Progress Report

Program Evaluation Unit
Legislative Finance Committee
October 30, 2017

Tax Gap, Audit & Compliance, and Fraud

Summary

The Evaluation: *The LFC evaluation **Tax Gap, Audit & Compliance, and Fraud** looked at TRD's effectiveness in reducing the state's tax gap, the difference between taxes owed and paid. The report found more could be done to identify where to focus efforts in collecting unpaid taxes and reducing fraud, including ensuring the department is adequately resourced to collect these monies.*

Of the key recommendations highlighted at the end of this progress report, TRD has completed two items, and is making progress towards 11 more for a response rate of 93 percent.

State general fund revenues declined $1 billion between FY15 and FY16, primarily driven by changes in the energy market. With volatile oil and gas revenues, which drive approximately 30 percent of the general fund, the state must ensure other revenue sources are effectively collected to pay for state government functions. The Taxation and Revenue Department (TRD) is the primary entry point for almost all of the state's tax revenues. However, in a 2016 evaluation *Tax Gap, Audit & Compliance, and Fraud*, staff found TRD is not deploying all tools possible to ensure the state is collecting all taxes due. In the current fiscal environment, not collecting millions of dollars in revenue could present the Legislature with difficult choices in how to fund government.

This progress report notes ongoing concerns flagged in the 2016 evaluation persist, including staff resource allocation, turnover, management of protests, monitoring tax code loopholes, and proper reporting despite TRD efforts to address these issues. When combined with less budget resources overall, the department is hindered in its ability to most effectively collect unpaid taxes. The department also needs to provide data on large dollar risks to the general fund, especially related to tax protests, which are currently not able to be considered in generating revenue estimates for budget making. Furthermore, the evaluation found tax expenditure design weaknesses impact state revenues much more than expected, as shown by recent tax protest decisions favoring the taxpayer, resulting in general fund impact in the millions of dollars.

Progress Reports foster accountability by assessing the implementation status of previous program evaluation reports, recommendations and need for further changes.

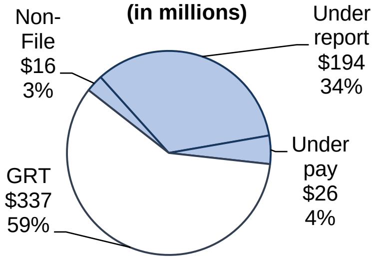
NEW MEXICO LEGISLATIVE FINANCE COMMITTEE

Background

TRD estimated the state's tax gap is over half a billion dollars.

The greatest amount of tax dollars are lost through loopholes in the tax code requiring constant oversight and statutory correction. Additionally, the tax gap manifests itself in various ways including avoidance of paying owed taxes most often linked to the cash economy, protesting tax decisions made by TRD, or presenting fraudulent claims for refunds. LFC staff made various recommendations for TRD to identify areas where tax collection efforts could be expanded to reduce the tax gap and collect more revenue for the state.

Chart 1. 2013 Tax Gap Estimates
(in millions)



Source: TRD

The Taxation and Revenue Department (TRD) presented testimony to the Legislative Finance Committee (LFC) in August 2013 that set the gross income tax gap at $236 million and the gross receipts tax gap near $340 million, for a total of $573 million. Ongoing assessment of the tax gap would guide TRD in creating a strategy to prioritize collection of unpaid taxes, appropriately deploy resources to the highest return-on investment (ROI) collection efforts, and measure impact of tax gap initiatives at the department.

The 2016 evaluation identified areas where TRD may be focusing excessive resources on projects yielding smaller returns-on-investment, when combined with less resources overall, may be hindering the department's ability to most effectively collect unpaid taxes. Furthermore, the evaluation found tax expenditure design weaknesses impact state revenues much more than expected, as shown by recent tax protest decisions favoring the taxpayer, resulting in general fund impact in the millions of dollars.

Tax protests present a sizeable risk to the general fund

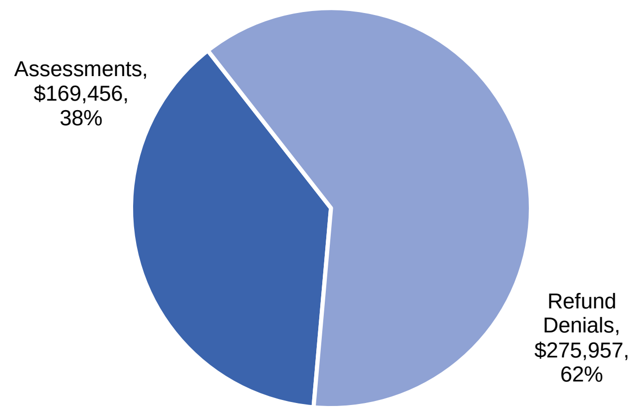
As of October 2017, almost half a billion dollars are under tax protest.

Tax protests are a normal part of tax collection, allowing a mechanism for the taxpayer to challenge the state's assessment of taxes owed.

Tax protests represent the riskiest tax gap item as protests can be high dollar value. Taxpayers can request an administrative hearing to challenge taxes assessed, which is a joint function between the Protest Bureau of TRD and the Administrative Hearings Office (AHO). However, with significant growth in dollars under protest, it has become vital to consider the downside risk to general funds revenues protests can present.

As of October 2017, there is almost half a billion dollars in outstanding tax protests as noted in Chart 2.

Chart 2. Open Tax Protests as of Oct 2017
(in thousands)
Total: $445 Million



Source: TRD

The majority of these protests are for denied refunds, of which 99.9 percent were gross receipts tax and corporate income tax refunds. Even if a third of these protests are resolved in favor of the taxpayer, the state would stand to lose $147 million in general fund revenue quickly if the taxpayer elected a refund over a tax credit against future tax liability. Industry analysts have expressed concern over the amount of refund denials resulting in protests, creating backlogs and delaying revenue collection by TRD.

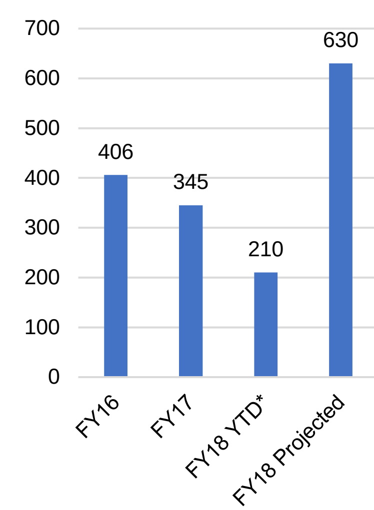
TRD created a database to track tax protests, which should allow for reporting key metrics on this process.

In FY16, TRD closed 1,899 protests of a total 1,940 filed, with 32 percent being resolved in favor of the taxpayer. Results were slightly more favorable in FY17, where 27 percent of a total 1,523 protests closed favored the taxpayer. It is worth noting these protests can uncover weaknesses in the tax code, leading to a woodwork effect among similar taxpayers. Such was the case when weaknesses in the High Wage Job Tax Credit statute were identified, where TRD received a more than tenfold increase in credit applications before changes in the law went into effect. Therefore, TRD staff and the Administrative Hearings Office should regularly track which statutes are receiving tax protests in order to identify any statutory weaknesses the Legislature should address.

Following a recommendation from the 2016 evaluation, TRD is completing implementation of a database system to track tax protests, which were previously tracked manually. This database should allow for regular tracking of potential risk to the general fund from protests, which can then be factored into the consensus revenue estimating process.

The volume of tax protests TRD refers to the Administrative Hearings Office is increasing significantly. The Administrative Hearings Office (AHO), is tasked with addressing various hearing processes, but a significant part of this agency's work is tax protests. As noted in Chart 3., tax protests handled by AHO totaled 406 in FY16 and 345 in FY17. In FY18, protests referred by TRD have totaled 210 to date. If protests continue to be referred at this rate. LFC staffs projects AHO could conduct 636 hearings this fiscal year, an 83 percent increase.

Chart 3. TRD Referrals to AHO FY16-FY18 Projected

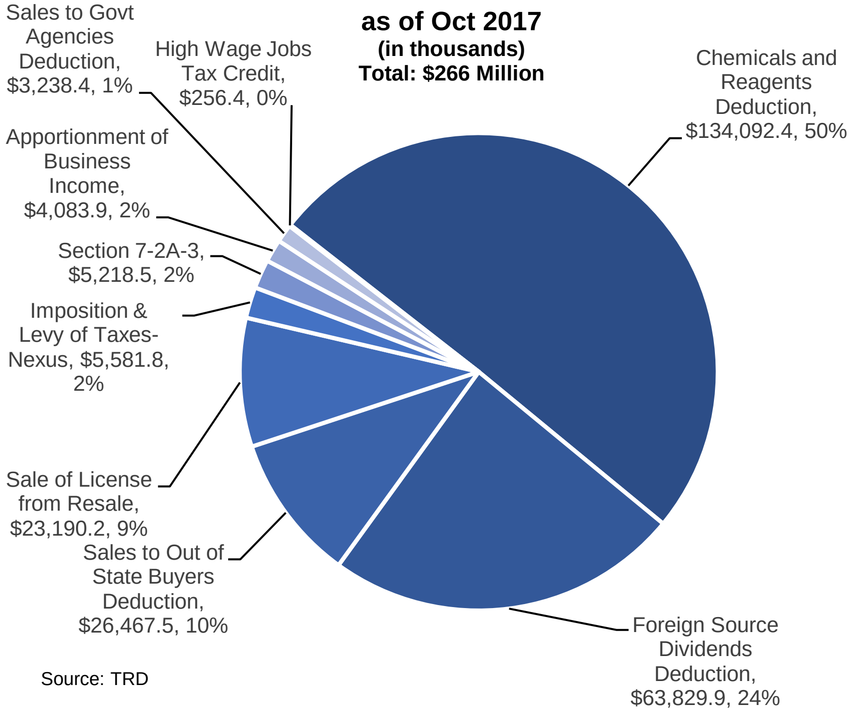


Source: LFC Analysis of AHO Data

The amount of time between when a protest hearing is requested and when it occurs is also a concern. Section 7-1B-8 NMSA 1978 stipulates tax protests not resolved by TRD must be scheduled for hearing before AHO within 45 days of receipt, and the hearing must occur within 90 days of the original protest request from the taxpayer. However, 72 percent of the total 345 protests referred to AHO by TRD in FY17 occurred after the 45-day deadline.

Nine tax expenditures account for over 60 percent of current open tax protests. TRD compiled a Top 10 list of highest dollar volume protests open as of October 2017 for assessments, refund denials, and business credit denials. Of the $447 million in outstanding protests, taxpayers are protesting $134 million (30 percent) for a deduction for chemicals and reagents (Section 7-2A-2 NMSA 1978), and $64 million (14 percent) is under protest for taxation of foreign dividends as shown in Chart 4.

Chart 4. Top Tax Protests by Tax Expenditure or Statute Protested as of Oct 2017
(in thousands)
Total: $266 Million



Source: TRD

The Legislature enacted the Chemicals and Reagents Deduction (Section 7-9-65 NMSA 1978) in 1969 with the presumed purpose of reducing tax pyramiding, as stated in TRD's 2016 Tax Expenditure Report. The deduction allows the taxpayer to deduct receipts from the sale of chemicals and reagents to any mining, milling, oil company, or refinery for specific purposes or if the amount sold exceeds a certain weight threshold. TRD did not report foregone revenue for this tax expenditure in its annual tax expenditure report, as it is not separately reported in tax filings.

The New Mexico Court of Appeals has a case before it for a tax protest where the taxpayer claimed natural gas sales for electricity generation constituted sale of a chemical or reagent in excess of the minimum of 18 tons to qualify for the deduction. The Administrative Hearings Office (AHO) found the taxpayer was not eligible for the deduction.

The second largest dollar risk issue in protests is related to the taxation of foreign-earned dividends. Under the Corporate Income and Franchise tax Act

(Section 7-2A-3 NMSA 1978), New Mexico levies tax "upon the net income of every domestic corporation and upon the net income of every foreign corporation employed or engaged in the transaction of business in, into or from this state or deriving any income from any property or employment within this state." While there are exemptions from this for insurance companies subject to premium taxes, trusts, and non-profits, foreign dividends generated to companies doing business in New Mexico are not expressly exempted. However, in the 1992 U.S. Supreme Court Case of Kraft General Foods vs. the Iowa Department of Revenue, the court found Iowa's taxation of foreign dividends as income violated the Commerce Clause of the U.S. Constitution, which states the federal government regulates commerce, and returned the case to the lower court to resolve. This precedent could call into question any state still taxing foreign dividends as income. Depending on how these protests are resolved and any subsequent legal challenges, this could pose a sizable risk to general fund revenues.

As dollars under tax protest continue to grow, it is vital to know the risk these protests pose to the general fund. The state needs to effectively account for tax receipts by tax program on a timely and regular basis to better inform the revenue forecasting process and close tax loopholes.

Anomalies in the 60-Day Suspense Fund created challenges for revenue estimators

TRD is a vital data resource for the revenue forecasting process, and needs to address data issues in a proactive and timely fashion.

In addition to its primary role as a revenue collector, TRD's reporting of revenues collected is also crucial to revenue forecasting and budget creation. An unusual increase in GRT revenues during this past year in the 60-Day Suspense Fund highlighted reporting issues at TRD. Anomalies in the TRD 60-Day Suspense Fund require resolution to not adversely affect the revenue estimation process. In 2017, LFC economists called out an anomaly occurring in one of TRD's suspense funds, known as the 60-Day Suspense Fund. This fund holds tax revenues that have not been successfully matched to a corresponding tax return, which would enable TRD to apply the revenues to the correct cash account, as designated through statute. Unmatched revenues remain in the suspense fund for 60 days, and if still unmatched to a tax return, are transferred to the general fund, as shown in Figure 1.

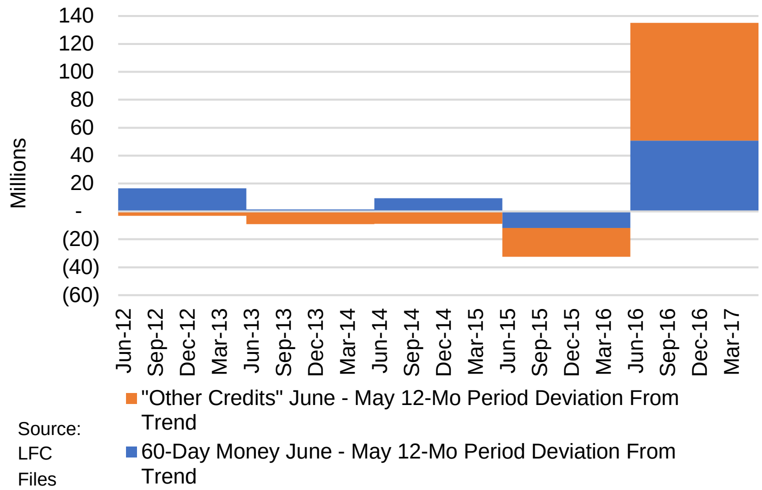
Balances in the 60-Day Suspense Fund are included as part of the revenue forecasting process.

Figure 1. 60-Day Suspense Process

Source: TRD

Going back to February 2016, activity in the 60-Day Suspense Fund became more volatile, swinging from sharper negative to positive balances as shown in Chart 5. As of the end of FY17, the fund had a positive balance of $74 million. With consistent positive balances in the suspense fund going into FY17, LFC economists tried to confirm if the fund increases were legitimate gains in tax revenue that could be considered when producing revenue estimates.

Chart 5. Gross Receipts Tax: 60-Day and Other Credits -- Impact on General Fund



Source: LFC Files

TRD has found $70 million in the 60-Day Suspense Fund balance of $74 million originally designated as gross receipts tax revenue were in fact payments for withholding taxes, which resides in a different tax program. Therefore, $70 million was not an increase in gross receipts tax revenue to the state, but merely TRD was reporting the $70 million in cash in one tax program as unmatched revenues while in another program there was a similar amount of unmatched tax returns. This issue had no impact on the general fund. Once these items were corrected in August 2017, there was still a balance in the suspense fund that TRD cannot account for totaling approximately $97 million when compared to the FY16 ending fund balance, as shown in Table 1. This will likely need to be excluded from economic forecasting used to develop the consensus revenue estimate.

Table 1. Year-End Balances for the 60-Day Suspense Fund and Other Credits
(in millions)

Fiscal Year	Ending Fund Balance
2013	-$48
2014	-$69
2015	-$61
2016	-$94
2017	$74

Source: TRD

Lack of certainty over taxpayer ability to use aged credits against future tax liability creates revenue uncertainty for the state. Unmatched tax revenues moved from the 60-Day Suspense Fund to the general fund are eligible to be refunded for three years. After three years, they convert to aged credits. These aged credits also sharply increased in 2016, totaling $22 million. TRD's in-house counsel has determined taxpayers cannot apply aged credits to future liability after the three-year window closes. However, the Legislature may want to clarify this in statute. While it is reasonable to presume not all aged taxed credits would be leveraged at once, and could have a long horizon of small negative impacts to the general fund, it would be worthwhile to clarify statute on the lifespan of aged credits before becoming unrestricted general fund revenue.

While TRD has made progress in identifying the causes for the anomaly in the 60-day Suspense Fund and continues to research the issue, the department has not been able to pinpoint the cause for the changes in the fund balance that have continued to appear since February 2016. TRD has taken away some lessons learned to help head off issues in the fund balance in the future, especially related to unmatched revenues. However, economists will need to continue monitoring this fund closely to identify and address issues in how the fund is factored into revenue estimates.

Tax expenditures, as part of the state's overall economic development policy, require continuous review

LFC evaluations dating back to 2012 expressed concern about the state's inability to anticipate the impact of tax expenditures to the general fund.

As the state grapples with declining revenues and stagnant economic growth, tax policy has become a centerpiece to addressing both issues. States have used tax expenditures to achieve certain public policy goals, primarily by incentivizing economic development. However, many states have encountered much larger price tags for tax incentive programs than anticipated, including New Mexico. By providing tax incentives, the state foregoes revenue to the general fund, and when a tax expenditure has weaknesses, foregone revenue can impact the general fund much more significantly. For example, with the High Wage Jobs Tax Credit the state paid over $215 million in refunds and forewent another $20 million in revenue between FY08 and FY16. The Legislature had to take action twice to remedy the loopholes causing the high losses from this tax credit.

In 2017, the Legislature examined major tax policy changes through various tax reform proposals including eliminating many tax expenditures. However, some of those proposals were creating new tax expenditures without a framework for assessing their ongoing value relative to cost. Also, since those efforts did not materialize, the state still has a patchwork of credits and deductions without caps, sunset reviews, and other best practices to help protect the state from unwieldy foregone revenues. In the 2016 evaluation, LFC staff recommended various legislative actions to create a framework for vetting new tax expenditures and providing for continuous review of tax expenditure performance. These included creating a broad sunset

Various states are adopting practices to monitor tax expenditures including sunset reviews, caps, and tax expenditure budgets.

review process where tax expenditures are reviewed on a regular basis with action on whether to sustain or eliminate the tax expenditure, require all proposed tax expeditures be vetted through the Revenue Stabilization and Tax Policy and Legislative Finance Committees, and place caps on all proposed tax expenditures to provide predictability in estimating foregone revenue impact to the general fund.

TRD's role as the state's primary revenue collector is vital to finance the functions of state government

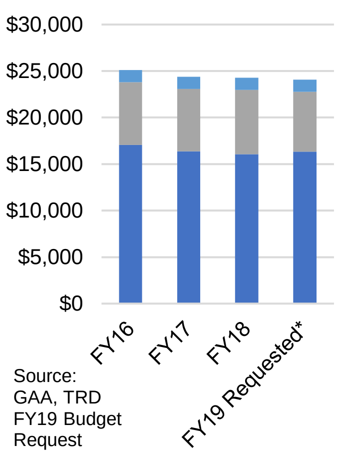
Issues with prioritizing tax collection efforts and properly resourcing higher return-on-investment tax collection projects persist.

A lack of staff to collect owed tax revenues will keep needed dollars out of the general fund.

TRD collects significant amounts of unpaid taxes, but could be doing more to maximize these efforts. TRD's primary responsibility is the collection and distribution of tax revenues. As the main source of revenue for the functions of state government, ensuring all appropriately owed tax revenue are collected is imperative. TRD operates various revenue collection projects using information out of a data warehouse, and leveraging call center resources, as well as auditors and collectors.

The 2016 evaluation found TRD's Audit and Compliance Division (ACD) collected $1 billion in unpaid taxes over the last five years, but challenges related to funding and staffing threatened to reduce if not reverse these increased collections. For FY16, ACD collected $239 million, which decreased to $220 million in FY17 across 16 projects. As of the start of FY18, ACD had 278 funded FTE positions, of which 268 were filled for a vacancy rate of 4 percent.

Chart 6. Tax Administration Program Personal Services and Employee Benefits Appropriations FY16-FY19*
(in thousands)



Source: GAA, TRD FY19 Budget Request

ACD's call center, responsible for 54 percent of ACD's total FY16 collections ($106 million), faced challenges with staffing in FY17. The call center only performed outbound collection calls for tax non-filers until February 2017 when Personal Income Tax collection calls were added. There was only one dedicated FTE to outbound calls through March 2017, but other call center FTE are currently being trained, bringing total resources dedicated to outbound collection calls to five FTE, increasing to 10 FTE once five open positions in the call center are filled, with an expectation to place 100,000 outbound collection calls for FY18.

TRD expressed concerns about diminishing effectiveness in collecting unpaid tax revenues due to reductions in budget. Personal services and employee benefits funding has declined 4 percent for the Tax Administration Program, which includes ACD and the Revenue Processing Division, between FY16 and TRD's FY19 budget request.

TRD's decision to reallocate FTE from other ACD functions to the Questionable Refunds Unit (QRU) during tax season may further diminish the division's efforts to collected unpaid taxes. While TRD was able to stop $9.4 million in questionable refunds in FY16 and $3.5 million in FY17, reallocating auditors to QRU for 3-4 months annually could impact the ability to effectively collect other outstanding taxes owed. As of April 2017, the height of tax filing season, ACD had 15.5 funded open positions for auditors and revenue agents. Add to this total an additional eight auditors pulled from other ACD revenue collection projects to assist with questionable refunds for 2017, this brings total funded vacancies that month to 23.5. That is a vacancy rate of 8 percent, double the vacancy rate in July 2017, in a key TRD function for up to one quarter of a year annually.

Table 2. Questionable Refund Unit Dedicated FTE by Tax Filing Season

	2016	2017	2018
Dedicated QRU Staff	23	22	24
Auditors Reallocated to QRU from other ACD Projects	9	8	2
Total FTE	**32**	**30**	**26**

Source: TRD

Additionally, as of the publishing of the 2016 evaluation, TRD had filled two positions in the Data Analytics and Analysis Bureau to address implementation and testing of Statistical Analysis Software (SaS). However, ACD is not using SaS, instead using reporting generated through GenTax to align resources to collection efforts to reduce outstanding tax revenue receivables.

Another important TRD function impacted by staffing issues is the Tax Fraud Investigations Division (TFID). The 2016 evaluation found 65 percent of pending cases logged for FY16 had not been assigned due to only having one active investigator out of five authorized positions. The role of TFID is to deter criminal tax activity through the investigation of fraud resulting in adjudication. For FY17, TFID initiated 12 investigations, with 92 percent tied to unreported income, likely tied to the cash economy. TFID also reported restitution payments related to previous years' convictions totaling $13 thousand.

As of October 2016, TFID had a vacancy rate of 27 percent. In October 2017, TFID had seven FTE dedicated to tax fraud investigations including a special agent supervisor, two special agents, a forensic audit manager, and three forensic auditors. TFID has vacancies for a special agent and a forensic auditor, with a funded vacancy rate of 19 percent as of October 2017. The 2016 evaluation found New Mexico's tax fraud investigation function is shrinking in size while other states are ramping up their fraud efforts to address the cash economy. The report recommended filling TFID vacancies to pursue backlogs of fraud cases.

TRD requested general fund increases for FY16 and FY17 to reduce vacancy rates in ACD, but did not request additional funding to fill vacancies in ACD for FY18 or FY19.

TRD is facing a lack of strong strategic leadership with many key positions vacant

TRD plays a central role in forming tax policy as well as carrying out the enforcement of that policy, requiring significant expertise to do so.

Understaffing at TRD goes beyond front line revenue collection and enforcement functions, into key leadership and policy positions. This progress report references understaffed functions in various areas of revenue collection and fraud investigation within TRD. However, there is a broader issue within the department, as key positions vital to managing the direction of the agency as well as the state's overall tax policy remain vacant or with temporary appointments. As of October 2017, TRD is without a formally appointed cabinet secretary (the deputy secretary is serving in an acting secretary capacity), there is no chief economist, no tax policy director, and no general counsel. These roles are all vital to managing the strategic direction of the agency, examining and designing updates to tax policy, and providing legal guidance and interpretation of tax statutes. While it is understandable key staff attrition increases towards the end of an administration, with the state's current fiscal outlook, effectively managing tax revenue collection, addressing weaknesses in the tax code, and managing overall state tax policy is critically important.

Next Steps

In addition to continuing to make progress on recommendations outlined in the original evaluation, the following steps should be considered:

The Legislature should consider:

Amending statute to clarify eligibility for the Chemicals and Reagents Tax Deduction and

Amending statute to define protest hearing timelines based on priortization criteria such as dollar amount of protest, tax program impacted, etc. to faciltate addressing backlogs in tax protest hearings.

The Taxation and Revenue Department should:

Come to the FY19 budget hearings with detailed analysis of its funding and FTE needs to maximize revenue collection and address tax protests and fraud and

Use its new database for tracking tax protests to create a monthly scorecard including key metrics including total dollars under protest by tax program, and Top 10 protests by type (assessments, refund denials and business credits, etc.) by protest such as statute under protest, dollar amount under protest, tax program impacted, etc. and provide this data to the members of the Consensus Revenue Estimating Group to be considered during the revenue forecasting process.

Status of Select Evaluation Recommendations

Finding

Tax expenditure design weaknesses impact state revenues much more than expected.

Recommendation	Status			Comments
	No Action	Progressing	Complete	
The Legislature should consider amending statute to create a broad sunset review process for tax expenditures, where tax policies are reviewed every five years, and where alternating groups of tax expenditures are reviewed every year to meet this five-year requirement with the Legislature voting to extend, terminate, or amend the tax expenditure.				
The Legislature should consider amending statute to require all newly proposed tax expenditures be vetted through interim committees including the Revenue Stabilization and Tax Policy Committee and the Legislative Finance Committee where fiscal, legal, and general policy parameters can be reviewed.				
The Legislature should consider amending statute to require all newly proposed tax expenditures include a cap in order to better predict fiscal impact with the ability to amend a cap upward or downward during sunset reviews.				

Finding

The Taxation and Revenue Department has not performed a New Mexico tax gap analysis based on state-specific data and modeling.

Recommendation	Status			Comments
	No Action	Progressing	Complete	
TRD should enlist the University of New Mexico's Bureau of Business and Economic Research and New Mexico State University's Arrowhead Center in developing a broad-ranged, state-based tax gap analysis that also characterizes the state's cash economy.				TRD disagrees with this finding and recommendation. As an alternative, TRD agrees the following could be prepared by March 1, 2018 to help better characterize areas of non-compliance: 1.) A field audit under-compliance rate could be developed for GRT and CIT based on the results of field audits within ACD; the report could likely identify the primary sources of underreporting within those tax programs; 2.) An under-compliance rate could be developed for personal income tax, based on above-the-line audits within ACD; this report could identify the primary

				sources of underreporting. 3.) Development of a non-filer rate based on limited scope and other data matching programs.

Finding

Addressing intentional and unintentional taxpayer noncompliance requires different strategies; a tax gap analysis would help effectively deploy resources.

Recommendation	Status			Comments
	No Action	Progressing	Complete	
TRD should identify areas to expand and broaden tax gap initiatives, including multi-agency efforts, and detail any expansion requests with clear return on investment quantifiers.		▬ Progressing		This is a continuous effort in ACD to determine where to best utilize limited budget resources. ACD has and will continue to use the Data Warehouse to improve this effort. ITD and ACD have been working with other agencies to exchange data to expand the department's ability to compare data, detect fraud, and improve compliance. TRD entered into a JPA with WCA and DWS in FY17 to exchange analytics data for businesses to improve fraud detection and non-compliance. TRD will be running data comparisons across various data sources and sharing the "gaps" in reporting for businesses in NM for Wage, Withholding, Workers Compensation, and Gross Receipts.
TRD should adopt a bi-annual review process to monitor progress in narrowing the tax gap and identifying emerging areas of concern.		▬ Progressing		ROI analysis is performed by unit and project to determine the effectiveness of projects, auditors, and management initiatives. ROI analysis enables ACD to identify if projects are not profitable. The status of these initiatives is reported in a meeting of parties on a monthly basis to assist with compliance and allow an opportunity to identify emerging areas of concern.

Finding

Unlike some states, New Mexico has not taken a direct, coordinated approach to addressing the cash economy.

Recommendation	Status			Comments
	No Action	Progressing	Complete	
TRD should identify areas for underground economy compliance.		▬ Progressing		TFID continues to participate on the SAR-RT to identify potential cash intensive industries. TFID's partnership with state and local government resulted in referrals and the completion of several investigations in FY17 of non-filers and/or individuals who embezzled income and did not pay taxes on this income. A partnership was developed with the Regulation and Licensing Division to identify additional tax

				violators who work in construction.

Finding

Changing taxpayer behavior also contributed somewhat to the rise in accounts receivable.

Recommendation	Status			Comments
	No Action	Progressing	Complete	
TRD should upgrade the Protest Office IT tracking capability to so the bureau can report key metrics back to ACD for gaining insight on protest outcomes to enable quality control measures on audits, tax law, and individual auditors.				An access database with a metrics dashboard is currently 60% complete with a due date of 8/31/17. Standardization of data collection, terminology, processes and reporting have been developed and incorporated in Audit & Compliance initiatives. Following the completion of the Access Database project, the next step is to integrate this function into GenTax with different user rights.

Finding

TRD is prioritizing staffing resources to further develop the data warehouse and the questionable refund unit, perhaps at the cost of filling audit and other revenue agent positions.

Recommendation	Status			Comments
	No Action	Progressing	Complete	
TRD should implement processes to better define and measure the questionable refund initiative's effectiveness in preventing fraudulent refunds by tracking actual fraudulent refunds stopped, refunds eventually paid to legitimate taxpayers, and fraudulent returns filed that were not stopped and paid twice.				ACD continues to enhance and expand the number of Data Warehouse projects, and uses performance metrics tools both within and outside the Warehouse to aid in improved collection efforts for the Department.
TRD should reassess staffing for the Questionable Refund Unit, reassigning resources to higher return-on-investment positions until operating budgets in those areas can be restored.				ACD has made a decision that the QRU initiative is so vital that reassigning resources to higher-return-on-investment positions until operating budgets are restored is not an option. Moreover, ACD is assigning more resources to the data warehouse and data analytics function as opposed to less. The Department has met with three separate vendors at a system enhancement that would further automate the Questionable Refund Unit functions. This will be submitted with the FY19 budget request.

Finding

The call center's collection efforts have been hampered by both internal and imposed inefficiencies.

Recommendation	Status			Comments
	No Action	Progressing	Complete	
Modernize the call center to current best practices by taking the following actions: ●Hire a call center expert as the director and revamp the call center business processes, reporting, personnel management, and culture, including incorporating appropriate best practices identified in the Heights Consulting, "Roadmap for New Mexico Taxation and Revenue Customer Contact Center; ●Consider transferring the call center from DoIT information technology products to the more advanced cloud-based platform used by the Motor Vehicle Division call center; and ●Consider long-range plans to consolidate all TRD call centers under single management.				The vacant bureau chief position in the Call Center was filled in October 2016. A new reporting system (CMS) was implemented in December 2016. Moreover, determinations on the proposed recommendations were completed by December 2016. Call arrival patterns are being graphed to aid in staffing. This process will be used in conjunction with erlanC modeling. In FY17, TRD has shifted call center recourses, created software change requests to enhance call center processes, and modified security policies to enable the agency to have a single security standard for all requirements. TRD conducted a department-wide study of communications processing and is moving to unify all tax related call center functions. TRD is in the process of an RFP for a new integrated, PCI compliant IVR system (this will determine whether the Department stays with DoIT or makes a different choice).

Finding

Management focuses on return-on-investment metrics to measure program success; this metric reveals staffing issues can swamp data warehouse efficiency gains.

Recommendation	Status			Comments
	No Action	Progressing	Complete	
TRD should determine the optimum number of collection staff required to cash in on each data warehouse project that increases assessments above a pre-determined amount.				ACD continually monitors the allocation of resources in order to leverage our successes from already completed data warehouse projects.
TRD should assign collectors to work with auditors on priority projects.				ACD has universally adopted the best practice of jointly assigning collectors and auditors to work together on priority projects in all District offices beginning 1/1/2017.

Finding

Data warehouse projects seem to follow a typical bell-curve lifecycle, ramping up effectiveness once deployed until facing a point of diminishing returns.

Recommendation	Status			Comments
	No Action	Progressing	Complete	
TRD should continue to develop data warehouse projects to aid collections and add performance metrics.				ACD continues to enhance and expand the number of Data Warehouse projects, and uses performance metrics tools both within and outside the Warehouse to aid in improved collection efforts for the Department.

Finding

The Taxation and Revenue Department could do more to bring in revenues but some options require legislation.

Recommendation	Status			Comments
	No Action	Progressing	Complete	
TRD should consider deploying additional tools used by other states to encourage taxpayer compliance, such as employing collection agencies to work difficult accounts; supporting the effort to develop a state lien registry; and proposing legislation to permit internet posting of delinquent taxpayers and expanded offsets.				ACD has chosen three collection agencies and is in the process of finalizing the agreements with these contractors. ACD management and Data Warehouse management met with members of the Secretary of State (SOS) to discuss implementation of the automation of liens through SOS. Proposed legislation has been drafted for the upcoming 30 day session for a centralization of the lien process. In the interim, ACD is working with counties like Bernalillo to be able to file liens electronically utilizing an automated process.
TRD should upgrade the phone system to leverage data warehouse capabilities to implement "new generation" collection tools, such as implementing a risk analysis of accounts, automating some labor intense activities, automating collections, and improving customer service through a phone payment option.				The evaluation is in process. An evaluation of the entire communications structure of the Department was completed in March 2017. There is a RFP in process that will include many of the requested improvements.

Finding

The Tax Fraud Investigations Division (TFID) performance has been impacted by a focus on nontax issues and vacancies.

Recommendation	Status			Comments
	No Action	Progressing	Complete	
TRD should fill TFID vacancies and pursue backlog of potential fraud cases.				TFID has hired three special agents since the issuance of the report in October, however, turnover continues in the division that will require additional hiring and training of a supervisor and two special agents. The primary focus of TFID is the investigation of tax fraud. Though the division will retain certain OIG functions, Department personnel investigations will become the function of the State Personnel Office beginning in July 1, 2017. This change will assist in focusing upon tax fraud.