

THE TAX ADMINISTRATION AND MISCELLANEOUS TAXES ACT (TAMTA)

TAXATION DIVISION AUDITS

For the purposes of this bulletin, businesses and persons are also referred to as “taxpayers”.

This bulletin is designed to provide taxpayers with information concerning a typical Taxation Division audit. It explains the fundamentals and progression of an audit by providing information about audit selection, audit periods, assessments, refunds, appeals and more.

General information

- A Taxation Division audit is a formal examination of a taxpayer’s financial records by an authorized Taxation Division employee. Audits are typically performed at the taxpayer’s location and are conducted to ensure compliance with the tax statutes and regulations that the Taxation Division administers. Of equal importance, it also provides the Taxation Division employee (tax officer) with an opportunity to inform and educate the taxpayer on correct tax application as it pertains to their business.
- The Taxation Division administers several different tax statutes, including:
 - Retail Sales Tax (RST)
 - Health and Post Secondary Education Tax Levy (HET)
 - Corporation Capital Tax (CCT),
 - Gasoline Tax,
 - Motive Fuel Tax and the International Fuel Tax Agreement (IFTA),
 - Tobacco Tax,
 - Mining Tax.

The authority to conduct audits under these tax statutes is legislated under *The Tax Administration and Miscellaneous Taxes Act* (TAMTA).

Audit selection

- Every taxpayer is subject to audit, including out-of-province companies/persons that conduct business in Manitoba. Taxpayers that are not registered under a statute administered by the Taxation Division are also subject to audit.
- Taxpayers may be randomly selected for audit or may be chosen based on risk, projects or information suggesting potential non-compliance.
- Occasionally, audits are performed as part of a refund claim review to ensure that all taxes due to the province have been paid before the refund claim is processed.
- It is common to schedule multiple tax statute audits at one time (i.e.

RST and HET). Related or associated groups are usually audited at the same time in order that a more complete and efficient audit can be performed. This proves to be a time and cost saving practice for both the taxpayer and the Taxation Division.

Tax officer's right to enter and inspect

- A tax officer has the authority to enter any business or other premises during regular working hours where records relevant to an audit are kept. A taxpayer has the right to request a tax officer's identification prior to conducting any audit activity.
- The tax officer may review, examine, inspect and test any records that relate or could relate to the administration of the tax Act(s).
- If records are kept electronically, the tax officer can require that they be made available in the form of a printout or in a readable electronic format for inspection.
- The tax officer has the right to make and remove copies of records for further inspection.

Records required for inspection

- The taxpayer must make the records required for inspection, examination, or audit available to the tax officer upon request.
- The taxpayer must inform the tax officer of records maintained or stored off-site. The tax officer will advise which records are to be made available and if the audit should be performed at the off-site location.
- The taxpayer may be asked to provide the tax officer with written authorization to obtain records from a third party (i.e. accountant).
- Because the Taxation Division administers several tax statutes, the records required for an audit will vary. However, a typical Taxation audit requires that the following records be made available:
 - Financial statements.
 - General ledgers and/or sub ledgers (year-end working papers).
 - All records pertaining to sales including sales invoices, sales contracts, sales journals, sales summaries and/or cash register tapes.
 - All records pertaining to purchases and/or leases, including purchase invoices and disbursement journals.
 - All information regarding fixed asset additions and disposals, with supporting documentation (year-end working papers).
 - Details of all transfers from head office and/or branches.
 - Bank statements for all company accounts.
 - T4 Summaries and T4/T4A's for Manitoba.
 - Payroll registers for Manitoba employees.
 - Manitoba Workers Compensation Annual Reports.
 - Any additional information related to the operations, as may become necessary during the course of the audit.

Audit periods

- The Taxation Division generally maintains a 6 year audit period; however, by policy the audit period for specific areas of an RST audit may be limited to 4 or 2 years where the preliminary audit findings

indicate that the business is in compliance with the Tax Statutes. The following table outlines the standard audit periods:

TAX STATUTE	MAXIMUM AUDIT PERIOD
RST and Revenue Tax	6 years
HET	5 calendar years plus current
CCT	6 fiscal years
Gasoline and Motive Fuel	6 years
Tobacco Tax	6 years
Mining Tax	6 fiscal years

- A tax officer will typically audit a period that goes back 6 years from the date the taxpayer is contacted, but will not usually include a period that was previously audited. If there are significant delays in completing the audit, the audit may be extended to bring the audit up to date.
- An audit period may be extended in situations where fraud has been detected and/or trust funds have not been remitted.
- If a business has operated for a period that is less than the usual audit period, the audit will initiate from the date the business commenced.

Audit process

- **Initial Contact and Interview**

Before a taxpayer's records are examined, a tax officer will contact the taxpayer by phone and/or in writing regarding the scheduled audit. The tax officer will advise what period the audit will cover, and will provide a list of required records. An audit interview will be scheduled. Subsequently, the taxpayer will receive an engagement letter outlining the audit arrangements.

The interview will take place when the tax officer arrives to perform the audit. It should occur with the taxpayer or a representative designated by the taxpayer who is familiar with the overall operations of the business, including the accounting records, and who is able to work with the tax officer during the audit. The interview will focus on the taxpayer's operations, the accounting records, and will include a tour of the business premises. The tax officer will also discuss general audit procedures and standards the taxpayer can expect during the audit.

- **Review of Records**

During the audit, the tax officer will review, inspect and test records in order to:

- determine compliance with the tax Act(s),
- determine the existence or amount of a tax debt or credit,
- verify the accuracy or completeness of information submitted to the Taxation Division,
- determine the value of a property, service or transaction, for which a tax is payable, and
- perform any other duty or function to administer the tax Act(s).

The tax officer will address any issues that require attention, and if

necessary, will request additional information. The tax officer will periodically discuss the audit's progress with the taxpayer or the representative and will answer any questions related to the audit.

As all audits are generally performed during regular working hours, the tax officer will make every effort to ensure that the taxpayer's regular operations are disrupted as little as possible and that the audit is completed as quickly as possible. The taxpayer's co-operation with the tax officer will help expedite the audit and minimize disruption.

- **Finalizing the Audit**

Once the audit is complete, the tax officer will explain the audit findings to the taxpayer or representative. If errors were discovered, the tax officer will suggest ways to prevent them in the future. The taxpayer will receive a draft copy of the audit findings to review before the audit is finalized.

The tax officer will provide the taxpayer with a copy of the Taxation Division bulletin index and specify which bulletins relate to the business. The tax officer will also suggest ways to simplify communications with the Taxation Division, such as accessing information on the website and filing and paying taxes electronically.

Audit findings

- A Taxation Division audit can result in a nil tax finding, a tax increase, a tax overpayment or a combination of tax increase and overpayment resulting in a net adjustment, as described below:
 - **Nil Finding** – Audits that result in a nil finding require no action other than the usual post-audit discussion and audit letter.
 - **Tax Increase** - When a finalized audit results in a tax increase, the taxpayer receives the audit schedules and a finalized audit findings letter detailing the adjustments. The taxpayer has 30 days after receiving the audit letter to review the schedules and pay the tax increase, including penalty and interest. Where the taxpayer agrees with the audit findings at the time they are discussed with the tax officer, payment or arrangements for payment may be made immediately with the tax officer.
 - **Tax Overpayment** - Some audits uncover overpayments of tax. This may occur where the taxpayer has paid too much tax on purchases, paid tax on purchases when no tax was payable or when the taxpayer has over remitted tax. The tax officer will inform the taxpayer of the discovery and may request that the taxpayer quantify the total amount of the overpayment for review and verification by the tax officer.
 - **Net Adjustment** - Where audit findings include a tax increase and tax overpayment, the overpayment is netted against the tax increase before the audit is finalized. This includes findings from audits that are initiated as a result of refund claim reviews.

Post-audit findings

- Where the taxpayer disagrees with a tax increase that has resulted from an audit, the taxpayer is required to submit reasons for the disagreement along with supporting information within 30 days of the date of the final audit letter.

Notice of assessment

- A Notice of Assessment for a tax increase is issued if a taxpayer fails to acknowledge or submit payment within 30 days after receiving the audit findings letter. In cases where the taxpayer disagrees with the final audit findings, a Notice of Assessment will be issued if the taxpayer fails to submit further information within 30 days after receiving the audit letter. The assessment includes the tax increase, and could include one or more of the following:
 - Current outstanding balance separate from the audit.
 - 10% penalty on tax owing.
 - Additional penalties for neglect and carelessness (up to 50% of the tax).
 - Interest.

Appeals

- A taxpayer who disagrees with a Notice of Assessment may appeal the assessment to the independent Tax Appeals Commission, at the address shown on the Notice, within 90 days (plus 3 business days for delivery) after the date of the Notice of Assessment. A copy of the appeal must be forwarded to the director of the Taxation Division within the designated time stated above.
- Tax appeals must be submitted in writing and include the following:
 - Taxpayer's name and signature;
 - A copy of the assessment or reassessment being appealed;
 - Amounts in dispute;
 - Reasons for the appeal; and
 - Any related documentation supporting the reasons for appeal.
- A taxpayer may appeal all or a specific portion of the tax assessed and/or additional penalties for neglect and carelessness (if applicable) included in the assessment.
- The Taxation Division will respond to the taxpayer's appeal with a written submission to the Tax Appeals Commission, and send a copy to the taxpayer. The taxpayer has the right to set out in writing to the Tax Appeals Commission any comments they have on the Taxation Division's submission and may provide further information.
- The filing of an appeal does not affect the due date for payment of the total amount due. The payment is due within 30 days of the date on which the assessment was mailed or served. Interest will accrue while the total amount due is outstanding.
- The Tax Appeals Commission has the authority to affirm, amend or rescind assessments. If the assessment is rescinded or the amount is reduced on appeal, the taxpayer will receive a refund equal to any excess amount paid or remitted to the Taxation Division and any penalties and interest on the excess amount.

- If the taxpayer or the Taxation Division is not satisfied with the decision made by the Tax Appeals Commission, they may appeal to the Court of Queen's Bench. The application for this appeal must be filed with the Court of Queen's Bench within 90 days after the Tax Appeals Commission has delivered its decision to the appellant.

Voluntary disclosure

- The Taxation Division recognizes the importance of voluntary compliance and will waive penalties and will not prosecute if a taxpayer voluntarily makes a full disclosure. The taxpayer must pay the tax plus the applicable interest in full at the time of disclosure, or make a payment proposal acceptable to the Taxation Division. If the taxpayer should default on the payment proposal, the Taxation Division reserves the right not to waive penalties and to prosecute under the Act(s).
- A disclosure is considered voluntary if a taxpayer or the taxpayer's representative initiates it. It is not voluntary if it arises after the Taxation Division has undertaken some form of enforcement action, including a verbal or written notice indicating that an audit will be conducted.
- All disclosures are reviewed to confirm amounts payable. Occasionally, an audit is necessary to verify the disclosed information.

Retention and destruction of records

- All businesses are required to maintain adequate records, books of account and documents for audit purposes. They may be kept in paper, electronic or any other reasonable means in order to determine or verify
 - the amount of tax, interest and penalties to be paid or remitted,
 - the entitlement to a credit, commission or refund,
 - the entitlement to a tax exemption, and
 - compliance with the tax statutes and any applicable tax authorization or agreement.
- Records must be maintained for 6 years plus the current fiscal year. This retention period may be greater if the period includes outstanding returns, a dispute as to the amount to be paid or remitted and/or if the taxpayer is currently the subject of an inspection, audit or examination.
- If the Taxation Division has, by written notice, required a person to keep records for a specified period to enable an inspection, examination or audit to be carried out or completed, the person must not destroy the records until the end of that period or until authorized in writing to do so, whichever occurs first.
- Written authorization from the Taxation Division must be obtained before general ledgers specific to any statute can be destroyed.
- Specific to the *Mining Tax Act*, records required to determine tax payable must not be destroyed without written authorization from the Taxation Division.

Please note: The authority to destroy certain records is given only in respect of the statutes administered by the Taxation Division. The authority does not apply to any other statute or on behalf of any other jurisdiction

that may have interest in the records.

Additional information can be found in RST Information Bulletin No. 016 "Record Keeping and Retention of Records".

Audit completion time

- The amount of time it takes to complete an audit depends on the size and complexity of the audit. Well-kept records and the taxpayer's cooperation will help reduce the time needed to complete an audit.

Travel expenses

- Where records are not maintained in Manitoba, the taxpayer is required to pay for travel expenses incurred by the Province of Manitoba to send a tax officer out of the province to perform an audit. The amount is payable upon receipt of a letter for reimbursement from the Taxation Division. A Notice of Assessment will be issued if payment is not received.

Confidentiality of taxpayer information

- Information obtained from a taxpayer in the course of an audit, or in any other interaction with the Taxation Division, is covered by the confidentiality provisions of section 6 of the *Tax Administration and Miscellaneous Taxes Act*.

FURTHER INFORMATION

This bulletin is intended to serve as a guideline and is not all-inclusive. For the specific wording of the law, please refer to the *Tax Administration and Miscellaneous Taxes Act and Regulations*. Further information may be obtained from:

Winnipeg Office

Manitoba Finance
Taxation Division
101 - 401 York Avenue
Winnipeg, Manitoba R3C 0P8
Telephone (204) 945-5603
Manitoba Toll Free 1-800-782-0318
Fax (204) 948-2087

Westman Regional Office

Manitoba Finance
Taxation Division
314, 340 - 9th Street
Brandon, Manitoba R7A 6C2
Fax (204) 726-6763

E-mail: MBTax@gov.mb.ca

ONLINE SERVICES

Our Web site at manitoba.ca/finance/taxation provides tax forms and publications about taxes administered by Taxation Division, and a link to Manitoba's laws and regulations. Forms and publications can also be obtained by contacting the Taxation Division.

Our online service at manitoba.ca/TAXcess provides a simple, secure way to apply for, and to file, pay and view your Taxation Division tax accounts.