

**NICOLE GALLOWAY, CPA**  
**Missouri State Auditor**

May 5, 2017

Ms. Kristen Blanchard Ansley  
Missouri Alliance for Freedom  
P.O. Box 26777  
Kansas City, MO 64196

Dear Ms. Ansley:

On May 2, 2017, the State Auditor's Office received your sunshine law request in which you asked for records relating to the audit of the Missouri Department of Revenue, specifically the "audit of the timeliness of the Department's issuance of tax refunds." You also requested records of communications to or from Paul Harper and Doug Nelson.

As to your request for records relating to the audit of the Department of Revenue, I have attached a copy of the subpoena and a letter dated April 18, 2017. The remaining requested information is confidential under Sections 29.070, 29.200.17, 32.057, 610.021(14), and 610.021(17), RSMo.

Our office is in the process of reviewing the remainder of your request. Because of the scope of your request and that it covers approximately 2 years, we will provide you with an update of the status of your request no later than 30 days and will provide you with any responsive documents as we complete our review.

Should you have any questions, please feel free to contact me at [barbara.wood@auditor.mo.gov](mailto:barbara.wood@auditor.mo.gov) or at 573-751-4268.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Wood".

Barbara Wood  
Senior Counsel



**OFFICE OF MISSOURI STATE AUDITOR**  
**SUBPOENA**

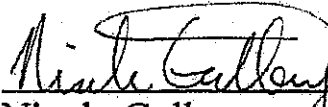
**To:** Custodian of Records and  
Corporate Designee  
Missouri Department of Revenue  
301 West High St., Room 670  
Jefferson City, MO 65101


YOU ARE COMMANDED AND REQUIRED to appear personally before the State Auditor or her representative, Paul Harper, General Counsel, at the Harry S Truman State Office Building, 301 West High Street, Room 880, Jefferson City, MO 65102, at 9:00 a.m. on April 28, 2017, for purposes of providing testimony and producing for examination, copying, and interrogation the following records and documents listed on Exhibit A attached to this Subpoena.

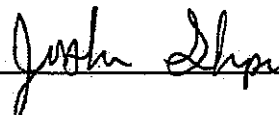
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ISSUED this 19th day of April 2017, pursuant to Section 29.235.4(1), RSMo.

(STATE AUDITOR'S SEAL)

  
\_\_\_\_\_  
Nicole Galloway  
Missouri State Auditor

I, Joshua Shope, served the foregoing subpoena by service on  
 this 19th day of April 2017.

  
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## **EXHIBIT A**

You are to preserve for production and inspection, and then appear as instructed on the attached subpoena and produce for inspection and examination, the following items in your possession or under your control as previously requested by the State Auditor's Office (As documented in the letters contained in Exhibits B and C):\*

1. Any and all documentation or reports related to the total amount of interest paid for Corporate and Individual Income tax refunds for FY2012, FY2013, FY2014, FY2015, and FY2016.
2. Any and all documentation or reports related to the number of refunds that were untimely which led to interest being paid for Corporate and Individual Income tax for FY2012, FY2013, FY2014, FY2015, and FY2016.
3. Any and all documentation or reports related to the total number of refunds issued for Corporate and Individual Income tax for FY2012, FY2013, FY2014, FY2015, and FY2016.
4. Any and all documentation or reports related to the total number of returns processed (whether the taxes were refunded, paid, or are still owed) for Corporate and Individual Income tax for FY2012, FY2013, FY2014, FY2015, and FY2016.
5. Any documentation of controls or procedures for the handling of Corporate and Individual income tax refunds for Revenue.
6. Any reports or other documentation that that shows the number of individual tax refunds that are currently over 45 days and the total of interest owed.
7. Any reports or other documentation that that shows the number of corporate tax refunds that are currently over 120 days and the total of interest owed.

You must also bring sufficient witnesses to testify on the record regarding the following:

1. The general reasons for why Corporate and Individual Income tax refunds are not being issued timely.
2. The steps taken by the Department from when the refund is received, reviewed, and then refund returned to taxpayer, and an estimated timeframe for the Department to issue the refund.
3. On any matter related to the above referenced documents.

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\* This request for records includes all materials that exist in paper ("hard copy") or electronic form (including but not limited to records and data maintained on computers, tablets, smart phones, external electronic storage drives, thumbnail drives, remote servers or back up tapes). All information requested in the items above are subject to inspection, review and copying by the state auditor. Section 29.235.4(1), RSMo. To the extent that the documents contain personally identifiable tax information, such information should be redacted.



**NICOLE GALLOWAY, CPA**  
**Missouri State Auditor**

March 30, 2017

Wood Miller, Acting Director  
Missouri Department of Revenue  
301 West High St., Room 670  
Jefferson City, MO 65101

Dear Acting Director Miller:

As you know, this office is currently auditing the Department of Revenue regarding the issuance of tax refunds. Our auditors requested the following information on March 6, 2017:

1. The total amount of interest paid for Corporate and Individual Income tax refunds for FY2012, FY2013, FY2014, FY2015, and FY2016.
2. How many refunds were untimely which led to interest being paid for Corporate and Individual Income tax for FY2012, FY2013, FY2014, FY2015, and FY2016.
3. The total number of refunds issued for Corporate and Individual Income tax for FY2012, FY2013, FY2014, FY2015, and FY2016.
4. The total number of returns processed (whether the taxes were refunded, paid, or are still owed) for Corporate and Individual Income tax for FY2012, FY2013, FY2014, FY2015, and FY2016.
5. The general reasons for why Corporate and Individual Income tax refunds are not being issued timely?
6. Any documentation of controls or procedures for the handling of Corporate and Individual income tax refunds for Revenue.
7. A short memo listing the steps taken by the Department from when the refund is received, reviewed, and then refund returned to taxpayer, and an estimated timeframe for the Department uses to issue the refund (if known).

Additionally, on March 20, 2017, our auditors requested the following additional information:

1. Does the DOR have a real-time report(s) that shows the number of individual tax refunds that are over 45 days and a running total of interest owed?
2. Does the DOR have a real-time report(s) that shows the number of corporate tax refunds that are over 120 days and a running total of interest owed?

3. If so, can we obtain a copy of the report(s) on a regular basis (receive it on the same day every week) until our audit has concluded?

Our auditors followed up with our audit contact, Lynn Bexten, on a few occasions in March to request an estimate of when we would receive responses to our requests. Ms. Bexten was unable to provide any information about the timeline for responses. You and I spoke on March 28, 2017, and you stated that the Department is currently working on the requests but could not specify a timeframe for when responses would be provided. To date, no information requested has been provided by the Department.

Section 29.235.1. RSMo, requires this office to conduct its audits in accordance with standards established by the Comptroller General of the United States (commonly known as the "Yellow Book"). The Yellow Book requires that auditors obtain sufficient and appropriate evidence to support all of its findings and conclusions. Furthermore, under Section 29.235, RSMo, the auditor is authorized to examine all books, accounts, records, reports, and vouchers of any entity subject to audit. Section 29.235, RSMo, further authorizes the State Auditor's office to issue subpoenas as needed to conduct an audit under Chapter 29.

The auditors have requested these documents so that they may perform the audit of the Department. Any further delay will increase the time it takes to complete this audit. I would ask that by April 10, 2017, you provide responses to the requested information. If some of the information cannot reasonably be provided by that date, I ask that you contact me so that we can discuss a mutually agreeable date for that information's release.

If you have any questions, you may contact me by email at [Paul.Harper@auditor.mo.gov](mailto:Paul.Harper@auditor.mo.gov) or by telephone at (573) 751-4213.

Sincerely,



Paul Harper  
General Counsel



**NICOLE GALLOWAY, CPA**  
**Missouri State Auditor**

April 10, 2017

Joel Walters, Acting Director  
Missouri Department of Revenue  
301 West High St., Room 670  
Jefferson City, MO 65101

Dear Acting Director Walters:

I am responding to your letter dated April 7, 2017, in which you requested more time to provide the requested information concerning the issuance of tax refunds audit.

As outlined in my letter dated March 30, 2017, to Acting Director Miller, this office began requesting information on March 6, 2017. The March 6th request was merely an inquiry regarding historical information related to corporate and individual income tax refunds. Additionally, on March 20, 2017, this office made a second request for further information, requesting whether the Department had any real time tax refund reports and, if so, a timeframe on their availability.

Auditors from this office followed up with Lynn Bexton throughout the month of March to request an estimate of when this office would receive the information. Because no estimate was forthcoming, I called Acting Director Miller on March 28, 2017, to obtain the status of our request. Acting Director Miller informed me during that conversation that the Department was working on the documentation but that he could not provide an estimate of when the Department would have the information ready for the Auditor's Office.

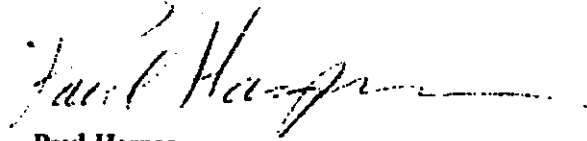
As you know, I sent the March 30th letter to Acting Director Miller outlining the conversations and requesting that the Department send the requested information by April 10, 2017. Additionally I asked Acting Director Miller to contact me if some of the information cannot be obtained by that date to discuss a mutually agreeable date for the remainder of the information.

As of this date, more than a month after the original request, this office has received no information and no estimate of when the Department of Revenue would provide the documentation, even on the simple questions of whether the Department produces real time reports. We would ask that you provide all requested documents no later than next Monday, April 17, 2017, so that the audit is not delayed any further.

Please be aware that the State Auditor and her authorized representatives under law have access to the records of state departments. I would hope that this matter can be resolved without further incident. Please be aware that additional delays may require this office to use other legal means to obtain the documents necessary to complete our review.

If you have any questions, you may contact me by email at [Paul.Harper@auditor.mo.gov](mailto:Paul.Harper@auditor.mo.gov) or by telephone at (573) 751-4213.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul Harper".

Paul Harper  
General Counsel

ERIC R. GREITENS  
GOVERNOR



JOEL W. WALTERS  
ACTING DIRECTOR OF REVENUE

**MISSOURI DEPARTMENT OF REVENUE**  
POST OFFICE BOX 311  
JEFFERSON CITY, MISSOURI 65105-0311  
PHONE: (573) 761-4450  
FAX: (573) 751-7150  
WEBSITE: [www.dor.mo.gov](http://www.dor.mo.gov)  
E-MAIL: [dormall@dor.mo.gov](mailto:dormall@dor.mo.gov)

April 18, 2017

Paul Harper, General Counsel  
Missouri State Auditor's Office  
301 West High St.  
Jefferson City, MO 65101

Dear Mr. Harper:

It is my understanding that the State Auditor's Office ("SAO") would like to know whether documents exist within the Department of Revenue ("Department") that we would consider responsive to the ten requests for information we have received associated with the audit referenced the SAO's letter dated March 2, 2017 and addressed to former Acting Director Wood Miller.

On March 6, 2017 the Department received the following requests for information (in bold):

**1. The total amount of interest paid for Corporate and Individual Income tax refunds for FY2012, FY2013, FY2014, FY2015, and FY2016.**

Pursuant to the Department's April 17, 2017 letter to the SAO, the Department is compiling the information and will produce the information by April 21, 2017.

**2. How many refunds were untimely which led to interest being paid for Individual and Corporate Income tax for FY2012, FY2013, FY2014, FY2015, and FY2016?**

Pursuant to the Department's April 17, 2017 letter to the SAO, the Department is compiling the number of refunds in which the Department paid interest for FY2012, FY2013, FY2014, FY2015, and FY2016, and the Department will produce that information by April 21, 2017.



**3. The total number of refunds issued for Corporate and Individual Income tax for FY2012, FY2013, FY2014, FY2015, and FY2016.**

Pursuant to the Department's April 17, 2017 letter to the SAO, the Department is compiling the information and will produce the information by April 21, 2017.

**4. The total number of returns processed (whether the taxes were refunded, paid, or are still owed) for Corporate and Individual Income tax for FY2012, FY2013, FY2014, FY2015, and FY2016?**

Pursuant to the Department's April 17, 2017 letter to the SAO, the Department is compiling the information and will produce the information by April 21, 2017.

**5. The general reasons for why Corporate and Individual Income tax refunds are not being issued timely?**

Subject to the concerns raised in the Department's April 17, 2017 letter, information regarding the general reasons impacting the timing of corporate and income tax refunds will be provided by April 21, 2017.

**6. Any documentation of controls or procedures for the handling of Corporate and Individual income tax refunds for revenue.**

This request seeks information for the purpose of an unconstitutional performance audit. The Department does not believe that the Auditor's Office is constitutionally empowered to conduct a performance audit and requests that the SAO state whether it is conducting a performance audit. The Department further requests that if the SAO believes the Auditor is authorized by law to review this information, the SAO inform the Department of the basis of the Auditor's authority.

**7. A short memo listing the steps taken by the Department from when the refund is received, reviewed, and then refund returned to the taxpayer, and an estimated timeframe for the Department uses to issue the refund (if known).**

This request seeks information for the purpose of an unconstitutional performance audit. The Department does not believe that the Auditor's Office is constitutionally empowered to conduct a performance audit and requests that the SAO state whether it is conducting a performance audit. The Department further requests that if the SAO believes the Auditor is authorized by law to review this information, the SAO inform the Department of the basis of the Auditor's authority. Subject to and without waiving the foregoing objection, an estimated timeframe for the Department to issue the refund does not currently exist.

On March 20, 2017, the Department received the following requests for information:

**1. Does the DOR have a real-time report(s) that shows the number of individual income tax refunds that are over 45 days and a running total of interest owed?**

The Department is able to generate reports showing the number of individual income tax refunds that are over 45 days and a running total of interest owed.

**2. Does the DOR have a real-time report(s) that shows the number of corporate tax refunds that over 120 days and a running total of interest owed?**

The Department is able to generate reports showing the number of corporate tax refunds that are over 45 days and a running total of interest owed.

**3. If so, can we obtain a copy of the report(s) on a regular basis (receive it on the same day every week) until our audit has concluded?**

This request seeks information for the purpose of an unconstitutional performance audit. The Department does not believe that the Auditor's Office is constitutionally empowered to conduct a performance audit and requests that the SAO state whether it is conducting a performance audit. The Department further requests that if the SAO believes the Auditor is authorized by law to review this information, the SAO inform the Department of the basis of the Auditor's authority.

As stated in my letter to you from April 17, 2017, despite having joined the Department of Revenue very recently, I am committed to working with the SAO in the best interests of the people of Missouri. While maintaining the constitutional and privacy concerns I raised in my April 17, 2017 letter, I will provide the foregoing documentation by Friday, April 21, 2017.

Sincerely,



Joel Walters  
Acting Director of Revenue