, and Business Objects.

The meeting began with a discussion of the workplan that has been developed. A number of people immediately pointed out that several other agencies should be involved in this process. They identified the Department of Motor Vehicles, the Department of Education, the Department of Agriculture, the Department of Environmental Quality, the State Corporation Commission, the state police, the Department of Charitable Gaming, the Department of Game and Inland Fisheries, and the Virginia Lottery as some other potential participants. It quickly became clear that TAX will not be able to meet with all of the relevant agencies by November 1. Thus, the next meeting will probably not be held until the middle of December.

Next, the findings regarding the tax clearance methods used by other states were presented. These methods were described in a table that was sent out to the participants prior to this meeting. In addition, some of the recommendations made by other states were discussed. These included computerizing the tax clearance process, maintaining a high level of communication among state agencies, publicizing the tax clearance program, and ensuring that there is a method to handle those who cannot afford to pay their taxes.

The different approaches to the tax clearance system were then discussed in terms of who would bear the administrative burden. First, methods placing the burden on the applicant may be used. In this situation, the applicant must certify that all obligations are paid when applying for a license or a renewal, or the applicant must obtain a tax clearance letter from the administrator. Second, when the burden is on the licensing agency, the licensing agency must obtain clearance from TAX or verify the applicant's tax certification upon receiving the application for a license or renewal. Finally, if TAX bears the administrative burden, the licensing agency would routinely provide information on all applicants to TAX, and then TAX would determine who is delinquent and direct the licensing agency to revoke or refuse the license when a tax is owed.

This information provoked a great deal of discussion. Representatives from DHP and DPOR were particularly concerned about the administrative burden for their

agencies. They stated that license renewals are primarily done on-line and that to add a new step would be very costly. Thus, even if methods in which the administrative burden was supposedly on the applicant were used, there would be a great deal of administrative costs for these agencies.

In addition, both agencies stated that they often do not collect social security numbers for individuals, but instead gather a DMV control number. They do not, however, have any procedure to collect an FEIN or similar number. These agencies also pointed out that, because they are not supported by the General Fund, any increase in costs would be passed on to their licensees.

Later in the meeting, both of these agencies stated that they do use a paper process for the initial issuance of the applicable license. Thus, for these agencies, it may be more efficient to require applicants to include a tax clearance letter with their application package. This method could remove a great deal of the administrative concerns expressed by these agencies.

A representative from ABC then described a pilot program that the agency had done with TAX in the mid-1990's. At that time, ABC entered into an agreement to share information with TAX. ABC stated that, initially, it took approximately 300-400 hours to set up the system, but the continuing costs were much lower than had been anticipated.

When this program was in effect, ABC would receive information from TAX regarding taxpayers who were delinquent in their sales and use taxes. Using this information, ABC would send notices to these taxpayers informing them that they had sixty days to resolve the issue with TAX. ABC would then move to revoke the applicable license if the debt was not paid. ABC stated that approximately \$1 million in sales and use taxes were collected as a result of this program. Evidently, the program ended when there were some systems changes at TAX that made it more difficult for the information sharing to take place.

From this experience, ABC raised several points to be considered. The first was that the licensing agency and TAX must come to an agreement on the goal of the program. During the pilot program, ABC was moving to revoke licenses while TAX was urging ABC to allow taxpayers to keep their licenses so that they could earn income in order to pay their taxes. In addition, ABC noted that it had been expending ABC resources to enable TAX to collect a large amount of delinquent sales tax, but did not receive any funding to support the commitment of ABC resources for this purpose. ABC felt that there should be some way to provide resources to the licensing agencies.

Other concerns were expressed as well. Many of these concerns centered on the issue of due process. For example, there were questions asked regarding what would happen if TAX were unable to find a taxpayer in order to notify him of the delinquency prior to the revocation of his license. In addition, some asked what would happen if the process to resolve the tax delinquency went on for a long time. Finally, there were concerns about who would bear the costs of the administrative hearings that would have to take place.

The representative from Southern States Cooperative also brought up some significant points. He stated that his business has many different licenses required for the handling of fertilizer and other agricultural products. This could create a huge administrative burden if TAX required some form of tax clearance for every license. He also wanted to know how long the tax clearance process would take. In addition, he pointed out that, if the business were shut down because of a lack of compliance, this would not only have impacts on the actual business, but on the employees of that business. Finally, he expressed concerns regarding what would happen if an error was made in which TAX thought that money was owed when, in fact, the business was fully compliant.

DHP and DPOR suggested that the model that is currently being used for child support enforcement be reviewed.

At the conclusion of this meeting, it was suggested that there be have a follow-up meeting before the 2007 General Assembly session begins. TAX informed the participants that this meeting will likely take place around December 15.