

fib

OKLAHOMA TAX COMMISSION SPECIAL TAX ENFORCEMENT UNIT



2003
ANNUAL REPORT

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REPORT

Date: January 31, 2004

TO: The Honorable Brad Henry
Governor of the State of Oklahoma

The Honorable Cal Hobson
President Pro Tempore
Oklahoma State Senate

The Honorable Larry E. Adair
Speaker of the House
Oklahoma House of Representatives

The Honorable James Williamson
Minority Floor Leader
Oklahoma State Senate

The Honorable Todd Hiatt
Minority Floor Leader
Oklahoma House of Representatives

FROM: Thomas Kemp, Jr., Chairman
Oklahoma Tax Commission

Jerry Johnson, Vice-Chairman
Oklahoma Tax Commission

Connie Irby, Secretary-Member
Oklahoma Tax Commission

As required by law, 68 O.S. §260, the Oklahoma Tax Commission submits the attached report for the Special Tax Enforcement Unit activities for the year 2003.

**Oklahoma Tax Commission
Audit Division
Special Tax Enforcement Unit**

2003 REPORT

The Special Tax Enforcement Unit (STEU) of the Oklahoma Tax Commission (Commission) was established in 1985 (Title 68 O.S. § 260) for the purpose of determining compliance with and enforcement of the Oklahoma tax laws. As part of the Commission's reorganization in 1995, STEU was placed in the Audit Division and remains in that Division today. Its primary function is enforcement of state tax laws through criminal investigation. The Office of the General Counsel of the Commission and the various District Attorneys prosecute tax law violators, based on the investigations of the STEU, in the State of Oklahoma.

ENFORCEMENT

Enforcement of the criminal penalties of state tax laws is a key component to the Commission's overall effort to increase voluntary compliance. Prosecution of tax violators offers the opportunity to bring violators to justice and to make tax evasion and/or fraud a public issue since

criminal activities affect our whole society. Prosecution efforts serve three main purposes:

1. To punish individual tax violators;
2. To deter others who may be inclined to violate state tax laws; and
3. To enhance voluntary compliance through public information.

Criminal tax prosecutions benefit the state by preserving the integrity of its tax laws and strengthening its revenue collecting activities. The collection of taxes is largely a voluntary process. When tax law violators are prosecuted, honest taxpayers receive assurance that dishonest taxpayers are being punished. It is also a major step toward changing apathetic attitudes regarding state tax laws and encourages voluntary compliance. Although the dollar amount of revenue generated by this “voluntary compliance” may be difficult to measure, it does have a significant impact.

Increased prosecution and public awareness of the importance of prosecuting tax violators have resulted in more severe sentences being administered by the Courts. The following are examples of results from STEU prosecution cases in 2003.

Two cases were referred for prosecution in 2003. One case involved an individual that failed to report income of approximately \$265,909.00 over a period of four years. The second case involved an individual who failed

to file tax returns for five years and failing to report approximately \$481,775.00 in income. The tax, penalty and interest that would be due on this income at the date the case was referred for prosecution would be \$69,914.00.

During the year, STEU investigators started to work a case involving interception of refunds requested on apparent fraudulent original returns filed during the 2003 tax season. There were four different individuals involved filing several electronic returns with incorrect withholding information in an attempt to obtain large fraudulent refunds.

A STEU investigator also assisted the criminal investigation division of the Internal Revenue Service in the successful prosecution of a former Chief Executive Officer (CEO) of a Tulsa based company. The CEO had not filed federal returns; however, they had timely filed Oklahoma income tax returns with federal returns attached. The STEU investigator sponsored the Oklahoma returns into evidence during the trial.

In virtually all of the criminal prosecutions, full restitution of taxes is ordered. The increased severity of punishment has resulted in greater voluntary compliance throughout the state. STEU is achieving the legislative intent of intensified enforcement of state tax laws. The STEU compiled the following statistics for 2003.

2003 ENFORCEMENT DATA

<i>STEU TAX COLLECTIONS</i>	<i>2001</i>
Court Ordered Restitution & Other Collections	\$ 22,862.00
Collections from intercepted fraudulent refunds	<u>\$ 70,197.00</u>
Total Tax Collections	\$ 93,059.00

ASSIGNED ACTIVITY FOR 2003

<i>TAX TYPE</i>	<i>BEG. OF YEAR</i>	<i>ADDITIONS</i>	<i>CLOSE OR WITHDRAWAL</i>	<i>END OF YEAR</i>
Income Tax	63	5	8	60
Sales Tax	14	0	3	11
Withholding	5	4	0	9
Excise	1	0	1	0
Tobacco & Spirits	1	0	1	0
Gross Production	1	0	0	1
Total Cases	85	9	13	81

Thirteen (13) cases assigned and investigated were discontinued or closed due to the taxpayer's voluntary compliance with tax laws for the violation under investigation. The \$70,197.00 in collections from intercepted refunds represents fraudulent refunds requested by taxpayers who are currently being investigated for prosecution. Investigator time was spent on 87 leads, 84 of which were declined for investigation. Most investigations were declined because of insufficient information, informants were in error or another section or agency was better suited to handle the matter. Two investigators spent the majority of their time this past year on a

very large withholding case that has the potential to recover a substantial amount of embezzled trust funds. This investigation is still pending.

STAFFING

The Special Tax Enforcement Unit consists of a unit coordinator, a clerical support person and three (3) investigators. The investigators are responsible for conducting investigations throughout the State of Oklahoma. The Oklahoma Tax Commission attorneys provide legal advice to the investigators during the course of an investigation and then review the cases for recommendation on charges to be filed. The local district attorneys usually file charges. Commission investigators and attorneys are available, when requested, to assist the district attorneys with all stages of the proceedings from initial appearance, trial and disposition. However, on several occasions the local district attorney has requested that the Commission file charges due to a conflict. Oklahoma Tax Commission attorneys handle all stages of the proceedings when charges are filed by the Commission.

PUBLIC INFORMATION

The Communication Division of the Oklahoma Tax Commission works closely with the STEU to increase public awareness of enforcement programs, objectives and activities. Television, radio and newspaper coverage of the STEU cases is a major step toward educating taxpayers regarding state tax laws.

SOURCE OF REFERRALS

A majority of the total cases accepted for criminal investigation resulted from lead information received from the public. Public referrals arrive as telephone calls, voice and e-mail messages, personal visits with informants, as well as letters from taxpayers. Divisions within the Oklahoma Tax Commission, regularly refer potential criminal cases to the STEU for consideration. Referrals are also received from local police departments and other law enforcement agencies throughout the state. Every lead received is investigated. The accuracy and validity of allegations are evaluated. Leads are then reviewed by the STEU Committee. If the lead is not credible, no further action is taken on the matter. If a lead appears credible it will be pursued either by referral for civil action or further criminal investigation as appropriate.

TRAINING AND OTHER ACTIVITIES

In 2003, STEU investigators received training from the Association of Certified Fraud Examiners, several Human Resource Development Services (H.R.D.S.) courses as well as Oklahoma Tax Commission in-house courses.

OBJECTIVES FOR 2004

Objectives for the next twelve-(12) months are as follows:

- Enhance the skills of Special Investigators through education and training;
- Increase public awareness that tax violators are subject to criminal prosecution;
- Continue to encourage voluntary compliance with Oklahoma tax laws from individuals that are under investigation;
- Obtain maximum restitution of delinquent taxes through prosecution of tax criminal cases;
- Utilize all means available to provide the public with a readily accessible avenue to report suspected tax law violations. A wide variety of easily accessible means to receive tips from informants is essential to the unit. Telephone voice mail and e-mail has increased the available methods to report suspected wrongdoing. Of additional benefit is the fact these services are available twenty-four hours.

CONCLUSIONS

The Special Tax Enforcement Unit continues to be very important to the enforcement and collection efforts of the Oklahoma Tax Commission. In reviewing available indicators it is evident that voluntary compliance has increased throughout the State as a result of the Special Tax Enforcement Unit efforts.

