

Revenue and Transportation Committee (Materials)
April 17 and 18, 2008

- 1. Realty Transfer Certificate Project/Land Sales**
 - a. Realty Transfer Project – Income Tax Compliance on Land Sales
 - b. Realty Transfer Certificate Data Capture Status
 - c. Non-Resident Participation in Montana Real Estate Transactions Summary
 - d. Summary Results from Montana Real Estate Transactions Compliance Initiative
 - e. Results from Montana Real Estate Sales Compliance Initiative
 - f. 1099 S Compliance Cases Worked
 - g. Withholding at Time of Sale vs. After Sale Collection Efforts
 - h. Estimated Rates of Return on Nonresident Land Sales
 - i. Federal Individual Income Tax Underreporting Gap
 - j. General Compliance Rate of Selected Taxpayer Groups
 - k. List of States With Non-Resident Withholding on Land Sales

- 2. Tax Season Filing and Taxpayer Services Update**
 - a. Tax Season Update
 - b. E-Services Time Line – *Where We Are and Where We Are Going*

- 3. Tax Compliance**
 - a. Audit Collections and Expenditures by Fiscal Year
 - b. Ratio of Audit Collections to Expenditures by Fiscal Year
 - c. Compliance and Collections – Third Quarter FY08 Report
 - d. Pass-Through Entities Audit Program Report

- 4. Litigation Update/Pass-Through Entities**
 - a. Major Case Update
 - b. Centrally Assessed – Taxes Paid Under Protest

- 5. Restaurant Beer and Wine Licenses**
 - a. New Restaurant Beer and Wine Licenses - Summary
 - b. New Restaurant Beer and Wine Licenses - Status Update by City

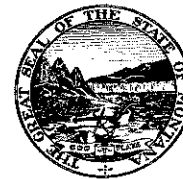
- 6. Federal Economic Stimulus Legislation**
 - a. Overview of the Economic Stimulus Act 2008
 - b. Overview of Housing Market Relief Legislation
 - c. Economic Stimulus Payments

- 7. Property Reappraisal**
 - a. Relationship of Reappraisal to Market Trends
 - b. Update on Current Property Reappraisal Cycle
 - c. 2009 Reappraisal Graph



Dan Bucks
Director

Montana Department of Revenue



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Governor

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Montana Department of Revenue Pass-Through Entities Audit Program Report April 17, 2008

Over the last year, the Department has increased our compliance efforts associated with pass-through entities. Pass-through entities are those entities where the income earned by the entity passes through or flows through to the respective shareholders or partners. S. corporations and partnerships are examples of pass-through entities. There are approximately 23,000 S. corporations and 17,000 partnerships that file tax returns in Montana. For comparison purposes there are 17,000 C. corporations that file a Montana tax return.

Pass-through entity compliance enforcement is an area where many states and the federal government have very limited or no audit program. For example, the recently released IRS Oversight Board's 2007 Annual Report indicates that the IRS had audited only 12,200 of 3.1 million partnership returns in FY2007. Montana, as well as other states, has recognized that this area needs some attention and has focused some of our resources toward this endeavor. This includes the recent development of a pass-through "unit" which will concentrate exclusively on pass-through issues.

As evidenced below, the focus of the compliance efforts has been directed to individual shareholders or partners who have not filed an income tax return and also to entities that have underreported income.

Field Audit:

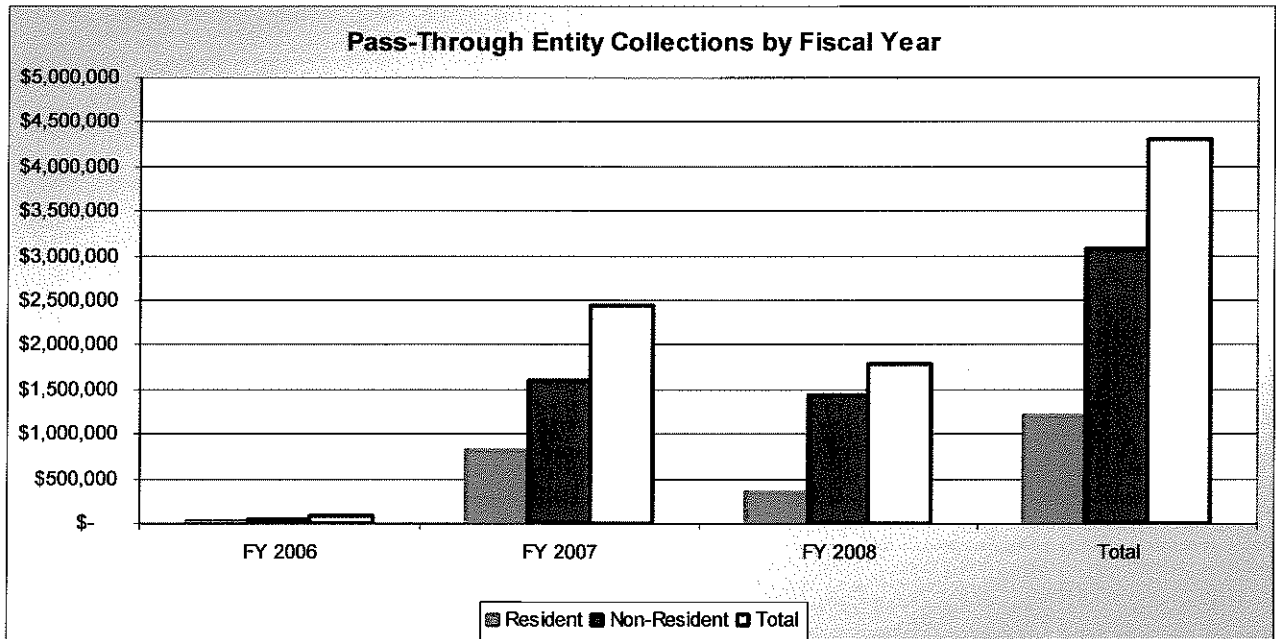
Eleven field audits have been conducted of "non-resident pass-through" entities during the past year. The majority of these audits represented entities that reported significant taxable income and operated in multiple states, including Montana. These audits have generated approximately \$255,044 in FY2007 and \$1,332,253 in FY2008.

We have recently conducted several audits of multi-tiered pass-through entities. These entities involve many levels of owners, and the intent of these audits is to ensure that Montana source income flows through at each specific entity level. These audits are currently in progress. The findings of these audits will be reported in a future report.

Office Audit:

Our office audit activities have largely consisted of identifying non-filing pass-through entities, as well as their respective partners and shareholders. Auditors have utilized various identification techniques to collect taxes from 351 entities that had not previously filed. The 351 entities were delinquent on over 500 tax periods. This compliance work has generated over \$74,410 in FY2006, \$2,183,213 in FY2007 and \$451,230 in FY2008.

The following chart illustrates the progress in terms of audit collections that this program has produced.



Publicly Traded Partnerships:

The department has been working with publicly traded partnerships regarding their filing obligations. Publicly traded partnerships are simply partnerships where the ownership shares are publicly traded on a daily basis. Publicly traded partnerships are generally formed for the purpose of raising capital for energy projects. The filing obligation issue is related to how the publicly traded partnership files and how the owners of the partnership file. The department anticipates this project being completed later this summer. The appropriate findings will be reported at that time.



Dan Bucks
Director


Montana Department of Revenue



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MEMORANDUM

To: Dan Bucks, Director

From: C. A. Daw, Chief Legal Counsel 

Date: April 17, 2008

Subject: Department of Revenue Major Case Update – February 2008 – April 2008

Montana Supreme Court:

PacifiCorp: Presently on appeal to the Supreme Court from Judge McCarter's denial of DOR's motion to dismiss on the basis of PacifiCorp filing a notice of appeal from the STAB decision, rather than a petition for judicial review, with the district court.

Gannett Satellite Information Network: (Corporate tax case.) Taxpayer recently appealed adverse ruling from the 1st Judicial District Court to the Montana Supreme Court. Issue before the Supreme Court is purely legal—does the definition of § 15-31-302(1), MCA, contain two independent tests for determining the presence of business income. DOR contends, and the District Court agreed, that two tests are present. Once the Supreme Court issues a decision, the case returns to STAB for consideration of the remaining legal/factual issues.

District Court:

NorthWestern Corporation: NorthWestern has briefed its Petition for Judicial Review from STAB's 9/13/07 decision. The Department's brief and oral argument are set for June.

State Tax Appeal Board (STAB):

Gold Creek Cellular, LLC (Verizon Wireless): The parties have agreed to a scheduling order calling for a June 2009 trial.

Barretts Minerals: This matter is before STAB to determine whether or not Barretts Minerals is unitary with Minerals Technology. Barretts has appealed various discovery issues to the district court, which have all been denied, and the matter is currently back before STAB, with the possibility of an appeal from the most recent District Court order to the Supreme Court.

Montana Department of Revenue
Schedule of Taxes Paid Under Protest by Centrally Assessed Companies with Outstanding Appeals
 As of April 15, 2008

Company	Year	Tax Protested	Total Uncontested	Total Tax	Protested %	State Portion of Protested Tax (Estimated)	Venue - Hearing Date
NorthWestern Energy	2005	\$ 11,589,368	\$ 54,814,764	\$ 66,404,152	17%	\$ 2,317,874	District Court - Scheduling Order has been requested
	2006	\$ 16,415,170	\$ 55,325,109	\$ 71,740,279	23%	\$ 3,283,034	DOR - Held in Abeyance
	2007	\$ 15,825,402	\$ 58,222,569	\$ 74,047,970	21%	\$ 3,165,080	DOR - Held in Abeyance
		\$ 43,829,940	\$ 168,362,461	\$ 212,192,401	21%	\$ 8,765,988	
Qwest	2007	\$ 6,874,454	\$ 8,402,311	\$ 15,276,764	45%	\$ 1,149,358	DOR to be moved to STAB
		\$ 6,874,454	\$ 8,402,311	\$ 15,276,764	45%	\$ 1,149,358	
Puget Sound Energy	2005	\$ 2,699,269	\$ 6,298,293	\$ 8,997,562	30%	\$ 539,854	STAB Hearing - 9/29/08 through 10/10/08
	2006	\$ 4,136,011	\$ 5,055,125	\$ 9,191,136	45%	\$ 827,202	STAB Hearing - 9/29/08 through 10/10/08
	2007	\$ 5,729,366	\$ 4,687,663	\$ 10,417,029	55%	\$ 1,145,673	STAB Hearing - 9/29/08 through 10/10/08
		\$ 12,564,646	\$ 16,041,081	\$ 28,605,727	44%	\$ 2,512,929	
Ornimex Canada LTD	2004	\$ 653,286	\$ 217,762	\$ 871,048	75%	\$ 130,657	Supreme Court - Briefs are being filed
	2005	\$ 812,345	\$ 270,781	\$ 1,083,126	75%	\$ 162,469	District Court
	2006	\$ 982,388	\$ 229,689	\$ 1,212,077	81%	\$ 196,478	STAB
	2007	\$ 1,114,195	\$ 244,283	\$ 1,358,478	82%	\$ 234,419	DOR - Held in Abeyance
		\$ 3,562,214	\$ 962,516	\$ 4,524,730	79%	\$ 724,023	
PacifiCorp	2005	\$ 467,440	\$ 1,869,761	\$ 2,337,201	20%	\$ 93,488	STAB Decision 7/31/07 - Supreme Court - Procedural Appeal
	2006	\$ 505,863	\$ 2,023,453	\$ 2,529,317	20%	\$ 101,173	STAB Fall 2009
	2007	\$ 597,660	\$ 1,792,981	\$ 2,390,642	25%	\$ 214,214	STAB Fall 2009
		\$ 1,570,964	\$ 5,686,196	\$ 7,257,160	22%	\$ 408,875	
Verizon	2007	\$ 1,925,676	\$ 1,390,452.84	\$ 3,316,128.74	58%	\$ 333,693	STAB - Hearing date has not been set
Total		\$ 70,327,894.04	\$ 200,845,016.79	\$ 271,172,910.83	26%	\$ 13,894,865.40	