

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 CA-00017  
DATE OF REPORT: DECEMBER 21, 2012

## 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.



STATE OF OHIO

# OFFICE OF THE INSPECTOR GENERAL

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RANDALL J. MEYER, INSPECTOR GENERAL

## REPORT OF INVESTIGATION

**FILE ID NUMBER:** 2012 CA-00017

**SUBJECT NAME:** Kathleen S. Hyre

**POSITION:** Tax Commissioner Agent 4

**AGENCY:** Ohio Department of Taxation

**BASIS FOR INVESTIGATION:** Agency Request

**ALLEGATIONS:** Theft in Office;  
Forgery;  
Accessing Confidential Information.

**INITIATED:** February 22, 2012

**DATE OF REPORT:** December 21, 2012

## **INITIAL ALLEGATION AND COMPLAINT SUMMARY**

The Office of the Ohio Inspector General received notification from the Ohio Department of Taxation (ODT) that on or about February 14, 2012, an employee of a market located in Northeast Ohio (market), called to confirm that ODT had received his money order and applied a recent tax payment of \$424.08 on a tax liability. The ODT employee who took the call was able to confirm that this account was up to date, but noticed that the tax liability had not been paid from the money order indicated by the employee, but was paid from an overpayment/credit on another, unrelated taxpayer's account, a grocer located in Western Ohio. The money order prepared for the tax payment from the market was unaccounted for. The ODT employee who spoke with the market employee by phone notified her supervisor, Katherine Messina. The Integrated Tax Administration System (ITAS) reflects that Kathleen S. Hyre transferred monies on an account from the grocer to meet the tax liability of the market.

ODT Supervisor Messina questioned Hyre as to why she transferred the money from one taxpayer to pay the obligations of another taxpayer. Hyre responded that she didn't recall, and according to Messina "seemed nervous." On February 15, 2012, Hyre sent Messina an email that said:

I found the missing check, I processed it but didn't put it in the file. I put the processing date as February 5th which should have been the 6th but I don't remember doing anything with the grocer, should I move that money back? I don't move money without written permission from the taxpayer.

Hyre provided the original Western Union money order in the amount of \$424.08 that the market sent to the ODT to Messina's supervisor, David Peck. The money order that Hyre produced read "State of Ohio Dept of Tax" and appeared to have been altered. The ODT requested and received from the market a photocopy of the Western Union money order as it appeared when the market sent it to the ODT. This photocopy revealed that the market made the Western Union money order payable to "State of Ohio", not "State of Ohio Dept of Tax."

ODT identified four other occasions where Hyre transferred overpayments/credits from one taxpayer's account to pay the obligations of an unrelated taxpayer, without any corresponding record of payment.

Hyre was placed on administrative leave on February 21, 2012.

On February 22, 2012, the Office of the Ohio Inspector General, in conjunction with the Ohio State Highway Patrol (OHSP), initiated an investigation into this matter.

### **BACKGROUND**

The Ohio Department of Taxation is responsible for the administration and enforcement of most state and locally levied taxes. Headed by the Tax Commission, the department administers all state taxes except insurance taxes and motor vehicle license tax. The department performs such duties as registering taxpayers, processing tax returns, determining tax liabilities, issuing refunds and assessments, conducting audits, and enforcing Ohio tax laws. In addition, the department oversees the administration of the real property tax by local governments.

Taxpayer information is deemed to be confidential per Ohio Revised Code §5703.21. Ohio's taxpayers have a right to expect that their confidential tax information will not be disclosed in an unauthorized manner and both the Ohio Department of Taxation and Office of the Ohio Inspector General have taken measures to protect all taxpayer information obtained in furtherance of this investigation.

The Ohio Department of Taxation is also responsible for determining the amounts of various revenue distributions to local governments, including motor fuel tax distributions, reimbursement of local governments for property tax relief, permissive sales and use tax distributions, and allocations to counties from the Public Library Fund and the Local Government Fund.<sup>1</sup>

Sales tax is a "trust" tax that is to be collected by all retailers and certain services providers when they make taxable retail sales. It is called a "trust" tax because the consumer has entrusted this

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<sup>1</sup> Source: <http://lsc.state.oh.us/fiscal/recovery>

tax to retailers and certain service providers with the understanding that it will be reported and paid to the State of Ohio in a timely manner.

The Ohio Department of Taxation has two major computer systems, the Assessment System and the Integrated Tax Administration System (ITAS). ITAS contains all the demographics on business taxes including school district withholding, employer withholding, corporate franchise and sales and use tax. The Assessment System does not contain any demographics; it pulls the demographics from ITAS. The Assessment System contains most taxes including assessments, commercial activity, personal income tax and school district income tax.

### **INVESTIGATIVE SUMMARY**

The Office of the Ohio Inspector General obtained the original money order sent in by the market, which was a Western Union money order #14-403703961 in the amount of \$424.08 provided by Hyre and turned over to David Peck, Manager Sales and Use Tax Division, on or about February 14, 2012, from ODT and submitted it to the Ohio Bureau of Criminal Identification and Investigation's (BCI) laboratory on March 20, 2012. Jessica Toms, BCI forensic scientist, examined the money order and found that the "Pay to the Order" line had been "overwritten and obliterated".<sup>2</sup> Toms stated in her report that "State of Ohio" appeared to have been written at least three times with different writing instruments and "Dept of Tax" appeared to have been written at least twice with different writing instruments and portions may have been written with a third writing instrument. Toms found that a layer of correction fluid was also present in the "Pay to the Order" line, but could not conclusively determine what was obliterated by this layer.

The Office of the Ohio Inspector General subpoenaed Hyre's PNC personal bank records. An analysis of her account records revealed three questionable deposits. The sources of those particular deposits were money orders that appeared to have been altered. The table below shows the date, the amount and the source of the three deposits.

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<sup>2</sup> Erased so as to leave no trace.

<b>DATE</b>	<b>AMOUNT</b>	<b>SOURCE OF DEPOSIT</b>
02/10/2011	\$1059.80	6 U.S. Postal Service money orders
06/27/2011	\$921.00	1 Key Bank money order
12/20/2011	\$1,330.00	2 money orders

Based on information contained in the “purchaser” field and “memo” field on the money orders, the Office of the Ohio Inspector General traced the money orders to taxpayers that held liquor permits issued by the State of Ohio. The Office of the Ohio Inspector General interviewed the taxpayers. The taxpayers provided copies of the original money orders that were sent to ODT by the taxpayers to pay their tax liabilities and confirmed that the money orders were made payable to ODT, not Kathleen Hyre. The serial numbers, purchase date and amount on the copies provided by the taxpayers matched the serial numbers, purchase date and amount on the money orders that were deposited into Hyre’s personal bank account.

The Office of the Ohio Inspector General reviewed the taxpayer accounts in ITAS and determined that Hyre accessed an unrelated taxpayer’s account and transferred credits/overpayments from that unrelated taxpayer’s accounts to the taxpayer’s account whose money order was deposited in Hyre’s personal bank account to conceal the theft. In some instances, Hyre accessed the taxpayer’s account and removed the manual penalties from the account period which made that account period current and concealed the theft of the taxpayer payment.

During an interview with David Peck on April 5, 2012, Peck stated that in Hyre’s position as a Tax Commissioner Agent 4, she had permission to transfer funds without supervisory approval. Peck further stated that all agents have the ability to make changes to the taxpayer accounts in ODT-ITAS without supervisory approval.

In an interview with Katherine Messina, Tax Commissioner Agent Supervisor 1 on May 22, 2012, Messina stated that credits should only be transferred when the taxpayer has provided a written request for the transfer. Messina further stated that anytime a credit is transferred in ITAS, the tax commissioner agent is to place notes in ITAS as to the reason why the transfer was made.

The Office of the Ohio Inspector General conducted interviews with all of the taxpayers whose accounts were accessed by Hyre and their credits/overpayments were transferred to another unrelated taxpayer's account. In all instances, the taxpayers confirmed that they did not authorize Hyre to access their accounts and make transfers to the unrelated taxpayer's account. None of the taxpayers were aware that they had credits/overpayments on their accounts.

During an interview with the Office of the Ohio Inspector General and the Ohio State Highway Patrol on July 26, 2012, Hyre admitted to altering the Western Union money order submitted to ODT by the market. She stated that "it's something we all do, everyone in the department does." According to Hyre, when payments are received by ODT, sometimes they are missing the liquor permit number or they are hard to make out, "so we write on it to make it clearer." Hyre stated that ODT does not have a policy on the employee altering or writing on the payments received. She said, "it's agent discretion." When presented with a copy of the original Western Union money order as it appeared when the market sent it to the ODT and a copy of the Western Union money order as it appeared when Hyre found it, Hyre stated that she altered the Western Union money order by writing "Dept of Tax" after "State of Ohio" because she did not want it to get misdirected or lost in the system since she had already lost it once.

During a subsequent interview with Katherine Messina on August 16, 2012, Messina stated that it is not within the discretion of an agent to alter payments received by ODT. Messina stated that ODT has a policy regarding altering payments.

ODT's fraud policy number ODT-IA-001 states that "forgery and/or alteration of a check, bank draft, promissory notes, securities or any other financial document" is an action that would constitute fraud.

During the interview with Hyre on July 26, 2012, Hyre further admitted that she took the nine money orders in question from ODT, altered them to be payable to her and deposited them into her personal bank account. Hyre acknowledged that the overpayments/credits that she



transferred from unrelated taxpayer's accounts were still within ORC statute for those taxpayers to request a refund.<sup>3</sup>

Hyre stated information on ITAS is taxpayer-related information and is confidential information. Hyre said that ODT does not have a policy on accessing confidential information in ITAS for no reason if it is a liquor account or a transfer account.

ODT policy number ODT-IT-001 8.1.0 states "accessing or disseminating confidential information or information about another person through IT Resources without authorization is strictly prohibited." ODT policy number ODT-HR-005 states "additional instruction and advisement regarding taxpayer confidentiality is provided to all employees during the annual disclosure training."

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

## **CONCLUSION**

The Office of the Ohio Inspector General initiated an investigation after receiving information that Tax Commissioner Agent 4 Kathleen Hyre allegedly altered a money order that was sent by a market to ODT to pay its tax liability. When the market contacted ODT to confirm receipt of its payment, it was discovered that their account was current, not from a payment received, but by Hyre transferring an overpayment/credit from the grocer's account.

The investigation reviewed bank records, ODT taxpayer files, and ITAS. From this review, the Office of the Ohio Inspector General determined Hyre had taken nine money orders totaling \$3,310.80 that taxpayers submitted to ODT for tax liabilities, altered them to make them payable to her, and deposited them into her personal account. Hyre used her position to access other unrelated taxpayer accounts and transferred overpayments/credits from those accounts to the

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<sup>3</sup> ORC §5739.07(D) Subject to division (E) of this section, an application for refund shall be filed with the tax commissioner on the form prescribed by the commissioner within four years form the date of the illegal or erroneous payment of the tax, unless the vendor or consumer waives the time limitation under division (A)(3) of section 5739.16 of the Revised Code. If the time limitation is waived, the refund application period shall be extended for the same period as the waiver.

accounts of the taxpayers whose money orders she took to conceal her theft. The absence of any restrictions on changes that a tax commissioner agent can make to taxpayer accounts in ITAS, along with the fact that the tax commissioner agents receive and process payments from taxpayers, presents an opportunity for theft to occur.

After reviewing taxpayer files, ITAS, Hyre's bank account records, and interviews, the Office of the Ohio Inspector General finds that:

- On one occasion, Hyre altered a payment in the amount of \$424.08 ODT received from a taxpayer that was meant for that taxpayer's liability. Hyre turned this money order over to her supervisor after being questioned.
- On three occasions, Hyre took a total of nine money orders totaling \$3,310.80 that taxpayers submitted to ODT to pay their tax liabilities, altered them to be payable to her, and deposited the money orders into her own personal bank account.
- On eight occasions, Hyre accessed confidential personal information on taxpayers' accounts without a valid purpose to do so.

At the time of her administrative interview with ODT, Hyre resigned her position as Tax Commissioner Agent 4, effective July 31, 2012, in lieu of termination.

### **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 the recommendations should be implemented. The Ohio Department of Taxation should:

1. Internally review the actions of all department employees to determine if their conduct and practices warrant further action or training;
2. Create restrictions on employees' ability, based on position, to make changes in ITAS to taxpayer accounts without documented supervisor approval.
3. Develop and implement policies for employees who are authorized to make changes to taxpayer accounts on ITAS, including documentation of those changes.
4. Consider the benefits of segregating duties of opening the mail, logging the mail received, and processing the payments.

## **REFERRALS**

The Office of the Ohio Inspector General forwarded an investigative referral packet to the Franklin County Prosecutor's Office for consideration on October 2, 2012. On December 20, 2012, Kathleen 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.



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RANDALL J. MEYER, INSPECTOR GENERAL

**NAME OF REPORT: Ohio Department of Taxation**  
**FILE ID #: 2012 CA-00017**

**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.**

A handwritten signature in black ink, appearing to read "Jill Jones", is written over a horizontal line.

**Jill Jones**  
**KEEPER OF RECORDS**

**CERTIFIED**  
**December 21, 2012**

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