



August 18, 2017

Mr. Andrew Gerlach, Secretary
Department of Revenue
445 East Capitol Avenue
Pierre, South Dakota 57501

Dear Secretary Gerlach:

The Government Operations and Audit Committee has scheduled a meeting for August 29, 2017, in room 362, in the State Capitol Building, to review various issues involving state government.

The Committee requests that you provide written answers to the following questions from Committee members by August 25, 2017 and be present on August 29, 2017 to discuss your answers with the Committee:

Audit Selection

1. What policies and procedures do you have in place for selecting businesses for a sales tax audit?
2. Who is responsible for approving the businesses scheduled to be audited?
3. Does the audit division have goals or targets for the expected outcomes of scheduled audits?
4. Do more senior auditors get to select the businesses they want to audit?
5. How are the newer auditors assigned businesses to audit?

Audit Division Personnel

6. Are audit division auditors in the Bureau of Human Resources career band for compensation?
7. If the auditors are career banded, what are some of the performance indicators or qualities rewarded to obtain the maximum increase in salary?
8. Is the amount of taxes recovered as the result of an audit a metric in evaluating an auditor's performance?
9. Is there any salary or bonus financial benefit to auditors associated with the amount recovered as the result of their audits?

10. What training is done with revenue auditors about policy and procedures for conducting an audit?

11. What are the expectations for the conduct of the auditors?

Audit Process and Communication

12. What is the standard operating procedure for communicating with a business regarding an audit or a review?

13. Are businesses informed of their right to have a lawyer and/or CPA present during the audit or review?

14. Is it common practice to select a business for a full audit before determining audit risk? Is audit risk a factor in determining the scope of an audit?

15. If audit risk is a factor in determining audit scope, is there a preliminary meeting with the businesses selected for audit or review to help determine audit risk?

16. If the business appears to have a good understanding of sales tax laws that govern the type of business they operate, are the businesses still subjected to a full audit?

17. Is cost vs. benefit analysis performed to focus audit resources on troubled businesses?

18. What are the objectives of an audit or review? Is the primary objective education or finding errors and collecting more money for the state?

19. What is the standard operating procedure for scheduling a site visit to perform the audit?

20. What is the standard operating procedure for conducting an audit at the business location?

21. If there is a manual for conducting an audit, can it be shared with businesses?

22. Is there a way for a business to report complaints about an audit or abuse by an auditor? What is the process a business uses to report such a matter and what is the process used internally for resolution of such matters?

Audit Assessments and Penalties

23. Are businesses specifically allowed to operate for one or more years before being considered for audit selection? If so, why and why is a three year look back period used for determining assessment amounts?

24. If businesses are not eligible for audit selection for one or more years, why are disputed amounts and related penalties and interest computed from day one?

25. How is the interest rate on audit assessments established and revised?

26. Is it audit division practice to inform taxpayers that there can be no settlement without all of the tax, interest and penalty being paid? Even if the assessment amount or application of law are disputed?
27. How does a business dispute an audit assessment and how are disputes handled?

Business Tax and Audit Division Interaction

28. If a business calls the business tax division to ask questions on sales tax or if the business calls multiple times, is that information communicated to the audit division in any form or fashion? Does such an inquiry flag a business for potential audit or result in an inquiry report?
29. Do questions commonly asked of the business tax division lead to focused effort by the audit division related to those subjects? If so, how are subject audit efforts developed and conducted?
30. What assurances do businesses have if they call and ask business tax related questions to ensure they are operating with the correct tax law that they will not be turned over for an audit?
31. What interaction occurs between the business tax division and the audit division before, during or after an individual audit?

This is the first item on the agenda and the meeting is scheduled to begin at 8:00 a.m.

If you have any questions, please contact Tim Flannery with the Department of Legislative Audit at 773-3595.

Sincerely,



Senator Deb Peters, Chair
Government Operations and Audit Committee



Representative Hunhoff, Vice-Chair
Government Operations and Audit Committee

Cc: Nathan Sanderson, Governor's Office
Liza Clark, Bureau of Finance and Management