



Presentation to the
2017

Ways and Means Committee

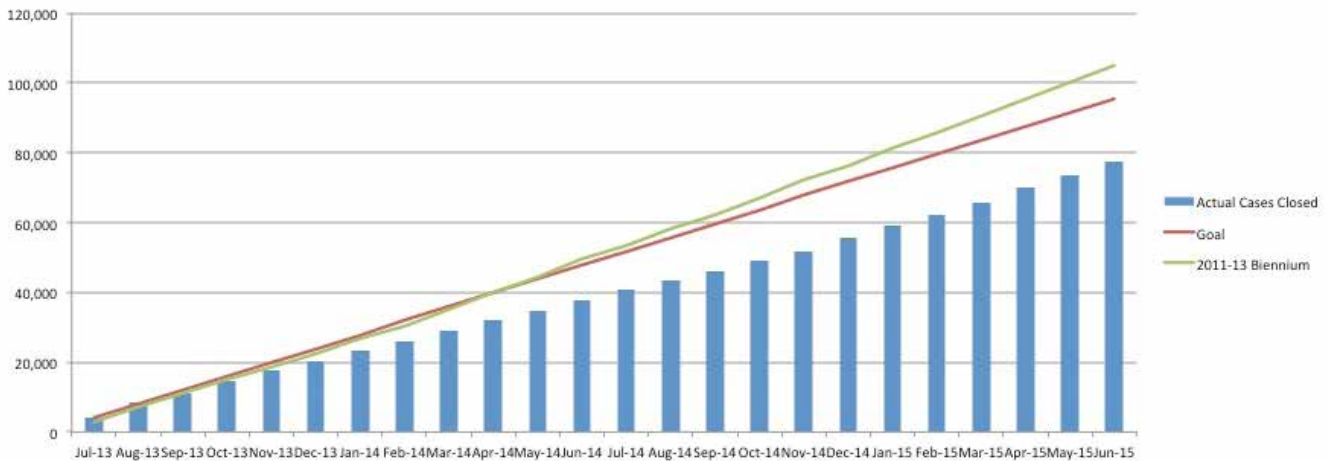
Responses to questions
from committee members

May 4, 2017

Why hasn't the department pursued filing enforcement for 20 percent of Oregon residents who filed federally but not in Oregon?

The graph below shows a 100,000-case goal for filing enforcement during the 2013–15 biennium. That's the number of taxpayers who filed a federal return and we've confirmed are Oregon residents, but they didn't file Oregon returns.

Filing enforcement production, 2013–15 biennium



In our legacy system, filing enforcement was an entirely manual process. Nearly all of the filing enforcement work is now automated through GenTax, which means we can initiate enforcement action much faster than before. The remaining 20,000 cases weren't discarded. Because there's no statute of limitation for filing a tax return, those cases rolled over into this biennium's workload.

We currently have open filing enforcement cases on approximately 69,000 Oregon residents who filed with the IRS but not with us. This includes the 20,000 from the previous biennium. We've sent letters to approximately 62,000 of these taxpayers, and we've received about 7,000 tax returns in response.

For the 55,000 who didn't file a return in response to our letters, we filed an estimated return for them based on the information we had available and sent them a billing notice for the tax owed. The remaining 7,000 we haven't yet contacted will receive letters in June informing them that they're required to file an Oregon return, which will bring us current. This helps us balance our workload so we're not overwhelming our call centers during filing season or during August and September when we issue the billings for unpaid taxes from the most recent filing season.

We'll also be taking this workload balance into account when addressing filing enforcement cases going forward. The IRS data is received quarterly, and our plan is to collect the data and work these cases after return-processing season (June–December). The call-back rate for filing enforcement notices was about 14 percent this year. Working these in the "off-season" will help us to better serve those who contact us because staff will have more capacity to respond to calls and emails.

A taxpayer reached out to Co-Chair Manning because he mailed two checks in April—one to the Department of Revenue and one to the IRS—but only the check to the IRS had been cashed. The taxpayer said he’d written to the department twice to inquire about the uncashed check, but hadn’t received a response. Is this a common occurrence?

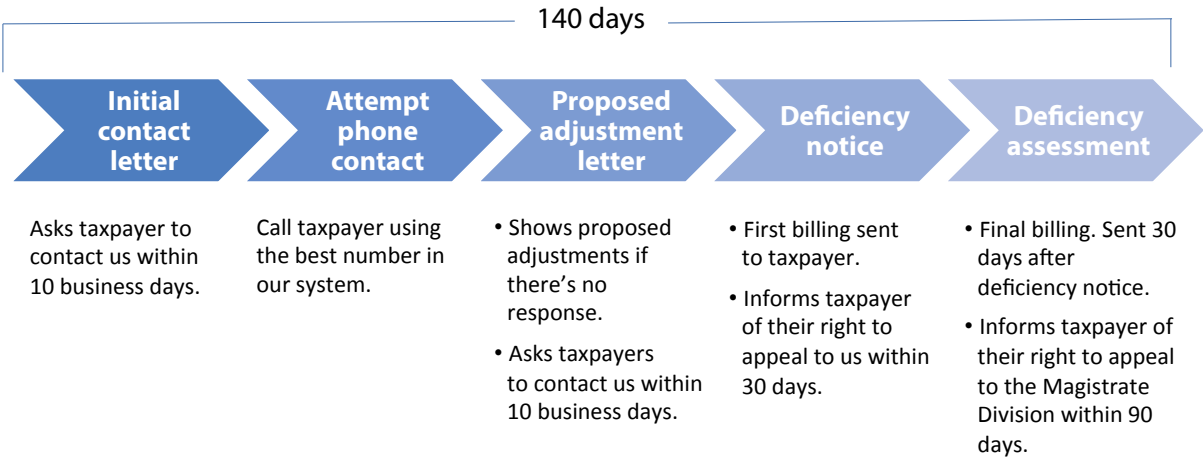
This isn’t a common occurrence, and this particular situation has been resolved. We received the taxpayer’s contact information from Co-chair Manning’s office so we could look into the taxpayer’s complaint. We found that the taxpayer’s check arrived during the time period where we consistently receive the highest volume of mail each processing season (just before and just after the filing deadline). Our Processing Center staff found that the taxpayer did not provide important information that we needed to process his payment. It was then routed to our Miscellaneous Cash Unit so they could determine how to appropriately apply the payment. Once that was determined, we banked taxpayer’s payment. Generally, we bank 95 percent of all check or money order payments within three days of receipt, except during peak processing (mid-April through early May).

We have internal controls for processing checks in place to ensure we appropriately handle all funds we receive and get them banked as quickly as possible. Our check-handling process is as follows:

1. Mail is received and initially processed in a secure location in the building.
2. All checks are delivered to a second secure location in the building where they’re processed electronically via high-speed scanners, according to Check 21 federal regulations.
3. Once funds are deposited, the paper documents are retained in a restricted area for a short period of time according to state record retention requirements and our bank’s guidelines.
4. All envelopes are checked again after initial processing to ensure they don’t contain any remaining items before being discarded.

Please provide an overview of the response timelines for audit letters.

We make multiple attempts to initiate communication with taxpayers who we’re auditing. The graphic below explains each attempt and shows the timeline on which these attempts occur.



Once contact with the taxpayer is made, the auditor will allow them additional time to respond to their requests, if needed. The amount of time is based on the individual needs of the taxpayer. No action is taken on the taxpayer's account until the deficiency notice stage, which occurs a minimum of 30 days after the auditor's initial attempt to contact the taxpayer. Collection action can begin as early as 60 days after the deficiency assessment is made.

Please describe the effectiveness of the department's collection tools.

We have several collection tools we can use to resolve outstanding debt owed to the state. Our most effective collection tools are refund offsets, garnishments, and payment plans.

Common collection tools

Refund offsets

We first offset personal income tax refunds to the taxpayer's personal income tax debt. Then the refund would be applied to debt for other programs that feed into the General Fund, such as withholding tax or cigarette tax. The priority order for offsetting a taxpayer's personal income tax refund to debt is in Oregon Administrative Rule (OAR) 150-314-0248. In 2016, we offset approximately 189,000 refunds to \$42.3 million of debt.

Warrants

We issue a distraint warrant for all debt because it's required before we can take any action against a taxpayer's real or personal property. However, not all distraint warrants are recorded in a county. In 2016, we issued 152,496 collection warrants.

Liens

We can record a distraint warrant with the county to place a lien on any **real property** owned in that county. This lien protects the state's interest if a taxpayer attempts to sell or purchase a property in the county in which the distraint warrant is recorded. In 2016, we recorded approximately 40,000 distraint warrants on tax debt. Of those, approximately 7,000 were released due to the balance reaching zero because the taxpayer either paid their account in full or filed a true return that resulted in no tax to pay.

With our new core system's capabilities, we can use automated logic to initiate and record warrants with counties. This will allow us to establish liens more quickly and efficiently than before.

Uniform Commercial Code (UCC) liens

We can file a UCC lien with the Secretary of State in order to place a lien on any **personal property** owned by the taxpayer. In 2016, we issued 1,168 UCC liens. We currently have 2,642 active UCC liens. The original balance for all 2,642 UCC liens was \$20,963,914.03. The current balance for those same liabilities is \$21,079,433.37. The increase in the balance after the liens were recorded is most likely because the debts are continually accruing interest. Since 2008, we've only had one taxpayer who had personal property that could be sent to us due to a UCC lien, but we declined to receive it because of the quantity and type of property. It would have cost us more to inventory and value all of the personal property than the property was worth.

Historically, we've found that recording UCC liens doesn't produce the desired results for us for a few key reasons. First, UCC liens attach to personal property—which might not have a high

dollar value—so the cost to inventory, store, value, and sell the property can be greater than the proceeds. Additionally, the property could already be encumbered by another party, usually the financing agent. Finally, the type of personal property may be too difficult to move or store while we work on selling it, as would be the case with property like airplanes or boats.

However, we're exploring this option further to ensure we're using all of the collection tools at our disposal to the fullest extent. We've partnered with the SoS to reduce the shared burden of manually ordering and processing paper UCC lien requests. Through GenTax, we electronically deliver data to the SoS, which is then used to create the recording documents. This enhancement has allowed both agencies to save time and money. It also led to an intergovernmental agreement between us and the SoS that reduces our filing costs.

With the new electronic filing option, we may be able to use this tool more often with less resource investment. We'll work with the Department of Administrative Services (DAS) to develop a streamlined process for receiving, inventorying, valuing, and storing personal property before selling it through the state's surplus property function or through other forums, such as sheriff's sales.

Treasury offset

Since 2002, we've participated in the Treasury Offset Program's (TOP) State Income Tax Program (SIT) through the U.S. Department of the Treasury. These are offsets of federal income tax refunds for payment of state income tax debts. In 2016, we sent out approximately 67,000 TOP notices for \$217 million and received \$13.7 million in offsets. The money offset during 2016 is from letters sent out in 2016 and earlier.

State Reciprocal Program (SRP)

House Bill (HB) 2550 authorized Oregon's participation in the TOP SRP. As a reciprocal program, not only are federal vendor and other non-tax payments offset to cover debts with state agencies, but the same payments from the state can be offset to pay debts to federal agencies. In 2016, we sent \$9.6 million to SRP and received \$568,000 in offsets.

Payment plans

Taxpayers can setup a payment plan to repay their debt over a set amount of time. We have different payment plan options for taxpayers that are based upon their specific financial situation. In 2016, we set up more than 61,000 payment plans.

Prior to GenTax, taxpayers did not have the ability to setup a payment plan through Revenue Online or have the payment automatically paid from their bank account via ACH. Payment plans setup with ACH payments have a higher completion rate because it eliminates the requirement for the taxpayer to send a check every month. They just have to ensure the funds are in the bank on the day we are drafting the money. In 2016, taxpayers used Revenue Online to set up approximately 6,500 tax payment plans.

Garnishments

If a taxpayer has received an assessment notice, demand to pay, and a warrant and has not setup a payment plan, we can proceed with garnishment action. In 2016, we issued approximately 75,000 garnishments on tax and other-agency debt, with 55,000 being wage garnishments and the remainder being bank garnishments. In that same year, we received \$28.6 million in garnishment payments for tax debt. The garnishment payments received in 2016 were from both garnishments

ordered in 2016 and continuous wage garnishments initiated in previous years.

A wage garnishment is a continuous garnishment that's in place until the debt is paid in full. A bank garnishment is a one-time garnishment, meaning it collects the money in the bank account (up to the amount of the garnishment) that's subject to garnishment at that specific time and does not affect future deposits.

We have a challenge process in place to ensure protected funds are not seized through bank garnishments. In 2009, Senate Bill (SB) 731 allowed financial institutions to refuse to send exempt funds in response to a garnishment if they're easily identifiable as exempt. If the financial institution data match (FIDM) bill is passed (SB 254), it will make the process of identifying where a taxpayer has bank accounts more efficient.

Temporarily uncollectible status

When a taxpayer has a temporary situation that limits their ability to pay their debt, but will be able to pay in the future, we can place their account on a temporary hold for three to six months. For example, a taxpayer who is unemployed but expects to find another job in the near future may be eligible for a temporary hold on their account. Taxpayers in this status must set up a payment plan once their situation is resolved. We currently have 450 taxpayers in this status. This tool helps give the taxpayer the time to address their personal situation and alleviates unnecessary garnishments going out when a taxpayer doesn't have garnishable funds.

Suspended collection status (SCS)

HB 2089 (2015) implemented the SCS process, which allows us to put taxpayers meeting certain criteria into a longer-term uncollectible-type status. In 2016, 503 taxpayers submitted financial statements for SCS review. Of those applications, 353 didn't qualify (largely due to the applicant having wages or their situation only being temporary) and 150 were accepted. Of the 150 applications accepted into SCS, 108 accounts totaling \$500,000 were identified as being wholly uncollectible and cancelled.

Settlement offers

If a taxpayer owes debt and believes they can't pay the full amount there's an application process taxpayers must follow for their settlement offer to be considered. This process includes providing detailed information about their financial situation. Under an accepted settlement offer, the taxpayer agrees to a three-year tax compliance period before the remainder of the debt is officially cancelled. In 2016, 125 applications were submitted and 38 applications were accepted. Through these settlement offers, we collected \$202,240 on \$1.3 million of debt.

Liable entity

If a business owes withholding debt, we can hold an individual personally liable for the business debt as a "liable entity." In 2016, we conducted 1,413 liable entity investigations in which we found owners of the business liable for \$17.1 million of debt. Once liable entity status is established we can collect from the individual through their personal assets. This tool is effective when we are unable to collect through the business assets and the owner personally has assets.

Advanced active collections

If we haven't been able to resolve the debt through our other collection tools, the account moves into advanced active collections and is assigned to a field agent. The field agent will perform in-

person visits to the debtor's primary residence or place of business (for withholding debt). The purpose of this visit is partly to make contact with the debtor, and partly to visually identify assets that could potentially be seized to cover the debt.

We have exercised our authority through the following seizures:

Till taps

Till taps require the involvement of the sheriff's department. A field agent arrives at the business location and seizes the contents of a cash register, cash box, cash reserves, or safe. We primarily use this function to collect debt owed by a business.

Seizure and sale

Personal property seizures include drilling safe deposit boxes. Usually, we find that a person has a safe deposit box when we issue a bank garnishment because it's identified in the bank's response to the garnishment. We've found stocks, jewelry, and other assets in safe deposit boxes, but we've also found items with no resale value, such as passports or birth certificates. Because drilling a safe deposit box is expensive and the value of the contents is completely unknown, we use this tool sparingly.

Stock sales

If a debtor has a non-retirement investment account, we can issue a garnishment. That garnishment freezes access to the account while we ask the court to order a liquidation of the account. Because of the attorney costs, this is generally only used for large account balances.

License suspensions

We can ask a licensing agency to suspend a person's occupational license after all other collection efforts have been exhausted. In these cases, taxpayers aren't coming to the table to try to resolve their debt and we believe they have assets available from which we can collect. Additionally, suspending an occupational license also helps prevent new debt from being incurred.

Taxpayers are sent a notice of intent to suspend, which requests that they contact us to setup an approved payment plan within 15 days to avoid license suspension. If the taxpayer doesn't respond and their license is suspended, we can enter into a provisional agreement with the taxpayer so they can continue working under their license. Most taxpayers resolve their debt after receiving notice of intent.

From July 1, 2015 through March 10, 2017, we issued 46 notices of intent to suspend. The combined total owed to us was \$2,372,338.22. Three taxpayers set up payment plans with us, and we collected \$137,073.42.

During the same time period we suspended 24 licenses and collected \$182,430.86. One of these taxpayers—whose debt was \$44,389.10—filed for bankruptcy. There were hearings held regarding eight of the license suspensions. We entered into provisional agreements with four taxpayers who had a combined debt of \$521,268.36.

Here is a breakdown of the 24 suspended licenses:

- Nursing—3.
- Realtor—2.
- Commercial driver—8.

- Contractor—5.
- Oregon Medical Board—1.
- Certified public accountant—1.
- Childcare provider—2.
- Tax consulting—2.

Bond or letter of credit for withholding debt

We can require a bond or letter of credit from an employer that has failed to remit the income tax withheld from their employee(s) to the department. They must fail to remit for at least three calendar quarters and the amount must be greater than \$2,500 before we can require a bond or letter of credit. We seldom use this tool because bonds and letters of credit are difficult to obtain once a taxpayer is already delinquent.

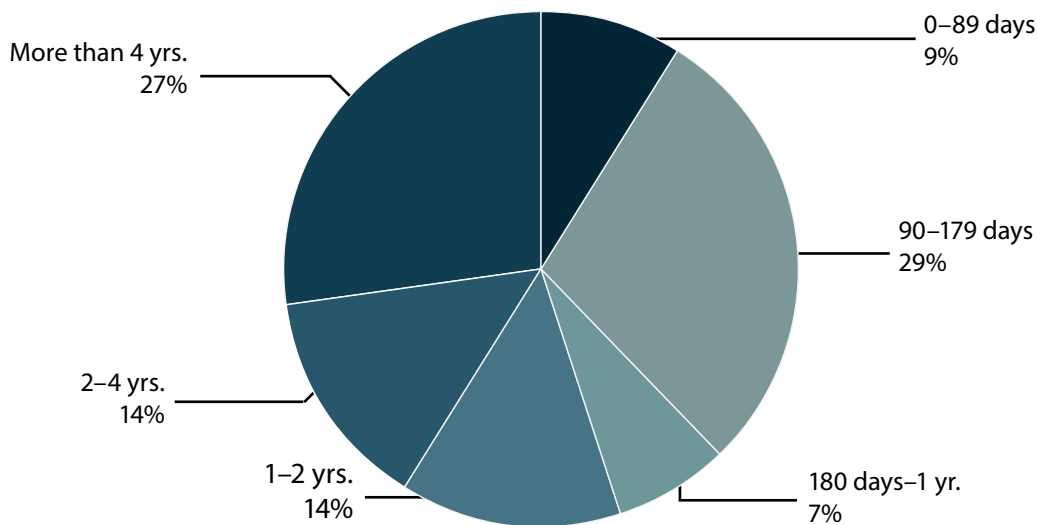
If a debtor does not obtain a bond or letter of credit once requested, they can be held in contempt of court. In cases where we’ve reached this level, we’ve asked the court to prevent the taxpayer from being an employer in the state to stop them from continuing to accrue debt. We are exploring additional ways to use this tool as a condition of future compliance after a debt is paid in full.

Please provide a breakdown of the collectibility of your accounts receivable.

Self-assessed debt, which is debt the taxpayer determines they owe based on the return they’ve filed, is the most collectible. The more recent that debt is, the easier it is to collect. As self-assessed debt ages, collectibility suffers. Debt established through an audit is about as collectible as aged self-assessed debt because the taxpayer has acknowledged responsibility for the debt. Estimated debt, which is a result of failure-to-file assessments, is the least collectible. In some cases, if taxpayer files a true return, they’re actually due a refund rather than owing debt. In these situations, the account receivable (estimated return) becomes an account payable (refund).

For your convenience, here is the graph showing the age of the debts in our accounts receivable from our Day 4 presentation.

Aging of accounts receivable, as of March 13, 2017



Collectibility varies based on the age and type of debt. The graph below shows the type of debt in each age category.

