LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

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LOUISIANA DEPARTMENT OF REVENUE (LDR)
SEVERANCE TAX PAYMENTS

The state Department of Revenue should improve the way it collects oil and gas severance taxes because the state may be losing out on potentially millions of dollars of revenues under the existing program, according to an audit released Monday by Legislative Auditor Daryl Purpera's office.

The performance audit said that while the state agency sees to it that the severance taxes are paid on time, it "needs to improve its current processes to ensure that these payments are complete and accurate."

The audit covered severance tax receipts between 2009 and 2012. The department's own data for fiscal years 2009 and 2010 identified $11.7 million in potentially unpaid severance taxes, according to the audit.

The audit said that prior to September 2010, the revenue department's "Gen Tax" automated system automatically detected and sent estimated tax assessments to oil and gas companies based on past returns if they did not file required taxes, including severance taxes. However, the agency turned the function off in 2010 after revenue department officials said the program was "sending out erroneous assessments and the department was receiving complaints."

The audit said the agency is expected to resume using the program for severance taxes in December.

The revenue department's review of "severance tax refund requests is inadequate," the audit pointed out. "As a result, from July 2010 through May 2012, LDR identified that it overpaid at least $12.9 million in refund payments to companies."

During the 2012-13 fiscal year that ended June 30, the state received $821 million in severance taxes, about $90 million from natural gas and $731 million from oil. "Because severance taxes comprise approximately 10 percent of the state's general fund revenues each year, it is important for LDR (the Louisiana Department of Revenue) to ensure these payments are accurate and timely," the audit said.

The audit also said that the Department of Revenue does not "adequately verify the accuracy" of oil and gas companies' self-reported data used to determine how much they owe the state in severance taxes. Legislative auditors reported they randomly reviewed 29 tax payments between 2008 and 2012 and eight were inaccurate, resulting in underpayments of $41,452. The revenue department processes about 500,000 severance tax payments each year, and as a result "the financial impact of companies using inaccurate data to determine the severance tax amounts they owe the state could be more significant."

The audit said that the department should "continuously monitor and compare" the companies' self-reported production data to production information collected by the state Department of Natural Resources to better insure accuracy of oil and gas severance tax payments.

The audit said that the total of unpaid severance taxes found through field audits – audits conducted at the site of oil and gas companies with full records available – has decreased from $26 million in the 2010 fiscal year to less than $41,000 in the 2012 fiscal year. The report said one of the reasons for the sharp decline in revenues was shifting the severance tax field audit authority from the revenue department to the natural resources department which uses different guidelines to audit the companies. However, in July 2013, the function moved back to LDR.

The report said that DNR only conducted field audits on companies that paid royalties on minerals produced on state-owned lands. Leases located on state-owned land make up less than 2 percent of 61,879 active oil and gas leases. Staffing shortages also hampered audit efforts.

The audit pointed out that the revenue department made 13,818 severance tax refund payments totaling more than $384 million, including $23.9 million in interest, between July 1, 2008 and June 30, 2012.

Based on 461 refunds issued, the department found it overpaid $12.9 million between 2009 and 2012. "LDR's review of severance tax refund requests is inadequate," the audit said. "LDR staff does not ensure that all refund requests are accurate before sending them to companies." The department said it has recouped $3.3 million of the $12.9 million as of January 2013.

The audit said LDR monitors the refunds after the payments are made.

"While instituting back-end reviews helps detect inaccurate payment refunds, this process results in additional work for LDR employees who have to recoup the overpayments," the audit said. "A more effective and efficient process may be for LDR to implement a comprehensive review of requests before refunding payments."

The audit recommended the natural resources and revenue departments change program rules to limit the amount of severance tax refunds and interest that companies can collect when they file for severance tax exemptions after paying the taxes. State law requires the revenue department to pay companies interest on severance tax refunds at the judicial interest rate which state law sets. The audit said that "the judicial interest rate for 2009 was 5.50 per cent, 3.75 per cent for 2010, and 4.00 per cent for 2011 and 2012. However, this creates an incentive for companies to delay submission of their exemption applications as the longer they wait, the more interest they receive.

For more information, contact:
Daryl G. Purpera, CPA, CFE
Legislative Auditor
225-339-3800

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