

Chapter 4

Ministry of Finance

Section 4.10

Tax Collection

Follow-up to VFM Section 3.11, 2012 Annual Report

RECOMMENDATION STATUS OVERVIEW

| | # of Actions Recommended | Status of Actions Recommended | | | |
|------------------|--------------------------------|-------------------------------|------------------------------------|--------------------------|----------------------------|
| | | Fully Implemented | In Process of Being Implemented | Little or No Progress | Will Not Be Implemented |
| Recommendation 1 | 3 | | 3 | | |
| Recommendation 2 | 4 | 2 | 1 | 1 | |
| Recommendation 3 | 1 | 1 | | | |
| Recommendation 4 | 1 | 1 | | | |
| Recommendation 5 | 1 | | 1 | | |
| Recommendation 6 | 1 | 1 | | | |
| Total | 11 | 5 | 5 | 1 | 0 |
| % | 100 | 45 | 45 | 10 | 0 |

Background

Taxes are the province's largest source of revenue. While the majority of taxes are collected through voluntary compliance, the Ontario Ministry of Finance (Ministry), through its Collections Branch (Branch), is responsible for collecting a significant portion of the unpaid taxes owed to the province. To collect unpaid taxes, the Branch sends notices by mail, contacts taxpayers by phone and sometimes visits in person. If taxes remain unpaid, collectors can use garnishments, register personal and real property liens, obtain warrants for the seizure and

sale of taxpayers' property, and exercise securities held by the province such as a letter of credit.

At the time of our 2012 audit, approximately 90% of the taxes owing that the Collections Branch was responsible for collecting related to Corporations Tax and Retail Sales Tax. The Canada Revenue Agency (CRA), which is responsible for collecting personal income tax on behalf of the province, also began administering Corporations Tax on behalf of the province in January 2009. Similarly, in July 2010 the Harmonized Sales Tax, also administered by the CRA, replaced the provincial Retail Sales Tax. As a result, about 75% of the Branch's staff of almost 400 were transferred

to the CRA in March 2012. However, the Ministry remained responsible for collecting Corporations Tax and Retail Sales Tax amounts owing prior to the transfer of the administration of these taxes to the CRA.

In the 2011 Ontario Budget, the government proposed centralizing the collection of all government non-tax revenue within the Ministry. Under this proposal, the Branch would continue to collect the taxes that it administers, but would also become responsible for collecting non-tax revenue on behalf of other provincial ministries.

At the time of our 2012 audit, the Ministry of Agriculture, Food and Rural Affairs was the first ministry scheduled to transfer the collection of its non-tax receivables to the Ministry of Finance. In the 2013/14 fiscal year, the Ministry of Finance signed agreements with several other ministries to collect more than \$1 billion of outstanding non-tax debt on their behalf. The Branch currently collects over 85% of all non-tax debt outstanding, and it expects this to increase to about 98% by 2015.

We noted in our *2012 Annual Report* that, although some write-offs are to be expected in any collection process, the Ministry expected to write off up to \$1.4 billion of the \$2.46 billion in taxes owing to the province that the Branch was responsible for collecting as at March 31, 2012. Of the \$1.4 billion, \$772 million was written off as of March 31, 2014. Another \$273 million was still in bankruptcy and insolvency. The remaining \$361 million was near the end of the collection cycle and was likely to also be written off, in light of the age of the accounts. Since the \$1.4 billion was an amount predominantly made up of older accounts that had accumulated over a number of years, it had been previously expensed in the government's financial statements.

To understand why the Branch needed to write off such a significant amount of taxes owed, we examined the collection process both for active accounts and for those accounts the Branch was considering writing off. We found that, in most of the cases we reviewed, timely collection actions had not been taken and the enforcement tools available

were not fully utilized. Some of our significant observations were as follows:

- Taking prompt action is vital in collecting debts. Research shows that the probability of full collection on a delinquent account drops dramatically as time passes. We found that once an account entered collections, it took an average of seven months for collectors to attempt to reach the taxpayer by phone. We also noted that in more than two-thirds of the cases in our sample, there was at least one instance where no collection action was taken for six months or more.
- Visiting a taxpayer's premises often increase the likelihood of collecting what is owed. Field visits were warranted but had not been made in a number of the accounts that we reviewed. For example, the Branch tried unsuccessfully for nearly two years to reach by phone a taxpayer who owed \$100,000 in Retail Sales Tax and had broken a payment arrangement, but made no visit.
- The Branch appropriately registered liens and warrants on properties, but in a number of cases that we reviewed, it then failed to enforce the liens and warrants for the seizure and sale of those properties.
- The Branch may arrange interim payment plans if a taxpayer has outstanding returns to file or needs time to determine a permanent payment arrangement. Payment arrangements were in place for almost half of the accounts that we reviewed. However, for many of these accounts and contrary to the Branch's guidelines, multiple interim payment arrangements that covered only a small portion of total debt had been in place for extended periods.
- The Branch did not always make full use of its partnerships and information-sharing agreements with third parties. For example, it may seek to have a delinquent taxpayer's motor vehicle dealer registration or liquor license suspended or revoked. We noted cases where

the Branch did not request such action on a timely basis, or at all, after normal collection efforts had been exhausted.

- At the time of our 2012 audit, the responsibility for administering Corporations tax and Retail Sales Tax had just been transferred to the Canada Revenue Agency (CRA), but responsibility for collecting the amounts owed to the province prior to the transfer remained with the Branch. As a result of the transfer, the Branch lost three-quarters of its workforce, including managers, collectors and support staff. Collectors' caseloads had in many cases doubled and in some cases tripled. At the time of our audit, the Branch had not fully evaluated its post-transfer staffing needs and, as a result, no additional staff had been brought onboard.
- In order to oversee collection activities effectively, managers should have access to sufficient and timely operational and performance information. However we found that reports produced by the Ministry's information system did not adequately support the oversight of the collection function. The Collections Branch's performance measures were also not sufficient to properly evaluate collection efforts at the Branch level and at the individual collector level.

We made a number of recommendations for improvement and received commitments from the Branch that it would take action to address our recommendations.

Status of Actions Taken on Recommendations

The Ministry of Finance (Ministry) provided us with information in the spring and summer of 2014 on the actions it had taken to address our recommendations. According to this information, the majority of the recommendations we made in our

2012 Annual Report have been fully implemented or are in the process of being implemented. For example, the Branch had refined its risk-assessment methodology to better prioritize accounts for collection action, had issued guidelines for collectors to manage and complete their assigned work according to account priority, and had made much greater use of information from the Canada Revenue Agency to assist in collection efforts. The Branch had also established new benchmarks to better track the effectiveness of its collection efforts, and a scorecard that it planned to use to benchmark itself against similar organizations in other North American jurisdictions.

Other recommendations have required more time to be fully addressed, such as ensuring that warrants for the seizure and sale of property are enforced. More work is also needed to ensure that the Branch carries out field visits on a timely basis.

The status of the actions taken on each recommendation is described in more detail in the sections that follow.

Collections Process

Overview, Collection Activities, Use of Third-party Information, Out-of-province Accounts

Recommendation 1

To maximize the recovery of amounts owing, the Ministry of Finance Collections Branch should:

- *make initial contact with delinquent taxpayers sooner and carry out follow-up efforts, including field visits in a more continuous and timely manner;*

Status: In the process of being implemented.

- *make better use of all available collection and enforcement tools, including partnership and information sharing agreements with other parties; and*

Status: In the process of being implemented.

- *continue to consider options; including obtaining any legislative authority that may be needed to allow it to initiate legal actions to collect debts from businesses and individuals residing outside the province.*

Status: In the process of being implemented.

Details

As seen in **Figure 1**, between April 1, 2012, and March 31, 2014, the Branch collected approximately \$1.2 billion in unpaid taxes. As of March 31, 2014, the total amount of the taxes owing that the Branch was responsible for recovering was \$1.94 billion, down from \$2.47 billion in 2012. However, of the \$1.94 billion, the Branch estimates that \$908 million will likely be written off. The Branch considers the remaining \$1.03 billion to be active and is focusing its collection efforts on it.

The Branch instituted a best practice in March 2013 that required all taxpayer accounts to be contacted by telephone within 30 days of their initial assignment to collections. According to statistics the Branch provided for the 2013/14 fiscal year, contact within 30 days occurred about 70% of the time. If the balance was not fully collected, secured by liens and warrants, or under an active payment arrangement, the best practice required subsequent calls to be placed every six months. Although the best practice should call for shorter intervals between follow-up calls, we noted that collectors were following up well within the six-month period for the sample of accounts that we looked at.

We also noted that field visits have decreased significantly over the last three fiscal years. In 2011/12 (at the time of our 2012 audit), the Branch carried out more than 2,500 field visits. In the fiscal years 2012/13 and 2013/14, the average number of field visits had decreased to about 60. This decrease was mainly due to the elimination of the field services unit in 2012 (discussed in more detail in the following section).

In October 2013, the Branch conducted a study to assess the benefits of field visits. It made field visits to a sample of accounts and compared the

Figure 1: Uncollected Taxes Owed as at March 31, 2012 (at the time of our audit) and March 31, 2014 (at the time of our follow-up) (\$ million)

Source of data: Ministry of Finance

| | |
|--|--------------|
| Uncollected taxes owed as at March 31, 2012 | 2,468 |
| Write-offs in 2011/12 and 2012/13 fiscal years | (772) |
| Amount of taxes owed since collected | (1,227) |
| New accounts | 1,472 |
| Uncollected taxes owed as at March 31, 2014 | 1,941 |

results to a sample for which only desk-collection activities were performed. The Branch found that both methods yielded net positive benefits considering the total costs associated with each. In March 2014, the Branch revised its best practice on field visits. It now considers making a field visit in the following circumstances:

- The account balance is \$1,000 to \$50,000 (previously \$50,000 or higher and only if the account was deemed high-risk). The Branch found in its study that field visits were most successful for collecting amounts within this range. However, field visits for accounts greater than \$50,000 can still be undertaken if considered beneficial;
- The account is less than 180 days old; and
- The client has been unresponsive to previous requests for payments or has broken payment arrangements.

At the time of our follow-up, the Branch was reviewing whether a more prescriptive approach to enforcing warrants (i.e. automatically enforcing them under specific circumstances rather than leaving it up to the judgement of individual collectors) should be taken, and how such an approach might impact taxpayers' businesses and their ability to pay outstanding amounts. The Branch expected to make a decision on the basis of its review by March 2015.

In our *2012 Annual Report*, we noted that the Branch did not make full use of the avenues available to it through its partnership agreements. For example, in several cases where taxpayers held a motor vehicle dealer registration issued

by the Ontario Motor Vehicle Industry Council (OMVIC) or a liquor license issued by the Alcohol and Gaming Commission of Ontario (AGCO), the Branch did not contact OMVIC or AGCO to have these revoked on a timely basis, or at all, after normal collection efforts had been exhausted. The Branch also needed to make better use of information that the Canada Revenue Agency (CRA) has on delinquent taxpayers for identifying their other sources of income.

Since our 2012 audit, the Branch has been cross-referencing all accounts where taxpayers hold a motor vehicle dealer registration or a liquor license to OMVIC/AGCO reports, to ensure that the information the Branch has on file is current. These reports are to be requested quarterly to ensure that information on any decisions to revoke dealer or liquor licences remains current.

To assist with collection, the Branch has made a greater effort to request information from CRA on delinquent taxpayers. Between April 1, 2013 and March 31, 2014, the Branch made 1,648 requests for information to CRA—significantly higher than its historical five-year average of 69 requests annually. The information requested included addresses, telephone numbers, banking information, employment details, and details on assets and investments. The Branch reviewed a sample of accounts and noted that CRA was able to provide information on more than half of the items that collectors requested, and that this information helped the Branch's collection efforts in many cases.

At the time of our 2012 audit, more than \$320 million in taxes was owed by individuals and businesses whose mailing addresses were outside Ontario. In February 2013, an interprovincial working group of finance officials was formed. The group presented possible options for collecting out-of-province debts at an Interprovincial Territorial Tax Conference in September 2014, and there was support for the initiatives presented.

Staffing

Recommendation 2

To mitigate the impact of the significant loss of its staff to the Canada Revenue Agency, the Ministry of Finance's Collections Branch should:

- *ensure that temporary staff hired to compensate for the loss continue to have the appropriate skill set and experience to carry out collection duties effectively;*

Status: Fully implemented.

- *reassess whether senior collectors, in addition to their regular responsibilities, will be able to carry out required field visits effectively and on a timely basis, and attend hearings for the possible suspension of liquor and motor vehicle dealer licenses, especially given their recent significant increase in caseloads; and*

Status: Little or no progress.

- *evaluate the use of private-sector collection agencies for certain aspects of its collections function.*

Status: In the process of being implemented.

In the longer term, the Branch should assess whether its current permanent staff complement is sufficient to maximize the collection of non-tax receivables.

Status: Fully implemented.

Details

At the time of our follow-up, the Branch had about 60 collectors and insolvency officers dedicated to the collection of tax accounts. While this complement has remained consistent since the time of our 2012 audit, the average caseload of each collector has decreased by 36%. This was mainly because the total inventory of accounts had decreased since the time of our 2012 audit, by 46%. The caseload per collector was close to what the Branch considered optimal, and it advised us that it would monitor the caseloads on a monthly basis to ensure that they remained close to that level.

By May 2013, collectors had received an average of 18 days of training (through formal workshops,

online training, job shadowing and self-directed study) on all aspects of the collection function.

We noted in our *2012 Annual Report* that the Branch had eliminated a dedicated unit of eight field officers who supported its desk collectors by visiting businesses and residences to review clients' records, inspecting and appraising assets, and, in some cases, negotiating payment arrangements. The field officers were also responsible for attending AGCO and OMVIC hearings for the possible suspension of licenses when taxes were in arrears or returns were not filed. Their responsibilities were transferred to senior collectors, whose caseloads had in many instances already increased significantly. This prompted us to recommend that the Branch reassess whether senior collectors, in addition to their regular responsibilities and given the significant increase in their caseloads, would be able to carry out required field visits effectively and on a timely basis, plus attend AGCO and OMVIC hearings.

As we have already noted in the previous section, since our 2012 audit, collectors' caseloads have decreased overall, which would create more opportunity to conduct field visits. However, there has still been a significant drop in field visits since 2012. According to the Ministry, field visits have historically been performed on retail sales tax accounts, and as the inventory of these accounts continue to age, the likelihood of field visits resulting in a reasonable return on the investment will decline.

In our 2012 audit, we noted that while other Ontario ministries used private agencies to collect non-tax debt, the Branch did not outsource any part of its collection function. A 2009 external review of the Branch's operations suggested that the Ministry evaluate the use of private-sector collection agencies. Similarly, a study conducted by an inter-jurisdictional tax operations network, co-founded by the Branch, found that some North American jurisdictions surveyed had outsourced some of their collections as a means of increasing their efficiency (for example, on low-value accounts, accounts located outside the jurisdiction and accounts where internal collection efforts had yielded minimal

results). We recommended that the Branch evaluate the use of private-sector collection agencies for certain aspects of its collections.

At the time of our follow-up, the Branch was not outsourcing any of its tax collection function to the private sector. In 2013, it completed a survey of 14 jurisdictions in North America on their use of private collection agencies. Half of the jurisdictions had used private collection agencies to collect outstanding debts. Based on these results, the Branch is considering piloting the use of private-sector agencies to collect outstanding tax debt by June 2015. The Branch noted that it must seek appropriate approvals before it may use outside firms.

As part of a broader review of the collections program, an external consulting firm retained by the Ministry of Finance reported in February 2014 that the Branch's current complement of tax and non-tax collectors was sufficient to address all new referrals (tax and non-tax) in a timely fashion, and work the existing tax portfolio to completion by the second quarter of 2015/16.

Account Prioritization

Recommendation 3

To ensure the effectiveness of its risk-ranking methodology for prioritizing collection efforts, the Ministry of Finance's Collections Branch should formally assess this methodology to determine whether it is ranking accounts for action appropriately and consistently. The Branch should develop guidelines to encourage collectors to use the risk scoring to prioritize their work.

Status: Fully implemented.

Details

In our *2012 Annual Report*, we noted that the Branch had a risk-scoring method that it used to prioritize accounts in OntTax (the Ministry's system for administering various tax statutes) according to criteria such as the amount owing, number of times or the length of time the account has been in collections, whether there is a history of broken promises, and if any legal actions have been taken

on the account. Once an account's priority was established, it was assigned to collectors in one of three tiers: Tier 1 (low-risk), Tier 2 (medium-risk) or Tier 3 (high-risk). However, we noted that once accounts were assigned, collectors often did not use the risk-ranking to determine the order in which they worked on the accounts. Also, the Branch had not updated or formally evaluated its risk-scoring methodology since it was developed in 2008. We noted several anomalies in the scoring that indicated a need to review and update the criteria so that collectors could make better use of this tool.

Since our 2012 audit, the Branch has reviewed OntTax's risk-scoring methodology and added a "time since last payment" criterion to better prioritize accounts. The Branch also made several adjustments to the way the existing risk criteria were scored. For example, we noted in 2012 that inconsistent collection practices affected the score assigned to accounts. For instance, the system assigned points to an account every time a notice was sent out, and because some collectors sent out more notices, some accounts were assigned more points (creating a higher risk-score), depending on which collector worked on them. At the time of our follow-up, the Branch had addressed this anomaly by no longer assigning points to multiple letters relating to the same collection action.

At the time of our follow-up, the Collections Branch had also issued guidelines to collectors instructing them to prioritize their assigned work according to the risk scores assigned by OntTax, unless directed otherwise by their managers.

Oversight of Collection Activities

Recommendation 4

To ensure that collection efforts are appropriate, timely and in compliance with established procedures, the Ministry of Finance's Collections Branch should ensure that collectors document any follow-up action taken in resolving issues identified during reviews of their work. The Branch should also identify any systemic concerns, as well as best practices, from its

ongoing reviews of active files as well as accounts that are submitted for write-off.

Status: Fully implemented.

Details

In our 2012 Annual Report, we noted that managers had identified issues in their semi-annual performance reviews of collectors, such as the timeliness of collection actions, incomplete documentation and failure to use all available tools in the collection effort. Although the managers informed us that they had discussed these issues with the collectors, we found no evidence of any required action or follow-up to ensure that staff were making the required changes. We also noted that there was no overall analysis or related feedback on any systemic concerns identified through either managers' reviews or the Branch's review of accounts submitted for write-off.

Since then, collection managers have started to stagger their reviews and select accounts on a bi-monthly basis instead of semi-annually to evaluate collector performance. After a review, managers re-visit the accounts to determine whether the collector has performed the required follow-up or implemented the manager's recommendations. Systemic concerns arising from manager reviews and Branch reviews of write-offs are discussed with staff and are a standing agenda item in the Branch's management meetings.

Management Reports

Recommendation 5

In light of the fact that the OntTax system will continue to support the collection and administration of the remaining tax statutes, as well as the collection of the province's non-tax amounts owing if the Branch's role is expanded, the Ministry of Finance's Collections Branch should work with ministry systems staff to ensure that the system reports provide complete, accurate and up-to-date information on debtors' accounts.

Status: In the process of being implemented.

Details

In our *2012 Annual Report*, we noted problems with accounts that had migrated to OntTax from an older system in 2008. The Branch could not determine the portion of these “legacy” accounts that had been secured by liens or warrants, and payment plans for them often did not cover the total amount of the debt owing, although OntTax reported the total amount of the debt as being covered by the plan. As a result, OntTax was not providing an accurate picture of the tax-receivable inventory that was secured by payment plans. It also did not provide details such as the number, amount and frequency of instalments associated with individual payment plans.

In April 2014, the Branch analyzed the over 2,500 accounts that had been migrated from the older system to OntTax and determined that they were all secured by liens and warrants. In addition, as of January 2014, OntTax reports only the portion of the tax-receivable inventory that is covered by payment plans. The Branch has identified other system enhancements that can be made to OntTax, which it plans to complete by December 2014.

Performance Measures

Recommendation 6

To enable it to better track the effectiveness of its collection efforts, the Ministry of Finance’s Collections Branch should have more clearly defined benchmarks and performance measures for collection, both for the Branch itself and for individual collectors. The outcomes should be tracked, evaluated against established benchmarks and reported periodically.

Status: Fully implemented.

Details

At the time of our follow-up, the Branch had instituted two new measures: the percentage of debt that was less than one year old, and the percentage of accounts receivable collected. The Branch has also introduced regular forecasting of accounts receivable, dollars collected, number of accounts and write-offs. Variances are reported and explained to the Branch Director on a monthly basis.

Beginning in 2013/14, individual collectors’ performance plans included measures such as initial phone calls taking place within 30 days of account referral to collections, the number of accounts with no activity within 180 days, and liens and warrants registered on accounts within 90 days. For accounts that are in bankruptcy or insolvency, the Branch also introduced total monthly activity (i.e., total number of calls, searches, etc.) as a new performance measure for collectors.

In March 2013, a consulting firm completed its development of a scorecard for the Branch and its individual collectors. The scorecard measures the following:

- recovery rate;
- cost to collect \$1;
- write-offs as a percentage of accounts receivable;
- percentage of accounts with payment arrangements; and
- number of days that receivables are outstanding.

The scorecard is produced on a quarterly basis, and the Branch intends to use it to benchmark itself against similar organizations.