AUDIT DIVISION STATISTICAL STUDY

The following information is based on 100% of the audits completed, taxpayers assisted and special projects conducted during Fiscal Year 2001, and addresses the requirements set forth by IC 6-8.1-14-4(2).

See Page 42 for an Index of exhibits and charts included.

TAXPAYERS SERVED IN DISTRICT OFFICES

Taxpayer assistance is available in all district offices. Each office has a taxpayer assistance supervisor and assistant taxpayer assistance supervisor who perform taxpayer service functions as well as other office support responsibilities. Some offices have a field investigator who supports taxpayer assistance. Field investigators also perform collection functions in their districts. Contract employees are available throughout the year to support taxpayer assistance.

The "Taxpayer Assistance Report" (Exhibit A) provides the number of taxpayers assisted (in person and by telephone) and the amount of money collected and assessed in each office by the taxpayer assistance program. Exhibit A reveals during Fiscal Year 2001 district offices assisted 178,327 taxpayers in person and 240,460 taxpayers through telephone contact. Total taxpayers served by the district offices are 418,787. The district office in Columbus served 26,168 taxpayers in person, the highest number of any district office. The Kokomo District Office served 25,710 taxpayers in person, the second highest total.

The Merrillville District Office served 29,692 taxpayers by telephone while the Fort Wayne District Office served 27,114 taxpayers by telephone. This was the highest number of telephone contacts among the district offices, representing 12% and 11% respectively. The Kokomo District Office served a total of 48,775 taxpayers by telephone and walk-in assistance while Columbus served 47,719 taxpayers by telephone and walk-in assistance.

"Taxpayer Assistance/Special Project Statistics" (Exhibit B) provides the number of hours devoted by field auditors in the district offices to assist taxpayers and conduct special projects. The exhibit reveals that 10,089 auditor hours were channeled in this direction.

SPECIAL PROJECTS

The Audit Division during the 2001 Fiscal Year pursued one special project, Comply 2001. The Comply 2001 project commenced at the conclusion of Project Comply 2000 and was conducted statewide. These audits identified candidates that were usually small and would normally not meet the criteria for a regular audit examination. The results of Project Comply 2001 are:

Audits Completed	698
Assessments	$ 667,899
Refunds	$ (31,946)
Average Hours Per Audit	20.37

GROSS INCOME TAX VIOLATIONS

The most frequently violated gross income tax rule is 45 IAC 1.1-2-5. This rule defines taxability of gross receipts from services. Violations of this rule accounted for 55 or 16.03% of all violations of the gross income tax rules in the statistics. This was also the most frequently violated rule in the previous four studies, accounting for 14.50% in 2000, 17.42% in 1999, 12.03% in 1998 and 12.26% in 1997.

The second most frequently violated gross income tax rule is 45 IAC 1.1-3-3. This rule defines the interstate commerce exemption as applied to gross receipts. This rule was inappropriately applied according to regulations affording taxpayers more exclusions from gross receipts. 45 IAC 1.1-3-3 accounted for 30 or 8.75% of gross income tax rule violations. This rule was the second most frequently violated gross income tax rule in the 2000 study accounting for 10.42%.

Ranking third and accounting for 27 or 7.87% of the gross income tax rule violations is Rule 45 IAC 1.1-2-4. This rule defines taxable high rate income of utilities, display advertising, sale of real estate, rentals and extension of credit. The third most frequently violated rule for 2000 was 45 IAC 1.1-1-10 at 8.85%. This rule defines receipts to mean the entire gross income or gross receipts received by a taxpayer, actually or constructively, without any deduction of any kind or nature. In 1999 the third most violated rule was 45 IAC 1-1-213 at 5.94% which requires withholding from all payments to a nonresident contractor.

SALES/USE TAX VIOLATIONS

The most frequently violated sales and use tax rule is 45 IAC 2.2-6-8. Rule 6-8 discusses the determination of a retail merchant's liability for a report period. Violations of this rule account for 614 or 14.92% of the sales and use tax infractions. This is the first time Rule 8 appears in the top three positions. In 2000 45 IAC 2.2-6-8 accounted for 7.82 of violations and was in fourth position.

The second most frequently violated sales and use tax rule is 45 IAC 2.2-3-20. This rule states that if the seller of tangible personal property for storage, use, or consumption in Indiana fails to collect the appropriate tax, the purchaser of such property must remit use tax directly to the Department. This rule accounted for 500 or 12.15% of sales and use statute violations. 45 IAC 2.2-3-20 was also in second place for the 2000 and 1999 studies accounting for 615 and 522 violations respectively.

The third most violated rule for the 2001 fiscal year is 45 IAC 2.2-3-4. Rule 3-4 imposes use tax on "tangible personal property, purchased in Indiana, or elsewhere in a retail transaction, and stored, used or otherwise consumed in Indiana . . . unless the Indiana state gross retail tax (sales tax) has been collected at the point of purchase." The failure of taxpayers to comply with this rule accounts for 481 or 11.69% of the sales and use tax infractions. This rule ranked first in violations in 2000 and 1999. Fiscal year 2000 showed 694 violations and 1999 showed 658 violations.

45 IAC 2.2-5-8 ranked third in the prior three studies but dropped to fourth position in the 2001 study. Rule 5-8 clarifies the sales and use tax by providing examples of taxable and nontaxable sales of manufacturing machinery, tools, and equipment used in direct production and other activities.

CORPORATE ADJUSTED GROSS INCOME TAX VIOLATIONS

Corporate taxpayers violated adjusted gross income Rule 45 IAC 3.1-1-8 more than any other rule. This rule states that taxable income as defined in the Internal Revenue Code is modified in several ways to arrive at Indiana adjusted gross income. Violations (119) of this rule accounted for 13.52% of the total violations. Rule 1-8 was the second most violated rule (17.97%) in the 2000 report and (15.37%) in the 1999 report.

Rule 45 IAC 3.1-1-97 was the second most frequently violated rule under this study. This rule addresses the returns and reports that must be filed by adjusted gross tax withholding agents. These violations (115) account for 13.07% of the total violations in 2001. The 2000 and 1999 report revealed Rule 1-97 ranked first for adjusted gross income infractions with a 22.00% and 21.78 violation rate.

The third most frequently violated rule is 45 IAC 3.1-1-9. This rule deals with the adoption of modifications as defined in the Internal Revenue Code. More specifically, it allows a net operating loss as a deduction in computing Indiana Adjusted Gross Income (IRS Code Section 172). This rule accounts for 90 or 10.22% of the violations of adjusted gross income tax rules. The 2000 and 1999 violations for this rule also ranked third with 8.62% and 8.19% respectively.

■ AMOUNTS OF TAX ASSESSED

Exhibits C, D and E display the amount of assessments (refunds) and violations of the gross income tax, sales tax and adjusted gross income tax administrative rules, respectively. "Total assessments" for any tax type represent gross assessments less amounts refunded.

The amount assessed or refunded for each of the most frequent violations and the percentage of the amount to total net assessments are presented below.

Gross Income Tax—Exhibit C

	Amount Assessed	Percentage of All Assessments
45 IAC 1.1-2-5	$ 1,271,330	18.76%
45 IAC 1.1-3-3	$ (403,443)	(5.95%)
45 IAC 1.1-2-4	$ 732,711	10.81%

Sales/Use Tax—Exhibit D

	Amount Assessed	Percentage of All Assessments
45 IAC 2.2-6-8	$ 1,876,572	8.08%
45 IAC 2.2-3-20	$ 3,921,527	16.89%
45 IAC 2.2-3-4	$ 2,049,926	8.83%

Corporate Adjusted Gross Income Tax—Exhibit E

	Amount Assessed	Percentage of All Assessments
45 IAC 3.1-1-8	$10,486,117	47.54%
45 IAC 3.1-1-97	$ 455,547	2.07%
45 IAC 3.1-1-9	$ (267,782)	(1.21%)

■ INDUSTRY/BUSINESS MOST FREQUENTLY IN VIOLATION

Gross Income Tax

For the ninth consecutive time, taxpayers engaged in manufacturing most frequently violated the gross income tax rules. This group committed 95 violations or 27.70% of the total violations. The gross income tax rule most frequently violated by this group of taxpayers was 45 IAC 1.1-2-5. This rule defines the taxability of gross receipts from services.

The second largest number of gross income tax violations was committed by taxpayers providing information, publishing, telecommunications, finance, rental, insurance, real estate, leasing and professional services. This group committed 72 infractions or 20.99% of the total violations. The service industry ranked second in the 1995 and 1999 studies. Wholesalers and retailers were the second most frequent violators of these rules in the 1994, 1996, 1997, 1998 and 2000 studies.

Sales and Use Tax

For the 2001 reporting period, taxpayers providing information, publishing, telecommunications, finance, rentals, insurance, leasing and professional services was the industry with the most frequent violations. They accounted for 957 violations or 23.26% of the total sales and use tax violations. The most frequently violated rule by these taxpayers was 45 IAC 2.2-6-8, which deals with determining a retail merchant's liability.

Businesses in the repair, personal services and other service industries were the second most frequent violators of the sales and use tax rules. There were 904 violations committed by this group representing 21.97% of the total violations. The rule most frequently violated by this group was 45 IAC 2.2-3-20, which clarifies when use tax must be remitted to the Department of Revenue.

Adjusted Gross Income Tax

Repair, personal service and other service providers with 270 infractions, were the most frequent violators of adjusted gross income tax rules. This figure represents 30.68% of the total adjusted gross income tax violations.

Manufacturers were the second most frequent violators of the adjusted gross income tax rules. They committed 183 infractions or 20.80% of the adjusted gross income tax violations.

The repair, personal service and other service industries violated rule 45 IAC 3.1-1-1 and 2 the most times. These regulations define gross income and adjusted gross income for individual taxpayers. The rule most violated by the manufacturers was 45 IAC 3.1-1-8. It deals with IRS

Code modifications to arrive at Indiana adjusted gross income.

SPECIAL TAX VIOLATIONS

Exhibit G provides the number of special tax rule violations and the amount of special tax assessments and refunds.

Article VIII (citation R800 on exhibit) of the International Fuel Tax Agreement (IFTA) was the most frequently violated special tax item in the study. It specifies the taxable event is the consumption of motor fuels in the propulsion of qualified motor vehicles, except fuel consumed that is exempt from taxation by a jurisdiction. All motor fuel acquired that is normally subject to consumption tax is taxable unless proof to the contrary is provided by the licensee. Article VIII was violated 169 times and yielded $176,759 in net assessments for the State of Indiana. This represents 25.80% of total violations.

The exhibit also reveals that Article X (citation R1000 on exhibit) of the International Fuel Tax Agreement (IFTA) was the second most frequently violated section of the special tax statutes. This Article discusses how taxpayers can obtain credit for tax paid on purchases of fuel. It also lists the records needed to substantiate the refund request. This article was violated 167 times accounting for 25.50% of the total violations. These violations resulted in a net refund of ($39,650).

The taxpayer group most frequently in violation of the special tax statutes and IFTA Articles was the wholesale, retail and transportation industries. This group committed 318 violations accounting for 48.55% of the total infractions. Article VIII of the International Fuel Tax Agreement was most frequently violated by the wholesale, retail and transportation industries.

MISCELLANEOUS CODE VIOLATIONS

Exhibit F provides the number of violations and assessment amounts of the following:

Financial Institutions Tax
Tax Administration
Food and Beverage Tax
Innkeeper's Tax

A review of this exhibit reveals that 45 IAC 15-9-2 was violated 43 times. This regulation defines the statute of limitations as it applies to refunds. These violations yielded $403,946 in net assessments.

The 12 violations of IC 6-8.1-4-2 yielded a total of ($70,831) in refunds. This code section addresses access to accounting records of a business and the use of sampling techniques for auditing purposes.

NUMBER OF YEARS IN AUDIT PERIOD

The audit period was three years.

USE OF PROFESSIONAL TAX PREPARATION ASSISTANCE

The services of professional prepares were used in the preparation of 75.50% of the corporate income tax returns and 11% of the sales tax returns. These findings remain consistent with the previous years' reports.

FILING OF APPROPRIATE TAX RETURNS

Rule 45 IAC 3.1-1-92 (Exhibit E) requires qualifying corporations to make estimated tax payments. Taxpayers in violation of this rule either failed to file estimated income tax returns or failed to remit the appropriate amount of tax. For the fiscal year ending in 2001, the study indicates 18 violations of this rule, resulting in assessments in the amount of $83,726 and refunds totaling ($399,688).

Indiana Code 6-8.1-10-2.1 (Exhibit F) revealed no violations during the 2001 study period. This section specifies the penalty to be imposed if a taxpayer fails to file an appropriate return or pay the full amount of tax due. Violations of this section in the 2000 and 1999 studies were zero while the 1998 report showed 1 violation.