taxnotes state

Volume 112, Number 9 ■ May 13, 2024

The States That Still Publish ‘Shame Lists’ Of Delinquent Taxpayers

by Andrew Wilford

Reprinted from *Tax Notes State*, May 13, 2024, p. 519

The States That Still Publish 'Shame Lists' Of Delinquent Taxpayers

by Andrew Wilford


Andrew Wilford

Andrew Wilford is the director of the Interstate Commerce Initiative at the National Taxpayers Union Foundation.

In this installment of Commerce Crossroads, Wilford discusses states' publication of "shame lists" of delinquent taxpayers.

For most taxpayers, April 15 is not only the date that their federal income tax returns are due but also their state returns as well. Taxpayers know that failure to adhere to these deadlines can mean all kinds of penalties — from fees and wage garnishment all the way to incarceration.

But while those consequences are expected, taxpayers in 15 states face another enforcement mechanism that they may not expect: public shaming. In those 15 states, state revenue departments publish and maintain up-to-date online lists of delinquent taxpayers. These lists generally include not just names but also delinquent taxpayers' home addresses and amounts owed.

For states hoping to balance their books by ensuring that the Smiths will not be invited to the neighborhood cookout until they pay their tax bill, there is little evidence that these tactics are effective. Worse, they represent a serious breach of privacy and an inappropriate enforcement mechanism when there are far more effective and reasonable measures available to states.

The State of Shame Lists

Online tax delinquent shame lists are not a new practice; in fact, they are about as old as the internet. Louisiana instituted its since-discontinued "CyberShame" program back in 2001 in the hope that "publication of a delinquent taxpayer's name will shame them into paying the taxes they owe."[1]

Since then, many more states have followed suit. Nineteen states publish shame lists of some sort, while 15 publish names of individual delinquent taxpayers. The following table lists the states that publish and maintain publicly available lists of individual taxpayers who the state views as being delinquent on their taxes, as well as the smallest tax debt earning inclusion on each list.

States Publishing 'Shame Lists' of Delinquent Individual Taxpayers

State	Delinquency Threshold for Inclusion	Smallest Amount Reported
California	500 largest tax delinquencies over $100,000	$238,294.35
Colorado	None	$4.32
Connecticut[a]	None	$10.00
Delaware	100 largest tax delinquencies	$59,499.58
Kansas	$2,500	$2,509.90
Massachusetts	$25,000	$25,071.00
Nebraska	$20,000	$20,021.83

[1] Louisiana Department of Revenue, "Program Aimed at Chronic Delinquent Taxpayers," Jan. 17, 2001.

States Publishing 'Shame Lists' of Delinquent Individual Taxpayers *(Continued)*

State	Delinquency Threshold for Inclusion	Smallest Amount Reported
New Jersey	50 largest tax delinquencies	$309,575.29
New York	250 largest tax delinquencies	$437,763.84
Oklahoma	100 largest tax delinquencies[b]	$474,149.49
Rhode Island	100 largest tax delinquencies	$110,659.12
South Carolina	250 largest tax delinquencies	$97,291.30
Vermont	100 largest tax delinquencies	$323.02
Wisconsin	$5,000	$5,000.42
Wyoming[c]	None	$119.72

[a]Connecticut's list is publicly available to anyone but must be requested via email.
[b]Oklahoma's list includes the 100 largest tax delinquencies of all types, including business income, sales, and withholding taxes, among others. Only some of the taxpayers covered are taxpayers delinquent on individual income tax payments.
[c]Wyoming does not have an individual income tax but publishes lists of individual taxpayers delinquent on use tax.

While these are the only states that maintain up-to-date lists of state-level delinquent individual taxpayers, many localities with individual income taxes maintain similar lists.

Those Poor Tax Cheats?

This close to tax day, taxpayers may not feel inclined to be overly sympathetic toward their neighbors who did not pay what they owe. Yet it is worth noting that despite all the focus in Congress on cracking down on wealthy delinquent taxpayers, many state-level tax delinquency lists cover taxpayers of more average means.

Colorado and Connecticut represent the starkest examples of this, including taxpayers with comically small tax debts of $10 or less. But even tax debts in the thousands or tens of thousands of dollars can be incurred by taxpayers who are far from wealthy, particularly as penalties and interest accumulate over the years.

Most of these states claim not to include delinquent taxpayers on these lists who are appealing their assessments or have entered into installment agreements and until the taxpayer has been notified of their delinquency and given a grace period to come into compliance. States' commitment to measures intended to keep well-meaning taxpayers off their lists can vary, however.

The general public (and tax administrators, for that matter) are also far too prone to ascribe malicious intent to delinquent taxpayers where it may not exist. Human error is an element that the world of tax is often slow to adequately account for. There are many reasons why a taxpayer that never set out to cheat on their taxes may find themselves on one of these lists — from assessment letters being mailed to an old address, to taxpayer responses being lost on the state's end. Even when correspondence reaches its intended destination, taxpayers down on their luck may respond to a letter demanding taxes they cannot afford to pay by panicking — especially those taxpayers unaware of options such as installment agreements or offers in compromise.

Taxpayers bear plenty of responsibility for these errors, but penalties and interest serve the role of encouraging taxpayers to be careful. Publishing delinquent taxpayers' private information on shame lists is an enforcement mechanism that is neither appropriate nor proportionate to the infraction.

An Inappropriate Enforcement Tool

When a taxpayer fails to pay the taxes they owe, the state begins by sending a notice of tax due, usually accompanied by additional penalties and interest. States then resort to filing a tax lien, seizure of wages and property, and even arrest and imprisonment.

While those tax liens are "publicly available information," this is only true in the sense that someone with access to a database of tax liens could find information about an individual taxpayer's tax debt if they were to specifically search the database for that taxpayer. Generally, this would be done by a potential creditor or employer, both of whom would have a direct interest in knowing if a taxpayer was financially untrustworthy. Everyone likely to come across a taxpayer's tax lien would have a good reason to be privy to that information.

A "shame list," on the other hand, is searchable by anyone who runs across it on a state revenue department website. Viewers would not need to know who exactly they were looking for or any other information specific to that taxpayer's case. As these lists are often prominently displayed on the state's revenue website, random individuals can run across them almost by accident.

This represents not only a major infringement on the privacy of taxpayers whose tax debt should stay between themselves, the relevant authorities, and the legal system, but it also puts them at greater risk of being victimized by fraud. Tax fraud schemes cost taxpayers $5.5 billion at the federal level alone in 2023,[2] and publicizing a taxpayer's detailed information — including their names, addresses, and exact amounts owed — can make that taxpayer even more vulnerable.

Lists of tax delinquents also appear to encourage average taxpayers to push their delinquent social contacts to pay up. Inciting civilians toward vigilantism is not only shortsighted and dangerous, but an ineffective strategy.

After all, imagine a determined tax scofflaw who has purposefully put themselves and their assets out of reach of a state's more traditional methods of enforcement. The scenario in which this delinquent taxpayer would be pressured to pay up by an angry phone call from a former neighbor who saw their name on a list of tax delinquents is extraordinarily unlikely.

Empirical evidence suggests the same. A 2015 study on shaming tactics in the United States found that they had little to no long-term effect on revenues and indeed that simple reminders of delinquency status sent directly to the delinquent taxpayer are more effective than shaming tactics.[3]

What positive effect shaming tactics had on payment rates was heavily concentrated on taxpayers with the smallest tax debts — a fact that stands in stark contrast with how most states attempt to focus their shaming efforts on those taxpayers with the largest delinquencies.

Former National Taxpayer Advocate Nina Olson has even argued that public lists of tax delinquents can have a negative effect on compliance.[4] Taxpayers otherwise inclined to pay what they owe may become convinced that tax evasion is more widespread than they thought, encouraging them to view it as a more viable option. Even taxpayers who do not resort to such extreme measures may become less confident in the fairness of the tax system, becoming more prone to believing that their delinquent neighbors are coasting on the backs of compliant taxpayers.

Even if there was strong evidence that public shaming tactics were effective, states would have to decide if the increased revenue justified the tactics. In the absence of such evidence, blasting out information to the broader public about their neighbors' financial misfortune appears mean-spirited at best and violative of taxpayers' rights at worst.

Conclusion

With the passing of a new year's tax day comes a new batch of unpaid tax obligations. The specific details of those unpaid obligations are a matter of concern for revenue officials, law enforcement, and the legal system — but they should not be for the general public.

States already have plenty of tools to crack down on determined tax cheats, and there is little reason to think that social pressure is likely to succeed where those other enforcement methods fall short. What's more, tax delinquency is not necessarily synonymous with intentional tax evasion, and resorting to such nontraditional enforcement tactics as shaming taxpayers who may not have ill intent fosters an unnecessarily antagonistic relationship between taxpayers and revenue officials.

[2] IRS, "IRS Criminal Investigation Targets Tax Fraudsters, Urges Taxpayers to Protect Themselves This Tax Season," Jan. 29, 2024.

[3] Ricardo Perez-Truglia and Ugo Troiano, "Shaming Tax Delinquents," National Bureau of Economic Research Working Paper No. 21264 (June 2015).

[4] National Taxpayer Advocate, "2007 Annual Report to Congress, Volume 2" (Dec. 31, 2007).

States continuing to update and maintain these lists should consider removing them. State revenue officials are entrusted with great responsibility in having access to taxpayers' financial and personal information, and they should not be so quick to extend that privilege to anyone who may stumble across an online list. ■