

STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

**REPORT OF
INVESTIGATION**



**AGENCY: OHIO DEPARTMENT OF TAXATION
FILE ID NO.: 2012-CA00083
DATE OF REPORT: NOVEMBER 21, 2013**

The Office of the Ohio Inspector General ... The State Watchdog

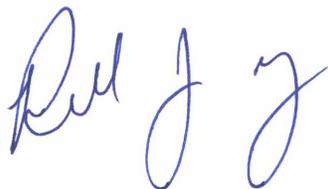
“Safeguarding integrity in state government”

The Ohio Office of the Inspector General is authorized by state law to investigate alleged wrongful acts or omissions committed by state officers or state employees involved in the management and operation of state agencies. We at the Inspector General’s Office recognize that the majority of state employees and public officials are hardworking, honest, and trustworthy individuals. However, we also believe that the responsibilities of this Office are critical in ensuring that state government and those doing or seeking to do business with the State of Ohio act with the highest of standards. It is the commitment of the Inspector General’s Office to fulfill its mission of safeguarding integrity in state government. We strive to restore trust in government by conducting impartial investigations in matters referred for investigation and offering objective conclusions based upon those investigations.

Statutory authority for conducting such investigations is defined in *Ohio Revised Code §121.41* through *121.50*. A *Report of Investigation* is issued based on the findings of the Office, and copies are delivered to the Governor of Ohio and the director of the agency subject to the investigation. At the discretion of the Inspector General, copies of the report may also be forwarded to law enforcement agencies or other state agencies responsible for investigating, auditing, reviewing, or evaluating the management and operation of state agencies. The *Report of Investigation* by the Ohio Inspector General is a public record under *Ohio Revised Code §149.43* and related sections of *Chapter 149*. It is available to the public for a fee that does not exceed the cost of reproducing and delivering the report.

The Office of the Inspector General does not serve as an advocate for either the complainant or the agency involved in a particular case. The role of the Office is to ensure that the process of investigating state agencies is conducted completely, fairly, and impartially. The Inspector General’s Office may or may not find wrongdoing associated with a particular investigation. However, the Office always reserves the right to make administrative recommendations for improving the operation of state government or referring a matter to the appropriate agency for review.

The Inspector General’s Office remains dedicated to the principle that no public servant, regardless of rank or position, is above the law, and the strength of our government is built on the solid character of the individuals who hold the public trust.



Randall J. Meyer
Ohio Inspector General



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

REPORT OF INVESTIGATION

FILE ID NUMBER: 2012-CA00083

SUBJECT NAME: Ohio Department of Taxation

POSITION: State Agency

AGENCY: Ohio Department of Taxation

BASIS FOR INVESTIGATION: Initiative of the Ohio Inspector General

ALLEGATIONS: Failure to comply with state law or regulations;
Lack of agency policies and procedures.

INITIATED: July 23, 2012

DATE OF REPORT: November 21, 2013

EXECUTIVE SUMMARY

In the course of an investigation involving the theft of tax money by former Ohio Department of Taxation (ODT) employee Kathleen Hyre, the Office of the Ohio Inspector General (OIG) found Hyre concealed the thefts by moving overpayments¹ on a given taxpayer's account, to a second taxpayer's account. During the investigation, the Office of the Ohio Inspector General learned the overpayment balances held by ODT for corporate franchise, employer and school district withholding, and sales and use taxes, appeared to be of a significant size. A list of all taxpayer accounts with an overpayment balance over a three-year period was requested on June 13, 2012. On June 18, 2012, the OIG was informed the list contained more than 100,000 lines of data and ODT was experiencing difficulties in sending the list. A revised verbal request was made for all taxpayer accounts with an overpayment of more than \$5,000. The revised request received on July 13, 2012, contained more than 7,500 tax periods² with overpayments totaling in excess of \$234 million.

A final request was made for all taxpayer accounts regardless of date or dollar amount with an overpayment balance. On July 18, 2012, the list was provided to the Office of the Ohio Inspector General by ODT and it consisted of more than 680,000 tax periods with an amount in excess of \$294 million.

Overpayments can occur for a variety of reasons. Taxpayers might make a payment in advance of the actual date the tax liability is due to ODT, or make a math or processing error in filing. ODT can also make data entry errors which are later recognized and result in an amount due back to the taxpayer.

If a taxpayer does not request a refund within a three- to four-year statute of limitation, depending on tax type, the taxpayer is no longer able to do so and the monies stay in the general fund for use by the state. Pursuant to the Ohio Revised Code, taxpayers paying corporate franchise taxes have three years to request a refund, while taxpayers paying employer

¹ Overpayment is a term used by ODT that from the taxpayer's point of view is a credit balance and is potentially owed to the taxpayer.

² Tax periods are any time a tax return or payment was made or due by a taxpayer. It is typically listed by month and year.

withholding, school district withholding, and sales and use taxes have four years.³ ODT had a policy of not informing taxpayers of overpayments that may have been refundable even if a taxpayer called with questions about their account. An email sent to the sales and use tax section dated April 5, 2011, and located by the OIG stated, “While reviewing a taxpayer’s account and you notice a period is overpaid. [sic] Please do not inform the taxpayer that they are overpaid. Even though the period might be overpaid, it may not be a true overpayment.”

As the Office of the Ohio Inspector General identified this issue, ODT immediately began a review of the list to determine why the overpayments occurred for each tax type, and ordered each tax section to determine if the overpayments were refundable or not. Only accounts within the three- to four-year statute of limitations were reviewed. The results of the review were as follows:

Review of Potential Overpayments by Tax Type

Category	Corporate Franchise	Employer Withholding	School District Withholding	Sales and Use
Refundable	\$14,146,453	\$1,144,424	\$39,364	\$15,866,116
Non-Refundable	\$38,157	\$377,785	\$78,302	\$18,231,120
Need More Information	\$9,535,630	\$18,169	\$7,183	\$14,386,520

The Office of the Ohio Inspector General asked and received assistance from the Office of Internal Audit (OIA), a division of the Ohio Office of Budget and Management (OBM), to evaluate the design and effectiveness of controls employed by ODT to analyze and classify the overpayments. OIA was also asked to examine whether the information provided by ODT reasonably supported ODT’s assessment of amounts determined to be refundable or non-refundable. OIA’s agreed- upon procedure review found:

³ ORC §5733.12(B), §5739.07(D), and §5747.11(B)

Results of Investigation by OBM’s Office of Internal Audit

Objective		Conclusion
Controls around the analysis and classification of credit balances		Major Improvement Needed
Reasonableness of amounts identified as refunds due back to taxpayers	Corporate Franchise Tax	Well-Controlled with Improvement Needed
	Employer & School District Withholding Taxes	Major Improvement Needed
	Sales & Use Tax	Major Improvement Needed
Reasonableness of amounts classified as monies not due back to taxpayers	Corporate Franchise Tax	Major Improvement Needed
	Employer & School District Withholding Taxes	Major Improvement Needed
	Sales & Use Tax	Major Improvement Needed

The Office of the Ohio Inspector General found tax agents were able to move funds within ODT’s tax system, called ITAS, without supervisor approval or knowledge of the taxpayer. This was also accomplished without leaving notes in the system to explain what was done and why. In one instance, a tax agent in the sales and use tax section was able to move a \$2 million overpayment to various tax periods, effectively making the taxpayers account show a \$0 balance in the tax system. The agent stated they were only doing what the taxpayer wanted as evidenced by the information in ITAS. When the Office of the Ohio Inspector General contacted the taxpayer, they were unaware of the overpayment in the system. In fact, documentation provided by a representative of the taxpayer showed they had correctly posted the amount owed to the correct tax period in the Ohio Business Gateway. However, documentation provided to the

Office of the Ohio Inspector General by ODT showed the amount had been posted to a different tax period in ITAS.

During the review of overpayments, ODT found numerous tax periods where a refund had been requested and approved, but the payment was listed as “pending” in the system. As a result, the refund was never physically paid to the taxpayer. Emails obtained by the Office of the Ohio Inspector General showed former Deputy Tax Commissioner Rick Anthony⁴ was aware of the problem and appeared to instruct the corporate franchise section to issue refunds from July 1, 2009, to December 2009. In addition, statutorily required interest on these refunds was withheld and would only be paid if a taxpayer called and requested it. At the time, pending refunds went as far back as 1999.

Non-payment of the prior year refunds and interest was confirmed in interviews with former ODT employees. When interviewed by the Office of the Ohio Inspector General, former Deputy Tax Commissioner Anthony initially could not recall the pending refund issue, but in a second interview, Anthony confirmed he was aware of the issue. However, Anthony stated that he “did not recall” giving instructions to withhold payment of the refunds and interest.

Ohio Revised Code §5733.12(B) states, “On the filing of the refund application, the commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed the commissioner shall certify the amount ...” for payment. In addition, Ohio Revised Code §5733.26(B) states, “Interest shall be allowed and paid ...” for approved refund amounts. By not issuing the approved refunds and interest, Anthony failed to follow the Ohio Revised Code.

Overall, the investigation by the Office of the Ohio Inspector General found a culture within ODT that monies in the system were considered to be either the taxpayers’ or the department’s. This was evident during interviews with ODT officials and employees, who repeatedly stated it was “our money,” “it’s Taxation’s money,” or “it’s the department’s money.” Even the categories created by a deputy tax commissioner conveyed this belief. Instead of terming the

⁴ Anthony currently serves as the director of operations at the Ohio Casino Control Commission.

potential overpayments as refundable or non-refundable, the term “not taxpayer money” was used.

Institution practices at the Ohio Department of Taxation showed it was the policy of the agency not to notify taxpayers regarding overpayments on their accounts. The only way ODT would voluntarily notify a taxpayer of an overpayment was during an audit being conducted on the taxpayer. These practices led to the Office of the Ohio Inspector General finding several instances of wrongdoing as detailed in the following report.

INITIAL ALLEGATION AND COMPLAINT SUMMARY

During the investigation of Kathleen Hyre, a former tax agent at the Ohio Department of Taxation (ODT), the Office of the Ohio Inspector General found Hyre was able to conceal the theft of money orders by moving overpayments from one taxpayer account to another.¹ Because the Hyre investigation revealed ODT might be holding a substantial number of overpayments, a request was made for a list of all taxpayers who had overpayments on their accounts in the computer system used by ODT to process corporate franchise, employer and school district withholding, and sales and use tax. This is the same system used by Hyre to conceal the thefts of money orders investigated in 2012. The purpose of the request was to determine exactly how many overpayments were in the system.

The initial request was made on June 13, 2012, for overpayments by taxpayer accounts over a three-year period. On June 18, 2012, the Office of the Ohio Inspector General (OIG) was informed the list contained more than 100,000 lines of data. A revised verbal request was made for all taxpayer accounts with an overpayment of more than \$5,000. The revised request contained more than 7,500 tax periods² with overpayments totaling in excess of \$234 million. The Office of the Ohio Inspector General made a final request asking for a list of all accounts that had an overpayment, regardless of amount or tax period. A list was provided containing more than 680,000 tax periods with an amount in excess of \$294 million.

By state statute, taxpayers are unable to claim a refund that is more than three- to four-years old, depending on the type of tax paid. Upon questioning, officials at ODT stated the practice of the agency was to not notify taxpayers of the potential overpayments unless the taxpayers specifically inquired about them. In addition, the agency did not have standard written policies or procedures for the handling of overpayments. An investigation was opened on July 23, 2012, and because of the potential financial impact, the Ohio Governor's Office was apprised of the investigation on July 25, 2012.

¹ Report of Investigation #2012-CA00017, released on December 21, 2012.

² Tax periods are any time a tax return or payment was made or due by a taxpayer. It is typically listed by month and year.

ODT was asked if overpayments occurred in other tax areas. After a review of the systems utilized by ODT, the Office of the Ohio Inspector General was informed overpayments were also occurring in taxpayer accounts related to the Commercial Activity Tax (CAT). On December 18, 2012, the Ohio Governor and the Ohio Tax Commissioner conducted a joint press conference announcing ODT would begin refunding more than \$13 million to 3,500 taxpayers who had CAT overpayments and stated that “other taxes will be analyzed in the months ahead.”

[\(Exhibit 1\)](#)

BACKGROUND

Ohio Department of Taxation

The Ohio Department of Taxation is responsible for the enforcement and administration of all state taxes except insurance and motor vehicle license taxes. As part of its duties, ODT registers taxpayers, processes tax returns, determines tax liabilities, issues refunds and assessments, conducts audits, and enforces Ohio’s tax laws. ODT is also responsible for determining revenue distributions to local governments, reimbursement for property tax relief, sales and use tax distributions, and allocations to counties from the Public Library and Local Government funds. The agency is overseen by the tax commissioner who is appointed by the governor and confirmed by the Ohio Senate.³

This report focuses on the three major business taxes administered by ODT that use the same system identified in the Hyre investigation – corporate franchise, employer and school district withholding, and sales and use tax.

Corporate Franchise Tax⁴

The corporate franchise tax is imposed on certain corporations for the privilege of doing business in Ohio. Beginning in reporting year 2010, the tax is limited to financial institutions as well as certain holding companies, affiliates of these holding companies, certain affiliates of insurance companies, and companies specializing in securitization. All other corporations are subject to the commercial activity tax (CAT). Taxes paid are based on the value of a corporation’s issued

³ Source: biennial budget documents.

⁴ Source: Ohio Department of Taxation annual reports.

and outstanding shares of stock. Tax return due dates are based on when the corporation is required to file their federal tax return and can vary by entity. Annually, a corporation has the ability to pay one-third of its estimated taxes owed on January 31st, March 31st, and May 31st.

According to ODT's 2012 annual report, the state collected \$117.4 million in corporate franchise taxes. These monies were deposited into the state's General Revenue Fund.

The 129th General Assembly passed H.B. 510 in late 2012 to "provide that such institutions and dealers in intangibles are no longer subject to the corporation franchise tax." Instead, a new Financial Institutions Tax (FIT) will be imposed effective January 1, 2014.

*Sales and Use Tax*⁵

In 1934, the state implemented a sales and use tax.⁶ The current rate, effective September 1, 2013, is 5.75 percent. County governments can also levy a sales and use tax ranging from 0.5 to 1.5 percent. Eight regional transit authorities can also levy taxes up to 1 percent. ODT is responsible for collecting the combined tax and then distributing the appropriate share directly to the counties and regional transit authorities. The sales and use taxes apply to all retail sales and rental of tangible personal property that is not exempt, rental of hotel rooms, and certain specified services.

Sales and use taxes are considered a "trust" tax. This means individuals making a qualifying purchase in which tax is paid, in addition to the purchase price of the goods or services, trust the vendor to remit the tax to ODT on their behalf. Payments are typically made by vendors by the 23rd of the month for the previous month's sales. Payments can also be made weekly, semi-monthly, quarterly or semi-annually depending on the taxpayer and type of return.

In fiscal year 2012, ODT collected approximately \$8.27 billion with 97.8 percent (\$8.09 billion) distributed to the General Revenue Fund and the rest distributed to the Public Library Fund. In

⁵ Source: Ohio Department of Taxation annual reports.

⁶ Use tax is a complementary tax to the Ohio sales tax and is usually reported voluntarily on a purchaser's tax returns. The tax is for certain services and tangible personal property used, stored, or consumed in Ohio unless sales tax has already been paid or the purchase is exempt.

calendar year 2012, county government collections totaled approximately \$1.5 billion with another \$373.5 million collected for the regional transit authorities.

*Employer Withholdings and School District Employer Withholdings*⁷

Pursuant to Ohio Revised Code §5747.06(A), every employer maintaining an office or transacting business in the state is required to withhold from their employees' paychecks an amount equivalent to the income tax estimated to be due from the employee. This amount is then remitted to ODT. In fiscal year 2012, total net collections exceeded \$9.0 billion with more than \$8.4 billion distributed to the General Revenue Fund. The rest was distributed to the Local Government Fund and other smaller funds.

If an employee lives in a school district that levies an additional income tax, this amount is also required to be withheld from the individual's paycheck and remitted to ODT. This tax is then distributed to the appropriate school district less administrative costs and refunds. In fiscal year 2012, total net collections for school district withholdings were approximately \$342.3 million.

Refunds

Taxpayers who overpay⁸ on the sales and use tax or employer withholdings have four years from the date of the overpayment to request a refund.⁹ Those who overpaid on their corporate franchise taxes have three years to request a refund.¹⁰ If the amount requested to be refunded is more than the amount listed as owed, ODT will notify the taxpayer in writing requesting additional information to justify the amount requested. Within 60 days the taxpayer can provide the information, request a hearing, or both. If the amount requested to be refunded is less than the amount listed as owed per ODT's tax system, payment will be issued only for the amount requested.¹¹

⁷ Source: Ohio Department of Taxation annual reports.

⁸ A discussion on why taxpayers may have an overpayment on their account is located in the investigative summary by tax type.

⁹ ORC §5739.07(D) and ORC §5747.11(B).

¹⁰ ORC §5733.12(B).

¹¹ ORC §5733.12(B) and ORC §5739.07(F).

Interest may also be owed to the taxpayer for refunds paid.¹² The interest rate is based on the average federal short-term rate in July of the previous year plus three percentage points. The following are the rates according to ODT’s website for the last 10 years:

Interest Rates in Ohio: 2003-2012

Tax Year	Interest Rate	Tax Year	Interest Rate
2003	3%	2008	8%
2004	4%	2009	5%
2005	5%	2010	4%
2006	6%	2011	4%
2007	8%	2012	3%

Taxpayers requesting a refund for corporate franchise, employer and school district withholding, and sales and use tax are required to complete a second form and send it to ODT for processing. However, a request for refund cannot be done at the same time a taxpayer is submitting their business tax return. Sometimes taxpayers may send in a refund request before their business tax return has been processed. This can create a system delay, or cancellation of the refund request.

Integrated Tax Administration System

ODT utilizes the Integrated Tax Administration System (ITAS) to administer the corporate franchise, withholding, and sales and use taxes. ITAS contains the addresses, business license numbers, and other identifying information for the entities required to remit these taxes. In addition to ITAS, ODT uses the Assessment/Rewrite system to generate late notices for the business taxes as well as the commercial activity tax, personal income, and school district income taxes.

¹² ORC §5733.26 for Corporate Franchise, §5739.132 for Sales and Use Tax, and §5747.11 for Employer Withholdings.

ITAS was implemented in 1998 for reporting periods beginning in 1999. On June 30, 2008, ODT issued a press release stating the agency would be implementing a new computer system called STARS, or the State Taxation Accounting and Revenue System. STARS is intended to replace the department's 27 existing systems, including ITAS, and it was estimated to take four-and-a-half years to implement. Phase one was scheduled for completion by the end of 2009. ODT estimated the project would cost \$53.5 million and would generate a \$271 million return on investment. ([Exhibit 2](#)) At the time of the investigation, STARS had not been implemented.

Office of Internal Audit

The Office of Internal Audit (OIA), a division within the Ohio Office of Budget and Management, was created in 2008 to conduct internal audits on agencies under the governor's oversight and to report audit observations and recommendations to a State Audit Committee. According to OIA's website, the division provides independent assessments of internal controls within a particular agency by:

- Evaluating and improving the adequacy and effectiveness of risk management, control, and governance processes;
- Evaluating whether reasonable assurance exists that management objectives and operational goals are achieved; and
- Providing process and managerial consulting to improve risk management, control, and governance processes.¹³

INVESTIGATIVE SUMMARY

During the course of investigation #2012-CA00017, it was determined Kathleen Hyre used overpayments from one taxpayer to conceal the theft of monies from an unrelated taxpayer. The Office of the Ohio Inspector General found there were numerous accounts containing overpayments within the Integrated Tax Administration System (ITAS). On June 13, 2012, the Office of the Ohio Inspector General contacted Ohio Department of Taxation Chief Legal Counsel Matt Chafin to verbally request a list of all taxpayer accounts in ITAS with an overpayment in the last three years to determine how many taxpayer accounts actually had an overpayment. On June 18, 2012, ODT reported the list contained more than 100,000 lines of

¹³ Source: Office of Internal Audit website.

data and ODT was having difficulties sending the requested information in an electronic format due to the amount of data involved.

A revised verbal request was made asking for taxpayer accounts with an overpayment of \$5,000 and above. This list, received via email on July 13, 2012, included 7,511 tax periods¹⁴ with overpayments totaling \$234,659,381.95. Included on the list were taxpayers' names, account numbers, tax periods, and the amounts of the possible overpayments. Some taxpayers appear on the list with more than one account or tax type; and some taxpayers were listed with more than one tax period, as it is possible for the taxpayer to have a potential overpayment in multiple tax periods.

ODT officials indicated that gathering this data raised red flags about the accuracy of the data stored in its computer system, ITAS, and indicated the data may include some false positives. This meant that of the overpayments identified, some may not be refundable to the taxpayer. The overpayments could have occurred because of a taxpayer or ODT error or because the date the overpayments were received would be outside the time period the funds could be refunded per the applicable Ohio Revised Code. However, ODT officials stated they were unable to determine if the amounts were truly owed to the taxpayer or not without conducting further research into each tax period and account identified.

ODT officials did note overpayments may have occurred as a result of intentional overpaying amounts owed by a taxpayer. As refunds are only processed once the taxpayer submits a form in addition to their tax return, the monies continue to remain on the taxpayer account. Since the Ohio Revised Code requires interest to be paid on refunds, these taxpayers are able to obtain higher interest rates than they may be able to obtain in the private sector upon requesting a refund.

A final request was made to ODT for a report of all accounts that had an overpayment, regardless of the amount or the tax period in which the overpayment occurred. On July 18, 2012, the list

¹⁴ Tax periods are any time a tax return or payment was made or due by a taxpayer. It is typically listed by month and year.

was provided and included 681,058 tax periods with potential overpayments totaling \$294,201,671.99. According to Administrator Brad Marshall of the Business Tax Division,¹⁵ the list was created on July 17, 2012 – after a tax agent in the sales and use tax section, Dawn Meyers, started to make changes to some accounts in ITAS. Meyers had been provided the original list from July 13, 2012, and was asked by the assistant administrator of sales and use tax to review the accounts to determine why the overpayments occurred. As Meyers was reviewing the list, she was also making changes to the system, and moving overpayments to different tax periods which resulted in variances between the two lists. Based on this information, the Office of the Ohio Inspector General requested a list of all the changes made by Meyers between July 13 and July 17, 2012.

However, in the interim, the Office of the Ohio Inspector General conducted an independent comparison between the two data sets and the following variances were noted:

- 1) Taxpayers and/or tax periods on the July 13th list were not reflected on the July 18th list (112 items);
- 2) Taxpayers and/or tax periods on the July 18th list were not reflected on the July 13th list (41 items); and
- 3) Taxpayers and/or tax periods appearing identically on both lists but with different dollar amounts (12 items).

The list of changes provided by ODT only addressed discrepancies in 22 tax periods related to changes Meyers had made in ITAS. Due to the variance between the number of taxpayer accounts identified by ODT and calculations made by OIG investigators, it was determined additional review was needed to better understand the discrepancies in the data sets.

The Office of the Ohio Inspector General met with Administrator Brad Marshall on August 9, 2012, to review the list of variances and to determine if they were a result of changes made during the normal course of business, if another tax agent was making changes, or if Meyers made more changes than were on the list provided by ODT. Due to the extended length of time

¹⁵ Marshall previously served as Assistant Administrator, Compliance Division, and was promoted to his current position on January 1, 2013.

required to examine the individual accounts, only 30 tax periods of the 112 from the first variance list were reviewed with Marshall.

At times, Marshall was unable to determine exactly why the changes had been made as there were no notes in ITAS explaining the revisions. However, Marshall was able to explain where overpayments had been moved to different tax periods and who had made the changes.¹⁶ On one account, as a result of the agent moving an overpayment to another tax period, it triggered an underpayment to occur in a different tax period, and a bill was scheduled to be sent to the taxpayer. Marshall noted the majority of the changes had been made by Meyers; however, these changes were not reflected on the list of changes generated and provided by ODT to investigators.

On August 13, 2012, the Office of the Ohio Inspector General met with Dawn Meyers and ODT Chief Legal Counsel Matt Chafin to review six taxpayer accounts that appeared on the July 13, 2012, list but not on the July 18, 2012, list and nine taxpayer accounts where the amount of the overpayment had changed between the two lists. The taxpayer accounts selected for review were only for sales and use tax, as this is the section Meyers is assigned and is most familiar with the process. For some of the accounts, the change in overpayments was the result of refunds issued in the normal course of business in the week between when the two lists had been created. For others, tax agents, including Meyers, had moved the overpayments to other tax periods.¹⁷ OIG investigators asked Meyers to explain why the overpayments were moved for these accounts.

One taxpayer account reviewed was for a nursery and landscape company headquartered out of the state but doing business in Ohio. In this instance, the taxpayer reported the wrong tax period when sending in their payment. By doing so, an overpayment existed in one tax period and a liability for the same amount occurred in another tax period. Therefore, Meyers moved the payment to the period it should have been reported. When reviewing this account, Marshall stated there were no notes in the system to indicate if the taxpayer had requested the funds be

¹⁶ ITAS records the date, time, and employee login information when a change is made in the system by a tax agent. ITAS does not record when a tax agent viewed the account but no change was made.

¹⁷ As part of her regular job duties, Meyers stated she reviews various taxpayer accounts where issues had been noted, and if necessary, makes adjustments including moving overpayments to a different tax period.

moved or why the agent moved the funds. Investigators asked Meyers if she made notes in the system and she replied, “No, because it’s obvious.” When asked if this was standard practice throughout the section or just something she did, Meyers responded that it was a standard practice and understanding the movement of funds was obvious to a tax agent. Meyers was then asked if other ODT employees who were not tax agents or did not work in ITAS often, would understand the movement of funds without notes in the system. She said, “I won’t make a comment about that.”

Another taxpayer account reviewed was related to a pharmacy chain doing business in multiple locations throughout Ohio. In this instance, the potential overpayment was listed as \$1.19 million on the July 13, 2012, list; but the taxpayer account no longer appeared on the July 18, 2012, list. In reviewing the account, Marshall was able to determine that \$2 million had been moved by Meyers to tax periods both before and after the payment initially occurred, based on the information automatically recorded in ITAS. By doing so, the overpayment no longer existed in the system. However, there were no notes in ITAS explaining the movement of the overpayment.

Investigators then asked Meyers to explain why she made the changes to this particular account. Meyers explained the taxpayer had recorded the wrong tax period when making the payment. The taxpayer had also recorded an advanced payment for a future period and requested part of the funds be moved to that future period, a process called “credit carry forward.” However, because ITAS showed not enough funds were available to make the requested move, no funds could be moved forward. Meyers stated she was able to tell the payment was made for the wrong period based on the date the taxpayer made the payment. Therefore, Meyers moved the \$2 million both to the previous and future tax periods to make the account balance zero. By moving the funds, Meyers believed she was doing what the taxpayer requested based on the information in ITAS. When asked if there were any notes in the system to explain why she moved the funds, Meyers stated there were none and any experienced tax agent did not need to place notes in the system documenting the move.

On May 29, 2013, the Office of the Ohio Inspector General met with a representative of the pharmacy chain. The taxpayer provided documents from the Ohio Business Gateway confirming the amount of the payment. However, the Ohio Business Gateway receipt shows the taxpayer asked for the payment to be posted to the April 2011 tax period and not May 2011 as was shown in print-screens provided by ODT from ITAS. The taxpayer was told about the agent moving the funds from May to April and then moving the requested advanced payment from April to May. When asked if anyone from ODT contacted the taxpayer to confirm this was indeed what it wanted, the taxpayer did not recall contact from anyone representing ODT. The representative of the company expressed they would have preferred some type of contact; either a phone call, letter, or email before the funds were moved.

The taxpayer had problems in the past with payments getting posted to incorrect tax periods; however, the taxpayer stated the company was usually notified within a few weeks of a missed payment and the discrepancy was able to be corrected. Finally, the taxpayer was asked if ODT ever contacted the company about requested “credit carry forwards” not getting posted to future tax periods because of a lack of available funding on their account. The taxpayer could not recall being notified of this issue occurring.

Confusion existed in determining the true balance for some accounts because of the use of master account numbers assigned by ODT. Historically, taxpayers operating locations in multiple counties were assigned multiple taxpayer identification numbers and were required to file separate returns and make payments under each number. To make reporting easier for taxpayers with locations in multiple counties, a master number was created so the taxpayer could submit one return and payment. However, several taxpayers continued to submit returns and payments under the individual account numbers. As a result, the payments showed as an overpayment on the individual accounts because the liability had been posted to the master account. Furthermore, for those accounts with the liability, bills were mailed out to the taxpayers. To correct this problem, tax agents had the ability to change the date in ITAS when the taxpayers were required to start submitting returns and payments under the master account number. This would ensure bills were not sent out.

Meyers was asked if tax agents were permitted to move funds to different tax periods if the agents believed the taxpayer intended for those funds to go to a different tax period, regardless of the outcome. For instance, if by moving the overpayment from one tax period to another it caused a liability to occur in the future tax period and a bill would be issued, could the tax agents still move the funds? Meyers replied “kinda, yeah,” and noted that depending on the dollar amount, she may contact the taxpayer to ensure the problem did not continue to occur in the future. When asked if there was a dollar limit on when she would or would not contact the taxpayer, Meyers stated there was not and it really depended on her workload for that day and if there was enough time in the day to attempt to contact them.

OIG investigators also asked Meyers about comments made by other tax agents during the Hyre investigation. These tax agents informed the Office of the Ohio Inspector General they were not permitted to inform taxpayers of potential overpayments if the taxpayers called to inquire about the status of their account. Meyers replied that, if a taxpayer called in, a tax agent could not attest to the accuracy of the overpayment amount shown in ITAS. Meyers explained that the total amount reflected as an overpayment is a cumulative total, and a portion of that total amount may be out of the statute’s time period for possible refund or it might not be “our” (ODT) money and was due to another agency. She continued by saying, “We will gladly send out a bill. We do not gladly send out something saying that you have a refund.”

Review of Overpayment List by the Ohio Department of Taxation

On July 13, 2012, the same day the first list of potential overpayments of \$5,000 and above was provided to the Office of the Ohio Inspector General, the list was also forwarded to the administrators of the corporate franchise, employer withholding, and sales and use tax sections by ODT officials. Marjorie Kruse, deputy tax commissioner, directed each section to research the reasons for each of the overpayments and evaluate whether a potential refund was owed to the taxpayers. According to an email sent by Kruse, if corrections were needed, documentation was required to be maintained for the reason as to why it was corrected, and directed that documentation should be maintained either in the form of a paper document or through an email. Supervisor approval was also required for any transfers made in ITAS. ([Exhibit 3](#)) When the

complete list of overpayments, regardless of dollar amount, was generated it was to be forwarded to the business tax section for review.

The Office of the Ohio Inspector General requested ODT not make changes in ITAS related to any corrections of overpayments during the course of the investigation on July 30, 2012. This was to preserve the data so investigators could select and test a sample of the agents' work. Changes could be made if it was related to current work or in the normal course of business.

As part of this process, ODT implemented weekly meetings beginning July 25, 2012, to evaluate the progress made for each section in reviewing the list of possible overpayments. The Office of the Ohio Inspector General attended these meetings to gain an understanding of the issues and to monitor the progress being made. Beginning in October 2012, the meetings were moved to bi-weekly, with updates sent to all parties via email on weeks when meetings were not scheduled. The last meeting was held on December 20, 2012, as the majority of the work had been completed by the three tax groups. The following is the list of ODT officials invited to attend these meetings:

- Marjorie Kruse, Deputy Tax Commissioner
- Matt Chafin, Chief Legal Counsel
- Charlie Rhilinger, Chief Counsel, Tax Appeals
- Del Harlan, Former Executive Administrator, Income, School District & Business Tax¹⁸
- John Lynch, Tax Program Administrator 1, Business-Administration¹⁹
- Bryan Hairston, Administrator, Sales & Use Tax
- Keith Wilson, Tax Commissioner Agent Supervisor 3, Sales & Use Tax
- Richard Six, Administrator, Employer & School District Withholding
- David Zinni, Administrator, Corporate Franchise

¹⁸ Retired February 28, 2013.

¹⁹ Retired December 31, 2012, and replaced by Brad Marshall.

Of the total possible overpayments initially identified, the following is the breakdown by tax type:

Potential Taxpayer Overpayments to ODT by Tax Type

Tax Type	# of Periods	Total Dollar Amt.
Employer and School District Withholding	137,162	\$8,516,609.68
Corporate Franchise	33,183	\$117,190,998.89
Sales and Use	505,831	\$168,493,460.89
Other ²⁰	<u>4,882</u>	<u>\$602.53</u>
TOTAL	<u>681,058</u>	<u>\$294,201,671.99</u>

Of these tax periods, 350,891 or 51.5 percent of the total were for amounts less than \$1.

At the start of the review process, the three tax sections were asked by ODT officials to evaluate all possible overpayment amounts above \$5,000, regardless of date range, to determine the cause of the overpayments and if they were refundable. At the August 8, 2012, meeting, the Office of the Ohio Inspector General was informed the criteria had changed and the tax sections were evaluating only those tax periods within the three- to four-year statute of limitations, based on tax type, to determine if taxpayers were owed refunds.²¹ The tax periods were further sorted from highest to lowest dollar amount. On August 16, 2012, the Office of the Ohio Inspector General was informed a second list had been generated of refunds that had been requested by taxpayers but were put in a pending status by ITAS instead of being issued. This list was generated based on information ODT obtained during their review of the original overpayment query. The sections were instructed to suspend work on the original list and to research the items on this new list (this list is discussed in further detail later in the report). Once all items were researched, the tax sections were to resume work on the original overpayment list using the methodology set out in the August 8, 2012, meeting.

²⁰ Other includes Clerk of Court auto and in-state boat titling sales tax, and sales tax from state liquor stores.

²¹ Corporate franchise has a three-year limit for taxpayers to request a refund while employer and school district withholding and sales and use tax have a four-year limit.

On September 20, 2012, the Office of the Ohio Inspector General informed ODT the minimum dollar amount to be reviewed for purposes of this investigation was \$50. This dollar limit was selected as this was also the limit ODT had set when taxpayers would receive bills for outstanding liabilities. All parties agreed that all dollar amounts would eventually need to be researched, as there is no minimum dollar limit in statute regarding refund amounts.²² At this meeting, ODT confirmed they were looking at only those tax periods within the statute of limitations as ODT officials stated, in their opinion, it would not be an effective use of ODT time researching overpayments where there was no legal basis to approve refunds that fell outside the statute of limitations.

When the sections began reviewing the tax periods to determine whether the overpayments were refundable or not, numeric codes were developed and then added to each line of data in the spreadsheets. When the second list was provided, Deputy Tax Commissioner Kruse asked that the dataset be reviewed and tax periods placed into one of four categories: 1) taxpayer money with refund request received, 2) taxpayer money with no refund request received, 3) not taxpayer money and, 4) need more information. The purpose of the four categories Kruse implemented was to determine a potential refund amount that might be paid out to taxpayers. Kruse stated the original numeric codes explaining the reason for the possible overpayment were no longer needed. However, the Office of the Ohio Inspector General requested the agents continue to code possible overpayments so investigators could determine why the overpayments occurred.

On September 12, 2012, the Office of the Ohio Inspector General met with the Ohio Office of Budget and Management's Office of Internal Audit (OIA). The purpose of the meeting was to discuss OIA conducting an independent review of the process ODT had implemented when reviewing the potential overpayments. OIA held independent meetings with various ODT officials to gain an understanding of the taxes involved and how ITAS operated. After agreeing to conduct the review, three objectives were developed for testing purposes:

- 1) Evaluate the design and effectiveness of controls employed by ODT to analyze and classify the overpayments;

²² In H.B. 59 of the 130th General Assembly, signed into law by the governor on June 30, 2013, ODT is excused from issuing refunds of \$1 or less.

- 2) Determine whether the overpayments reported in ITAS reasonably support ODT's assessment of the amounts identified as refunds due back to taxpayers; and
- 3) Determine whether the overpayments reported in ITAS reasonably support ODT's assessment of the amounts identified as monies not due back to taxpayers.

The Office of the Ohio Inspector General and OIA officials agreed only to review items categorized as belonging in categories other than "need more information." The reasoning was if ODT was unable to determine if the funds were refundable or not, OIA would not be able to do so either if looking at the same information. ODT had indicated their plan was to contact the taxpayer either through phone calls or mailings to obtain the necessary information to determine if the overpayment was refundable for amounts placed into the "need more information" category.

OIA began field work on January 30, 2013, meeting with individuals from each business tax section to "re-perform" the process used to analyze and classify the potential overpayments. Field work was completed by March 22, 2013. During this time period, OIA met with the Office of the Ohio Inspector General to provide updates of its preliminary findings. A final report was provided on April 3, 2013.

Overall, OIA’s results were as follows:

Results of Investigation by the Office of Internal Audit

Objective		Conclusion ²³
Controls around the analysis and classification of credit balances		Major Improvement Needed
Reasonableness of amounts identified as refunds due back to taxpayers	Corporate Franchise Tax	Well-Controlled with Improvement Needed
	Employer & School District Withholding Taxes	Major Improvement Needed
	Sales & Use Tax	Major Improvement Needed
Reasonableness of amounts classified as monies not due back to taxpayers	Corporate Franchise Tax	Major Improvement Needed
	Employer & School District Withholding Taxes	Major Improvement Needed
	Sales & Use Tax	Major Improvement Needed

Pursuant to Ohio Revised Code §126.48, details of OIA reviews of the Ohio Department of Taxation are confidential and cannot be released to the public. As a result, the details of OIA’s findings have not been included in the report. The Office of the Ohio Inspector General did conduct further reviews and interviews based on OIA’s findings.

The following is the process implemented by each section to review the potential overpayments; the reason codes developed to explain the possible overpayments; and the results of the ODT review.

²³ See [Exhibit 4](#) for definitions of the audit objective conclusions.

Corporate Franchise

When the corporate franchise (CF) section received the overpayment list, it quickly created procedures on how to review the accounts and emailed the instructions to the tax agents assigned to review the list. ([Exhibit 5](#)) These procedures included documents the agents should review outside of ITAS, notes to include in ITAS if a correction was warranted, and standardized reason codes for why the credits occurred. The corporate franchise section also conducted supervisor reviews on a sample of the work conducted by each agent, with a larger sample size selected for newer tax agents. In the beginning, the supervisors were not initialing or signing-off on the tax periods reviewed until it was suggested by the Office of the Ohio Inspector General that they do so. A review of documentation maintained by the corporate franchise section later confirmed this was implemented as part of the review process. Once the supervisors completed their review, the lists were provided to another supervisor who entered the codes and related information into a master spreadsheet. Only this supervisor and David Zinni, the administrator, had access to the master spreadsheet.

When the second list of pending refunds was provided to the section, it was combined with the original list and resorted from highest to lowest dollar amount. The corporate franchise section was also identifying the potential refundable amount before Kruse instructed the tax sections to segregate funds into four categories. The following are the reason codes assigned to tax periods to explain why overpayments occurred:

- Payments/Credit Carry Forward Not Claimed – taxpayer did not take credit for all of the payments made or did not claim a credit carry forward on their returns;
- Pending Refunds – taxpayer requested a refund, it was approved by ODT, but the system moved the payment to a pending status and did not issue a payment;
- Audit Settlement/Nettings – changes made by ODT’s audit division after settlements with the taxpayer were made;
- Amended Reports – reports filed by the taxpayer on a consolidated basis that were processed by ODT erroneously when separate reports should have been filed;
- Data Entry Errors – either made by the taxpayer or ODT; and
- Other – where the overpayment did not fit into any of the other categories.

After the review was completed, the corporate franchise section identified the following:²⁴

Potential Refund Classification by Tax Period (CF)

Category	Tax Periods	Amount
Taxpayer money with refund request received	1,381	\$9,009,170.40
Taxpayer money with no refund request received	3,084	\$5,137,282.10
Not taxpayer money	49	\$38,156.52
Need more information	435	\$9,535,630.00

Employer and School District Withholding

Much like the corporate franchise section, the withholding section categorized items on the potential overpayment list using numeric reason codes to explain why a possible overpayment might have occurred. However, this section did not begin a supervisor review of their tax agents' work until after the second weekly update meeting in August 2012. When the withholding section received the second list of pending refunds, they suspended work on the original list. Work on the pending refunds was completed by the September 20, 2012, weekly update meeting and the section returned to its review of the original overpayment item list. The withholding section identified the following reason codes explaining why overpayments may have occurred:

- Previous payments were unclaimed on future returns;
- Pending refunds where a taxpayer requested a refund but the system did not generate a payment;
- Payments made by the taxpayer were posted to the wrong tax period or account;
- Penalty and interest/Office of the Ohio Attorney General assessment payments;
- Taxpayer paid a bill twice;
- School district withholding payments classified as employer withholding (EW);
- Incorrect figures on the return;
- Period payments or Ohio Business Gateway payments; and
- Other.

²⁴ Tax periods may be in more than one category as a portion of the dollar amount for that period may be refundable to the taxpayer and the other portion may not be.

The withholding section tracked the overpayments via a spreadsheet. However, unlike the corporate franchise section, seemingly all agents and supervisors of the withholding section had access to the same spreadsheet and could make changes. Information was provided by Administrator Richard Six, showing print-outs from the system with handwritten notes and initials from supervisors who reviewed a sample of the work. There is no indication as to who, specifically, entered information into the master spreadsheet. It is possible multiple individuals may have had the ability to make changes to the master spreadsheet without recording as to who made the changes and when and why those changes were made.

After the review was complete, the withholding section identified the following for employer withholding:

Potential Refund Classification by Tax Period (EW)

Category	Tax Periods	Amount
Taxpayer money with refund request received	80	\$66,739.49
Taxpayer money with no refund request received	2,792	\$1,077,684.29
Not taxpayer money	587	\$377,785.02
Need more information	53	\$18,168.85

The following are the results for school district withholding (SDW):

Potential Refund Classification by Tax Period (SDW)

Category	Tax Periods	Amount
Taxpayer money with refund request received	20	\$3,625.39
Taxpayer money with no refund request received	300	\$35,738.85
Not taxpayer money	516	\$78,302.41
Need more information	18	\$7,182.99

Sales and Use Tax

Of the records to be reviewed, sales and use tax (SUT) section was the largest section in terms of both the number of tax periods and dollar amount of possible overpayments. As part of their review process, tax agents informed OIG investigators that they relied almost solely on

information in ITAS and did not use supporting documentation. The sales and use tax section also began categorizing tax periods in one of three categories early in the review process: “Taxpayer’s” funds, “ODT’s” funds, and “Unable to Determine.”

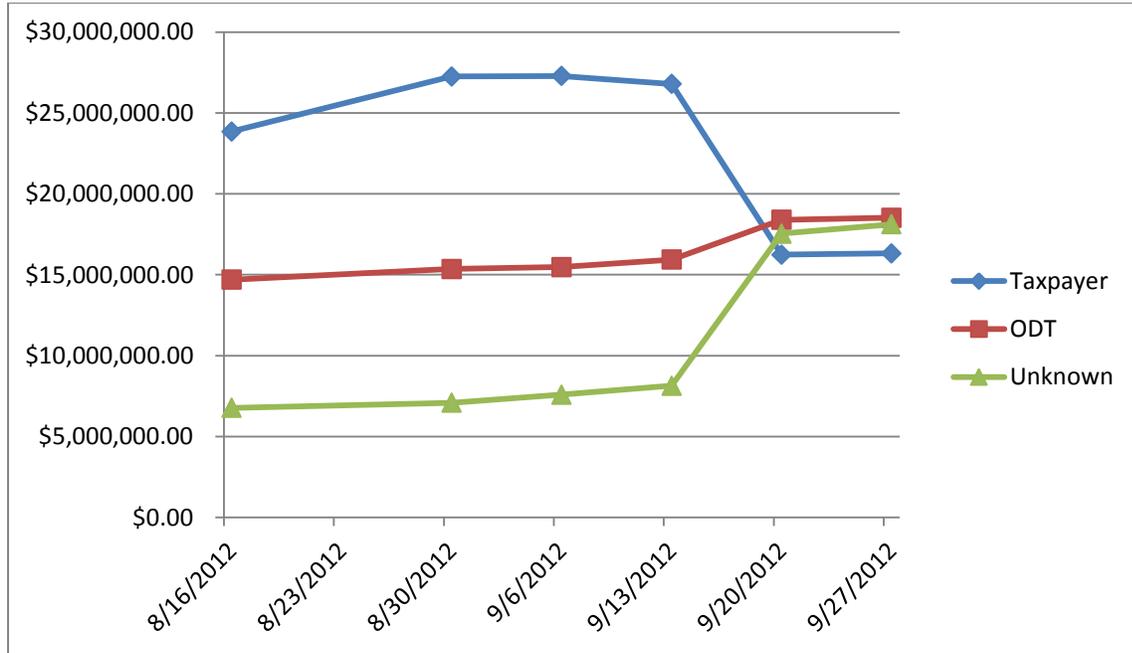
At the request of her supervisors, Dawn Meyers created 21 reason codes to explain why overpayments may have occurred. Some of these reason codes appeared in more than one of the three categories – “Taxpayer’s,” “ODT’s,” or “Unable to Determine.” A list of the reason codes is provided in [Exhibit 6](#).

The sales and use tax section also copied the dataset from the Excel spreadsheet provided by Kruse into an Access database. The individual who created the database was also responsible for assigning taxpayer accounts for review to particular tax agents. After reviewing their assigned accounts, the tax agents could then go into the database and insert the numeric reason code and category (“Taxpayer’s,” “ODT’s,” or “Unable to Determine”) for each taxpayer and tax period. Supervisors were also asked to review the work of the tax agents who reported to them. The supervisors could then insert their initials in a column titled “supe (sic) initials” next to the taxpayer and period they reviewed. They also had the ability to change the reason code and category. Both the tax agent and supervisor could insert comments or notes for each tax period reviewed into the database.

At the request of Kruse during the weekly meeting held on August 30, 2012, the sales and use tax section was instructed to review several reason codes to determine if they were in the right category. At the September 13, 2012, meeting, the sales and use tax section reported the review was being conducted by a tax agent; specifically, Meyers, due to her knowledge of ITAS. The section said Meyers was reviewing codes in the “Taxpayer’s” category and determining if the funds should be moved to the “Unable to Determine” category. When asked if the sales and use tax section was reviewing any codes in the “ODT’s” category, the section’s administrators replied they were not. The review resulted in more than \$10 million of overpayments being moved from the “Taxpayer’s” category to the “Unable to Determine” category. The sales and use tax section administrators believed the initial determination made by the tax agents was incorrect and certain reason codes should all be classified as “Unable to Determine.”

The following chart depicts the categorization of tax periods prior to this request and in the two weeks after:

Categories of Tax Periods Under Review



After the review of all the taxpayer accounts and tax periods within the statute of limitations and over \$50 was complete in March 2013, the sales and use tax section identified the following:

Potential Refund Classification by Tax Period (SUT)

Category	Tax Periods	Amount
Taxpayer's	3,399	\$15,866,116.25
ODT's	2,509	\$18,231,119.63
Unable to Determine	11,637	\$14,386,519.63

The Office of the Ohio Inspector General requested and obtained an electronic spreadsheet of the information in the database from the sales and use tax section. From a review of this database, investigators determined:

- 3,680 tax periods, or 20.7 percent, contained initials in the supervisor column indicating the tax period had been reviewed;
- 1,285 tax periods, or 35 percent, containing initials in the supervisor review column actually contained the initials of a tax agent and not a supervisor;
- Of the 1,285 tax periods containing the tax agent's initials in the supervisory review column, the agent was also listed as the assigned individual who made the determination of the reason code and category on 394 tax periods, or 31 percent; and,
- 18 tax periods containing two sets of initials in the supervisor review column. One set of initials belonged to a tax agent and not a supervisor.

On March 25, 2013, interviews were conducted with two tax agents and four supervisors from the sales and use tax section who were involved in reviewing the overpayments or who were responsible for reviewing the work of the tax agents. All confirmed that because of the method information was entered in the database and the lack of security, it would be impossible to determine who selected the reason code or category or if either had been changed by someone during the supervisory review process. They also stated they were instructed to rely on the information in ITAS and to not review additional sources or hardcopy documents when making a determination of the appropriate reason code and category. The supervisors involved in the review process said they were not given specific instructions on what to review and were not given a target percentage on the number of tax periods to review. In the instances in which both the supervisor and a tax agent's initials appeared as the reviewer, the supervisors expressed surprise a tax agent was re-reviewing their work.

Keith Wilson, assistant administrator of the sales and use tax section, was interviewed on April 1, 2013, and asked to explain the process implemented to review the overpayments. Wilson stated Meyers was chosen to create the reason code list based on her experience and understanding of ITAS. Wilson and Bryan Hairston, administrator of the sales and use tax section, selected several tax agents from each supervisor who they believed had a good understanding of ITAS. The tax agents initially worked together in a computer training room so they could share information and ask questions of each other if the agents were not sure of how to classify the overpayments. Several weeks later, the agents were directed to work on the list

from their desks at least eight hours a week. Wilson confirmed supervisors were not given a target number of tax periods to review nor a specific number of hours each week they were to work on the review.

Wilson was shown the information from the database and the statistics on the number of tax periods reviewed by a tax agent and not a supervisor. Investigators told Wilson that by comparing these two sources of information, it was determined that an agent was reviewing his/her own work. Wilson explained he trusted the tax agents to do the reviews, given their experience with ITAS. Wilson did not express any concerns with tax agents reviewing their own work and indicated they had done so in the database.

Finally, Wilson was questioned about statements made by agents and supervisors that they were instructed to use only ITAS when conducting their analysis. Wilson stated he did not instruct the agents and supervisors to use only ITAS when conducting their analysis. However, on at least two occasions at the weekly update meetings, Wilson stated they were only relying on ITAS during the review. The Office of the Ohio Inspector General asked Wilson if the tax agents had relied on other sources of information, would the number of tax periods in the “Unable to Determine” category be less. Wilson replied it was possible, but it depended on the taxpayer account, how they filed their tax returns, and the information already entered in ITAS.

Pending Refunds

As previously mentioned, a second list of items termed the pending refund list was distributed to the sections in early August 2012. The items included on this list were all related to an issue termed the “ITAS glitch” by ODT officials. As explained to the Office of the Ohio Inspector General, in 2009 an ODT tax agent discovered that refunds set to be paid were changed to a pending status in ITAS. Therefore, payments were not sent out to taxpayers who had requested and were approved for a refund. A query was generated by ODT to determine the extent of the problem and the query revealed the issue existed as far back as 1999. This same query was also generated on the second list sent by Kruse to be researched by the various business tax sections. The original query was obtained by the Office of the Ohio Inspector General through an email search. The following are the amounts of pending refunds as noted in 2009:

Pending Refund Amounts by Tax Type

Tax Type	Tax Periods	Amount
Corporate Franchise	2,024	\$28,864,821
Employer Withholding	6,463	\$4,774,245
School District Withholding	4,152	\$253,069
Sales & Use	<u>55</u>	<u>\$102,202</u>
TOTAL	<u>12,694</u>	<u>\$33,994,337</u>

The sales and use tax section did not have as many pending refunds as the other sections, as they received a daily report listing the amounts of refunds to be paid out. In addition, refund checks are delivered to the sales and use tax section to be mailed out by the section’s tax agents. If an expected check was not received but appeared on the refund list, tax agents could immediately research the problem and have a check issued.

The Office of the Ohio Inspector General was provided a string of emails by current ODT officials from December 1-2, 2009, documenting when the problem was brought to the attention of Rick Anthony, former deputy tax commissioner.²⁵ ([Exhibit 7](#)) A request for additional emails from the following individuals included on the original email was requested and received from ODT:

- Fred Church, former Deputy Tax Commissioner, Tax Policy & Budget²⁶
- Thomas “Tom” Duncan, former Administrator, Business Tax
- Del Harlan, former Executive Administrator, Income, School District & Business Tax
- Jacklyn “Jackie” Hickle, former Tax Commissioner Agent Supervisor 2, Business Tax Division
- Michael O’Leary, Administrator, Revenue Accounting
- Michael Sobul, former Administrator, Forecasting

²⁵ Anthony currently serves as the director of operations at the Ohio Casino Control Commission.

²⁶ Church is currently employed with the Ohio Office of Budget and Management.

On December 2, 2009, Anthony sent an email to O’Leary and copied Harlan, Church, Sobul and Duncan, stating “I have concerns issuing refunds from previous years. I would like to discuss this at our meetings on Friday.” ([Exhibit 7](#)) In an email summarizing the meeting from Hickle to Duncan and copied to Michael Maurer, former Tax Commissioner Agent Supervisor 4, Hickle writes “corporate will approve the Pending refunds that were processed from 7/1/09 to present (current and past years)” and “if a taxpayer calls regarding a prior year refund that was not issued, we will issue the refund.” ([Exhibit 8](#))

On December 7, 2009, Hickle replied to a question from another supervisor in the corporate franchise section regarding interest on the refunds: “We are approving the refunds (current and prior year) without interest. We are approving the refunds that were processed 7/1/09 to present.” ([Exhibit 9](#))

In an email dated April 27, 2010, Hickle confirmed all of the pending refunds were not processed when she had stated, “we began working all refunds that were put to pending in ITAS from 7/1/09 through the present date.” ([Exhibit 10](#)) Further confirmation from Hickle regarding the processing of the pending refunds was found in an email related to corporate job duties she sent shortly before her retirement on May 31, 2011. In this email, Hickle writes:

Outstanding Corporate Refunds Requested on the Original Report – For years we were not aware that ITAS would set some corporate refunds (and CRC’s) to Pending. We had a list run of all the pending corporate refunds (see list in bottom drawer of the 5-drawer lateral file). Rick Anthony advised us that we should issue all the ones dated 7/1/09 and forward. For any dated earlier than that date we did not release the refund unless a taxpayer called inquiring about their refund. Since these refunds were requested on the original franchise tax report they will never be out of statute for refund purposes. No interest was given on these refunds. If the taxpayer calls then a separate refund check will be issued for the interest. ([Exhibit 11](#))

On August 22, 2012, the Office of the Ohio Inspector General interviewed Rick Anthony. Anthony was shown the string of emails from December 1-2, 2009, and asked if he recalled what had occurred. Anthony initially said, “I can’t remember what the glitch was, but my directives

(sic) was ... to work these and make sure the refunds are due to get them out.” He explained that during 2009, corporate franchise was at the end of being phased out and entities continued to pay estimated amounts at the old rates and not the new reduced rates. As a result, overpayments occurred, and as most of the taxpayers would not owe corporate franchise taxes in 2010, these payments would need to be refunded.

Anthony further stated he would not have termed the problem a “glitch” but rather “we may not have done a very good job of trying to predict taxpayer behavior.” Anthony believed the overpayments were not a problem of the ITAS system, but rather, were a result of the corporate franchise section failing to monitor the payments made by the entities and failing to recognize that the taxpayers were not paying the correct phase-out rate. When asked if he recalled whether all the payments that were owed had been paid back, Anthony replied, “Yes. All money that the system showed due to the taxpayer was paid back or if ... the overpayment on the system was not correct, the system was corrected to show that there was no overpayment.”

As a result of the discrepancies between Anthony’s explanation and Hickle’s emails, the Office of the Ohio Inspector General interviewed Jacklyn Hickle on February 13, 2013. Hickle was shown the same string of emails that were reviewed by Anthony. After reading the emails, Hickle was asked if she recalled what occurred at the meeting to discuss why ITAS was moving approved refunds to pending. Hickle recalled Anthony being concerned with some of the older refunds on the list “since the taxpayers hadn’t contacted us and are they really valid refunds. So he picked a, a date and – and I don’t remember what it was – it was July 1st, but I don’t know what year. And from that date forward we would work those refunds.”

When asked about the question of interest not being paid on the refunds, Hickle said, “I think Rick said we will not pay interest and, again, if the tax law says we have to pay interest and he said if the taxpayer calls us, contacts us and asks for their interest then we would go back in and issue another check for the interest.”

When Hickle was asked if she knew whether Anthony consulted with anyone regarding these decisions to not research and pay pending refunds prior to July 1, 2009, and interest on the

pending refunds that were processed, Hickle replied she believed he made the decision “right then and there. Now I’m not positive though.” OIG investigators asked if anyone in the meeting objected to that decision or if she spoke out against the decision. Hickle said, “No. But I wasn’t the decision maker. I also didn’t agree with the not giving them interest. I think we just listened to what Rick said and that’s what we did.”

Hickle was informed of Anthony’s explanation regarding the “glitch,” specifically, the matter of the “phase-out” of the corporate franchise tax and that taxpayers continued to pay at the higher rate. She responded that while that situation occurred during the same time period, she did not believe it was what caused the “glitch” and believed they were two separate issues.

On February 20, 2013, the Office of the Ohio Inspector General interviewed Tom Duncan, former Tax Program Administrator 1, who was also involved with the 2009 issue. During the interview, Duncan, too, was shown the same emails from December 1-2, 2009. When Duncan read the email regarding Anthony’s concerns with issuing refunds from prior years and wanting to discuss the situation at an upcoming meeting, Duncan stated “I think there was a cut-off point of when he wanted refunds to be looked at...I can’t say what it was at this point.” Duncan was asked if he knew why Anthony had made that decision and Duncan said, “I think the intent was just to cut it off at this point for right now while we get through the budget period. And then if, you know, we’d go back, I thought.”

When shown the emails regarding not paying interest on the refunds that were being issued, Duncan stated if refunds were issued within 90 days of the request, there would be no interest owed. Duncan said if they were not paying interest as it stated in the emails, he did not know why “unless it had to do with the glitch we found in the system and, and Rick would have said no interest on those. I mean we wouldn’t made (sic) the decision to not compute interest on refunds ‘cause that wouldn’t be proper.”

Duncan was asked if he believed the decision to not issue the refunds or interest came from Anthony, and he replied, “Yes. Oh, yeah. Oh, yeah. I mean we wouldn’t have made that decision.” Duncan later offered a possible explanation by stating that due to the phase-out of the

corporate franchise tax, they did not have as many agents in that section. However, Duncan was not sure if that was the reason they did not review all of the pending refunds. The investigators asked if anyone had questioned Anthony's decision on not paying interest. Duncan's response was "it's coming from the Commissioner's office so if you're instructed to do something this way, then you're going to do it that way, you know. Otherwise you're going to have insubordination."

A second interview was conducted with Rick Anthony by the Office of the Ohio Inspector General on March 19, 2013. During the interview, Anthony confirmed that he was aware of the refund and interest provisions as set out in the Ohio Revised Code. Anthony was again shown the emails from December 1-2, 2009, and was asked if he recalled any additional details of what had occurred. This time, when reading through the emails, he said, "if I remember correctly, for some reason there was some sort of, of a problem, where these refunds were being approved and ITAS was sending them in pending or something and we had, and they were instructed to go rework them."

Anthony was subsequently shown an email from Hickle to another supervisor dated December 7, 2009. ([Exhibit 9](#)) After reading through the email, Anthony responded "unless she got (sic) a smoking gun and I told them to do that. I don't remember that." OIG investigators then read to Anthony an email from Hickle sent prior to her retirement stating that Anthony had advised the corporate franchise section to only issue refunds from July 1, 2009, to December 2009, and that interest was not to be given on these refunds. ([Exhibit 11](#)) Anthony replied he did not recall making that statement. When Anthony was informed that the Office of the Ohio Inspector General interviewed both Hickle and Duncan and that they stated Anthony had made the decision to not issue the remaining pending refunds, he again replied he did not recall making or ordering that decision.

Upon review of the email and information learned during the weekly update meetings, only the corporate franchise section worked to correct the problem in 2009. Refunds identified as being in a pending status for the withholding section and the sales and use tax section were not issued.

In reviewing the pending refunds list, if only corporate franchise tax refunds dated July 1, 2009, to December 2009 were issued, that left 969 tax periods and \$9,205,141.29 in unpaid refunds remaining in ITAS from 1999 to June 30, 2009.

Both current and former ODT officials were unable to determine why ITAS was moving approved refunds to a pending status for the corporate franchise section. In regard to employer withholding, current ODT officials were able to determine a programming change to ITAS was made in 1998 or 1999. This change was intended to move approved refunds to a pending status if the taxpayer owed any withholding taxes within the same tax year. This would allow a tax agent to move the refund amount to cover the liability if there was enough funding available. However, the change as it was implemented would move refunds to pending if the taxpayer owed withholding taxes in any tax year. When considering the number of pending refunds that remained on the list, and from what was learned through interviews with ODT officials where they stated they were not aware of the programming change until 2012, it does not appear tax agents were not using the requested refund amount to cover any liabilities owed by the taxpayers.

Assessments/Certifications

During the review of several taxpayer accounts in ITAS, investigators noted that accounts with a potential overpayment in one tax period and a liability in another tax period were assessed a late payment. The reason for this is ITAS does not operate on a consolidated basis. For example, if a taxpayer has an overpayment in tax period A and a liability in tax period B is the same amount as the overpayment, the taxpayer will still receive an assessment related to tax period B. Even though the overall account shows a zero balance, a liability appears in a tax period so the system automatically creates an assessment. If taxpayers do not pay, the amount, along with any penalties or interest, is certified to the Ohio Attorney General's Office for collection.

The Office of the Ohio Inspector General asked several individuals during their interviews if a taxpayer would be assessed even if they had a potential overpayment on the account. Responses received ranged from "it's possible," "I'm sure it happens," to a definitive "yes." Based on the responses and review of ITAS, OIG investigators requested and received from ODT a list of all assessments \$50 and above. The list was limited to those taxpayer accounts certified to the Ohio

Attorney General’s Office from January 2008 through July 2012. This list was then compared to the list of potential overpayments for accounts where the tax period of the potential overpayment proceeded the date of the assessment. The analysis found several taxpayer account numbers identified as having both a possible overpayment and being certified to the Ohio Attorney General’s Office in a tax period that occurred at the same time or after the overpayment.

Number of Taxpayer Accounts by Tax Type that were Certified and Had Possible Overpayments

Tax Type	Taxpayer Accounts
Corporate Franchise	22
Employer Withholding	129
School District Withholding	3
Sales and Use Tax	929

Further analysis was not conducted due to the inadequate controls identified by OIA and the possibility the potential overpayments are not refundable. This list will be provided to ODT for further review.

Operational Issues

As part of the Hyre investigation, the Office of the Ohio Inspector General requested a copy of any policies and procedures related to overpayments in ITAS. This request was made due to conflicting statements made by various ODT employees regarding how overpayments were processed. OIG investigators were informed overpayments could be moved at the tax agent’s discretion if they believed they were doing what the taxpayer wanted, based on the tax returns filed by the taxpayer or information in ITAS. Other employees stated overpayments could not be moved without verbal or written taxpayer approval.

ODT officials provided, for review, a copy of a presentation used to train employees. When asked if there was an actual policy and procedure manual, ODT replied they did not have one that addressed overpayments. However, the Office of the Ohio Inspector General did find one email that was sent to employees in the sales and use tax section, dated April 5, 2011. The email was addressed “Sales Tax Overpayment Business Rules” and stated, “While reviewing a

taxpayer's account and you notice a period is overpaid. Please do not inform the taxpayer that they are overpaid. Even though the period might be overpaid, it may not be a true overpayment.”

[\(Exhibit 12\)](#)

The Office of the Ohio Inspector General also identified a string of emails between Tax Commissioner Joe Testa, Deputy Tax Commissioner Marjorie Kruse, Administrator of Internal Audit William Cort, and Executive Administrator of Agency Performance Steven Gray from late July 2012. The emails appear to indicate ODT does not have a standard template for written procedures and, in some areas, no procedures at all. Kruse sent to Cort an email on July 23, 2012, inquiring about divisions creating their own procedures. Cort replied later that day, “This is an area that is really weak in that each division is responsible for writing their own procedures.” [\(Exhibit 13\)](#)

The email was forwarded to Testa, who asked Gray about the possibility that his section would create a standard template. Gray stated he was not surprised how the various divisions were or were not creating procedures. Gray stated further, “although we'd all agree that we should enhance in areas where procedures are absent, I'm not sold completely that a uniform model or template needs to be developed, just yet. I think the STARS will do the bulk of the work for you if you let it.” Testa responded that he was reluctant to wait for something from STARS “particularly when a weakness has been identified this way.” [\(Exhibit 13\)](#)

Regularly, during interviews conducted throughout the course of this investigation, the Office of the Ohio Inspector General asked current and former ODT employees if they were aware of overpayments occurring in the system. Almost all stated they were aware overpayments occurred. When these current and former ODT employees were asked if they knew just how many overpayments there were, all stated they did not know until a query was generated on July 13, 2012. However, during an interview with Bryan Hairston, administrator of the sales and use tax section, Hairston provided documents including a summary showing amounts classified by type similar to the numeric reason codes used during the current review process. Hairston stated the documents were from a review of issues identified in ITAS in 2005.

Further inquiries of employees at ODT during that time revealed a “clean-up” of ITAS occurred in anticipation of a new system being implemented in the near future – believed to be STARS, although with a different name. The purpose of the “clean-up” was to ensure only accurate information was transferred into the new system. However, further information could not be obtained regarding precisely what happened in 2005 and if other “clean-ups” occurred after that date.

The summary document also showed ODT had 186,640 items for review totaling over \$4 billion. [\(Exhibit 14\)](#) A second document stated the “review items report” that the summary was derived from contained “almost 5,000 pages” and that “nobody in Taxation receives the aged report.” The Office of the Ohio Inspector General was unable to determine who created the documents and for what purpose they were used.

Investigators inquired about the “review items report” and were informed it was created when ITAS was first implemented in 1999. The purpose of the “review items report” was to list any items that required further action after a nightly batch process was complete. However, different tax sections wanted different items on the list. In addition, items did not fall off the list and continued to appear each day that the report was generated. As a result, the report continued to grow progressively each day and became unmanageable for practical use. The Office of the Ohio Inspector General requested and received an electronic copy of the current report and it contained 227,980 lines of data with an amount totaling \$930,767,596. If the report was actually printed on legal-sized paper, it would be 3,931 pages in length. It is unclear as to who receives the report, as some employees within the various business tax sections were unaware of the report’s existence and what it might be used for.

A common statement that was repeated during interviews regarding issues identified and not corrected in ITAS, was that there was no need for corrections because “STARS will fix it.” Moreover, when ODT officials were making the determination whether uniform procedures should be created for the various tax sections, the reply received was “I think the STARS will do the bulk of the work for you if you let it.” [\(Exhibit 13\)](#) During the course of the investigation

STARS had not been implemented, though ODT initially stated in a press release in 2008 that “Phase One changes are scheduled for completion by the end of 2009.”

During the Office of the Ohio Inspector General’s interview with former Deputy Tax Commissioner Rick Anthony on March 19, 2013, Anthony was asked to provide his opinion why STARS was still not in operation. Anthony attributed the delays to the vendor not meeting deadlines and failing to provide required deliverables. He stated ODT had enforced monetary penalties against the vendor, including withholding payments. Other current and former ODT employees also attributed the delays to the vendor.

As other state agencies are currently monitoring the implementation of STARS, further review of the issues identified was not made by the Office of the Ohio Inspector General. These agencies will keep the Office of the Ohio Inspector General informed of any developments and OIG investigators will continue to monitor the situation.

CONCLUSION

During the Hyre investigation, the Office of the Ohio Inspector General determined that a tax agent was able to use overpayments from one taxpayer account to conceal the theft of funds received from another unrelated account.²⁷ The Office of the Ohio Inspector General requested a list of all ODT overpayments to determine how easy Hyre’s actions could be duplicated by other tax agents. The Ohio Department of Taxation immediately began a review process to determine why the overpayments occurred.

The review by ODT found numerous reasons why overpayments existed, including: taxpayers failing to account for all payments made; failure by taxpayers to record payments in the correct tax period; multiple payments made by taxpayers; and data entry or other errors made by either taxpayers or ODT. Some ODT officials stated the reason overpayments may have occurred was intentional overpaying by a taxpayer. In these instances, the taxpayer is aware overpayments have been allowed to remain in ITAS without any action taken by ODT. As refunds are only

²⁷ Case #2012-CA00017, released on December 21, 2012. On December 20, 2012, Hyre was indicted by the Franklin County Grand Jury for one count of Theft in Office, one count of Tampering with Records, and nine counts of Forgery.

processed once the taxpayer submits a form in addition to their tax return, the monies continue to remain on the taxpayer account. Since the Ohio Revised Code requires interest to be paid on refunds, these taxpayers are able to obtain higher interest rates than they may be able to obtain in the private sector.

During interviews of numerous ODT officials and employees, OIG investigators asked how many overpayments were in ITAS. All stated they knew overpayments existed but no one knew how many there were in total. In testimony related to ODT's fiscal year 2014/2015 biennial budget to the Ohio House and Senate, the Ohio Tax Commissioner Joe Testa stated, "we learned it had been standard practice at the Department not to contact taxpayers if there were credit balances on their business tax accounts. We changed that practice and divisions are now actively researching credit balances and contacting taxpayers when refunds are owed to them."

[\(Exhibit 15\)](#) There is no evidence ODT was aware of this issue until the Office of the Ohio Inspector General requested a query report be generated in July 2012. In addition, based on interviews with ODT officials, since ODT had no plans to review credits or overpayments in ITAS before integrating this data into STARS, it is doubtful ODT would have discovered the 2009 "glitch" and taxpayers who requested and were approved a refund would still not be paid.

To track the amount of overpayments in ITAS during the review process, the Office of the Ohio Inspector General requested weekly data pulls of the information. It was during this time investigators were informed there were two different methods to obtain the information – a list of overpayments by tax period where the overall account balance had a negative liability and overpayments by tax period with an overall positive liability. Charts showing the amount of overpayments in ITAS from July 7, 2012, to March 29, 2013, are shown in [Exhibit 16](#). The initial list reviewed by ODT contained those overpayments with "positive liabilities." As a result, it is possible not all overpayments were reviewed by ODT and there may be more overpayments in ITAS that were not reported nor evaluated during the course of this investigation.

Besides not having any queries or reports to proactively identify and notify taxpayers of potential overpayments, ODT would not inform taxpayers of an overpayment even if a tax agent noticed

the amount on their account. In interviews with various tax agents and supervisors during this investigation and the Hyre investigation, the Office of the Ohio Inspector General was told they were specifically instructed not to inform taxpayers of potential overpayments. When asked why they were instructed not to inform taxpayers of potential overpayments, investigators were told the tax agent would need to do additional research to determine if the amount was refundable and one stated they were told it was “against the law” to do so (though the individual could not name the specific law they would be violating by not telling the taxpayer). ODT also sent out instructions to their sales and use tax agents instructing them not to inform taxpayers if the tax agent noticed overpayments on their accounts.

Though reports were created when ITAS was implemented, they became too cumbersome and are of little to no use to ODT employees. A current version of a “review items” report, listing issues for further review by tax agents, contains over 227,000 lines of data with an amount totaling over \$930 million. If the current list was to be printed, it would require over 2,000 sheets of paper to show all of the data. A separate report was recently created identifying movement of payments between tax periods for a particular taxpayer or transfers of payments between two different taxpayers. This report was created in an effort to avoid a recurrence of the situation that took place in the Hyre investigation.

The Office of the Ohio Inspector General requested policies and procedures regarding overpayments. ODT provided training slides presented to tax agents. Copies of ODT email regarding the subject of policies and procedures were obtained by the Office of the Ohio Inspector General and they show ODT did not have any policies and procedures on this issue. In fact, the email records suggest ODT failed to create policies and procedures in a number of areas and current ODT officials are just now becoming aware of this issue. ODT also did not create any policies and procedures regarding supervisory review of the new report implemented after the Hyre investigation to identify movement of payments by tax agents.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.

A constant refrain heard from current and former ODT employees regarding the lack of changes made to ITAS when issues were identified was “STARS will fix it.” STARS is intended to be a comprehensive computer system to replace 27 separate systems currently in use by ODT. Most of the ODT information technology employees are assigned to the STARS project and a request has to be made to this group for help when obtaining information from ITAS. When the Office of the Ohio Inspector General requested an interview with someone who was knowledgeable about ITAS, OIG investigators were referred to a contract employee and not an individual who worked for ODT.

In 2005, ODT conducted a “clean-up” of ITAS in anticipation of a new computer system. When asked if other “clean-ups” occurred after this initial review, ODT officials were unable to determine if one was conducted. The Office of the Ohio Inspector General inquired if there were current plans to “clean-up” the data in ITAS before the full implementation of STARS. ODT officials explained at one point, there were discussions about not moving any credits or overpayments into the new system and maintaining them in ITAS. However, a final decision had not been made.

The Office of the Ohio Inspector General continues to monitor the situation regarding the implementation of STARS; however, further investigation about the delays in the implementation was not conducted at the time of this report.

The Office of the Ohio Inspector General requested assistance from the Office of Internal Audit to determine if ODT had an adequate control process in place during the review process. OIA’s results found the process used by ODT to classify the overpayments was not reliable. In addition, ODT failed to implement a formal supervisory review process and controls were not in place to secure the spreadsheets and databases used to code each tax period. By failing to have these processes in place, it increases the risk of objectives not being met and allows for the possibility of fraud, waste, or abuse to occur.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.

Finally, officials from the current ODT administration provided information regarding an issue they had discovered from December 2009. During the review of the overpayment list, ODT officials discovered numerous tax periods were related to approved refunds the ITAS system had marked as “pending” for the corporate franchise section and withholding sections. As a result, taxpayers who had requested refunds did not receive payments.

Emails obtained by the Office of the Ohio Inspector General showed former Deputy Tax Commissioner Rick Anthony was aware of the problem and appeared to instruct the corporate franchise section to issue refunds from July 1, 2009, to December 2009. In addition, statutorily required interest on these refunds was withheld and would only be paid if a taxpayer called and requested it. ([Exhibit 11](#)) There was no mention of the withholding section receiving these same instructions.

Non-payment of the prior year refunds and interest was confirmed in interviews with former ODT employees Jackie Hickle and Tom Duncan. When interviewed by the Office of the Ohio Inspector General, Anthony initially could not recall the pending refund issue but in a second interview Anthony confirmed he was aware of the issue. However, Anthony stated that he “did not recall” giving instructions to withhold payment of the refunds and interest.

Ohio Revised Code §5733.12(B) states, “On the filing of the refund application, the commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed the commissioner shall certify the amount ...” for payment. In addition, Ohio Revised Code §5733.26(B) states, “Interest shall be allowed and paid ...” for approved refund amounts. By not issuing the approved refunds and interest, Anthony failed to follow the Ohio Revised Code.

Accordingly, the Office of the Ohio Inspector General finds reasonable cause to believe a wrongful act or omission occurred in this instance.

Throughout the investigation, there was a culture within ODT that monies in the system were considered to be either the taxpayers’ or the department’s. This was evident from conversations

during interviews with ODT officials and employees, who repeatedly stated it was “our money,” “it’s Taxation’s money,” or “it’s the department’s money.” Even the categories created by Deputy Tax Commissioner Marjorie Kruse conveyed this belief. Instead of terming the potential overpayments as refundable or non-refundable, the term “not taxpayer money” was used. Similarly, the electronic spreadsheet provided by the sales and use tax section from their database used the following to identify the codes in the category column as “O=Ours,” “U=Undetermined,” and “T=Taxpayers.” During a meeting with an ODT tax agent, the following statements were made by the agent: “we are not the taxpayers’ accountants” and “then you look at some of these and you’re like, no wonder you went out of business, you gave us all your money.”

A separate issue was identified regarding payments made in the Ohio Business Gateway being posted to a different tax period in ITAS. During an interview with one taxpayer identified as having a significant overpayment, documents provided by the taxpayer show the taxpayer made a payment in one tax period. However, information provided by ODT from ITAS show the payment was posted in a different tax period. This caused an overpayment to occur in one tax period and a liability to be shown in a separate tax period. As only one instance of this was identified during the investigation, further review was not conducted as of the date of this report.

RECOMMENDATION(S)

The Office of the Ohio Inspector General makes the following recommendations and asks the Ohio Department of Taxation to respond within 60 days with a plan detailing how these recommendations will be implemented. The Ohio Department of Taxation should:

- 1) Notify the taxpayers identified as having an overpayment on their account from the list provided on July 18, 2012, regarding the balance on their account.
- 2) Create a policy to proactively identify and notify taxpayers of any future potential overpayments.

- 3) Identify and issue payments to taxpayers who did not receive their approved refunds from 2009. Also issue interest payments to those taxpayers who did receive their refunds but interest had been withheld.
- 4) Review the list of accounts with assessments that also have potential overpayments and contact the taxpayers to determine if the overpayment should be moved to cover the liabilities.
- 5) Create formal policies and procedures regarding the supervisory review of the report identifying financial transactions made by tax agents.
- 6) Determine if a new “review items” report should be created.
- 7) Create standard language and documentation requirements to be reported in the notes field in ITAS.
- 8) Ensure payments made through the Ohio Business Gateway are posted to the correct tax period in ITAS.

REFERRALS

The Office of the Ohio Inspector General will forward this report of investigation to the Franklin County Prosecutor’s Office; the City of Columbus Prosecutor’s Office; the Ohio Auditor of State’s Office; the Ohio Office of Budget and Management; and the Office of Internal Audit for consideration.

[\(Click here for Exhibits 1 - 16 combined\)](#)



STATE OF OHIO
OFFICE OF THE INSPECTOR GENERAL

RANDALL J. MEYER, INSPECTOR GENERAL

NAME OF REPORT: Ohio Department of Taxation

FILE ID #: 2012-CA00083

KEEPER OF RECORDS CERTIFICATION

This is a true and correct copy of the report which is required to be prepared by the Office of the Ohio Inspector General pursuant to Section 121.42 of the Ohio Revised Code.

Jill Jones
KEEPER OF RECORDS

CERTIFIED
November 21, 2013

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