



OSCPA/Oklahoma Tax Commission Meeting - Questions/Comments January 17, 2024

PDF Attachments - ITA

- When a PDF is attached to an e-filed Oklahoma return for required items, the taxpayer either receives a letter asking for the supporting documentation, or gets a bill denying the deduction for income, or is denied the credit even though the documentation was attached to the return as a PDF. Can this situation be resolved? Will the OTC eventually be able to process or see the PDFs that are attached to the tax returns?
 - **We are currently looking into different options for the OTC system to be able to process/identify PDF attachments prior to sending out a letter.**

Non-Resident Returns - ITA

- When working with VITA through a university, the OTC does not accept electronic submission of non-resident returns. Is there a plan to start accepting non-resident returns electronically?
 - **The OTC does accept 511-NR (non-resident returns) electronically. It might be that vendor specifically that does not, but almost all our vendors accept these electronically.**

Audits - Audit

- Are statistics available for income tax and sales tax audits?
- What percentage of large corporations, partnerships, and individuals are audited for income tax and/or sales tax?
 - **For tax years 2012-2021, Audit services identified approximately 1M (comprised of individual and business entities) taxpayers that had compliance issues that may potentially make them subject to audit. Of those 1M taxpayers, OTC has identified approximately 100,000 taxpayers for audit.**
- How are the audits selected?
 - **Audits are selected based on compliance issues identified through research or a systematic data pull: these compliance issues could include recent changes in state law, federal tax practices or changes to certain industries. Once the compliance issue has been identified, Audit will then use specific parameters to identify the possible affected population. Factors considered include, but are not limited to, filing status, tax liability amount, physical location and filing frequency.**

- How long do the audits last (refund claim audits vs. non-refund claim audits)?
 - **The length of an audit can vary based on the type of Audit (Field audit vs Desk audit) and other extenuating circumstances such as protests, waiver requests, etc. Generally, the audit timeline is as follows:**
 - **Desk Audit**
 - **First 30 days – Inquiry period, initial letter sent, taxpayer can provide additional documentation**
 - **Next 60 days – Audit period, second letter sent, taxpayer can protest the audit**
 - **Total Audit Timeline – 90 days**
 - **After 90 days the protest deadline ends, and the tax liability enters our billing cycle**
 - **Field Audit**
 - **First 30 days – Notification period, initial letter sent, opening conference takes place with taxpayer**
 - **Next 30 days – Awaiting records from taxpayer**
 - **Next 30 days – Record review**
 - **Next 15 days – Notification period, closing conference held and audit letter sent**
 - **Next 60 days – Audit period, taxpayer can protest the audit**
 - **Total Audit Timeline – 135 days**
 - **After 135 days the protest deadline ends and the tax liability enters our billing cycle**
- Has the OTC added new positions in the income tax/sales tax audit areas?
 - **There are currently 86 positions in the Audit Services Division, which is broken down as follows:**
 - **1 Director**
 - **5 Managers**
 - **2 Trainers**
 - **16 Supervisors**
 - **57 Auditors**
 - **5 Open Auditor Positions**
- Previously, the OTC has sent out audit notices to each officer/director of a corporation at the conclusion (or sometimes beginning) of an audit when an amount was owed (even if the amount was agreed to and paid by the corporation.)
- Has the OTC considered allowing corporations the opportunity to pay or appeal the delinquency before sending notices to each officer/director?
 - **The Audit Services division believes that it is best practice to notify all potential liable parties of any proposed tax liability that will be owed to the OTC. Our current practice is to send out liability notices to listed members or officers that may receive billing notices for a tax liability as this protects the member or officers right to protest during the 60-day protest window.**

OTC Letters/Communication – ITA

- At times, taxpayers can receive 2-3 letters listing various amounts owed.
- Is there an option to process all changes involved and send one letter with all the amount owed?
 - **Most of the time the letter is issued around the timing of returns/amendments or payments being posted. However, the OTC will look further into this inquiry to determine whether in many situations only one letter may be issued.**
- A client received a letter that did not have a return mailing address listed. Even though there was a payment envelope included (that listed the return address), the client tossed it before handing it over to the CPA. Would it be possible to include a return mailing address on the letter as well?
 - **A return mailing address is included although no street name or number. The return mailing address of the OTC is as follows:
Oklahoma Tax Commission
Oklahoma City, OK 73194**
- OTC employees working from home have occasionally asked for documents to be emailed.
- Is there a way to securely (and immediately) transfer documents to OTC agents when speaking with them over the phone?
 - **You may utilize the submit doc option through OkTAP if there is a letter ID. Also, a confirmation number may be provided, and the OTC agent could search to identify the relevant documentation.**
- The email for tax professionals works very well most of the time. At times more than one agent helps with the issue.
- Do you have dedicated staff who manage or oversee the emails?
 - **Yes, we have a dedicated team that monitors these emails.**
- Will you provide an update on your letters refresh project?
- We very much appreciate OTC providing a list of contacts last year. Will you provide an updated list of contacts?
 - **An updated list was provided on or about January 4, 2024. We would be happy to provide you an updated list.**

OKTAP – ITA/BTS

- After using a password to log into OKTAP, we are occasionally asked to enter a password several other times when making a payment.
- Is there a way to simplify the process with one login?
 - **The OTC utilizes this as a security measure. However, we will review internally to determine if the process may be simplified.**
- OKTAP emails include an account number but not a name.
- Is it possible to also include a name on the email?
 - **Thank you for this suggestion. We will review internally to determine if this can be implemented.**

- How do you add franchise tax to a company OKTAP account that only shows withholdings?
 - **If the company has already registered for a franchise tax account, after logging in to your OKTAP account, click “Manage My Profile” in the top right. From there, click “Add Access to Another Account” and fill out the required information to gain electronic access to the franchise account.**
- Taxpayers are receiving emails regarding a required annual withholding and wage reconciliation. Where can we find the annual withholding and wage option on OKTAP?
 - **Log into OkTAP.**
 - **Select the More... tab. Click the *W-2/1099/500 Filing Center* link under the Filing Center panel. Select the type of file is being uploaded. Click the *Add hyperlink in the Attachments* section of the page to attach your file(s). Only file(s) that pass validation will attach.**
 - **Click the *Submit* button.**

PTE - ITA

- Some taxpayers are choosing to pay the tax at both the partnership and partner levels to stop PTE notices.
- Are there any updates on the PTE process?
 - **The issues related to PTE have been a priority and are being worked as quickly as possible. Where applicable, waiver requests of interest and penalties are receiving priority for expedited resolution.**

Private School/Homeschool Credits – Tax Policy/Joe

- Is there guidance on the private school credit?
- The OTC website indicates a 1099-G will be issued to taxpayers who receive a Parental Choice Credit payment. Will the 1099G be issued to private school parent recipients as well as homeschool recipients? OTC website indicates receiving the 1099G does not mean the credit is taxable.
 - **Form 1099-G is for certain types of governmental payments, such as unemployment compensation, state or local income tax refunds, credits, or offsets. The OTC will issue Form 1099-G to taxpayers who receive a Parental Choice Tax Credit payment, including homeschool recipients. If your federal AGI includes any private school tax credit payments, the amounts included in federal AGI will also be included in your Oklahoma taxable income. Please contact your own tax professional if you need more information.**
- Do the schools have to provide the documentation or verification once per year or twice per year due to calendar year vs school year?
 - **Once each year the participating private school will respond electronically to the Tax Commission’s request to verify certain information to determine if the refundable tax credit was applied toward a qualified expense during the applicable tax year.**
- How does a blended family apply?
 - **The private school tax credit is available to an Oklahoma taxpayer who is a biological or adoptive parent, grandparent, aunt, uncle, legal guardian, custodian, or other**

person with legal authority to act on behalf of an eligible student. Currently, the application process is set up as the first eligible taxpayer to submit a complete application will be approved.

- How do scholarships or financial aid affect the credit?
 - **The amount of qualified tuition and fees to be charged the taxpayer for the eligible student during the tax year determines the maximum amount of credit allowed depending on federal adjusted income of the eligible student's household income from the second preceding tax year. Currently this amount does not take into account any financial aid or eligible student scholarships.**
- What if a grandparent pays the tuition?
 - **The private school tax credit is available for grandparents of an eligible student.**
- How does the credit coordinate with a 529 plan? Is it either/or?
 - **There is currently no provisions prohibiting the use of a 529 plan and the application and approval of the parental choice tax credit.**
- Is there guidance on the homeschool credit?
 - **The homeschool credit will be claimed on the 2024 income tax return. The form and instructions will be available in the fall of 2024.**
- Do parents of homeschooled children need to apply for approval for the credit?
 - **No, there is not an application process for the homeschooled student. The parent claims the credit on the tax return – tax year 2024 is the first year the credit is available.**
- With the \$5M limit for the home school credit, how will it be decided who qualifies for the credit?
 - **The first tax year that is capped is tax year 2025. HB 1934 did not provide guidance on how to administer the home school credit cap but in similar tax credit measures a process is used by using a 2-year lookback and thereafter using a calculation, so the cap is not exceeded. Therefore, the first year to be able to use the calculation, would be tax year 2026 by analyzing the amount of credits claimed in tax year 2024.**

Virtual Hearings – Legal/Joe

- Will the OTC be able to conduct virtual hearings in the future?
- Roadblocks caused by required in-person attendance can sometimes prevent taxpayers from seeking a review.
 - **The OTC does have statutory authority to allow taxpayers to appear virtually before the Commission. Since these hearings will likely contain confidential taxpayer information, we are working on the implementation of this new process and want to ensure the highest level of security.**

Interest Rate - Joe

- Is there a standing agenda item requesting Oklahoma to re-examine its 15% interest rate on deficiencies?
 - **There is not a standing agenda item within the OTC in relation to the 15% interest rate on tax delinquencies. The rate is set by statute and there have been many legislative**

proposals in the past to reduce the statutory rate but as of this date none have become approved by the legislature.

Letter Rulings – Tax Policy

- Tax advisers are frequently presented with taxpayer scenarios that are complex, and for which the Oklahoma statute does not provide clear direction. When a contemplated transaction or scenario appears to be within the desired intent of the Oklahoma legislature, but the Oklahoma statute does not provide clear direction, then our recommendation as tax advisers is generally to request a letter ruling from the Oklahoma Tax Commission. However, it can take as long as one year to receive a response to a letter ruling request. Because of the need to consummate transactions before yearend, etc., taxpayers are being forced to proceed without a letter ruling or being forced to forego the contemplated transaction altogether.
- When there has been a clear history of past letter rulings that were favorable, and which clearly state that the favorable determination is in accordance with the legislative intent, why does it take so long to issue a response to letter ruling requests on substantially similar transactions?
 - **OTC makes every effort to be consistent in its Letter Rulings, but each are issued according to a very specific set of facts. Based on changes in the law or rule, a similar set of circumstances could have a different outcome based on time of issuance.**
- What can taxpayers and their tax advisers do to facilitate a more expedited response?
 - **To facilitate a more expedited process, taxpayers/advisors can submit a detailed fact scenarios along with a proposed analysis and conclusion for review and specify the need for expedited review.**

New Developments – Tax Policy/Joe

- Are there new developments in franchise tax, gambling, or anything new in the legislature that could affect OK taxpayers?
 - **The deadline to file new legislation is January 18, 2024, so we have not been able to review all new tax legislation to date. However, we have already been presented with proposals related to individual income tax rate cuts, eliminating the \$17,000 cap on itemized deductions as it relates to gambling losses, and the elimination of state sales tax on groceries.**

POA Portal – Legal/Tax Policy

- It takes time to submit a request on the POA Portal, which then converts to a letter being issued to the recipient. Mailing in the POA for processing also takes time. Both options take multiple days to become effective.
- Is there an option for the respondent to approve online?
- What can make this process faster?
 - **The OTC has been actively reviewing our current POA processes with our innovation team to determine how we can make those processes more efficient and customer friendly. We will provide an update to the progress of this initiative as soon as possible.**

Sales Tax - BTS

- Sales tax refund claims can take numerous years to complete and end up costing the state a lot of money (interest).
- Is the OTC working to streamline sales tax refund claims to settle them quicker? If so, how?
 - **The OTC has made many changes to help improve the turnaround time on sales tax refund claims. This includes increased staffing, improved prioritization, and better reporting. Over the last 18 months significant improvements have been made and we look forward to this improving even more over the coming 18 months.**

CPE/Education - Audit

- What is the link for the CPE program provided by the OTC?
 - **The CPE program at the OTC is an internal program aimed to offer educational opportunities to our employees in need of continuing education. We do not typically offer external links for our programs unless they are offered in conjunction with continuing legal education for attorneys.**
 - **While the OTC does not typically offer our CPE programs to outside parties, OTC representatives have presented programs throughout 2023. John Cottengim has presented on Gross Production taxes to both the OSCPAs in March, Doug Linehan provided a CPE presentation to the OSCPAs-OKC Chapter in May on OTC Initiatives, Elizabeth Field and Taylor Ferguson presented on McGirt to the OSCPAs-OKC Chapter in November. In 2024, Doug Linehan is scheduled to speak to the OSCPAs-OKC Chapter in September and Taylor Ferguson and Lorena Massey are scheduled to speak to the OSCPAs-OKC Chapter in August.**
- Would it be possible to have a presentation to the OSCPAs members relating to the areas where the OTC sees the majority of errors? Are there opportunities for education on sales tax?
 - **The OTC provided an article to the OSCPAs for the September/October issue of CPA Focus entitled "How CPAs can assist with common errors discovered in Oklahoma sales tax audits"**
 - **We would be happy to offer any follow up presentation regarding the article that is requested by the OSCPAs**

Franchise Tax – Tax Policy

- HB 1039X repealed the corporate franchise tax for tax years after 2023. How is “Tax Year” for this purpose defined?
 - For calendar year taxpayers?
 - For fiscal year taxpayers?
 - Is the tax year determination different if a taxpayer files a combined report vs. a separate report?

Three ways to remit the final tax year 2023 franchise tax:

- **Maximum filers (those that owe \$20,000) must remit by May 1, 2024; the final franchise tax return must be remitted on or before June 1, 2024, to avoid being delinquent.**
- **All other taxpayers are required to remit by July 1, 2024, *unless the taxpayer has elected to pay the tax as part of the corporate income tax return.* The final franchise tax return must be remitted on or before September 15, 2024, to avoid being delinquent.**
- **Corporations that elect to file as part of the corporate income tax return must remit franchise tax with the filing of the tax year 2023 corporate income tax return.**