TNFORWARD

TOP TO BOTTOM REVIEW

Chapter 18

REVENUE

HIGHLIGHTS

- Legislative recommendations include (1) eliminate the minimum thresholds for electronic filing of tax returns in an effort to eliminate or significantly reduce manual tax filing; (2) provide for reporting of wholesale purchases to better monitor and audit sales tax reporting by retailers; and (3) modify tax treatment for intangible expenses for business.
- Address human resources/personnel issues including replacement of retirement-eligible employees over the next 1-5 years, utilize the state's 120-day contract policy to aid with knowledge transfer, enhance recruiting & hiring efforts to attract qualified candidates and improve employee evaluation process.
- Implement electronic transfer and storage of motor vehicle title and registration documents.
- Eliminate production and storage of unneeded and redundant reports and documents.

INTRODUCTION

As Tennessee's chief tax collector, the Department of Revenue (DOR) is responsible for the administration of state tax laws and motor vehicle laws established by the legislature and the collection of taxes and fees associated with those laws. DOR provides a means of collecting and processing the majority of total state collections and accounting for those funds used to finance and operate most state programs. DOR also apportions revenue collections for distribution to the various state funds and local units of government.

APPROACH/METHODOLOGY

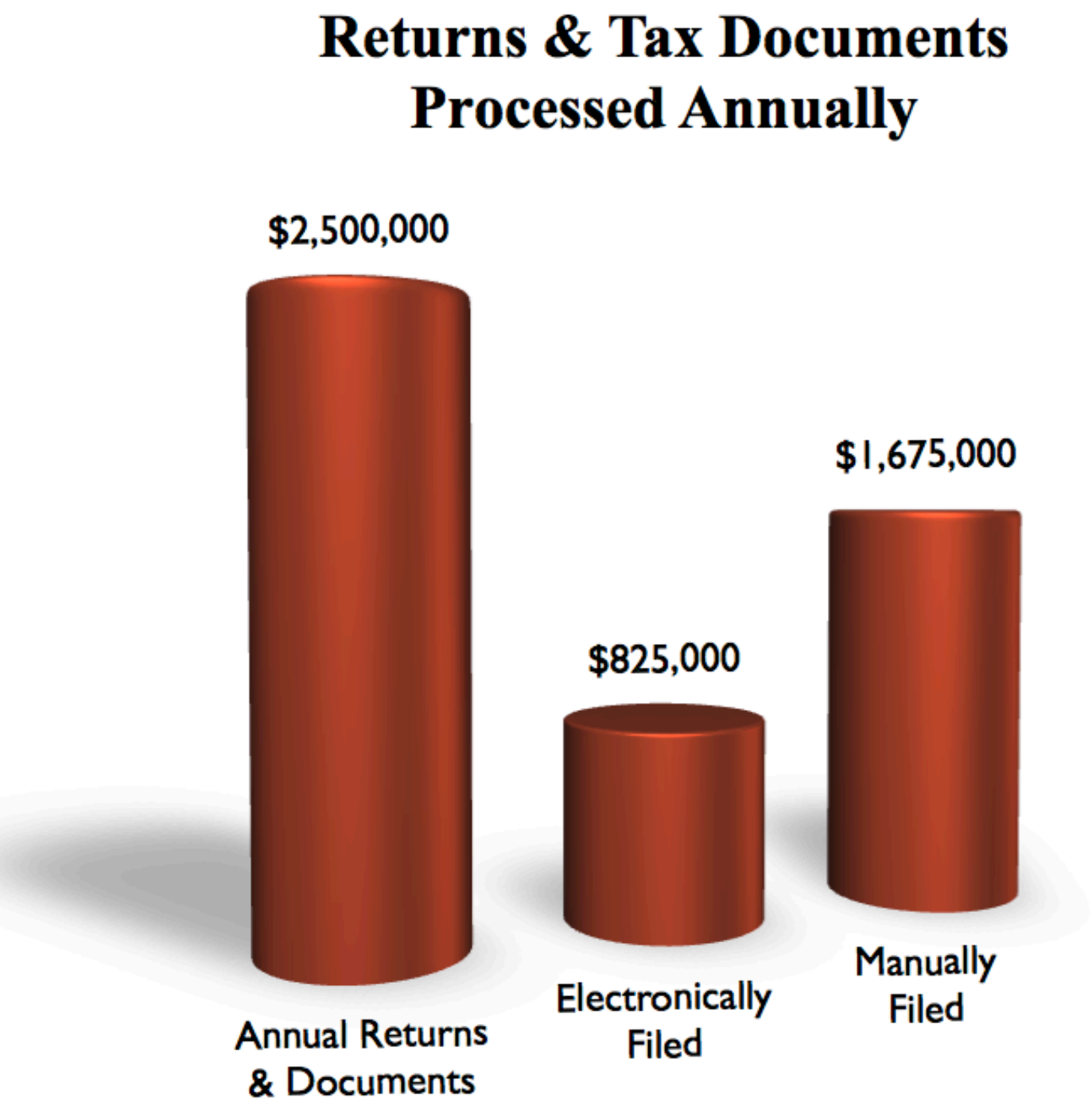
The Top to Bottom Review examined the agency's programs and management systems, with the goal of identifying inefficiencies and areas where improved program performance is needed.

The approach to the Top to Bottom Review included face-to-face interviews, small group discussions, and applicable surveys of key personnel. Additionally, similar agencies were contacted in other states in an effort to share best practices.

RECOMMENDATIONS

Recommendation 1: Eliminate minimum thresholds for electronic filing of tax returns.

Discussion: Per discussions with other states and our own internal review, the evidence is clear: If you have an e-file capability, you certainly want taxpayers to use it. Tax administrators across the



country have embraced electronic filing as a means to:

1. Improve processing;
2. Eliminate key-entry errors;
3. Improve customer service;
4. Reduce the number of seasonal workers;
5. Make better use of staffing resources.

Electronic filing requirements are becoming an established feature of the tax administration landscape. These requirements maximize overall e-filing benefits and increase the value of the tax agency's infrastructure. E-filing effectively and efficiently fits the way taxpayers and states do business; such requirements are just the matchmakers bringing the public and the technology together. As is the case with every technological evolution, consistent education and communication are invaluable to streamlining the process.

Currently, the DOR processes nearly 2.5 million returns & documents annually. Approximately one-third of them are filed electronically.

Recommendation 2: Increase wholesaler reporting of retail sales purchase, per resale certificate, to enforce tax compliance.

Discussion: This concept would authorize DOR to require a monthly report from wholesalers and distributors of alcoholic beverages and tobacco products sold to retail dealers in Tennessee.

Some retail businesses under-report their sales, gross receipts and income and the taxes collected and/or due on their Sales & Use Tax returns, Business Tax returns and Franchise & Excise Tax returns, respectively. Due to the fact that many of these businesses operate on a cash basis and do not keep adequate records, the department must obtain records of these business transactions from third party sources, such as wholesalers and distributors, in order to verify their retail sales. The department has requested third party information from these businesses in the past with moderate success. Some provide information voluntarily, while others require the Department of Revenue to use a legal process to obtain the information. There are no penalties for failure to supply the information. Collecting the information through the legal process is expensive, time-consuming (time loss is frequently significant in these cases) and often creates ill will and places an unnecessary burden on the state's legal staff. The state is losing millions of dollars due to under-reporting of sales, gross receipts and income, and sellers retaining the sales tax collected on these non-reported sales. This concept provides the department with the necessary information to increase voluntary compliance, recover taxes collected but unreported, and the means to process and collect a large volume of cases.

With third party business transaction information, the department will be able to make better decisions in audit lead development. Voluntary compliance will increase and audits and discovery cases will be more productive since the department will have specific documentation/basis for opening a case.

The State of Texas (approximately 4 times the size of Tennessee in population) implemented a similar program supported with legislation passed in 2008. Their implementation has generated over $260 million in the past 4 years. In January 2008, the Texas Comptroller of Public Accounts' office began compiling data of all retailers' purchases of alcoholic and tobacco products. Their bill was introduced in an effort to provide a level playing field for business and to assure all applicable taxes were reported and collected. The bill passed unanimously in their house and nearly unanimously (1 dissenter) in their senate. The State of Florida (approximately 3 times the size of Tennessee in population) has mirrored this concept with legislation that went into effect July 1, 2011. The Florida Department of Revenue estimates this concept will produce a $50-100 million increase in revenue, annually.

Recommendation 3: Modify tax treatment for intangible expenses for business.

Discussion: An unresolved issue for over eight years has been the proper tax treatment to be accorded to intangible expenses for businesses. The lack of resolution of this issue resulted in countless hours of effort and expense for the state and for taxpayers.

In order to bring the issue to focus and resolution, DOR solicited input from tax practitioners, through meetings and correspondence, and then held joint discussions with taxpayers, tax practitioners and DOR specialists, resulting in a proposed change that will require legislative implementation, and which we hope will resolve most of the open audit issues relating to intangible expenses.

Recommendation 4: Utilize H/R 120-day contract rule to aid with knowledge transfer from retirement-eligible employees.

Discussion: In a department as technical and complex as DOR, the fact that a significant portion of the workforce is reaching retirement creates a major risk in the loss of vital institutional knowledge. We need a way to reward and motivate employees to train the next generation in order to mitigate this risk. One way is through the use of the 120-day contract. Practices and procedures have resulted in circumstances where employees have stayed in place while in a "retired" status. The 120-day contract allows a retired employee to return to work for 120 days each year, in what amounts to a part-time, hourly paid role. These contracts should be closely monitored so that only experienced retired employees who are motivated to continue contributing and, more importantly, to train less experienced employees, are included in this process.

Recommendation 5: Implement process of electronic transfer and storage of motor vehicle title and registration documents.

Discussion: The department is tasked to be the custodians of motor vehicle title and registration certificates and supporting documents for the state. The County Clerks, as deputies to the registrar of motor vehicles, send processed work to the department daily. Many County Clerks currently scan and retain digital copies of these documents in their own systems yet submit paper copies to the department. There's an effort presently underway to transmit these digital images, directly eliminating the need for redundant effort and improving efficiencies in the overall system.

Recommendation 6: Eliminate unneeded and redundant report production and storage.

***Discussion*:** In October 2011, DOR began an evaluation of all documents, forms, information and returns that it produces in an effort to determine what was actually still needed and whether there were efficiencies to be gained via consolidation and/or elimination. Agency managers were surveyed, reporting divisional report production and usage (both internally and externally). An ongoing effort continues in this area.