

LOUISIANA COLLECTIONS ISSUES – WHAT TO KNOW

JAYE CALHOUN
JAYE.CALHOUN@KEANMILLER.COM
(504) 293-5936



- Jaye Calhoun
- Kean Miller LLP
- Partner
- jaye.calhoun@keanmiller.com
- (504) Jaye Calhoun
- Kean Miller LLP
- Partner
- jaye.calhoun@keanmiller.com
- (504) 293-5936) 293-5936



DIFFERENT TYPES OF TAXES = DIFFERENT COLLECTORS

- THE LOUISIANA DEPARTMENT OF REVENUE
 - Collects income, franchise, sales and use tax and other taxes and sometimes contracts out collection
- SIXTY-THREE PARISHES (each parish must designate one collector)
 - Collect sales and use tax, occupational license taxes
- SIXTY-FOUR PARISHES (each parish typically has designated one collector)
 - Collect property taxes through tax sale procedure

LOUISIANA DEPARTMENT OF REVENUE

- Business taxes (income/franchise/sales and use) and personal income taxes are handled by separate departments within the collection function but the state also employs outside collection agencies
- Businesses must be up to date on tax payment/remittance in order to renew liquor, gaming and comparable business licenses and also may be subject to legal action
- Individuals with unpaid taxes (greater than \$1,000) may have their driver's license, hunting and fishing license revoked, and may be subject to garnishment of wages, levy and seizure of assets
- The State is not as generous with advance notice of collection activity as the IRS is and has a tendency to “shoot first and ask questions later”
- The State participates in programs as a result of which a federal tax refund may be seized for state liabilities but it is usually the other way around

UNPAID PARISH TAXES

- Sales and use taxes –Parishes tend to be more aggressive than the LDR in terms of “rules to show cause” and orders to “cease and desist” business
- Property taxes - Unpaid property taxes are collected through tax sale procedures which provide for extremely limited notice to property owners
 - Property taxes are assessed on an annual basis, become final and go to tax sale relatively soon thereafter (2 year redemption period extended to 5 years if certain procedural irregularities exist); there is limited ability to contest a property tax assessment (open rolls period, 3 days to BOR, limited ability to appeal to Tax Commission or BTA and must be paid timely whether or not the matter is being contested)

COLLECTION ALTERNATIVES

- Installment agreements
 - For short terms (no more than 1-2 years) and requires 20% downpayment of total liability amount
- Doubt as to collectability offers (which may also operate as doubt as to liability or hardship offers) – rarely granted
 - Criteria for granting offers not strictly based on what the taxpayer can pay but often seems to be based on whether their situation is particularly difficult
- Parish collection alternatives are based on the foregoing but may differ by parish
- Penalty abatement procedures available at both state and in parishes
- Voluntary disclosure agreements – state has a procedure and parishes have multiple possible procedures (parish by parish, multi parish through the ULSTB or the Remote Sellers Commission)

STATUTE OF LIMITATIONS ON COLLECTION

- Collection statute – Ten years by interpretation (as opposed to clearly applicable statute) – not always observed
- Assessment of tax based on presumption that tax was due in many circumstances
- Tax liens arise by operation of law and although notices of tax due (which recite possible collection actions) there is no specific formal notice prior to filing lien or levying to collect the tax
- Occasional amnesty programs at both State and Local levels
- Interest accumulations are significant

QUESTIONS?

