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My name is Karen S. Ward, and I am the Director of the Low Income Taxpayer Clinic of Indiana Legal Services, Inc. I submit this commentary for the Department's 2022 Annual Public Hearing. Our Clinic represents low-income taxpayers who have controversies with the Internal Revenue Service (IRS) and the Department. For the past four years, our Clinic, along with the Clinics at Notre Dame Law School and the Neighborhood Christian Legal Clinic, have submitted commentary regarding the Department's policies and procedures on Hoosier taxpayers—particularly low-income taxpayers. The LITC at Notre Dame Law School is no longer in operation since the departure of its Director, Patrick Thomas, in 2021.

EXECUTIVE SUMMARY

We provide this annual report on the state of Indiana tax administration affecting low-income Hoosier taxpayers. This report summarizes the Department's meaningful improvements in tax administration over the past couple of years and recommends further improvements going forward.

In each report, we highlight the Department's progress over the last several years in tailoring its practices to the needs of low-income taxpayers and their representatives. Several of the Department's improvements include:

- Increased flexibility of payment plans;
- Revised notices for proposed assessments and demands for payment;
- Revision of offer-in-compromise acceptance procedures to provide resolutions for taxpayers with no disposable income;
- Published vehicle lien removal procedures on its website;
- Updated the form and language for taxpayers' relief from refund offsets applied to their spouses' tax debt;
- Quick and helpful assistance from the local branch offices;
- Development of a dedicated practitioner hotline; and
- Overall increased collaboration and communication between practitioners and the Department.

The Department deserves recognition for its drive towards customer service and efficiency. We want to specifically highlight the benefits of the practitioner hotline. Practitioners can call the hotline; and the Department's knowledgeable representatives assist practitioners immediately. The effectiveness of the practitioner hotline reduces practitioners' time and effort spent helping taxpayers get into tax compliance and benefits the taxpayers, practitioners, and the Department.

The Department's collaboration with practitioners exists within many divisions with the Department, including the Taxpayer Advocate Office, our local district offices, the Legal Division, and the Department's executive leadership. We noted previously that the Taxpayer Advocate Office has become an effective tool through which to resolve complicated tax compliance issues. We will now address seven areas that, in our view, represent key areas for the Department to focus on in the coming year: (1) the NextDOR/INTIME rollout for individual taxpayers; (2) the Department's Offer in Compromise and financial hardship programs; (3) the Department's new "injured spouse" and "non-liable spouse" procedures; (4) the Department's vehicle lien release procedures; and (5) the Department's coordination with County Sheriff offices in administering the collection of taxes through tax warrants.

1. *NextDOR/INTIME for Individual Taxpayers*

The Project NextDOR rolled out Phase 3 for individual Hoosier taxpayers in September 2021. Although on its website the Project NextDOR claims to be "a once-in-a generation project to modernize our current tax system," Project NextDOR has presented various challenges for the taxpayers we represent.

Taxpayers report to us they have difficulties navigating the website and establishing accounts, both for individual taxpayers and their authorized ePOAs. Requiring the creation of new accounts using Letter IDs presents a barrier, particularly for those Hoosiers or their ePOAs that may already have a difficult time navigating the Internet. It is also not possible for POAs to access taxpayers' INTIME accounts without the taxpayer first registering and approving access to the taxpayers' account.

Therefore, we recommend that the Department consider allowing power of attorneys to gain access to taxpayers' INTIME accounts once a standard State Form POA-1 is submitted to the Department, similar to the access a POA gains after submission of an IRS Form 2848 to the IRS CAF Unit.

We also recommend that practitioners be allowed to opt-in to electronic only correspondence and to retain traditional paper correspondence if desired. Any move to a completely paperless system (i.e., all correspondence from the Department to individual taxpayers or their authorized ePOAs will default to being made through the INTIME system) should be clearly communicated and taxpayers and their ePOAs should be allowed to request notification by traditional mail methods.

2. *Communication with Authorized Power of Attorneys*

As we previously addressed, authorized representatives are not generally copied on Department correspondence. This leads to miscommunications and a lack of practitioner awareness of burgeoning problems, which the practitioner could likely more efficiently address at the outset. Although practitioners may receive electronic correspondence if their clients can navigate INTIME, low-income taxpayers have had a hard time registering and authorizing POAs through the site, as discussed above.

Often, practitioners call the Department to learn the status of an offer-in-compromise or protest letter, only to learn communication was sent to the client and not the practitioner. This delays the

practitioner from complying with requests (such as the need for further documentation) and resolving the case. In some instances, the delay causes a resubmission because the Department closed the case due to non-responsiveness.

We urge the Department and Taxpayer Advocate Office leadership to continue to ensure that all employees are appropriately trained on copying practitioners on any correspondence to taxpayers. We further recommend that the Department and Taxpayer Advocate Office to train employees to first call the practitioner when a power of attorney is on file before Department employees call represented taxpayers. Our Clinic's Power of Attorney forms request that representatives be contacted; however, practitioners are often not the first point of contact for phone calls.

3. Revised Proposed Assessment and Demand for Payment Letters

We previously expressed concerns over the language, format, and design of previous forms such as the AR-80, AR-40, and the letter informing filers of return adjustments could best be addressed during this reconfiguration. We appreciate the Department's revision of such forms, taking our concerns about these forms under consideration.

Therefore, we continue to encourage the Department to take this opportunity to improve the Notice of Proposed Assessment, the Demand Notice for Payment, and Letter informing individual filers of return adjustments from the forms (the AR-80, AR-40, and current return adjustment letter, respectively) they are set to replace. We particularly encourage that the Demand Notice for Payment form: (1) provides better information regarding remedies available, and (2) provides clearer next steps to proceed after receiving the form, especially where the taxpayer cannot pay the liability in full. We further encourage that the Return Adjustment letters: (1) be designed so taxpayers do not consider it a bill, (2) makes clear in plain language what changes are proposed, (3) includes information regarding next steps, especially how to begin the written protest process, and (4) if the Department wishes that these letters are to function as a Proposed Assessment, that the language of the notice must comply with Indiana Code § 6-8.1-5-1(d).

We also highlight the need to maintain taxpayers' rights to protest issues with their proposed tax assessments. Under Indiana Code § 6-8.1-5-1(b)-(h), the process for protest and appeal of assessments is rigorously laid out. We recommend that the Department do so in the Proposed Assessment letters rather than directing taxpayers to its website. We encourage the Department to place clear language and instructions understandable to the lay taxpayer on the adequate and proper next steps to take in response to a dispute to preserve the taxpayer's right to protest and, if necessary, appeal.

4. Protest Submissions

From conversations with Department leadership, it appears that the Department does not always treat a taxpayer's response to a Proposed Assessment as a "Protest" that provides an administrative hearing and appeal rights to the Indiana Tax Court. For example, an individual who forgets to include a required schedule or from whom the Department otherwise requests documentation may respond to the Proposed Assessment not with a Protest, but with the requested documentation. The Department then routes this documentation to the appropriate business unit, rather than the Legal

Division. This process represents efficient customer service; however, the Department should ensure that its internal processes treat responses to Proposed Assessments or adjustment notices, as a matter of law, as satisfying the Protest requirements of the Indiana Code.

Therefore, we likewise encourage the Department to review its processes and take this opportunity with the move to the INTIME system to thoughtfully consider the treatment of documents sent in response to Proposed Assessments and Return Adjustment Letters as potential protests. Further, we recommend the Department notify the taxpayer when the protest is routed to a unit other than the Legal Division.

5. OICs and Hardship

We appreciate the Department's responses over the past few years to our concerns regarding the Offer-in-Compromise and Financial Hardship programs. In particular, we note the Department's mirroring of IRS forms and the stated policy of following IRS collection financial standards. This helps practitioners and the Department to be more efficient in serving our customers and in collecting revenue. We hope the Department focuses on ensuring that employees follow this policy, and that that policy is published in an accessible format.

We also commend the Department and its Taxpayer Advocate Office for revising its policies to allow the acceptance of offers from taxpayers with negative or zero monthly income. This allows for more efficient collection of otherwise noncollectable state tax debt.

One concern regarding the offer-in-compromise program is processing times. Often the Taxpayer Advocate Office does not contact the taxpayer until a year or longer after the taxpayer submits the offer. Additionally, the Department, unlike the IRS, does not send any correspondence or notification that the offer has been received and a projected response date. We recommend that the Department restructure its offer program to process offers more efficiently and quickly. We also recommend the Department provide taxpayers with notification of receipt and an expected contact date from the Taxpayer Advocate Office.

6. Vehicle Lien Release Procedures

In our previous reports, we have also noted issues of the Department's vehicle lien release procedures. We acknowledge and thank the General Assembly for passing language in SEA 400 in the recent legislative session, requiring the implementation of an electronic lien and title system by 2023. Though we recognize this is primarily within the purview of the Bureau of Motor Vehicles, we continue to encourage the Department to work closely with the BMV in the process of implementing this new system with a view to improving and streamlining the interactions of taxpayers working with the Department to remove vehicle liens. Currently, it can take several weeks for the release of a vehicle lien. It is possible that taxpayers may incur additional storage fees or other fees for salvage vehicles, despite the resolution of the debt. A quicker, more efficient method would prevent taxpayers from incurring additional fees or fines simply because the lag between the release of the lien and issuance of clear title.

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7. *Sheriff Notices*

We appreciate the Department's response to our suggestion of creating a standard template for County Sheriff notices pertaining to tax warrants. We are particularly mindful that the Department may not wish to mandate the language contained in the tax warrant notices; that may be a decision best left either to the individual County Sheriff or to the General Assembly. Nevertheless, the Department should consider adopting a preferred or standard Sheriff's notice, that makes clear that the Tax Warrant provides the authority to collect taxes only—not to arrest the taxpayer for nonpayment of taxes.

8. *Offset Bypass Refund Procedure*

Utility shutoff and evictions can cause homelessness and/or removal of their children by the Department of Child Services. The IRS provides a clear alternative to tax refund offsets for taxpayers at risk for losing such necessities. Taxpayers must provide documentation of the utility shutoff or eviction notice to the IRS. The IRS then bypasses the refund offset procedure and provides the taxpayer with that portion of the refund to the extent the funds would prevent utility shutoff or eviction. Utilities and housing are basic necessities that should not be at risk so that the Department can collect additional revenue.

Further, although the IRS would permit Hoosier taxpayers to receive a portion of their refund through its offset bypass procedure, the IRS cannot issue the tax refund directly to the taxpayer if the Department has a claim through the Bureau of Fiscal Services. We recommend the Department develop a procedure to allow taxpayers to receive their tax refunds to the extent it would prevent utility shutoff or eviction.

We thank you for the chance to provide these comments and look forward to collaborating with the Department as it works to improve service for Hoosier taxpayers in 2022.

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