

Encourage compliance with Montana's tax laws		Agency/Program #: 5801-00-G1
		Division: All Divisions
		Program: All Programs
Agency Name:	Department of Revenue	
Agency Contact:	Gene Walborn / Larry Finch	0908/3526
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Program or Project Description:

Aid Taxpayers in Following the Law, Ensure Fiscal Responsibility, Protect Montana Businesses from Unfair Competition, and Improve Tax Fairness and Integrity in Montana's Current Tax Laws.

Fund Name:	Appropriation, Expenditure and Source				Approp & Expenditure numbers are as of June 30, 2009
	2008		2009		
	Approp.	Expended	Approp.	Expended	
General Fund					
State Special					
Federal Funds					
Total:	\$0	\$0	\$0	\$0	

Legislative Goal(s):

Aid Taxpayers in Following the Law, Ensure Fiscal Responsibility, Protect Montana Businesses from Unfair Competition, and Improve Tax Fairness and Integrity in Montana's Current Tax Laws.

Improve existing compliance programs to ensure that resident, nonresident and corporate taxpayers are meeting their filing obligations and paying their fair share of taxes.

Employ a coordinated and comprehensive approach to compliance by combining audit, legal, public information and collections resources to provide compliance coverage for all taxes and fees, and to reduce differences in levels of compliance among different taxpayers and taxpayer groups, including but not limited to correcting the known shortfalls in compliance by nonresidents and out-of-state companies.

Legislative Performance Measures :

- 1) On an on-going basis, evaluate forms, instructions, and taxpayer services through taxpayer satisfaction surveys including the current form and instruction feedback cards and post-audit surveys.
- 2) Measure the effectiveness of the new mineral withholding system and report the findings by mid-year 2009.
- 3) For nonresident sellers of property, establish a baseline rate of noncompliance and then periodically measure on-going rates of non-filing by the end of calendar 2008.
- 4) For nonresident owners of pass-through entities, establish a baseline rate of noncompliance and then periodically measure on-going rates of noncompliance for non-filing and underreporting of income by mid year of calendar 2009.
- 5) Continue to identify taxpayers using abusive tax shelters and evaluate effectiveness of efforts under current law to curb such shelters by the end of calendar 2008.

2009 Biennium Significant Milestones:		Completion Dates	
		Target	Actual
1	The milestones are inherent in the performance measures listed above.		
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4			
5			
6			

Agency Performance Report:

The department's Gentax computer system provides the data foundation for the proposed performance measurement activities. The performance measures are in the design and development stage.

Performance Measure I: Each year the department reviews, compiles and summarizes the comments and responses received with the income tax form instruction survey cards. Taxpayer responses to the surveys have been analyzed and changes addressing those responses, with the goal of improving taxpayer awareness and education, are made annually to the income tax forms, which are printed each fall.

In 2009, the department began reviewing and summarizing responses to post-audit surveys – surveys sent to taxpayers after an audit has been conducted. Post-audit surveys are reviewed upon receipt, with appropriate issues and concerns addressed as soon as administratively feasible. Overall, the department received a positive or favorable response from taxpayers 74% of the time, with two-thirds of all respondents indicating that they had a more positive perception of the audit program as a result of the audit experience. (Full survey results are available upon request.) Results indicate that the department's audit program is meeting taxpayer education expectations, and is treating taxpayers with respect.

The department considers the goals, objectives and milestones associated with the measure to be achieved, thereby completing and closing out this performance measure.

Performance Measure II: Mineral withholding began January 2008. Each quarter, the entity responsible for withholding (the "remitter") is required to remit the amount withheld to the department. Annually, remitters are required to file a report providing the total amount withheld from the prior year and the identification of and the amount withheld for each mineral interest owner. The first annual reports were due February 2009. The department has captured the 2009 annual report information, and this information is being compiled, reviewed, and analyzed to determine if there are compliance issues. Once all the relevant data have been reviewed, the department will develop conclusions regarding the effectiveness of the mineral withholding system, address specific taxpayer noncompliance, and provide the findings in a final report to be produced early in 2010.

Performance Measure III: The department has captured and analyzed data from over 400,000 Realty Transfer Certificates (RTCs) for calendar years 2003 through 2007. Based on our extensive compliance work to date, we have discovered that the pre-tax-determination nonfiling rate for nonresidents is 70%, whereas the pre-tax-determination nonfiling rate for residents is 35%; the post-tax-determination nonfiling rates for nonresidents and residents are 37% and 4%, respectively. In addition, the average tax owed for nonresidents who do not file is \$4,000 whereas the average tax owed for residents who do not file is \$3,000. We will continue to monitor RTCs for compliance in this arena. However, it is clear that nonresidents pose a significant compliance problem and that need for a statutory system of withholding is evident to ensure equity with Montana's tax laws and between residents and nonresidents.

Performance Measure IV: The department's compliance work related to pass-through entities is an on-going project. Based on our compliance efforts to date, we have generated \$9.2 million in collections of which \$6.4 million (70%) is related to nonresidents. The average collection from nonresidents is \$10,306 whereas the average collection from resident taxpayers is \$5,214. We will continue to analyze data pertaining to pass-through entities, but these types of filings are very complex, and additional resources (audit staff) to effectively address this matter would be very helpful, particularly with respect to nonresident filers.

Performance Measure V: Regarding abusive tax shelters, the department has resolved 54 cases where abusive tax sheltering has occurred, but many additional cases cannot be resolved because we do not have the legislation required to compel the evidence needed to make a proper determination of the extent to which taxpayers are not compliant with Montana's tax laws. Additional legislation would be helpful to further identify cases that cannot be discovered using current law.

Performance Measure VI: The department has produced over \$77 million in audit revenue in fiscal year 2009, and provided an overall rate of return on audit expenditures of over \$8-to-\$1. This more than doubles the IRS benchmark of \$4-to-\$1. These successes are attributable in large part to the audit activities conducted and described in performance measures III, IV, and V, above. These results are performed within the confines of current legislation.

LFD Narrative:

LFD Concern - No appropriation or expenditure information was provided to allow formulating a determination of effectiveness of fiscal policy for this activity.

Progress - The progress toward this goal appears to be on-track. However, the following highlights or suggested items for further clarification were identified in reviewing the agency performance report:

- Performance Measure I: How did the number of issues identified in income tax form instruction survey cards compare to previous year's surveys?
- Performance Measure II: Evaluation of effectiveness of the mineral withholding system s still in progress
- Performance Measure III: The agency indicates the data justifies a statutory system of withholding for nonresidents
- Performance Measure IV: The agency indicates they are understaffed in the area of pass-through entity compliance
- Performance Measure V: The agency indicates legislation to compel provision of evidence when tax shelters may be abused would assist in compliance
- Performance Measure VI: \$77 million in audit revenue was produced in FY 2009 (8 to 1 return on expenditures or double the IRS benchmark)

Version	Date	Author
LFD Dec 2009	11/12/2009	G. DeWitt

Change Description
Copied agency provided status from OBPP form. LFD Narrative