

January 19, 1999

Mr. Norris Tolson, Secretary  
N. C. Department of Transportation  
1 South Wilmington Street  
Raleigh, NC 27611-5201

Dear Mr. Tolson:

On September 15, 1998, we received an allegation through the State Auditor's Hotline concerning the Manager of the International Registration Plan (IRP) Section within the Division of Motor Vehicles. According to the complaint, the Manager of the IRP Section (Manager) submitted tax-related personnel records of two employees to the Internal Revenue Service (IRS) with the assertion that the employees were committing tax fraud. The allegation resulted in an audit by the Internal Revenue Service of these two employees.

We conducted a special review of the allegation by interviewing current and former employees within the IRP Section, interviewing other related individuals, and reviewing documentation related to the complaint.

Based on documentation from the IRS the two employees from the IRP Section were reported to the IRS as possible tax protesters who had filed questionable W-4 Forms, Employee's Withholding Allowance Certificate. (Note: The IRS will only provide copies of such taxpayer information to the taxpayer. The employees in question contacted the IRS and obtained copies of the W-4 forms that had been turned into the IRS. The employees then delivered the copies to us and authorized us to use the copies in our review and report.) The IRS recorded the complaint on July 14, 1997 as a referral from NC DMV, an abbreviation for the North Carolina Division of Motor Vehicles. The IRS received a facsimile of one of the employee's Form W-4, Employee's Withholding Allowance Certificate, and a facsimile of the other employee's Form W-4 and Form NC-4, North Carolina Department of Revenue Employee's Withholding Allowance Certificate. These facsimiles were sent from a machine located in the IRP Section. Additionally, one of the facsimiles contained the following writing:

This employee just has changed her exemptions (sic)  
from 6 to 9 and is being processed –  
I couldn't get a copy of it because  
it was being processed –

According to the two employees who were reported to the IRS, the Manager stated during a July 1997 staff meeting any employee who claimed a greater number of allowances than entitled would be reported to the IRS. However, two other employees interviewed did not recall the Manager stating he would report an employee to the IRS. Instead, one of these employees who increased the number of his allowances prior to the staff meeting recalled the Manager informing the staff of the employee changing his allowances in order to receive additional money in his paycheck. This employee stated he was surprised the Manager discussed his withholding changes in a staff meeting. The other employee interviewed stated the Manager only advised the staff to claim the correct number of allowances on their withholding forms. According to the Manager, he did not mention the withholding forms during the meeting, but told the staff some employees had submitted information and he doubted its legality. The Manager stated to us he might have told employees he was obligated to report someone claiming an incorrect number of allowances.

According to the Manager, the W-4 forms completed by employees in the IRP Section are submitted to the Manager's Administrative Assistant. During July 1997, several employees submitted withholding forms increasing the number of their allowances. The Manager stated the Administrative Assistant showed him the forms, and at that time, he did not know if these employees could legally claim the number of allowances listed on their forms. According to the Manager, he contacted the Department of Transportation's Payroll section, and then the IRS to determine if the employees could claim these allowances. While speaking to an IRS representative, the Manager stated he asked only general questions and was told the IRS would not be alarmed as long as employees claimed less than ten allowances. Following that telephone conversation, the Manager stated he was no longer concerned with the changes made to the withholding forms. Further, the Manager stated he did not report any employees to the IRS, fax any documents to the IRS, or instruct anyone else to contact the IRS concerning the employees.

However, it should be noted that throughout our interviews, the Manager repeatedly insisted a taxpayer commits perjury when claiming a number of allowances on the W-4 form which is greater than the number of his or her dependents. He maintained this position even after a review of the W-4 form, which included a worksheet to compute the number of additional allowances that may be claimed.

Although the Manager stated he did not know anything about a complaint made to the IRS, he admitted the writing on the facsimile sent from the machine in the IRP Section to the IRS belonged to him (see Exhibit A). However, he stated he did not remember writing the sentences or the reason he wrote them. When asked if he knew who could have faxed the document with his writing, he stated he had some suspicions but would not provide us with any names.

During our conversations with the Manager, he questioned whether faxing an employee's withholding form to the IRS was actually a violation of any law. According to North Carolina

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General Statute §126-24, personnel records shall not be divulged for the purpose of assisting in a tax investigation. North Carolina General Statute §126-27 provides that any employee who permits an unauthorized person to have access to or custody or possession of any portion of a personnel file shall be guilty of a Class 3 misdemeanor.

The uncontradicted evidence is that someone faxed the employees' W-4 forms to the IRS from the IRP Section. This occurred after the Manager questioned the employees' withholdings. In our opinion, the Manager has operated under erroneous interpretations of the laws governing both federal income tax withholding and the privacy of personnel files. The unquestioned result has been an atmosphere of low morale and distrust. (It should be noted the employees in question provided only this office with complete documentation supporting their claims.)

We recommend the Division of Motor Vehicles, in conjunction with the Office of the State Personnel, take appropriate actions to assure employees are aware of their actual responsibilities regarding the confidentiality of employee personnel files and also their responsibilities regarding the W-4 forms. In addition, we recommend the Division review the IRP Section and take those actions necessary to assure employees that these responsibilities will be fulfilled in the future.

General Statute §147-64.6(c)(12) requires the State Auditor to provide the Governor, the Attorney General, and other appropriate officials with written notice of apparent instances of violations of penal statutes or apparent instances of malfeasance, misfeasance, or nonfeasance by an officer or employee. In accordance with this mandate, and our standard operating practice, we will provide copies of this management letter to the Governor, the Attorney General, the Director of the State Bureau of Investigation, and other appropriate officials.

We are presenting these findings for your review and written response. The purpose of the response is to allow you the opportunity to outline any corrective actions taken or planned. We request the delivery of your written response by **Tuesday, February 2, 1999**.

If you have any questions or wish to discuss this matter further, please contact us. We appreciate the cooperation received from your staff during our review.

Sincerely,

Ralph Campbell, Jr., CFE  
State Auditor

RCjr:tf

**Management letters and responses receive the same distribution as audit reports.**

*This employee just has changed her exemptions from be to a and is being processed because I couldn't get a copy of it being processed.*

Form **W-4** Employee's Withholding Allowance Certificate  
 Department of the Treasury Internal Revenue Service

OMB No. 1545-0047 **1995**

1. Type of filer:  Self-employed or independent contractor;  Other (see instructions)

2. Name of filer: [Redacted] Last name: [Redacted]

3. Social Security number: [Redacted]

4. Home address (number and street) and city, state, and ZIP code: [Redacted]

5. Total number of allowances you are claiming from line 6, above, or from the worksheets on page 2, if they apply:  0  1  2  3  4  5  6  7  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25  26  27  28  29  30  31  32  33  34  35  36  37  38  39  40  41  42  43  44  45  46  47  48  49  50

6. Additional amount, if any, you want withheld from each paycheck: \$ [Redacted]

7. I claim exemption from withholding for 1995 and certify that I meet **EXEMPT** of the following conditions for exemption:  
 a. Last year I had a right to a refund of ALL Federal income tax withheld because I had **NO** MORTGAGE, MTRC  
 b. This year I expect a refund of ALL Federal income tax withheld because I expect to have **NO** tax liability.  
 If you meet both conditions, enter "EXEMPT" here.  **EXEMPT**  **NOT EXEMPT**

8. Under penalties of perjury, I certify that I am entitled to the number of withholding allowances claimed on this certificate or entitled to claim exempt status.

Employer's information:  
 9. Employer's name and address: [Redacted]  
 10. Employer's federal identification number: [Redacted]  
 11. Employer's state identification number: [Redacted]  
 12. Employer's telephone number: [Redacted]  
 13. Date of filing: [Redacted]  
 14. Office code (optional): [Redacted]  
 15. Employer identification number: [Redacted]

Oct. No. 12500



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

JAMES B. HUNT JR.  
GOVERNOR

P.O. BOX 25201, RALEIGH, N.C. 27611-5201

E. NORRIS TOLSON  
SECRETARY

January 27, 1999

The Honorable Ralph Campbell, Jr.  
State Auditor  
300 N. Salisbury Street  
Raleigh, North Carolina 27603-5903

Dear Auditor Campbell:

In response to your letter of January 19, 1999, this is to advise you of the corrective actions that have taken place concerning the allegations addressed involving the Manager of the IRP Section within the Division of Motor Vehicles.

During the months of October and November, 1998, Carol Howard, Director of Vehicle Registration and the immediate supervisor of the IRP Manager, counseled that employee regarding the incident in question. During both of those sessions, the manager was provided information and instruction that pertained to the confidentiality of employee information, including tax information. The IRP Manager was instructed that he was not to discuss any information contained in the personnel file of any employee to anyone other than that employee or parties who had legitimate access to those personnel files within the Department of Transportation, Division of Motor Vehicles.

Prior to the above discussion with the IRP Manager, the DMV Personnel Office designed a confidentiality statement that was signed by all supervisors, managers, and other designated parties to enforce the importance of confidentiality of employee records. The IRP Manager read and signed the confidentiality statement on August 26, 1998.

After reviewing all the information in your letter, there appears to be no clear evidence that the Manager of the IRP Section sent the complaint to the IRS (no fax sheet indicating whom the document was sent from, any confession from the IRP Manager that he sent the document, etc.). Therefore we feel that DMV has taken appropriate action to prevent any future confusion about what type of employee information is confidential and who can request and receive employee information.

Thank you for the work you and your staff have done on this matter. If you require additional information, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "E. Norris Tolson".

E. Norris Tolson

cc: Deputy Secretary Manny Marbet  
Commissioner Janice H. Faulkner

