

# Misclassified Employee Withholding Field Audits

Shondra Cutno  
Assistant Secretary



LDR

Tax Administration  
Group III

# Audit Staff

## Field Audit Income Tax Division

- Director – Billy Pittman
- Assistant Director – Krystal Bolton
- 2 Individual Income Tax Teams, 8 auditors
  - Supervisor Jennifer Hillman
  - Supervisor Laura Perkins

## Audit Review & Appeals Division

- Director – Tabitha Long
- Assistant Director – David Hansen
- 3 Tax Reviewers
  - Camille Dunbar
  - Tracy Wilson
  - Deborah Moon

# Audit Program Objectives

- Recover withholding tax in cases where employers misclassify employees as independent contractors
- Build relationships with taxpayers that allow the audit process to flow more smoothly and promote voluntary compliance
- Properly plan audits to ensure they are performed efficiently, meet quality standards and cause minimal disruption to taxpayers
- Gather and evaluate sufficient records to provide an adequate basis for determining tax due
- Apply appropriate law to support audit findings
- Maintain documentation consisting of a complete record of evidence examined to support audit findings

# Tax Laws Cited in Audits

- R.S. 47:112 – imposes requirement on every employer making payments of wages to deduct and withhold from those wages tax as provided by withholding tables found in LAC 61:I:1501
- R.S. 47:113 – liability of employer upon failure to pay any amount withheld or required to be withheld
- R.S. 47:114 – return filing & payment requirements; penalty provisions for withholding
- R.S. 47:1601 & R.S. 47:1602 – interest and penalties
- R.S. 47:1508 – prohibits auditor from disclosing to employer the employees' filing status

# The Audit Process

- Field Audit Income Tax Division receives information from LWC detailing employers who have acquiesced in employee classification findings
- Auditor reviews each misclassified employee's individual income tax return to determine if wages are reported
- Auditor creates audit schedules and assesses tax on wages not reported by employee; penalties and interest applied
- Taxpayer sent notification of audit findings and given a review period
- Auditor completes audit report, compiles audit file and submits case to the Audit Review & Appeals Division if the audit is not paid in full

# The Review Process

- Audit Reviewer examines the audit report; if in agreement with auditor's findings a notice of proposed assessment (30-Day Letter) is sent to the taxpayer
- Taxpayer has option to formally protest the audit if they're not in agreement with the findings
- Taxpayer has right to appeal to the Louisiana Board of Tax Appeals
- Formal assessment (60-day Letter) sent if audit not resolved within 30 days
  - Taxpayer has 60 days to pay or appeal the formal assessment to BTA; otherwise assessment becomes legally due and subject to immediate collection
  - Department may choose not to issue a formal assessment and may file suit, bypassing the BTA

# Misclassification Audits Performed

- 15 leads from LWC
- 13 completed fieldwork
  - 10 closed
- 1 in progress
- 1 canceled
  
- Total audit findings \$1,169,551





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