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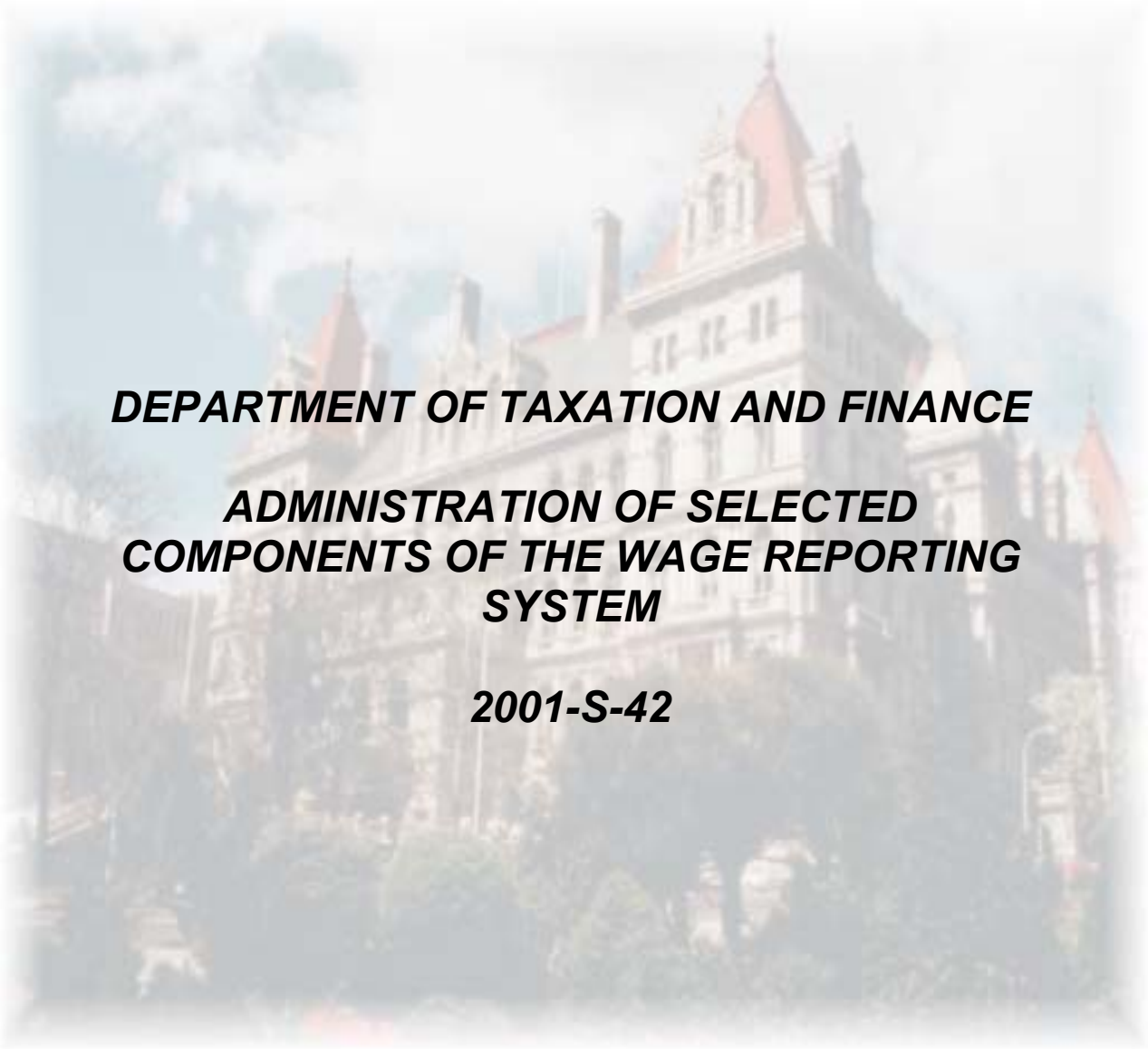
H. Carl McCall
STATE COMPTROLLER



DEPARTMENT OF TAXATION AND FINANCE

ADMINISTRATION OF SELECTED COMPONENTS OF THE WAGE REPORTING SYSTEM

2001-S-42

DIVISION OF MANAGEMENT AUDIT AND
STATE FINANCIAL SERVICES

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H. Carl McCall
STATE COMPTROLLER

Report 2001-S-42

Mr. Arthur Roth
Commissioner
Department of Taxation and Finance
State Office Campus - Building #9
Albany, NY 12227

Dear Mr. Roth:

The following is our audit report addressing the administration of selected components of the Department of Taxation and Finance's Wage Reporting System.

This audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law. Major contributors to this report are listed in Appendix A.

Office of the State Comptroller
Division of Management Audit
and State Financial Services

November 26, 2002

EXECUTIVE SUMMARY

DEPARTMENT OF TAXATION AND FINANCE
ADMINISTRATION OF SELECTED COMPONENTS OF THE WAGE REPORTING SYSTEM

SCOPE OF AUDIT

Effective July 24, 1978, the New York State Tax Law (Law) required the New York State Department of Taxation and Finance (Department) to develop and operate a Wage Reporting System (System). The System contains the name, social security number, and gross wages paid to each employee that resides or is employed in the State. The 1998 Unemployment Insurance Reform Act allowed the Department of Labor (DOL) the ability to access wages maintained on the Department's System. Beginning in 1999 the Department and DOL required employers to use a single form (known as the single file program) to provide wages and withholding information to the Department and unemployment insurance information to DOL. In accordance with the Law, the Department requires each employer to file, on a quarterly basis, a Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return (quarterly return). When an employer does not file a quarterly return by the required due dates, the Law requires the Department to impose applicable penalties. The System allows other State and Federal agencies (agencies) the ability to request employee wage information as reported by the employer to the Department.

Chase Bank (Chase) is under contract to process quarterly returns for the Department. Employers submit quarterly returns either by magnetic media or in paper format. For quarterly returns submitted on paper, Chase data-enters or scans all employer and employee information on the quarterly return, and transmits all data to the Department on a magnetic tape within 25 days of receipt of the quarterly return. The Department then enters this data on the System. Because Chase employees data-enter quarterly return information submitted on paper, the risk of not accurately recording quarterly return information is significantly higher than that of magnetic media.

Our audit addressed the following questions relating to the Department's administration of the System for the period January 1, 1999 through June 15, 2002.

- Does the System accurately reflect employee wages and social security numbers that are reported on paper by employers?

- Does the Department issue appropriate penalties to employers who do not submit quarterly returns by the required due date?

AUDIT OBSERVATIONS AND CONCLUSIONS

We found that the wages and/or social security numbers on the System are not always the same as the original employee wages and social security numbers as submitted in paper format by the employer. In addition, we found that the Department does not always issue appropriate penalties to employers who do not submit quarterly returns by the required due date.

We statistically sampled four consecutive quarters of employee data reported to the Department from paper format quarterly returns for the period July 1, 2000 through June 30, 2001. We determined with 90 percent confidence that between 94.33 percent and 89.34 percent of the employee wages and/or social security numbers as recorded by Chase and transmitted to the Department were accurate based on the original employee wages and social security numbers as reported on paper by the employer. Accordingly, a 95 percent accuracy standard required in the Chase contract for paper quarterly returns was not being met. In addition, we found that while the Department has a process to help identify employee wage discrepancies on the System, large dollar discrepancies are often corrected in an untimely manner or are not corrected at all. We recommend that the Department continue to work with Chase officials to ensure compliance with the 95 percent accuracy standard for paper quarterly returns as required by the contract. In addition, the Department should investigate large dollar employee wage discrepancies in a timely manner and make needed corrections on the System. (See pp. 7-11)

We also found that the Department did not issue penalties to all employers who failed to submit quarterly returns by the prescribed due dates. For the quarter ended June 30, 2001, the Department did not issue a failure to file notice to 14,922 employers. We calculated the associated value of these penalties to be approximately $2.7 million. We recommend that the Department issue failure to file notices to all employers that do not file a quarterly return by the prescribed due date. (See p. 12-13)

Comments of Department Officials

Department officials generally agree with our recommendations. The officials indicate that actions have been or will be taken to implement the recommendations.

CONTENTS

INTRODUCTION

Background

Effective July 24, 1978, the New York State Tax Law (Law) required the New York State Department of Taxation and Finance (Department) to develop and operate a Wage Reporting System (System) within the Department. The System contains the name, social security number, and gross wages paid to each employee that resides or is employed in the State. The 1998 Unemployment Insurance Reform Act allowed the Department of Labor (DOL) the ability to access wages maintained on the Department's System. Beginning in 1999 the Department and DOL required employers to use a single form (known as the single file program) to provide wages and withholding information to the Department and unemployment insurance information to DOL. In accordance with the Law, the Department requires each employer to file, on a quarterly basis, a Quarterly Combined Withholding, Wage Reporting and Unemployment Insurance Return (quarterly return), which provide this information. The System allows other State and Federal agencies (agencies) the ability to request employee wage information as reported by the employer to the Department while at the same time relying upon the Department's ability to maintain and protect the confidentiality of such data.

By Law, the Department is authorized to provide employee wage information to six other agencies upon request. Authorized agencies request employee wage information to, among other things, determine claimant eligibility for program entitlements, verify wages, and monitor and evaluate program results. An agency requesting employee wage information submits a magnetic media tape to the Department containing the social security number and name for each individual. The Department matches the information on the tape submitted by the requesting agency against the employee information recorded on the System. A successful match (identical social security number and name) will return the eight most recent quarters of employee wage information. If the System is unable to match the social security number and name, then a blank response will be returned to the agency.

The Law requires the Department to maintain cooperative agreements with the New York State Office of Temporary and Disability Assistance (OTDA), the New York State Department of Labor (DOL), the New York State Education Department (SED), the New York State Department of Health (DOH), the New York State Division of Housing and Community Renewal (DHCR), and the Internal Revenue Service (IRS) for the purpose of providing employee wage information. Department records indicate that about 46 million employee wage requests were made to the Department by authorized user agencies during 2001. During our audit, the following agencies requested employee wage information:

- OTDA requests employee wage information to determine claimant eligibility and benefit entitlement amounts, locate absent parents or other persons legally responsible for support, establish support obligations, and evaluate the effect on earnings of participation in employment or training programs. For calendar year 2001, OTDA requested employee wage information for over 45 million employees.

- DOL requests employee wage information for the administration of employment security programs, public assistance work programs, as well as for the evaluation of the effect on earnings from participation in training programs. For calendar year 2001, DOL requested employee wage information for over half a million employees.

- IRS requests employee wage information to verify that an individual earned wages in the State or to verify that an individual was employed in the State. For calendar year 2001, the IRS requested employee wage information for over 230,000 employees.

- SED's Office of Vocational and Educational Services for Individuals with Disabilities requests employee wage information to obtain reimbursement from the Federal Social Security Administration for expenditures made on behalf of disabled individuals who have achieved economic self-sufficiency. For calendar year 2001, SED requested employee wage information for over 2,000 employees.

(In response to our draft audit report, Department officials note that because we report our findings on an exception basis, and because we identify no results from these contacts, the Department can only conclude that the wage reporting data supports user needs.)

Auditors' Comments: As a point of clarification, we contacted user agencies to ask them to identify any additional risks about the accuracy of employee wage reporting data that we should consider as part of our audit at the Department. No such risk factors were identified to us as result of these contacts. However, we did not audit the agencies and we have no audit conclusions about the sufficiency of the accuracy of the employee wage reporting information for the unique programs of each of the agencies.

Chase Bank has a five-year contract effective May 1998 through April 2003 to process quarterly returns. Employers can use magnetic media or paper format to submit quarterly returns to Chase. Examples of magnetic media are compact disks, floppy diskettes, computer tapes or any other electronic media that are readable by Chase. Chase compiles all quarterly returns onto a magnetic tape that it transmits to the Department. This transmission must be made within 25 days of the receipt of the quarterly paper returns. The Department uses the tape as the input to the System. According to the Chase contract, Chase is to achieve at least 95 percent accuracy in its processing and transmission of quarterly paper returns. The contract has penalty provisions should the Department choose to invoke them when this level of accuracy is not achieved.

Chase's processing of the quarterly returns submitted on magnetic media poses minimal risk for errors in employee and employer information because limited manual intervention is required by Chase staff to process these returns onto the magnetic tape that is transmitted to the Department. To process quarterly paper returns, however, the data on the returns must be data-entered or scanned to convert it into a format that can be included on the magnetic tape transmitted to the Department. As this conversion requires manual intervention by Chase staff, the risk for introduction of errors in employee or employer information is greatly increased.

The Chase contract not only is with the Department, but it is also with DOL because Chase directly transmits to DOL

unemployment insurance information that is obtained from the same quarterly returns that provide employee and employer wage information to the Department for the System. DOL maintains the data that it receives from Chase on its own system.

According to the Department, Chase processes quarterly returns for approximately 412,000 employers consisting of over 9.6 million employees. Approximately 93,000 employers (23 percent) report via magnetic media for nearly 7.4 million employees (77 percent) while approximately 319,000 employers (77 percent) report on paper for nearly 2.2 million employees (23 percent). Department records indicate that for calendar year 2001, total gross wages reported to the Department were approximately $413 billion.

The Law requires employers to file each quarterly return with the Department no later than the last day of the month following the last day of each calendar quarter. In the event that an employer does not file a quarterly return by the required due dates, the Law requires the Department to impose applicable penalties.

Audit Scope, Objectives and Methodology

We audited selected components of the Department's administration of the System for the period January 1, 1999 through June 15, 2002. The objectives of our performance audit were to evaluate the accuracy of employee wage information and social security numbers as submitted via paper and recorded on the Department's System and to determine whether appropriate penalties are issued to non-compliant employers for failing to file a quarterly return by the required due date. Our audit did not address how agencies utilize employee wage information requested from the System or how the accuracy of such information impacts on the programs of the user agencies.

To accomplish our objectives, we reviewed State laws and regulations, Department policies and procedures, and certain components of the Chase contract. We conducted interviews with Department officials regarding their monitoring and oversight responsibilities of the System and analyzed reports used by Department officials to assist in their oversight of the System. In addition, we conducted a field visit to Chase to

observe the operations for processing quarterly returns. We also conducted telephone interviews with five of the six authorized users of the System: OTDA, IRS, DOH, DHCR, and SED. We were unsuccessful in our attempts to conduct a telephone interview with DOL.

We statistically sampled four consecutive quarters of employee data reported to the Department in paper format for the period July 1, 2000 through June 30, 2001 to determine whether the employee wages and social security numbers on quarterly returns were recorded and transmitted to the Department by Chase in compliance with the contract performance standard of 95 percent accuracy. To test the Department's compliance with requirements for penalties for late submission of quarterly returns, we examined all 457,015 quarterly returns filed with the Department as of January 16, 2002 for the quarter ended June 30, 2001.

We conducted our audit in accordance with generally accepted government auditing standards. Such standards require that we plan and perform our audit to adequately assess those operations of the Department which are included within our audit scope. Further, these standards require that we understand the Department's internal control structure and its compliance with those laws, rules and regulations that are relevant to the operations which are included in our audit scope. An audit includes examining, on a test basis, evidence supporting transactions recorded in the accounting and operating records and applying such other auditing procedures as we consider necessary in the circumstances. An audit also includes assessing the estimates, judgments and decisions made by management. We believe that our audit provides a reasonable basis for our findings, conclusions and recommendations.

We use a risk-based approach when selecting activities to be audited. This approach focuses our audit efforts on those operations that have been identified through a preliminary survey as having the greatest probability for needing improvement. Consequently, by design, finite audit resources are used to identify where and how improvements can be made. Thus, little audit effort is devoted to reviewing operations that may be relatively efficient or effective. As a result, our audit reports are prepared on an "exception basis." This report,

therefore, highlights those areas needing improvement and does not address activities that may be functioning properly.

Comments of Department Officials to Audit

A draft copy of this report was provided to Department officials for their review and comment. Their comments were considered in preparing this report and are included as Appendix B.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Taxation and Finance shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons therefor.

WAGE REPORTING SYSTEM ACCURACY FOR PAPER QUARTERLY RETURNS

The Department has developed and implemented a System that captures an employee's name, social security number, and gross wages. However, the System does not always contain accurate wage and social security number information because the wages and/or social security numbers on the System may not be the same as the original employee wages and social security numbers submitted on paper by the employer. In addition, we found that while the Department has a process to identify inaccurate wages on the System, such inaccuracies are sometimes either not corrected in a timely manner and or are left uncorrected.

Contractual performance standards require Chase to provide the Department, at a 95 percent accuracy rate, an employee's social security number and respective wages for quarterly returns submitted on paper. According to the contract, penalties may be imposed at the Department's discretion if Chase does not meet the contract performance standards. Department Revenue Services Bureau (RSB) officials told us that Chase has complied with the contractual standards and therefore the Department has never imposed penalties on Chase for failing to meet contract performance standards for recording employee wage information.

In July 2000, RSB and DOL conducted a joint audit at Chase to determine, among other things, whether accuracy standards for quarterly returns (paper and magnetic media) were being met. The joint audit concluded that Chase had complied with its contractually defined standard of 95 percent accuracy for processing all quarterly paper returns. We reviewed the results of the audit and found that Chase did not meet the 95 percent standard for recording employee wage information from quarterly returns submitted on paper.

Also, we compared employee wages and social security numbers that Chase submitted to the Department to our statistical sample of 11,182,044 employee wages and social security numbers submitted on paper by employers during our

sample period, and determined with 90 percent confidence that the accuracy of the wages and/or social security numbers provided by Chase was between 94.33 percent and 89.34 percent rather than the contractually required 95 percent accuracy rate. The accuracy range that we determined as a result of our audit means that Chase incorrectly reported to the Department the social security number and/or wage information of between 644,726 and 1,191,621 of the employees in the population covered by our sample.

After the Department receives the magnetic tape from Chase, it transfers the information onto the System. According to Department officials, action is then taken to make certain that any discrepancies are corrected. Such action includes manual adjustments and Automatic System Modifications. Manual adjustments are direct data-entry corrections made to the System when errors are identified through various internal processes. Automatic System Modifications occur when an employer files an amended quarterly return and the System, by design, recognizes and changes the quarterly return data with any new information provided by the employer on the amended quarterly return.

Using our sample, we next determined whether the System accurately reflected the employee wages and social security numbers after taking into consideration any discrepancies that the Department may have identified and corrected in the data provided by Chase. We determined with 90 percent confidence that the accuracy of wages and/or social security numbers for employees in our population of paper filed returns was between 95.98 percent and 91.70 percent after the Department identified discrepancies and made corrections. This means that inaccurate wages and/or social security numbers continued for between 449,184 and 928,076 employees in the population covered by our sample.

As indicated by our tests, the Department is not always receiving the level of accuracy for paper returns from Chase as required by the contract, and only after corrective action is taken by the Department does the 95 percent accuracy standard potentially result for paper-filed quarterly returns in our sample. Accordingly, there is room for the Department to improve further upon the accuracy of employee wages and social security numbers that it stores and maintains and furnishes to user

agencies. The following paragraphs discuss certain improvement opportunities.

On an annual basis, the Department determines discrepancies in employee wage information on the System by generating a wage discrepancy report that identifies by social security number, instances where an employee's total annual wages as recorded on the System are less than the sum of the employee's four quarterly wages as recorded on the System. The wage discrepancy report includes the 2,500 employees with the greatest discrepancies. To resolve identified discrepancies, Department officials explained that they obtain the original quarterly returns, determine the cause of the discrepancy, determine the correct employee wages, and make needed adjustments directly to the System. For calendar year 2000, the top 2,500 employee wage discrepancies ranged from about $1 billion to $526,513.

To test the Department's process for correcting wage discrepancies as recorded on the System, we obtained a copy of the Department's wage discrepancy report for calendar year 2000. Employee wage discrepancies totaled over $11 billion on this report. We judgmentally selected the first 50 employees with the greatest discrepancies whose calendar year 2000 quarterly wages were reported on paper. We found that for 20 employees, actual wages were not corrected on the System and were overstated by $582,680,263. For the 30 employees for whom corrections had been made, we noted that corrections for 28 were made during March 2002; at least one year after the information had been originally recorded on the System.

(In response to our draft audit report, Department officials point out that the wage discrepancy report was not generated until December 13, 2001.)

Auditors' Comments: Our point is that the underlying data had been recorded on the System many months earlier.

Department officials contend that, overall, employee wages on the System (paper and magnetic media combined) comply with the 95 percent accuracy standard. Therefore they are providing employee wage information to the agency users at this level of accuracy as well. Department officials also point out that approximately 25 percent of all employees are reported on paper, thus paper quarterly returns represent only 25 percent of

all employee wage information reported annually to the Department. As previously stated, paper quarterly returns are most at risk for errors by Chase. As shown by our audit and as determined by the Department's own audit, Chase does not meet the 95 percent accuracy standard when data-entering these returns. While Department procedures identify and resolve many errors with these returns, there is still room for improvement.

Department officials have told us they work with Chase to continually improve accuracy rates, and that they make adjustments to the System. We recommend that the Department also ask Chase to increase and/or target training to its staff responsible for the data entry of paper filed quarterly returns and to conduct spot checks of the accuracy of the data-entry of employee wage and social security information. If performance does not meet standards, the Department should pursue the penalty provisions of the contract.

(In response to our draft audit report, Department officials disagreed with our assertions that Chase is not meeting the contract standards. The Department maintains that we did not use a generally accepted confidence rate in our statistical analysis to determine data accuracy. The Department indicates that an acceptable confidence rate to measure performance is 99 percent, rather than the 90 percent rate we use for our analysis.)

Auditors' Comments: Our confidence level means that nine times out of ten, performing the same tests of the same population will yield the same results. We believe this is a sufficient basis to support our conclusions and recommendations. As our audit points out, when we reviewed the results of the joint audit of data accuracy performed by the Department and DOL we found, upon further analysis, that the results showed that the 95 percent accuracy standard was not being achieved for quarterly return information submitted on paper.

Recommendations

1. Continue to work with Chase officials to ensure compliance with the 95 percent accuracy standard for paper quarterly returns as required by the contract.

Recommendations (Cont'd)

(Department officials agree with recommendation number 1.)

2. Ask Chase to increase and/or target training to its staff responsible for the data entry of paper filed quarterly returns and to conduct spot checks of the accuracy of the data entry of employee wage and social security information.

   (Department officials agree with recommendation number 2.)

3. If Chase continues to not meet the 95 percent accuracy standard for paper quarterly returns, pursue assessing penalties. In instances where the Department has decided not to assess a penalty, document the reason(s) why.

   (Department officials indicate that the Department has and will use all appropriate measures to ensure contractors meet the contract standards. They state that when Chase is not meeting standards, the performance monitoring team will calculate potential liquidated damages and will make a recommendation of whether these damages should be assessed. Officials agree to document the rationale supporting the recommendation.)

4. Investigate large dollar employee wage discrepancies as identified in the wage discrepancy report in a timely manner and make needed corrections on the System.

   (Department officials agree with recommendation number 4.)

ISSUANCE OF PENALTIES

Imposing penalties is an important aspect of encouraging employer compliance with the Law. The Department should impose penalties, as required by Law, to employers that fail to file a quarterly return by the prescribed due date. Penalties for failing to file a quarterly return by the prescribed due date may range from $100 to a maximum of $10,000 depending upon such factors as the degree of lateness and the number of employees listed on the employer's quarterly return.

From our analysis of the 457,015 quarterly returns filed with the Department as of January 16, 2002, for the quarter ended June 30, 2001, we determined that 17,212 employers filed after the prescribed due date. We found that of these employers, the Department did not issue a failure to file notice to 14,922 employers. We calculated the associated value of these penalties to be approximately $2.7 million.

Department officials indicated various reasons why all failure to file notices were not issued in the past, such as the costs associated with issuing and collecting penalties, and a lack of resources. However, Department officials further indicate that they have a plan to issue all failure to file notices for future calendar quarters.

(In response to our draft audit report, Department officials contend that our $2.7 million estimate of unassessed penalties does not take into account that, had the Department issued delinquency notices, most taxpayers would have complied immediately, thus reducing the penalties calculated by the audit. They further point out that our audit does not factor in the actual collection rate of assessments and the cost to make the collections. Considering these factors, the Department reports the realizable value of the assessments to be about $331,000.)

Auditors' Comments: Our point is that Department had not issued delinquency notices totaling $2.7 million. Issuing the notices is a compliance matter and is fundamental to the collection process. We did not reach a conclusion on the revenue that would have been realized if such notices had been

sent and we did not audit the Department's calculation of net realizable value.

Recommendation

5. Issue failure to file notices to employers that do not file a quarterly return by the prescribed due date.

   (Department officials agree with recommendation number 5.)

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HARRY VAN WORMER
DEPUTY COMMISSIONER OF ADMINISTRATION

October 10, 2002

Mr. Jerry Barber
Audit Director
Office of the State Comptroller
Management Audit Group, 11th Floor
110 State Street
Albany, New York 12236

Dear Mr. Barber:

Thank you for the opportunity to comment on the findings contained in the draft report of the audit entitled, "Administration of Selected Components of the Wage Reporting System, (2001-S-42)."

We would also like to thank you for acknowledging that the information provided by the Wage Reporting system is important to the administration of a number of public benefit programs by the agencies authorized to use it. The report notes that five of the six authorized agencies were contacted during the course of the audit. However, the results of these contacts were not included in the report. Because the Office of the State Comptroller (OSC) reports on an exception basis, we can only conclude that these contacts support the Department's belief that the high quality of Wage Reporting data supports their needs.

Since this Wage Reporting program is conducted in conjunction with the Department of Labor (DOL), we regret that the audit team was unable to contact DOL as part of this audit.

We would also like to offer a factual correction to the report. The Wage Reporting system was enacted by Chapter 545 of the Laws of 1978, not in January 1996 as stated in the report.

* Note

* See State Comptroller's Note, Appendix B-4

Wage Reporting System Accuracy for Paper Quarterly Returns

Recommendation 1:

Continue to work with Chase officials to ensure compliance with the 95 percent accuracy standard for paper quarterly returns as required by the contract.

Response:

We agree with the recommendation and will continue to work with the staff of JP Morgan/Chase (Chase) to identify opportunities for improvement in data accuracy.

Staff from the Department's Taxpayer Services and Revenue Division (TSRD) regularly visits the processing site and monitors activities to ensure that procedures are effective and are being followed by Chase staff. Issues that are discovered are recorded on a list of open problems which serves as the basis for regular conference calls among Chase, the Department and DOL. When a problem is resolved to everyone's satisfaction, the problem is closed and removed from the list.

In addition, numerous change controls have been submitted to Chase and requests have been made to the Department's Enterprise Services Division (ESD) for computer system enhancements which, when implemented, will further improve the accuracy of data.

Further, the Department's staff, along with DOL, works with Chase to ensure that the programmatic needs of all users are met. The Department has in the past, and will in the future, continue to work with Chase to ensure timely and accurate data.

Recommendation 2:

Ask Chase to increase and/or target training to its staff responsible for the data entry of paper filed quarterly returns and to conduct spot checks for the accuracy of the data entry of employee wage and social security information.

Response:

We agree with the recommendation and will continue to urge improvements in Chase's training of data entry staff as well as increased spot-checking for data accuracy.

Recommendation 3:

If Chase continues to not meet the 95 percent accuracy standard for paper quarterly returns, pursue assessing penalties. In instances where the Department has decided not to assess a penalty, document the reason(s) why.

Response:

We disagree with OSC's assertion that Chase is not meeting the contract standards. It is the Department's opinion that OSC did not use a generally accepted confidence rate to assess Chase's performance. The Department uses a confidence rate of 99 percent to measure performance. The rate of 90 percent that OSC used allows for an unacceptable margin of error.

The Department manages many complex relationships with various contractors. It has a performance monitoring team that continually reviews contractors' performance. We have built into our contracts various remedy options regarding contractors' deficiencies versus the contract standards. The Department has and will use all appropriate measures to ensure contractors meet the contract standards. When the Department's performance monitoring team determines Chase is not meeting contract standards, the performance monitoring team will calculate the amount of potential liquidated damages and make a formal recommendation as to whether those damages should be assessed. The rationale supporting all recommendations will be documented.

Recommendation 4:

Investigate large dollar employee wage discrepancies as identified in the wage discrepancy report in a timely manner and make needed corrections on the System.

Response:

We agree with this recommendation. The Department recognizes the importance of accurate wage information and will continue to resolve inappropriately high dollar value discrepancies in as timely a fashion as possible.

The OSC report states that the majority of corrections were not made to the Department's wage discrepancy report for calendar year 2000 until March 2002. However, this wage discrepancy report was not generated until December 13, 2001, and in this instance was still being worked in March 2002. Currently, additional staff has been made available to work these reports in a more timely manner. These reports continue to have a high priority within Wage Reporting and are worked along with other assignments, many of which also have a high priority.

Taxpayer Services and Revenue Division management has identified the accuracy of wage data as the work priority of the Wage Reporting Section. The Social Security Number (SSN) errors which are identified in the course of resolving erroneous wage information are corrected, as are other SSN errors which are brought to the attention of the Wage Reporting staff by employers or other agencies authorized to use the data including DOL.

Issuance of Penalties

We agree with OSC's statement that the Department could assess additional penalties for late filing. However, OSC's estimate of $2.7 million in unassessed penalties does not reflect three important facts: (1) had the Department issued delinquency notices, most taxpayers would have

complied immediately, which therefore would reduce corresponding penalties included in OSC's calculations from $1000 to $100 per employer; (2) the actual collection rate of those assessments; and (3) the cost incurred in collection efforts. After consideration of these factors, we estimate the actual net realizable value of these additional assessments to be approximately $331,000.

Recommendation 5:

Issue failure to file notices to employers that do not file a quarterly return by the prescribed due date.

Response:

We agree with this recommendation. As stated in the report, the Department and DOL are working to jointly issue failure to file notices to employers who file after the prescribed due date.

While the Department has not issued all failure to file notices for late filing of quarterly returns, it is difficult and expensive to build a penalty system when the components are continually changing. The legislation authorizing late filing penalties was adopted in two different years. The Tax Law component of penalty was adopted in 1998, but the Labor Law component was not adopted until 2000 and not effective until April 2001. In addition, a legislative proposal to specifically assign the adjudication responsibility to DOL was introduced last year and again this year. However, it has not as yet been acted upon by the Legislature. Without this legislation, the penalty process from issuance to adjudication is not complete and therefore we have been reluctant to begin the penalty process.

Sincerely,

Harry Van Wormer
Deputy Commissioner of Administration

*State Comptroller's Note

Certain matters addressed in the draft report were revised in the final report. Therefore, some Department comments included in Appendix B may relate to matters no longer contained in this report.