

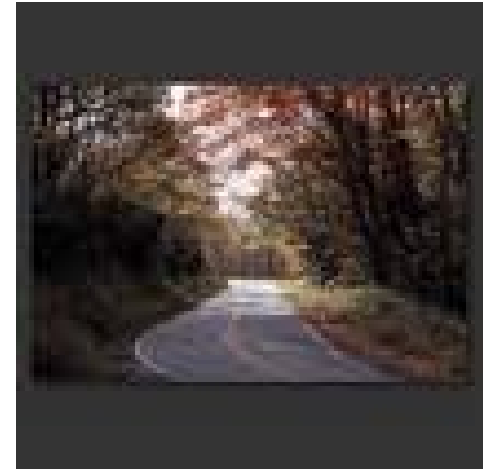
Corporate Tax Resolution

Skip The Amnesty
Solve Some Problems
The North Carolina Resolution
Initiative


Dr. Linda Struyk Millsaps
2010 SEATA Annual Meeting
July 11-14, 2010

Outline

- ▶ The Basics
- ▶ Target Areas
- ▶ The Precursors
- ▶ Key Elements
- ▶ Lessons Learned – Part I
- ▶ Results
 - Dollars
 - Non Dollars
- ▶ Lessons Learned – Part II
- ▶ Epilogue



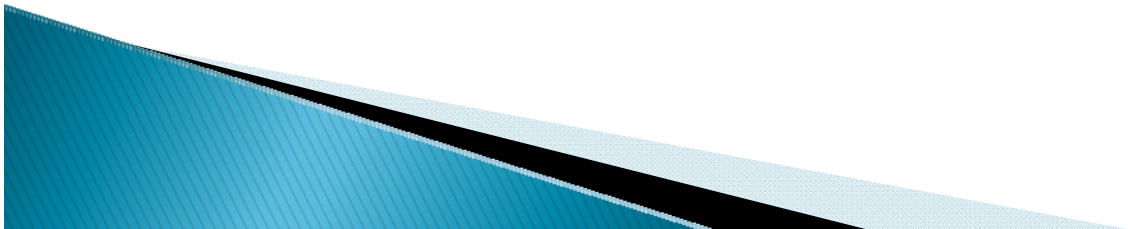
The Basics of the Resolution Initiative (RI)

- ▶ Launched on July 13, 2009, but no public announcement
 - ▶ Targeted 3 areas of NC corporate income and franchise tax law
 - ▶ Created to:
 - Generate additional revenue for the State
 - Resolve outstanding tax disputes
 - Engage the business community in a dialogue
 - Develop going forward methodologies
 - Create additional certainty for taxpayers
 - ▶ State budget assumed \$150 million in Corporate and Franchise Tax (FY 09–10)
- 

Target Areas

Areas Targeted

- ▣ Income Shifting Strategies and Forced Combinations
- ▣ Economic Nexus for Credit Card Issuers
- ▣ Franchise Tax – Billings in Excess Liability
- ▣ Franchise Tax – Accumulated Amortization of Intangibles
- ▣ Franchise Tax – Pension Liabilities



The Precursors

▶ Corporate Tax

◦ Wal-Mart (Combination)

Court of Appeals Decision (3-0)

✓ Upheld Secretary's Ability to Combine Taxpayers

✓ Upheld Penalties

◦ MBNA (Credit Cards)

Economic Nexus

▶ Franchise Tax

Historic Areas of Confusion

Many Smaller Cases

AG's Opinion



Key Elements

(Timeline and Basic Terms)

Timeline Established

- ▣ July 13th Calls began
- ▣ Sept 15th Signed Agreement to Participate
- ▣ Nov 16th Signed Settlement Agreement
- ▣ Dec 15th Payment

Terms of Agreements

- ▣ Tax and Interest Paid by December 15, 2009
 - ▣ All Penalties Waived
 - ▣ Going Forward Methodology Established
- 

Key Elements (Dialogue)

- Taxpayers and the agency engaged in a **dialogue** to determine:
 - ❖ the correct calculation of the business franchise tax, or
 - ❖ the appropriate reporting methodology for corporate income tax
- These conversations focused on reaching a **principled and mutually agreeable** resolution based upon interpretation of existing statutes
- Significant emphasis was placed on:
 - ❖ consistency, fairness, and repeatability



ABSOLUTELY NO taxpayers were given percentage or “pennies on the dollar” settlements.

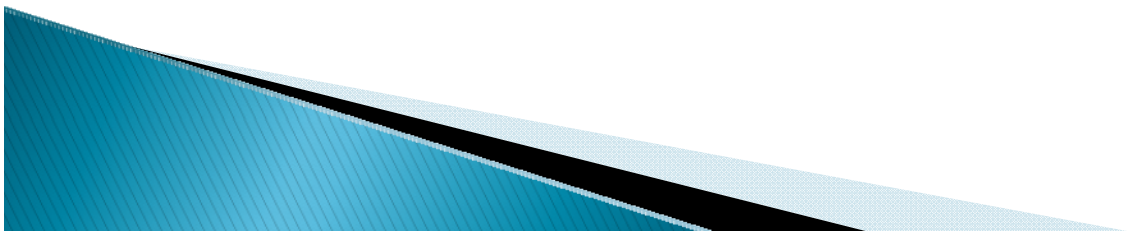
Lessons Learned – Part I

1. Resource Allocation

▣ Personnel Recruited Represented all Levels Within the Department

- Management
- Tax Administration
- Representative from AG's Office
- Examination

▣ Small Core Group of Employees

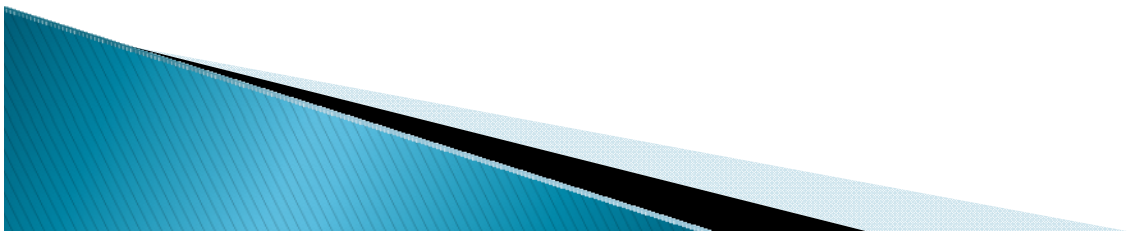


Lessons Learned – Part I

(Cont'd.)

2. Roundtable Meetings

- ❑ Meetings held as needed, but often daily
- ❑ Included all involved employees
- ❑ Included senior leadership
- ❑ Group worked to determine the correct answer for each issue discussed



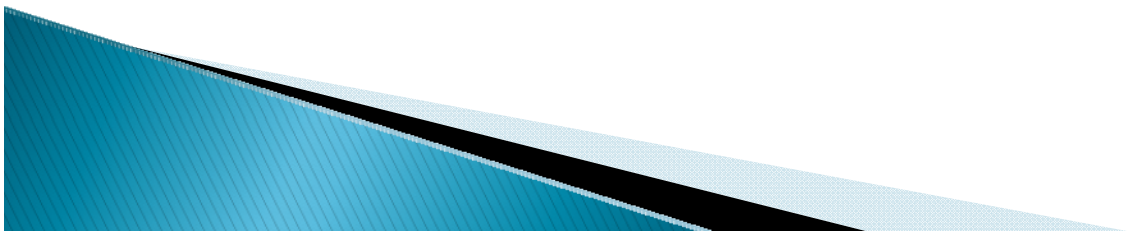
Lessons Learned – Part I

(Cont'd.)

2. Roundtable Meetings:

Benefits:

- Insured all avenues for resolution were considered by the case manager
- Created consistency on the issues and the proposals
- Allowed each member to provide input from their perspective and experience
- Provided finality to the Department's position.

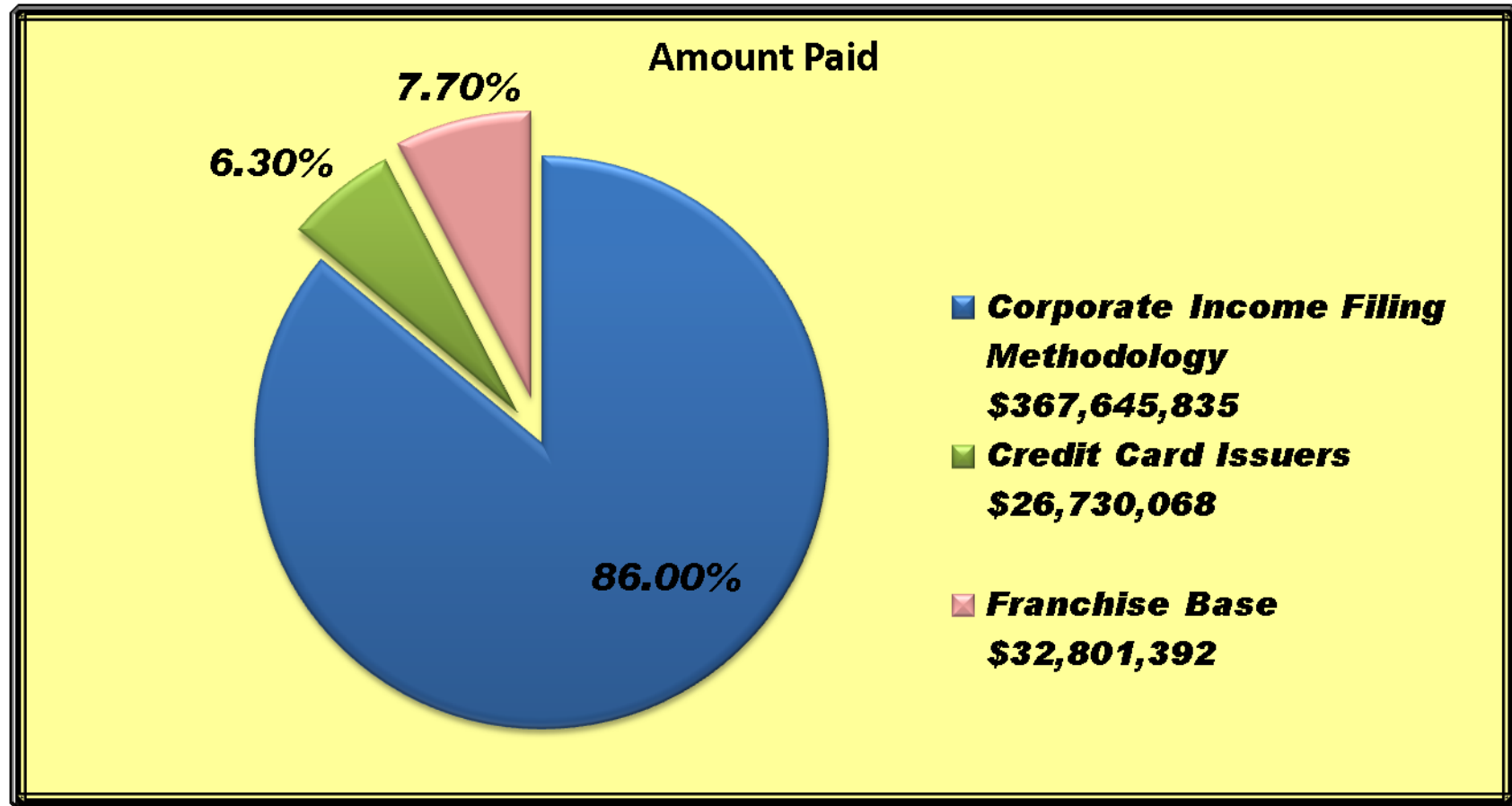


Resolution Initiative Results

- ▶ Taxpayers Contacted – 389
- ▶ Taxpayer Resolution Agreements – 236

Issues	<u>Cases</u>	
(1) Corporate Income Filing Methodology	121	51.30%
(2) Credit Card Issuers	11	4.70%
a. Mail Solicitation		
b. Private Label		
(3) Franchise Base	104	44.00%
a. Amortization		
b. Billings in excess		
c. Pensions		
TOTAL	236	100.00%

Resolution Initiative Financial Results

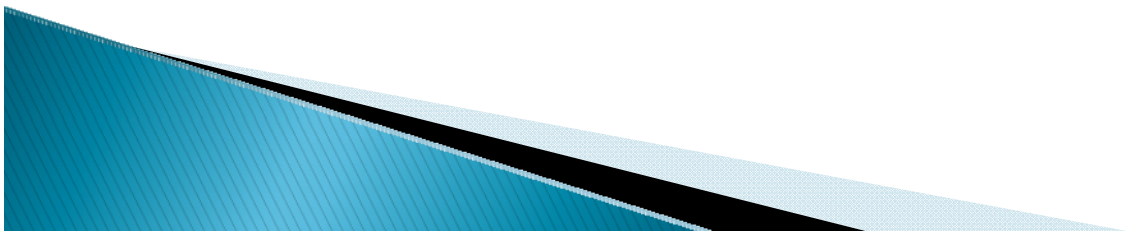


Results – Non Financial

Improving Dialogue with Taxpayers & Practitioners

RI matched the appropriate Department employees with the appropriate tax issues. These employees spanned Tax Administration, Examination, the Secretary's office and the Attorney General's office. Taxpayers and the Department were able to engage in ongoing, fluid discussions that yielded timely decisions. Through the Resolution Initiative, dialog with taxpayers and practitioners continued to improve as the Department showed:

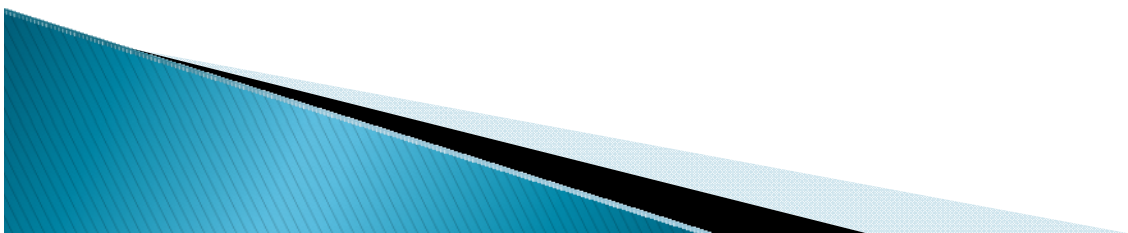
- Consistent interpretation of statutes
- Methodology and treatment of issues not arbitrary
- Approachability



Agreements / Forward Filing Requirements

The Department had to carefully enter into these agreements and make sure the decisions were based on complete understanding of all the facts as the agreements are binding on the Department.

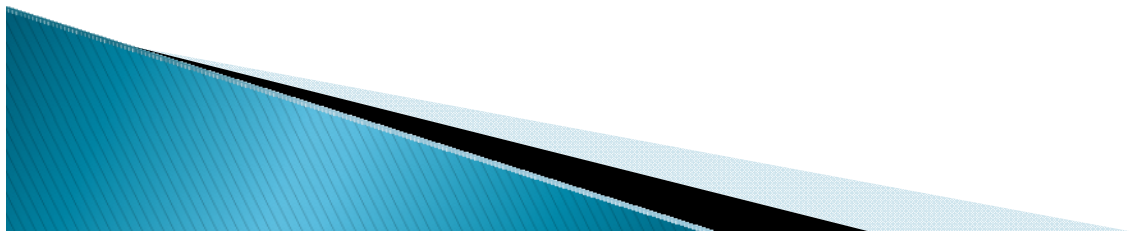
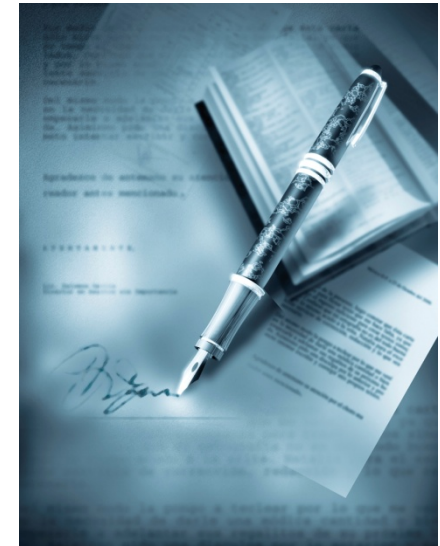
In the past, initiatives had always been on a look-back basis and not on an on-going basis.



Results – (Non Financial)

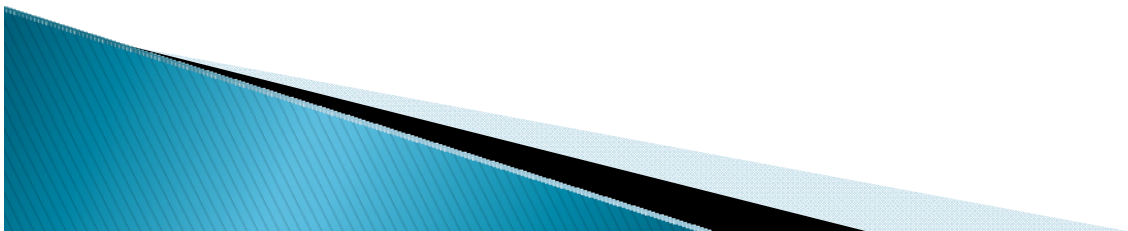
Agreements / Forward Filing Requirements

- ▣ The provisions within the general agreement provided the necessary closure for the Franchise Tax and Economic Nexus issues.
- ▣ Closing agreements for corporate income strategies were specific to each case and the requirements for future filing of returns needed to be established.



Lessons Learned – Part 2

- ▣ Tight timeline
- ▣ Use E-Mail
- ▣ Agreements binding
- ▣ Decisions affect future cases
- ▣ Treatment of taxpayers that “opt out”
- ▣ Internal processing issues
- ▣ Group discussion works!



Epilogue

- ▶ Then came the legislative session ...



“Useful tax tool”

June 18, 2010

 newsobserver.com

- And Delhaize

DELHAIZE  GROUP Group Strength, Local Expertise

ncbusinesscourt.net



Questions?

Resolution Initiative vs. Amnesty

Resolution Initiative

- ❑ Program was not released to the general public
- ❑ Specific issues
- ❑ Once agreement signed, periods included in agreement no longer open for adjustment except for RAR adjustments
- ❑ Limited personnel and resources used

Amnesty

- ❑ Program widely publicized to the general public
- ❑ Specific issue not required
- ❑ Returns still open for audit
- ❑ Large amount of personnel and resources needed