

DEPARTMENT OF REVENUE

STATE OF LOUISIANA



FINANCIAL AUDIT SERVICES
MANAGEMENT LETTER
ISSUED FEBRUARY 3, 2021

**LOUISIANA LEGISLATIVE AUDITOR
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Louisiana Legislative Auditor

Daryl G. Purpera, CPA, CFE

Department of Revenue



February 2021

Audit Control # 80200104

Introduction

As a part of our audit of the State of Louisiana's Comprehensive Annual Financial Report (CAFR) and our work related to the Single Audit of the State of Louisiana (Single Audit) for the fiscal year ended June 30, 2020, we performed procedures at the Louisiana Department of Revenue (LDR) to provide assurances on financial information that is significant to the state's CAFR; evaluate the effectiveness of LDR's internal controls over financial reporting and compliance; and determine whether LDR complied with applicable laws and regulations. In addition, we determined whether management has taken actions to correct the findings reported in the prior year.

Results of Our Procedures

Follow-up on Prior-year Findings

Our auditors reviewed the status of the prior-year findings reported in the LDR management letter dated December 23, 2019. We determined that management has resolved the prior-year findings related to Inadequate Preparation of the Annual Fiscal Report and Duplicate Individual Income Tax Refunds.

Current-year Finding

Noncompliance with Tax Incentive Reporting to the State Legislature

LDR failed to submit a comprehensive return on investment (ROI) analysis to the State Legislature by April 1, 2020, for all tax incentives for which the revenue loss was one million or more in fiscal year 2019, as required by state law.

Louisiana Revised Statute (R.S.) 47:1517.1(B)(5) requires that LDR, beginning in 2020, perform a comprehensive ROI analysis for all tax incentives for which the revenue loss was one million dollars or more in the previous fiscal year. The ROI analysis is required to be performed by LDR regardless of whether LDR or another state agency administers the tax incentive. LDR's reporting of these results shall include a ranking of tax incentives by ROI and shall be due

April 1 of every even-numbered year to the State Legislature for consideration in the following odd-numbered-year legislative session.

LDR's interpretation of R.S. 47:1517.1(B)(5) is that the provisions require LDR to start an analysis in calendar year 2020, but that the April 1 deadline established in R.S. 47:1517.1(B) was not applicable to subsection (B)(5). In addition, LDR planned to use fiscal year 2020 data for the analysis since this information was not expected to be considered until the 2021 Regular Legislative Session. As of December 15, 2020, the ROI analysis has not been completed for submission to the Legislature.

Failure to timely submit the comprehensive ROI analysis to the State Legislature may prevent legislators from having an accurate measurement of the impact of each tax incentive on Louisiana for proper consideration during the Legislative Session.

LDR should prepare and submit a comprehensive ROI analysis to the State Legislature by April 1 of each even-numbered year for all tax incentives for which the revenue loss was one million or more in the prior fiscal year. Management did not concur with the finding stating "contradictory statutory interpretations" between LDR and LLA (see Appendix A).

Additional Comments: Management interprets that the deadline established in R.S. 47:1517.1(B) does not apply to the comprehensive ROI analysis and stated that LLA "was knowledgeable of and shared LDR's statutory interpretation" due to statements made in a LLA report titled "Louisiana Quality Jobs Program – Tax Incentive Evaluation" which was issued on March 12, 2020. However, the statements made, and the report in general, did not address the procedural deadlines for LDR's reporting.

Comprehensive Annual Financial Report (CAFR) – State of Louisiana

As a part of our audit of the CAFR for the year ended June 30, 2020, we considered internal control over financial reporting and examined evidence supporting certain account balances and classes of transactions as follows:

Revenues - Corporate Income and Franchise tax, Individual Income tax, Sales tax, Severance tax, and Gasoline and Special Fuels tax

Receivables - Modified Accrual Receivables on the revenues listed above and Full Accrual Receivables in the aggregate

Note Disclosures - Refunds Payable and Tax Abatement Programs

The account balances and classes of transactions tested, as adjusted, are materially correct.

Federal Compliance - Single Audit of the State of Louisiana

As a part of the Single Audit for the year ended June 30, 2020, we performed procedures as required by Title 2 U.S. Code of Federal Regulations Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) on information submitted by LDR to the Division of Administration's Office of Statewide Reporting and Accounting Policy on the status of the prior-year findings for the preparation of the state's Summary Schedule of Prior Audit Findings.

LDR's information submitted for the preparation of the state's Summary Schedule of Prior Audit Findings, as adjusted, is materially correct.

Other Procedures

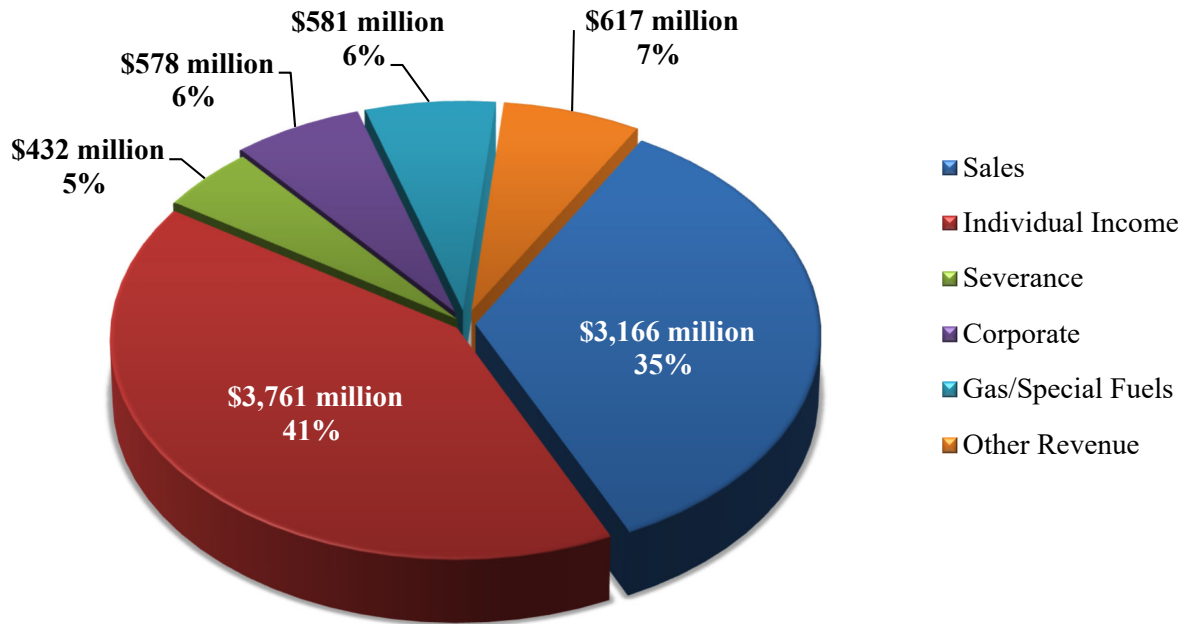
In addition to the CAFR and Single Audit procedures noted above, we performed certain procedures that included obtaining, documenting, and reviewing LDR's internal control and compliance with related laws and regulations over the collection of non-resident professional athlete income taxes attributable to the Sports Facility Assistance Fund, hotel/motel sales tax distributions, tax increment financing, and LDR's return on investment analysis for certain tax incentives.

Based on the results of these procedures, we reported a finding related to Noncompliance with Tax Incentive Reporting to the State Legislature, as described previously.

Trend Analysis

We compared the most current and prior-year financial activity using LDR's Annual Fiscal Reports and/or system-generated reports and obtained explanations from LDR's management for any significant variances. We also prepared an analysis of fiscal year 2020 tax revenue collections. The majority of revenues collected by LDR, 76% of total tax revenues, are generated by the collection of Individual Income tax and Sales tax.

Fiscal Year 2020 Collections



Source: Fiscal Year 2020 Department of Revenue Annual Fiscal Report, as adjusted.

The recommendation in this letter represent, in our judgment, that which will most likely bring about beneficial improvements to the operations of LDR. The nature of the recommendation, its implementation costs, and its potential impact on the operations of LDR should be considered in reaching decisions on courses of action. The finding related to LDR's compliance with applicable laws and regulations should be addressed immediately by management.

Under Louisiana Revised Statute 24:513, this letter is a public document, and it has been distributed to appropriate public officials.

Respectfully submitted,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

CJH:EBT:BQD:EFS:ch

LDR2020

APPENDIX A: MANAGEMENT'S RESPONSE

State of Louisiana
Department of Revenue

JOHN BEL EDWARDS
Governor



KIMBERLY LEWIS ROBINSON
Secretary

January 14, 2021

Mr. Daryl G. Purpera, CPA, CFE
Louisiana Legislative Auditor
Post Office Box 94397
Baton Rouge, LA 70804-9397

Re: Louisiana Department of Revenue's (LDR) Response
LLA's Annual Financial Audit of LDR
Topic of Finding(s): Noncompliance with Tax Incentive Reporting to the State Legislature

Dear Mr. Purpera:

At the culmination of its annual financial audit of the LDR, the Office of the Louisiana Legislative Auditor (LLA) issued a finding which determined LDR is not in compliance with its duty to submit a report to the Louisiana State Legislature (Legislature). The finding focuses on a reporting requirement outlined in R.S. 47:1517.1(B)(5), which requires the LDR to conduct a comprehensive return on investment (ROI) analysis for all tax incentives with a revenue loss of one million dollars or more during the prior fiscal year (despite which state agency administers the tax incentive). More specifically, the LLA construed from its reading of R.S. 47:1517.1(B)(5), that the report was due on April 1, 2020; and, as a result concluded the LDR did not meet the deadline to submit the report.

Meanwhile, in its consideration and preparation to administer the statute (which occurred when the statute was enacted), and in its review of the LLA's finding, the LDR reviewed R.S. 47:1517.1(B)(5), which states as follows.

Beginning in 2020, in addition to the reports provided for in this Section, ***the Department of Revenue shall perform a comprehensive return on investment analysis*** for all tax incentives for which the revenue loss was one million dollars or more in the previous fiscal year. This return on investment analysis shall be performed by the department regardless of which agency administers the tax incentive. The department's report of the results shall include a ranking of tax incentives by return on investment. (Bold and italicized emphasis supplied by me).

Contributing to a better quality of life.

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In short, the language of the statute that was placed in bold and italicized (as shown on the preceding page) shows that beginning in 2020 the LDR shall perform a comprehensive ROI analysis. However, it does not say the LDR shall ***perform*** a comprehensive ROI analysis ***and submit*** a report by April 1, 2020. Moreover, in keeping with LDR's statutory interpretation (which occurred when the statute was enacted), LDR crafted and implemented its agency's plans to administer the statute in order to provide the Legislature with the required information. In short, LDR prepared to begin the ROI analysis in 2020 and present the information to the Legislature prior to the start of the 2021 Legislative Session.

LDR was not alone in its statutory interpretation of R.S. 47:1517.1(B)(5) as your office was knowledgeable of and shared LDR's statutory interpretation. More specifically, the LLA's Performance Audit on the Louisiana Quality Jobs Program–Tax Incentive Evaluation (Performance Audit) which was issued on March 12, 2020, stated, "LDR needs to account for this [account for the SUTR and PFER rebates] in its return on investment analysis starting in 2020" and that "LDR should account for out of-state purchases when it starts conducting its return on investment analysis in calendar year 2020."¹ These statements show the LLA was knowledgeable of LDR's statutory interpretation and also shared it because the statements directly refer to when "it [LDR] starts conducting its return on investment analysis" rather than when LDR would issue its report.

In addition to these statements, the LLA had numerous conversations with LDR during the Performance Audit wherein the methodology of the Performance Audit was discussed as well as the LDR's plans for the ROI analysis. These discussions, the statements included in the Performance Audit and the date the Performance Audit was issued (March 12, 2020 [a mere 18 days before the LLA's suggested deadline of April 1, 2020 for the R.S. 47:1517.1(B)(5) report]) shows it would be counterintuitive for the LDR to contemplate that its statutory interpretation would be deemed incorrect due to the LLA taking a future contrary position on the statutory interpretation of R.S. 47:1517.1(B)(5).

Notwithstanding the contradictory statutory interpretations between our agencies, here's a brief overview of the steps LDR has taken and will take to comply with R.S. 47:1517(B)(5), to issue LDR's analysis in the most efficient and highest quality fashion, and to assist the Legislature to best utilize the information in its decision making process. First, the finalized 2020 fiscal year tax return data will be gathered, used and analyzed as the basis for the inaugural R.S. 47:1517(B)(5) report. Utilization of this finalized data will ensure the Legislature that the ROI analysis was done with the most meaningful and most recent tax data regarding tax incentives. Second, LDR has been actively seeking an educated and experienced economist to ensure the ROI analysis and ranking is performed through the use of sound economic principles that can be relied upon by LDR, the Legislature and other stakeholders. Third, due to the need for sound

¹ Performance Audit on the Louisiana Quality Jobs Program–Tax Incentive Evaluation, March 12, 2020, See the link below and review page 18 of the report (Page 22 of the pdf document).

[http://app.lla.state.la.us/PublicReports.nsf/0/8EB357BB7A433121862585290075E1CE/\\$FILE/Quality%20Jobs.pdf?OpenElement&.7773098](http://app.lla.state.la.us/PublicReports.nsf/0/8EB357BB7A433121862585290075E1CE/$FILE/Quality%20Jobs.pdf?OpenElement&.7773098)

Letter to: Daryl Purpera, CPA, CFE
Re: Noncompliance with Tax Incentive Report
January 14, 2021
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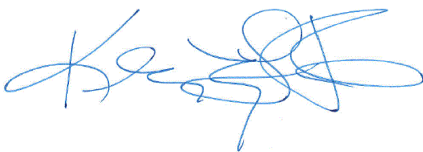
and reliable ROI analysis and rankings, LDR will be extremely cautious in considering whether supplemental, amended or modified information should be issued (to avoid creating confusion among the Legislature and other stakeholders that rely on LDR's analysis).

These aforementioned steps are critical because in addition to the enactment of R.S. 47:1517.1(B)(5), the importance of an ROI analysis and ranking was also discussed with emphasis in the recommendations of the HCR 11 Task Force which stated, the "reporting must include information on the return on investment for each program in terms of the fiscal impact, the economic impact and other metrics relevant to program performance."²

In short, LDR has respectfully heeded the thoughts, decisions and input shared by the Legislature and the HCR 11 Task Force, has taken steps to ensure the ROI analysis and rankings are done in a sound manner for the benefit of all of its stakeholders, and has avoided any undue rush or bias created by the assertions of others. With this in mind, LDR has provided updates to interested stakeholders regarding the status of the steps discussed in the preceding paragraph and has also engaged in various discussions with the LLA. Though LDR's efforts have been impacted and/or hindered by the loss of qualified personnel, the search to replace personnel, the identification and procurement of proper software to aid an economist in performing the analysis, and COVID-19, LDR remains committed and on track to provide the Legislature with the statutorily required information prior to the start of the 2021 Legislative Session.

Should you have any questions or require additional information, please feel free to contact me.

Sincerely,



Kimberly Lewis Robinson
Secretary
Louisiana Department of Revenue

cc: Joyce Anderson, Undersecretary, Louisiana Department of Revenue
Luke Morris, Assistant Secretary, Office of Legal Affairs, Louisiana Department of Revenue

² "Louisiana's Opportunity: Comprehensive Solutions for a Sustainable Tax and Spending Structure," Task Force on Structural Changes in Budget and Tax Policy, January 27, 2017, p. 52.

APPENDIX B: SCOPE AND METHODOLOGY

We performed certain procedures at the Louisiana Department of Revenue (LDR) for the period from July 1, 2019, through June 30, 2020, to provide assurances on financial information significant to the State of Louisiana's Comprehensive Annual Financial Report (CAFR), and to evaluate relevant systems of internal control in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States. Our procedures, summarized below, are a part of the audit of the CAFR and our work related to the Single Audit of the State of Louisiana (Single Audit) for the year ended June 30, 2020.

- We evaluated LDR's operations and system of internal controls through inquiry, observation, and review of its policies and procedures, including a review of the laws and regulations applicable to LDR.
- Based on the documentation of LDR's controls and our understanding of related laws and regulations, we performed procedures to provide assurances on certain account balances and classes of transactions to support our opinions on the CAFR.
- We performed procedures on the status of prior-year findings for the preparation of the state's Summary Schedule of Prior Audit Findings for the year ended June 30, 2020, as a part of the 2020 Single Audit.
- We compared the most current and prior-year financial activity using LDR's Annual Fiscal Reports and/or system-generated reports to identify trends and obtained explanations from LDR's management for significant variances.

In addition, we performed procedures on the collection of non-resident professional athlete income taxes attributable to the Sports Facility Assistance Fund, hotel/motel sales tax distributions, tax increment financing, and LDR's return on investment analysis for certain tax incentives. The scope of these procedures was significantly less than an audit conducted in accordance with *Government Auditing Standards* issued by the Comptroller General of the United States.

The purpose of this report is solely to describe the scope of our work at LDR and not to provide an opinion on the effectiveness of LDR's internal control over financial reporting or on compliance. Accordingly, this report is not intended to be, and should not be, used for any other purposes.

We did not audit or review LDR's Annual Fiscal Report, and accordingly, we do not express an opinion on that report. LDR's accounts are an integral part of the state of Louisiana's CAFR, upon which the Louisiana Legislative Auditor expresses opinions.